



IN THE SUPREME COURT OF APPEAL OF MALAWI

SITTING AT BLANTYRE

MSCA CIVIL APPEAL NO. 17 OF 2024

(Being an appeal from the judgment of the High Court of Malawi, Civil Division,
Lilongwe, in Land Cause No. 104 of 2018)

BETWEEN:

RAMESH THAKOR PATEL

APPELLANT

AND

**RUTH M. LOURENCO AND RICH
LOURENCO**

RESPONDENTS

MINUTE ORDER WITH SKELETON REASONS

Upon hearing the appeal and upon considering the record and the judgment of the High Court, the Court finds and concludes as follows:

1. The appeal is allowed.

2. The judgment of the High Court of Malawi, Civil Division, Lilongwe, in Land Cause No. 104 of 2018 is set aside.
3. It is declared that Title Nos. Alimaunde 10/386 and Alimaunde 10/387, Title Nos. Bwaila 47/132 and Bwaila 47/133, and Title No. Bwaila 47/162 are held by the Respondents on resulting trust for the Appellant.
4. The Respondents shall, within thirty (30) days of the judgment, execute all documents necessary to transfer legal title in the said properties to the Appellant.
5. In default of compliance within that period, the Registrar of the Court is authorised to execute all necessary documents on behalf of the defaulting Respondent or Respondents.
6. All cautions, restrictions or encumbrances lodged by or on behalf of the Respondents against the said titles, insofar as they are inconsistent with the judgment of this Court, shall be removed.
7. The Appellant shall have the costs of this appeal and of the proceedings in the court below, to be taxed if not agreed.

SKELETON REASONS

Resulting trust:

The Appellant established a prima facie purchase-money resulting trust by evidence of financial contribution, acquisition, continued possession and control, payment of property-related expenses, management of tenants, and correspondence consistent with recognition of his beneficial interest.

Burden of rebuttal:

Once that evidential threshold was crossed, the burden shifted to the Respondents to rebut the presumption by credible evidence of independent acquisition or a contrary intention. They did not prove that the 1st Respondent paid the purchase price for the specific properties, nor did they establish that the Appellant intended an outright gift.

Registration and beneficial ownership:

The High Court gave excessive weight to registration. Registration established legal title, but did not determine the separate equitable question of beneficial ownership.

Personal relationship:

The intimate relationship between the Appellant and the 1st Respondent explained the informality of their dealings, but was not, without clear evidence of donative intention, proof that the properties were gifts.

Possession and control:

The Appellant's sustained management of the properties, dealings with tenants, payment of outgoings, maintenance and practical control were not conclusive standing alone, but materially reinforced the evidence of purchase-money contribution and beneficial ownership.

2nd Respondent — Bwaila 47/162:

The order in favour of the 2nd Respondent could not stand independently. He filed no witness statement, did not testify, and produced no documentary evidence establishing

the nature or extent of his alleged proprietary interest. Joinder was not a substitute for proof.

Adequacy of the record:

Although some exhibits were omitted, the record had been settled by consent and contained sufficient material to determine the central resulting-trust issue. The appeal was therefore capable of determination on the settled record.

Appellate intervention:

The errors in the Court below went beyond a mere difference in factual assessment. The High Court applied an incomplete legal framework, failed adequately to address the shifted evidential burden, and gave registration and the parties' relationship more weight than they could properly bear. Intervention was therefore warranted.

The fuller reasons are contained in the judgment of the Court which will be shared with the parties.

BY THE COURT

Delivered in Open Court at Blantyre this 18th day of August 2026.