

Registered Trustees of Word Alive Ministries International (Nsanje Congregation) v Violet Mhango and Lyton Matchaya

Summary

Court:	High Court of Malawi
Registry:	Civil Division
Bench:	Justice M.A. Tembo
Cause Number:	Land Cause Number 75 of 2023
Date of Judgment:	August 29, 2025
Bar:	Ndhlovu, Counsel for the Claimant Dziwani, Counsel for the Defendants

The Claimants, Registered Trustees of Word Alive Ministries International, sought a declaration of their rights over a customary land parcel in Nsanje, which they had been occupying since 2008. The Claimants asserted that the land, a former graveyard, was allocated to them by traditional leaders and that they had since developed a prayer house on it. They further claimed that the Defendants, Violet Mhango and Lyton Matchaya, were trespassing on the land by building a fence around it and obstructing their access, claiming inheritance from their late father. The Defendants filed a defence and a counterclaim, arguing that their late father

had been allocated the same land by a village headman in 1998, and that they had inherited it. They sought a declaration of their rights, an order for possession, and damages for trespass.

The principal issues before the Court were whether the Claimants were entitled to the declarations and orders they sought and whether the Defendants were entitled to their counterclaim reliefs. The Court applied the standard of proof on a balance of probabilities, with the burden of proof resting on the party making the affirmative assertion. The Court examined witness testimonies and documentary evidence, noting inconsistencies in the Defendants' case. The Court found that the Defendants' father had been charged with forgery regarding the land and had not challenged the allegations, a fact that raised significant doubt about his claim. The Court found that there was no credible evidence to show that the Defendants' father had been allocated the land before the Claimants. The Court also applied the best evidence rule, preferring the documentary proof of the Claimants' allocation over the Defendants' oral testimony.

The Court held that the Claimants had proved their case in its entirety and that the Defendants' counterclaim failed. The Court granted the Claimants the declarations and reliefs sought, including a declaration that the Defendants' actions were unlawful and constituted trespass. The Court ordered that the costs of the action would be for the Claimants.