

**IN THE HIGH COURT FOR ZAMBIA
AT THE COMMERCIAL REGISTRY
HOLDEN AT LUSAKA**

2013/HPC/0425

(Civil Jurisdiction)

BETWEEN:

FINANCE BUILDING SOCIETY

APPLICANT

AND

INNOCENT.L. KASOMA

RESPONDENT

**BEFORE THE HON. MR JUSTICE JUSTIN CHASHI IN
CHAMBERS ON THE 7TH DAY OF JANUARY, 2014**

For the Applicant: A. Roberts, Messrs Alfred Roberts & Company

For the Respondents: N/A

J U D G M E N T

Legislation referred to:

1. The High Court Act, Chapter 27 of the Laws of Zambia
2. The Supreme Court Practice (White Book) 1999

The **Applicant Finance Building Society** commenced proceedings herein against **Innocent L. Kasoma** the **Respondent** by way of an Originating Summons filed on the 22nd day of August 2013 which was subsequently amended without leave of the Court pursuant to **Order 20 Rule 1 Sub Rule 2 of the Supreme Court Rules²** seeking the following reliefs:

- 1. Payment of all monies due to the Applicant under an equitable mortgage and made between the Applicant of the one part and the Respondent of the other part and such costs as would be payable if this claim were the only relief granted.**
- 2. That in default the Applicant and the Respondent agreeing to the amount due to the Applicant an account may be taken of what is due to the Plaintiff from the Respondent under and by virtue of the said equitable mortgage.**
- 3. Delivery by the Respondent to the Applicant of possession of the said mortgaged property or relief of foreclosure and in the alternative an Order for the sale of the said property.**
- 4. Further or other relief.**
- 5. Costs.**

These proceedings have been brought before this Court pursuant to **Order 30 Rule 14 of The High Court Rules**¹.

The Respondent has not made any appearance nor filed a Notice of Intention to defend this Cause. The Respondent did not also make an appearance at the hearing of the matter. From the affidavit of service which was filed into Court by the Applicant on the 6th day of January 2014, I am satisfied that the Respondent was served with both the Originating Process as well as the Notice of Hearing as such was aware of the proceedings. It is on that basis that I proceeded to hear the Applicant.

The application not being opposed and after considering the Originating Summons, the affidavit in support and the exhibits therein, I am satisfied that this is a proper case for granting Judgement.

Consequently Judgement is hereby granted as follows:

1. *That the Respondent pays to the Applicant the sum of K169,991.70 being the monies outstanding as on the 31st day of July 2013 together with interest at the agreed contractual rate per annum to the date of Judgement and thereafter at the current Commercial Bank lending rate as determined by Bank of Zambia till full satisfaction of the Judgement.*
2. *The Respondent is hereby granted a moratorium of sixty (60) days within which to pay the Judgement debt together with interest failure to which the Applicant shall be at liberty to foreclose, possess and dispose off the mortgaged property namely MN 146 Mukuba, Natwange Kitwe by way of sale.*
3. *Costs to the Applicant to be taxed in default of agreement.*

Dated at Lusaka this 7th day of January 2014.

JUSTIN CHASHI
HIGH COURT JUDGE