

**IN THE HIGH COURT FOR ZAMBIA
AT THE COMMERCIAL REGISTRY
HOLDEN AT LUSAKA**

(Civil Jurisdiction)



IN THE MATTER OF: Properties comprised in a First Legal Mortgage relating to Stand No. 50 and 51 Ndola

AND

IN THE MATTER OF: Order 30 Rule 14 of the High Court Rules, Chapter 27 of the Laws of Zambia as read with Order 88 of the Rules of the Supreme Court of England 1965, (White Book) 1999 Edition

BETWEEN:

**FIRST ALLIANCE BANK (Z) LIMITED
AND
NEIGHBOURS CITY ESTATES LTD
WESTON PHIRI
MAKUKU PHIRI**

APPLICANT

**1ST RESPONDENT
2ND RESPONDENT
3RD RESPONDENT**

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

For the Applicant: Ms. T. Sakala – Messrs Fraser Associates

For the Respondents: No Appearance

RULING

LEGISLATION REFERRED TO:

1. Section 13 of the High Court Act, Chapter 27 of the Laws of Zambia.
2. Order 14A Rule 1 of the Rules of the Supreme Court of England 1965, (White Book) 1999 Edition.
3. Order 15 Rule 2 of the Rules of the Supreme Court of England 1965, (White Book) 1999 Edition.

CASES REFERRED TO:

1. **Development Bank of Zambia and Another V Sunvest Limited and Another (1995-1997) ZR 187.**
2. **B.P. Zambia Limited V Interland Motors Limited (2001) ZR 14.**

This is an application by the Respondents for an Order to dismiss this matter for multiplicity or duplicity of actions pursuant to **Section 13 of the High Court Act, Chapter 27 of the Laws of Zambia and Order 14A Rule 1 of the Rules of the Supreme Court of England 1965, (White Book) 1999 Edition.**

The application is supported by an Affidavit sworn by Weston Phiri the 2nd Respondent herein as well as Skeleton Arguments filed into Court on 5th April, 2017.

It is deposed by Mr. Phiri that on 2nd November, 2016 Mubende Mining Services Limited (as Plaintiff) under Cause No. 2016/HN/336 commenced legal proceedings against the parties herein in the High Court at Ndola. A true copy of the Writ of Summons and Statement of Claim dated 2nd November, 2016 is exhibited marked "WP1".

That the 1st and 2nd Defendants in Cause No. 2016/HN/336 (i.e. the 2nd and 1st Respondents herein) entered Appearance and Defence and Counterclaim. A copy of the Defence and Counterclaim is exhibited marked "WP2". That similarly the 3rd Defendant in the said Cause (i.e. the Applicant herein) entered Defence and in addition a Counterclaim against the 1st and 2nd Defendants in that

