

CBZ BANK  
versus  
HOLFIELD INVESTMENTS  
and  
JOHANNES RUSHWAYA  
and  
KENIAS HORONGA  
and  
MARTIN RUSHWAYA  
and  
REBECCA MAGUVARIRA

IN THE HIGH COURT OF ZIMBABWE  
TAKUVA J  
HARARE, 29 October 2013

**Opposed matter**

Ms S. *Takawira*, for the applicant  
J. *Rushwaya*, for the respondents

TAKUVA J: This is an application for summary judgment in terms of r 64(1) of the High Court Rules, 1971. Applicant sought to recover an amount of US\$445 740.93 being monies due and owing in terms of overdraft and loan facilities extended to the respondents.

The application was opposed by the respondents on the ground that applicant's case is not unimpeachable in that respondents have a good *prima facie* defence to the applicant's claim.

On the day of the hearing Ms *Takawira* for the applicant conceded that the application for summary judgment is without merit in that it has "certain defects" which are incurable if the matter remains as an application for summary judgment but can be cured if the matter is referred to trial. I agree with applicant's contention. Accordingly, it is ordered;

- (i) that the application for summary judgment be and is hereby dismissed.
- (ii) that leave to defend the action be and is hereby granted to the respondents in terms of Order 10 r 69 of the High Court Rules 1971.
- (iii) that costs shall be in the cause.

*Mugugu & Associates*, applicant's legal practitioners