

SCANNING

IN THE HIGH COURT FOR ZAMBIA

2024/HP/1350

AT THE PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Civil Jurisdiction)



IN THE MATTER OF:

**SECTION 5 AND 6 OF THE LANDS AND DEEDS
REGISTRY ACT CHAPTER 185 OF THE LAWS
OF ZAMBIA**

IN THE MATTER OF:

LOT F/609/E/473 CHUDLEIGH

IN THE MATTER OF:

**AN APPLICATION FOR LEAVE TO REGISTER
JUDGMENT OUT OF TIME**

BETWEEN:

MALAMBO GWABA

APPLICANT

AND

ROSE SIAMUJAYE

1ST RESPONDENT

BARRY YAMBA

2ND RESPONDENT

BEFORE HON. JUSTICE E. P. MWIKISA

For the Applicant:

*Mr. G Mata and Mr. Kawaya- Messrs Keith Mweemba and
Advocates*

For the 1st and 2nd Respondent: No-Appearance

RULING

Legislation referred to:

- The Lands and Deeds Registry Act, Chapter 185 of the Laws of Zambia*

2. Introduction and Background.

2.1 The Applicant commenced action against the Respondents on 20th September 2024 by way of an Originating Summons.

The claims advanced against the Respondents are as follows:

a) An order granting leave to register the judgment dated 15th July 2011, out of time at the Lands and Deeds Registry, in accordance with Section 5 and 6 of the Lands and Deeds Registry Act, Chapter 185 of the Laws of Zambia relating to Lot F/609/E/473 Chudleigh for the reasons sufficiently outlined in the affidavit in support filed herewith.

2 Affidavit in support of the Application.

2.1. It was deposed by the Applicant herein. He deposed that in 2005, he purchased a piece of land known as Lot F/609/E/473 Chudleigh from the late Fabian Yamba.

2.2 That in the year 2008, the Applicant commenced an action against the administrators of the estate of the late Fabian Yamba for specific performance of the contract of sale. Furthermore, that on 15th July 2011, judgment was obtained in favor of the Applicant and he was granted vacant

possession of the said property. A copy of the said judgment was exhibited and marked “MG1”.

2.3 It was stated that at the time the judgment was rendered, the Applicant was working outside Zambia and he found himself travelling and living between Botswana, South African and New Zealand. Furthermore, that being based outside Zambia did not enable the Applicant to register the judgement he obtained relating to the property in question.

2.4 That the delay in registering the judgment was not deliberate but was caused by the Applicant’s absence for been outside Zambia. Furthermore, the Applicant stated that he has now returned to Zambia and wishes to formalize the ownership of the said property by registering the Court judgment.

2.5 It was deposed that the Applicant is currently out of time to register the said judgment relating to the property in question, thus, he has been advised by his advocates to obtain leave from Court.

3. Skeleton Arguments in support.

3.1 Sections 5(2) and 6 of the Lands and Deeds Registry Act, Chapter 184 of the Laws of Zambia was cited and it was

submitted that the Applicant's failure to register the judgment within the stipulated period was not deliberate but unavoidable due to the fact that he was working outside Zambia.

3.2 It was submitted that the special circumstance of this case merit relief from the failure to register within the prescribed time. That there was no intention to prejudice any party or cause unnecessary delay.

3.3 Furthermore, it was argued that no injustice will be caused by allowing the registration of the judgment out of time.

3.4 In conclusion, it was submitted that this Honorable Court has the discretion under Section 6 of the above-mentioned law to extend the time for registering the judgment or authorize its registration after the expiration of the statutory period. Thus, it was the Applicant's prayer that this Court exercises its discretion to grant him leave to register the judgment dated 15th July 2011 out of time.

4. Hearing.

4.1 The matter came up on the 15th April 2025, only Counsel for the Applicant was present. Counsel stated that he would rely

on the documents filed in support of the Originating Summons.

5. Consideration and Determination.

5.1 I have carefully considered the affidavit evidence as well as the skeleton arguments on the record. The Applicant have moved this Court pursuant to **Section 5(2) and 6(1)** of the Lands and Deeds Registry Act, Chapter 184 of the Laws of Zambia which provides as follows;

“(2) All other documents, except probate of a will, required to be registered as aforesaid shall be registered; (a) in the case of a document executed at the place where it is registered, within thirty days from its date;

(b) in the case of a document executed elsewhere in Zambia, within ninety days from its date;

(c) in the case of a document executed out of Zambia, within one year from its date.

(3) Probate of a will affecting land or any interest in land shall be registered within twelve months of the grant thereof or the sealing thereof under the provisions of the Probates (Resealing) Act, as the case may be.

Section 6 is as follows;

Any document required to be registered as aforesaid and not registered within the time specified in the last preceding section shall be null and void: Provided that;

(i) the Court may extend the time within which such document must be registered, or authorise its registration after the expiration of such period on such terms as to costs and otherwise as it shall think fit, if satisfied that the failure to register was unavoidable, or that there are any special

circumstances which afford ground for giving relief from the results of such failure, and that no injustice will be caused by allowing registration;

- 5.2 It is clear from the provisions of section 6 (i) of the Act does give an opportunity to parties who have fallen foul of the 30-day window period within which to register a document which is required to be registered under the Act, to apply to the court for leave to extend the time. What this means therefore is that the failure to file the documents within 30 days is not fatal as there is a possibility of an extension of time being granted by the court. Provided that there are good reasons for the failure by the applicant to register the document within the stipulated period and that no injustice will result from allowing the registration.
- 5.3 In the present case, the Applicant has given this Court justifiable reasons as to why he was unable to register the judgment dated 15th July 2011. He has informed this Court that he was working outside Zambia, thus, he was unable to register the said judgment.
- 5.4 A perusal of the record shows that the Respondents were alerted about the proceedings herein, however, as there was

no response nor objection from the Respondents and given that the judgment in question gives the Applicant ownership over Lot No. F/609/E/473 Chudleigh, I do consider that this is an appropriate case for me to exercise my discretion to allow the registration of the judgment dated 15th July 2011, out of time as, in my view, no injustice will be caused by registering the document out of time.

6. Conclusion.

6.1 I, accordingly grant the application for leave to register the judgment dated 15th July 2011, relating to ownership of Lot No. F/609/E/473 Chudleigh out of time. The said document shall be registered at the Lands and Deeds Registry within 30 days of the date of this judgment

6.2 I make no order as to costs.

Dated at Lusaka this.....11th.....day of.....November.....2025



**ELITA P. MWIKISA
HIGH COURT JUDGE**