



REPUBLIC OF MALAWI

MALAWI JUDICIARY

IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CIVIL DIVISION

LAND CASE NO. 51 OF 2017

BETWEEN

JONES WILSON ZAMMIMBA.....CLAIMANT

-and-

MRS CHARITY ZAMMIMBA.....1ST DEFENDANT

MRS IRENE MALUNGA.....2ND DEFENDANT

MRS BEAUTY NDALAMA.....3RD DEFENDANT

MRS FANNY KALUNGA.....4TH DEFENDANT

Coram: Honourable Mr. Justice D.T.K. Madise

Mr. J. Nyambo Counsel for the Claimant

Mr. Malijani Counsel for the Defendant

Mr. M. Mbekeani Official Court Interpreter

Madise, J

JUDGEMENT

1.0 Introduction

- 1.1 On 24th November 2017 the Claimant in this matter took out a writ of summons against four defendants among them his former wife and three daughters claiming a matrimonial house the family built during the subsistence of his marriage. The claimant claims his daughters have chased him from the house and he wants seeks the aid of the court to claim it back.
- 1.2 The daughters have disputed the claim on the basis that, one of them who is physically disabled remained in the house. They have called on the claimant to prove his case. The particulars of the claim have been well articulated in the statement of case which was filled together with the summons. The defendants have denied the allegations levelled against them by the claimant. The denials are particularised in the statement of defence which has been filled in opposition.

2.0 The Facts

- 2.1 The Claimant told the Court that while working for the Malawi government he started building a house and this was before 1982. It had four bedrooms situated in Chirimba. At that time, he was staying in Chitawira with his first wife Ella Mbite. He then started dating Nalesi Zam'mimba while she was staying at her parents's house in Chileka. When Ella Mbite died, he married Nalesi Zam'mimba. When he retired from government in 1982 the family moved to the new home in Chirimba.
- 2.2 In 1999 he moved out of the house due to misunderstandings with his wife and allocated to Bangwe township where he currently resides. The claimant told the Court that his wife Nalesi also moved out of the house and returned to her parent's home in Chileka.

