



IN THE HIGH COURT OF MALAWI
LILONGWE DISTRICT REGISTRY
CIVIL CAUSE NUMBER 1323 OF 2013

BETWEEN:

BEATRICE MNGWIRO-----1ST PLAINTIFF

INNOCENT I.F. MKANDAWIRE-----2ND PLAINTIFF

AND

THE LILONGWE DISTRICT COUNCIL-----1ST DEFENDANT

MISS PATIENCE JIMU-----2ND
DEFENDANT

CORAM: HON. JUSTICE M.C.C. MKANDAWIRE

Kita/Salima, for the Plaintiffs

Banda, for Defendants

Itai, Court Interpreter

JUDGMENT

This is an appeal against the decision of the Senior Deputy Registrar dated 16th of August 2016. Counsel for the appellants has submitted that since the decision of the Registrar was premised on Order 14 of the Rules of the Supreme Court, the decision however shows that there is no point of law that it determined. Instead counsel submitted that the Registrar actually determined on points of facts which were so much in dispute that they could not be properly be disposed of through Order 14 of the RSC. It is therefore the appellants' prayer that the court should set aside the ruling of the Registrar so that the matter should go for full trial.

The defendants' counsel has vehemently opposed this appeal. In their submissions, it is their case that a close look at the ruling of the Registrar will show that this matter was purely based on matters of law which related to the 1st

defendant's Housing Policy, the Powers of the 1st defendant as per Section 35 of the Local Government Act and the issue whether the plaintiffs were privy to the contract with the 1st defendant.

As matters of appeal from the Registrar to a Judge in Chambers are by way of rehearing, I have taken the liberty to go through all the documents that were submitted before the Registrar. My perusal through these documents tells me that although there were indeed legal issues that formed the basis of this dispute, the plaintiffs had however raised some factual issues which in my considered view required a thorough interrogation. The issue of rescission of the sale of the houses by the Council is one such matter that requires a proper scrutiny.

I therefore find that the Registrar's ruling cannot stand in view of what I have just said. This appeal therefore succeeds with costs to the appellants.

DELIVERED THIS

DAY OF JUNE 2017 AT LILONGWE

M.C.C MKANDAWIRE

JUDGE