

IN THE HIGH COURT FOR ZAMBIA

2014/HPC/0478

AT THE COMMERCIAL REGISTRY

HOLDEN AT LUSAKA

(Civil Jurisdiction)



BETWEEN:

MOLALATAU FARMS LIMITED

1ST PLAINTIFF

JACOBUS KLOPPER

2ND PLAINTIFF

ANNA CORNELLA KLOPPER

3RD PLAINTIFF

AND

ORIX HOLDING LIMITED

DEFENDANT

Before the Honourable Mrs. Justice Irene Zeko Mbewe in Chambers

For the Plaintiffs: Mr. J. Zimba & Ms. T. Nkoma of Messrs Makebi Zulu & Advocates

For the Defendant: Mr. M. Munansangu of Messrs Munansangu & Company

RULING

Cases Referred to:

1. *Hick and Kent v Romney Marsh Sheepbreeders Association (1915) 1 Ah D*
2. *Ituna Partners v Zambian Open University Appeal No.117/2008*
3. *Foss v Harbottle (1843) 67 ER 189*
4. *Burland v Earle (1902) AC 83*

5. *Zurich Australian Insurance Limited t/a Zurich New Zealand v Cognition Education* [2014] NZSC 188
6. *Royal British Bank v Turquand* (1856) 6 E & B 327
7. *Cook v Deeks* (1916) 1 AC 554
8. *Prudential Association Company Limited v Newman Industries Limited (No.2)* (1982) 1 All ER 354
9. *Bellamano v Ligure Lombarda Limited* (1976) Z.R. 267 (S.C.)
10. *Heyman & Another v Darmins Limited* [1942] 1 ALL E R 337

Legislation and Other Works Referred to:

1. *Arbitration Act No. 19 of 2000*
2. *High Court Rules, Cap 27 of the Laws of Zambia*
3. *Rules of the Supreme Court of England (White Book) 1999 Edition*
4. *Oxford Dictionary of Law, 5th Edition, 2003*
5. *Halsbury's Laws of England, 4th Edition, Volume 7(2), 1996 Reissue*

This is the Defendant's notice of intention to raise a preliminary issue filed into Court on 20th October, 2017. The application is made pursuant to **Order 33 Rule 7 Rules of the Supreme Court of England, 1999 Edition**. It raises the following questions for determination:

1. *That the writ of summons issued herein be set aside on the ground that the same was issued without the resolution of the*

