

HOLDEN AT LUSAKA

(Civil Jurisdiction)

KALALUKA MUHONGO

Appellant

THE ATTORNEY-GENERAL

RESPONDENT

CORAM: Ngulube, D.C.J., Gardner, J.S. and Bweupe, A.J.S.

31st May, 1988

D.M. Luywa, OF Luywa and Company, for the appellant

L. Goel, Senior State Advocate, for the respondent

R U L I N G

Ngulube, D.C.J. delivered the ruling of the court

The appellant (the plaintiff) in this appeal took out a specially endorsed writ in the High Court in which a specific sum of money-said to be the value of a boat which was damaged-was claimed together with a hiring fee. Consent judgment was entered before the learned trial judge and thereafter the matter proceeded to assessment of damages. During the assessment, the plaintiff again repeated the claim as endorsed on the writ. Having listened to the arguments on both sides, it is quite clear to us that the plaintiff's position now is that a terrible mistake was made right from the very beginning. For that reason, an application has been made by Mr. Luywa to amend the writ and to begin the entire action afresh. Mr. Goel on behalf of the defendant has opposed the application and he has argued, among other things, that there ought to be finality to litigation. While we agree with Mr. Goel's submission and while it is obvious that the parties should expect to be bound by their pleadings and by the manner in which they have presented their case, it is also clear that where an obvious mistake has been made and where the justice of the case demands that matters be put right, it is in the wider interests

References

original was entered before the learned trial

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B. T. Gardner

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B. K. Bweupe
ACTING SUPREME COURT JUDGE