



**IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
CIVIL CAUSE NO. 2835 OF 2007**

BETWEEN:

BLANTYRE WATER BOARDPLAINTIFF

AND

CHARLES MKWEZALAMBA.....DEFENDANT

CORAM: HON. JUSTICE E.B. TWEA

Mr Nyirenda of the counsel for the plaintiff
Mr. Chisale of the counsel for the Defendant
Mrs. J. Kamuloni, Official Interpreter

R U L I N G

Twea, J.

This is an appeal against the order of the Assistant Registrar dismissing the appellant summons to determine whether or not execution was regular.

The facts of the matter were that on 5th February, 2008 the respondent obtained summary judgment against the appellant. The judgment however, gave the appellant 14 days within which to apply to pay the judgment debt by installment. The formal judgment however, was drawn and signed on

8th February.

On the 20th February, the respondent filed an order of non-compliance and issued a warrant of execution against the appellant. This warrant was executed and the appellant contended that time had not run. The appellant averred that time run from 8th February when the formal order was signed. The respondent, however, maintained that time run from 5th February when judgment was pronounced. The Assistant Registrar found for the respondent and dismissed the summons. The appellant now appeals.

It is clear from Order 42/1/4 that a judgment takes effect from the time when the judge pronounces it. The drawing of the formal order is mere obedience to the judges directions. This is also clear from Order 42r3. However, if the court wishes to antedate or postdate the judgment for good reasons this must be clearly stated: Order 42/3/3. This notwithstanding execution of judgment can only take place after the formal order has been drawn and signed.

In the present case there is no dispute that the formal order was drawn and signed on 8th February 2008. The respondent was then, subject to the time running, entitled to issue a warrant of execution. Time ran on 19th February, 2008. Admittedly the respondent acted very aggressively, but they were not wrong. It is the time for appeal that runs from the time the order is signed or perfected under Order 42/3/6 and Order 59r4.

I, therefore, agree with the Assistant Registrar that there is no merit in the appellant's argument. This appeal therefore must fail.

I dismiss it with costs to the respondent.

Pronounced in Chambers this 5th day of June, 2008 at Blantyre.

E.B. Twea

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JUDGE