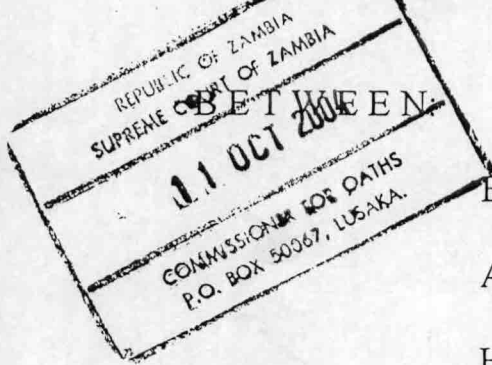


IN THE SUPREME COURT OF ZAMBIA
HOLDEN AT KABWE
(CIVIL JURISDICTION)

APPEAL NO. 41/2004



BUILDELECT LIMITED

APPELLANT

AND

H.S.B.C. EQUATOR BANK PLC

RESPONDENT

CORAM: CHIRWA, CHITENGI, SILOMBA, JJS
On 3rd August, 2004

For the Appellant: William Nyirenda of William Nyirenda & Co.
For the Respondent: Messrs. Makala & Company

RULING

CHIRWA, JS delivered the Ruling of the Court.

We have considered the appeal and looked at the judgment and documents on which this appeal was based. We are of the view that the learned trial Judge did not adequately consider all the affidavits before her. In order to render justice in this matter, we would allow this appeal and order that the matter goes before mediation and the parties be allowed to engage their own auditors and accountants to scrutinize all relevant documents in this transaction and accountants be allowed to assist the mediator. The question of cross appeal falls away. On penal interest, by

whatever term it is called, is unlawful and not allowed as was not specifically agreed by the parties. Costs shall abide by results of the mediation.

D.K. Chirwa
SUPREME COURT JUDGE

P. Chitengi
SUPREME COURT JUDGE

S.S. Silomba
SUPREME COURT JUDGE