

IN THE HIGH COURT FOR ZAMBIA  
AT THE PRINCIPAL REGISTRY  
LUSAKA  
(Civil Jurisdiction)

2015/HP/0531

**BETWEEN:**

HALIMA AHMED

AND

SICIID MOHAMED GALOW



PLAINTIFF

DEFENDANT

**BEFORE THE HONOURABLE LADY JUSTICE M. CHANDA THIS 6<sup>TH</sup>  
DAY OF JULY, 2018**

**APPEARANCES:**

For the Plaintiff : Mr. O. Ngoma of Messrs. Lungu  
Simwanza & Company

For the Defendant : No appearance

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**J U D G M E N T**

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The plaintiff commenced this matter against the defendant by way of Writ of Summon on 10<sup>th</sup> April, 2015. The Writ of Summons was accompanied by the Statement of Claim. The plaintiff's contention was that the defendant hired her vehicle for a period of twelve (12) months but declined to pay the accrued hire charges of K43,200.00. The reliefs sought by the plaintiff were as follows:

- a) Payment of K43,200.00 being monies for the hire of the plaintiff's vehicle Toyota Spacio Registration Number ACR 1980 with interest at the current bank lending rate.

- b) An order to dispose off the motor vehicle namely Toyota Fan Cargo Registration Number ALM 8369 used as collateral by the defendant.
- c) Damages
- d) Costs and any other relief the Court may deem fit.

In rebuttal to the plaintiff's claims, the defendant filed his defence on 30<sup>th</sup> December, 2015 wherein he denied all the allegations.

The matter came up for hearing on 5<sup>th</sup> December, 2017 and only the plaintiff was before court. No reasons were advanced for the defendant's absence.

The plaintiff was the first witness. In her oral evidence to argument the statement of claim the plaintiff narrated that on 13<sup>th</sup> March, 2013, she entered into an agreement with the defendant to hire out her vehicle namely Toyota Spacio Registration Number ACR 1980. The plaintiff testified that the parties agreed that the hire charges would be pegged at K120.00 per day for a period of 12 months. She went on to state that the defendant defaulted on the agreed terms and made a proposal to settle the full amount at the end of the agreed period. The plaintiff testified that on the due date which was 13<sup>th</sup> April, 2014 the defendant dumped the vehicle at a garage in Ndola and became elusive. It was the plaintiff's further evidence that she organised for her vehicle to be towed from Ndola to Lusaka. She later learnt that the defendant left the country but left a Toyota Fan Cargo Registration Number 8369 with a market value of less than K18,000.00 parked at his house. The plaintiff informed the court that she reported the matter to the police and solicited for

their help to retrieve the defendant's vehicle which they did. The plaintiff wound up her testimony by urging the court to award her the reliefs endorsed on the writ.

The second witness was Bashi Dahar Hssan a driver at Dahri Transport. The witness told the Court that sometime in March, 2013 he accompanied the defendant to hire the plaintiff's vehicle, a Toyota Spacio with Registration Number ACR 1980. He stated that the terms of the parties' agreement were reduced in writing and he signed as a witness for the defendant. The witness indicated that though the defendant was present when the agreement was being signed he did not sign on the agreement but he left a copy of his identity card with the plaintiff. The car hire agreement and the defendant's identity card were produced on page 1 and 2 of the plaintiff's bundle of documents. In concluding his testimony, the witness asserted that the defendant left the country without settling the plaintiff's dues.

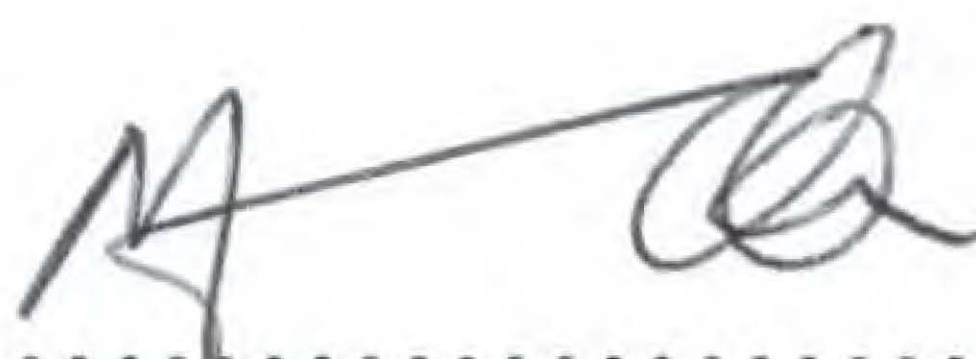
The defendant in his defence barely denied the plaintiff's assertion and averred that he would at trial put the plaintiff to strict proof of the facts alleged in the statement of claim.

I have given serious consideration to the evidence on record and it is apparent to me that the evidence led by the plaintiff clearly shows that the defendant hired a Toyota Spacio Registration Number ACR 1980 from the plaintiff on a daily charge of K120.00. Although the defendant did not append his signature on the car hire agreement exhibited by the plaintiff, I am quite satisfied that when the said vehicle was handed over to the defendant on 13<sup>th</sup> March, 2013 he

left a copy of his identity card with the plaintiff to signify that he was party to the agreement.

Further, it was my finding that there is no evidence to suggest that the defendant liquidated the accrued car hire charges amounting to K43,200 after 15<sup>th</sup> April, 2014 when their agreement came to an end. I must also affirm that the defence filed by the defendant is founded on general or bare denials and statements of non-admission which in my view does not in any way rebut the allegations contained in the statement of claim. In view of the foregoing, I have no doubt that the plaintiff has proved her case on a balance of probabilities. I therefore, uphold the plaintiff's claims and order the defendant to forthwith liquidate the accrued hire fees of K43,200 with interest at the current bank lending rate from the date when the hire agreement expired until final settlement. The plaintiff is also granted an order to dispose off the defendant's Toyota Fan Cargo Registration Number ALM 8369 in her possession to offset part of the outstanding dues. Costs are awarded to the plaintiff.

Dated at Lusaka this ..... day of ....., 2018.



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**M.CHANDA**  
**HIGH COURT JUDGE**