

**IN THE HIGH COURT FOR ZAMBIA
AT THE COMMERCIAL REGISTRY
HOLDEN AT LUSAKA**
(Civil Jurisdiction)

2017/HPC/0090



IN THE MATTER OF: **AN APPLICATION UNDER ORDER 30 RULE 14 OF
THE HIGH COURT RULES, CHAPTER 27 OF THE
LAWS OF ZAMBIA**

IN THE MATTER OF: **THE PERSONAL CHATTELS COMPRISED IN THE
WRITTEN FACILITY LETTER MADE BETWEEN
THE APPLICANT AND THE 1ST RESPONDENT**

IN THE MATTER OF: **POSSESSION AND SALE OF THE MORTGAGED
PROPERTY**

BETWEEN:

BETTERNOW FINANCE COMPANY LIMITED **APPLICANT**

AND

KOMUGA LIMITED **1ST RESPONDENT**
EMMANUEL MUSONDA **2ND RESPONDENT**

**Before the Honourable Mr. Justice W. S. Mweemba in Chambers
at Lusaka**

For the Applicant: *Mr. L. Mudenda, Messrs Kalokoni & Co.*

For the Respondents: *No Appearance*

JUDGMENT

LEGISLATION REFERRED TO:

1. Order 30 Rule 14 of the High Court Rules, Chapter 27 of the Laws of Zambia.
2. Bills of Sale Acts 1878 and 1882.
3. Order 35 Rule 3 of the High Court Rules, Chapter 27 of the Laws of Zambia.

CASES AND OTHER WORKS REFERRED TO:

1. **Halsbury's Laws of England, 4th Edition Volume, 32.**
2. **S. Brian Musonda (Receiver of First Merchant Bank Zambia Limited (In Receivership) V Hyper Food Products Limited, Tony's Hypermarket Limited and Creation One Trading (Z) Limited (1999) ZR 124.**

The Applicant by way of Originating Summons filed into Court on 24th February, 2017 made pursuant to Order 30 Rule 14 of the High Court Rules, Chapter 27 of the Laws of Zambia seeks the following remedies or reliefs against the Respondents:

1. Payment of all monies due secured by the Facility Letter dated the 27th September, 2016 which stood at ZMW229,964.18 as at 27th January, 2017;
2. Delivery and possession of Ford Ranger T6,2015 Model with Registration NO. BAB 7145 and Chassis No. 6FPPXXMJ2PFT09883;
3. A declaration and Order that the 1st and 2nd Respondents are severally and jointly liable;
4. Damages for breach of contract;
5. Interest on all sums due to the Applicant;
6. Further or other relief the Court shall deem fit; and
7. Costs.

The application is supported by an Affidavit in Support and Skeleton Arguments filed into Court on 24th February, 2017 and 12th July, 2017 respectively. The Affidavit in Support was sworn by

