

NYATI BAKERY LIMITED AND FOUR OTHERS AND PRUDENCE BANK LIMITED

SUPREME COURT
NGULUBE, C.J.

6TH JUNE AND 5TH SEPTEMBER, 2000
S.C.Z. JUDGMENT NO. 31 OF 2000
Appeal NO. 47 OF 2000

Flynote

Company Law - liquidation of bank - payment of debts by creditors - question of whether a bank in liquidation should continue to charge interest.

Headnote

The appellants owed money to the respondent bank. The bank was placed under a curator who later went on to be appointed as the receiver and eventually as the liquidation manager when the bank finally, collapsed. The bank while in receivership launched proceedings in the High Court to recover sums of money. Judgment was entered for the bank on its claims. On appeal it was alleged that the court below did not properly address the issue of compound interest and penalties. It was also argued that the bank having become insolvent should have stopped charging any interest at all.

Held:

Once there has been a judgement, the relationship becomes that of a judgment creditor and a judgment debtor. The debt itself (that is, principal plus interest) becomes a judgment debt carrying such interest if any as may lawfully be ordered by the court in terms of the judgments Act. The argument that a bank in receivership cannot charge interest, including compound interest where applicable, is rejected. Appeal dismissed.

Cases referred to:

- (i) Union Bank Zambia Ltd. v Southern Province Co-operative Marketing Union Ltd. S.C.Z. Judgement No. 7 of 1997, now (1995-97) Z.R. 207.
- (ii) Yonnah Shimonde and Another v Meridien BIAO Bank (Z) Ltd. S.C.Z. Judgment No. 7 of 1999.

For the Appellants J. M. Kapasa, Kapasa and Company.

For the Respondent I.C.T. Chali, Chali, Chama and Company.

Judgment