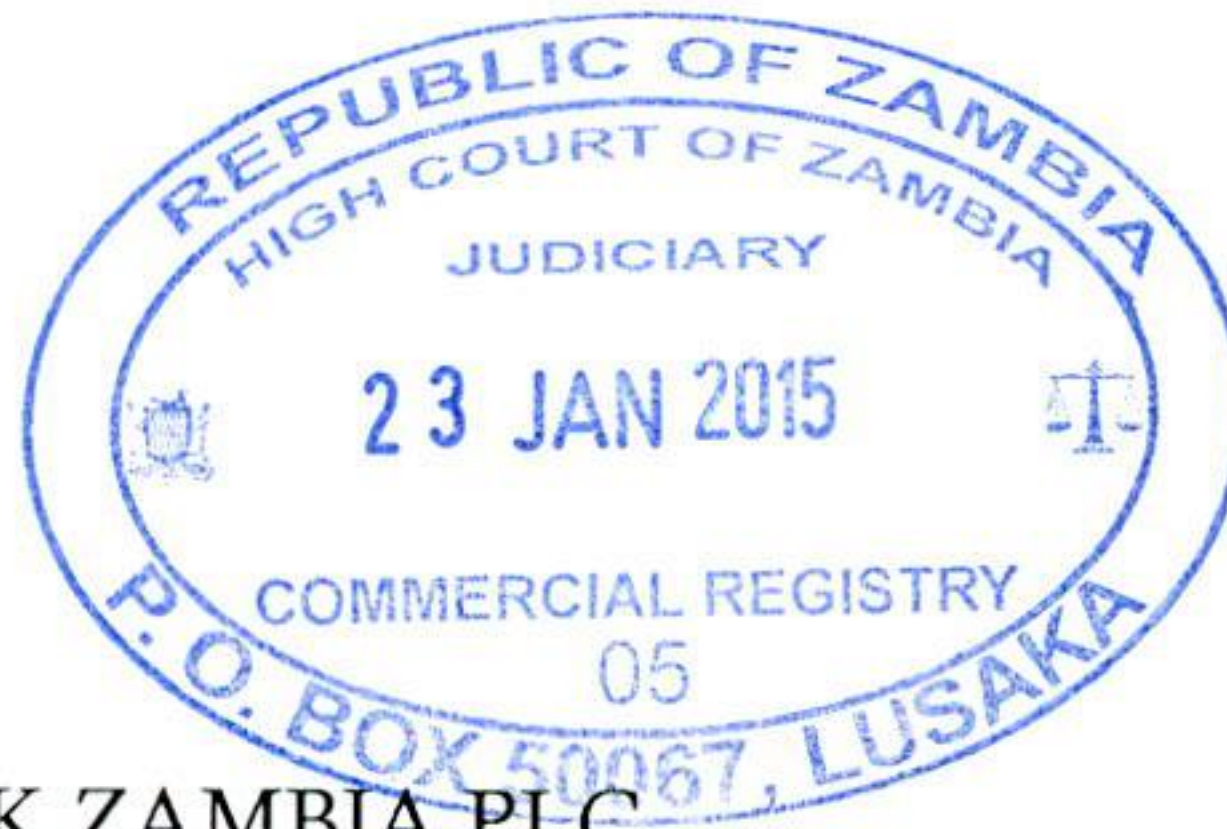


IN THE HIGH COURT FOR ZAMBIA  
AT THE COMMERCIAL REGISTRY  
HOLDEN AT LUSAKA  
(Civil Jurisdiction)

2013/HPC/0406



BETWEEN:

STANDARD CHARTERED BANK ZAMBIA PLC

APPLICANT

AND

LUANSHYA BREWERIES LIMITED  
GOLDEN MILLING COMPANY LIMITED  
JUSTINE MAYEMBE

1<sup>ST</sup> RESPONDENT  
2<sup>ND</sup> RESPONDENT  
3<sup>RD</sup> RESPONDENT

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

For the Applicant:

Mr. V Musonda  
*Veritus Legal Practitioners*

For the Respondents:

*No appearance*

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## JUDGMENT

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**List of authorities referred to:**

1. Order XXXIX, Rule 1 of the High Court Rules, Cap 27 of the Laws of Zambia
2. Lands and Deeds Registry Cap 185 of the Laws of Zambia
3. Order 39 Rule 1 of the High Court Rules

On 6<sup>th</sup> March 2014 the Applicant filed a Summons for review of the Court's Judgment dated 21<sup>st</sup> February 2014. It was supported by an affidavit with exhibits and list of authorities of even date.



The affidavit in support sworn by one **Kaumbu Mwondela** states *inter alia* that the reference to 2011 on page one of Mortgage Deed was an inadvertent typographical error and that the cover page clearly shows that the Deed was prepared in 2012. It is the Applicant's contention that this evidence demonstrates that the Mortgage Deeds in question were in fact registered within the stipulated time required by law. The application was brought Pursuant to **Order 39 Rule 1 of the High Court Rules** which provides that:-

*"Any Judge may, upon such grounds as he shall consider sufficient, review any Judgment or decision given by him (except where either party shall have obtained leave to appeal, and such appeal is not withdrawn)".*

On 4<sup>th</sup> June 2014 the Applicant filed an *Exparte* Summons for leave to file further affidavit and supplementary Arguments in support of Summons for review of Judgment which I heard *inter-partes* on 1<sup>st</sup> July 2014. As the Respondents' Counsel did not oppose the application I granted the application.

On 10<sup>th</sup> July 2014 the Applicant filed into Court Further Affidavit in Support of Review of Judgment Pursuant to **Order XXXIX, Rule 1 of the High Court Rules, Cap 27 of the Laws of Zambia** which provides that:-

*"Any judge may, upon such ground as he shall consider sufficient, review any judgment or decision given by him (except where either party shall have obtained leave to appeal, and such appeal has not been withdrawn), and upon such review, it shall be lawful for him to re-open and rehear the case wholly or in part, and to take fresh evidence, and to reverse, vary or confirm his previous judgment or decision".*



At a hearing on 25<sup>th</sup> September 2014, there was no appearance from the Defendants and Counsel of record having withdrawn from representing the Defendants. Despite there being no appearance by or on behalf of the Defendants I granted an adjournment to enable the Defendants appear either in person or by Counsel. So I adjourned the matter to 19<sup>th</sup> January 2015 at 14:30 hours for hearing. A Notice of hearing was issued to this effect and an affidavit of service filed herein.

At the hearing on 19<sup>th</sup> January 2015 I declined a request for a further adjournment on behalf of the 3<sup>rd</sup> Respondent who did not attend in person as I saw no merit in it, and as the matter had been adjourned previously and the Respondents did not respect the hearing dates given. I therefore allowed **Mr. Musonda** Counsel for the Applicant to proceed with his application.

I have reviewed the Applicant's affidavit filed in support of Summons for review and as well as the Applicant's list of authorities and skeleton arguments in support of Summons for review of Judgment filed on 10<sup>th</sup> July 2014, as well as the affidavit in support of review of Judgment filed on 6<sup>th</sup> March 2014 deposed to by one **Kaumbu Mwondela**.

I am satisfied that sufficient grounds have been presented to Court making this a proper Case for review.


With the above in view and after perusing the Mortgage Deed under consideration I find that the said Mortgage Deed was filed within the time required by the **Lands and Deeds Registry Cap 185 of the Laws of Zambia**.



5. That the Respondents do settle 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 to take possession of the Mortgaged Property being Stand No. 342, Matero, Lusaka and exercise its power of Foreclosure and/or Sale without further Court Order.

6. Each party shall bear its own Costs.

Dated this 23<sup>rd</sup> day of January 2015

  
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**Prisca M. Nyambe, SC**  
**JUDGE**