

ROBSON MAKONI
versus
MAKONI RURAL DISTRICT COUNCIL

HC 2654/24

JOSEPH MUJATI
versus
MAKONI RURAL DISTRICT COUNCIL

HC 2655/24

HIGH COURT OF ZIMBABWE
ZHOU & WAMAMBO JJ
HARARE; 17 September 2024 & 04 March 2025

Civil Appeal

T. Maanda, for the appellant
W. Mangwere, for the respondent

WAMAMBO J: The parties proposed that the above two matters should be consolidated for purposes of this hearing as they raise the same issues and counsel representing the appellants is the same in both cases while counsel representing the respondents is also the same in both cases. We acceded to the proposal as requested.

At the core of the issues to be resolved is whether the appellants are liable to pay land development levy in terms of the Rural District Council Act [*Chapter 29:23*]. In both cases the respondent is the same, Makoni Rural District Council.

In HC 2654/24 the court *a quo* defined the issues as follows:

“The plaintiff in the submission had stated the following. They advanced the following. The plaintiff states that the Act states a legal occupier as a person with an offer letter, permit or lease. In turn payment of levies as they state that there would be in need of the payment of levies as there are in use of the land in question.

The plaintiff goes on to buttress the position by the definition of particularised terms. The term defined by the plaintiff were charge communal land, development levy and levy.

The defendant in their particular arguments state the following –

The defendant states that they do not owe any levies. The reason of the deduction that they do not have to pay levies is because they state that they are not the owners of the land and its only owners

of land who ought to pay the development levies and since they only have offer letters they should not be made to pay the development levies.

This therefore centers the issue to be purely legal and ought to be decided on papers”

The court *a quo* found that appellant should pay the land development levy in the sum of USD\$3 855 or the equivalent at the prevailing bank rate.

In HC 2655/24 the court *a quo* which was the same court which sat in HC 2654/24 found for basically the same reasons that appellant should pay the land development levy in the sum of USD\$5 990.00 or the equivalent at the prevailing bank rate.

The appellants filed separate notices of appeal but the grounds of appeal raised in both cases are exactly the same. They read as follows:

1. The court *a quo* erred at law in holding that a person who accepts an offer to land accepts ownership and is therefore an owner of the land whereas acceptance of an offer letter does not amount to ownership of the land.
2. The court *a quo* erred in holding that it is competent for the appellant to be charged development levy in terms of the Rural District Council Act [*Chapter 29:13*] when in fact the appellant does not fall under the purview of s 96 of the Rural District Councils Act [*Chapter 29:13*].

The court *a quo* related to the Rural District Councils Act [*Chapter 29:13*] and found that the land in possession of the appellant is under Makoni Rural District Council. Flowing therefrom, the court found that appellants possess the land through offer letters and thus are liable to pay development levies.

Before us counsel for the appellant submitted that the meaning of “owner” in the Rural District Councils Act [*Chapter 29:13*] does not include the appellants. Counsel for the respondents was of the view that any owner or occupier of land was liable to pay development levies. Reference was made to sections 95, 96(6) of the Rural District Councils Act [*Chapter 29:13*].

In my view an interpretation of the provisions of the Rural District Councils Act [*Chapter 29:13*] will provide an answer to both grounds of appeal as raised. A reading of the Rural District Councils Act reflects that Part XII provides for levies and other charges. Part XII covers sections 95 to 116. It is of importance to interpret legislation in its particular context and not to read a particular section in isolation.

The interpretation section of the Rural District Councils Act specifically refers to a land development levy as follows “a land development levy imposed by a council in terms of subsection (1) of section ninety six”.

The interpretation section further differentiates between a land development levy, a special land development levy, a development levy and a special development levy.

Section 96 provides as follows:

“96 Levies in rural areas

- (1) Subject to this part, a council may impose a land development levy upon all persons who on the fixed date are or who, at any time during the period of twelve months next following the fixed date become:-
 - (a) owners of rural land within the council area
Provided that
 - (i) if a person is liable to a land development levy by virtue of being an owner referred to in paragraph (b) of the definition of “owner” in section ninety five, the council may impose the land development levy either, on the person referred to in paragraph (a) of that definition of that definition or on the person referred to in paragraph (b) thereof but not on both.
 - (ii) If a registered owner of rural land holds any States land which is within the council area and contiguous with his own land, in accordance with the enactment or agreement whereby such owner is entitled upon the fulfilment by him of the conditions laid down in such enactment or agreement as the case may be, to obtain title to such State land, such State land shall be deemed to form part of the land of such owner for the purposes of the land development levy.”

Part XII in the interpretation section defines an owner as follows:-

“owner” means;

- (a) The person in whose name private land is registered in a Deeds Registry.
- (b) a person who is party to an agreement, which on the fulfilment by him of the conditions prescribed by such agreement entitles him to obtain transfer of private land, or
- (c) a person who holds under an agreement of lease land which is –
 - (i) The property of the trustees of the Rhodes Estates or
 - (ii) State land
 - (iii) Communal land set aside in terms of section 10 of the Communal Land Act [Chapter 20:04].
- (d) a person in whose name a mining location such as is referred to in paragraph (b) of subsection (1) of section ninety six is registered with the Secretary for Mines provided that if such person has let or assigned his rights in such mining location, to any other person, such other person shall be deemed to be the owner.”

As per section c (ii) above a person holding a lease of land which is State land falls under the definition of an owner. An offer letter falls under this category and the holder thereof is obliged

to pay a land development levy. I will mention in passing that the Legislature intended to broaden the base upon which persons would pay the land development levy. This becomes clear when one has regard to the fact that the broad net of persons obliged to pay land development levy include miners and persons assigned to such mining rights, owners of rural land, licensed dealers and holders of permits issued in terms of the Communal Land.

A person with an offer letter, is not excluded from this broad spectrum of persons who should pay land development levy.

We express concern at the typographical errors and grammatical errors replete in the judgment of the Court a quo. The Presiding Magistrate and other Magistrates are urged to proof read their records to avoid such errors.

In the circumstances as adumbrated above I find that the court *a quo* was correct to find that appellants fall within the category of persons obligated to pay land development levy.

To that end the appeals by both appellants have no merit and stand to be dismissed.

In HCH 2654/24 it is ordered as follows:

The appeal be and is hereby dismissed with costs.

In HCH 2655/24 it is ordered as follows:

The appeal be and is hereby dismissed with costs.

WAMAMBO J:

ZHOU J: **Agrees**

Chigadza & Associates, appellants' legal practitioners

Maunga, Manda & Associates, respondents' legal practitioners