IN THE COURT OF APPEAL OF ZAMBIA **NOM. 02 OF 2019**

HOLDEN AT LUSAKA

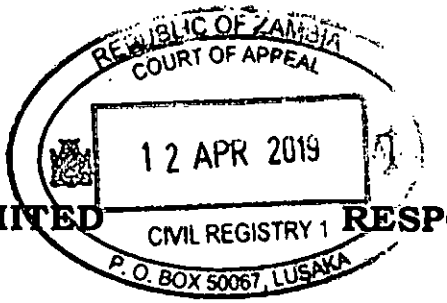
(Civil Jurisdiction)

BETWEEN:

SINIM ENTERPRISES ZAMBIA LIMITED **1st APPELLANT**

HARRY SINYANGWE **2nd APPELLANT**

AND



STANBIC BANK ZAMBIA LIMITED **RESPONDENT**

CORAM: Chashi, Lengalenga and Siavwapa, JJA

ON: 12th April 2019

For the Applicants: *N/A*

For the Respondent: *L. Mudenda, Messrs Theotis, Mataka and Sampa Legal Practitioners*

RULING

CHASHI, JA delivered the Ruling of the Court.

Legislation referred to:

1. **The Court of Appeal Act, No. 7 of 2016**
2. **The Supreme Court Practice (White Book) 1999**

This motion is for a stay of execution pending the hearing of the application for leave to appeal to the Supreme Court. The

application is pursuant to Section 13 (4) of **The Court of Appeal Act**[1] as read with Order 6/11 of **The Rules of the Supreme Court**[2].

At the hearing of the motion, neither Counsel nor the Applicants were before Court to pursue the motion.

We note that Judgment in this matter was delivered by this Court on 28th September 2018 dismissing the appeal by the Applicants herein. The Applicants on 9th October 2018 filed a notice of motion for leave to appeal to the Supreme Court and subsequently the motion, now before this Court.

The reason advanced in this motion is that the appeal raises a question of public interest on which the Supreme Court need to guide the borrowing public and if frustrated by the execution, the appeal will be rendered nugatory.

Without going into the merits of this application, we note as brought to our attention by Counsel for the Respondent, that, the motion for leave to appeal to the Supreme Court was heard on 6th February 2019 and dismissed as we did not find the intended appeal to be within the basis upon which leave to appeal may be granted under Section 13 (3) of **The Court of Appeal Act**[1].

Since this motion for stay was dependant on the outcome of the motion for leave to appeal to the Supreme Court and that application having been dismissed, it follows that the motion before us should equally be dismissed as it has no leg to stand on.

We accordingly dismiss this motion with costs to the Respondents, same to be taxed in default of agreement.

J. CHASHI
COURT OF APPEAL JUDGE

F. M. LENGALENGA
COURT OF APPEAL JUDGE

M. J. SIAVWAPA
COURT OF APPEAL JUDGE