IN THE SUPREME COURT OF ZAMBIA **APPEAL NO. 117/2013**
HOLDEN AT KABWE
(Civil Jurisdiction)

BETWEEN:

TEBUHO YETA **APPELLANT**

AND

AFRICAN BANKING CORPORATION **RESPONDENT**
ABC (ZAMBIA) LIMITED

Coram: Chibomba, Muyovwe and Malila, JJS
on the 3rd November, 2015 and 6th January, 2016

For the Appellant: Mr. O. Sitimela, Messrs Fraser Associates

For the Respondent: Mr. G. Pindani, Messrs Chonta, Musaila and Pindani Advocates

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J U D G M E N T

MUYOVWE, JS, delivered the Judgment of the Court.

Cases referred to:

1. **Zambia Consolidated Copper Mines and Jackson Munyika Siame and 33 Others (2004) Z.R. 193**
2. **Zambia Consolidated Copper Mines Limited vs. Matale (1995-1997) Z.R. 144**
3. **Barclays Bank Zambia Limited vs. Mando Chola and Ignatius Mubanga (1997) Z.R. 35**
4. **Barclays Bank Zambia PLC vs. Zambia Union of Financial Institutions and Allied Workers (2007) Z.R. 107**
5. **The Minister of Information and Broadcasting Services and Another vs. Fanwell Chembo and Others (2007) Z.R. 82**

6. **General Nursing Council of Zambia vs. Mbangweta (2008) Z.R. 105 Volume 2**
7. **Indo Zambia Bank Limited vs. Mushaukwa Muhanga (2009) Z.R. 266**
8. **Chilanga Cement PLC vs. Kasote Singogo (2009) Z.R. 122**
9. **Gerald Musonda Mumba vs. Maamba Collieries Ltd. (1988-1989) Z.R. 217**
10. **Mususu Kalenga Building Limited, Winnie Kalenga and Richmans Money Lenders Enterprises (1999) Z.R. 27**
11. **Attorney General vs. Marcus Kampamba Achiume (1983) Z.R. 1**
12. **Nkhata and 4 Others vs. The Attorney General of Zambia (1996) Z.R. 124**
13. **Zambia Revenue Authority vs. Independence Service Station (SCZ Appeal No. 137/2000)**

Legislation referred to:

1. **Section 85 (5) of the Industrial and Labour Relations Act Cap 269 of the Laws of Zambia.**
2. **Section 26A of the Employment Act Cap 268 of the Laws of Zambia.**
3. **Rule 62 of the Industrial Relations Court Rules.**
4. **Section 16 of the Employment Act.**
5. **Section 36(1)(c) of the Employment Act, Chapter 268 of the Laws of Zambia.**

Works referred to:

1. **Chitty on Contracts 27th Edition, Volume II Specific Contracts at Page 787 para. 37-114.**
2. **Tolley's Employment Handbook 20th Edition.**
3. **Brian A. Garner's Black's Law Dictionary at Page 564.**
4. **The Holy Bible, Matthew Chapter 7 verse 12.**

This is an appeal against the judgment of the Industrial Relations Court sitting at Lusaka. The lower court dismissed the appellant's claim that his employment was unlawfully terminated before the lapse of his extended probation period. The lower

court held that the respondent was not in breach of the Employment Act or the rules of natural justice.

The lower court established the following facts: On the 1st November 2011, the appellant was offered employment as a Relationship Manager by the respondent. The appellant was initially placed on probation for a period of six months. However, effective 2nd May, 2012 the appellant's probationary period was extended for a period of three months following the review of his performance by the respondent's management. Subsequently, the appellant's employment was terminated after the respondent invoked the termination clause and no reasons were given for the termination. The appellant was, however, paid his dues in full.

The thrust of the appellant's claim in the lower court was that he was entitled as an employee to be heard on the allegation of poor performance which was the basis for termination of his contract of employment.

In its judgment, the lower court narrowed the issues before it into two: firstly, whether the respondent was in breach of

Section 26A of the Employment Act and rules of natural justice when it terminated the appellant's employment and, secondly: whether it was lawful for the respondent to invoke the notice clause in the contract of employment while he was still serving his probationary period.

After analyzing the evidence, the lower court found that the Employment Act does not define what amounts to probation and that it does not compel an employer to retain an employee who has not met the standard required for the type of employment offered. The lower court accepted that an employer can terminate a new employee's contract within the probation period for a reason or for none and without applying the rules of natural justice. The trial court found the appellant's argument that he was not given an opportunity to exculpate himself on the allegation of poor performance in accordance with Section 26A of the Employment Act to be out of touch with reality going by the fact that he was still on probation; and the employer did not have the legal obligation to explain in great detail why they were letting him go. The trial court took the view that the probation period is

a work test period during which an employee can be dismissed with or without notice at the sole discretion of the employer, and declined to delve behind the notice clause in accordance with Section 85 of the Industrial and Labour Relations Act. The trial court found that the respondent did not act in bad faith.

The lower court was satisfied that on the proper construction of the appellant's letter of termination, he was lawfully terminated because payment in lieu of notice was a proper and lawful way of terminating employment. The lower court dismissed the appellant's claim and ordered each party to bear their own costs.

Before us, the appellant has advanced five grounds of appeal namely:

1. **The Court below erred in law and fact when it held that "we find the complainant's argument that he was not given an opportunity to exculpate himself from the allegation of overall poor performance, in accordance with section 26A of the Employment Act, to be extremely out of touch with both reality and practicality as the employer does not have a legal obligation to explain in great detail why they are not keeping an employee who is serving on probation," as section 26A of the Employment Act does not make a distinction as**

to its applicability between an employee on probation and one who is not.

2. The lower Court having found as a fact that the Appellant's employment was terminated before the lapse of his extended probation period following the review of his performance by the Respondent, that in itself was evidence that the Appellant's contract was terminated on account of his performance thereby necessitating invoking the provisions of section 26A of the Employment Act by the Respondent and failure by the Court below to so find was in error in law.

3. The Court below fell in error both in law and fact by failing to give due regard to or failing to give opportunity to the Appellant to lead evidence on the issue under paragraph 10 of the Affidavit in Reply seeing that the Court, under section 85 subsection 5 of the Industrial Relations Act, is not bound by the rules of evidence in civil or criminal proceedings but to do substantial justice.

4. By failing or ruling against reception of evidence referred to in ground 3 above, the Court below deprived itself of an opportunity to invoke Section 85 of the Industrial And Labour Relations Act to hear background issues.

5. It was an error in law for the Court below not to make a pronouncement and keep silent on whether or not section 26A of the Employment Act applies as well to written contracts of employment as this issue was one among others for determination before it.

Mr. Sitimela, learned Counsel for the appellant, relied on his filed heads of argument which he augmented briefly. Under ground one, it was submitted that Section 26A of the Employment Act is very clear and unequivocal that it is a legal requirement for every employer to whom the Act applies who terminates an employee's contract of service on account of performance and/or conduct to lay specific charges against such an employee to afford him/her an opportunity to respond to the charges. It was contended that under Section 26A of the Act, there is no distinction between an employee on probation and one who is not and that the lower Court fell in grave error by qualifying the application of Section 26A of the Act.

Counsel submitted that it is not in dispute that the parties entered into a written contract of service and that the appellant was an employee who at the time of termination on 6th July, 2012 was still serving his extended probationary period. Counsel relied on Tolley's Employment Handbook, 20th Edition, where at page 730 paragraph 36.1, the learned author stated that:

> **"Many employers when engaging new employees state that they will initially be employed for a 'probationary'**

period. It is a commonly held but mistaken belief that giving a new employee the status of probationer enables the employer to dispense with that employee's service, if he is found to be unsatisfactory, without the normal hazards of dismissal, such as a claim for unfair dismissal. The labeling of an employee as a 'probationer' has virtually no effect on the employer/employee relationship."

Counsel, still focusing on the finding by the court below which he specifically cited in ground one, contended that after making the finding, the court below ought to have realised that such a finding confirmed the appellant's contention that his contract was terminated on account of performance, poor or otherwise and as such, the requirements of Section 26A of the Act ought to have been invoked by the respondent. Counsel contended that the respondent's affidavit in support of its answer deposed by one Belinda Muyawala, contained very stubborn facts glaring before the face of the lower Court confirming that the respondent terminated the contract of employment by invoking the notice clause after initially finding that the appellant failed to perform adequately. We were also referred to Section 36 of the Act which provides for the manner in which a contract of employment may be terminated.

In relation to ground two, we were referred to paragraphs 6 and 7 of the affidavit in support of the respondent's answer sworn by Belinda Muyawala which state that:

"6.That after the Respondent's review and/or assessment of the Complainant's work performance in April 2012, he was not found to have performed adequately and as such the Respondent Bank wrote to the Complainant on 26th April, 2012, extending his probationary period for a further (3) months effective 2nd May, 2012.

The Complainant's supervisor by emails agreed with the Complainant on deliverables which would constitute the Complainant's Key Performance Indicators (KPI) during the extended probationary period. A copy of the said letter is produced and shown as exhibit "TY2" in the affidavit in support of complaint while the emails exchanged on 17th and 18th May, 2012, inter alia, with the Complainant's KPI's required to be achieved by 31st July, 2012 are now produced and shown to me collectively marked "BM2".

7. That the Complainant failed to reach his performance targets and as such he was found not suitable for the job. The Respondent in exercise of its rights under the said Agreement of Employment wrote to the Complainant on 6th July, 2012 terminating his employment by invoking the Notice Clause during probation."

It was contended that the lower court having established the fact that the appellant's employment was terminated before the lapse of the extended probation period following the review of his

performance, ought to have found that the review of the appellant's performance as per paragraph 6 and 7 aforesaid was the root cause for the respondent to invoke the notice clause. And that the respondent, therefore, ought to have complied with Section 26A of the Act and failure to do so was an error.

In support of ground three, Counsel referred us to paragraph 10 of the affidavit in reply. This is a paragraph which contained names and personal information of individuals who were not party to the proceedings. For reasons which will become apparent later in this judgment, we find it unnecessary to cite the said paragraph.

According to Counsel, the court below failed to consider the paragraph in question and/or disallowed the appellant to lead evidence on the issues raised therein. It was argued that by so doing the lower court acted outside the spirit of the provisions of Section 85 (5) of the Industrial and Labour Relations Act. Counsel buttressed his argument by referring us to the case of **Zambia Consolidated Copper Mines vs. Jackson Munyika Siame and 33 Others**[1] where this court held that:

"The Industrial Relations Court has a mandate to administer substantial justice unencumbered by rules of procedure."

It was argued that the mandate of the Industrial Relations Court included giving due regard to all issues raised by a litigant such as the issues raised in paragraph 10 referred to herein. It was submitted, taking into account Rule 62 of the Industrial Relations Court Rules, there was no legal basis for the court's failure to consider or failure to give opportunity to the appellant to lead evidence on the issues which he raised.

During the hearing of the appeal, we took Mr. Sitimela to task over the contents of the paragraph in contention. We challenged him to tell us whether he would not be incensed to find his name mentioned in a disparaging manner in a matter where he was not a party to the proceedings. While agreeing that it would have been in order for the lower court to expunge the paragraph alluded to, he declined to withdraw ground three and left the matter to our discretion.

Turning to ground four, Counsel relied heavily on the cases of **Zambia Consolidated Copper Mines Limited vs. Matale**[2] and

Barclays Bank Zambia Limited vs. Mando Chola and Ignatius Mubanga.[3] It was submitted that the lower court's failure to rule against the reception of the evidence referred to in ground three, deprived the court the opportunity to invoke Section 85 of the Industrial and Labour Relations Act.

In addressing ground five, it was contended that the lower court did not pronounce itself as to whether Section 26A of the Employment Act applied to written contracts. Surprisingly, Counsel conceded that Part IV and Section 16 of the Industrial and Labour Relations Act apply to oral contracts. He referred us to the case of **Barclays Bank Zambia PLC vs. Zambia Union of Financial Institutions and Allied Workers**[4] where we said:

> **"...section 26(B) of the Employment Act as amended by Act No. 15 of 1997, is found in part IV of the Act. Section 16 of the Act provides as follows:- Section 16: the provisions of this part shall apply to oral contracts. Section 26(B) of the Act contains detailed provisions on termination by redundancy. In enacting this provision Parliament intended to safeguard the interest of employees who were employed on oral contracts of service which by nature would not have any provision for termination or employment by way of redundancy."**

According to Counsel, Section 26A of the Act should apply by default to written contracts of employment which do not have

any provision for affording an employee an opportunity to be heard before terminating their contract on ground of performance and/or conduct. Counsel took the view that holding that Section 26A of the Act does not apply to written contracts would lead to absurdity and uncertainty in the law as regards termination of employment on account of poor performance and/or conduct and the rules of natural justice vis-à-vis written contracts of employment taking into consideration the fundamental rules of interpretation. Counsel then ran us through the rules of statutory interpretation and called in aid the cases of **The Minister of Information and Broadcasting Services and Another vs. Fanwell Chembo and Others**[5]**; General Nursing Council of Zambia vs. Mbangweta**[6] **and Indo Zambia Bank Limited vs. Mushaukwa Muhanga**[7] which cases provide guidance on statutory interpretation.

Counsel strongly urged us to revisit Section 26A of the Act and give it the desired interpretation and that this appeal should be allowed with costs.

In his brief augmentation, learned Counsel Mr. Sitimela submitted that there was evidence on record which could have persuaded the lower court to pierce the veil as it was clear that the appellant was terminated on ground of poor performance. That the respondent ought to have invoked Section 26A of the Act. He also referred us to the case of **Chilanga Cement PLC vs. Kasote Singogo.**[8] Mr. Sitimela conceded that the contract of employment in issue was a written contract and that Section 26A of the Act applied to oral contracts of employment. He conceded that he had no legal authority for his proposition that Section 26A of the Act should apply to the appellant but he remained resolute that this court should hold that the same should apply to written contracts that fall short of protecting an employee like the appellant who was terminated on ground of poor performance or conduct without being afforded an opportunity to be heard.

On behalf of the respondent, learned Counsel Mr. Pindani, also filed heads of argument which he relied on. Addressing issues raised in ground one, it was submitted that Section 26A of

the Act falls under Part IV of the Employment Act which applies only to oral contracts. Counsel argued that in the case in *casu,* the parties entered into a written agreement which takes this case out of the realm of Section 26A of the Act. Counsel also alluded to Section 16 of the Act which clearly stipulates that Part IV only applies to oral contracts. He also relied on the case of **Barclays Bank Zambia PLC vs. Zambia Union of Financial Institution and Allied Workers.**[4] We were then referred to Brian A. Garner's Black's Law Dictionary at Page 564 where the term probationary employee is defined as "a recently employed employee whose ability and performance are being evaluated during a trial period of employment." It was contended that the probation period is an opportunity for the employer to assess the suitability of their new employee for the job before confirming him/her in the position and also for the employee to do a self-evaluation as to whether he/she would fit in or cope with the new role. It was submitted that the respondent lawfully terminated the appellant's employment by invoking the notice clause and thereby paying him in lieu of notice. Counsel relied on Section 36 (1) (c) of the Act which he pointed out provided a proper and

lawful way of termination of employment. He relied on the case of **Gerald Musonda Mumba vs. Maamba Collieries Limited**[9] where we held that a contract of employment can be terminated by either party at any time in accordance with the terms of the contract. Counsel also relied on Chitty on Contracts, Specific Contracts 27th Edition, Volume II at Page 787 para. 37-114 where the learned authors state that:

> ***"Termination by payment in lieu of Notice.***
>
> *Contracts of employment are frequently in practice terminated by payment in lieu of notice... payment in lieu of notice can be received as an ordinary giving of notice accompanied by a waiver of services by the employer which is accepted by the employee... a right to terminate by payment in lieu of notice can be viewed as a normally implied corollary of a contractual right on the part of an employer to terminate by notice..."*

Counsel submitted that the respondent was within its rights to terminate the contract of employment by payment in lieu of notice.

In the alternative, it was submitted that the respondent extended the appellant's initial probationary period for another three months and communicated to him on key performance indicators which he needed to achieve during the extended

period. According to Counsel, this showed that the appellant was given an opportunity to work on his performance as required by the rules of natural justice. The appellant was informed in writing to submit his achievements during the extended period which he did. It was submitted that this showed that the appellant exercised his right to be heard. It was pointed out that the appellant, during cross-examination, admitted being given and signing the job description which stipulated the scope of his duties. We were referred to page 116 of the record of appeal where the appellant said:

> *"...my main role was to develop implement and manage a profitable and sustainable Country Banking product and segment strategy. I understood my main role*
>
> *... I did not develop any strategy for the implementation of my main role*
>
> *... I had an obligation to meet the financial targets and my responsibilities were contained in the job description I received when I was employed."*

Counsel argued that from the appellant's submissions filed in the lower court and also in his testimony, it is clear that he admitted failing in his job and he justified his failure by claiming that he was assigned other duties which derailed him which is

not true having regard to the evidence adduced before the trial court. Counsel submitted that the appellant admitted that he sought employment at FNB which was his right and that he conceded that he would have given notice had he been offered the job at FNB. Counsel urged us to dismiss this ground of appeal.

Counsel responded to grounds two, three, four and five together. It was emphasised that ground two is against finding of facts which is prohibited under Section 97 of the Industrial and Labour Relations Act. It was submitted that grounds three and four are also misconceived at law because there is no indication in the record of appeal that the lower court stopped the appellant from adducing any evidence. It was submitted that it is settled law that an issue which was not raised in the court below cannot be raised on appeal. Counsel relied on **Mususu Kalenga Building Limited, Winnie Kalenga and Richmans Money Lenders Enterprises.**[10] Counsel reiterated their submissions in ground one.

Counsel argued that grounds two to five are incompetent in view of the provisions of Section 97 and called in aid the cases of

Attorney General vs. Marcus Kampamba Achiume;[11] **Nkhata and 4 Others vs. The Attorney General of Zambia**[12] **and Zambia Revenue Authority vs. Independence Service Station.**[13] He submitted that on the basis of the evidence on record, it cannot be seriously argued that the lower Court's findings of fact were perverse or were made in the absence of relevant evidence. It was contended that the appellant has not positively demonstrated that the lower court erred in assessing and evaluating the evidence which was before it. We were urged to dismiss this appeal with costs for lack of merit.

In his short augmentation, Mr. Pindani submitted that the question of piercing the veil was ably dealt with by the court below in its judgment. That the trial court found no ulterior motives by the respondent when it invoked the notice clause in the contract of employment. He argued that the appellant was on probation and parties had agreed that they could terminate employment by notice and there was nothing unlawful about the termination. He submitted that the argument that the appellant was not given an opportunity to be heard could not be sustained as the respondent engaged him on this issue and he was given an

opportunity to improve his performance but to no avail leading to termination of his contract. He argued that the **Chilanga Cement case**[8] can be distinguished from the case in *casu* as the employee in that case was not on probation. Counsel was averse to the argument by Mr. Sitimela that Section 26A applied to written contracts as the provision was unequivocal.

We have considered the evidence and the submissions by Counsel for the parties.

We shall deal with all the five grounds of appeal simultaneously. The gist of this appeal is that the appellant was aggrieved by the termination of his employment and his view is that although he was on probation, he should have been given an opportunity to defend himself against the allegations of poor performance. And that the respondent should have invoked Section 26A of the Act. Further, that the lower court did not pronounce itself on the application of Section 26A of the Act. On the other hand, the respondent maintained that the appellant was on probation and in accordance with the contract of employment, each party was entitled to terminate the contract in

terms of the said contract. The position taken by the respondent is that Section 26A clearly applies to oral contracts and that the appellant has misapprehended the law and that the appeal has no merit.

It is common cause that the parties entered into a written contract which provided for termination by a day's notice during the probationary period. The appellant was on probation at the time of termination of employment. We agree with the lower court and with Mr. Pindani that a probation period is a work test period for the benefit of both parties: the employer to assess whether the employee is suitable for the position and the employee has the opportunity to decide whether to take up the job permanently. In this case, for example, the appellant attended interviews at FNB during the probation period and he did concede that he would have given the requisite notice had he been offered employment at FNB. It is trite that parties are bound by the terms of the contract and this applies to the case in *casu*.

We must observe from the outset that the lower court was very conscious of the fact that the appellant's contract of

employment was terminated on the ground of poor performance. The question is whether Section 26A applied in this case having regard to the undisputed fact that the appellant who was on probation served under a written contract?

Now, we have stated within this judgment that Mr. Sitimela was at pains during the hearing of this appeal to persuade us that Section 26A of the Act applies to written contract. He attempted, with much vigour and persistence, to convince us, without any legal authority, that Section 26A should apply to written contracts which in his view are somewhat deficient in protecting employees on probation like the appellant. Mr. Sitimela's argument in this case is that since the appellant was on probation and his employment was terminated on the ground of poor performance or conduct, he should have been charged and given an opportunity to exculpate himself before termination. Although the appellant served under a written contract, Mr. Sitimela invited us to consider the application of Section 26A to cover the appellant's situation. In his quest to persuade us to apply Section 26A, which he conceded applied to oral contracts, Mr. Sitimela urged us to apply the rules of statutory

interpretation as propounded in the cases of **The Minister of Information and Broadcasting Services and Another vs. Fanwell Chembo**[5]**; General Nursing Council of Zambia vs. Mbangweta**[6] **and Indo Zambia Bank Limited vs. Mushaukwa Muhanga.**[7] We take the view that it was unnecessary for learned Counsel to take us on that road. It is trite that for every argument advanced, there must be legal authority and in this case Mr. Sitimela failed lamentably to provide support for his argument that Section 26A should apply to the case in *casu*. Counsel simply wanted us to apply Section 26A to suit his client. We must make it clear that we are not prepared to go Mr. Sitimela's way because it is the wrong way. We cannot fault the lower Court for refusing to heed to Mr. Sitimela's spirited arguments which were clearly misconceived and devoid of legal authority.

Mr. Sitimela also argued that the lower Court did not pronounce itself on the applicability of Section 26A. In our view, this attack is totally uncalled for. First of all, the judgment shows that this was one of the issues the lower court addressed. Secondly, Section 26A is clear as day as to its application such

that it does not require the application of any rule of statutory interpretation. Further, a perusal of the judgment of the lower court shows that it considered the authorities including **Barclays Bank Zambia PLC vs. Zambia Union of Financial Institutions and Allied Workers case**[4] (cited by Mr. Sitimela in the lower court) in which this court pronounced itself as to the applicability of Section 26A of the Employment Act. It is apparent that the appellant was inviting the lower court to revisit the holding in the **Barclays Bank Zambia PLC vs. Zambia Union of Financial Institutions and Allied Workers case.**[4] The lower court obviously found it unnecessary to make any further pronouncement on the same issue as it is bound by the principle of *stare decisis*. Even in this appeal, Mr. Sitimela appears to be inviting us to depart from the law and from the decided cases which is totally uncalled for. In sum, we hold that it was unnecessary for the respondent to invoke Section 26A and the court below was on firm ground for rejecting the appellant's arguments on this point.

Coming to the issue of the evidence led by the appellant in the court below in relation to paragraph 10 of the Affidavit in

Reply, during the hearing, Mr. Sitimela conceded that there is no indication on the record of appeal that the lower court prevented the appellant from leading evidence in support of his case. Mr. Sitimela argued that the failure of the lower court to rule on the said evidence negatively affected the appellant's case in that the court deprived itself of the opportunity to invoke Section 85 of the Industrial and Labour Relations Act and to hear the background issues of the case. We have deliberately not reproduced the paragraph in contention as we opine that it should have been expunged from the record as it mentions names of individuals who were not parties to the proceedings. The paragraph contained allegations of a personal nature against individuals who, because they were not parties, could not defend themselves or respond to the issues raised. While we take cognizance of the fact that proceedings in the Industrial Relations Court do not follow strict rules of evidence, it is the duty of the court to protect individuals who are named in the course of litigation and who cannot defend themselves and whose reputation may be seriously damaged once they are mentioned in a particular case. It was definitely not the intention of Section 85 of the Industrial and

Labour Relations Act to allow any trash into evidence. Substantial justice means justice not only for the complainant and the respondent but also for any person mentioned in the proceedings. The issues raised in the paragraph in contention were not relevant to the proceedings and the fact that the issues therein were allegedly not dealt with by the court below was not prejudicial to the appellant having regard to all the circumstances of his case. As alluded to earlier in this judgment, Mr. Sitimela conceded that he would not relish to be mentioned in like manner in any proceedings. As the Bible says in Matthew Chapter 7 verse 12 "Do unto others as you would want them to do to you." Mr. Sitimela and his client should take heed of the words of wisdom.

In conclusion, we reaffirm our holding in the case of **Barclays Bank Zambia PLC vs. Zambia Union of Financial Institutions and Allied Workers**[4] and reiterate and hold that in this case, the parties were bound by the written contract of employment by notice and no reason was required to be given for such termination. The lower court was, therefore, on firm ground when it declined to pierce the veil in this case.

We find that all the grounds of appeal lack merit and the appeal is dismissed accordingly. Each party to bear their own costs.

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H. CHIBOMBA
SUPREME COURT JUDGE

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E.N.C. MUYOVWE
SUPREME COURT JUDGE

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M. MALILA
SUPREME COURT JUDGE