

Francis Renso v Malawi Electoral Commission & Walter Nyamirandu Manda

Summary

Court:	High Court of Malawi
Registry:	Civil Division
Bench:	Honourable Justice Mandala D. Mambulasa
Cause Number:	Election Petition No. 54 OF 2025
Date of Judgment:	November 07, 2025
Bar:	appellant unrepresented respondent unrepresented

The Petitioner, an unsuccessful independent candidate, brought an electoral petition under section 100 of the *Presidential, Parliamentary and Local Government Elections Act*, 2023, to the High Court, Principal Registry, seeking to void the election of the 2nd Respondent as the winning Member of Parliament for Nsanje South West Constituency following the tripartite elections held on 16th September, 2025. He sought a declaration that the election was void due to the corrupt practice of influencing voters and campaigning outside the prescribed official campaign period, which he alleged was committed by the 2nd Respondent and his agents through the distribution of money on the eve of and

on polling day. Two of the 2nd Respondent's agents were arrested by the Malawi Defence Force for the same conduct on the polling day, and they were on bail as the petition herein was being held. The Petitioner contended that he filed a formal complaint with the 1st Respondent, the Malawi Electoral Commission, however, the commission failed to consider and determine the complaint before the declaration of results on 30th September, 2025. The Petitioner further contended that the Malawi Electoral Commission's subsequent failure to consider and determine his formal complaint regarding this corrupt practice before the results were declared was unlawful. The 1st and 2nd Respondents opposed the petition, denying the allegations and asserting the election was conducted lawfully. Further, the 1st Respondent raised a preliminary issue asking the Court to dismiss the petition on the basis that the Petitioner had sued the 1st respondent as "Electoral Commission" instead of the "Malawi Electoral Commission", however, the Court declined to dismiss the entire petition on that technicality, deeming the error correctable. .

The principal legal questions for the Court's determination were twofold; whether or not the election of the 2nd respondent was void for corruptly influencing voters in their voting and whether or not the failure of the 1st respondent to consider and determine the petitioner's complaint was unlawful.

On the first issue, the Court found the Petitioner's version of events more credible and was satisfied, on the evidence, that the 2nd Respondent and his agents had indeed distributed monetary handouts to potential voters, thereby committing an irregularity contrary to section 41(5) of the *Political Parties Act* as read together with section 2 of the *Presidential, Parliamentary and Local*

Government Elections Act. However, the Court was not satisfied that this irregularity had demonstrably affected the result of the election as the Petitioner failed to discharge the initial burden of proof on a *prima facie* standard, to satisfy the Court that actual registered voters were targeted by the alleged corrupt practices. The decisive rationale was the Petitioner's failure to establish the requisite causal link between the irregularity and the final outcome as required by the law. On the second principal issue, the Court held that the 1st Respondent was not obliged to determine the Petitioner's complaint, as the facts alleged were criminal in nature and the matter was already under investigation by law enforcement authorities, which included the 2nd Respondent's agents being arrested and undergoing prosecution. The Court reasoned that the First Respondent's mandate does not extend to prosecuting or determining such criminal matters, only to referring them to mandated authorities; consequently, its failure to deal with the complaint did not amount to an irregularity affecting the election results and it acted within its lawful mandate. The petition was, therefore, dismissed.

The Court observed in passing that section 100 of the *Presidential, Parliamentary and Local Government Elections Act* cannot be relied upon by a petitioner in the absence of a preceding final decision by the Commission confirming or rejecting the existence of an irregularity, however, it avoided using this observation in the determination of this petition because it never raised and argued by the parties. The Court awarded the costs of the petition to the successful Respondents, to be assessed by the Registrar in default of agreement between the parties.