

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

**2011/HPC/0745**

(Civil Jurisdiction)

BETWEEN:

**HUSSA LIMITED**

**PLAINTIFF**

**AND**

**ACCESS BANK ZAMBIA LIMITED**

**DEFENDANT**

**BEFORE HON. MR. JUSTICE NIGEL K. MUTUNA THIS 14<sup>TH</sup> DAY OF  
JULY 2015**

**FOR THE PLAINTIFF : Mr. L. Phiri of Messrs Chonta Musaila,  
and Pindani Advocates**

**FOR THE DEFENDANT : Ms J. Mutemi of Mesdames Theotis  
Mataka and Sampa**

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**J U D G M E N T**

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**CASES REFERRED TO:**

- 1) *Kpohrarov vs. Woolwich Building Society (1916) 4 ALL ER 119*
- 2) *Peter Kasonde vs. The People (1978) ZR 190*
- 3) *Cobbett - Tribe vs. The Zambia Publishing Limited (1973) ZR 9*
- 4) *Kapwepwe vs. Zambia Publishing Company Limited (1978) ZR*
- 5) *Zambia Breweries Plc vs. Lameck Sakala SCZ No.12 of 2012*

**Other authorities referred to:**

- 1) *National Payment Systems Act No.1 of 2007*
- 2) *Halsbury's Laws of England, by Lord Hailsham of St. Marylebone 4<sup>th</sup> edition vol. 9.*

The delay in disposal of this matter is deeply regretted, especially that it is a Commercial List matter. The reasons for the delay however, are known to both parties as they are a matter of public notoriety.

The Plaintiff, Hussa Limited commenced this action against the Defendant, Access Bank Zambia Limited on 16<sup>th</sup> December 2011. This was by way of writ of summons and statement of claim. The claim as it is endorsed on the writ of summons is for: damages for breach of contract; damages for defamation; exemplary damages; interest on amounts found due; such other relief the court may deem fit; and costs and of incidental to this matter.

The undisputed fact of this case are that the Plaintiff is a customer of the Defendant bank and holds account number 0010011032116 at the latter's Cairo Road branch. On 8<sup>th</sup> October 2011, the Plaintiff issued cheque number 000230 in favour of Lusaka Trust Hospital in the sum of K1,000,000.00. When the cheque was presented to the Defendant for payment it was returned marked with the words "*cheque stopped*". Later, on 28<sup>th</sup> September 2011, the Plaintiff issued another cheque number 000215 in the sum of K5,314,000.00 in favour of National Pension Scheme Authority (NAPSA). When the said cheque was presented to the Defendant it was also returned marked "*cheque stopped*".

The Plaintiff has contended in the statement of claim that as a consequence of the cheque that was not honoured that was paid to Lusaka Trust Hospital, the Chief Executive Officer of the Plaintiff, Don Kabondo, PW was informed that his wife could not be attended to when he took her to the hospital for treatment. It is further contended that the Plaintiff did not give instructions to the Defendant to stop payment of the cheque. Further that although the Plaintiff demanded from the Defendant its reasons for failure to honour the cheque, the Defendant has not responded.

As regards the cheque issued to NAPSA, it is contended that as a consequence of the Defendant's refusal to honour the cheque, the Plaintiff's officers face prosecution for allegedly breaching section 33(4) of the **National Payments Systems Act**. The Plaintiff has also contended that, as a consequence of the two acts by the Defendant, its credibility as a business entity has been injured. Further that the Defendant breached

its duty to obey the Plaintiff's instruction as its customer to pay cheques drawn on sufficiently funded accounts. It is also contended that the Defendant's acts have injured the Plaintiff in its reputation and it has been brought into public scandal, contempt and ridicule.

The Plaintiff particularized this latter contention as follows: that the acts of the Defendant meant or were understood to mean;

- i) that the Plaintiff had deliberately stopped payments after presenting the cheque for payment so as to take undue advantage of the payee;
- ii) that the Plaintiff had drawn a cheque on an insufficiently funded account;
- iii) that the Plaintiff was not credit worthy.

In the defence, the Defendant contended that it did inform the Plaintiff by letter dated 22<sup>nd</sup> July 2011 that it was withdrawing the Plaintiff's cheque facility in accordance with direction number 5 of the National Payment System Directions, 2010. The withdrawal was based on the Plaintiff's conduct of issuing three cheques on an insufficiently funded account within a period of twelve consecutive months. Further that the Plaintiff was warned not to issue any more cheques and that payment on all its cheque leaves had been stopped on the Defendant's system. It was also contended that the Plaintiff is and was at all material times aware of the consequences of its acts.

The Defendant contended further that any injury suffered by the Plaintiff was a consequence of its own acts and not those of the Defendant because it was aware that it had no right to issue cheques. It was also contended that the Defendant was not obliged to obey the Plaintiff's instructions to pay the cheques even though the Plaintiff's account was sufficiently funded, because its cheque facility had been withdrawn. Further, the Defendant pleaded the defence of justification on the ground that the actions by the Defendant were prompted by the Plaintiff's own action of presenting cheques on an insufficiently funded account. The Defendant also contended that the words "*cheque stopped*" endorsed on

the cheques should be read in their proper context being that the Plaintiff did not have a subsisting cheque facility.

When the matter came up for trial, the parties had a witness each. PW was Don Kabondo, a business man by occupation and Executive Director and shareholder in the Plaintiff Company. His evidence revealed that sometime in April 2009 he opened account number 001001032161 on behalf of the Plaintiff at the Defendant's bank. The said account had provision for a cheque book and as executive director PW was one of the signatories to the account. The evidence went on to reveal that the Plaintiff's bank account was properly maintained at all times and it had sufficient funds to cover any withdrawals and outward clearing cheques issued on the account. That on or about 8<sup>th</sup> October 2011, the Plaintiff issued cheque number 000220 to Lusaka Trust Hospital in the sum of K1,000,000.00. The same was a deposit on medical services to be provided to PW and his family by the hospital. See page 2 of the Plaintiff's bundle of documents for the cheque. When the cheque was presented to the Defendant for payment the latter stopped payment despite the account being sufficiently funded. As a consequence of this, the evidence revealed, when PW's wife fell ill and he took her for treatment at the hospital, the staff refused to attend to her. This was on account of PW's medical account having no credit on it. He was therefore prompted to pay cash in order that his wife could be attended to.

The evidence went on to reveal that PW did not at any point give instructions to the Defendant to stop payment on the cheque drawn in favour of Lusaka Trust Hospital.

As regards the second cheque, the evidence revealed that on or about 28<sup>th</sup> September 2011, the Plaintiff paid cheque number 000215 in the sum of K5,314,000.00 to NAPSA. The payment was for statutory contributions that were due from the Plaintiff to NAPSA. When the cheque was presented to the Defendant it was returned marked "*cheque stopped*". This was notwithstanding the fact that there were sufficient funds in the Plaintiff's account to meet the payment. As a consequence of the unpaid

cheque, the Plaintiff's officers were charged and prosecuted in the Subordinate Court by NAPSA for failing to remit statutory contributions. See page 11 of the Plaintiff's bundle of documents for the charge sheet containing the charges preferred against the Plaintiff.

The evidence revealed further that the Defendant stopped payments on various cheques as follows: on 30<sup>th</sup> November 2011, a payment of cheque number 000217 drawn in favour of PW in the sum of K5,000,000.00; and on 27<sup>th</sup> December 2011 a payment of cheque number 000224 in favour of Kwacha Insurance Brokers Limited in the sum of K369,541.00. The evidence revealed that when these cheques were stopped the Plaintiff's account had sufficient funds. It also revealed that the Defendant paid cheque number 000272 dated 29<sup>th</sup> November 2011 in the sum of K937,500.00 drawn in favour of National Council for Construction. See page 7 of the Plaintiff's bundle of documents.

As a result of the repeated stop payments on its cheques, the Plaintiff wrote a letter to the Defendant's managing director at Cairo road branch seeking clarification as to why the cheques were being stopped. The letter was duly delivered but to date there has been no response from the Defendant. The evidence ended by revealing that the Plaintiff was not at any time notified of any withdrawal of the cheque facility by the Defendant bank.

In cross examination PW conceded that on two occasions he issued cheques on an insufficiently funded account. He stated further that he was not aware that it is an offence to issue cheques on an insufficiently funded account and that the Defendant did not notify him that it is an offence.

PW also testified that the letter at page 6 of the Defendant's bundle of documents addressed to the Plaintiff was addressed to the Plaintiff's old address. That this is the address that the Plaintiff provided to the Defendant at the time of opening the account. And that he did not notify the Defendant in writing when the Plaintiff's address changed. He went on to explain that Morris Banda is an office orderly in the Plaintiff who used to deposit cash and cheques on behalf of the Plaintiff. That he did not know

that the Defendant had informed Morris Banda that it had withdrawn the cheque facility.

As regards the endorsement on the cheques he explained that he understood the words "*cheque stopped*" to mean that a customer instructed the bank to stop payment. While his understanding of the phrase "*returned unpaid*" was that there was no money in ones account. He went on to state that NAPSA had informed him when the cheque was stopped and that he subsequently paid them cash. Further that he had to pay NAPSA penalties as a result of non-payment of statutory contributions.

The Defendant's witness was Ndubisi Muonemeh DW, a banker. His evidence revealed that he is in the employ of the Defendant as Group Head of Customer and Commercial Banking. It also revealed the procedure followed before a cheque book is cancelled which was that a letter is drawn up to the customer advising the customer of the provisions of the **National Payment Systems Act**. It also advises the customer to withdraw any cheques issued prior to the letter and requests the customer to return the cheque book to the bank within a stipulated period. On expiry of a thirty day period of the notice the bank cancels the cheque facility.

The evidence further revealed that DW had reviewed the documents on the Defendant's file in relation to this matter and that indeed notice was sent to the Plaintiff which is at page 6 of the Defendant's bundle of documents. That the letter was sent to the Plaintiff's last known address at plot 6888 Freedom Way Lusaka because the Plaintiff did not inform the Defendant that it was no longer at that address and the Defendant only discovered much later that the Plaintiff had actually left that address.

The evidence also revealed that despite the letter being sent, the Plaintiff did not return the cheque book and continued to issue cheques. Further that, the cheque paid out on 6<sup>th</sup> December 2011 ought not to have been paid but that it was paid due to an error in the system.

In cross DW testified that it is the duty of a bank to pay on a customer's account if it is sufficiently funded as long as there are no instructions to the contrary and the particular cheque is not stopped.

As regards the notice to the Plaintiff about withdrawal of the cheque book, DW testified that the letter sent to the Plaintiff is at page 6 of the Defendant's bundle of documents. That the letter was delivered to the address indicated on the letter and that the Defendant did call PW to notify him of its intention to withdraw the cheque book. Further that the Plaintiff did write to the Defendant on 11<sup>th</sup> November 2011 regarding the stopped cheques but that the Defendant did not respond to the letter.

As regards the details that a notice of withdrawal of cheques should contain, it was put to DW that the same should have: the list of dishonoured cheques; dates of dishonoured cheques; and the payees and amount of the dishonoured cheque. He indicated that he was not aware of the said details.

DW went on to list the dishonoured cheques from the Defendant's bundle of documents as follows: at page 15 on 1<sup>st</sup> October 2010; page 16 on 22<sup>nd</sup> March 2011; and on the same page 8<sup>th</sup> April 2011. He testified further that the balance in the Plaintiff's account on the day the last cheque was dishonoured was K102,995,637.23 and as such it was sufficiently funded. Further that although the cheque systems was withdrawn on 22<sup>nd</sup> July 2011 a cheque was subsequently honoured on 6<sup>th</sup> December 2011 because it came from a range of cheque books that had not been cancelled.

In re-examination DW testified that the Plaintiff was aware that cheques were stopped before the letter of 11<sup>th</sup> November 2011 because it was notified by Lusaka Trust Hospital and NAPSA of the stopped cheques. He stated in this regard that when a cheque passes through the clearing system and it is not paid it is indicated in bold on the cheque why it has not been paid.

As regards the cheque that was dishonoured on 8<sup>th</sup> April 2012, DW testified that the cheque came in on 7<sup>th</sup> April 2012 and was posted on the same day, when the Plaintiff's account was not sufficiently funded and was given a value date of 8<sup>th</sup> April 2012. At the point the cheque was deposited, he testified, there were not enough funds in the account because the transfer of funds from another bank had not yet been credited to the Plaintiff's account.

This was the evidence that was presented before the court. Following the presentation of the evidence, the Plaintiff filed written submissions. At the time of writing and delivery of the judgment the Defendant had not filed submissions. I have however considered the Defendant's skeleton argument filed on 29<sup>th</sup> May 2012 in compliance with the order for directions.

In Plaintiff's submissions Mr. L. Phiri argued that it is clear from PW's evidence that the Plaintiff was not aware that the cheque facility had been withdrawn by the Defendant. This it was argued is on account of the fact that the Plaintiff issued various cheques on the withdrawn cheque facility. Further that the Plaintiff wrote a letter to the Defendant enquiring as to why the cheques had been returned. This counsel argued was re-inforced by the fact that, the Plaintiff business address changed from plot number 6888 Freedom Way Lusaka to plot number 1826, Kasuba road, Light Industrial area. Counsel for the Plaintiff quoted from Mc Gregor on Damages that "*the Plaintiff can recover substantial damages for injury to his credit without proof of actual damage*". He also quoted from the case of ***Kpohravor vs. Woolwich Building Society (1)*** and ***Kabanda vs. the People (2)***. Counsel argued that the relationship between a banker and customer is that of debtor and creditor and that funds held in an account are owed to the customer by the bank. It was argued that the Defendant had a mandatory duty to pay any cheques issued and failure to do so is clearly a breach of contract. This, it was argued is because the Plaintiff's account was sufficiently funded and active on the dates the cheques were stopped and or not paid. It was argued further that the



Plaintiff has a cause of action as against the Defendant for failure to comply with its duty to pay by wrongly dishonouring the Plaintiff's cheques. Reliance was made on the case of **Cobbett - Tribe vs. The Zambia Publishing Limited (3)**. It was argued that the evidence on record indicates that the Plaintiff did not receive the Defendant's letter of 22<sup>nd</sup> July 2011 notifying it of the withdrawal of the cheque facility. That even assuming that the Plaintiff had received the letter, it did not meet the minimum requirements as set out by the **National Payments Systems Act**. Counsel also argued that the Plaintiff did not cause to be dishonoured three consecutive cheques because the cheque number 256 which was paid was done so at a time when there were sufficient funds in the Plaintiff's account.

As regards damages counsel argued that, the Defendant's conduct throughout the episode was aggravated in view of the fiduciary duties that it owed to the Plaintiff. Counsel made reference to the case of **Kapwepwe vs. Zambia Publishing Company Limited (4)** which held that exemplary damages may be awarded in any case where the Defendant has acted in contumelious disregard of the Plaintiff's rights.

As regards the prayer for interest, counsel urged me to apply the principles in the case of **Zambia Breweries Plc vs. Lameck Sakala (5)**. He prayed that the Plaintiff's claim should be upheld.

In the Defendant's skeleton arguments Ms Mutemi explained the duties of a bank on a customer's instruction and the customer's duty to exercise reasonable care when executing written orders so as not to mislead the bank. She quoted from Halsbury's Laws of England. She also argued that by signing the account opening forms, the Plaintiff accepted the Defendant's conditions which do not permit the issuance of cheques on insufficiently funded accounts. She also quoted Direction 6(b) of the National Payments Systems Directives on Cheques and Direct Debit Institutions Issued on Insufficiently Funded Accounts, 2010 and set out the penalty for issuing three cheques on are insufficiently funded accounts.

Counsel prayed that the matter be dismissed.

I have considered the pleadings, evidence and arguments by counsel for the parties. The Plaintiff's claim is premised on its contention that the Defendant had no authority to stop payment on the two cheques. Further that, the Defendant did not notify the Plaintiff when it withdrew the cheque facility. Arising from this, the Plaintiff has made two of its major claims for damages for breach of contract and damages for defamation. The other three claims for exemplary damages, interest and costs are dependent on the two claims. I will therefore begin my determination of this matter by considering the two major claims, starting with damages for breach of contract. It has been contended that the relationship between the Plaintiff and Defendant is that of banker and customer. That as such, the Defendant is a debtor to the Plaintiff and custodian of its funds. Therefore, the Defendant was obliged to act on the Plaintiff's instructions to pay the cheques as they were presented to it for payment. Various authorities were cited by the Plaintiff in support of its contentions.

The Defendant on the other hand, has contended that it stopped payment on the two cheques and did not dishonour them. That it was prompted to do so after the Plaintiff had caused to be dishonoured three cheques in twelve consecutive months and it withdrew the cheque facility in line with the provisions of the National Payments Systems Directives on Cheques and Direct Debit Instructions Issued on Insufficiently Funded Accounts, 2010 issued pursuant to the **National Payments Systems Act**.

The evidence of PW was that at all material times the Plaintiff's account was sufficiently funded. He however conceded under cross examination that the Plaintiff's account had been insufficiently funded on two occasions when two cheques were dishonoured. He, in this regard testified that the entry on the Plaintiff's bank account statement at page 15 of the Defendant's bundle of dated 1<sup>st</sup> October 2010 indicates that there was a negative balance of K3,070,483.53 when the cheque for K3,016,000.00 was dishonoured. Similarly at page 16 of the same bundle the statement indicates that entry dated 22<sup>nd</sup> March 2011 shows that there was a negative balance of K8,889,533.80 and that is why the

cheque presented on 22<sup>nd</sup> March 2011 was dishonoured. He however denied that on 8<sup>th</sup> April 2011 there were insufficient funds in the account to warrant the dishonouring of the third cheque. The evidence of DW with respect to this last cheque was that it was deposited on 7<sup>th</sup> April 2011 and posted on that very day when the account was insufficiently funded and dishonoured on 8<sup>th</sup> April 2011 prior to the Plaintiff's account being credited with funds.

It is not in dispute that the Plaintiff caused two cheques to be dishonoured on 1<sup>st</sup> October 2010 and 22<sup>nd</sup> March 2011 on account of its account not being sufficiently funded. What is in dispute is whether or not the Defendant was correct in dishonouring cheque number 000256 on 8<sup>th</sup> April 2011. A perusal of the Plaintiff's bank statement which is in the Defendant's bundle of documents specifically the page at page 16, indicates that the said cheque was presented to the Defendant for payment on 7<sup>th</sup> April 2011. When it was presented for payment the Plaintiff's account was insufficiently funded because the balance then was negative K23,596,241.71. I therefore find that the Defendant was correct in dishonouring the cheque and that the Plaintiff did indeed cause to be dishonoured three cheques.

Having found that the Plaintiff caused three cheques to be dishonoured, the issue that arises is, what is the consequence of such conduct. The answer lies in the National Payments Systems Directives on Cheques and Direct Debit Instructions Issued on Insufficiently Funded Accounts, 2010, issued pursuant to **The National Payments Systems Act** and published in the government Gazzette No.5878 of 14<sup>th</sup> May 2010. Directive 6(b) of the said directives states as follows:

*"Where cheques issued by a customer are dishonoured on three occasions within a period of twelve consecutive months, the paying bank will withdraw the cheque account facility and inform the customer in writing. The written notice of withdrawal should contain, at the minimum, a list of the dishonoured cheques with the dates, cheque numbers, payees and amounts. The written notice shall also*

*instruct the customer not to issue any more cheques and henceforth to surrender the cheque book(s) within thirty days”.*

By the said directive, a bank is empowered to withdraw a cheque facility where a customer causes three cheques to be dishonoured within a period of twelve consecutive months. Further, along with the withdrawal of the cheque facility, the bank is required to notify its customer in the prescribed form and request the customer to surrender the cheque book or books within thirty days and to forthwith cease to issue cheques.

In view of the facts I have outlined leading up to the Defendant stopping payment on the Plaintiff's cheques, I find that the Defendant was entitled to invoke the provisions of direction 6(b). The Plaintiff did have three cheques dishonoured on its account because of insufficient funds within a space of twelve consecutive months, there was therefore nothing in the actions taken by the Defendant which would amount to a breach of contract. I accordingly find that the Plaintiff's claim in this regard lacks merit.

In arriving at the foregoing decision, I have considered the argument by the Plaintiff that the Defendant did not correctly invoke direction 6(b). This arises from the contentions that: the Defendant did not give the Plaintiff notice before or after it withdrew the cheque facility; and the notice relied upon by the Defendant is wanting as it does not comply with the minimum requirements stipulated in directive 6(b).

As regards the notice, the Defendant has argued that on 22<sup>nd</sup> July 2011 it notified the Plaintiff of the withdrawal of the cheque facility. It has been argued in this regard that the notice was left at the Plaintiff's address as indicated in the Plaintiff's letter for opening of the account.

The notice referred to by the Defendant is at page 6 of the Defendant's bundle of documents. It is addressed to the Plaintiff at plot number 6888 Freedom Way Lusaka. This is the same address that is indicated as the Plaintiff's address on the forms for opening the bank account at page 1 of the Defendant's bundle of documents. I find that the action by the

Defendant of leaving the notice at the Plaintiff's last known address was sufficient service. The fact that the Plaintiff had changed its address and not notified the Defendant as PW testified is not the Defendant's fault. There was an obligation placed upon the Plaintiff to inform the Defendant when it changed its physical location. Having failed to do so, it has itself to blame.

As regards the content of the letter, it is clear that it is wanting because it does not set out the details of the three dishonoured cheques as per direction 6(b). However, this in and of itself, does not take away the Defendant's right to cancel or withdraw the cheque facility. I say this because, the action of withdrawing the cheque facility is a step to be taken along with the issuance of the notice. It is not a step that is dependent upon the issuance of a notice or invalidated by the want of a notice. This can be discerned from the wording of direction 6(b) in the portion that reads "... *the paying bank will withdraw the cheque account facility and inform the customer in writing*". (The underlining is mine for emphasis only). The remedy that the Plaintiff can invoke is in the directives themselves which provide penalties for non-compliance.

I have also consider the authority of Mc Gregor on Damage and the case of ***Kpohravor vs. Woolwich Building Society (1)*** quoted by counsel for the Plaintiff. By the said authority and case counsel sought to demonstrate that a customer can recover damages for injury to his credit without proof of actual damage where a bank fails to honour his instructions to pay on a sufficiently funded account. Whilst I agree with the principle in the authority and the case I do not think that they aid the Plaintiff in his case. Giving particular reference to the ***Kpohravor*** case, the facts in that case show that the bank, in that case refused to pay on a cheque in the mistaken belief that it was stolen. Subsequently, the bank realised its mistake and admitted its wrong doing. In such a case, surely a customer is entitled to payment of damages because the bank indeed was wrong and admitted its wrong doing. In our case however, my findings show that the Defendant was entitled to stop payment in accordance with

the direction 6(b) I have referred to in the earlier part of this judgment. To this extent, this case is distinguished from the ***Kpohravor*** case, which case does not aid the Plaintiff's case.

I now turn to determine the second major claim for damages for defamation. It has been contended by the Plaintiff that by dishonouring the two cheques payable to Lusaka Trust Hospital and NAPSA, the Defendant represented to the two payees that the Plaintiff's account was insufficiently funded. Further that, the Defendant's actions resulted in the payees assuming that the Plaintiff intended to take undue advantage over them. The Defendant have pleaded the defence of justification.

As a starting point it is important to make it clear that when the Defendant stopped payment of the two cheques it marked the cheques with the words "*CHQ STOPPED*". This can be discerned from the cheques which appear at pages 1 and 2 of the Plaintiff's bundle of documents. The cheques were not marked "*RD*" or "*refer to drawer*" which in the banking circles means that a customer's account has no funds or is insufficiently funded. The words "*CHQ STOPPED*" cannot be likened to the words "*refer to drawer*" and do not, in my considered view, project to a third party or payee such as Lusaka Trust Hospital or NAPSA, that which has been attributed to them by the Plaintiff. Further, the Defendant as I have found in the earlier part of this judgment was justified in stopping the payments on account of the withdrawn cheque facility. I therefore, find that there was nothing defamatory in the action taken by the Defendant of stopping the cheques and marking them as such. Further, there is nothing defamatory in marking a cheque in the manner that the two were marked given the circumstances leading to such action. I therefore find no merit in this claim as well.

I have stated that the last three claims by the Plaintiff for exemplary damages, interest and costs are dependent upon the two main claims that I have determined in the preceding paragraphs. Having found the two main claims to be lacking in merit, the fate of the other three is that they are also lacking in merit.

By way of conclusion, I find that the Plaintiff having failed to prove its claims, the same must be dismissed and I so order. In doing so I condemn the Plaintiff to costs, the same to be agreed, in default taxed.

**Dated the 14<sup>th</sup> day of July 2015**

**NIGEL K. MUTUNA  
HIGH COURT JUDGE**