

IN THE SUPREME COURT OF ZAMBIA  
HOLDEN AT LUSAKA

APPEAL NO. 22/99

(CIVIL JURISDICTION)

B E T W E E N

STANLEY JERE

APPELLANT

VS

UNITED CHURCH OF ZAMBIA

RESPONDENT

Coram: Ngulube, CJ, Sakala, A/DCJ and Chibesakunda, JS  
26<sup>th</sup> September 2000 and 14<sup>th</sup> December 2000

For the Appellant: In person  
For the Respondent: Mr C K Banda, SC, of Chifumu Banda &  
Associates

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JUDGMENT

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Chibesakunda JS, delivered the judgment of the Court

On 26<sup>th</sup> September 2000 when we heard this appeal we allowed it and ordered a retrial. We made no order as to costs and said we would give our reasons and directions to the Tribunal later. This we now do.

Mr Jere, the appellant in this appeal, has come to this court challenging the decision of the Lands' Tribunal in favour of the United Church of Zambia, the respondents, for allowing the appeal before it and making the following orders:-

1. All the respondents together with their spouses and families should vacate the Plots Nos. 17311, 17312, 17316 and 17217 within two weeks;

2. If the respondents have put up any structures on these plots, those structures should be demolished within the said period of two weeks;
3. If there are any building materials belonging to the respondents and their families, those also should be removed within the said period of two weeks;
4. If the respondents fail to obey this Judgment they will be guilty of contempt of this Tribunal and may be committed to prison on application by the appellants.

The salient facts before the Lands Tribunal were that the respondents who were the appellants before the Lands Tribunal applied through Rev. Matifeyo to Lusaka City Council for a number of plots to build a UCZ church in John Laing. The Lands Commissioner offered the respondents four plots, numbers 17311, 17312, 17316 and 17317. Upon receipt of letters of offer the respondents paid ground rent and lease charges totaling K40,250.00 for the plot on 22<sup>nd</sup> July 1997 as by computer print out. It was also common ground that the respondents paid another amount of K100,000.00 to Lusaka Council as part payment for service charges which amounted to K6,558,280.00 leaving a balance. The respondent's evidence, which traversed the appellants' evidence, is that the land in question in John Laing had never been surveyed and that there was no way the Lands Commissioner would offer the respondent plots stated and that the plots in question were allocated by a committee chaired by the MMD Area Member of Parliament to the appellants. According to the appellants, by the time the respondents tried to move in the appellants had already started developing those plots. They testified that this committee allocated to them those plots as way back as 1996 whereas the respondents claimed to have been allocated those plots in 1997

At the end of this evidence the learned Lands Tribunal Chairman ruled in favour of the respondents on grounds that the purported allocation to the appellants had no legal basis as it was done by a committee whose authority came from a political party which has no locus standi in these matters.

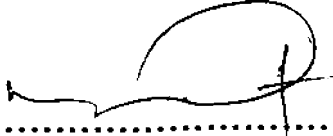
The matter before us had been adjourned on several occasions as the respondents at one time were represented by Messrs Chifumu Banda and Associates who subsequently showed no interest and when this appeal was finally argued before us they arrived late. The appellant argued that the Lands Tribunal erred in law and in fact in not visiting the plots in question so as to ascertain whether or not the plots in question had been surveyed and numbered. It was argued that according to the High Court Judgment delivered by Mutale J, on 20<sup>th</sup> of August 1996 and the Ministry of Local Government and Housing Public Notice dated 27<sup>th</sup> September 1995 the land along Great North Road stretching 300 metres both sides was to be surveyed and numbered.

We have considered that argument and have looked at the record of the lower court. It is obvious from the record that the plots claimed by the respondents to have been offered to them were numbered thus obviously surveyed. We as a court, besides taking into account the Public Notice referred to us by the appellants, accept the evidence on record that plots in John Laing compound are not surveyed and numbered. The Lands Tribunal therefore should have visited the compound in question to ascertain this. Unless the Tribunal visited the place and heard the evidence of surveyors and of the relevant people in the City Council, there was the distinct possibility that the surveyed land allocated to the Church was land along the

main road and different from the land within John Laing which the appellants have developed.

Mr Jere lamented that he had unsuccessfully tried to call for such evidence and to get the tribunal to visit the land. He asked for a retrial and learned counsel for the Church also informed us that he too would have asked for such a retrial in view of the issues not addressed by the Lands Tribunal.

We therefore agreed with the appellant that the tribunal misdirected itself in not visiting the plots in question. The appeal was therefore allowed. We quashed the orders by the Lands Tribunal and ordered that the matter goes back to them for rehearing. Costs left in the cause.



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**M M S W Ngulube**  
**CHIEF JUSTICE**



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**E L Sakala**  
**SUPREME COURT JUDGE**



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**L P Chibesakunda**  
**SUPREME COURT JUDGE**