

**IN THE COURT OF APPEAL FOR ZAMBIA APPEAL NO. 86/2017
HOLDEN AT NDOLA
(Civil Jurisdiction)**

BETWEEN:

MOPANI COPPER MINES PLC

APPELLANT

AND

MATHEWS MPHARO

RESPONDENT



CORAM: Chashi, Siavwapa and Ngulube, JJA

On 21st February 2018 and 24th May 2018

FOR THE APPELLANT: MR. A. GONDWE, LEGAL COUNSEL

FOR THE RESPONDENT: MR. P. KAELA OF GM LEGAL PRACTITIONERS

J U D G M E N T

SIAVWAPA, JA delivered the Judgment of the Court.

CASES REFERRED TO:

- 1. *Sitali v Central Board of Health (SCZ) Appeal No. 178 of 1999***
- 2. *Mumba v Telecel (Zambia) Limited (SCZ) Appeal No. 156 of 2005***

This is an appeal against the Judgement of the court below which found that the Respondent had been wrongfully terminated from employment and awarded damages.

The Appellant has advanced five grounds of appeal as follows;

1. That the learned trial Judge erred in law and in fact when she found contrary to the over whelming evidence on record that the Respondent was not heard on the charge of failing to account for company property because no case hearing was conducted and if it was, it was procedurally unfair to be sustained.
2. That the learned trial Judge erred in law and in fact when she found that the summary dismissal of the Respondent on the charge of failing to account for company property was wrongful contrary to her findings of fact on record.
3. That the learned trial Judge misdirected herself and therefore, erred in law and in fact when she evaluated the evidence on record in an imbalanced manner where only the alleged flaws of the Appellant but not of the Respondent were considered as shown in ground two above.
4. That the learned trial Judge erred in law and in fact when she found contrary to the overwhelming evidence on record that the Employee Relations Department did not conduct any investigations in the Respondent's case which conduct was contrary to Clause 2.5 of the Disciplinary Code.

