SOLOMON ZAWE

versus

AUGUSTINE BANGA

and

KEVIN JAMES

and

DEPUTY SHERIFF

and

OFFICER IN CHARGE BORROWDALE

POLICE STATION

and

THE SHERIFF OF ZIMBABWE

HIGH COURT OF ZIMBABWE

BHUNU J

HARARE, 5 April 2012 and 2 May 2012

Ms *T Hove*, for the applicant

*T Mpofu*, for the 1st and 2nd respondents

Ms *Manimanzi*, for the 4th respondent

BHUNU J: On 20 March 2012 the applicant obtained an interim order under case number HC 2350/12 directing the first to fourth respondents to restore him to his quiet and undisturbed possession of Plot 4 Sun Valley Borrowdale, Harare also known as Welson Valley. Aggrieved by the said Order the first and second respondents appealed against the order on the same day.

The applicant now seeks an urgent order of enforcement of the Provisional Order notwithstanding the appeal. It is a well-established rule of practice in the superior Courts of unlimited jurisdiction that an appeal suspends the decision appealed against. See *Founders Building Society* v *Mazuka* 2000 (1) ZLR 528.

I therefore take the view that whatever prejudice the applicant may be encountering is brought about by operation of law. There is no question of the respondents acting unlawfully. If there is any urgency in this matter, then the applicant should move the Supreme Court to determine the appeal urgently so that the issues are conclusively determined by that Court. For that reason I hold that since this court has already determined the issues before it there is no longer any urgency in this court. The parties, destiny now lies with the Supreme Court. It is accordingly so determined.

*Hove & Associates*, applicant’s legal practitioners

*Hussein & Ranchord & Company*, 1st and 2nd respondents’ legal practitioners