

IN THE SUPREME COURT OF ZAMBIA  
HOLDEN AT LUSAKA  
(CIVIL JURISDICTION)

APPEAL NO. 157/02

B E T W E E N:

MARY BANDA APPELLANT

AND

BYARUHANGA AKIIKI RESPONDENT

CORAM: LEWANIKA, DCJ., MAMBILIMA, SILOMBA JJS  
On 13<sup>th</sup> March, 2003 and 30<sup>th</sup> September 2004.

For the Appellant: C.L. MUNDIA of C.L. Mundia & Co.  
For the Respondent: No Appearance

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JUDGMENT

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LEWANIKA, DCJ., delivered the judgment of the Court.

Cases referred to: KAWANA MWANGELA VS RONALD BWALE NSOKOSHI AND NDOLA  
CITY COUNCIL APPEAL NO. 184/99

When we heard this appeal we allowed the appeal with costs and said we would give our reasons later and we now do so.

This was an appeal from the decision of the Lands Tribunal which ordered inter alia that the Certificate of Title No. L. 5224 in respect of Farm No. 378a (House No. 227, Karaboom Avenue, Avondale) situate in Lusaka issued in favour of the Appellant be cancelled.



The brief facts which were before the Tribunal and which are not in dispute were that the Respondent who is a Ugandan national holding an entry permit was employed as a Civil Servant in the Ministry of Communications and Transport. As a Civil Servant he was allocated and was occupying the house which is the subject matter of this dispute. Following the Government decision to sell pool houses to sitting tenants the Respondent applied to the Housing Committee to purchase the house but his application was turned down because he was not a Zambian. By a letter dated 2<sup>nd</sup> April, 1996 the Appellant who was also a Civil Servant was allocated the same house which was subsequently offered to her to purchase. She accepted the offer, paid the purchase price and was issued with a Certificate of Title by the Lands and Deeds Registry. The Respondent filed a complaint with the Lands Tribunal which decided the matter in favour of the Respondent and ordered that the Certificate of Title issued to the Appellant be cancelled. It is against that decision that this appeal is lodged.

In the case of KAWANA MWANGELA VS RONALD BWALE NSOKOSHI and NDOLA CITY COUNCIL (1) we had occasion to consider the jurisdiction of the Lands Tribunal. We pointed out that the Lands Tribunal is a creature of statute having been established by Section 20(1) of the Lands Act, Cap 184 of the Laws of Zambia. Part II of the Act which

contains Sections 3 to 15 deals with the administration of land in Zambia.

Section 15 provides as follows:-

**15(1) Any person aggrieved with a direction or decision of a person in authority may apply to the Lands Tribunal for determination.**

**(2) In this section 'person in authority' means the President, the Minister or the Registrar.**

The jurisdiction of the Lands Tribunal is contained in Section 22 of the Act which provides as follows:-

**22. The Tribunal shall have jurisdiction to:-**

- (a) inquire into, make awards and decisions in any dispute relating to land under this Act;**
- (b) to inquire into and make awards and decisions relating to any dispute of compensation to be paid under this Act;**
- (c) generally to acquire and adjudicate upon any matter affecting the land rights and obligations under this Act, of any person or the Government, and**
- (d) to perform such acts and carry out such duties as may be prescribed under this Act or any other written law**

We said that in our considered opinion a reading of sections 15 and 22 of the Lands Act shows quite clearly that the jurisdiction of the Lands Tribunal is limited to the settlement of '*land disputes*' under the Act and is not an alternative forum to the High Court where parties can go to even for the issuance of prerogative writs such as mandamus or certiorari.

In these proceedings the Respondent was seeking to impugn a Certificate of Title issued to the Appellant under the Lands and Deeds Registry Act, Cap 185 of the Laws of Zambia and only the High Court has jurisdiction to entertain such proceedings. The Lands Tribunal had no jurisdiction to entertain these proceedings and it was for this reason that we allowed the appeal.

D.M. Lewanika  
DEPUTY CHIEF JUSTICE

I.M.C. Mambilima  
SUPREME COURT JUDGE

S.S. Silomba  
SUPREME COURT JUDGE