



judgments of the Court but that the Court; slipped in ordering costs against the appellants in their personal capacities as they were sued in their capacities as officers of the Lusaka Golf Club and therefore costs should have been made against the Lusaka Golf Club.

Both parties filed detailed heads of argument on which they relied at the hearing of the Motion.

The gist of the argument in support of the Motion is that as it was indicated in the endorsement of the writ, the appellants were sued in their official capacities as officers of the Lusaka Golf Club. They were sued, in the first prayer, claiming for an injunction restraining them from convening an annual general meeting of the Club on 27<sup>th</sup> August 2004. It was argued that although they were properly sued in their capacities as officers of the Committee of Lusaka Golf Club in terms of Order 15 r.12 of the Rules of the Supreme Court of England, 1999 Edition, costs should have been ordered against the Golf Club and not in their personal capacities. It was stressed that the appellants were acting on behalf of the Club and its membership and as such costs should be against the

Club and its membership. It was submitted that this is the error that needs to be corrected.

In opposing the Motion, it was submitted that the appellants were not entitled to be indemnified by the Club unless rules of the Club provided for such indemnity. Para. 243 of Halbury's Laws of England, 4<sup>th</sup> Ed. Was quoted as authority. It was submitted that costs could not be ordered against the Lusaka Gold Club as it was not a party to the proceedings and it could not be sued as it is a mere association. It was further submitted that the matters came on appeal because the appellants challenged their being sued instead of the Club and since it was found and held that they were properly sued, they should bear the costs of their action and not the Club.

We have considered the arguments as advanced on behalf of the parties. It is a fact that the Lusaka Golf Club could not be sued in its name and it has to be sued through any member of the Club. In this particular case, the appellants were sued as Committee members who purported to act on behalf of all members of the Club. If they were acting on behalf

of and with the mandate of the members, we do not see any difficulties asking the members of the Club to indemnify them if the rules of the Club provide for such indemnity. The Club was not a party to the proceedings. We do not agree that the order would create an anomaly with far reaching consequences for persons elected to serve as office holders of a club or association. It merely puts in office bearers that responsibility only to act honestly in good faith and with the mandate of its members. Only then will the members support the office bearers actions. We do not, therefore, hold the view that we made an error in ordering costs against appellants. This Motion is therefore refused with costs to be agreed or taxed in default of agreement.



E L Sakala  
**CHIEF JUSTICE**



D K Chirwa  
**JUDGE OF THE SUPREME COURT**



C S Mushabati  
**JUDGE OF THE SUPREME COURT**