

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

2022/HP/0785

BETWEEN:

SEPO TOWERA BANDA

AND

FRASER MUSONDA



PLAINTIFF

DEFENDANT

Before:

The Hon. Mr. Justice Charles Zulu.

For the Plaintiff:

Mrs. M.M Ngóna of Messrs F.B.
Nanguzyambo & Associates

Defendant:

No Apperance.

J U D G M E N T

Case referred to:

- 1. Darshan Hal Ghamhirand & Another v Ireen Tembo & Others (SCZ Appeal No. 32 of 2011).**

Legislation referred to:

- 1. The High Court Rules Chapter 27 of the Laws of Zambia.**

1.0 INTRODUCTION

1.1 The Plaintiff, Sepo Towera Banda, took out a writ of summons and statement of claim, dated May 23, 2022, claiming the following:

- 1.1.1 (i) **a declaration that the Plaintiff is the owner of the Proposed Subdivision No. 317 of Subdivision 8 of Subdivision F of Farm No. 32a, Chamba Valley, Lusaka, having**

- purchased the same from Lucho Real Estate;***
- (ii) a declaration that demolition of the Plaintiff's structures by the Defendant was unlawful and illegal;***
 - (iii) damages for trespass to property;***
 - (iv) payment of K150,000.00 being costs for the structures demolished by the Defendant; and***
 - (v) an order of injunction restraining the Defendant from trespassing on the Plaintiff's property and from interfering with the Plaintiff's right to quiet possession.***

1.2 The Plaintiff in her statement of claim alleged that the Defendant, Fraser Musonda was served with court process, on May 24, 2022, but did not enter appearance and defence.

2.0 HEARING

2.1 The case was eventually set down for trial on October 16, 2025. The Plaintiff and her advocate was in attendance, but the Defendant was inexcusably absent. And pursuant to Order 35 r. 3 of the **High Court Rules**, leave was granted to the Plaintiff to proceed with her case, and thereafter the case was adjourned for judgment to October 21, 2025.

3.0 THE PLAINTIFF'S CASE

3.1 The Plaintiff relied on her witness statement filed on October 31, 2022. She stated that in February, 2021, she entered into negotiations to purchase a property put up for sale by Lucho Estates Limited, through Messrs Marsha Chambers. She exhibited the Contract of Sale, dated May 11, 2021. The contract of sale was between her and Lucho Estates Limited, selling as the beneficial owner of the land pursuant to a High Court Settlement Order under Cause No. 2020/HP/559. She

said the agreed purchase price was in the sum of K40, 000.00, and was paid in full, over a period of time in instalments.

- 3.2 She said upon completion of paying the purchase price, she took vacant possession, and commenced to develop the plot. She said the costs incurred to develop the plot at the material time stood at K150,000.00. That on March 3, 2022, she received a call from one of the security personnel in the area, advising her that the Defendant had entered her property; claiming that the property was his, and that her development on the property were demolished, including a wall fence. The Plaintiff produced photos of the alleged demolition.
- 3.3 She said she revisited the vendor, Lucho Estates Limited, and they confirmed to her in a letter dated March 4, 2022, that the property duly belonged to her.

4.0 DETERMINATION

- 4.1 I am satisfied that pursuant to the contract of sale between Lucho Estates Limited (Vendor) and the Plaintiff (Purchaser), the latter purchased from the vendor property known as Proposed Subdivision No. 317 of Subdivision 8 of Sub Division F of Farm No. 32 (a), Chamba Valley, Lusaka.
- 4.2 The purchase price of K40, 000.00 was paid in full, and the Plaintiff acquired an equitable interest in the said piece of land. In **Darshan Hal Ghamhirand & Another v Ireen Tembo & Others**, the Supreme Court held:

- 4.2.1 ***The gist of the decision was that in equity a person who has paid a deposit creates a special interest.***

4.3 The Defendant's trespass and destruction of the Plaintiff's development on the said property was wrongful and unjustified. The Plaintiff's claims are successful.

5.0 CONCLUSION

5.1 In the light of the foregoing, to the extent of her equitable interest in the land, the Plaintiff is declared to be the owner of the piece of land described as: Proposed Subdivision No. 317 of Subdivision 8 of Sub Division F of Farm No. 32 (a), Chamba Valley, Lusaka.

5.2 And the demolition of her development on the said property by the Defendant was illegal. The Plaintiff is thus entitled to damages for trespass, and damages for illegal demolition of her development carried out at the property. The same to be assessed by the Registrar of the High Court.

5.3 And the Defendant is hereby permanently interdicted from interfering with the Plaintiff's quiet possession and enjoyment of the said piece of land.

5.3 Costs for the Plaintiff, and leave to appeal is granted.

DATED THIS 21ST DAY OF OCTOBER, 2025

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THE HON. MR. JUSTICE CHARLES ZULU