

Judgment on Review

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

2014/HPC/0506



BETWEEN:

FINANCE BUILDING SOCIETY

PLAINTIFF

AND

RICHARD SIKAZWE

DEFENDANT

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

For the Plaintiff:

Mr. Alfred Roberts
Alfred Roberts & Company

For the Defendant:

Mr. Benjamin Mutale
B C M Legal Practitioners

JUDGEMENT IN DEFAULT OF DEFENCE

List of authorities referred to:-

1. Order 14 Rule 1 of the Supreme Court Rules and the Limitation Act 1939

This action was commenced in the Commercial Registry by the Plaintiff by Writ of Summons dated 14th November, 2014. Conditional Appearance was filed on 16th December, 2014. No Defence has been filed since the Writ of

Summons was issued some seven (07) months ago. Instead the Defendant issued a Summons to strike out matter that is statute barred on a point of law pursuant to **Order 14 Rule 1 of the Supreme Court Rules and the Limitation Act 1939**.

On the date appointed to hear this application despite being aware of the hearing date the Defendant did not appear and no reason was communicated to Court for none appearance. Therefore the application by the Defendant to strike out matter that is statute barred is dismissed for failure to prosecute the same. In addition as submitted by Counsel for Plaintiff, the limitation period based on fraud was pleaded. However the limitation period has not yet expired.

As indicated at the scheduled hearing date, the Defendant did not appear and no reason was communicated to Court for none appearance. The Defendant is aware of this hearing date. Defendant ought to know the necessary steps that ought to have been taken once the action was commenced. The dispensation in Commercial Court matters requires parties to plead their cases expeditiously. The Commercial Court was created so that matters before it can be determined expeditiously. Therefore when parties file their action in the Commercial List, they ought to be aware that the regime of the Commercial Court Rules require them to move the matter expeditiously.

Further, as noted to-date no Defence has been filed.

In my view I consider this an appropriate case to enter Judgment in Default of defence.


Order:-

I enter Judgment in Default of Defence in favour of the Plaintiff as endorsed.

Costs follow the Cause, to be taxed in default of appearance.

Right of appeal granted.

Dated this.....^{6th}.....day of^{August}.....2015


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Prisca M. Nyambe, SC
JUDGE