

**IN THE HIGH COURT FOR ZAMBIA**

**2016/HPA/045**

**HOLDEN AT LUSAKA**

*(Civil Jurisdiction)*

**BETWEEN:**



**ALAKANILE PHIRI**

**1<sup>ST</sup> APPELLANT**

**TIMOTHY PHIRI**

**2<sup>ND</sup> APPELLANT**

**AND**

**LEONARD SINKALA PHIRI**

**1<sup>ST</sup> RESPONDENT**

**SEENGE SEENGE M.**

**2<sup>ND</sup> RESPONDENT**

**PRICULLA E. PHIRI**

**3<sup>RD</sup> RESPONDENT**

**CORAM: HONORABLE JUSTICE MR. MWILA CHITABO, SC**

*For the Appellants :*

*For the Respondents :*

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**JUDGMENT**

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***Legislation Referred to:***

- 1. Lands and Deeds Registry Act Chapter 185 of Laws of Zambia*
- 2. Intestate Succession Act chapter 59 of the Laws of Zambia*

**Cases Referred to:**

1. *Annie Bailes v. Charles Antony Stacey and Anierica Simoes* (1986) ZR 83
2. *Bernard Edson Chirwa v Rosemary Chirwa* (2013) ZR 45
3. *Khalid Mohamed V Attorney General* (1982) ZR
4. *National Provincial Bank Limited v Ainsworth* (1965) AC 1175
5. *Sablehand Zambia Limited V Zambia Revenue Authority* (2005) ZR109
6. *Sithole v The State Lotteries Board* (1975) ZR 106

This matter came up on appeal against the Judgment of learned Magistrate of the 1<sup>st</sup> Class at Lusaka. The Judgment upheld the decision of the Local Court and the learned Magistrate found that the 1<sup>st</sup> and 2<sup>nd</sup> Appellants did not have Title Deeds from Lusaka City Council in their names. Therefore their want of Title disentitled them to any remedy in a court of law to which only one person was a legally recognized owner. The Magistrate further found that from the evidence, it was clear that the 1<sup>st</sup> Appellant was a dependent of her daughter Alice and was therefore captured under section 3 of the Intestate Succession Act. In light of this she made the made the following orders:

1. Vacations of House No. 9 Chembe Street Libala Stage 4A by the 1<sup>st</sup> Appellant within 7 days from the date of Judgment considering the period that was given by the Local Court had elapsed.

2. Possession of the property known as House No.9 Chembe Street Street Libala Stage 4A in favour of the Respondents.
3. Possession of any other structure in the premises of H/NO9 Chembe Street, Libala Stage 4A.
4. Appellants are restrained from going to the said premises after possession by the Respondents for peace to prevail.
5. 20% of the sale price of all the properties on the said premises to be given to the 1<sup>st</sup> Appellant being a dependent to the late Alice Phiri.

The Appellants appealed against this decision citing the following grounds of appeal:

1. The learned Magistrate erred in law and fact when she ruled in favour of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents by stating that the late Ms. Alice Phiri being a civil servant purchased the house in question from her terminal benefits without taking into consideration as to when the said terminal benefits were paid.
2. The Court erred in law and fact when she failed to establish that when property is transferred to another party as a gift, there was no requirement of any form of transaction of a certain fee to the vendor.
3. The Court erred in law and in fact when she did not put into consideration to declare that Title to the property in question was fraudulently acquired as there was no proof

by the 1<sup>st</sup> 2<sup>nd</sup> Respondents of the whole purchase of the said property on the part of the deceased.

In the Appellants heads of Arguments the Appellants added one ground of Appeal as follows:

- a) The lower Court erred in both law and fact when it failed to give a fair evaluation of the evidence before it and failed to find that the 1<sup>st</sup> Appellants had an equitable interest in the property being House No. 9 Chembe Road Libala Stage 4A, Lusaka.

The arguments gave a background of the matter as stated on record that the house, which was the subject matter of this appeal, was first owned by her young brother George Phiri who was renting from the Council. That when he was transferred he left the 1<sup>st</sup> Appellant in the said house. It was revealed that later when the Government started selling the houses, her children, Timothy Phiri, Jenala Phiri and Alice Phiri decided to buy the house for her.

It was further contended that the Offer Letter came out in the name of the 2<sup>nd</sup> Appellant who was also her child. The Title Deeds came out in the names of Alice Phiri who with her two children lived with the 1<sup>st</sup> Appellant and the 2<sup>nd</sup> Appellant and his wife. It was also revealed that there were family issues and the 2<sup>nd</sup> Appellant left the house with his wife. And decided to put the house in the name of Alice Phiri because she thought Alice Phiri was going to take care of her. However, Alice Phiri passed

away and twelve years later, Alice Phiri's children decided to chase her from the house.

The arguments revealed that the unchallenged testimony of the 2<sup>nd</sup> Appellant was that the 1<sup>st</sup> Appellant testified that his father was a tenant of house No. 9 Chembe Road, Libala Stage 4 from the Council. That later on the tenancy was transferred in the name of the 2<sup>nd</sup> Appellant. When the Council decided to sell the houses the offer letter came out in the name of the 2<sup>nd</sup> Appellant. The 2<sup>nd</sup> Appellant is said to have paid a deposit of K850 and a receipt was issued in his name. It was contended that when the Council later threatened to repossess the house for failure to pay in full, the 2<sup>nd</sup> Appellant, Jenala and Salati Phiri contributed and paid. Alice Phiri, the mother of the Respondents promised to pay rates and other payments.

According to the Appellants arguments, the family sat as a family and decided that since Alice Phiri had come from Livingstone, the Title Deeds would come out in her name. The 2<sup>nd</sup> Appellant then wrote to the Council instructing that the title should be in Alice Phiri's name. That his evidence was that it was not his intention for the house to be owned by Alice Phiri and that Alice Phiri continued to live with the 1<sup>st</sup> Appellant. Later the Respondents decided to chase the 1<sup>st</sup> Appellant from the house.

It was submitted that these testimonies of the Appellants were unchallenged by the Respondents in the lower Court and therefore remained credible. It was submitted that the 2<sup>nd</sup>

Appellant did not understand the legal implications of executing a Deed of Transfer and later on processing Title in the names of Alice Phiri, his sister. It was argued that this was a family arrangement that ended that ended up not conveying the true intention of the parties which was to buy the property for the 1<sup>st</sup> Appellant.

It was conceded that at Common Law and according to the Lands and Deeds Registry Act, a Certificate of Title is conclusive evidence of ownership of property and thus Alice Phiri, now deceased, would be deemed to be the legal owner of the property. However, it was argued that the peculiar history and background of this property, it was submitted that the 1<sup>st</sup> Appellant had an equitable interest in the property in question.

It was argued that what was left for this Court to determine was whether or not this was is a proper case for the Court to invoke its discretion and apply the rules of equity. They cited section 13 of the High Court Act which empowers the Court to administer law and equity concurrently. The Appellants also referred the Court to the different maxims of equity.

They invited the Court to enforce the true intention of the parties when they sat in the family meeting and not allow a Statute to perpetuate an injustice. It was their further arguments that the Respondents conceded in the lower Court that they did not have any receipts evidencing payments between their mother, Alice Phiri and the 2<sup>nd</sup> Appellant who executed the assignment. That

all the receipts that were produced in the lower Court were in the names of the 2<sup>nd</sup> Appellant being statutory payments to the Council.

Further that there was no evidence of payment of K2,580,000.00 by Alice Phiri to the 2<sup>nd</sup> Appellant as the assignment suggests and as such there was no contract of sale that took place between Alice Phiri and the 2<sup>nd</sup> Appellant. That the Appellants signed the Assignment in total ignorance of the implication of doing so and the Respondents have taken advantage of such ignorance to claim ownership of the property. The Appellants prayed that this Court use its equitable jurisdiction and uphold the appeal by quashing the decision of the lower Court.

In response Counsel for the 1<sup>st</sup> and 2<sup>nd</sup> Respondents filed in heads of arguments and submitted that the history of the premises was that three family members rented the premises at different intervals between 1978 and 1996 up to the time when Alice Phiri purchased the property through a process that occurred between the years 1996 and 1999. That no one owned the property before then as the house was rented from the Lusaka City Council.

It was further submitted that the 2<sup>nd</sup> Appellant was offered to buy this house as sitting tenant by the Lusaka City Council, but failed to purchase it within the time frame that was given by the government. The 2<sup>nd</sup> Appellant is said to have then offered to offer letter to Alice Phiri who was a civil servant and business

woman at the time who bought it off him and the latter paid it to the Lusaka City Council. This necessitated the 2<sup>nd</sup> Appellant to author the Change of ownership letter to the said house addressed to the Director of Legal services.

It was submitted that this was a serious transaction made of a free conscious will and the 2<sup>nd</sup> Appellant bound himself to honoring his endorsed path of action irreversibly when he signed this letter and all preceding and subsequent documents which were produced in the Court below as "DDP3" "DDP7" and "DDP4".

That the 2<sup>nd</sup> Appellant declared Alice Phiri as the legal and rightful owner of house no. 9 Chembe Street, Libala Stage 4. It was argued that there was no evidence to show that the said house was purchased by Alice Phiri for the 1<sup>st</sup> Appellant. The Respondents contended that if the 1<sup>st</sup> Appellant was the intended owner of the house, the said house would have been in her name and not in the name of Alice Phiri.

It was argued that the 1<sup>st</sup> Appellants ownership claim over the property that she knows well that her son, 2<sup>nd</sup> Appellant declared to be Alice Phiri's property as sole owner. That the Deed of Transfer was duly executed by all the parties and witnesses signed.

It was argued that with regard to the allegation of fraud, there was no evidence produced by the appellants at trial to substantiate their claim. The Respondents maintained that the



house in question was owned by their mother Alice Phiri for a period of 4 years before passing on in the year 2003. It was their argument that during that period of 4 years no family member reported her to any law enforcement authorities. It was submitted that for the Appellants to have any claim in equity, they too need to come to equity with clean hands. They contended that this was the 2<sup>nd</sup> Appellant's attempt to technically get this house from them. They submitted that the 1<sup>st</sup> Appellant had four children who were well settled and all lived within Lusaka. That she further had other grandchildren who took care of her while the Respondents had no parents who would take care of them if the house was taken from them.

They cited the Intestate succession Act to emphasize that any person who unlawfully deprived any part of the property of the deceased to which this person was entitled under the Act was guilty of an offence. They argued that the receipts came out in the name of the 2<sup>nd</sup> Appellant because he was the sitting tenant at the time but that the issuance of the title came out in their mother.

The Respondents argued that by law the person who appeared on the certificate of title was owner of the property and not the one whose name appeared on receipts. It was submitted that their mother did not own the property as trustee or equity partner because if that were the case the title would have indicate that there was trust and that the 1<sup>st</sup> Appellant was the equity

proprietor. They cited section 34 of the Lands and Deeds Registry Act on when an action for possession or recovery of land can be sustained against a registered proprietor. They also referred to section 33 of the same Act providing for the enjoyment of quiet possession by a certificate title holder and the exceptions to that enjoyment.

It was submitted that the Appellants were precluded from making any successful ownership claim pertaining to the property in issue as the 1<sup>st</sup> Appellant was just kept by the Respondents mother in the same house. It was disclosed that the 1<sup>st</sup> Appellant was 90 years old and that none of the Respondents had been staying at the house in question as they had been warned and harassed several times that the said house was not theirs. They added that the 3<sup>rd</sup> Respondents was this year denied to stay at the house when she was evicted from the house. That the 1<sup>st</sup> Appellant chased her and some of her children called to warn the 3<sup>rd</sup> Respondent to never return to that house.

Further, that the 1<sup>st</sup> Appellant had been staying in that house for the past 14 years since the Respondents mother died and had not allowed the Respondents to benefit from it. It was submitted that the 1<sup>st</sup> Appellant was their grandmother and that she was free to live with any of the grandchildren or her children after she leaves the house.

They prayed that this Court dismisses the Appeal and order for:

- a) the removal of the caveat placed against the property and have the Certificate of title issue in all their names
- b) Costs.

The 3<sup>rd</sup> Respondent filed in her heads of arguments and argued that the Appellants ground of appeal that the Magistrate did not consider if the terminal benefits were paid was unproven because there was no evidence disproving that the benefits were paid at the material time. It was further argued that the Appellants had not proven fraud but that the Respondent had produced documentary evidence that title to the property in question should be in the name of Alice Phiri and not the 2<sup>nd</sup> Appellant. Further, that the same was given to Alice Phiri as a gift.

It was argued that the 2<sup>nd</sup> Appellant cannot now turn around against his own written intentions. It was the 3<sup>rd</sup> Respondent's contention that the 2<sup>nd</sup> Appellant could have said that the same was to be held on behalf of the 1<sup>st</sup> Appellant. She submitted that she was not aware of any meeting that conveyed the titled to Alice Phiri and that the written documents override this testimony by the 2<sup>nd</sup> Appellant.

Further that there was an Assignment that was prepared by the 2<sup>nd</sup> Appellant's lawyers conveying the property to Alice Phiri and therefore, he could not now allege fraud. She reiterated the arguments by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents that the Certificate of title was had been adduced in evidence was conclusive evidence

that the property belonged to Alice Phiri and cited Section 54 of the Lands and Deeds Registry Act.

She further argued that the 1<sup>st</sup> Appellant was not entitled to the 20% awarded by the lower Court because section 9(1) of the Intestate Succession Act provides that *notwithstanding section five where the estate includes a house, the surviving spouse or child will be entitled to that house*. She further cited section 38 of the same Act to assist the Court.

She submitted that as much as the law provides for equity and equitable interests, the same were not automatically applicable. She cited the case of ***National Provincial Bank Limited v Ainsworth (1965) AC 1175*** where a deserted wife was held not have had an equitable interest in property despite her having occupied the house. Similarly she argued that the Appellants had failed to substantiate the equitable interest they were claiming. It was submitted that one of the maxims of equity was that equity follows the law meaning that in administering equity, this Court ought to follow the law unless an injustice would occasion. The 3<sup>rd</sup> Respondent submitted that the Appellants had failed to demonstrate what injustice would result.

She further argued that equity does not aid a party at fault and therefore would not aid a person to relieve them of consequences of their own carelessness. It was her contention that the 2<sup>nd</sup> Appellant a letter granting the deceased sole ownership of the property under contention and even signed the assignment

prepared by lawyers he engaged. In view of this it was her prayer that this Court dismiss the appeal in its entirety as it lacked merit

I have considered the evidence from the Court below and the arguments of all the parties. I have noted that it is not in dispute that the 2<sup>nd</sup> Appellant was offered house No. 9 Chembe Street in Libala Stage 4 by an offer letter from the Lusaka City Council. Further, it was not disputed in the Court Below that the 2<sup>nd</sup> Appellant put up an K850,000 unrebased as a deposit on the said offer. It was also undisputed that the Respondents' mother Alice Phiri also paid for the outstanding rates and a sum of money was paid toward the purchase of this house.

It was also not disputed that there was a letter of transfer of ownership from the 2<sup>nd</sup> Appellant to the Lusaka City Council asking them to change ownership of House No.9 Chembe Street Libala from himself to Alice Phiri, the Respondent's mother. It is also not in dispute that there was an assignment duly executed and witnessed between the 2<sup>nd</sup> Appellant to Alice Phiri.

Further, it was the undisputed evidence in the Court below that the Title deed for the said house came out in the name of Alice Phiri and after her death her children, the Respondents herein, were claiming that the said property devolved to them as the beneficiaries to her estate and as such were entitled to sell the said property.

What was left for the Court below to determine was whether the Appellants in fact had an equitable interest in the property as their evidence indicated that the said property was bought for the 1<sup>st</sup> appellant by all her children. Alternatively whether the Respondents are the right beneficiaries of the property in issue.

The first ground of appeal was that:

1. *The learned Magistrate erred in law and fact when she ruled in favour of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents by stating that the late Ms. Alice Phiri being a civil servant purchased the house in question from her terminal benefits without taking into consideration as to when the said terminal benefits were paid.*

I agree with the Respondents' arguments that there was no evidence in the Court below that was led to show when Alice Phiri actually received her terminal benefits. This in my view is also immaterial because the undisputed evidence on record is that Alice Phiri did in fact make a contribution to the purchase of this property. The source of that contribution in my view is irrelevant. Further, if she later purchased the house with her terminal benefits was not in issue. This ground of appeal in my opinion has no merit and therefore fails.

2. *The Court erred in law and fact when she failed to establish that when property is transferred to another party as a gift,*

*there was no requirement of any form of transaction of a certain fee to the vendor.*

The evidence on record is that the 2<sup>nd</sup> Appellant by a letter dated 28<sup>th</sup> August, 1998 instructed that the City Council transfers ownership from himself to the Respondents' mother Alice Phiri. The letter stated that the same was given as a gift and that Alice Phiri would be the sole owner of the said land. However a year later an Assignment dated 28<sup>th</sup> October, 1999 was executed between the 2<sup>nd</sup> Appellant and Alice Phiri showing that the property was being sold to her at the sum of K2,580,000 unrebased. There is further evidence of tax being paid on the same property and the tax clearance is dated 1<sup>st</sup> November, 1999. There is therefore evidence to support a sale of the property as opposed to it being given as a gift. I find that this ground of appeal has no merit.

*3. The Court erred in law and in fact when she did not put into consideration to declare that Title to the property in question was fraudulently acquired as there was no proof by the 1<sup>st</sup> 2<sup>nd</sup> Respondents of the whole purchase of the said property on the part of the deceased.*

The Supreme Court has pronounced itself on proving fraud in the case of **Sablehand Zambia Limited V Zambia Revenue Authority (2005) ZR109**. In that case it was held that:

*Where fraud is an issue in the proceedings, then a party or wishing to rely on it must ensure that it is clearly and distinctly alleged. Further, at the trial of the cause, the party alleging fraud must equally lead evidence, so that the allegations are clearly and distinctly proved.*

Further in the case of **Sithole v The State Lotteries Board (1975) ZR 106** it was held that *if a party alleges fraud the extent of the onus on the party alleging is greater than a simple balance of probabilities.*

In the present case there was no fraud that was specifically pleaded nor was there any evidence lead to that effect. In view of this, this ground also fails because there was nothing before the lower Court to determine whether fraud was occasioned in the transfer of the property in issue.

The final ground of appeal was that:

4. *The lower Court erred in both law and fact when it failed to give a fair evaluation of the evidence before it and failed to find that the 1<sup>st</sup> Appellants had an equitable interest in the property being House No. 9 Chembe Road Libala Stage 4A, Lusaka*

The Appellants have conceded that when the evidence on record shows that the owner of the property in issue would appear to be Alice Phiri, the Respondents' mother. They have attributed the



change of ownership and the implication of doing so to ignorance of the effect.

With regard to this I called in aid the case of **Annie Bailes v. Charles Antony Stacey and Anierica Simoes (1986) ZR 83** where it was held that

*On the authorities, it is clear that the principles to be applied in ascertaining the existence or otherwise of any alleged resulting or constructive trust in a case of this nature are the same which would apply to any relationship be it man and wife, man and mistress or even friends or brothers....The nature of a constructive trust is such that every ascertainable circumstance and every relevant fact should be taken into account if, by imputation of equity, a transaction which the parties may have entered into without thought or realisation of legal consequences becomes the subject of a claim against the party in whom the legal title to property is vested by the other who asserts that he has acquired a beneficial interest. The constructive trust is a creature of equity and may be imposed in order to satisfy the demands of justice and good conscience.... There must also be evidence of a joint effort in the acquisition, that is to say, evidence that the claimant has made a substantial contribution whether in cash or, as in some of the cases reviewed, in personal exertion and toil.*

Further in the case of **Bernard Edson Chirwa v Rosemary Chirwa (2013) ZR 45** Chisanga, J. citing the learned authors of

Snell's Principles of Equity 26<sup>th</sup> Edition at page 192 observed that:

*Equity presumes a resulting trust to the real purchaser. Further, that the doctrine of resulting trust is based on the unexpressed but presumed intention of the true purchaser. It does not arise where the relation existing between the true and nominal purchaser is such as to raise a presumption that a gift was intended. The presumption is referred to as the presumption of advancement and applies to all cases in which the person providing the purchase money is under the equitable obligation to support, or make provision for the person to whom the property is conveyed. Illustrations are instances where a father or husband advances the purchase money, or even a person who stands in loco parentis to the person in whose name the property is conveyed.*

The authorities cited above demonstrate instances where equity comes to aid in instances where property's is transferred and a resulting or constructive trust arises. According to Black's Law Dictionary 8<sup>th</sup> Edition, a resulting trust is defined as *a remedy imposed by equity when property is transferred under circumstances suggesting that the transferor did not intend for the transferee to have the beneficial interest in property.*

In the present case the first transaction was where the City Council offered the property in issue to Timothy Phiri, the 2<sup>nd</sup> Appellant, and a sum of K850, 000 unrebased was paid as

deposit. The evidence then reveals that there was a change of ownership that was requested by the 2<sup>nd</sup> Appellant to the Lusaka City Council. In that letter he requested that the ownership of that property should be changed from himself to Alice Phiri, the Respondents' mother. That the same was a gift and that she would own it as a sole owner of the said property. According to the Appellants this was based on the fact that the family had unanimously agreed that the house that was being purchased for the 1<sup>st</sup> Appellant by her children would be in the name of Alice Phiri. If the circumstances had ended at this point, I would have agreed with the argument that based on the intention of the parties, without knowing the effect of having the title in Alice Phiri's name, a resulting trust in favour of the 1<sup>st</sup> Appellant was created.

However, there were further transactions that were done a year after this letter was written to the Council. The evidence on record goes on to show that the 2<sup>nd</sup> Appellant engaged lawyers who assisted him and Alice Phiri to execute an Assignment which states that the 2<sup>nd</sup> Appellant sold the property in issue to Alice Phiri at a consideration of K2,580,000. There is further evidence on record that property transfer tax was paid on this particular transaction after the assignment was duly executed and witnessed.

In these circumstances it is difficult to establish that there was no actual sell of this property to Alice Phiri. I am of the opinion

that the evidence before me does not support the reasoning that this was likely to be a resulting trust because a deed of transfer duly executed and prepared by the 2<sup>nd</sup> Appellant's lawyers shows that subsequent to the instruction to change ownership to Alice Phiri, there was a sell of the property and tax duly paid on that transaction between the 2<sup>nd</sup> Appellant and Alice Phiri. This Court cannot therefore be left to assume that this transaction did not take place when tax was even paid on this transaction.

The Law is very clear that he who alleges must prove as was well established in the case of ***Khalid Mohamed V Attorney General (1982) ZR***. I am of the view that the Appellants have failed to prove their case as the totality of the evidence before me does not support their claim. While this Court administers law and equity concurrently, equity follows the law. The law is very clear that a certificate of title is conclusive evidence of ownership or property. The exceptions to this are provided for in section 34 of the Lands and Deeds Registry Act which provides that:

*“No action for possession, or other action for the recovery of any land, shall lie or be sustained against the Registered Proprietor holding a Certificate of Title for the estate or interest in respect to which he is registered, except in any of the following cases, that is to say:*

(a) *the case of a mortgage as against a mortgagor in default;*

(b) *the case of the President as against the holder of a State Lease in default;*

(c) *the case of a person deprived of any land by fraud, as against the person registered as proprietor of such land through fraud, or against a person deriving otherwise than as a transferee bona fide for value from or through a person so registered through fraud;*

(d) *the case of a person deprived of or claiming any land included in any Certificate of Title of other land by misdescription of such other land, or of its boundaries, as against the Registered Proprietor of such other land, not being a transferee, or deriving from or through a transferee, thereof bona fide for value;*

(e) *the case of a Registered Proprietor claiming under a Certificate of Title prior in date in any case in which two or more Certificates of Title have been issued under the provisions of Parts III to VII in respect to the same land.”*

As I earlier noted there was no evidence led to prove any fraud allegations with respect to how the title was acquired. I have found no merit in the argument that the 1<sup>st</sup> Appellant had an equitable interest in the property because the evidence before me does not support this argument.

I further do not agree that because the receipts to the Counsel were in the name of the 2<sup>nd</sup> Appellant, it meant that Alice Phiri was not the purchaser of the said property. The evidence before me shows that the sale of the property was between Alice Phiri and the 2<sup>nd</sup> Appellants and therefore that argument has no merit as the initial transaction was in fact between the City Council and the 2<sup>nd</sup> Appellant.

On the totality of the evidence before me I find that the last ground of appeal also fails and I accordingly dismiss the appeal. I am of the view that it will be in the justice of the case that each party to bear its own cost.

Leave to Appeal I granted.

**Delivered under my hand and seal this <sup>20<sup>th</sup></sup> day of April, 2018**



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**Mwila Chitabo, S.C  
Judge**