



**HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK  
JUDGMENT**

In the matter between:

Case no: I 3722/2014

**THE GOVERNMENT OF THE REPUBLIC OF NAMIBIA**

**PLAINTIFF**

And

**MBUZE RIRUAKO**

**DEFENDANT**

**Neutral citation:** *The Government of the Republic of Namibia v Riruako*  
(I 3722/2014] [2016] NAHCMD 40 (16 February 2016)

**Coram:** MILLER AJ

**Heard:** 16 February 2016

**Delivered:** 16 February 2016 (*Ex tempore*)

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**ORDER**

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I make the following order:

1. The application for summary judgment is refused.
2. The defendant is granted leave to defend.
3. Costs to be costs in the cause.

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## JUDGMENT

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MILLER AJ:

[1] In this matter the Plaintiff seeks the eviction of the Defendant from certain premises occupied within a communal area. A notice of intention to defend was filed and subsequently the plaintiff applied for summary judgment. It is that Application which is presently before me.

[2] It has been held in numerous decisions that Summary Judgment is a drastic procedure since it closes the door of the court to a litigant. All that the defendant in this matter is supposed to do is to file an Affidavit which will fully disclose the nature of the defense and the material facts relied upon therefore as provided for in Rule 16(5)(b) of the Rules of Court.

[3] On the papers before me, the Defendant raises disputed fact which can in my view only be resolved at trial. The facts relied upon cannot be described by me on the papers before me as without substance and not raising a *bona fide* defense.

[4] I will in the circumstances refuse the application for summary judgment and grant the defendant leave to defend the action.

[5] As far as cost are concerned, I am of the view that there is no reason why the normal cost order should not be followed and that is costs, shall be costs in the course.

[7] Order

1. The application for the summary judgment is refused.

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2. The defendant is granted leave to defend.
3. Costs, to be costs in the cause.

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Miller, AJ  
Acting

Appearance:

Plaintiff

Mr Kashindi

Of

Government Attorneys

Defendant

N Tjombe

Of

Tjombe-Elago Law Firm

Appearance:

Plaintiff	Y Campbell
Instructed by	MB De Klerk & Associates, Windhoek
Defendant	KN Amoomo
Of	Sisa Namandje & Co, Windhoek