

IN THE COURT OF APPEAL OF ZAMBIA  
HOLDEN AT LUSAKA  
(Civil Jurisdiction)

Appeal No. 145 of 2020

BETWEEN:

**OLIVER INAMBAO SITALI & 16 OTHERS**

Appellants

AND

**ZAMBIA AIRFORCE  
ATTORNEY GENERAL**

1<sup>st</sup> Respondent  
2<sup>nd</sup> Respondent



**CORAM: Chishimba, Siavwapa and Sharpe-Phiri, JJA on 17<sup>th</sup> February 2022  
and 17<sup>th</sup> March 2022**

For the Appellants: In Person

For the Respondents: Ms. S.K. Mofya and Ms. K.F. Mumba, State Advocates,  
Attorney Chambers

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## JUDGMENT

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**SHARPE-PHIRI, JA, delivered the Judgment of the Court**

Legislation referred to:

1. *The Societies Act, Chapter 119 of the Laws of Zambia*
2. *The Clubs Registration Act, Chapter 162 of the Laws of Zambia*
3. *The Defence Act, Chapter 106 of the Laws of Zambia*
4. *The Sports Council of Zambia Act, Chapter 142 of the Laws of Zambia*

Authorities referred to:

1. *Galaunia Farms Limited v National Milling Company Limited And National Milling Corporation Limited (2004) ZR 1*
2. *A.M.I. Zambia Vs Peggy Chibuye – SCZ Judgment No. 8 of 1999-1999 ZLR 50*

3. *National Airport Corporation Limited v Reggie Ephraim Zimba and Saviour Konie – SCZ Judgment No. 34 of 2000 ZLR 154*
4. *Royal British Bank v Turquand (1856) 6, E & B. 327 EXCH.CH*
5. *Simnida Instrumentation Services v Hotel Intercontinental – 2000/HP/1151 (Unreported)*
6. *Rosemart Investment Limited v ZANACO – SCZ Appeal No. 59/2000 (Unreported)*
7. *South African Veterinary Counsel and Registrar v Greg Syzmanski, Case No. 70 of 2001*
8. *Martha Muzithe Kangwa and Others v Environmental Council Of Zambia Nasala Cement Limited Attorney-General (2011) Vol. 2 ZR*

## 1.0 **INTRODUCTION**

- 1.1 This is an appeal against the judgment of Justice S. K. Newa delivered at the Lusaka High Court on 27<sup>th</sup> April 2020. The Appellants were the Plaintiffs before the lower Court, while the Respondents were the Defendants.

## 2.0 **BACKGROUND**

- 2.1 The Appellants commenced the action against the Respondents in the lower Court on 11<sup>th</sup> October 2017 by way of writ of summons and statement of claim filed.
- 2.2 In the pleadings in the Court below, the Appellants contended that they were members of the Red Arrows Karatakers Club under the Zambia Airforce, having joined the club in 2003 after a promise was made to them that they would be employed by the 1<sup>st</sup> Respondent.

- 2.3 The Appellants averred that there was a procedure in the Zambia Air force of recruitment directly from clubs for those not undergoing military training and that there was precedence to this effect.
- 2.4 The Appellants stated that the Red Arrows Karate Club was a recognized club under the Zambia Airforce and that the 1<sup>st</sup> Respondent had made recommendations for some of its members to open up accounts, on account of its membership to the club. That every year the Airforce had invited them to participate in various tournaments under the Karate Club, which they had undertaken, with the Airforce facilitating payment of their participation fees.
- 2.5 The Appellants further contended however, that from the time that they joined the Karate club, they had paid their own transport to and from such tournaments and the Airforce had not paid them any allowance or upkeep.
- 2.6 The Appellants further averred that they had not received any form of assistance from the 1<sup>st</sup> Respondent whatsoever, and despite efforts to resolve matters with the Respondents, nothing had been forthcoming.
- 2.7 The Appellants claimed for the following reliefs, namely:
- i. An order or refund for the purchase of training kits.**
  - ii. An order for the refund of transport money used to and from training and participation places.**
  - iii. An order and declaration that the plaintiffs are employed as promised.**

- iv. Payment of upkeep and any other allowances for a period of fourteen (14) years.**
- v. Interest on the sums found due.**
- vi. Any other relief the court may deem fit.**
- vii. Costs.**

2.8 The Respondents entered a defence on 30<sup>th</sup> January 2018 in which they confirmed that the Red Arrows Karate Club is a recognized club under the Airforce and that the Appellants were volunteer members thereof, having joined in 2003.

2.9 The Respondents however, denied that the Appellants were promised that they would be employed by the Zambia Airforce if they were members of the club or that it was procedure to recruit directly if one joined the Club.

### 3.0 **DECISION OF THE COURT BELOW**

3.1 After hearing the matter, the Judge in the lower Court found that the Appellants joined the Red Arrows Karate Club, under the Zambia Airforce, as civilians on a voluntary basis and that the Appellants had clearly admitted this in cross examination.

3.2 The learned trial Judge also held that although club members were considered for recruitment in the Zambia Airforce, being a member of a sports club was not the sole criteria to be employed with the 1<sup>st</sup> Respondent.

