

THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT COURT OF MONDULI DISTRICT
AT MONDULI
ECONOMIC NO. 10 OF 2009.
REPUBLIC -PROSECUTOR
VERSUS
LONINGO S/O SANGAU.....ACCUSED

JUDGMENT.

16/10/2015-23/10/2015.

This is economic case No. 10/2009 where by the accused Loning'o s/o Sangau is stand charged with an offence of unlawful possession of Government trophy Contrary to section 14(d) of 1st schedule to and section 60(2) of the Economic and Organizer crones control Act Cap 200 of the Revises Edition 2002 which read together with section 70(1) and (2) (b) of the wilds conservation A ct Cap 283 of the Revises Edition 2002.

That an about 16th day of June 2009 of about 18:30 hours at Manyara Ranch area, Makuyuni village within Monduli District and Arusha Regional, was found with unlawful possession of one Elephant thus values of 3,400 USD, the property of Tanzania Government.

The accused person pleader *not guilty*

During hearing of the case the following witnesses were called upon to testify

PW1 Waziri s/o Shabani an adult make person upon sworn he told this Court that he was a supervisor of Manyara Ranch. Among other things, PW1 Said on

16/06/2009 around 2:30pm he was inside the Ranch, with his fellow named Ngoyi Mkaine, Lengoye Enjiro, Simon Benedict and him self. They met four people whom they went near by them. Those people fired a Gun on them.

PW1 said they decided to make a call to Manyara in order to get a gun as well. The head of the Ranch ordered police to come and help them . successfully.

PW1 said they had already arrested one person. When they reached Andrew Dam they found one person who carried Elephant Tusk. After he saw them, he threw down the Elephant Tusk and run away. They managed to arrest him after 100 meters and took to the police. **PW1** also went on telling this Court that they managed to see an elephant died and he had one Elephant. Tusk **PW1** said the person they crested was the accused Loning'o who introduced him self to live at Mswakini juu. **PW1** tendered one Elephant tusk as exhibit and it was admitted and masked as exhibit P1.

Pw2 Lenyiro s/o Lengoje an adult male person upon sworn he told this Court that he is a game officer at Manyara Ranch.

That on 16/06/2009 about 2:30pm he was at the inspection of Manyara Ranch. At the vick's area they saw four people walking. They followed them by using a car. Those people started to fire a gun into them. **PW2** said they had no gun. They made a call to ask for assistance. The police officer went there. They tried to search them of the Andrews Dam. They saw one person who carried Elephant Tusk. They crested them. He tried to run but they managed to arrest him and they look him up to the police where they filed a case. **PW2** Further said they managed to see a big dead Elephant who had no tusk. **PW2** identified pexbt 1.

PW3 Simon Benedict, an adult made person upon sworn he told this Court that n 16/06/2009 at lake Dam they saw four people inside park. They followed them and one of them had a gun. He started to attaché them by using a gun. They made a radio call to the Head Quarter and they got two police officer with a gun. The said poucherers ran away.

PW3 said they proceeded with their patrol till Andraws Dam where they met one person with a bicycle and carried Elephant Tusk. They arrested him and asked him where he got it and he said he picked it up. **PW3** said they searched the area

where they saw a dead elephant who had one tropy. They look him to the police station with that Elephant tusk.

This masked the end of the prosecution case. The Court faind the "**Prima facie**" case was established against the accused person and he was there fore informed to defend his case. It was unfortunate that to no reason neither the accused person nor his sureties showed up before the trial Court during the defence hearing date, hence this Court before the senior Resident Magistrate M.P Mrio (Mrs)who decided to proceed giving judgment expert in "abstentin" of the accused person.

The matter went for appeal to the High Court where the accused failed but he went further to the Court of appeal where by he won the case to the effect that the matter was returned back to this Court in order for the Court to comply with section 226(2) of CAP 20 R.E 2002, Hence this Court again. This Court there for complied with the provisions of section 226(2) (supra) and invited the accused person to defend his case for the sake of justice, which means "justice to be manifestly seen to be done". The matter came for defence hearing on.16/10/2015

DW1 Loning'o s/o Sangau an adult male person upon sworn he told this Court that he was coming from Makuyuni back to his home by using a bicycle. On the way he met people of Manyara Ranch near the road with their motor vehicle. DWI said he passed them. They decided to follow him and stopped him. They then took him into their motor vehicle. PW1 said found nothing into their he motor vehicle. They took him to Manyara forest.

They droped down and went with their Elephant tusk. They told him the Elephant tusk belong to then. They started beating him and look him to the police station on 6/10/2009 they brought him before this Court.

This marked the end of the defence case.

The issue before this Court was whether the accused person committed the offence of unlawful possession of Government tropy.

This issue is answered according to the evidence at hand.

The prosecution witness from **PW1, PW2 and PW3** shows that the accused person was found carried an Elephant Tusk Further to that the prosecution witness also shows that they found one elephant who was dead and he had one Tusk. Due to the evidence the accused and his colleagues who were four in number had a gun and they used to fire against the prosecution witnesses who went to arrest them. It was unfortunate that the one with a gun and other two were arrested except the accused who was one arrested. The elephant tusk was brought and seen before this Court though now returned to Manyara Ranch for custody. This is enough for the Court to said the prosecution side to have Managed to prove the case beyond all reasonable doubt as per section. 110(1) of the Evidence Act CAP 6 R.E 2002 which stipulate that,

“Who even desires only Court to give judgment as to any legal right or liability dependent an the existence of facts which he assets must prove that facts exist”

Thus this Court an answer the above issue in the positive. To that effect the accused person Loning’o s/o Sangau is found guilty of the offence of unlawful possession of Government trophy contrary to paragraph 14 (d) of the 1st schedule of the Economic and Organized crime control Act, cap 200 R.E 2002 read together with section 70(2)(b) of the wild life conservation Act, cap 283 R.E 2002 and he is there for commented accordingly under section 235 (1) of CAP 20 R.E 2002.

Sgd. R . A. NGOKA R/MAGISTRATE

23/10/2015.

PREVIOUS RECORDS ON CONNECTION

State Attorney: Nill. I pray the Court to pass sentence according to the law.

MITIGATION

I stayed long time in prison. I pray mercy of the Court.

SENTENCE

The accused is sentence to serve twenty (20) years improvement to jail due to the fact that the offence he committed is serious one and its punishment based under order the minimum sentence Act. It is the scheduled office.

Sgd. R . A. NGOKA R/MAGISTRATE

23/10/2015.

Order: The sentence shall being to run from 31/10/2012 the day when the accused was sentenced for the first time and taken to prison.

Sgd. R . A. NGOKA R/MAGISTRATE

23/10/2015.

The judgment is delivered today an 23/10/2015 before the accused and miss Assenga from the republic.

Sgd. R . A. NGOKA R/MAGISTRATE


23/10/2015.

The right of appeal is open with 45 days from the date after judgment.

Sgd. R . A. NGOKA R/MAGISTRATE

23/10/2015.

Certified true copy of the
judgment/order/document.



Magistrate