

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

2005/HP/0712



B E T W E E N :

MAUREEN LUNGU CHIRWA
DUNCAN CHIRWA

1ST PLAINTIFF

2ND PLAINTIFF

AND

ELIAS TEMBO
THE ATTORNEY GENERAL
LUSAKA CITY COUNCIL
PEGGY KANDESHA

1ST DEFENDANT

2ND DEFENDANT

3RD DEFENDANT

3RD PARTY

**Before Honorable Mrs. Justice M. Mapani-Kawimbe on the 16th day of
November, 2017**

For the Plaintiffs : *Mr. K. Kaunda, Messrs Ellis & Co.*
For the 1st Defendant : *Mr. R. Mainza, Messrs Mainza & Co.*
For the 2nd Defendant : *No Appearance*
For the 3rd Defendant : *No Appearance*
For the 3rd Party : *No Appearance*

J U D G M E N T

Cases Referred To:

- 1. Yengwe Farms Limited v Masstock Zambia Limited, The Commissioner of Lands and The Attorney General (1999) ZR 65*
- 2. Justine Chansa v Lusaka City Council SCZ Judgment No. 29 of 2007*

3. *Anti-Corruption Commission v Barnet Development Corporation Limited (2008) ZR 69 Volume 1 (SC)*
4. *Nkongolo Farms Limited v Zambia National Commercial Bank Limited, Kent Choice Limited (In receivership) and Charles Haruperi SCZ Judgment No. 19 of 2007*
5. *Khalid Mohamed v The Attorney General (1982) ZR 49*

Legislation Referred To:

1. *Lands and Deeds Registry Act, Chapter 185*

The Plaintiffs issued a Writ of Summons and Statement of Claim seeking the following reliefs:

- i. *Damages for encroachment, mesne profits and for trespass on Stand No. 24594, Lusaka.*
- ii. *An injunction to restrain the Defendants, their agents, servants or whomsoever from encroaching on Stand No. 24594, Lusaka.*
- iii. *Interest on mesne profits and damages*
- iv. *Any other relief the Court may deem fit.*
- v. *Costs.*

The Statement of Claim discloses that the 1st and 2nd Plaintiffs are the registered proprietors of Stand No. 24594, Lusaka. In June, 2005, the Defendant engaged unknown persons to dig holes on their property and transport earth or soil leaving large holes on it, and it caused destruction to the natural landscape.

The 1st and 2nd Plaintiffs aver that they made several attempts to meet the Defendant and to prevent him from encroaching on

