

IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CIVIL CAUSE NO. 526 OF 2001



BETWEEN:

GRATOLITE GENERAL DEALERS.....PLAINTIFF

AND

LIMBE LEAF TOBACCO MALAWI LTDDEFENDANT

CORAM: TEMBO, ASSISTANT REGISTRAR
Kauka, Counsel for the Plaintiff (absent)
Kazoka, Counsel for the defendant

ORDER

This is this court's order on the defendant's application to strike out this action on the ground that the legal practitioner for the plaintiff had no practicing licence at the date of commencement of this action.

The application was not contested by the plaintiff's legal practitioners who were absent at the hearing. Before the hearing of this application Phoya and Associates undertook to discontinue this action but had not done so at the date of hearing of this application. The defence sought to be fully indemnified by the plaintiff's counsel or the plaintiff.

Since the plaintiff's counsel himself undertook to discontinue this action this court is left with the impression that he does not object to the instant application and more so by reason of his absence. And so this court strikes out the instant action as prayed for.

Counsel for the plaintiff appears to have known that he ought not to have proceeded without a licence herein but nevertheless proceeded to incur costs on behalf of the plaintiff. It appears to this court that this is an appropriate case in which the plaintiff's legal practitioner should bear costs of these proceedings.

It is therefore ordered that the legal practitioner for the plaintiff bear the costs of these proceedings to be taxed if not agreed.

Made in Chambers at Blantyre.....August 2004.

M.A. Tembo

ASSISTANT REGISTRAR

