



**GADME**  
**ATTORNEYS**

**THE LEGAL PROFESSION IN TANZANIA**

**THE LEGAL BATTLE OF**  
**FATMA AMANI KARUME**

**2025**

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# ADO'S CONSTITUTIONAL PETITION



In 2018, Ado Shaibu filed a petition before the high Court of the United Republic of Tanzania, Dar es Salaam Registry against Honorable John Pombe Joseph Magufuli (The President of the United Republic of Tanzania by then) and two others in **Miscellaneous Civil Cause No. 29 of 2018** which resulted to bitter and sweet to Ms. Fatma Amani Karume.

A story started in the **Miscellaneous Civil Cause No. 29 of 2018**. In this petition, Ado Shaibu (the petitioner) sought an order of the Court to declare that His Excellency, the President of the United Republic of Tanzania violated the Constitution by appointing Prof. Adelardus Lubango Kilangi to be the Attorney General of the United Republic of Tanzania.

The respondents to the petition raised points of preliminary objection challenging the same. The petitioner, Mr. Ado Shaibu, was represented by the learned advocate, Ms. Fatma Amani Karume.

In the said petition, the Court ordered the points of preliminary objection to be disposed of by way of written submission.

In the reply written submission, the learned advocate, Ms. Fatma Amani Karume wrote the following statements:

This Attorney General is too junior to garner that kind of respect from the Bar.'..... 'Given his lack of experience and junior position, Adelardus Kilangi has been a wonderfully disappointing as legal adviser to the government, at a cost to our constitutional order'... 'In this Adelardus Kilangi has failed. A matter that is not surprising given his experience., ... 'So, mark my words, in the event this case fails on the Preliminary point, it is not over.

If the President's Unconstitutional conduct protected by the court on the ground that he is the president, we shall test it again once he leaves office, be it in 2020 or 2025 and in the latter case, the bench will also be a different one. That is the beauty of time.

Upon noticing the above statements, the respondents in the petition, complained that the learned advocate Ms. Fatma Amani Karume acted unprofessionally and disrespectfully by personally attacking the Attorney General, Prof. Adelardus Kilangi, contrary to the advocates' professional conduct and etiquette. The presiding judge, His Lordships Principal Judge, Feleshi J, K (as he then was), regarded the above words as contrary to the advocates professional conduct.

Consequently, apart from striking out Ado's petition, he acted under section 22(2)(b) of the Advocates Act and suspended the learned advocate, Ms. Fatma Amani Karume from practice pending reference of the professional misconduct to the Advocates Committee.

Thereafter, the Registrar of the High Court was thus ordered to refer the professional misconduct matter contained in petitioner's reply submission and respondents' rejoinder submission together with the ruling to the Advocate Disciplinary Committee for determination.

# KARUME BEFORE THE ADVOCATES COMMITTEE

Immediately thereafter, the Attorney General filed **Application No. 29 of 2019** before the Advocates Committee established under section 4 of the Advocates Act, against the learned advocate, Ms. Fatma Amani Karume Roll No. 848, seeking the following orders:

1. A declaration that a respondent (Ms. Karume) has committed a gross professional misconduct,
2. An order of remove of the respondent's name from the Roll of Advocates,
3. The cost to be borne by the respondent
4. Any other relief(s) the Hon. Committee may deem fit and just to grant in favor of applicant.

In response, the respondent, Ms. Fatma Amani Karume, filed a counter affidavit resisting the application and raised three points of preliminary objection. The committee determined and finally overruled the objection allowing the application to be heard on merit.

After hearing of the application, the respondent, Ms. Fatma Amani Karume, was convicted for committing gross professional misconduct. In that regard, the Committee ordered that the Respondent, one Ms. Fatma Amani Karume, Advocate with Roll No. 848, be permanently removed from the Roll of Advocates as per the provisions of section 24 of the Advocates Act, Cap. 341 R.E. 2019.

The committee's decision, delivered by Hon. Judge Dr. Ntemi Kilekamajenga, triggered public attention, especially since Ms. Karume is one of the most famous advocates, considering the nature of the sanction given.

# KARUME BUMP INTO HIGH COURT DOORS

## 1. DETERMINATION OF PRELIMINARY OBJECTION RAISED BY THE RESPONDENTS.



Subsequently, after the said decision, Ms. Karume under certificate of urgency appealed to High Court against the decision of the committee.

This application was marked as **Civil appeal No.2 of 2020** and the application again encountered preliminary objection from the respondents. Specifically, the respondents raised legal points in their Notice of Preliminary Objections to wit that,

- 1. The Appellant's appeal is incompetent for lack of Notice of Appeal contrary to rule 17(1) of the Advocates (Disciplinary and Other Proceedings) Rules, G.N.No.120 of 2018,*
- 2. The Appeal is improperly filed by a Memorandum of Appeal contrary to rule 17(2) and (5) of the Advocates (Disciplinary and Other Proceedings) Rules, G.N.No.120 of 2018,*
- 3. The Appeal is bad in law for contravening rule 17(5) of the Advocates (Disciplinary and Other Proceedings) Rules, G.N.No.120 of 2018.*

After long arguments from the respondents and appellants regarding to the raised PO's, the Court (full bench) ruled out that the Preliminary Objection filed by the respondents' lacked merit and was overruled and parties were directed to proceed with the hearing on merit.

## 2. JUDGMENT OF THE COURT PRESIDED BY FULL BENCH OF THREE JUDGES OF THE HIGH COURT.



After the unsuccessful Preliminary Objection raised by the respondents, which was to be determined, the matter was called for hearing before Justices Maige, Nangela, and Kakolaki. The appeal was heard on its merits in favor of the Appellant, and the Court concluded that the decision of the Advocates Committee under discussion should be set aside, with the proceedings quashed. The Hon. Registrar of the High Court was then ordered to transmit the complaint to the second Respondent in the manner directed in the Court order given by Feleshi, J.K., in **Miscellaneous Civil Cause No. 29 of 2018**.

### **The Court stated that; -**

“In our view, therefore, the second ground has merit and it is hereby upheld. The application before the second respondent was, for the reasons we have exhibited herein above, incompetent and ought, as correctly submitted by the counsel for the appellant, to be struck out. The appeal, thus, succeeds to the extent of the second ground. As a result, the decision of the second respondent under discussion is hereby set aside and the proceedings thereof quashed. The Hon. Registrar of the High Court is hereby ordered to transmit the complaint to the second Respondent in the manner directed in the Court order.”

# APPLICATION FOR LEAVE TO APPEAL TO THE COURT OF APPEAL OF TANZANIA.

Disgruntled by the decision three Judges of High court (full bench) in the above judgment, **Misc. Civil Application No 08. of 2021** was filed by Attorney General and Advocates Committee against Ms. Karume by way of Chamber summons made under section 5(1) (c) of the Appellate Jurisdiction Act Cap 141[R.E 2019] read together with Rule 45 (a) of the Tanzania Court of Appeal Rules,2009 as amended time to time and section 95 of the Civil Procedure Code, Cap 33 [R.E 2019].

Among others, applicants prayed an order for leave to appeal to the Court of Appeal of Tanzania against the judgement and decree of the High Court of Tanzania at Dar es Salaam by Honourable MaigeNangela and Kakolaki,J.J.J. dated 17th June 2021 delivered on 21st June 2021 in **Civil appeal No 02 of 2020** arising from the decision of the Advocates Committee dated 23<sup>rd</sup> September,2020 in application No.29 of 2019.

Chamber Summons was supported by affidavit deposed by Mr. George Nathaniel Mwandepo, learned Principal State Attorney stating the reasons as to why the application should be granted. Upon being served the said purported documents, the respondent through Mr. Peter Kibatata, learned Advocate filed a counter affidavit stating the reasons as to why the said application should not be granted by the honourable court.

After going through the arguments of both parties, on the 17<sup>th</sup> December, 2021 the High Court (Magoiga, J) declined to grant leave to the applicants to appeal to the Court of Appeal of Tanzania as prayed in the chamber summons for the reason that, applicants failed to establish arguable case or issue for court of Appeal to consider.

Following the dismissal of **Misc. Civil Application No. 08 of 2021**, the Attorney General filed another application for leave to reapply before the Court of Appeal via **Civil Application No. 694/01 of 2021**.

This application was not heard on its merits due to a preliminary objection raised by the Counsel for the Respondent, concerning non-compliance with the Court of Appeal Rules, specifically Rule 49(3). After determining that the objection raised by Counsel Kibatala had merit, the Court granted the Attorney General an opportunity to rectify the error by filing a supplementary affidavit. Consequently, the hearing of the application was adjourned to a future session of the Court. The ruling was pronounced on 11th September 2023.

### **The Attorney General withdrew Civil Application No. 694/01 of 2021.**

Before the application was called for hearing, as directed by the Court, the Attorney General, through a Notice dated 25th March 2024, requested to withdraw the said application. The Notice did not provide the reason for the withdrawal; however, it is spiculated that the application was withdrawn following the coming into force of the Legal Sector Laws (Miscellaneous Amendment) Act No. 11 of 2023, which removed the requirement for leave in certain cases, including those where the High Court sits in exercise of its Appellate or Revisional jurisdiction.

This change is based on the understanding that the requirement for leave to appeal falls under the category of procedural laws, which apply retrospectively (See **Guhenga Ng'hongoke & 2 Others vs. Joseph Jengwa & 3 Others, Civil Application No. 197/14 of 2024**, CAT at Shinyanga, reported on Tanzlii).

## KARUME BEFORE THE COURT OF APPEAL OF TANZANIA

Despite the Attorney General's efforts to file an appeal following the High Court's decision, Advocate Karume, after the High Court's ruling in Miscellaneous Civil Cause No. 29 of 2018, successfully filed a revision application with the Court of Appeal of Tanzania through **Civil Application No. 434/01 of 2019** to challenge the decision of Honourable Feleshi, J.

However, this revision application was dismissed by the Court of Appeal on 19th June 2023 on the grounds that the application was not suitable for revision. The Court went further to cite, with approval, the case of Sabas William Kiwango vs. The Attorney General, **Misc. Civil Application No. 17 of 2011**, High Court of Tanzania at DSM (reported on Tanzlii), and held that Fatma was required to make an application for lifting the suspension order under Section 22 (2) (b) of the Advocates Act, rather than filing the Applicant for revision.



# AFTER THE COURT VERDICT, WHAT IS THE IMPLICATION OF IT AND THE WAY FORWARD.



Since the decision of the committee chaired by Hon. Judge Dr. Kilekamajenga was quashed by the High Court of Tanzania, the valid order now is the one given by His Lordship Feleshi, J.K. (as he then was).

Therefore, Karume remains suspended from practicing, as per the decision in **Miscellaneous Civil Cause No. 29 of 2018**, pending the determination of the matter as directed by the High Court in **Civil Appeal No. 02 of 2020**.

This suspension will remain in effect unless the Attorney General appeals to the Court of Appeal, which could issue a different direction, or until Fatma files an application for the lifting of Feleshi's order. As of now, the Order given by Hon. Feleshi is still valid that is why Advocate Karume is not allowed to practice as an Advocate in Mainland Tanzania.

# REFERENCES

## CONSTITUTION

1. *The Constitution of the United Republic of Tanzania, 1977 as amended time to time.*

## PRINCIPAL LEGISLATIONS

1. *The Advocates Act, Cap. 341 [R.E. 2019]*
2. *The Appellate Jurisdiction Act, Cap 141 [R.E 2019]*
3. *The Basic Rights and Duties Enforcement Act, Cap 3 [R.E 2019]*
4. *The Civil Procedure Code, Cap 33 [R.E 2019] as amended.*

## SUBSIDIARY LEGISLATIONS

1. *The Tanzania Court of Appeal Rules, G.N. No. 368 of 2009 as amended time to time.*
2. *The Advocates (Professional Conduct and Etiquette) Regulations, G.N No.118 of 2018.*
3. *The Advocates (Disciplinary and Other Proceedings) Rules, G.N.No.120 of 2018.*
4. *The Basic Rights and Duties Enforcement (Practice and Procedure) Rules, G. N. No 304 of 2014.*
5. *The Written Laws (Miscellaneous Amendments) (No. 3) Act, 2021.*
6. *The Legal Sector Laws (Miscellaneous Amendment) Act No. 11 of 2023.*

## CASE LAWS

1. *Ado Shaibu vs. Honorable John Pombe Joseph Magufuli (The President of the United Republic of Tanzania by then) and 2 others. Miscellaneous Civil Cause No. 29 of 2018, High Court of Tanzania at Dar e Salaam.*
2. *Attorney General vs. Fatma Amani Karume, Application No. 29 of 2019 before the Advocates Committee at Dar es Salaam.*

3. *Fatma Amani Karume vs. Attorney General and Another*, Civil appeal No.2 of 2020, High Court of Tanzania at Dar es Salaam.
4. *Attorney General and Another vs. Fatma Amani Karume*, Misc. Civil Application No 08 of 2021, High Court of Tanzania at Dar es Salaam.
5. *Attorney General and Another vs. Fatma Amani Karume*, Civil Application No.694/01 of 2021, Court of Appeal of Tanzania at Dar es Salaam.
6. *Fatma Amani Karume vs. The Attorney General vs. The Jaji Kiongozi* , High Court of Tanzania, Civil Application No. 434 /01 of 2019, Court of Appeal of Tanzania at DSM.
7. *Guhenga Ng'hongoke & 2 Others vs. Joseph Jengwa & 3 Others*, Civil Application No. 197/14 of 2024, CAT at Shinyanga (Reported on Tanzlii).
8. *Sabas William Kiwango vs. The Attorney General*, Misc. Civil Application No. 17 of 2011, High Court of Tanzania at DSM (Reported on Tanzlii).



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