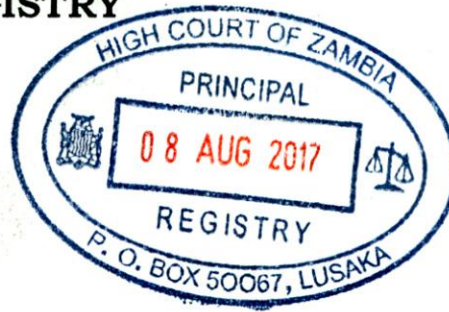


**IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA**
(Civil Jurisdiction)

2017/HP/A021

**BETWEEN :**

KIBWE WA KASAKA

APPELLANT**AND**

MALANGAKANO MULUNGA

RESPONDENT

**Before Honourable Mrs. Justice M. Mapani-Kawimbe on the 8th day of
August, 2017**

For the Appellant : In Person
For the Respondents :

J U D G M E N T

Legislation Referred To:

1. Lands Tribunal Act No. 39 of 2010

This is an appeal against the Ruling of the Lands Tribunal dated 6th February, 2017.

The background to this appeal is that the Appellant filed Summons to discharge an Ex-parte Order of Interim Injunction for lack of jurisdiction and irregularity, pursuant to Section 4 (1) of the Lands Tribunal Act No. 39 of 2010 on the ground that the Lands

Tribunal is governed by its own Rules. Under these Rules, it has the power to reject an application for interim injunction.

The Appellant contended that the Lands Tribunal had no jurisdiction to entertain the Ex-parte Summons of Interim Injunction under the High Court Rules. The Lands Tribunal went on to hold that it had incorporated by reference the High Court Civil Procedure Rules into its proceedings and it could rely on the said Rules.

Dissatisfied by the Lands Tribunal Ruling, the Appellant brings this appeal fronting 3 grounds as follows:

- 1. The Learned Chairperson Mr. J. Kalokoni erred and misdirected himself by entertaining the Respondent's application for an Order of Interlocutory Injunction when the same was a res judicata and abuse of Court process.**
- 2. The Learned Chairperson Mr. J. Kalokoni erred and misdirected himself by ignoring the fact that the Lands Tribunal is governed by its own Rules and there is no**

lacuna in the Lands Tribunal Acts as it provides for the grant or rejection of an application for Order of Interlocutory Injunction.

- 3. The Learned Chairperson Mr. J. Kalokoni erred and misdirected himself by not considering the principles applicable to this case for the grant and rejection of an application for Injunction when dealing with this application to discharge an order of Injunction granted to the Respondent.**

The Appellant filed submissions which are on record. Although three grounds of appeal have been raised, they all in my considered view, raise the question whether the Lands Tribunal had jurisdiction to grant the Order of Interim Injunction under the High Court Rules. I wish to state that the grounds of appeal are not happily pleaded and were difficult to decipher. However, the Court derived their intention principally from the Ruling that is being assailed.

It is worth noting that the assailed Ruling provided a 30 day window of appeal from 6th February, 2017. However, this appeal

was filed on 5th May, 2017, and is inordinately out of time. There is no evidence that the Appellant sought leave to appeal out of time. This fact alone exposes the case to dismissal.

Be that as it may, it matters less that the Lands Tribunal granted the Exparte Order of Interim Injunction under the High Court Rules because it has jurisdiction under the Lands Tribunal Act in Section 4 (1) (i), to grant injunctive relief. The said section reads as follows:

“4. (1) subject to the Constitution, the Tribunal shall have jurisdiction to hear and determine disputes relating to land and in particular;

(1) subject to the State Proceedings Act, to grant injunctive relief or any other interlocutory relief that it considers appropriate....”

In my view, the overriding consideration is that the Lands Tribunal has jurisdiction to grant injunctive relief and the Rules under which the application was granted is inconsequential.

I therefore, find no merit in this appeal and dismiss it forthwith. I make no order as to costs.