

**CRIMINAL APPEAL NO. 41 OF 2016**

1. CLEMENCE MPONDELO }  
2. MAPAMBANO CHARLES } (APPELLANTS)

**VERSUS**

**THE REPUBLIC (RESPONDENT)**

**(Appeal from the decision of the Resident Magistrate at Singida)**

When the appeal was called for hearing it was known that the respondent, through the learned Principal State Attorney, on 23/02/2018 had filed a notice of preliminary objection purporting that the appeal was incompetent and incurably defective for failing to indicate the nature of the conviction as required by the **Tanzania Court of Appeal Rules, 2009**. This objection was based on **Rule 68 (2) of the Court of Appeal Rules, 2009 (the Rules)** which provides that the notice of appeal must state the nature of conviction. According to **Rule 68 (1)** of the rules, a defective notice of appeal cannot institute a criminal appeal. Therefore, the learned Principal State Attorney, Ms. Shio, urged the court to strike out the appeal for being incompetent.

In this court's decision of **Nichontize S/O Rojeli v Republic**, the requirements in **Rule 68 (2)** provided that the notice of appeal must state the name of the High Court Judge, the number of the case to be appealed against and the nature of the acquittal, conviction, sentence order desired to be appealed. In addition to this, several decisions of this court have rendered a notice of appeal, which fails to comply with the said rule, incurably defective. See reference: **Republic v Jeremiah John and Four others**, and **Yohana Chibwingu v The Republic**.

**Decision**

Since the appellant's notices of appeal disregarded the mandatory requirement of stating the nature of the conviction, the court agrees with the learned Principal State Attorney that the Appellant's notices of appeal are incurably defective. Therefore finding the appeal incompetent and upholding the objection raised.