

WHITESON L. SILWAMBA AND KITWE CITY COUNCIL

SUPREME COURT
MUZYAMBA, J.S.

7TH JUNE 2000 AND 5TH SEPTEMBER 2000
(S.C.Z APPEAL NO. 86 OF 2000)

Flynote

Civil Law - Summons under Order XIII - whether action statute barred.

Headnote

The appellant commenced an action against the respondent at Kitwe High Court seeking inter alia damages for breach of contract, defamation of character and false imprisonment. He took out Summons under Order XIII for Summary Judgment. In its affidavit in opposition the respondent averred that the action was statute barred. The learned District Registrar upheld the defence and dismissed the Summons. The appellant appealed to a Judge in Chambers who affirmed the District Registrar's Ruling. The appellant then appealed to the Supreme Court.

Held:

The action was statute barred at the time of commencing the proceedings. Appeal dismissed.

For the Appellant In Person
For the Respondent N/A

Judgment

MUZYAMBA, J.S., delivered the judgment of the court.

This is an appeal against the learned Judge's decision at Chambers affirming the learned District Registrar's decision also at Chambers.

The facts in this case are that the appellant commenced an action against the respondent at Kitwe High Court under Cause No. 1992/HK/204 claiming the following reliefs:

- "(a) Damages for breach of contract arising from oral contract wilfully terminated on or about 2nd October 1982.
- (b) Defamation of character alleging that the plaintiff stole 300 pockets of cement as a result of the above contract.
- (c) False imprisonment for three months as a result of a report to Police by the defendant as in (b) above.
- (d) Loss of business as a result of being imprisoned for three months.
- (e) General damages which the court may deem fit to award.
- (f) Particular claims of rewards for delivery of K300 pockets of cement K35, Freight charges K200-00; loss of 100 pockets confiscated by the Council K780-00; loss of two typewriters; two chairs and one table K600,000."

He took out summons under Order XIII for Summary Judgment. In its affidavit in opposition the respondent averred that the action was statute barred and when the matter came up for hearing the learned District Registrar upheld the defence and dismissed the summons. The appellant appealed to a Judge at Chambers who affirmed the District Registrar's ruling. The appellant then appealed to this court. He has filed in this court a memorandum of appeal, additional grounds of appeal and further additional grounds of appeal which he relied upon at the hearing of his appeal.

We have very carefully perused through and considered the evidence on record, the ruling of the learned District Registrar and learned Judge and the appellant's memorandum of appeal, additional and further additional grounds of appeal and it is quite obvious to us that the action was statute barred at the time of commencing the proceedings. The appeal is therefore a complete waste of time and resources and it is dismissed with the contempt that it deserves.

As there was no appearance for the respondent we make no order for costs.