

THE ENERGY AND WATER UTILITIES REGULATORY AUTHORITY

(EWURA)

COMPLAINT NUMBER EWURA/33/1/152

BETWEEN

MUSSA MADOGO.....COMPLAINANT

VERSUS

TANZANIA ELECTRIC SUPPLY COMPANY.....RESPONDENT

AWARD

**(Made by the Board of Directors of EWURA at its 84th Ordinary Meeting
held at Dar es Salaam on the 8th April 2014)**

1.0 Background Information

On 2nd May, 2012, Mr. Mussa Madogo ("the Complainant") lodged a complaint at the Energy and Water Utilities Regulatory Authority ("EWURA") against the Tanzania Electric Supply Company Limited ("TANESCO") ("the Respondent") claiming compensation for loss of properties including his mother's house located at Plot No. 22 at Mwembeyanga Area in Temeke District ("the complaint house") which was destroyed by fire allegedly caused by an electrical fault.

The Complainant claims for compensation from the Respondent as follows:

- (a) payment of TZS 14,742,500.00 being the value of the complaint house which belongs to his mother Zakia Nassoro;
- (b) payment of TZS 4,000,000.00 being the value of lost properties belonging to Mr. Benjamin Z. Kilongamaka, who was the tenant at the complaint house;
- (c) TZS 3,535,000.00 being the value of lost properties belonging to Mr. Kassimu Yahaya Senkondo who was the tenant at the complaint house; and
- (d) costs of the complaint.

Upon receipt of the complaint EWURA wrote to the Respondent on 8th May, 2012 directing them to respond to the complaint within twenty one (21) days from the date of receipt of the said letter. The Respondent failed to respond to EWURA's letter as required and the matter was set for *ex-parte* hearing.

2.0 Hearing Stage

On 20th September 2012, the matter came for hearing and the following issues were framed for determination:

- (a) what was the source of fire;
- (b) whether the source of fire was attributed by the negligence of either party;
- (c) whether there was damage as a result of fire; and
- (d) what reliefs are the parties entitled to, if any.

The hearing of the complaint resumed from 22nd January 2012 to 9th April 2013. After the conclusion of the hearing, the Complainant was ordered to submit his final written closing submissions before 23rd April, 2013, which he did on 22nd April, 2013. During hearing, the Complainant brought five witnesses, Mr. Benjamin Zebron Kilongomaka, the tenant as the first witness (CW1), Mr. Mohamed Seif Madogo, the Complainant's younger brother as the second witness (CW2), Mr. Gift Benjamin Kilongomaka, the tenant's son as the third witness (CW3), Mr. Mussa Madogo, the Complainant as the fourth witness (CW4) and Mr. Yusuf Mohamed Mkali the Sergeant Major in the Fire and Rescue Department as the fifth witness (CW5). The Complainant's witnesses tendered various documents as exhibits.

3.0 **Decision**

In arriving at our decision, we have considered the applicable laws which include the EWURA Act, Cap. 414, the Electricity Act, Cap. 131 ("the Act") and the EWURA (Consumer Complaints Settlement Procedure) Rules, GN No. 10/2013; oral testimonies together with the tendered evidence, closing submission and good electricity industry practices.


Before deciding on the issues framed, we took trouble in satisfying ourselves on whether the complaint is properly before us and that the Complainant has the requisite *locus standi* to complain on behalf of his mother and the tenants of the complaint house. We find it pertinent for this question to be answered due to the fact that the Respondent, being the service provider, is only responsible to its customers, tenants and prospective customers in connection with the

delivery or purported delivery of regulated services. As stated before, the Complainant claims for compensation of the complaint house, which belongs to his mother together with other properties, belonged to the tenants of the said house. It is trite law that for someone to legally sue on behalf of the other there should be some specific legal instruments that gives the said powers to him. Such instrument can either be in a form of a power of attorney, be it general or specific or letters of administration. In this matter the Complainant did not produce any cogent evidence to prove that indeed he was instructed by his mother or the tenants of the complaint house to complain in their behalf.

The importance of ensuring that someone has specific and legal instructions to sue on behalf of the other lies on the fact that, the conduct of cases/complaints carries with it some legal consequences including payment of costs in case of any eventuality. Despite the fact that the procedure of settling complaints as established under the provisions of the EWURA Act and GN No. 10/13 is *quasi-judicial* which is not bound by strict rules of procedure and evidence, it is our considered opinion that with regard to issues of locus to sue on behalf of others, the standard we use is the same as that used with other ordinary courts of law.

Based on the foregoing, it is our decision that the Complainant lacks the legal mandate to complain on behalf of his mother and the tenants of the complaint house and therefore we dismiss this complaint with no order as to costs. We do not see any reason to decide on the issues framed.

GIVEN UNDER SEAL of the Energy and Water Utilities Regulatory Authority (EWURA) in Dar es Salaam this 8th day of April 2014.


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Felix Ngamlagosi
DIRECTOR GENERAL