

SIDNEY NOBANDA

versus

SCOTFIN LIMITED

IN THE HIGH COURT OF ZIMBABWE
KAMOCHA J
BULAWAYO 18 JANUARY & 14 FEBRUARY 2002

J. Sibanda for the applicant
R.Y. Phillips for the respondent

Opposed Application

KAMOCHA J: The applicant was a former employee of Scotfin Limited "the respondent". He worked as a Loss Control Officer at its Bulawayo office. During the year 2000, the respondent resolved to retrench 124 non-managerial employees country wide in a down sizing exercise. The applicant was one of those affected by the exercise. During his employment with the respondent, the applicant had use of a motor vehicle. He did so for a period of six years and was even taxed for the use of the vehicle. The applicant enjoyed unlimited use of the vehicle, taking it home over weekends and public holidays. He also did personal errands with it. These circumstances led the applicant to believe that he was entitled to purchase the vehicle in terms of the memorandum of agreement of the works council negotiating committee. Item 7 thereof which deals with the purchase of company vehicles says this:-

"Company vehicles

To be purchased at book value or 25% of market value whichever is lower (average of 3 quotations) The bank reserves the right to identify garages to give quotations".

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-2-

The respondent on the other hand contended that the applicant was not entitled

to purchase the vehicle under the agreement. It explained that at all given times when

the retrenchment package was discussed, it was made clear that only managerial staff

who were allocated vehicles as personal issue and to whom the vehicle constituted a

benefit, in terms of each manager's individual terms of contract of employment, were

allowed as part of the package to purchase the motor vehicle issued to them.

All vehicles driven by non-managerial staff were classified as bank pool vehicles which staff used as and when it was necessary for business purposes, to use

them. In the case of staff who normally worked outside the office like loss controllers

and investigators, such employees had been given permission for each, to use a particular vehicle and to take the vehicle home overnight, for practical purposes, since

sometimes they had to go home very late. The vehicles remained pool vehicles, liable

to recovery or re-allocation at any time. Since there was limited private use from

work to home and back, that use had to be taxed.

The above explanation was proffered to the applicant by letter dated 23 April

2001 before he instituted these proceedings. It should have been quite clear to him

that there were serious disputes of fact which could not be resolved on the papers

without going to trial.

It should also have been clear to him that there was no leeway for the robust

and common sense approach.

When this was pointed out to Mr Sibanda when he was arguing the matter he

made a concession and requested that th
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having cited it wrongly.

=J,£ 8 January 2002 for

(5) The applicant shall pay costs for the hearing of 18 January 2002.

Job Sibanda & Associates applicant's legal practitioners
Gill, Godlonton & Gerrans respondent's legal practitioners