

Judgment No. HB 74/13  
Case No. HC 2902/12  
X REF HC 2126/11; 3060/12

**REGINA GUMBO**

**APPLICANT**

**Versus**

**HADDON & SLY PROPERTIES**

**CLAIMANT**

**And**

**BULAWAYOCITY COUNCIL**

**JUDGMENT CREDITOR**

IN THE HIGH COURT OF ZIMBABWE  
CHEDA AJ  
BULAWAYO21 FEBRUARY & 28 MARCH 2013

*C. Dube-Banda* for applicant  
*Advocate L. Nkomo* for claimant  
*R. Moyo-Majwabu* for judgment creditor

Inter pleader application

**CHEDA AJ:** The judgment creditor issued summons against Haddon & Sly of 88 Fife Street, Bulawayo. In its declaration the judgment creditor gave the address for service as 89 Fife Street, Bulawayo. The summons was served at that address. Haddon & Sly entered appearance to defend, giving the same address and referred to itself as Haddon & Sly Limited. Its plea to the claim also gave the same address. The claim was for a sum of \$45 597,20 for certain services including levies and water charges.

In its plea Haddon & Sly Limited simply denied the claim and said the plaintiff is put to the strictest proof thereof. From thereon the matter proceeded with the parties referred to in the same manner and using the same address. One Onias Ncube who deposed to the defendant's affidavit said he was authorised by the company in a resolution marked 'A'. However that resolution authorizes Donna-Ray Campbell and not Onias Ncube. He said he was representing the company as its manager. He filed an opposing affidavit against an application for summary judgment. The summary judgment was granted against Haddon & Sly on the 1<sup>st</sup> march 2012 for the sum of \$45 597,20 and costs of suit on attorney and client scale.

Following this judgment a warrant of execution was issued, and the applicant went to No 89 Fife Street, Bulawayo and attached stand No 391, City of Bulawayo Lands.

Donna Ray Campbell filed an affidavit saying she represented Haddon & Sly Properties (Pvt) Ltd and said she was authorized by the company's resolution marked 'A'.

She said that Haddon & Sly was unknown to them. Instead Haddon & Sly Properties (Pvt) Ltd is based in Harare and as per their lease agreement the leasing company is responsible for

settling all charges and levies relating to the premises which include but not limited to rates, sewages, water, electricity and refuse collection.

She said the Deputy Sheriff came with a writ of execution against one of their properties, stand 391, Bulawayo Township, but Haddon & Sly Properties (Pvt) Ltd has never been a party to the proceedings referred to in the court documents with the Deputy Sheriff. She said the person or two persons on the papers is Haddon & Sly and not the company with the words Private Limited.

The above is a cunning attempt by Donna Ray Campbell to confuse the issue. The judgment creditor has a long standing agreement with the Bulawayo City Council for the payment of rates and other charges. The appearance to defend was entered on behalf of Haddon & Sly Limited. There was no "Private". The address used is 89 Fife Street, the same address is used in all the proceedings. A letter dated 13 June 2011 was written to the judgment creditors' lawyers on behalf of Haddon & Sly from the same address.

A sum of \$2 500 was paid by Haddon & Sly in favour of the judgment creditor on 2 April 2012. On 25<sup>th</sup> July 2012 a letter was written by Donna Ray Campbell in connection with this matter, to the judgment creditors' lawyers. It reads as follows:

"To Mr Moyo-Majwabu

It has come to our attention that our former tenants Stanley's limited have defaulted on council rates payments at our premises 89 Fife Street, Haddon and Sly Building. As such they have incurred a bill that has forced you to try and attach one of our stands. We would have wished to have been notified or rather have action taken against this bill much earlier to it becoming so astronomical. None the less we are prepared to intervene and ensure that the councils due's are met. As such I request a member of your organization with whom I may liaise with to set up a payment plan. Listed below are the account numbers for each of the stands on our premises which we would like to deal with.

Account 1: 41404615

Account 2: 40404608

Account 3: 41400507

Account 4: 41400705

Account 5: 41400509

Yours sincerely

Donna-Ray Campbell  
Haddon & Sly Properties"

This letter destroys completely the argument raised by Donna Ray Campbell. It was in fact written by herself. It is self explanatory.

In one of her affidavits she says Haddon & Sly is a trade name of a company known as Catsbury Trading (Pvt) Ltd. In his submissions on behalf of the claimant Mr Nkomo said,

“Catsbury which trades as Haddon & Sly is in occupation of the property which accumulated the rates.”

The judgment creditor says it has never dealt with Catsbury but with Haddon & Sly. It is not disputed that Haddon & Sly has always been the one paying the rates to the Bulawayo City Council over a long time. If, as it seems a new company called Haddon & Sly properties was formed this was never arranged with the judgment creditor to change the responsibility for the rates and levies. In any case, the claimant is not Haddon & Sly which was cited in the papers. If it is admitted that Haddon & Sly is a trade name for Catsbury then they are one and the same. The attempt by Donna-Ray Campbell to deny any knowledge of Haddon & Sly is simply dishonest. The facts point to the fact that Haddon & Sly and Haddon & Sly Properties are one and the same.

The papers also show that at one stage Haddon & Sly attempted to settle the debt but did not make full payment. This is reflected by the receipt referred to earlier.

At the hearing of the summary judgment application one Chipanguza who said he was Director of Haddon & Sly Properties was assisted by Lazarus & Sariff Attorney. It was after the attempt to settle that the sum of \$2 500 was paid on behalf of Haddon & Sly.

Campbell signed documents for Haddon & Sly and also for Catsbury. A stamp of Haddon & Sly was actually used in one of the documents from the claimant. The above shows a clear abuse of the court process and should properly be reflected by an order for costs on attorney and client scale as prayed.

1. I therefore hold that Haddon & Sly and Haddon & Sly Properties are one and the same.
2. The application by the inter pleader succeeds, and the claimant’s claim is dismissed.
3. The claimant is to pay costs on attorney and client scale.

*Dube-Banda & Nzarayapenga*, applicant’s legal practitioners

*Advocate Nkomo* for claimant

*James, Moyo-Majwabu & Nyoni*, legal practitioners for the judgment creditor