

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

2019/HPC/0137

BETWEEN:

OMNIA FERTILIZER ZAMBIA LIMITED  
OMNIA SMALL SCALE LIMITED



1<sup>ST</sup> APPLICANT  
2<sup>ND</sup> APPLICANT

AND

KUPA K. LIMITED  
EDWARD MUKUPA  
PAUL NKOLE

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

*Before the Honourable Mrs. Justice K. E. Mwenda-Zimba in chambers on the 14<sup>th</sup> day of May, 2019.*

*Delivered ex tempore in chambers on the 14<sup>th</sup> day of May, 2019*

*For the Applicants : Mr. R. Musumali with Ms. M. Cornhill (LLP) of SLM Legal Practitioners*

*For the Respondents : Mr. F. Besa with Mr. F. Katongo (LLP) of Friday Besa & Associates*

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## J U D G M E N T

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**Case referred to:**

**Kasabi Industries v. Intermarket Banking Cooperation Appeal No. 168/2009**

Upon hearing Counsel for the two parties and upon reading the affidavit and skeleton arguments in support and by consent of the parties, Judgment is accordingly entered in favour of the Applicants




against the Respondents in the sum of USD 23,938.55 as at the 28<sup>th</sup> of February, 2019. The said Judgment sum shall carry interest at the London Inter-Bank Lending Rate from the date of the originating summons to the date of payment.

The said Judgment sum shall be paid within 90 days from today failing which the Respondents shall convey the mortgaged property being stand No. 6837 Chimwemwe, Kitwe to the Applicant unconditionally. I refuse to order possession and sale as the mortgage herein is an equitable mortgage. This is on the authority of **Kasabi Industries v. Intermarket Banking Cooperation.**

If after the above, the Judgment sum shall not have been satisfied, the Applicants shall be at liberty to enforce the personal guarantee against the shareholder/Director Mr. Edward Mukupa.

I award costs to the Applicants. To be taxed in default of agreement.

  
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**HIGH COURT JUDGE**