

**IN THE SUPREME COURT OF ZAMBIA
HOLDEN AT LUSAKA
(Civil Jurisdiction)**

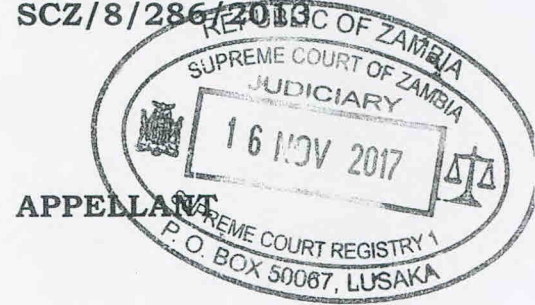
**APPEAL NO. 228/2013
SCZ/8/286/2013**

BETWEEN:

WILLIAM PHIRI

AND

REGINA CHAMA



RESPONDENT

Coram: Mwanamwambwa, DCJ, Kajimanga and Musonda, JJS
on 12th May, 2016 and 15th November, 2017.

For the Appellant: Mr. B.C. Mutale and Mr. E. Banda, of Messrs Chibundi
& Co.

For the Respondent: Mr. Chewe, of Messrs Nchito & Nchito.

J U D G M E N T

MUSONDA, JS, delivered the Judgment of the Court.

Cases referred to:-

1. **Kenmuir vs. Hattingh (1974) Z.R. 162.**
2. **Wilson Masauso Zulu vs. Avondale Housing Project Limited (1982) Z.R. 172.**
3. **Nyalungwe vs. The People (1976) Z.R. 176.**
4. **DPP vs. Hester [1973] A.C. 296.**
5. **Sell vs. Associated Motor Boat Co. (1968) E.A. 123.**
6. **Attorney General vs. Marcus Achiume (1983) Z.R. 1.**
7. **Sithole vs. State Lotteries Board (1975) Z.R. 106.**
8. **Sablehand Zambia Limited vs. Zambia Revenue Authority (2005) Z.R. 109.**

This is an appeal from a judgment of a High Court Judge sitting in an appellate capacity, who had set aside a judgment of a subordinate court of the first class which had upheld a claim by the

appellant, then plaintiff, that a real property known as flat number 108D-229/11321, Nakatenge Street, Libala Stage 4B, Lusaka, had not been sold to or bought by the respondent, then 1st Defendant.

The learned High Court Judge adjudged that, contrary to what the subordinate court of the first class had determined, the appellant did, in fact, sell his property in question to the respondent. In this judgment, we propose to continue referring to the property in question as "the property".

The history and background facts surrounding this matter is fairly straight forward.

The appellant had been living in the property as a tenant of the Lusaka City Council from as far back as January, 1982. In 1996 he was offered to buy the property by the Lusaka City Council. In August, 1997, the appellant vacated the property and moved into his deceased brother's house in Chilenje, within Lusaka and left the property under the care of one Kennedy Zulu, his then brother-in-law.

According to the evidence which was placed before the subordinate court, sometime in July, 1998, the respondent saw an

