

FELIX PAMBUKANI  
versus  
MINISTER OF LANDS, AGRICULTURE, FISHERIES, WATER AND RURAL  
SETTLEMENT

HIGH COURT OF ZIMBABWE  
CHIKOWERO J  
HARARE, 26 July and 1 August 2022

**Urgent Chamber Application**

*P Chimombe with S T Rusike, for the applicant*  
*L T Muradzikwa with M Banda, for the respondent*

**CHIKOWERO J:**

1. The applicant holds the right to occupy and use Subdivision 2 Wakefield in Chegutu measuring 280 hectares (the farm) through an offer letter issued to him by the respondent on 03 November 2018.
2. On 9 May 2022 he paid the total sum of ZWL\$235 000 to the first respondent, through the Civil Division of the Attorney –General’s Office, to facilitate the registration, in his favour, of a 99 year lease over the farm in question.
3. The payment was the culmination of a process which had seen a surveyor- diagram, SGN 279/2014, being framed pursuant to the farm being surveyed preparatory to registration of the lease.
4. The District Land Inspector, the District Land Officer, the Provincial Land Inspector, the Chief Land Inspector, the Chief Land Officer- Estate Management and the Agricultural Land Settlement Board through its Chairman have all appended their signatures to the applicant’s application for the issuance of the 99 year lease and recommended that such a lease be issued and registered.
5. Documentation speaking to para(s) 1 to 4 of this judgment is attached to the founding affidavit.

6. On 8 July 2022 the applicant, so he says, was shocked to receive not a registered 99 year lease in respect of the farm but a permit offering him the rights of occupation and use over Subdivision 1 of Wakefeild in Chegutu District measuring 90, 5 hectares.
7. The permit, issued by the respondent on 7 July 2022, is also part of the founding papers.
8. On 20 July 2022 the applicant filed a court application for review (HC 4811/22) challenging the respondent's decision to issue him with the permit in question when the farmer is already a holder of an offer letter over Subdivision 2 of Wakefield in Chegutu.
9. The applicant, in that matter, prays for the setting aside of the lease, a declaration that his offer letter is still valid as well as costs of suit.
10. The respondent is yet to file papers responding to that suit.
11. Simultaneous with the issuance of the application for review, the applicant filed the present application. In substance, he seeks an interdict prohibiting the respondent from making any decision adverse to the applicant's rights of occupation and use of the farm pending the determination of the application for review.
12. He is apprehensive that if such an order is not granted the respondent, as already demonstrated, is reasonably likely to make yet another decision which may render the review academic and the applicant homeless.
13. The applicant tells me that there is already some other person using and occupying the land covered by the permit and, if the respondent were to make the feared decision over the farm (on the basis that the applicant now holds a permit over a different and much smaller piece of land) the end result would be that the applicant would be rendered homeless.
14. He has, since 2008, invested a lot on the farm which is not only agricultural land but his home.
15. The respondent, without producing documentation to buttress the averment, argued that Subdivision 1 of Wakefield in Chegutu District is part of Subdivision 2 of Wakefield in Chegutu District. He argues the latter was downsized with the result that the applicant was then offered the former, hence the permit.
16. I prefer to leave the resolution of that dispute, if it arises, for resolution by the court in the application for review.

17. Despite Mr Muradzikwa's valiant efforts, I am satisfied that the present application is urgent. The applicant approached the court when the need to do so arose.
18. There certainly is need to protect the integrity of the pending application for review.
19. There also is every justification in recognizing the legal effect of the offer letter by according the applicant protection pending the determination of the application for review. This is also because the offer letter has neither been cancelled nor revoked. See *Commercial Farmers Union and Others v Minister of Lands and Others* 2010 (2) ZLR 576(S), *Paridzira v Minister of Lands and Rural Resettlement and Another* HH 376/15; *Muzhange v Minister of Lands and Rural Resettlement and Another* HH 646/15. This is by no stretch of the imagination a determination of the review application. It simply is preserving the status *quo* pending the resolution of that matter.
20. I agree with Ms Chimombe that there is sufficient evidence before me justifying the filing of the urgent chamber application. The issuance of the permit is not correspondence inviting the applicant to make representations before the respondent considers withdrawing the offer letter. The permit is not what the applicant expected to receive. It is not what she applied and paid for- a registered 99 year lease in respect of the farm. It cannot lie in the respondent's mouth that the applicant must sit on his laurels simply because the former says he will not take any further action pending the finalization of the application for review.
21. I agree with both counsel that there is no need to have a return date in a matter such as the present. After all, the order that I will grant lapses on determination of the application for review.
22. The applicant's success will not carry costs. In the exercise of my discretion I have taken that position to express my displeasure with the state of the applicant's papers and the amendments sought at the hearing. If I grant an order in terms of the amended draft I would have determined one of the matters raised in the application for review. An order could have been granted by consent if the applicant had carefully prepared his application
23. In the result, the following order shall issue:
  1. Pending the determination of the application for review in the matter of *Felix Pambukani v Minister of Lands, Agriculture, Fisheries Water and Rural*

*Settlement* HC 4811/22 the respondent is interdicted from making and implementing any decision in respect of and contrary to that which he made in issuing the applicant with the offer letter dated 03 November 2008 in respect of Subdivision 2 of Wakefield in Chegutu District of Mashonaland West measuring approximately 280 hectares.

2. Each party shall bear its own costs.

*Jarvis Palframan Legal Practitioners*, applicant's legal practitioners.

*The Civil Division of the Attorney –General's Office*, respondent's legal practitioners.