

IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
CIVIL CAUSE NO. 680 OF 2000

BETWEEN:

CANDLEX LIMITEDPLAINTIFF

AND

MAR KATSONGA PHIRIDEFENDANT

CORAM: TEMBO, ASSISTANT REGISTRAR

Ndau, Counsel for the Plaintiff

Mhone, absent, Counsel for the Defendant

ORDER ON ASSESSMENT OF DAMAGES

This is this court's order on assessment of damages herein pursuant to the judgment of Kapanda J. dated 8th July, 2003 in favour of the plaintiff for the defendant's wrongful occupation of the plaintiff's premises herein.

The notice of hearing of this assessment was duly served on the defendant who did not make any appearance at the hearing. That left the plaintiff's evidence totally unchallenged.

The plaintiff sought damages from the defendant for the defendant's wrongful possession of the plaintiff's two office rooms on the plaintiff company's land and premises known as Plot No. CC936 situate along Maselema Road in the City of Blantyre. The defendant

herein had been in wrongful occupation of the plaintiff's two rooms since March, 2000 to August, 2003.

This court notes that the normal measure of damages for the said wrongful occupation herein is the market rental value of the property occupied for the period of wrongful occupation. In effect it is the rent lost by the plaintiff herein. See **Henderson v. Squire** (1869) L.R. 4Q.B. 170. This court received evidence on the market rental value for the two rooms in issue herein for the period between March, 2000 and August, 2003. These rental values are based on the inspection and valuation of the two rooms by Knight Frank who are an estate valuer.

In the year 2000 the total rentals due to the plaintiff were K100,000.00, that is from March to December 2000 at K10,000.00 per month. In 2001 the total rentals due were K132,000.00 for the 12 months at a rate of K11,000.00 per month. In 2002 the total rentals due were K156,000.00 for 12 months at a rate of K13,000.00 per month. And for the 8 months in 2003 namely January to August the total rentals due were K121,600.00 a rate of K15,200.00 per month. The grand total in rentals due for whole duration of the claim herein is K509,600.00.

The sum of K509,000.00 is therefore awarded to the plaintiff herein as damages for the wrongful possession occasioned by the defendant to the plaintiffs' premises.

Costs of this assessment are for the plaintiff.

MADE IN CHAMBERS at BLANTYRE this January 2004.

M A Tembo

ASSISTANT REGISTRAR