

IN THE HIGH COURT OF JUSTICE

CLAIM NO: PT-2023-000576

BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES

BETWEEN

CHIMPAMPE MULOMBE

CLAIMANT

V

SARAH CHITLAU KASOMA

DEFENDANT

CLAIMANT'S NOTE OF THE TRIAL JUDGMENT OF DEPUTY MASTER JEFFRIES

DELIVERED ON 30 JULY 2025

Party representation:

Arfan Khan Counsel for the Claimant instructed by CV Brooks Solicitors

The Defendant appeared in person through her Mackenzie friend Kenneth Dehinde

DEPUTY MASTER JEFFERIS

1. I am now giving judgment on this claim. The hearing started Wednesday. Heard witnesses, and adjournment application.
2. The claim was issued on 12 July 2023, claiming a declaration that the Claimant is a child of Ethel Mulombe as the only child entitled to the estate. It sought an order requiring an injunction. Further relief and costs were claimed.
3. Now I should say that the Defendant made an application for an adjournment in writing. The Defendant was represented by her son. I refused two applications. Last night a further application to adjourn was made. The Defendant attended together with her son Mr Kenneth Dihange. I gave a judgement. I will not repeat it. I refuse the adjournment for the reasons I have set out previously. It will be on record if needed.
4. The court referred to the Particulars of Claim. They cover the fact that the Claimant was born in Zambia on 1 January 1990. They give particulars that the deceased was the adopted child of the deceased and treated as her child.
5. Evidence was not before the Court in Zambia. What we now know is that the Claimant had been adopted, came to the UK, and studied here in the UK. This was not drawn to the attention of the Court in Zambia. A grant was made in Zambia. It is clear to me that, if the Zambian judge

had the documents we have, he would not have made the order granting the Zambian grant. What happened is that the supplied evidence was not put before him. Wrong decision reached. It would not be just to enforce the Zambian decision in England. It will be unjust to enforce it in England.

6. The Defence does not raise a defence on the merits. The case has been pleaded. The Defence contends probation claim not brought in particular form. That is not anything that would impact the claim. There was a directions order made by Master McQuail on 8 Feb 2024 that the Defendant shall represent for the purposes of this claim all those persons who would be interested in the residual estate of Ethel Mwape Kellyvette Mulombe. So the Defendant does represent all persons including Susan Mulambe.
7. The Defendant pleads that Aman Mulombe had 8 children. It is accepted that one of the deceased siblings was the father of Chimpampe Mulombe. The Defence accepts that the Claimant is entitled to the estate if he is the adopted child of the deceased. The Defence did not put forward any substantive defence. It contained a denial that the Claimant was the adopted child of the deceased. The Defence also made a counterclaim for a grant of letters of Administration of the Estate for the use and benefit of Hilda Mulombe Kabwe.
8. The Claimant's witness statement is in the trial bundle at D4. It relies mostly on the fact that there was leave to enter and the school records. Now at that point they did not know more. The Defendant has not filed a trial witness statement.
9. On 8 Feb 2024, there was a direction that each party shall file witness evidence that the parties are to rely on. Evidence was to be exchanged by 6 September 2024. There was no application by the Defendant to file that evidence late. There was no application for relief from sanction. The Defendant must not be at liberty to adduce evidence.
10. Mariyam Mwape Mulombe wrote a letter to the experts a year ago (E161 dated 25th November 2024). This alleged that the adoption certificate had been fraudulently obtained. It states that it has attached documentary evidence and a declaration on the status of the Estate and reported this immediately for the action of the Zambian Police, Anti-Corruption Commission.
11. Since then, the Defendant has filed no witness statement detailing the alleged fraud or documentary evidence. The document attached to the letter is the adoption order. May also be a short birth certificate. In all that time, the Defendant did not file any evidence of fraud.
12. Mr Khan has shown me authority showing that fraud must be distinctively alleged and distinctively proven with sufficient particularity (*Three Rivers DC v Bank of England* [2001] 2 ALL ER 513 at 184-188). Here no particulars are provided in the Defence or in the witness statement.
13. The parties approved of a joint expert report from August Hill & Associates. The experts obtained the relevant documents on adoption. His conclusion states:

“Accordingly, the absence of the adoption order is not in our view conclusive evidence that the adoption of the Claimant did not take place. It is our opinion that it is more likely than not the Claimant was adopted by the Deceased”.
14. At that stage, the adoption order was not available. The expert found that it was more likely than not to have been adopted.

15. The factual position is helpfully set out in Mr Khan’s skeleton argument. Please read those facts into the judgment.

[Following are the facts read into the judgment from Mr Khan’s skeleton for trial dated 15/7/2025]

“Factual Background

8. The Claimant, Mr Chipampe Mulombe, was born on 1 January 1990 (**F18**). On 14 August 2001, Miss Ethel Mwape Kellyvette Mulombe of 57 Castle Road, Northolt, Middlesex, gave formal notice of her intention to adopt the Claimant, who had been received into her care on 8 December 1998 (**E143**). On 12 November 2002, the adoption was completed in Zambia, with a corresponding entry recorded in the Register of Adoptions the following day (**E147**). There is an adoption order dated 30 September 2024 registered in the Office of the Registrar General of Zambia recording the same (**E147**).
9. Thereafter, on 5 December 2002, Mr Mulombe applied to the UK Border Agency for indefinite leave to enter the United Kingdom as an adopted child, citing his date of birth as 1 January 1990 (**F9-14**). This application was granted on 11 December 2002 (**F,9, 11**), and his passport was endorsed on 19 December 2002 to reflect his indefinite leave to enter and settle in the UK under the designation “Visa Settlement – Adopted Child” (**F17-18**).
10. On 6 January 2003, Mr Mulombe registered with a general practitioner, Dr T. Sivarajah of Meadow View Surgery, accompanied by his adoptive mother, Miss Ethel Mulombe (**F20**). The letter from Dr T Sivarajah dated 16 February 2023 records the Claimant’s address of 57 Castle Road, Northolt, Middlesex, UB5 4SE. Later that month, on 20 January 2003, he enrolled at Alec Reed Academy (formerly West London Academy) as a full-time student (**F15**). The letter from Alex Reed Academy dated 1 November 2022 records, the deceased, Ethel Mulombe as his parent (**F15**).
11. In or around 2012, Mr Mulombe moved out of the family home at 57 Castle Road but continued to visit his mother there (**D5, para 6**). Tragically, Ethel Mwape Kellyvette Mulombe passed away intestate at that same address on 24 June 2022 (**F16**).
12. Following her death, the Claimant contends that the Defendant entered the deceased’s property and removed important documents, including his passport and adoption papers (**D5, para 9**). He was thereafter excluded from the premises. On 18 August 2022, he made a subject access request to the UK Visas and Immigration Department (**F1**). On 13 September 2022, the UK Visas and Immigration Department confirmed that he had been granted indefinite leave to enter the UK as an adopted child (**F1, F9**).
13. On 9 September 2022, an application for an occupation order was dismissed for lack of jurisdiction (**B9, 9**). Around the same time, the Defendant and her mother applied for a grant of probate in respect of the deceased’s estate before the High Court of Zambia (**B9, para 10**). On 20 September 2022, the Claimant instructed his Zambian lawyer, Mr Martin Mulinda. The Claimant’s Zambian lawyer applied to join him to those proceedings (**B9,11**).
14. In October 2022, Mariam Mulombe saw documents belonging to the Claimant, including those relevant to his adoption, in the possession of the Defendant (**D11, para 15-19**).

The Defendant reportedly stated she would pass them on to her solicitors and thereafter to the Claimant. On 25 January 2023, Mariam Mulombe reminded the Defendant of this by message, forwarding that message to the Claimant.

15. Meanwhile, on 7 December 2022, the High Court of Zambia, after reviewing the case, directed that documents relating to the adoption be produced at the next hearing (**B9, 11**).
16. On 25 January 2023, the Claimant emailed documents to the assistant of his Zambia lawyer, including a letter from Alec Reed Academy confirming his enrolment and naming Miss Ethel Mulombe as his parent, alongside his UK immigration records indicating he was adopted (**D6, paras 15-16, F24**). However, for unknown reasons, those documents were not presented at the hearing before Judge Mwamba Chanda on 2 February 2023 (**D6, para 17**). The Judge held that no evidence of the adoption had been produced (**C1-C3**).
17. The draft letter from the Defendant's solicitors to an expert instructed in the case confirmed that the only issue in dispute was whether the Claimant had in fact been adopted by the deceased (**E12-E19**). The Defendant acknowledged that, if the Claimant was the adopted child of the deceased, he would be entitled to the estate under the rules of intestacy and to a grant of letters of administration (**E14, para 10**).
18. On 14 January 2023, a caveat to prevent the grant of representation of the deceased's estate was entered by the Claimant and has since been renewed.
19. On 23 August 2024, the jointly instructed expert, August Hill & Associates, wrote to the Social Welfare Director of the Ministry of Community Development and Social Services seeking a search and retrieval of the relevant adoption records relating to the Claimant including the adoption order and certificate of adoption (**E139**).
20. On 12 January 2024, the Chief Social Welfare Officer wrote to August Hill and Associates stating that according to their records the deceased, Ms Ethel Mwape Kellyvette applied to adopt "Amon Chipampe Mulombe (Male born on 1st January 1999)" (**E139**). In so far as relevant, the letter confirms that the Department of Social Welfare had written to the Department of National Registration, Births, Marriages and Deaths, Office of the Registrar General. It received a response confirming the existence of a record for "Chipampe Mulombe" registered on 13th November 2022.
21. The letter from the Registrar General is dated 12 January 2024. In so far as relevant, it confirms that the office has "a record of adoption for Chimpampe Mulombe" registered on the 13th November 2002" (**E142**).
22. An adoption form dated 14 August 2001 records the deceased as adopting the Claimant "Amon Chipampe Mulmobe" (**E143**). The adoption order dated 30 September 2024 records the date for the adoption as 12th November 2002 with an entry date of 13th November 2002 (**E147**).
23. On 10 October 2024, the independent expert report concluded that, although the original adoption order is missing, its absence is not conclusive evidence that the adoption did not occur. The expert found that, on the balance of probabilities, the

Claimant was adopted by the deceased, and that the missing order does not undermine the validity of the adoption (**E37**). The report identified the following findings:

- 23.1. In Zambia, when an adoption order is made, it is recorded by the Registrar General in the Adopted Children Register. A certified or stamped copy of the register entry serves as legal proof of adoption (para 6.4.4 of the report).
 - 23.2. An index to the Adopted Children Register is maintained by the Office of the Registrar General (para 6.4.4 of the report).
 - 23.3. These two records—the Register and its index—constitute the principal and most reliable forms of evidence confirming an adoption (para 6.4.4 of the report).
 - 23.4. Following a formal request (**E146**), the experts conducted a search of the Register and its index. They identified an entry dated 13 November 2002 recording the adoption of “Chimpampe Mulombe” by “Ethel M.K. Mulombe of Castle Road, Northolt, Middlesex” (para 6.8.2 (iii) of the report and see **E147**).
 - 23.5. On 30 September 2024, the Registrar General issued a certificate confirming the existence of this entry (**E147**). See also the Certificate of Adoption signed by the deceased and dated 14 August 2001 (**E143**).
 - 23.6. The Ministry of Community Development and Social Services confirmed that it maintains a record showing that the Claimant’s adoption application was processed (**E36, E141, E142**).
 - 23.7. The expert observed that systematic physical record-keeping in Zambia is a relatively recent development, and older records are often vulnerable to loss, misfiling, or human error (**E36**).
 - 23.8. In the expert’s view, the combination of (i) the entry in the Adopted Children Register, (ii) the Ministry’s record, and (iii) the adoption certificate, provides compelling evidence that the adoption occurred (para 7.1 (viii) of the report and **E37**).
 - 23.9. The absence of the original adoption order is most likely due to administrative error, misplacement, or deterioration over time (para 7.1 (viii) and **E37**).
 - 23.10. Accordingly, the experts conclude that the absence of the original adoption order does not undermine the fact of adoption. In their view, the evidence demonstrates that it is more likely than not that the Claimant was adopted by the deceased (para 7.1 (ix), **E37**”).
24. Mr Chimpampe Mulombe was born 1/1/1990 (F 18). On 14 August 2001, formal adoption by the deceased. Certificate at E116. The Adoption order records the same. Thereafter, in 2002, Mr Mulombe applied for leave to remain in the UK. He then was registered with a GP which records his adopted mother as the deceased. A similar document from the school. The Claimant lived with the deceased until 2012 when he move. Tragically, the deceased died.
 25. The Claimant maintained that he was excluded from his adopted mother’s home. He made a subject access request to the Home Office for his immigration records. Marian Mulombe saw

documents: she is half-sister. The Defendant reportedly stole documents. Mariam Mulombe informed the Claimant.

26. We have the Zambian proceedings. The Zambian judge had no evidence of the adoption. He granted the grant to the Defendant and mother. The jointly instructed experts say that the original order was wrong, and the adoption is recorded in the register. There is legal proof of adoption: the register. The expert report is a Zambian report. When the expert was questioned by Mr Khan on the original authenticity of the adoption documents, he had no reason to doubt the authenticity of those documents.
27. E139. The expert requested the adoption record in a letter dated 23 August 2024. The reply in a letter dated 26 August 2024 from the Ministry of Community Development and Social Services is that Ethel applied to adopt Chimpampe Milombe and Susan Mulambe. The letter is written by Annan Mubukwanu – Sibanze for director of Social Welfare. The deceased had applied for adoption. The adoption form of notice for Suzanne Manda Mulombe. There is a copy of the adoption record: the name of the child is Chimpampe Mulombe. The name of the deceased Ethel Mulombe. Date of entry. There is the signature of the Registrar. That was certified and stamped. It is formally stamped. Don't have the original one; but we have the 2024 version.
28. There are some questions regarding whether the Registrar General was under police enquiry. No evidence that the Registrar General was responsible in any way for fraud in this case. It is not something that I could speculate. I have no reason to doubt the authenticity of those documents.
29. E149. Response from the expert to the allegation of fraud which reaffirms the commitment of the expert. He has responded stating he will be neutral and get on with it. Did not change his report.

UK Visas and immigration

30. The Claimant requested information regarding his immigration and visa status. F1-F9. Immigration records show he was adopted as a child. Several records show the Claimant's application details. The immigration authorities were satisfied.
31. F15. Letter from Alec Reed Academy dated 1 November. This states the Claimant attended school and his parent was Miss Ethel Mulambe.
32. F17. The Claimant's passport. Page at F18 (refers to a Visa Settlement – Adopt Child". Records his name as Chimpampe Mulombe. Date of birth at F17 recorded as 1 Jan 1990.
33. F20. Letter from the Claimant's doctor, Dr T.Sivarajah. Mother's name recorded as Ethel Mwape Kellyvette Mulombe.
34. Thus, we have a number of documents from England and Zambia suggesting that the deceased was adopted.
35. Mr Khan referred to section 72 (2) of the Adoption Act 1972 and argued that the Zambian adoption is recognised in the UK where it pre-dated the commencement of the 2002 Act. I conclude that the Claimant was adopted by the deceased.
36. Now the Defendant has made various applications to adjourn: 1st and 2nd adjournment application, and 3rd one today.

37. In the first application, the son referred to various documents without producing copies of those documents. Today, he produced copy documents handed to Counsel. There is a record of birth, issued after the events. Stamped by the Zambian Ministry of Health. Also, produced was a document regarding Amon Mulombe. Amon is the sibling of the deceased. That in the Defence is pleaded as the Claimant's father. It is consistent with the Claimant's case that he is Amon's son. The Defendant admits that if the Claimant was adopted, he is entitled to letters of administration. The Defendant showed a copy of the petition in which it is recorded that the Claimant was the son of the Richard. It is of note that Richard is another brother of the deceased. Whether Richard or Amon was the father: the Claimant was adopted and entitled to be the child of the deceased. Really whether he was adopted by the deceased is what reflects his entitlement.
38. Nevertheless, the Defendant says there is doubt. I do not find that the documents were void. The expert was asked to confirm whether the documents were void and he confirmed that they were not void and were binding until quashed. There was an allegation by the Defendant that there had to be three months residence in Zambia to adopt which had not been complied with. There is evidence that she did have a property in Zambia. Even if the allegation is correct, it would not have made the order void which stands until quashed. I asked the expert who confirmed that he was not instructed to report on that in his report.
39. The Defendant contended that Susan Mulombe was adopted. Mr Khan in closing submissions advanced a point of significance that, if you look at the date when Susana Mulombe was born in her birth certificate of 13/11/1983 (E145), Susan Mulombe would be an adult of 19 years at the date the adoption entry was made in the register for the Claimant on 13 November 2002 (E147), and therefore would have been incapable of being adopted under English law at the date of the hearing. That is a crucial point in response, but I need not determine it because the issue is not before me.

END OF JUDGEMENT