

Zgambo v Kasungu Flue Cured Tobacco Authority (Civil Cause Number 105 of 1988)

[1987-89] 12 MLR 311

Summary

Court:	High Court of Malawi
Registry:	Civil Division
Bench:	His Honour DF Mwaungulu, Registrar
Cause Number:	(Civil Cause Number 105 of 1988) 12 MLR 311
Date of Judgment:	July 17, 1989
Bar:	For the Plaintiff: Mr. Mhango For the Defendant: Mr. Jussab

The Registrar was tasked with determining the issue of interest after a default judgment was entered against the Defendant, Kasungu Flue-Cured Tobacco Authority. The Plaintiff had been a trainee tobacco grower under a scheme run by the Defendant, a body corporate established by statute. The dispute arose from a commercial transaction in 1974 where the Defendant was to invest funds in the Plaintiff's farm and, on demand, render an account of profits and repay any moneys owed. The Defendant failed to do so, prompting the Plaintiff to commence proceedings in 1987. A default judgment was entered by Kalaile, J. on

14 February 1989, which found the Defendant owed the Plaintiff K7,044.17 and referred the issue of interest to the Registrar.

The Court was required to determine the rate of interest, whether it should be compounded, and the date from which it should run. The Court held that a compound rate was justified because the Defendant, a commercial entity, held the Plaintiff's money in a fiduciary or accountable capacity and was presumed to have profited from its use. It further held that the cause of action accrued on the date of the first demand for payment, and the evidence of a demand in 1982 was a valid variation or development of the pleadings, which had only specified a later demand in 1987. Consequently, the Court found that the interest should run from September 1982. The appeal was allowed, and the Court made the order accordingly.