



**JUDICIARY
IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
CIVIL CAUSE NO. 215 OF 2015
BETWEEN**

SEODI WHITE PLAINTIFF

-AND-

NATIONAL BANK OF MALAWI DEFENDANT

CORAM: THE HONOURABLE JUSTICE KENYATTA NYIRENDA

Mr. Msuku, of Counsel, for the Plaintiff

Mr. Dziwani, of Counsel, for the Defendant

Mr. O. Chitatu, Court Clerk

Kenyatta Nyirenda, J

On 29th May 2015, the Plaintiff commenced an action by a specially endorsed writ of summons whereby she claims "for a permanent injunction restraining the Defendant from selling the Plaintiff's property known as Title Number Blantyre West BW 832, damages for trespass, damages for inconvenience and damages for embarrassment emanating from the Defendant's wrongful instructions to a third party; Knight Frank to sell the Plaintiff's property and the subsequent visit by the said Knight Frank to the Plaintiff's premises and costs of this action".

On the same day, the Plaintiff filed an Ex-parte Summons for an order of interlocutory injunction restraining the Defendant from selling the above-mentioned property pending the determination of the main case. The interlocutory injunction was granted subject to the Plaintiff filing an inter-partes summons for continuation of the interlocutory injunction within 7 days from 29th May 2015. The same was filed but no other step has since then been taken with regard to the main action.



The Defendant denies the Plaintiff's claim and it filed its defence on 9th July 2015. It is clear from a perusal of the statement of claim and the defence that the case relates to a commercial matter, as defined in section 2 of the Courts (Amendment) Act, 2016 [Act No. 23 of 2016]:

"commercial matter" means a civil matter of commercial significance arising out of or connected with any relationship of commercial or business nature, whether contractual or not, including-

- (a) the formation or governance of a business or commercial organization;*
- (b) the contractual relationship of a business or commercial organization, '*
- (c) liabilities arising from commercial or business transactions, '*
- (d) the restructuring or payment of commercial debts, '*
- (e) the winding up of companies or bankruptcy of persons ;*
- (f) the enforcement or review of commercial arbitration award;*
- (g) the enforcement of foreign judgments of commercial matters subject to the provisions of the law"*
- (h) the supply or exchange of goods and services;*
- (i) banking, negotiable instruments, international credit and similar financial services, '*
- (j) insurance services, or*
- (k) the operation of stock and foreign exchange markets,*

in the event of doubt as to whether a matter is commercial or not, the judge at the outset or during the course of the action, shall have power to resolve the issue, ' "

In terms of section 6A of the Courts Act, it is the Commercial Division that is charged with hearing commercial matters. In the premises, this matter has to be transferred to the Commercial Division. I, accordingly, direct that the Plaintiff should have this case transferred to Commercial Division within 30 days hereof, failing which the action shall automatically stand dismissed and the interlocutory injunction granted herein will no longer be valid. It is so ordered.

Pronounced in Court this 27th day of January 2017 at Blantyre in the Republic of Malawi.


Kenyatta Nyirenda

JUDGE