

Easy Pack Limited v Abdul James and 4 Others

Miscellaneous Case Number 13 of 2025

Court:	High Court of Malawi
Registry:	Civil Division
Bench:	Honourable Justice Allan Hans Muhome
Cause Number:	Miscellaneous Case Number 13 of 2025
Date of Judgment:	June 07, 2025
Bar:	Mr. Bentry Nyondo, Counsel for the Applicant. Counsel for the Respondents: Mr. Nthembako Banda

Head Notes

Civil Procedure - Appeals - Stay of execution - A court cannot grant a stay of execution where there is no valid appeal.

Civil Procedure - Appeals - Timeliness of appeal - A notice of appeal filed out of time without leave of court is ineffectual.

Civil Procedure -Unlicensed counsel - Lack of a practising licence is not a valid ground for filing an appeal out of time.

Summary

The Applicant appealed to the High Court, Principal Registry, against a judgment of the Principal Resident Magistrate's Court, which awarded the Respondents K30,000,000.00 in damages for false imprisonment. The lower court had discharged a stay of execution, and the High Court had granted a temporary stay without notice.

The Court had to determine if a stay of execution could be maintained in the absence of a valid appeal.

The application for a stay was dismissed, and the Court ordered the stay previously granted to be discharged. The Court's reasoning was that a court cannot be called upon to grant a stay of execution where there is no valid appeal. The notice of appeal was ineffectual as it was filed out of time without leave, and the reason of having an unlicensed counsel was not a good ground. The Court ordered the Applicant to pay the judgment debt within seven days and directed that each party bear their own costs for the High Court proceedings.

Legislation Construed

1. Courts Act (s 20(3) and (4))

Judgment

1. The Respondents were employed by the Applicant, Easy Pack. They were awarded damages in the total sum of K30,000,000.00 for false imprisonment by the Principal Resident Magistrate's Court, by its Judgment of 13th January 2025. A stay was

discharged by the lower Court as Counsel was unlicensed.

2. Easy Pack is aggrieved by the Judgment and has filed an appeal to the High Court. In addition, this Court granted Easy Pack a stay, without notice, pending appeal.

3. When the matter was heard with notice, the Respondents had also taken an application for an order to declare the notice of appeal ineffectual. As admitted by Counsel for Easy Pack, the notice of appeal was filed out of time without leave of either the Court below or this Court. Apparently Counsel was unlicensed, which is not a good ground per Kalua J. in *Annies Nyirenda v Proto Feeds and Another* Commercial Case No. 385 of 2022.

4. The law is to the effect that where there is no valid appeal, the Court cannot be called upon to grant an order of stay of execution or injunction: see *Phekani v NBS Bank* MSCA Civil Appeal No. 66 of 2017 and section 20(3) and (4) of the Courts Act.

5. The stay granted herewith, without notice, is hereby discharged and Easy Pack shall pay the Respondents the Judgment debt, within the next 7 days. Each party shall bear their own costs of the proceedings in the High Court. It is so ordered.

Made in Chambers this 7th June, 2025.