

BANK OF ZAMBIA v REGISTRAR OF LANDS AND DEEDS AND THE STAMP
DUTY ACT (Cap 664 of the Laws) (1979) Z.R. 220 (H.C.)

HIGH COURT

CHAILA, J.

26TH SEPTEMBER, 1979

Flynote

Stamp duty Ad valorem - Assignment of life insurance Policy to secure loan - Whether ad valorem chargeable.

Stamp duty - Determination of by Stamp Duty Commissioner - Procedure for bringing matter before court.

Headnote

The insured, Leonard Mutema, entered into an agreement to assign his life insurance policy to the bank as security for the repayment of a loan. On applying for registration, the Registrar of Lands and Deeds demanded that ad valorem duty be paid. Counsel for the bank contended that the assignment was not a mortgage and therefore, no duty should be charged. The matter was referred to court by way of originating notice of motion.

Held:

- (i) A life insurance policy is a property capable of being mortgaged or made security for repayment of money. Ad valorem duty is therefore chargeable under the provisions of sch. I, Head 8, item (i) of the Stamp Duty Act.
- (ii) The court has jurisdiction to hear the application by way of an originating notice of motion.

Legislation referred to:

Stamp Duty Act, Cap. 664, sch. I, Head 8, item (i).

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Cases referred to:

- (1) Caldwell v Dawson (1850) E.R. Ex 156.
- (2) Re Water House's Policy, [1937] 2 All E.R. 91.

For the Bank of Zambia: E.J. Shamwana, Shamwana and Company.
Mr Chamutangi, Registrar of Lands and Deeds.

Judgment