

**IN THE COURT OF APPEAL FOR ZAMBIA**  
**HOLDEN AT KABWE**  
(Civil Jurisdiction)

**Appeal No. 133/2019**

**B E T W E E N :**

PULSE FINANCIAL SERVICES LIMITED  
(T/A Entrepreneurs Financial Centre "EFC")  
**AND**

ELAINE MUNGA  
JUSTINE MPUNDU  
ERNEST PHIRI

**APPELLANT**  
**1<sup>ST</sup> RESPONDENT**  
**2<sup>ND</sup> RESPONDENT**  
**3<sup>RD</sup> RESPONDENT**

**CORAM : Makungu, Chishimba and Ngulube, JJA**  
**On the 16<sup>th</sup> and 23<sup>rd</sup> October, 2019**

For the Appellant : Mr. G. Pindani – Messrs Chota, Musaila & Pindani  
Advocates  
For the 1<sup>st</sup> Respondent : N/A  
For the 2<sup>nd</sup> Respondent : Mr. N. K. R. Sambo of Messrs Sambo Kayula &  
Company.  
For the 3<sup>rd</sup> Respondent : Ms. M. Kamangu of Messrs P.W Mwikisa & Company.

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

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**CHISHIMBA, JA, delivered the Judgment of the Court**

**CASES REFERRED TO:**

1. T.I Jem Enterprises Limited v. Children International Zambia Limited (2011) ZR 75
2. Mumba v. Zambia Fisheries and Fish Marketing Corporation Limited (1980) Z.R. 135
3. Holmes Limited v. Build Well Construction Company Limited (1973) Z.R.77
4. Zimba Jane Musanya v. Musanya Henry Chola (2012) Volume 1 Z.R. 372
5. L'estrage v. Graucob (1934) 2KB 394
6. Kalusha Bwalya v. Chadore Properties and Ian Chamunora Nyalungwe Haruperi SCZ Appeal No. 222/2013
7. Barclays Bank PLC v. O'Brien (1993) ER 417
8. Credit Lyonnais Bank Nederlands NV Burch (1997) 1 ALL ER 144
9. Nkongolo Farms Limited v Zambia National Commercial Bank, Kent Limited in Receivership) and another SCZ No 19 of 2007



10. African Banking Corporation Zambia limited (T/A Bank ABC) v Plinth Technical Works and 5 others SCZ Selected Judgement No. 28 of 2015
11. Union Bank (Z) Limited (In Liquidation) v. Abraham Geevarghese 2005/HPC/0056 (unreported)
12. Nkhata and Others v Attorney General (1966) ZR 124
13. Examinations Council of Zambia v Reliance Technology Limited SCZ Judgment No. 46 of 2014 (Unreported)
14. Sablehand Zambia Limited v Zambia Revenue Authority (2005) ZR109 (S.C)
15. Sithole v The State Lotteries Board (1975) Z.R. 106 SC.
16. Collet Van Zyl Brothers Ltd (1996) ZR 65 (CA)
17. Scherer v. Counting Investments limited (1986) 1 WLR 615
18. Halyonda Costah Chims v Pulse Finance Services and another Appeal No. 101/2004
19. Saunders v Anglia Building Society (1970) 3 All ER 961
20. Kent Choice Limited (In Receivership) and Charles Haruperi SCZ No 19 of 2007
21. Credit Lyonnais Bank Nederlands v Burch 1997 1 ALL ER 144
22. Royal Bank of Scotland v Etridge 2001 UKHL 44
23. Brusewitz v Brown (1922) 42 NZLR 1106
24. Intermarket Banking Corp Zambia Ltd v Kasonde SCZ Judgment Appeal No. 44 of 2014
25. Afrope Zambia Limited Vs. Anthony Chate and Others SCZ Appeal Number 160 of 2016

**LEGISLATION AND OTHER WORKS REFERRED TO:**

1. Fisher and Lightwood's Law of Mortgages 14<sup>th</sup> Edition, 2014.
2. H. G. Beale, Chitty on Contracts 29<sup>th</sup> Edition, London, Sweet & Maxwell, 2004.
3. Ryan Murray's The Fundamentals of Contract Law, 3rd Edition, 2014
4. Statute of Frauds Amendment Act 1828
5. Encyclopedia of Banking Law 2001
6. Halsbury's Laws of England, 4th Edition, Volume 20
7. The Rules of the Supreme Court of England (White Book) 1999 Edition
8. Halsbury's Laws of England 4th Edition, Volume 31

**INTRODUCTION**

1. This is an appeal against the judgment of the High Court dismissing the Appellant's claim against the Respondents for foreclosure, possession and sale of security and enforcement of

