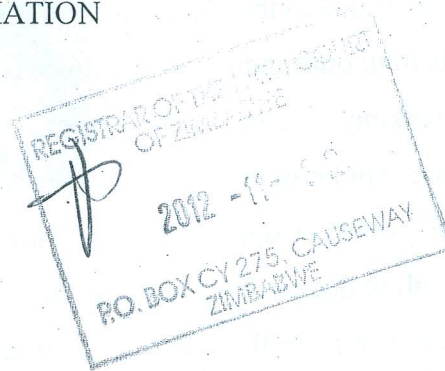


ZIMBABWE MUSIC RIGHTS ASSOCIATION
versus
ZIMBABWE BROADCASTING
CORPORATION (PVT) LTD

HIGH COURT OF ZIMBABWE
BERE J
HARARE, 7, 8 November 2012



OPPOSED APPLICATION

W.P. Zhangazha, for the applicant
J Samukange, for the respondent

BERE J: It never ceases to amaze me how parties who on their own initiatives enter into contractual agreements end up creating unnecessary complications in the interpretation and implementation of such agreements. This is one such an agreement.

The applicant is a body corporate capable of suing and being sued in its name by virtue of being a limited company duly registered in accordance with the laws of this country.

The respondent is also a body corporate capable of suing and being sued in its own name as it is also duly registered in accordance with the laws of this country.

The applicant's main mandate in this case is to collect royalties from the respondent and then distribute same to its members who are the owners of the musical works which is aired or broadcast by the respondent.

In order to rationalise their relationship the applicant and the respondent entered into a 5 year contractual relationship which was reduced to writing on 5 July 2007. It would seem that despite the date of the signature of the agreement the agreement was to commence on 1 January 2007 and endure for a fixed period of 5 years.

It was a specific term of the contract between the parties that during the tenure of the agreement the respondent would pay to the applicant in respect of each quarter terminating on 31 December a licence equivalent to 10% of the net advertising revenue accruing to the respondent during each and every quarter.

The computation of the revenue due to the applicant was the prerogative of the respondent who came up with its own checks and balances to ensure transparency.

