

**IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(CIVIL JURISDICTION)**

2021/HP/1149



BETWEEN:

ROBUST RAILERS & BODIES LIMITED

APPLICANT

AND

PROF NKANDU LUO (*sued as the Chairperson
of Tasintha Programme Board*)

RESPONDENT

Before:

The Hon. Mr. Justice Charles Zulu.

For the Applicant:

Ms. S. Mweetwa, of Kamwi Andeleki legal
Practitioner.

For the Respondent:

Mr. K. Kawama of Simeza, Sangwa &
Associates.

R U L I N G

Case referred to:

**1. Paul Manda v Jackline Musonda Mubanga
(CAZ/08/36/2021).**

Legislation referred to:

- 1. The High Court Rules Chapter 27 of the Laws of Zambia.**
- 2. The Rules of the Supreme Court of England and Wales
1965 RSC (White Book 1999 Edition).**

1.0 INTRODUCTION

1.1 This ruling is in respect of an appeal dated December 5, 2022, by the Applicant, Robust Trailers & Bodies Limited, against the decision of the learned District Registrar dated November

18, 2022. The application was made pursuant to Order XXX rule 10 of the **High Court Rules (HCR) Chapter 27 of the Laws of Zambia.**

2.0 BACKGROUND

- 2.1 A brief background to this supposed appeal is that, around April 2022, the Respondent filed a bill of cost for taxation on party to party basis. However, before taxation could materialize, the Applicant took out summons raising preliminary issues, seeking construction of the alleged 'retainer' dated September 9, 2021. That application was made pursuant to Order 14A of the **Rules of the Supreme Court of England and Wales 1965 RSC (White Book 1999 Edition).** And the question raised for determination was such that: if the agreement (retainer) was found to be a retainer, then the matter should be settled by taxation, and if not, the Respondent's bill of costs should be dismissed.
- 2.2 The learned District Registrar rendered the ruling dated November 18, 2022, and dismissed the application for want of compliance with Order 14A RSC, and this appeal to the Judge at chambers was lodged on December 5, 2022.

3.0 THE HEARING

- 3.1 The appeal was scheduled for hearing on January 31, 2024, and the parties' advocates were in attendance. The parties through their advocates indicated that they would entirely rely on the documents filed before court. Noticeably, Counsel for the Applicant, Mr. Kawama raised an issue relating to

procedural irregularity regarding the appeal; to the effect that the appeal was time barred. In the sense that, it was filed outside the statutory time provided by Order XXX rule 10 of the HCR, which provides:

10. (1) Any person affected by any decision, order or direction of the Registrar may appeal therefrom to a Judge at chambers. Such appeal shall be by notice in writing to attend before the Judge without a fresh summons, within seven days after the decision, order or direction complained of, or such further time as may be allowed by a Judge or the Registrar. Unless otherwise ordered, there shall be at least one clear day between service of the notice of appeal and the day of hearing. An appeal from the decision, order or direction of the Registrar shall be no stay of proceedings unless so ordered by a Judge or Registrar.

3.2 And the case of **Paul Manda v Jackline Musonda Mubanga (CAZ/08/36/2021)** was comparably cited, wherein the Court of Appeal held:

As regards the provisions for time within which appeals are to be brought, this Court has repeated that the ends of justice can only be met by strict adherence to rules of Court which by their very nature are intended to achieve the proper and orderly administration of justice. Failure of the parties or Court to follow the practice and procedure as promulgated in the rules is injustice....

This court has no jurisdiction to adjudicate or consider merits of an action which is time barred by provisions of the law.

3.3 Counsel for the Respondent, Ms. Mweetwa in response magnanimously left everything to the wisdom of the Court.

4.0 DETERMINATION

4.1 It is clear that the decision by the learned District Registrar, the subject of this supposed appeal was rendered on November 18, 2022. The appeal to the Judge at chambers was not lodged within seven (7) days, as prescribed by XXX rule 10 of the HCR. The Respondent only filed the appeal on December 5, 2022, eighteen (18) days after the decision was rendered, without the leave of the District Registrar, or the Judge for extension of time.

5.0 CONCLUSION

5.1 In the light of the foregoing, the appeal is dismissed with costs for procedural impropriety and want of jurisdiction.

5.2 Leave to appeal is granted.

DATED THIS 1ST FEBRUARY, 2024.



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THE HON. MR. JUSTICE CHARLES ZULU