

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

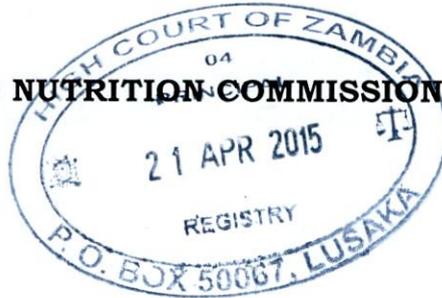
2014/HP/1328

BETWEEN:

NATIONAL FOOD NUTRITION COMMISSION
AND
MPANGO BANDA

APPLICANT

RESPONDENT



BEFORE : HON. G.C. CHAWATAMA

For the Applicant : Ms T. Bulaka – Messrs Chifumu Banda & Associates

For the Respondent : In Person

RULING

AUTHORITIES REFERRED TO:

1. *Order 30 Rule 11 (b) of the High Court Rules Chapter 27 of the Laws of Zambia.*

Matter came by way of originating summons pursuant to **Order 30 Rule 11 (b) of the High Court Rules Chapter 27 of the Laws of Zambia.** The Applicant sought the following reliefs:-

- I. *A declaration and an order that the Respondent is not entitled to purchase the institution house known as House No. 4-6/44/A Roma Township belonging to the Applicant.*

- II. *A declaration and an order that the notice of three months to the Respondent is in accordance with clause 5.3 of the terms and conditions of service after the expiration of the notice to vacate.*
- III. *An order that the Respondent should vacate the institution house immediately in accordance with clause 5.3 of the terms and conditions of service.*
- IV. *A declaration and an order that the institution is entitled to rest to be assessed in default of agreement*
- V. *Interest*
- VI. *Any other relief the court will deem fit*
- VII. *Costs*

The matter was set for hearing on the 11th February, 2015. The Respondent was absent however, there was an affidavit of service filed on the 9th February, 2015.

The court heard Counsel for the Applicant. Counsel relied on the affidavit in support of originating summons and referred the court to exhibit CPN 2 clause 5 (3), generally and clause 5 (3) (a) specifically which states:

- a) *An employee who leaves the services of the commission on attaining the normal retirement age will be allowed to stay in the house for a maximum period of three (3) months. The court was further referred to exhibit CPN3 and CPN4. CPN3*

is a letter to the Respondent from the Applicant which Counsel stated showed clearly that the Applicant notified the Respondent to vacate the house after the expiration of three months after her retirement. The court was informed that the Respondent had been paid her dues.

Order 30 Rule 11 (b) of the High Court Rules Chapter 27 of the Laws of Zambia states as follows:-

“The business to be disposed of in chambers shall consist of the following matters, in addition to the matters which under any other rule or by statute or by the law and practice for the time being observed in England and applicable to Zambia may be disposed of in chambers. An application by any person claiming to be interested under a deed, will or other written instrument for the determination of any question of construction arising under the instrument and for a declaration of the rights of the person interested upon hearing Counsel for the Applicant and there being no response by the Respondent.”

It is a fact that on the 23rd October, 2001, the Respondent was written to and informed of her retirement having attained the age of (55) fifty-five years.”

The terms and conditions of service under which she served and included a provision referred to by Counsel are clear. From the date of notification of retirement, 23rd October, 2001, informing the Respondent that she would retire with effect from 31st

October, 2001 meant that she was due to vacate the house on the 31st January, 2002.

From the evidence before me the Respondent was informed by way of a letter dated 14th November, 2007 that the purchase of the house she was occupying has fallen off as government insists as per ruling policy that it will no longer allow the purchase of institutional houses. She was also informed that the earlier verbal assurance that she may be allowed to purchase the house as a sitting tenant had been made without consultation with the Government of the Republic of Zambia. Infact the Applicants informed her that she was to vacate the house within three months of receipt of a letter dated 14th November, 2007, meaning she was to vacate the house on the 14th February, 2007.

Upon being satisfied that there was service evidenced by the affidavit of service filed on the 9th February, 2015, the court declares that the Respondent is not entitled to purchase the Institution House known as House No. 4-6/44/A Roma township belonging to the Applicant and orders that she vacates the same.

The court declares that the notice of three months given to the Respondent was in accordance with Clause 5.3 of the terms and conditions of service and was such that after the expiration of notice the Appellant vacates. The court declares that the Respondent is entitled to rent after the expiration of the three

months notice, the same rent to be assessed in default of Agreement. The court orders no interest or costs.

DELIVERED AT LUSAKA THIS DAY OF2015.


G.C.M CHAWATAMA
JUDGE