

Edson Tamani v Godfrey Kamadzi Civil Cause

Number 406 of 2021

Summary

Court:	High Court of Malawi
Registry:	Civil Division
Bench:	Honourable Justice Allan Hans Muhome
Cause Number:	Civil Cause Number 406 of 2021
Date of Judgment:	July 21, 2025
Bar:	Mr Luciano Mickeus, Counsel for the Claimant Mr Chikondi Kasambara, Counsel for the Defendant

The Claimant sought a declaration of ownership and a permanent injunction against the Defendant regarding a vacant plot of land in Mwanza District. The Claimant asserted ownership based on a 2015 sale agreement with a previous owner, Divala Moses, although the agreement was only endorsed by a village headman in 2018. The Defendant, by contrast, claimed ownership of both a building and the adjoining vacant plot, having purchased them from the Sheriff of Malawi in 2021. This purchase was a result of a sale order in a First Grade Magistrate's Court case to settle a deceased owner's loan debts. A ruling by a Senior Group Village Headman had also previously determined the entire

property belonged to the Defendant.

The primary legal questions before the Court were which party had a superior claim to the vacant plot and whether the Claimant was entitled to damages for trespass. The Court found that the Claimant's 2015 purchase agreement was valid, and the delay in endorsement did not affect his constitutional right to property under section 28 of the Constitution. The Court noted that the Defendant had purchased the building, not the vacant land, and that any belief that the land was included in the sale was mistaken.

The application was allowed. The Court declared the Claimant the rightful owner of the vacant land and granted a permanent injunction to prevent the Defendant from interfering with it. However, the Court declined to award damages for trespass, finding that the Defendant had acted under the reasonable but mistaken impression that he had purchased both the building and the land. The Court ordered that each party should bear its own costs, in line with Order 31 r 3(4) of the Courts (High Court) (Civil Procedure) Rules based on the conduct of both parties in the proceedings.