CASE-LAW ANALYSIS

POACHING AND ILLEGAL WILDLIFE TRADE IN TANZANIA

GENERAL INFORMATION ABOUT THE CASE	
Case number	Economic Case No. 04 of 2011
Court	District Court of Arusha
Year (date)	2011
Name of the judge	HON. F.R MHINA, RM
Name of the parties	R v Miraji Hassan Mabokela and Rahma Miraji Hassan
Prosecuting authority (DGOs, state attorney, police…)	State Attorney
Representation of accused person (lawyer?)	The accused persons had legal representation
Transnational elements (Citizen/non-citizen, cross-border offence…)	-
DESCRIPTION	
Defendants (age, gender…)	Male & Female (husband and wife)
History of the case	
Facts	The accused jointly on the 30th March, 2011 at Osunyani Street Ngusero area within the municipality, District and region of Arusha were found in possession of three live cheetahs the property of Tanzania government without a valid licence from the authorized authority. During the trial, the accused persons alleged that the live cheetahs were found in one of the rooms in the house which they have rented. The room which the animals were found in a room which was not connected to the main house. The accused person denied knowing the owner of the cheetahs.
Charges	1. Unlawful possession of the Government Trophy contrary to section 85 (1), 86 (1) of the Wildlife Conservation Act, 2009 read together with section 57 (1) and

	paragraph 14 (d) of the First Schedule of the Economic and Organized Crime Control Act, Cap 200 R.E 2002. 2. Unlawful dealing in Trophy contrary to section 57 (1) and paragraph 14 (d) of the First Schedule of the Economic and Organized Crime Control Act, Cap 200 R.E 2002 3. Unlawful capture of animals contrary to section 50 (1) and section 53 (1) of the Wildlife Conservation Act , 2009 4. Failure to report possession of Government Trophy c/s 87 (1) and (2) of the Wildlife Conservation Act, 2009.
SPECIES	
Name	Cheetah
Value	Tshs. 15,802,500/=
Processed/Not processed	Not processed
LEGAL REFERENCES	
Legislation (principal and ancillary legislation)	Wildlife Conservation Act, Cap 283 R.E 2002 Economic and Organized Crimes Control Act Cap 200 RE 2002
Cases cited	Mahubhai Hira vs. The Crown (1945) ZLR
International instruments	-
DECISION/OPINION	
Decision	The accused persons were not guilty with respect to count 1, 2 and 3. They were found guilty on count 4.
Basis of the decision (reasons)	The Hon. Magistrate reasoned that it is not in dispute that the three live cheetahs were found in one room outside the accused house. The only matter in dispute is whether the accused persons actually own the cheetah. In determining this, the Hon. Magistrate found lack of direct evidence to show that the accused persons owned the cheetahs. There is no evidence that that in which the cheetahs were found belonged to the accused persons. However, the accused persons were aware of the presence of animals in their vicinity and hence guilty for failure to report or deliver such trophy to the authorities.
Legal issues raised in judgment	Whether the prosecution managed to prove the guilty of the accused persons in all counts beyond reasonable doubt?

Penalty	Each: 18 months or fine of Tshs. 100,000
OTHER CONTEXTUAL INFORMATION	
Context	
Appealed/Not appealed	No information
Bail	
Opinion on the case	Judgment was given on 01.02.2013