NYASHA CHIKWINYA
versus
MINISTER OF LANDS AND RURAL RESETTLEMENT
and
MINISTER OF LOCAL GOVERNMENT, PUBLIC WORKS AND NATIONAL HOUSING
and
MAMA MAFUYANA HOUSING CO-OPERATIVE

HIGH COURT OF ZIMBABWE
MUSITHU J
HARARE: 14 July 2023 & 10 October 2023

Opposed application – Review

Mr *TL Mapuranga*, for the applicant
Mr *L Muradzikwa*, for the 1st respondent
Mr *TST Dzvetero*, for the 2nd respondent
Mr *T Mjungwa*, for the 3rd respondent

MUSITHU J: The applicant seeks relief by way of review. The relief sought is set out in the draft order accompanying the application and it reads as follows:

> "**IT IS ORDERED THAT:**
> 1. The decision of the first respondent purportedly of the 5th January 2016 by which he purported to withdraw the offer letter given to the applicant in respect of subdivision 26 measuring 149 hectares of Pilgrims Rest PTN of Glen Forest Farm, Goromonzi District of Mashonaland East Province shall be and is hereby set aside.
> 2. Applicant's rights in subdivision 26 measuring 149 hectares of Pilgrims Rest PTN of Glen Forest Farm, Goromonzi of Mashonaland East Province are hereby fully restored.
> 3. Costs of suit, which includes the costs of two counsel, shall be borne on the higher scale of legal practitioner and own client by the first respondent."

All the respondents herein opposed the application.

Background to the application and the applicant's case

The applicant is a beneficiary of the land reform and resettlement programme. On 6 June 2003, she was offered land by the then Minister of Lands, Agriculture and Rural Resettlement through an offer letter of the same date. The land offered is described in the offer letter as 'Subdivision **26** of **PILGRIMS REST PTN OF GLEN FOREST** in **GOROMONZI** District of **MASHONALAND EAST PROVINCE** for agricultural purposes' (hereinafter referred to as the farm or the land). The farm was approximately

149.04 hectares in extent. The applicant claims that the farm was at some point incorporated into the jurisdiction of the City of Harare. She applied for change of use of the land and such application was approved by the City of Harare and the second respondent. In due course, the land was subdivided into residential stands.

During the time of the subdivision, part of the land was invaded by members of the third respondent. The third respondent claimed that it had acquired rights in respect of the same land in terms of s 3 of the Urban Development Act, but no such law existed. As a result of the third respondent's act, litigation ensued between the applicant and the third respondent. According to the applicant, the disturbances further prompted the Permanent Secretary in the first respondent's ministry, Grace Tsitsi Mutandiro, to depose to an affidavit reaffirming the position that the applicant was the holder of an offer letter pertaining to the farm. The affidavit of 29 October 2015, further confirmed that the offer letter was issued on 6 June 2003.

The applicant later learnt in the course of proceedings involving her and the third respondent under HC 11699/17, that her offer letter had been withdrawn by the first respondent. On 5 February 2020, the applicant was served with a letter dated 4 February 2020. That letter asserted that the applicant was aware that her offer letter was cancelled. To that letter was attached a letter dated 5 January 2016, which was the withdrawal letter of the land offer in respect of the farm. That alleged withdrawal letter was served on the applicant some two months after the first respondent's permanent secretary confirmed in her affidavit that the applicant's offer letter remained extant.

The applicant disputes the alleged withdrawal of her offer letter. She denies ever having been served with the withdrawal letter at any point in the past. She also denies that she was always aware of the withdrawal of the offer letter. She avers that once she was given the offer letter, she was entitled to the protection of the offer letter and everything to which it pertained. Her acceptance of the offer had the effect of entrenching those rights. She also averred that she had the constitutional right to the protection of her tenancy in terms of s 291 of the Constitution, as read together with related legislation such as the Administrative Justice Act[1] (AJA). The applicant contends that she was never put on notice that her rights were in peril, and for that reason such rights could not be legally taken away. She was also entitled to make representations before her rights were taken away. She was never invited to make any

[1] [*Chapter 10:28*]

representations and she never made any, contrary to what was insinuated in the first respondent's aforementioned letter.

The applicant also challenges the first respondent's jurisdiction over the piece of land, especially after the second respondent granted a change of use. The legal interest in the land passed from the first respondent to the second respondent after the incorporation of the land into Harare. That land ceased to be agricultural land over which the first respondent had no jurisdiction.

The first respondent's case

The opposing affidavit was deposed to by the permanent secretary in the ministry. He denied that the decision to withdraw the applicant's offer letter was irregular, insisting that it was done in terms of the Constitution as read with the AJA. He averred that the applicant was aware of the withdrawal of the offer letter and she agreed to that course subject to her benefitting from another offer of land made by the second respondent. At the material time of the withdrawal, the applicant was a Government Minister and her issue had been discussed at Ministerial level. She was indeed allocated 80 hactares of land by the second respondent. In any event, clause 7 of the offer letter stated that the first respondent reserved the right to withdraw the offer letter.

The first respondent further averred that admission by the applicant that the land use had changed to urban land meant that the issue of the withdrawal of the offer letter was no longer relevant. The applicant could no longer asset rights to land that was properly acquired for urban expansion. The second respondent was now in charge of the land as it was no longer under the jurisdiction of the first respondent.

Second Respondent's Case

In his opposing affidavit, the second respondent raised several points *in limine*. The first was that the application for review was filed outside the 8 weeks period prescribed by rules of court. The decision impugned was carried out in January 2016, and yet the application was only filed on 10 March 2020. The applicant had conveniently abstained from telling the court when exactly she became aware of the decision. The application was therefore fatally defective. The second preliminary point was that the application had become moot as it was overtaken by events. The land in dispute was now urban land occupied by a third party. That land could neither be held through an offer letter issued by the first

respondent no could agricultural activities be conducted thereon. The applicant's offer letter would remain a nullity.

The applicant had since benefited from alternative land offered to her by the second respondent measuring about 94,027 hectares and she could therefore not be unjustly enriched. In doing so, the applicant had waived any right she may have had stemming from the offer letter. Further, the offer of alternative land was in full and final settlement of any claim that the applicant may have had against the Government. The position regarding the fate of the farm was communicated to the applicant through letters of 23 October 2003 and 17 March 2009. The letter of 23 October 2003 was from the Secretary for Local Government, Public Works and National Housing. It informed the applicant that the farm had been gazetted for urban development and allocated to the third respondent. The letter expressed concern that the applicant was taking the cooperative to court. It pleaded with the applicant to withdraw the court case so that the matter could be discussed at Government level.

The letter of 17 March 2009 confirmed the allocation of 84, 027 hectares to the applicant "*as compensation to land occupied by Mama Mafuyana on Pilgrims Rest Farm offered to you by the Ministry of Lands, Land Reform and Resettlements. This is in response to your plea to the Ministry that you were unable to evict the occupants and requested to be given another piece of land in Hatcliffe Extension as compensation. It is hoped that this will settle the long standing dispute between Mama Mafuyana Housing Cooperative and yourself over the occupation of the land."* The applicant was therefore accused of making a material non-disclosure for not disclosing this material information in her application.

The third preliminary point was that the same matter was *lis alibi pendens*. The propriety of the withdrawal of the offer letter was already pending before this court under HC 11699/17.

The fourth preliminary point was that the applicant's offer letter lapsed by operation of law when the farm was incorporated into Greater Harare and the use of the land was changed around 2011, following its gazetting for that purpose sometime in 2003.

The fifth preliminary point was that the matter was afflicted by material disputes of fact. Whether or not the applicant was compensated by being awarded an alternative piece of land in full and final settlement of her claim was in dispute as evidenced by the current proceedings.

The court was urged to dismiss the application on the basis of the aforementioned preliminaries with an award of costs on the punitive scale as the applicant's conduct was perceived as deceitful and a manifestation of greed.

The response to the application on the merits is by and large a repetition of the averments made in addressing the preliminaries. The second respondent insisted that as the custodian of the farm following its gazetting for urban development, he had offered the land to the third respondent. The withdrawal of the offer letter by first respondent was therefore inconsequential. There was nothing to withdraw at the time of the alleged withdrawal. The first respondent did not have capacity to withdraw any offer letter as the land to which it related no longer existed. The applicant no longer had any claim or rights founded on the offer letter.

The court was urged to dismiss the application with an order of costs on the punitive scale.

The Third Respondent's Case

The opposing affidavit raised two preliminary points. The first was that the matter had prescribed as the application was filed out of time. The second point was that the applicant failed to disclose that she was awarded an alternative piece of land in compensation for the land she had lost. She was already in occupation of the alternative piece of land. She had not disclosed that fact which was fatal to her application. She had also not disclosed the fact that there was a matter pending under HC 11699/17 in which her eviction from the said piece of land was sought.

On the merits, the third respondent denied invading the applicant's farm as alleged. Rather, it claimed to have been lawfully offered the land by the second respondent for purposes of urban development. A layout plan had since been approved for that purpose. It was also averred that the applicant could not allege that the withdrawal of the offer letter for the piece of land was invalid, yet she had accepted compensation for the land that was withdrawn.

As regards the Constitutional provisions that were allegedly violated, the third respondent averred that those provisions only applied to holders of leases or some other agreement and not to the applicant's case. Agricultural land was vested in the State, and as such the applicant could not claim proprietary rights in respect of land she did not own. Having allocated the land in question to the applicant, the first respondent was within his

rights to withdraw that land offer. Despite the fact that the land was now under the jurisdiction of the second respondent, the first respondent was still required by law to withdraw the offer of land to the applicant.

The court was urged to dismiss the application with costs on the punitive scale.

The Applicant's Reply

In her reply to the first respondent's opposing affidavit, the applicant challenged the deponent's authority to depose to the affidavit on behalf of the first respondent. This point was not pursued in the submissions that were made in court and I considered it abandoned. The applicant insisted that the first respondent breached the *audi alteram partem* rule in circumstances where he had no jurisdiction. After the land was incorporated into Harare, the first respondent ceased to have jurisdiction over the piece of land. The first respondent's conduct breached both the common law and the statute.

The applicant denied that she consented or agreed to the withdrawal of her offer letter. She admitted attending meetings but denied ever being given an opportunity to make representations. The decision of the first respondent was therefore arbitrary, unreasonable and unfair.

The applicant did not file answering affidavits to the second and third respondents' opposing affidavits.

The Submissions and the analysis

Whether the application for review was filed out of time.

Mr *Dzvetero* for the second respondent submitted that the application was filed way out of time and yet no application was made for condonation. The decision complained off was made on 5 January 2016, and yet the application was only filed on 10 March 2020. Mr *Mjungwa* for the third respondent also associated himself with the submissions made on behalf of the second respondent on the point.

In his response, Mr *Mapuranga* appearing for the applicant submitted that the notice of the withdrawal of the offer letter was never served on the applicant. The applicant could not have known of a decision that was never communicated to her.

In her founding affidavit, the applicant claims that she received the letter notifying her of the withdrawal of the offer letter on 5 February 2020. The withdrawal letter dated 5

January 2016, was an annexure to a letter of 4 February 2020 from the first respondent to the applicant's legal practitioners. The letter of 4 February 2020 reads as follows:

> **"REF: MAMA MAFUYANA HOUSING CO-OPERATIVE v NYASHA CHIKWINYA & 2 ORS HC 11699/17**
>
> .....
>
> Please find attached copy of the Withdrawal that was issued to your client who is the 1st Defendant, Nyasha Chikwinya. We maintain our position that she was aware that her offer letter was cancelled….."

The above letter asserts that the applicant was aware that her offer letter was withdrawn. The letter does not state when exactly the applicant was served. A perusal of the letter of 5 January 2016 which withdrew the offer letter, shows that it was addressed to "C/O P.O. BOX UA 263, UNION AVENUE, HARARE". The letter was not directed to a physical address, but a Post Office Box. There is nothing on record to show how and when the applicant was served with the withdrawal letter. The deponent to the first respondent's opposing affidavit averred that the applicant was handed a copy of the withdrawal by the first respondent. The first respondent did not ask the applicant to sign an acknowledgment of receipt when she collected the letter. The same deponent also alleges that the applicant was handed a copy of the withdrawal through her lawyers at the time the parties were discovering documents for trial in a separate matter.

There is a problem with both assertions above. The Minister who was in charge of the Lands and Rural Resettlement portfolio at the material time is not identified. It is also not known when that Minister served the applicant with the withdrawal letter. The mere fact that the applicant was a Government Minister at the time of the alleged withdrawal of the offer letter does not detract from the need to follow procedure in withdrawing an offer letter. She needed to be physically served as well as acknowledge service of the letter. Further, the fact that the said letter was amongst a list of documents that were served on her legal practitioners in a different matter is not the kind of service that is envisaged for purposes of communicating an administrative decision.[2]

[2] See s 3(2) of the AJA

For the foregoing reasons, the court is not satisfied that the applicant was aware as at January 2016 that her offer letter had been withdrawn by the first respondent. In the absence of evidence confirming service of the withdrawal letter on the applicant at the time the decision was made to withdraw her offer letter, the court can only accept the applicant's submission that she became aware of the withdrawal when she received the letter of 4 February 2020. The court determines that this application was filed timeously. There is no merit in the preliminary objection and it is hereby dismissed.

Lis Alibi Pendens

It was submitted on behalf of the second respondent that the impropriety of the withdrawal of the applicant's offer letter was the subject of the proceedings pending under HC 11699/17. The court was referred to the joint pre-trial conference minute signed by the parties in HC 11699/17 to confirm that the matters were indeed similar. In response, Mr *Mapuranga*, argued that this preliminary point was ill-conceived. The applicant's *causa* herein was a review because of the unlawfulness and gross irregularity in not following correct procedure in the cancellation of the applicant's offer letter. That claim could not be defeated by a plea of *lis alibi pendens* in the absence of a similar pending claim by the applicant. The applicant had not even made a counter claim in the pending action proceedings under HC 11699/17.

The requirements of a plea of *lis pendens* were explained in the case *Diocesan Trustees, Diocese of Harare* v *Church of the Province of Central Africa*[3], where the court held as follows:

> "The plea in abatement that there are pending proceedings between the same parties (*lis alibi pendens*) is raised by a party that is able to establish the following pre-requisites: (a) that the litigation is pending; (b) the other proceedings are between the same parties or their ……; (c) the pending proceedings are based on the same cause of action; and (d) the pending proceedings are in respect of the same subject matter. However, even if a party satisfies all the requisites, the court still has discretion to order or refuse a stay of execution on the grounds of l*is pendens*; and in the exercise of that discretion it will have regard to the equities and the balance of convenience in the matter. See *Mhungu* v *Mtendi* 1986 (2) ZLR 171 (S); *Boldwin* v *Baldwin* 1967 RLR 289 (CD); *Chizura* v *Chiweshe* 2003 (2) ZLR 64 (H)."

In HC 11699/17, the third respondent herein is the plaintiff, while the applicant herein is the first defendant. The first respondent herein is the second defendant, while the second respondent herein is the third defendant. In that summons matter, the third respondent as

[3] 2009 (2) ZLR 57 (4) at p 71

plaintiff seeks an order declaring valid the offer of land granted by the second respondent for urban development. It also wants the offer letter issued to the applicant herein by the first respondent for the same piece of land declared null and void. Consequent to the declaration of invalidity, it seeks the eviction of the applicant herein from the said piece of land, plus costs of suit on the punitive scale. The land in dispute is described in the summons as the remainder of Glenforest of Borrowdale Estate Goromonzi measuring 150.27 hectares.

While the two matters are concerned with the same piece of land, the causes of action are clearly different. In the summons matter the third respondent as plaintiff assert its rights in respect of the land in dispute on the basis that it was offered the same land for urban development. It wants the offer letter issued to the applicant herein nullified and have her evicted from the land. The current review proceedings seek to challenge the withdrawal of the applicant's offer letter by the first respondent. The applicant did not file a claim in reconvention. At any rate, the applicant could not do so since her claim is primarily against the first respondent who is a co-defendant in the summons matter.

Further, in the present matter, the applicant seeks no relief against the third respondent. Her attack is aimed at the conduct of the first respondent. The court determines that the requirements of *lis pendenis* were not satisfied. The central issue that needs to be determined in the summons case is who between the applicant herein and the third respondent is the lawful allottee of the land, and the extent of such land. Thereafter everything else will fall into place. I find the preliminary point devoid of merit and it is hereby dismissed.

Whether the applicant's claim has become moot

It was submitted on behalf of the second respondent that the land which is the subject of the applicant's claim had ceased to be agricultural land having been incorporated into Greater Harare for urban development. It had since been utilised for that purpose. The applicant could therefore not establish a claim on overtaken events. Following the withdrawal of her offer letter, the applicant had been offered alternative land to compensate her for her loss. The dispute had become academic and the applicant was seeking to be unjustly enriched. It was further submitted that the relief provided for in s 4 of the AJA was no longer available to the applicant under the circumstances.

In determining whether or not the matter had become moot, the court was urged to adopt the approach set out in *ZIMSEC* v *Mukomeka & Ano*[4], where it was held that the court

[4] SC 10/20

must determine whether the requisite tangible and concrete dispute has disappeared rendering the issues before the court academic If the court finds in the affirmative, then it becomes necessary to decide whether the court should exercise its discretion to hear the case or not.

In response, Mr *Mapuranga* submitted that the matter remained live. He argued that there was no authority that when formerly agricultural land was incorporated into urban land, then the holder of rights in such land lost any interest in the land. Counsel further submitted that the applicant was the one whose application for change of use was granted. She still retained her rights in the land. Such rights were conferred by the offer letter and they remained extant and binding on the respondents. Any proclamation that may have been made by first or second respondents regarding the change of use did not affect the applicant's rights in the land.

The concept of mootness was explained by the Constitutional Court in *Khupe & Ano v Parliament of Zimbabwe and 2 Ors*[5] as follows:

> "A court may decline to exercise its jurisdiction over a matter because of the occurrence of events outside the record which terminate the controversy. The position of the law is that if the dispute becomes academic by reason of changed circumstances the Court's jurisdiction ceases and the case becomes moot."

In the American case of *Mills* v *Green* 159 US 651 (1895) at 653, the Federal Supreme Court held as follows:

> "The duty of this Court, as of every other judicial tribunal, is to decide actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions or abstract propositions, or to declare principles or rules of law which cannot affect the matter in issue in the case before it…….".

The dictum was embraced in the *ZIMSEC v Mukomeka & Ano* judgment above. The theme that permeates throughout the decisions of the Superior Courts is that if there has been a change of circumstances which affects the legal rights of the parties so as to render nugatory whatever pronouncements a court may make on the issues that were placed before it, then the court may as well exercise its discretion and decline to render a determination on such issues. This because whatever decision the court will render will not have any bearing on the present circumstances of the parties.

In her founding affidavit, the applicant claims that the land in dispute was invaded by members of the third respondent after change of use had been approved from agricultural

[5] CCZ 20/19 at p 7

land to urban land by the City of Harare and the second respondent. In other words, the applicant in her own words, accepts that the land use had since changed. Had it not been for the alleged invasion of the land by the third respondent and the withdrawal of her offer letter, then this dispute would not have arisen. In his opposing affidavit, the first respondent claims that the applicant was offered some 80 hectares of land as compensation. The second respondent claims she was offered approximately 94.027 hectares, while in its claim in HC 11699/17, the third respondent claims that the applicant was offered 84.027hectares of land. In her founding affidavit, the applicant never alluded to the alternative piece of land that she was allegedly offered and accepted. In her replying affidavit to the first respondent's opposing affidavit, the applicant did not deny that she was indeed allocated alternative land in compensation for the loss of her farm.

In its claim in HC 11699/17, one of the reasons the third respondent wants the applicant evicted from the land in dispute is because it claims that the applicant was allocated an alternative piece of land as compensation for the land she lost through the withdrawal of her offer letter. It is critical to reproduce hereunder the relevant portion of the third respondent's claim and the first respondent's response thereto. Paragraphs 9 and 10 of the plaintiff's declaration (third respondent herein) in HC 11699/17 reads as follows:

> "9. After a protracted battle with officials of both 2nd and 3rd Defendant, it was latter agreed that the 1st Defendant was to be allocated a piece of land measuring 84.027 hectares adjacent to the Plaintiff's land as a way of compensation which land she has already occupied and utilised.
> 10. The 1st Defendant to vacate plaintiff's piece of land to date and is proceeding with her activities on the plaintiff's land. 1st Defendant has disregarded all due processes of law and any attempt to amicably settle dispute as she is of the view that everything belongs to her."

In her plea, the applicant (first defendant in HC 11699/17), responded as follows:

> "5. AD PARAGRAPH 9
> Denied. Mama Mafuyana Housing Cooperative invaded an approximate 100 hectares of the farm which had been offered to first defendant. Having invaded the farm the plaintiff left an approximate of 40 hectares which first defendant had been offered. As compensation for the 100 hectares which had been invaded, the first defendant was offered 84.027 hectares in addition to the 40 hectares which the plaintiff had not invaded.
> 6. The remainder of the land which had been invaded by Plaintiff which first Defendant was occupying was never withdrawn from the first defendant and therefore the first defendant is entitled to the land which she remained in occupation after the invasion by the plaintiff. The first defendant remained in occupation of the approximate 40 hectares as per the directive of the second defendant.
> 7. AD PARAGRAPH 10
> Denied. First Defendant has a right to be on the farm as the approximate 40 hectares was never withdrawn from her and plaintiff is put to strict proof thereof, that the land was

withdrawn from the first defendant by the second and third defendant." (Underlining for emphasis).

It is trite that this court is at large to make reference to its own records and proceedings, and is entitled to make reference to its own records and proceedings and to take note of their contents.[6] From a reading of the applicant's plea in HC 11699/17, it is clear to me that the applicant was indeed allocated some 84.027 hectares of land as compensation for the land she lost to the third respondent. Further, it is also clear to me that the applicant accepted the alternative piece of land allocated to her as compensation for the land she lost. What appears to be in dispute is the extent of the land that she is entitled to receive as compensation for the 149.04 hectares that was allegedly allocated to the third respondent by the second respondent. She insists on retaining possession of the 40 hectares because she feels the 84.027 hectares did not adequately compensate her for the land she lost.

I have already highlighted that according to her own affidavit, the disputed land had since been incorporated into the City of Harare as urban land. In paragraphs 9 and 10 of her founding affidavit, the applicant makes the following declaration:

"9. On the 6th of June 2003 I was offered by the first respondent an Offer Letter in respect of subdivision 26 measuring 149 hectares of Pilgrims Rest PTN of Glen Forest Farm, Goromonzi District of Mashonaland Ease Province….
10. The piece of land was however, and in due course incorporated into the precincts of the City of Harare. <u>For that reason I applied and the city fathers together with the second respondent approved the change of use to which the land was to be put. As a result of that process, the land was subdivided into various residential and related stands</u>" (Underlining for emphasis)

From the foregoing, it is clear that the land that the applicant was originally offered as agricultural land was transformed into urban land through a process that she was aware of. Her application for change of use was granted by the responsible authorities. The land was subsequently subdivided for residential and other purposes. It follows that in applying for the revocation of the process that led to the withdrawal of her offer letter issued in respect of farm land whose status was changed, the applicant is being duplicitous and dishonest. That land ceased to be agricultural land, and from a reading of the papers, the applicant was part of the process that led to the change of status. She benefited from the change of use. She cannot therefore seek to challenge the cancellation of her offer letter when she allegedly benefited from the change of use of the same land.

[6] See *Mhungu v Mtindi* 1986 (2) ZLR 171 (SC) at p 173A-B: *CABS v Twin Wire Agencies (Pvt) Ltd* HB 5-04

The fact that the applicant conveniently avoided to disclose that she was allocated another piece of land as compensation for the land she apparently lost attests to the *malafides* with which this application was made. Again from a consideration of the papers before the court, it appears the applicant's gripe with the first and second respondents is the size of the land that she was allocated as compensation for the land she lost to the third respondent.

In the final analysis, the court determines that there is merit in the preliminary point raised by the second respondent. The change of use of the land in dispute from agricultural land to urban renders this dispute of academic interest. The admission by the applicant that the land use had changed to urban land means that the issue of the withdrawal of her offer letter is no longer relevant. There is no point interrogating the conduct of the first respondent in withdrawing the applicant's offer letter, when the applicant herself admits that she is aware that the same land had its status changed to urban land through her own intervention and that she benefited from the change of use. The occurrence of that event renders it impossible for this court to grant any relief that is effectual and of the nature sought by the applicant.

Costs

The second and third respondents insisted on an award of costs on the punitive scale in the event of an adverse finding against the applicant. The first respondent's counsel was content with an order of costs on the ordinary scale. In the exercise of my discretion I find an order of costs on the ordinary scale appropriate herein.

DISPOSITION

Accordingly it is ordered as follows:

1. The application is hereby dismissed.
2. The applicant shall pay the first, second and third respondents' costs of suit.

Tabana & Marwa, legal practitioners for the applicant
Legal Services Department, legal practitioners for the first respondent
Antonio & Dzvetero, legal practitioners for the second respondent
Tavenhave & Machingauta, legal practitioners for the third respondent