

Malawi Distilleries Ltd v Sichilima Civil Cause

Number 2869 of 2002

Summary

Court:	High Court of Malawi
Registry:	Principal Registry
Bench:	Honourable Justice Chimasula Phiri
Cause Number:	Civil Cause Number 2869 of 2002
Date of Judgment:	August 19, 2005
Bar:	Mr. Makhambera, Counsel for the Plaintiff Mr. C. Kalua, Counsel for the Defendant

The Plaintiff instituted a claim in the High Court, Principal Registry, against the Defendant for the sum of K4,413,056.60, representing the purchase price of goods sold. The Plaintiff also sought interest and collection costs. The Defendant denied the claim, asserting that he had fully paid for the goods and, in a counterclaim, demanded restitution of K11,320,984.80, which he alleged was an overpayment to the Plaintiff. The Defendant contended that his payments, made by direct deposits into the Plaintiff's bank account, were not properly captured in the Plaintiff's head office statements, thereby creating the false impression that he was indebted to the Plaintiff when, in fact, the reverse was true.

The primary legal issues for the Court were to determine whether the Plaintiff had successfully proved its claim and whether the Defendant had substantiated his counterclaim and was entitled to a set-off. The Court found that the Plaintiff had failed to prove its claim. The Court held that the Defendant's counterclaim succeeded to the extent that it demonstrated the Defendant had overpaid the Plaintiff. It was the Court's decisive reasoning that the Plaintiff's own poor recording and accounting system was responsible for the dispute. Consequently, the Plaintiff's claim was dismissed, and the Defendant's counterclaim was allowed. The Court declined to award interest on the overpaid amount, deeming it unconscionable to add interest to a figure it already considered to be in excess of the appropriate sum. The Plaintiff was condemned to pay the costs of the counterclaim, which were to be taxed if an agreement could not be reached.