

**IN THE HIGH COURT OF MALAWI
LILONGWE DISTRICT REGISTRY
CIVIL APPEAL CASE NO. 23 OF 2006**

BETWEEN

VILLAGE HEADMAN TONGOZALA APPELLANT

AND

LEDSON BANDA..... RESPONDENT

CORAM : **HON. JUSTICE NYIRENDA**
Counsel for the Applicant, unrepresented
Counsel for the Respondent, unrepresented
Court Reporter, Ms. Z. Mthunzi
Court Interpreter, Mr. M. Gonaulinji

RULING

The appellant in the instant case is dissatisfied with the decision of the Second Grade Magistrate Court at Mchinji dismissing his claim for land which he contends is being used by the respondent.

What I have established myself is that a lot of land disputes in Mchinji District are between the original settlers and those that have come around and bought the land and eventually leased it. That seems to be the situation in the instant case. There are indications that the land in question might have been leased. Indeed the whole case is about the right to title of ownership to land. It is therefore clear that the magistrate had no jurisdiction to deal with this matter and therefore that the entire trial below was null and void.

Magistrate Courts do not have jurisdiction to deal with the determine cases in which title and ownership to land are in question as in the instant case. This is the position as provided by section 39(2)(a) of the Courts Act Cap 3:02. The entire proceedings in the lower court are therefore set aside. The appellant is at liberty to take up fresh proceedings before the High Court if he so wishes. The Court clerk will advise the appellant on how he can proceed in that regard.

PRONOUNCED in Open Court at Mchinji this Day of
2008.

A.K.C. Nyirenda

J U D G E