

**IN THE SUPREME COURT OF ZAMBIA**

**APPEAL NO. 50/2002**

**HOLDEN AT LUSAKA**

(Civil Jurisdiction)

**BETWEEN:**

**THE ATTORNEY-GENERAL  
DEVELOPMENT BANK OF ZAMBIA**

**1<sup>st</sup> Appellant**

**2<sup>nd</sup> Appellant**

**And**

**GERSHOM MOSES BURTON MUMBA**

**Respondent**

Coram: Sakala, CJ, Mambilima and Chitengi, JJS

On 19<sup>th</sup> March, 2003 and 19<sup>th</sup> April, 2004.

***For the 1<sup>st</sup> Appellant:***

Mr. J. Jalasi  
Principal State Advocate

***For the 2<sup>nd</sup> Appellant:***

Mr. B. Gondwe - Legal Counsel

***For the Respondent:***

Mr. W. Mubanga of  
Messrs Permanent Chambers

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## ***JUDGMENT***

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Chitengi, JS, delivered the judgment of the court.

This Notice of Motion comes as a result of our judgment, delivered on 19<sup>th</sup> December, 2003, not awarding the Plaintiff, the Respondent in this appeal, interest on the amount of compensation we awarded him for loss of employment. The Notice of Motion was brought pursuant to **Rule 78**

***of the Supreme Court Rules Chapter 25 of the Laws of Zambia and Order 20 Rule 11 of the Rules of Supreme Court 1999 Edition.*** In short, the Notice of Motion has come under the Slip Rule.

The Notice of Motion was supported by an Affidavit suggesting that there was an inadvertent or an accidental omission on our part by not awarding the Plaintiff interest on the sum awarded when the Plaintiff actually pleaded interest. To confirm that interest was not awarded, though pleaded, the Plaintiff exhibited our judgment and his Notice of Complaint and Amended Notice of Complaint in the court below in which he pleaded interest.

The second Defendant, who is the second Appellant in this appeal, filed an Affidavit in Opposition. This Affidavit dwelt on matters which were the substantive issues between the parties during the trial and the hearing of the appeal. Mr. Mubanga, quite rightly, took out a Notice to raise a preliminary issue in relation to the objectionable paragraphs in the Affidavit in Opposition.

When we heard the appeal, Mr. Gondwe, learned Counsel for the second Appellant, quite properly, did not oppose the Notice to raise a preliminary issue. We would in fact say that Mr. Gondwe did not even oppose the Notice of Motion. All Mr. Gondwe said was that the interest should start running from the date of varying the judgment and that the dollar claim should carry dollar interest and the Kwacha claim should carry Kwacha interest.

Mr. Jalasi, the learned Principal State Advocate who appeared for the first Defendant, now first Appellant, made no submissions.

Mr. Mubanga filed a list of authorities on slip rule. However, on account of the view we take of this matter and the fact that the Notice of Motion is in fact not opposed, we do not intend to go into the details of these authorities. Suffice it to say that we have considered these authorities and we commend learned counsel for the Plaintiff for his industry.

We agree that this is a case that falls under Rule 78 of the Supreme Court Rules, which is our slip rule. We have looked at the Plaintiff's Notice of Complaint and note that interest was pleaded. We are satisfied that had we had in our mind at the time we delivered the judgment the fact that interest had been pleaded we would have included it in our judgment and we would not have made the omission which we now correct.

The damages we awarded the Plaintiff will carry interest as follows. In respect of damages in Kwacha the interest rate will be at short-term deposit from the date of the Notice of Complaint to date of judgment and after judgment at 10% until final payment. About interest on dollar. As we have said in several cases interest on foreign currency is generally low. In this case we award the Plaintiff interest on dollar component of the damages at 3% from the date of Notice of Complaint until final payment.

Mr. Gondwe, learned counsel for the second Appellant, submitted that the interest should run from the date of correcting the omission. We find no authority for the proposition that where there is an omission in the Judgment to include interest, the date when interest should start running is the date when interest is included under the slip rule. We



cannot, therefore, depart from our practice that interest starts running from the date of the Writ. Accordingly, we reject Mr. Gondwe's submission on the issue.

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**E. L. SAKALA**  
**CHIEF JUSTICE**

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**I. C. MAMBILIMA**  
**SUPREME COURT JUDGE**

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**PETER CHITENGI**  
**SUPREME COURT JUDGE**