

**IN THE HIGH COURT FOR ZAMBIA
AT THE COMMERCIAL REGISTRY
HOLDEN AT LUSAKA**
(CIVIL JURISDICTION)

2011/HPC/0161

BETWEEN:

FINANCE BANK

AND

MICHAEL KAHULA



PLAINTIFF

DEFENDANT

Before the Honourable Mr. Justice W. S. Mweemba at Lusaka.

For the Plaintiff : Mr R. Ngulube- Messrs Tembo Ngulube & Associates.

For the Defendant: Mr K. Khanda- Messrs Central Chambers.

JUDGMENT

LEGISLATION & WORKS REFERRED TO:

1. *Halsbury's Laws of England 4th Edition, Volume 16.*

CASES REFERRED TO:

1. *Credit Africa Bank Limited (In Liquidation) v John Dingani Mudenda SCZ Judgment No.10 of 2003.*
2. *Michael Kahula v Finance Bank Zambia Limited Appeal No. 96/2012.*
3. *Societe National Des Chemis De Pur Du Congo (SNCC) V Joseph N. Kasonde SCZ No. 19 of 2013*

By Writ of Summons taken out on 17th March, 2011, the Plaintiff is claiming the following:-

- (i) The sum of K63,007,813.67;

(ii) Interest

(iii) Further or other relief the Court may deem fit

(iv) Costs

According to the Statement of Claim, on or about 23rd January, 2008 the Defendant applied and was advanced a Car Loan Facility in the sum of K55,000,000.00.

The Plaintiff further advanced the sum of K22,000,000.00 to the Defendant on or about 12th October, 2009 by way of a Personal Loan. That despite numerous reminders by the Plaintiff to the Defendant to settle the loan amounts outstanding the Defendant remains adamant to settle the same and was now indebted to the Plaintiff in the sum of K63,007,813.67 as at 24th January, 2011.

The Defendant filed a Defence on 28th March, 2011 and averred that the Plaintiff had been paid in full and it was the one that had not paid his terminal benefits for the period he served with it.

It was also stated that the Plaintiff was not entitled to any of its claims as it had not come to Court with clean hands and this matter should be dissolved with costs as the claim herein was within the Defendant's claims against the Plaintiff at the Industrial Relations Court under Cause No. Comp 87/2010 and should therefore be dismissed as it amounted to abuse of Court process.

The Defendant also filed a Counterclaim where he averred that he had not been paid his terminal benefits for the period that he served with the Plaintiff amounting to a total sum of K300,000,000.00 despite numerous demands.

The Defendant was now claiming the following:

1. Immediate payment of his terminal benefits.

