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REPUBLIC OF MALAWI
MALAWI JUDICIARY
IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRAR
CIVIL DIVISION
CIVIL CAUSE NO. 86 OF 2017

JAMES ALIDI KAOMBE..... PLAINTIFF

-Versus-

NED BANK MALAWI LIMITED.....DEFENDANT

Coram: Honourable Mr. Justice D. Madise
Mr. Kamkwasi of the Counsel for the Plaintiff
Mr. Chayekha of the Counsel for the Defendant
Mr. M. Mbekeani, Official Court Interpreter

Madise, J

JUDGEMENT

1.0 Introduction

1.0 The plaintiff in this matter commenced this action by a writ of summons on 31st March 2017 against the defendant claiming repayment of the sum of K25 925,000 plus interest, and damages for negligence. The defendant disputed the claim.

2.0 The Pleadings

2.0 The plaintiff claims that between 17th August 2016 and 4 September 2016, the defendant paid a total of six cheques amounting to K25,925,000 purportedly drawn by the Plaintiff on his account which was paid to unknown persons. The plaintiff stated in his claim that he never gave any authority to the defendant to honour the cheques. The defendant has denied that the plaintiff never gave them authority to pay out the stated cheques and they have called the plaintiff to strict proof.

3.0 The Facts

3.0 The plaintiff told this Court that he left the country for South Africa on 4th August 2016 and only returned on 17th September 2016. He tendered in evidence a copy of the passport page (JAK 1) which has stamps indicating that he exited Malawi in August and re-entered allegedly in the month of September 2016. The plaintiff has also tendered in evidence four cheques, two of which were cashed from his account while he was away in South Africa (JAK 2).

3.1 He stated that he gave the defendant's bank his cellular phone numbers for communication but the bank never called him. The numbers are 0888892669 and 0999917178. The plaintiff stated that some fraudster forged his signature and cashed those cheques and the bank never called him for confirmation.

3.2 In conclusion he stated that the signatures on the forged cheques were different from his signature which he had submitted to the bank. Coincidentally all the four cheques were

