

(89)

SELECTED JUDGMENT NO.4 OF 2018

IN THE CONSTITUTIONAL COURT OF ZAMBIA
AT THE CONSTITUTIONAL COURT REGISTRY
HOLDEN AT NDOLA
(CONSTITUTIONAL JURISDICTION)

2017/CC/R002

IN THE MATTER OF:

ARTICLES 189 AND 266 OF THE
CONSTITUTION OF ZAMBIA
(AMENDMENT) ACT NO. 2 OF 2016

IN THE MATTER OF:

ALLEGED CONTRAVENTION OF
ARTICLE 189 (2) OF THE
CONSTITUTION OF ZAMBIA
(AMENDMENT) ACT NO. 2 OF 2016



BETWEEN:

LUBUNDA NGALA

1ST APPLICANT

JASON CHULU

2ND APPLICANT

AND

ANTI-CORRUPTION COMMISSION

RESPONDENT

Coram: Chibomba, PC, Sitali, Mulembe, Mulonda and Munalula, JJC.

On 3rd October, 2017 and on 26th January, 2018

For the 1st and 2nd Applicants:
For the Respondent:

Both Present in Person.
Mr. B. Chiwala of Anti-Corruption
Commission.

J U D G M E N T

Chibomba, PC, delivered the Judgment of the Court

Cases referred to:-

(90)

1. Hobbs v CG Robertson Limited [1970] 2 All E.R. 347.
2. Wood v Commissioner of Police of the Metropolis [1986] 2 All E.R. 570.
3. Hakainde Hichilema and Another v Edgar Chagwa Lungu and 3 others-2016/CC/0031.
4. Seaford Court Estates Ltd v Asher [1949] 2 K.B. 481.
5. Wynter Kabimba (Suing in his capacity as Secretary General of the Patriotic Front) v Attorney General and George Kunda (2011) 3 Z.R. 492.
6. Attorney General and Another v Lewanika and Others (1993-94) Z.R. 164.
7. James v Wrotham Park Settled Estates [1980] AC 74.
8. Stephen Katuka (Suing as Secretary General of the UPND) and LAZ v The Attorney General, Ngosa Simbyakula and 63 Others-2016/CC/0010/2016/CC/0011.
9. Godfrey Malembeka (Suing as Executive Director of Prisons Care and Counselling Association) v Attorney General and Another - Selected Judgment No. 34 of 2017.
10. Matildah Mutale v Emmanuel Munaile- SCZ Judgment No. 14 of 2007.
11. Dadi Jagannadham v Jammulu Ramulu & Others (2001) 7 SCC 71.
12. C.I.T. Central, Calcutta v National Taj Traders 1980 AIR 485.
13. Copper Brookes (Wollongong) Pty Ltd v Federal Commissioner of Taxation (1981) HCA 26.
14. Kehar Singh v State (Delhi Admn.) 1988 SCR Supl. (2) 24.
15. District Mining Officer v Tata Iron & Steel Co. – Appeal (civil) No. 4803 of 2001.
16. South Dakota v North Carolina (1940) 192 USA 268: 48 ED 448.

Statutes and other materials referred to:-

1. The Constitution of Zambia (Amendment) Act No. 2 of 2016.
2. The Employment Act (First Schedule) (Amendment) Order, 2002 of Malawi.
3. The Technical Committee on Drafting the Zambian Constitution Report, April, 2012.
4. Ruggero J. Aldisert's Judicial Declaration of Public Policy, 10 J. App. Prac. & Process 229 (2009), page 231.
5. Longman Dictionary of Contemporary English, The Living Dictionary, New Edition.

This Judgment relates to a matter that was referred to the Constitutional Court by the High Court for interpretation of Articles 189 (2), and 266 of the Constitution as amended by the **Constitution of Zambia (Amendment) Act No. 2 of 2016** (the Constitution). The referral

