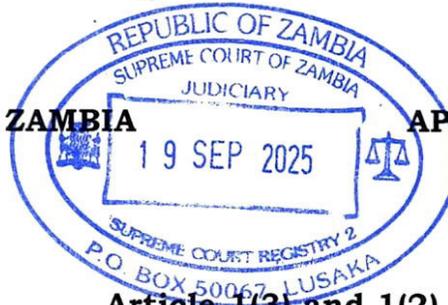


**THE SUPREME COURT FOR ZAMBIA**  
**HOLDEN AT NDOLA**  
*(Civil Jurisdiction)*



**APPEAL No. 03/2025**  
**SCZ/8/14/2024**

**IN THE MATTER OF:** **Article 1(3) and 1(2) of the Constitution of Zambia**

**IN THE MATTER OF:** **Article 11, 16, 17 and 18 of the Constitution of Zambia**

**IN THE MATTER OF:** **Section 52, 53 and 58 of the Narcotic Drugs and Psychotropic Substance Act, 2021**

**IN THE MATTER OF:** **Section 118 of the Criminal Procedure Code Act Chapter 88 Volume 7 of the Laws of Zambia**

**AND IN THE MATTER OF:** **The Protection of Fundamental Rights Regulations, 1969**

**BETWEEN:**

<b>RICHARD MUSUKWA</b>	<b>1<sup>ST</sup> APPELLANT</b>
<b>JENALA LUNGU</b>	<b>2<sup>ND</sup> APPELLANT</b>
<b>JACQUELINE MUSUKWA</b>	<b>3<sup>RD</sup> APPELLANT</b>
<b>KUMAPILI HOTEL LIMITED</b>	<b>4<sup>TH</sup> APPELLANT</b>
<b>MWANANGWA RESOURCES LIMITED</b>	<b>5<sup>TH</sup> APPELLANT</b>
<b>TACHIZYA COMPANY LIMITED</b>	<b>6<sup>TH</sup> APPELLANT</b>
<b>TWENTY-FOUR SEVEN STAND-BY SECURITY LIMITED</b>	<b>7<sup>TH</sup> APPELLANT</b>

**AND**

**THE ATTORNEY GENERAL** **RESPONDENT**

**CORAM:** **Malila CJ, Kaoma and Chisanga JJS**  
**on 2<sup>nd</sup> September, 2025 and 19<sup>th</sup> September, 2025**

*For the Appellants: Mr. Jonas Zimba of Messrs Makebi Zulu Advocates*

*For the Respondent: Mr. Marshall M. Muchende SC, Solicitor General, with Ms. C. Mulenga, Chief State Advocate; Ms. Ndanji Ketty Chongo, Principal State Advocate; Mr. K. Chipulu, Acting Principal State Advocate; Mr. Shongela Watopa, Acting Principal State Advocate and Mr. J. Akapelwa, Director Legal – Drug Enforcement Commission.*

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## **R U L I N G**

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**Malila, CJ** delivered ruling of the Court.

**Cases referred to:**

- 1. Thelma Maunga v. Anti-Corruption Commission and Attorney General (Appeal No. 5 of 2024)*
- 2. Ronald Kaoma Chitotela v. Anti-Corruption Commission and 3 Others (Appeal No. 10/2025)*

**Other work referred to:**

- 1. High Court Act, Chapter 27 of the Laws of Zambia*

**1.0. BACKGROUND**

**1.1.** This appeal was heard at Ndola on the 4<sup>th</sup> March 2025. The parties' learned counsel gave their final submissions as to whether the judgment of the High Court (Economic and Financial Crimes Division) given on 13<sup>th</sup> November 2024 should be upheld or overturned.

1.2. At the hearing of the appeal on 4<sup>th</sup> March 2025 none of the parties raised any issue as to the propriety of the handling of the matter by the Economic and Financial Crimes Division of the High Court, nor did the court *suo moto* address its mind to the issue. The judgment of the court was reserved to a date to be notified to the parties.

## 2.0. NEW DEVELOPMENTS

2.1. While the reserved judgment in this matter was being prepared, the court, on 17<sup>th</sup> April 2025, delivered its judgment in the case of **Thelma Maunda v. Anti-Corruption Commission and Attorney General<sup>(1)</sup>**.

2.2. The **Thelma Maunga<sup>(1)</sup>** appeal, like the present one, arose from a petition taken out by the appellant in the High Court under the Bill of Rights, alleging violation of certain fundamental human rights in the manner in which the appellant was treated by law enforcement agencies as the latter pursued corruption related investigations.

2.3. As a fundamental rights and liberties case, the petition in the **Thelma Maunga<sup>(1)</sup>** case was filed in the General Division of the

High Court; was given a General Division cause number out of the Principal Registry and was subsequently allocated to a judge in the General Division of the High Court.

- 2.4. Owing to the historical genesis of the matter in the economic and financial crimes sphere, an administrative decision was made by the Judge-in-Charge of the General Division that all such matters should be referred to the Economic and Financial Crimes Division and that they be handled by High Court judges in that Division. The judges of that Division in due course proceeded to hear the parties and delivered a judgment which was challenged on appeal in the Supreme Court.
- 2.5. In our judgment in that case, our pre-occupation was with the manner in which the case docket had moved from the initial filing of the petition in the Principal Registry under a specific General Division cause number, to its allocation by the Judge-in-Charge to a judge in the General Division, to the return of the docket to the Judge-in-Charge after preliminary hearings by the judge allocated to hear the matter in the General Division, to the transfer of the matter to the Judge-in-Charge, Economic

and Financial Crimes Division where the matter was finally heard on the merits by a panel of three judges of the High Court, Economic and Financial Crimes Division.

- 2.6. We noted in our judgment in **Thelma Maunga**<sup>(1)</sup>, that the appellant had, through her counsel, protested the hearing of the matter by a court which carried ‘criminal connotations’ when what was involved was the determination of possible violations of the Bill of Rights. That matter was only heard after counsel was pacified by the court’s insistence that it had jurisdiction.
- 2.7. Our concern on appeal in that matter was the movement of the docket from the judge initially allocated the file in the General Division to where it ended up in the Economic and Financial Crimes Division. We noted that the movement did not comply with the legal requirements which direct, among other things, that there be an order of transfer by the judge transferring the docket as well as the consent of the transferee judge.
- 2.8. In specific terms, we observed and held in that case as follows:
- ... the matter was not transferred in accordance with the law as laid down in section 23 of the High Court Act, Chapter 27 of the**

**Laws of Zambia. The transfer was irregular. The implication of the irregularity was that the court that heard the petition had no jurisdiction to hear it.**

**2.9.** On the 13<sup>th</sup> August 2025, we were faced with another case with similar facts. In the case of **Ronald Kaoma Chitotela v. Anti-Corruption Commission and 3 Others<sup>(2)</sup>** the same protest as in **Thelma Maunga<sup>(1)</sup>** was launched. The petition in the High Court was filed under the Bill of Rights by the appellant.

**2.10.** It was transferred under similar circumstances as in **Thelma Maunga<sup>(1)</sup>**. Despite the protests of the petitioner the petition was heard by the Economic and Financial Crimes Division of the High Court.

**2.11.** On appeal, we stated as follows:

**As in *Thelma Maunga<sup>(1)</sup>*, we held that the transfer or allocation of the case to the EFCC was irregular. In the result, the EFCC lacked jurisdiction to hear the matter. In consequence the judgment of the court is hereby quashed. We order that the matter be remitted to the High Court to be heard in the General Division under the original cause number.**

### 3.0. THE UNDENIABLE PARARELLS WITH THE CURRENT APPEAL

- 3.1. We have already intimated that here too, the judgment appealed against was on a human rights petition, heard and determined by the Economic and Financial Crimes Division of the High Court. The petition was taken out in the General Division at the Principal Registry. There was no complaint regarding the filing of the matter or the movement of the docket. No issue of irregularity in the transfer of the case file was alleged, or at any rate considered by the court below, nor was any raised before us at the hearing.
- 3.2. However, we noted from the history of the movement of the case file that it followed the same pattern as the **Thelma Maunga**<sup>(1)</sup> and the **Ronald Chitotela**<sup>(2)</sup> case dockets. As that movement implicated the jurisdiction of the court that heard the matter at trial, we had no option but to call the parties as we did on the 2<sup>nd</sup> of September 2025, to explain why no judgment on the merits in this matter was to be delivered by this court.
- 3.3. We took the liberty to inform the parties of the status of an appeal against a judgment delivered by a court which is

destitute of jurisdiction. We, thus, ordered and directed that the matter be referred to the High Court General Division to be heard afresh by a judge of that Division under the original cause number. This is consistent with the two similarly circumstanced cases we have alluded to.

3.4. We directed that costs shall be in the cause.

  
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Mumba Malila  
**CHIEF JUSTICE**

  
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R. M. C. Kaoma  
**SUPREME COURT JUDGE**

  
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F. M. Chisanga  
**SUPREME COURT JUDGE**