

GODFREY MIYANDA v ATTORNEY-GENERAL (No. 2) (1985) Z.R. 243 (S.C.)

SUPREME COURT
NGULUBE, D.C.J., GARDNER AND MUWO, JJ.S.
18TH DECEMBER, 1985
(S.C.Z. JUDGMENT NO. 32 OF 1985.)

Flynote

Supreme Court - Judgment - Amendment or alteration of, after delivery.

Headnote

In its judgment in favour of the applicant, the Supreme Court found that the state had not complied with the relevant provisions of the law in dismissing the applicant. For that reason the court ordered the State to pay damages to the applicant. The applicant regarded it as an accidental slip that the court should award him damages rather than declare the dismissal a nullity. In asking the Supreme Court to amend or alter its judgment the applicant relied on Rule 78 of the Supreme Court Rules which provides that: "Clerical errors by the Court or a judge thereof in documents of process, or in any judgment, or errors therein arising from any accidental slip or omission, may at any time be corrected by the Court or a judge thereof."

Held:

There is no rule which allows the Supreme Court generally to amend or alter its final judgment; as all the issues raised in the application were canvassed and given due consideration in the judgment complained of, there was nothing accidental in that judgment.

Legislation referred to:

Supreme Court Rules of Zambia, Cap.52, r, 78.

For the appellant: In person.

For the respondent: Mr B.L. Goel, Senior State Advocate.

Judgment

NGULUBE, D.C.J.: delivered the judgment of the Court.

In this case this court delivered a final judgment on 31st July, 1985, in an appeal in which the applicant was the appellant. The applicant has made an application to this court under Rule 78 of the Supreme Courts Rules, which is in the following terms:

Rule78 : "Clerical errors by the Court or a Judge thereof in documents of process, or in any judgment, or errors therein arising from any accidental slip or omission, may at any time be corrected by the Court or Judge thereof."

In the documents filed in support and in his submissions, the applicant argues that, as the Court

found there was non-compliance with the relevant provisions of the law when his dismissal was effected, the award of damages to him must have been an error on the part of this court due to an accidental slip. He argued that the dismissal should have

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been declared to be a nullity as a matter of course in order to give what the applicant considered to be the only proper effect to the determination that there was such non-compliance. A perusal of our judgment shows that all these issues were canvassed and given due consideration. There was nothing accidental about the determination and the position is simply that the applicant is dissatisfied with an award of damages and would have us vary our decision so as to bring about a result more acceptable to him.

We are satisfied that the appellant has not been able to show this court that this application comes within the rule. We are quite satisfied that there is no rule which allows this Court generally to amend or alter its final judgments in the manner suggested by the application. For that reason, this application is misconceived and it is accordingly refused.

Application dismissed
