

IN THE SUPREME COURT FOR ZAMBIA      APPEAL NO 18/2002  
HOLDEN AT LUSAKA  
(CIVIL JURISDICTION)

B E T W E E N:

COLONEL PAUL CHIKUSWE CHILANGA      1<sup>ST</sup> APPELLANT

S M SWETA (*Sued in his capacity as Secretary to the  
Committee on sale of Government Pool Houses and Flats*)      2<sup>nd</sup> APPELLANT

ATTORNEY-GENERAL      3<sup>RD</sup> APPELLANT

AND

LT. COLONEL PROGRESS NAMENDA SIANGA      RESPONDENT

CORAM: LEWANIKA, DCJ., SAKALA, MAMBILIMA JJS  
ON 14<sup>th</sup> May, 2002 and 14<sup>th</sup> May, 2003.

For the 1<sup>st</sup> Appellant:      D. O. SAKALA of Mabutwe & Associates  
For the 2<sup>nd</sup> & 3<sup>rd</sup> Appellants: M. HAIMBE, Senior State Advocate  
For the Respondent:      R. MAINZA of Mainza & Co.

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JUDGMENT

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LEWANIKA, DCJ., delivered the judgment of the court.

When we heard this appeal, we dismissed it with costs and said we would give our reasons later and we now do so.

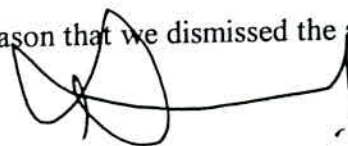
This appeal arises from a Ruling made by a Judge of the High Court on a preliminary issue raised by counsel for the Appellant. Counsel for the Appellant had applied to set aside the writ of summons herein for irregularity in that it was not endorsed with a claim contrary to the provisions of Order 6 Rule 2 of the Rules of the Supreme Court. The argument advanced by counsel for the

Appellant is that a writ of summons must stand on its own and be endorsed by a statement of claim setting out the reliefs sought by the Plaintiff. It is common cause that the writ of summons in these proceedings was not endorsed with a claim but was accompanied by a full statement of claim setting out the Respondent's claim. We drew counsel's attention to Order 6 Rule 1(1) of the High Court Rules as amended by Statutory Instrument No. 71 of 1997 which provides as follows:-

Order VI

1(1) *"Except for petitions under the Constitution and Matrimonial Causes Acts and applications for writs of habeas corpus, every action in the court shall notwithstanding the provisions of any other written law, be commenced by a writ of summons endorsed with or accompanied by a full statement of claim."*

In this judgment therefore a litigant has a choice whether to endorse his claim on the actual writ or annex to it a full statement of claim. The learned Judge in the court below was on firm ground in refusing to set aside the writ of summons and it was for this reason that we dismissed the appeal.



D.M. Lewanika  
DEPUTY CHIEF JUSTICE



E.L. Sakala  
SUPREME COURT JUDGE



I.M.C. Mambilima  
SUPREME COURT JUDGE