

## IN THE SUPREME COURT OF APPEAL

### MSCA CIVIL APPEAL NUMBER 5 OF 2020

(Being Civil Cause Number 251 of 2009, Lilongwe District Registry)

BETWEEN

FALIFOTI F MKWAILA.....1<sup>ST</sup> APPELLANT  
SUPPLY NYAMBO .....2<sup>ND</sup> APPELLANT  
CARLOS ALMEIDA .....3<sup>RD</sup> APPELLANT  
ANTONIO JOSE ALMEIDA .....4<sup>TH</sup> APPELLANT

AND

MALBRO INVESTMENT LIMITED.....RESPONDENT

CORAM: HON. THE CHIEF JUSTICE A.K.C. NYIRENDA SC, JA  
HON. JUSTICE R.R. MZIKAMANDA SC, JA  
HON. JUSTICE L.P. CHIKOPA SC, JA  
HON. JUSTICE F. E. KAPANDA SC, JA  
HON. JUSTICE H.S.B. POTANI JA  
HON. JUSTICE J. KATSALA JA  
HON. JUSTICE I.C. KAMANGA JA  
Chembezi/Liwimbi, of counsel for the Appellants  
Mabutwa, of counsel for the Respondent  
Minikwa/Masiyano, Recording Officers  
Chiusiwa/Mrs Msimuko, Court Reporters

## JUDGMENT

### Chief Justice A.K.C. Nyirenda SC, JA,

My Lords and My Lady, I have read the opinion of Justice Katsala, JA and I agree with all the observations and the final determination. For the reasons he gives I would dismiss the appeal with costs.

**Mzikamanda S.C., JA,**

My Lords and My Lady, I have read the opinion of Justice Katsala, JA and I agree with it entirely. For the reasons he gives I would dismiss the appeal with costs.

**Chikopa S.C., JA,**

My Lords and My Lady, I have had the advantage of reading in advance the opinion of Justice Katsala, JA. I agree with it, and for the reasons he gives I would dismiss the appeal with costs.

**Kapanda S.C., JA,**

My Lords and My Lady, I too have read in advance the opinion of my learned friend Justice Katsala, JA. I agree with it, and for the reasons he gives I would dismiss the appeal with costs.

**Potani JA,**

My Lords and My Lady, I have also read in draft the opinion of Justice Katsala, JA. I agree with it, and for the reasons he gives I would dismiss the appeal with costs.

**Katsala JA,**

My Lords and My Lady,

In this appeal the appellants seek a reversal of the decision made by Lady Justice Mwale in her judgment delivered on 18 July 2017 granting a permanent injunction in favour of the respondent restraining the appellants from interfering with the possession and quiet enjoyment of a piece of land known as Title Number Chitipi 19/1/2 in Lilongwe for which the respondent is the registered owner.

It is observed, right at the outset, that the respondent has complied with all the prehearing protocols as prescribed by Practice Direction Number 1 of 2010. On the other hand, the appellants have not complied with any of the prescribed protocols.

The record before us shows that since entering the appeal in this Court, the appellants have not done any of the requirements prescribed in the said Practice Direction Number 1 of 2010. For instance, they have not filed skeleton arguments as such no one knows their intended arguments before this Court. They have not filed a Chronology of events. Further, no List of

Authorities and copies of authorities to be relied on in support of their arguments have been filed. In short, the appellants have done nothing in furtherance of the appeal beyond entering it.

In the premises, inasmuch as it is our wish to see that appeals are determined on the merits, it is my judgment that the only logical and safe conclusion to be made is that probably the appellants have become disinterested in the appeal after it was entered in this Court. As such, they do not wish to be heard. They do not wish to prosecute the appeal. Otherwise, there is no other plausible explanation to the appellants' conduct in this appeal.

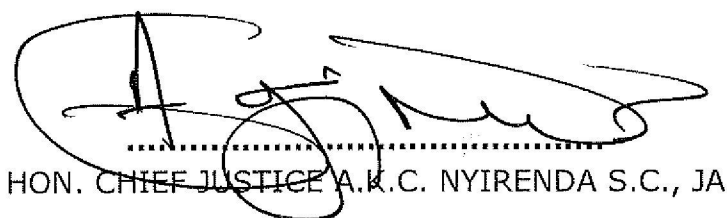
On the foregoing, my Lords and my Lady, I would urge that it should not be our intention to waste any more time on this appeal. It must be mentioned that no one has the right to waste a court's time and resources. The court's time is a public resource which must be utilized prudently at all times. As such, any attempts at wasting the court's time must be resisted and dealt with firmly. I think this is one of such cases.

Therefore, I would dismiss the appeal with costs.

**Kamanga JA,**

My Lords, I too have had the advantage of reading in draft the opinion of Katsala JA, and for the reasons which he gives, with which I fully agree, I too would dismiss this appeal with costs.

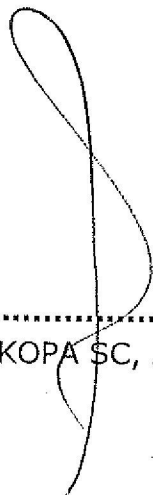
Pronounced at Lilongwe this 22<sup>nd</sup> day of June 2021.




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HON. CHIEF JUSTICE A.K.C. NYIRENDA S.C., JA



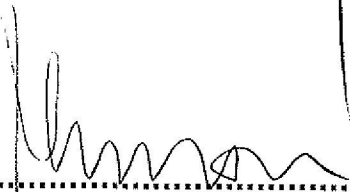
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HON. JUSTICE L.P. CHIKOPA SC, JA



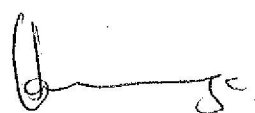
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HON. JUSTICE H.S.B. POTANI JA



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HON. JUSTICE J. KATSALA JA



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HON. JUSTICE I.C. KAMANGA JA