

**TASANGANA BOB**

**Versus**

**UNTU MICRO-FINANCE (PVT) LTD**

**And**

**THE SHERIFF FOR ZIMBABWE**

**And**

**BARD REAL ESTATE**

IN THE HIGH COURT OF ZIMBABWE  
KAMOCHA J  
BULAWAYO 22 JUNE AND 28 SEPTEMBER 2017

**Opposed Court Application**

Applicant in person  
*Mrs Magosvongwe* for the 1<sup>st</sup> respondent

**KAMOCHA J:** After hearing the applicant who was a self actor and Mrs Magosvongwe for the respondents I dismissed the application *ex tempore* with costs. The reasons given *ex tempore* were these:-

“An order by consent was granted by this court on 29 January 2015. The applicant who was a co-principal debtor had pledged his house in Chinhoyi.

The applicant entered into a payment plan towards the payment of the debt of \$22 000,00. He failed to pay in terms of the plan and within 2 years he had only paid \$1 200,00. The plaintiff ended up getting a writ of execution. The house has since been sold but confirmation of the sale has not been done.

Applicant seeks another chance and has come up with yet another payment plan.

The respondents opposed the application and rejected the plan. They argued that the applicant has been difficult during the 2 years period. It was also argued that the applicant would just have difficulties but would not be rendered destitute. He has another property in Bulawayo where he currently lives with his immediate family.

The applicant's explanation is not reasonable and is not acceptable. In the result the application is dismissed with costs."

The applicant has requested for full reasons for the dismissal of his application to assist him to appeal to the Supreme Court. These are they:-

This applicant was not properly before this court due to its non-compliance with Order 40 Rule 348A (5a) in that it was not filed within 10 days after the service upon the applicant. It was instead filed out of time on the 12<sup>th</sup> day and no condonation was sought.

On 29 January, 2015 a judgment by consent was granted by MUTEMA J wherein the applicant who was a co-principal debtor pledged his Chinhoyi property to be declared specially executable.

This application seeks to rescind through the back door, the order that has been granted by a competent court.

Untu Micro-Finance was entitled to foreclosure and have the Chinhoyi property sold to raise the \$22 000,00 from the proceeds of the sale.

In any event the sale of the Chinhoyi property would not render the applicant destitute. He has two immovable properties, one in Bulawayo where he lives with his immediate family and the pledged one in Chinhoyi. He has only himself to blame for the sale of his Chinhoyi property.

He proposed a payment plan which he failed to abide with in the period of two years. He only paid a paltry \$1 200,00 within 24 months, meaning that he was paying \$50 per month. The creditor was correct in submitting that the applicant was a difficult person to deal with during that period and rejected his second proposal for another payment plan.

This application is devoid of any merit and was *ipso facto* dismissed.