

IN THE HIGH COURT OF MALAWI
LILONGWE DISTRICT REGISTRY
CIVIL CAUSE NO. 467 OF 2005

BETWEEN

H. MAKDA t/a MAK INVESTMENTS PLAINTIFF

-AND-

UNIPRO ENTERPRISES SOFTWARE UES MW LTD. DEFENDANT
FINANCE SUPPORT SYSTEMS LIMITED CLAIMANT

CORAM: HON. JUSTICE NYIRENDA

Mr. Kita : Counsel for the Claimant
Mr. Chinoko: Counsel for the Plaintiff

J U D G M E N T

This is an appeal from the Registrar’s ruling in an interpleader claim in which he determined dismissing the claim for lack of substance on the evidence before him. The subject matter of the claim is a motor vehicle Registration Number BL4649 Isuzu KB which was seized by the Sheriff pursuant to a warrant in the plaintiff’s favour to satisfy a judgment debt against the defendant.

This being an appeal from the master, I am required to deal with it by way of rehearing. I will proceed to do so. The short of the matter is that

the claimant, by this interpleader, says the vehicle was that of the claimant at the time of seizure, the claimant having bought it from the defendant. It is the claimant's case that the vehicle was already fully paid for and therefore the property of the claimant although change of ownership had not yet been done. The claimant exhibited letters and documents that had been written between them and the defendant amongst which is a document which was meant to show that the claimant had bought a number of items from the defendant including the vehicle in question.

There are matters which speak for them and therefore that even in the context of rehearing it becomes a waste of time to be exhaustive. As far as this court is concerned this is one matter in which the Learned Assistant Registrar took particular care to deal with. Witnesses were called to explain the documents and from their testimony the Assistant Registrar was in fact only able to confirm the suspicious nature of the documents intended to support the claimant's case. These documents are clearly a skein of act which the claimant's own witness could not properly explain before the Assistant Registrar. The documents are clearly an afterthought, a recent invention intended to mislead the court. Again let me just say the Learned Assistant Registrar did a very good and elaborate job in considering the documents in the context of what went on among all the parties involved.

At the time of seizure the vehicle was in the name of the defendant both on the documents and on the face of it. There is really no convincing explanation why the ownership of the vehicle could not be transferred to the claimant for almost six months from the time it is said to have been bought. Meanwhile soon upon seizure and within four days thereof the claimant was able to have change of ownership effected.

Suffice therefore for me to say having gone through the affidavits in support of the claim and the affidavit in opposition and having read through the record of evidence by the witnesses called before the Assistant Registrar I fully subscribe to the elaborate analysis, considerations and conclusion reached by the Assistant Registrar. This appeal must therefore be dismissed with costs.

MADE in Chambers this 13th day of March, 2008.

A.K.C. Nyirenda
J U D G E