

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

2024/HPA/070



BETWEEN:

IN THE MATTER OF: SECTION 341 OF THE COMPANIES ACT NO. 10 OF 2017 OF THE LAWS OF ZAMBIA.

IN THE MATTER OF: SECTION 40 AND 43 (1) OF THE COMPANIES ACT NO. 10 OF 2017 OF THE LAWS OF ZAMBIA.

IN THE MATTER OF: RULE 3 OF THE HIGH COURT (APPEALS) (GENERAL RULES, STATUTORY INSTRUMENT NO.6 OF 1984.

IN THE MATTER OF: AN APPEAL AGAINST THE DIRECTIVE OF THE REGISTRAR OF PATENTS AND COMPANIES REGISTRATION AGENCY (PACRA) FOR THE APPELLANT TO CHANGE ITS NAME.

BETWEEN:

ULTRA CARE DENTAL CLINIC LIMITED

APPELLANT

AND

PATENTS AND COMPANIES REGISTRATION AGENCY (PACRA) RESPONDENT

BEFORE HON. MRS. JUSTICE G.C. CHAWATAMA  
ON 06<sup>th</sup> DECEMBER, 2024 - IN CHAMBERS

For the Appellant : *ex parte* Messrs. Malisa and Partners Legal Practitioners  
For the Respondent : N/A

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**ORDER**

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**CASES REFERRED TO:**

1. *Nyampala Safaris (Z) Limited and Others v Zambia Wildlife Authority and Others (2004) Z.R. 49*

**LEGISLATION AND OTHER WORKS REFERRED TO:**

1. *The High Court Act Chapter 27 of the Laws of Zambia*
2. *Rules of the Supreme Court 1999 edition*

1.1 The Appellant by ex parte summons, applied to this Court to stay the decision of the Registrar of Patents and Companies Registration Agency (PACRA) for the Appellant to change its name. According to the affidavit in support of the application, the Appellant informed this Court that the Appellant is dissatisfied with the decision or directive of the Registrar of PACRA made on the 7<sup>th</sup> October, 2024 requiring the Appellants to change its name.

1.2 I have combed through the Companies Act in particular **section 341 of the Companies Act** which this appeal is anchored on. **Section 341** provides that:

*“Subject to this Act, a person aggrieved by a decision of the Registrar may within thirty days after the date on which the person is notified of the decision, appeal to the Court against the decision and the Court may confirm, reverse or vary the decision or make such order or give such directions in the matter as it considers just and equitable”*

1.3 I am satisfied that although the decision by the Registrar was made on the 07<sup>th</sup> October, 2024 the Appellant only became aware on the 08<sup>th</sup> November, 2024 as evident by the email dated 08<sup>th</sup> November, 2024.

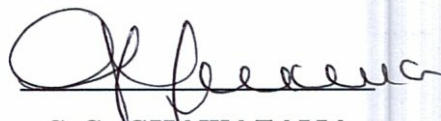
1.4 However, I wish to state from the onset that a grant of a stay of execution is a discretionary and equitable remedy. It must be granted where the appellant would suffer loss which could not be compensated in damages and where special circumstances of the case so require or where if the stay is not granted the appeal will be rendered nugatory of academics. It is also a well settled principle of law that a Court should not grant a stay unless there are good and reasonable grounds for doing so. What amounts to **“good and reasonable grounds”** is posited in **Order 59 Rule 13 of the Rules of the Supreme Court**, which simply puts it that:

*“Neither the court below nor the Court of Appeal will grant a stay unless satisfied that there are good reasons for doing so. The Court does not “make a practice of depriving a successful litigant of the fruits of his litigation, and locking up funds to which prima facie he is entitled,” pending an appeal (The Annot Lyle (1886) 11 P. 114, p.116, C.A.; Monk v. Bartram [1891] 1 Q.B. 346); and this applies not merely to execution but to the prosecution of proceedings under the judgment or order appealed from—for example, inquiries (Shaw v. Holland [1900] 2 Ch. 305) or an account of profits in a passing-off action (Coleman & Co. v. Smith & Co. Ltd [1911] 2 Ch. 572) or the trial of issues of fact under a judgment on a preliminary question of law (Re Palmer’s Trade Mark (1883) 22 Ch.D. 88). But the court is likely to grant a stay where the appeal would otherwise be rendered nugatory (Wilson v. Church (No.2) (1879) 12 Ch.D. 454, pp.458, 459, C.A.), or the appellant would suffer loss which could not be compensated in damages. The question whether or not to grant a stay is entirely in the discretion of the court (Becker v. Earl’s Court Ltd (1911) 56 S.J. 206; The Ratata [1897] P. 118, p.132; Att.-Gen. v. Emerson (1889) 24 Q.B.D. 56, pp.58, 59) and the court will grant it where the special circumstances of the case so require. Execution might be stayed, for example, where the judgment is in favour of a person resident out of, or about to leave, the jurisdiction (see Wootton v. Sievier (1913) 30 T.L.R. 165, C.A.). And if, under an order of a court, money is to be paid out of a fund and distributed*

*among a large number of persons resident abroad, an injunction may even be granted, restraining dealings with the fund pending an appeal (Wilson v. Church (No.1) (1879) 11 Ch.D. 576, C.A.; Wilson v. Church (No.2) (1879) 12 Ch.D. 454, pp.458”.*

- 1.5 The Supreme Court of Zambia in the case of ***Nyampala Safaris and 4 Others v Wildlife Authority and 6 Others***<sup>1</sup> observed that a stay should only be granted where good and convincing reasons have been advanced by a party.
- 1.6 In the current matter, I see no basis for the grant of the stay. The Appellant in this matter has not satisfied this Court that the stay if not granted will create a state of affairs that will irreparably affect the Appellant as a successful party in this appeal. This Court is not persuaded that there are good and convincing reasons to warrant the grant of an order for a stay of the decision of the Registrar of Pacra.
- 1.7 In view of the above position, it is my firm view that the Appellant has not met the criteria to be granted a stay. I therefore, decline to grant the stay. Accordingly, the Appellant’s *exparte* application is dismissed forthwith and I make no order as regards costs.

**DELIVERED AT LUSAKA THIS 06<sup>th</sup> DAY OF DECEMBER, 2024.**



**G.C. CHAWATAMA  
HIGH COURT JUDGE**