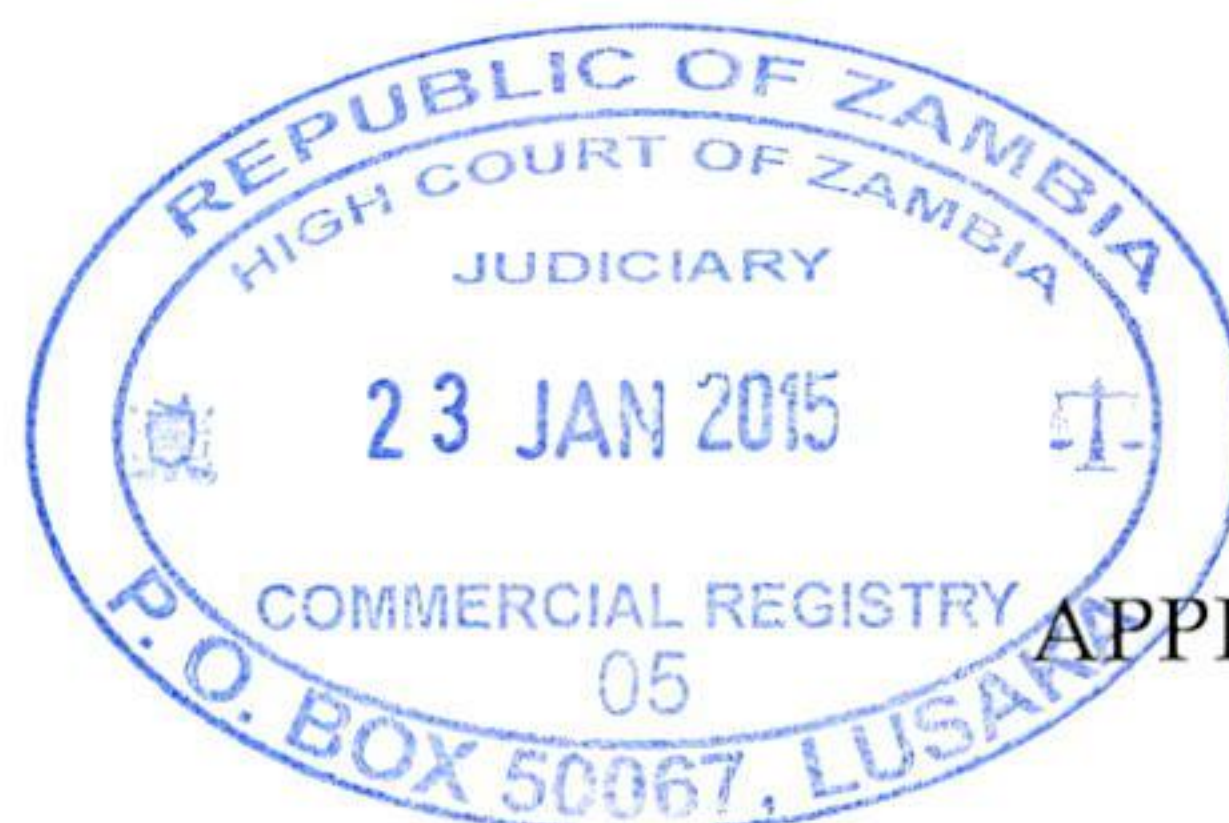


IN THE HIGH COURT FOR ZAMBIA
AT THE COMMERCIAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

2014/HPC/0370

BETWEEN

INDO ZAMBIA BANK LIMITED
AND
MWIINDE MANYUKU
MAGO INDUSTRIES LIMITED



APPLICANT

1ST RESPONDENT

2ND RESPONDENT

**BEFORE HON. MADAM JUSTICE PRISCA MATIMBA NYAMBE, SC AT
LUSAKA IN CHAMBERS**

For the Applicant: Mr. Gilbert Pindani
Messrs Chisonta, Musaili & Pindani Advocates

For the Respondents: *No appearance*

JUDGMENT

List of authorities referred to:

This is the Applicant's action for recovery of monies owed to it by the Respondents in respect of certain facilities availed to the Respondents by the Applicant.

At the hearing **Mr. Gilbert Pindani** for the Applicant informed the Court that the 1st Respondent has paid off the debt in respect of a house loan in the sum of

K209,423.50. Consequently this portion of the claim falls away. The claim in respect of Stand No. 239, Ndola has been paid and consequently has also fallen away.

These proceedings relate only to the Over Draft in the sum of K75, 579.35, and an equitable Mortgage in respect of Plot No. 1704, Pamodzi, Ndola.

As indicated in the affidavit in support of the application herein, Exhibits marked "AN3A", "AN3B", "AN4A", "AN4B", "AN4B", "AN4C" as well as the Bank Statements marked "AN7A" indicate that the 2nd Respondent enjoyed an Over Draft Facility which was secured by an equitable Mortgage over Plot No. 1704 Pamodzi, Ndola, owned by the 1st Respondent. Both Respondents have defaulted on the Facility.

The Respondents did not file any affidavit in opposition. Service of Court processes was served upon the Respondents by way of substituted service indicating publication in the Zambia Daily Mail on 22nd/23rd December 2014 as shown in the affidavit of service filed into Court on 22nd January 2015.

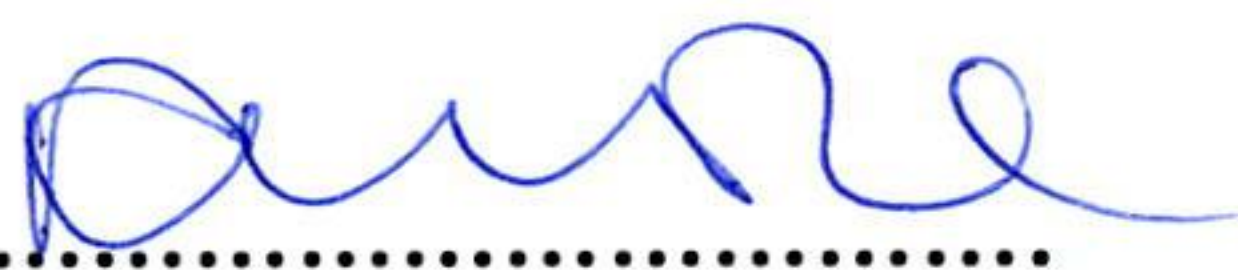
Upon perusal of the documents filed herein, clearly the Respondents are truly and justly indebted to the Applicant arising from the Over Draft Facility availed to them by the Applicant in the sum of K75,579.50 secured by an equitable Mortgage in respect of Plot No. 1704, Pamodzi, Ndola. The Respondents did not file an affidavit in opposition and therefore have no defence to this Claim. In the event the Applicant's applicant is hereby granted.

I take note of the Applicant's efforts in liquidating the greater portion of their indebtedness to the Applicant.

ORDER:-

1. I enter Judgment in favour of the Applicant in the total sum of K75,579.50 being the outstanding amount due and owing to the Applicant with interest at the current Bank of Zambia lending rate.
2. That the Respondents do pay the Judgment Debt with interest as above within three (03) months from the date of this Judgment. In default the Applicant shall be at liberty without further Court Order to take possession of the Mortgaged Property being Stand No. 1704, Pamodzi, Ndola, and exercise its right of Foreclosure and/or Sale without further Court Order.
3. Each party shall bear its own costs.

Dated this.....23rd.....day ofJanuary.....2015


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Prisca M. Nyambe, SC
JUDGE