

14 March 2023



Non-Citizen Land Ownership back in the Spotlight

- AG granted extension of time to file revision
- Illegality relied upon as a ground for extension of time
- Eight year delay condoned by the Court
- Non-citizens land ownership in inheritance to be reopened

In May 2011, the High Court of Tanzania delivered its judgment and held, among others, that a foreigner could inherit land in Tanzania since the land had changed hands by way of transmission not a transfer. This decision was delivered in the case of Emmanuel Marangakis (as an Attorney of Anastasios Anagnostou) versus the Administrator General (Marangakis' case). Eight years later, the Attorney General (the AG) filed an application at the Court of Appeal (the Court) seeking extension of time within which to apply for revision against this decision.

In granting the extension of time to the AG, the Court held, among others, that existence of the point of law of sufficient importance such as the illegality of the decision sought to be challenged is a good ground warranting extension of time. The Court further observed that, in the intended revision, the alleged illegality was very much apparent on the face of record and the Court was duty bound to extend time so that the matter could be looked into. Furthermore, the Court cemented that allegation of illegality is a good cause for extension of time even if the applicant has failed to account for each day of delay. Hence, the extension of time was granted notwithstanding the fact that there was almost eight years of delay from the date of the Marangakis' decision.

It should be remembered that in November 2019, vide the Written Laws (Miscellaneous Amendments) Bill, 2019 (the Bill), the Government proposed to amend the Probate and Administration of Estates Act, Cap. 352 to include an express prohibition regarding inheritance of landed properties by non-citizens. However, this change was not reflected when the Bill became a law and the status quo prevailed.

The laws of Tanzania through the provisions of section 20 of the Land Act prohibit foreigners to acquire land unless it is for investment purposes under the Tanzania Investment Act. The Tanzania Investment Act makes it clear that a non-citizen can only acquire land if it is for investment purposes and that investment must be under the Tanzania Investment Centre. Transmission of land by inheritance has not been explicitly addressed in our laws and the Marangakis' decision was a welcome decision for foreigners who become beneficiaries of land in Tanzania under a Will.

For further information on legal updates please contact:

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About FB Attorneys

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We cover all aspects of the law and specialise in all corporate and commercial matters including Mining, Oil & Gas, Tax, Litigation, Competition, Banking & Intellectual Property law.

FB Attorneys has been ranked as a tier 1 law firm by the IFLR 1000 in the Energy & Infrastructure and Financial & Corporate sectors, tier 1 by Legal 500 and band 1 by Chambers and Partners General Business Law.

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Given that the Court has allowed extension of time to reopen deliberations on ownership of land by non-citizens in inheritance matters, the final decision of the Court on this pertinent issue will now eagerly be awaited. The revision decision is expected to provide a direction on what the future holds regarding the critical issue of land ownership by non-citizens through inheritance, which is one of the major concerns of our diaspora, amongst others.

To read the Ruling of the Court on extension of time to file revision [click here](#).

To read the Marangakis' Case of 2011 [click here](#).

To read our Legal Update on the Written Laws (Miscellaneous Amendments) Act, 2020 [click here](#).

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