

IN THE SUPREME COURT FOR ZAMBIA
HOLDEN AT LUSAKA
(Civil Jurisdiction)

SCZ/E/205/1993

Appeal No. 53 OF 1994

B E T W E E N:

Tanzania Zambia Railway Authority

Appellant

and

Peter M. Chikwane

Respondent

Coram: Gardner, Chaila and Chirwa JJJS.,

20th September, 1994

L. Nyembele of Ellis and Co., appeared for the appellant.

No appearance for the respondent.

J U D G M E N T

Gardner J.S. delivered the judgment of the court.

There being no appearance before us on behalf of the respondent, this appeal was heard under the provisions of Rule 71 (1) (b) of the Supreme Court Rules.

The question of the action's being statute barred under section 115 of the Tanzania Zambia Railway Authority Act Cap. 768 was raised before any of the evidence was heard. See page 31, where the respondent's advocate asked for the action to be struck out. The action should have been struck out at that stage.

The appeal is allowed. The order for payment of damages and costs is set aside. Costs to the appellant of this appeal and in the court below. The application set down for the 21st September, 1994 falls away. Liberty

to the respondent to apply.

B. T. Gardner
SUPREME COURT JUDGE

M. S. Chaila
SUPREME COURT JUDGE

D. K. Chirwa
SUPREME COURT JUDGE

IN THE SUPREME COURT OF ZAMBIA
HOLDEN AT LUSAKA

Appeal No. 10/94
SCZ/9/192/93

(Civil Jurisdiction)

B E T W E E N :

JAVEED IQBAL MALIK

Appellant

and

PILATUS ENGINEERING COMPANY LIMITED

Respondent

CORAM: Challa, Chirwa and Muzyamba JJJ.S.

29th March, 1994

For the Appellant : Mr. John Sangwa of R.M.A. Chongwe & Company

For the Respondent : Mr. Chrispin Muyoba of Munali Chambers

R U L I N G

Challa, J.S. delivered the ruling of the court.

Before the appeal against the continuing of the injunction granted by the High Court in November 1993 was argued, the court inquired from the appellant's counsel on the status of the injunction and the position of the main case. Mr. Sangwa informed the court that although the learned trial judge had fixed trial dates in January and February of 1994 in respect of the main case, the case had, at the time of the hearing of the dissolution of the injunction been determined by the Deputy Registrar, in that the Deputy Registrar had given a summary judgment in favour of the respondent. The court inquired from Mr. Sangwa whether or not that fact was brought to the attention of the learned trial judge. Mr. Sangwa said it had been brought to his attention. We have been unable to find any where in the record where the attention of the learned trial judge was drawn to that fact. It appears that the matter never came up on the fixed dates before the learned trial judge and the matter has not proceeded further. We drew Mr. Sangwa's attention to the Judge's ruling:-

/2..."The Injunction