

# **Yusuf Taibu and others v Blantyre City Council and Town and Country Planning Board, Civil Cause Number 481 of 2015**

## **Summary**

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<b>Court:</b>	High Court of Malawi
<b>Registry:</b>	Civil Division
<b>Bench:</b>	Honourable Justice Kenyatta Nyirenda
<b>Cause Number:</b>	Civil Cause Number 481 of 2015
<b>Date of Judgment:</b>	February 05, 2018
<b>Bar:</b>	Mr. Chipembere, for the Plaintiffs Mr. Mbale, for the Defendants

The Defendant, Blantyre City Assembly, sought an order from the High Court to strike out the Plaintiffs' action for want of prosecution and for disclosing no reasonable cause of action. The Plaintiffs had initially filed an originating summons seeking declarations regarding an access road, compensation, and an interlocutory injunction to prevent the demolition of their business structures. The Court granted a temporary interlocutory injunction which was later continued until the final determination of the main case. A perusal of the court file revealed that after the injunction was granted, neither party took any further action to

advance the case for nearly two years. The Defendants argued that this prolonged inactivity was an abuse of court process and demonstrated the Plaintiffs' lack of intent to prosecute the matter. The Plaintiffs countered that they had complied with all necessary steps and that the Defendants were also at fault for not filing documents in opposition.

The principal legal questions for the Court were whether the Plaintiffs' delay in prosecuting the case was inordinate and inexcusable, and if so, whether this delay constituted an abuse of court process justifying the dismissal of the action. The Court, relying on established principles, found that the Plaintiffs had taken "practically no steps whatsoever" to prosecute their case for 23 months. The Court held that this delay was both inordinate and inexcusable and posed a substantial risk that a fair trial would no longer be possible. Consequently, the Court found the delay to be an abuse of court process. The action was dismissed with costs awarded to the Defendants.