

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

2013/HP/1642



BETWEEN:

ALEX SINYANGWE

PLAINTIFF

AND

LETICIA CHUMBWE CHISHA

1st DEFENDANT

MAXWELL MUSUSA

2nd DEFENDANT

ATTORNEY GENERAL

3rd DEFENDANT

AARON PHIRI

4th DEFENDANT

**BEFORE HON MRS JUSTICE S. KAUNDA NEWA THIS 16th DAY OF MARCH,
2018**

For the Plaintiff : *Mrs V. Mulenga, Chilupe and Permanent
Chambers*

For the 1st, 2nd and 4th Defendants : *Mr T.K. Ndhlovu, Batoka Chambers*

For the 3rd Defendant : *Mr I. Lifunana, Attorney General's
Chambers*

J U D G M E N T

CASES REFERRED TO:

1. *Stickney V Keeble 1915 AC 386*
2. *Mijoni V Zambia Publishing Company Limited 1986 Appeal No 10 of 1986*
3. *Nawakwi V Lusaka City Council and another Appeal No 26 of 2001
(unreported)*
4. *Wesley Mulungushi V Catherine Bwale Mizi Chomba 2004 ZR 96*
5. *Sablehand Zambia Limited V Zambia Revenue Authority 2005 ZR 109*

LEGISLATION REFERRED TO:

1. **Statute of Frauds 1677**
2. **The Lands Act, Chapter 184 of the Laws of Zambia**
3. **The Lands and Deeds Registry Act, Chapter 185 of the Laws of Zambia**
4. **The Land Conversion of Titles Act**

OTHER WORKS REFERRED TO:

1. **Cheshire and Fifoot, Law of Contract, 10th Edition, 1981**
2. **Phipson on Evidence, 17th edition, Thomson Reuters Legal Limited 2010**
3. **Snells Equity**
4. **Land Law in Zambia**
5. **Halsbury's Laws of England, 4th Edition, Volume 16**
6. **Cheshire's Modern Law of Real Property**
7. **Howarth, Land Law, Sweet and Maxwell, 1994**
8. **Chitty on Contracts Volume II Specific Contracts 13th Edition, 2008, Sweet and Maxwell**

The Plaintiff initially commenced this action by way of Originating Summons pursuant to Order 113 of the Rules of the Supreme Court, 1999 edition on 28th May 2012, which process was deemed to have been commenced by writ of summons and statement of claim on 17th May, 2014. The Plaintiff on 21st May, 2014 filed a writ of summons and statement of claim in which he claims;

- i. *A declaration and order that the Plaintiff is the legal and rightful owner of subdivisions 'B' and 'H' of Stand No 18455, Libala South, Lusaka.*
- ii. *An order for possession of the said property.*
- iii. *Damages for trespass and erection of illegal structures on subdivisions 'B' and 'H' of Stand No 18455, Libala South, Lusaka by the 1st and 2nd Defendants*
- iv. *Interest on the damages*
- v. *Any other relief which the court may deem fit*
- vi. *Costs*

The statement of claim states that the Plaintiff is the registered owner of Stand No 18455 Libala South, Lusaka, while the 1st and 2nd Defendants are squatters

