

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

APPEAL No. 121/2014

BETWEEN:

BARNABAS NGORIMA
ROSEMARY NGORIMA



1ST APPELLANT
2ND APPELLANT

AND

ZAMBIA CONSOLIDATED COPPER
MINES LIMITED

1ST RESPONDENT

BENSON CHOMBA

2ND RESPONDENT

CORAM: Muyovwe, Kabuka, Chinyama, JJS
on 7th March, 2017 and 14th March, 2017

For the Appellants: Messrs Eric Silwamba, Linyama and Jalasi
Legal Practitioners

For the 1st Respondent: No appearance

For the 2nd Respondent: Mr. S.A.G. Twumasi, Messrs Kitwe
Chambers

J U D G M E N T

MUYOVWE, JS delivered the judgment of the court.

Cases referred to:

1. Beatrice Muimui vs. Sylvia Chunda Appeal No. 50/2000
2. Crabb vs. Arun District Council (1975) 3 All ER 865, CA
3. Inwards vs. Baker (1965) 1 All ER at 448, 449
4. Buchman vs. The Attorney-General (1995/97) Z.R. 131

5. **Mususu Kalenga Building Ltd; Winnie Kalenga vs. Richman's Money Lenders Enterprises (1999) Z.R. 27**
6. **Simwanza Namposya vs. Zambia State Insurance Corporation (2010) Z.R. Vol. 2 339**
7. **Attorney-General Ministry of Works and Supply and Rose Makano vs. Joseph Emmanuel Frazer and Peggy Sikumba Frazer (2001) Z.R. 87**

On the 27th December, 2013 the High Court sitting at Ndola delivered a judgment dismissing the appellants' claim against the respondents which included a claim for specific performance and a declaration that the 1st respondent should have sold House No. 16 Entebbe Avenue, Mufulira, Zambia to the appellants. The lower court also granted vacant possession to the 2nd respondent as the bona fide purchaser of the house.

The undisputed facts on which the judgment of the lower court is premised is that the 1st appellant is the husband to the 2nd appellant and they were both employed by the 1st respondent. The 1st appellant came from Southern Rhodesia (later re-named Zimbabwe) in 1959. He joined the then Mufulira Mine in 1961 and was allocated the house in issue. In 1974 he became an established resident and acquired Zambian citizenship in 2006. The 1st appellant retired in 1996 though he was offered a two year

