

B E T W E E N :

CENTRAL AFRICA BAPTIST COLLEGE AND SEMINARY **APPELLANT**

AND

THE COPPERBELT UNIVERSITY **RESPONDENT**



CORAM : Chishimba, Ngulube and Siavwapa, JJA
On the 25th September, 2019 and 8th November, 2019

For the Appellant : Mr. G Nyirongo of Messrs Nyirongo & Company
For the Respondent : Mr. S.K Mumba of Messrs L.B Legal Practitioners

J U D G M E N T

CHISHIMBA, JA, delivered the Judgment of the Court

CASES REFERRED TO:

1. Zambia Consolidated Copper Mines Limited vs. James Matala (1996) ZR 146
2. Nkhata and Others vs. the Attorney General (1966) ZR 124
3. Associated Provincial Picture Houses Limited vs Wednesbury Corporation (1948) 1KB 223
4. Fredrick Jacob Titus Chiluba v. Attorney General SCZ Appeal No. 125 of 2002
5. Council of Civil Services Union v Minister for Civil Service (1984) 3 ALLER 935
6. Derick Chitala (Secretary of the Zambia Democratic Congress) v Attorney General (1995 – 1997) ZR 91
7. Ster Kinekor vs The Attorney General (2011) ZR Volume 2
8. Dean Namulya Mung’omba & 2 Others v. Peter Machungwa & 2 Others (2003) ZR 17.
9. Council of Civil Service Union v. Minister of State for Civil Service (1984) 3 ALL ER 935

10. Nyampala Safaris (z) Limited and Others v. Zambia Wildlife Authority (2004) ZR 49 (SC)
11. Chaala vs. Attorney General (2012) ZR 316
12. Mpulungu Harbour Management Limited vs. Attorney General & Another (2010) ZR 244

LEGISLATION AND OTHER WORKS REFERRED TO:

1. The Supreme Court Practice, 1999 Edition
2. Higher Education Act and University Act Chapter 136.
3. Halsbury's Laws of England 4th Edition Volume 1
4. Grahame Aldous & John Alder. Applications for Judicial Review; Law and Practice of the Crown Office, 2nd Edition, Butterworth's, 1993.

INTRODUCTION

1. This is an appeal against the judgment of the court below delivered by Justice I. Kamwendo dismissing the Judicial Review application sought by the Appellant.
2. The appeal challenges the holding by the court below to the effect that there was no irrationality, illegality and procedural impropriety and unfairness in the decision made by the Respondent to declare G & G Bakery Limited the successful bidder and the refusal to set aside the said decision.

HISTORICAL BACKGROUND

3. The Appellant owned property adjacent to the Respondent's piece of land. The Appellant had for a number of years desired to acquire the piece of land in issue namely; Stand No. 5880 owned by the Respondent. Over a period of 15

years, it made overtures to the Respondent to consider selling it the vacant land.

4. On 14th of February 2017, the Respondent placed an advertisement in the Times of Zambia Newspaper inviting bids from interested members of the public for the purchase of a plot ideal for Commercial, Education and Residential Developments. The advertisement stipulated that preference would be given to bidders who espouse national and community strategy priorities as well as incorporating corporate social responsibility in the overall development of the plot.
5. Consequently, the Appellant on the 15th of February 2017, tendered in its bid at K1, 000,000.00. In addition, it proffered its intended use of the plot namely; for a multipurpose hall and primary school teacher's training program. The Appellant also advanced its corporate social responsibility programs such as youth sports activities and gym/auditorium.
6. On the 17th of February 2017, all the five bidders were invited to the unsealing of bids. The Appellant and an entity named G & G Bakery Limited had both bid the purchase price sum of K1, 000,000.00.

