



MALAWI JUDICIARY

IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CIVIL CAUSE NUMBER 452 OF 2015

BETWEEN

MALAWI REINSURANCE COMPANY LIMITED

PLAINTIFF

and

FINANCE BANK OF MALAWI LIMITED

DEFENDANT

(IN LIQUIDATION)

CORAM : **HIS HON. N. USIWA USIWA..... DEPUTY REGISTRAR**
Mr. B Mhango of Counsel for the Plaintiff
Mr Ngunde of Counsel for the Defendant
Mr. D MteghaOfficial Interpreter

ORDER ON JUDGEMENT ON ADMISSION

This is the Plaintiff's application for judgment on admission under Order .27/1, Rules of the Supreme Court.

The crux of the matter is that the Defendants' Lawyer ticked a "yes" box under **PART 3** of the **ACKNOWLEDGEMENT OF SERVICE OF WRIT OF SUMMONS** which reads

" If you have said that you do not intend to contest the whole , or part, of the plaintiff's claim will you (the defendant) be asking the court for a stay of execution?"

When the Defendant replied "yes" to this question he admitted the claim. I agree with the Plaintiff when he argues that this is admitting the claim, except that the execution ought to wait.

But when on 15 June 2016 I heard Defendants pleading that that was only a mistake on their part, the Court should understand the intention of the Defendants.

Nobody understands other people's intention except when they insist on some action, sometimes. The Defendants in this case insist on trial. This means that if this Court rushes an untried matter into finality, the process of justice may be hampered with objections that surface as preliminary objections or appeals .

So I would, in the interest of justice, have to punish the Defendants with costs of the action up to the hearing last week; then accept their defence.

The matter should proceed the normal way. The Plaintiff's application to enter judgment on admission is therefore declined. On the other hand the Defendant's mistake ought to be punished. I order the Defendant do pay the Plaintiffs costs of the action up to the time of the application.

MADE in chambers this 4th day of July 2016


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DEPUTY REGISTRAR