



IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CIVIL DIVISION

LAND CASE NUMBER 64 OF 2019

BETWEEN

ELLEN CHILINDE AND REGINA KANYIMBIRI (AS ADMINISTRATORS
OF THE DECEASED ESTATE OF ALFRED ANTHONY
CHILINDE)..... CLAIMANTS

AND

MCTHOM MPAGAJA..... FIRST DEFENDANT

AND

JOE MPAGAJA..... SECOND DEFENDANT

AND

MERCY MPAGAJA THIRD DEFENDANT

CORAM

HONORABLE JUSTICE JACK N'RIVA, JUDGE

Mr Masiku counsel for the claimant

Mr Kossam counsel for the defendant

Mrs Nkangala court clerk

RULING

This is a hearing of an application to set aside the default judgment the claimant obtained in this case. Counsel for the defendant argued that

the first defendant did not take steps to have defence entered. He said he did not do so because he did not appreciate the documents placed before him. It is said that the defendant is advanced in age. Counsel said that upon realising this fact, he informed counsel for the claimant. Going through the record of the Court it is said that the other defendants are not in the country. Counsel further

Counsel for the claimants opposed the application on the ground that it was not believable that the defendant, who is a retired police officer, could not understand the nature of the documents before him. Counsel stated that that child have been understandable had it been that there was evidence that the defendant was suffering from some illness.

In these circumstances, I feel more inclined to set aside these default judgment herein. I make no order of costs at this point.

There were two applications. The other one was to discharge the order of interlocutory injunction that the claimant obtained. We did not hear the application. I direct that we should hear the application on 6th January 2020 at eleven o'clock in the morning (11.00 am).

Made the 20th day of December, 2019



J N'RIVA

JUDGE