

## **CUSA ZAMBIA LIMITED v. ZAMBIA SEED COMPANY LIMITED**

SUPREME COURT

LEWANIKA, J.S.

8<sup>TH</sup> AUGUST, 2000 AND 1<sup>ST</sup> NOVEMBER, 2000

APPEAL NO. 47/2000

### **Flynote**

Civil Law - judgement under order XIII - question of setting aside the said order.

### **Headnote**

The respondent sought to recover the sum of K1,053,209,738.00 being the price of maize seed sold by the respondent to the appellant, interest and costs. The respondent obtained Judgment under Order XIII for the sum claimed plus interest thereon. An interim order was made by the Deputy Registrar to pay the sum in three instalments due on 15<sup>th</sup> August, 15<sup>th</sup> September and 15<sup>th</sup> October respectively as proposed by the appellants themselves. The Appellants failed to pay on the due dates. The respondents issued a fifa. The appellants staged execution pending the determining of the application for special leave to review the judgment. This application was refused. The appellants obtained another stay pending an application to set aside judgment which was also refused. The appellants appeal to a judge in Chambers was dismissed.

### **Held :**

The appellant did not dispute its indebtedness to the respondent and even attempted to settle by monthly instalments without success. The appellants slept on its rights and there must be an end to litigation. Appeal dismissed.

For the Appellant M. Mutemwa, Mutemwa & Co.

For the Respondent N. K. Mubonda of D.H. Kemp & Co.

### **Judgment**