



**IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY**

MISCELLANEOUS CIVIL CAUSE NO. 378 OF 2016

BETWEEN

KASUKA PROPERTIES PLAINTIFF

AND

ALEX CHIBALE PHIRI 1ST RESPONDENT

COMMISSIONER FOR LANDS 2ND RESPONDENT

CORAM: HON. JUSTICE R. MBVUNDULA

Mapopa Kumwenda, of Counsel, for the Plaintiff

Kaduya, of Counsel, for the Defendant

Mpasu, Official Interpreter

ORDER

This matter came up for an *inter parte* hearing this morning. Initially the plaintiff had brought it *ex parte* but upon examining the contents of the affidavit I formed the view that the same would better be disposed of upon at an *inter parte* hearing.

At the hearing the respondents' counsel pointed out that the nature of the transactions out which arose the dispute was commercial as it involved a loan agreement amounting to K50 000 000.00 which fact is not disputed. Counsel for the respondent, on this score, submitted that the matter being commercial in nature ought to have been commenced in the Commercial Division of the court and prayed that the same be dismissed. In response to this counsel for the plaintiff raised the old and spent



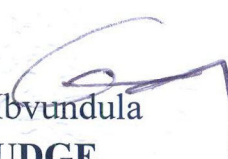
arguments that since this court has unlimited original jurisdiction the matter may well be disposed of in this court.

I do not accede to the plaintiff's argument. There has to be compelling reasons why the matter should not be instituted in the Commercial Division. None have been advanced.

I do not think however that justice will be served by dismissing the case. I therefore order the same to be transferred to the Commercial Division.

Costs are for the respondents.

Made in chambers at Blantyre this 30th day of November 2016.



R. Mbvundula
JUDGE