REPUBLIC OF MALAWI

IN THE HIGH COURT OF MALAWI

FINANCIAL CRIMES DIVISION

MISCELLANEOUS CIVIL CAUSE NO. 04 OF 2026

AND

CIVIL APPEAL CAUSE NO. 1 OF 2026

BETWEEN

YUSUF INVESTMENTS T/A AMARYLLIS HOTEL

-VS-

FINACIAL INTELLIGENCE AUTHORITY

AND BETWEEN

DIRECTOR OF THE ANTI-CORRUPTION BUREAU

-VS-

YUSUF INVESTMENTS T/A AMARYLLIS HOTEL

CORAM: HON. JUSTICE R.E.KAPINDU

G.Kambale, Counsel for Yusuf Investments Ltd t/a Amaryllis Hotel

C. Khunga, K. Kamsinde and T. Namadingo, Counsel for the ACB

B. Msosa, Counsel for the FIA

F. Dzikanyanga, Court Interpreter/Clerk

RULING

KAPINDU, J

1. The issue of the sale of Amaryllis Hotel, a Five Star hotel situated in the heart of the City of Blantyre, by Yusuf Investments Limited (YIL) to the Public Service Pension

Trust Fund (PSPTF) in the last quarter of 2025, is a matter that has generated much national debate, controversy and inquiry since the conclusion of the said sale or purported sale. Some competent authorities, including the Anti-Corruption Bureau (ACB) and the Financial Intelligence Authority (FIA) instituted investigations into the sale, or purported sale, as well other alleged transactions ancillary or connected to the sale.

2. It is perhaps also significant to mention that the Registrar of Financial Institutions (RFI), namely the Governor of the Reserve Bank of Malawi, has also shown particular regulatory interest in the matter, and the Court takes judicial notice that the RFI has also taken certain legislative measures under the Pensions Act No. 6 of 2023 against the Trustees of the PSPTF.

3. Attendant to the investigations by the ACB and FIA, the two institutions have adopted certain restrain measures for the protection or preservation of property related to the abovesaid transaction or transactions, which require judicial intervention for their continued subsistence.

4. This is the Court's Ruling in respect of two applications relating to the Amaryllis Hotel sale transaction above, and concerning substantially the same funds in issue.

5. One of the two applications is Miscellaneous Civil Application No. 6 of 2026. This application relates to Freezing Directives issued by the FIA issued under section 23(4) of the Financial Crimes Act, 2017 [Cap. 7:07 of the Laws of Malawi] (the FCA). YIL is challenging FIA's decision to issue fresh Freezing Directives against them without the sanction of the Court.

6. The other application is in respect of Restriction Notices issued by the ACB under section 23 of the Corrupt Practices Act [Cap. 7:04 of the Laws of Malawi] (CPA), and an Interim Order that was issued by this Court on 8th July 2026 upholding the renewal of the Restriction Notices pending the determination of an appeal against the refusal by the Senior Resident Magistrate Court, sitting at Lilongwe, to renew the same. YIL

argues that the Interim Order renewing the Restriction Notices herein on an interim basis was incompetent and that this Court must vacate it.

7. Effectively, YIL is saying this Court must now free up the frozen funds.

8. During the hearing, I directed that the two applications be heard together under Order 6 Rule 11 of the Courts (High Court) (Civil Procedure) Rules, 2017 which provides that:

> *"The Court may, on its own motion or on an application by a party, order that several proceedings be heard together where:*
> *(a) the same question is involved in each proceeding;*
> *(b) the decision in one proceeding will affect the other; or*
> *(c) there is no good and sufficient reason for the proceedings to be heard separately."*

9. I considered, on my own motion, that it was both convenient and necessary that the applications herein be heard together because the applications relate to substantially the same transaction, the same funds, and even more importantly, concerning a sequence of restraint measures undertaken by two law enforcement agencies whose actions under the circumstances ought not to be considered in isolation. Indeed, I considered that the decision in one application would, in all probability, affect and have direct implications on the other.

10. The central issue that the two applications herein bring up relates to the interaction between two similar restraint regimes for the protection of property suspected of being connected with financial crime under the CPA and the FCA, and how both the ACB and the FIA are to discharge their functions and duties when both institutions are interrogating, investigating or otherwise dealing with the same, or essentially the same, subject matter.

11. The applications, however, actually raise questions that go beyond the immediate issues between the parties. They also broadly concern the proper relationship between

effective financial crimes investigation, the preservation of property that is potentially liable to recovery or is otherwise realisable, and the constitutional and statutory responsibility of the courts under such circumstances, to supervise the exercise of public power by law enforcement institutions.

12. Briefly in terms of background, the material on record shows that FIA received information from the Reserve Bank of Malawi (RBM) (whose Governor is the RFI), concerning the transaction. FIA says that the information that was relayed to them by the RFI raised regulatory and financial concerns, and that this prompted them to institute investigations into the movement of the funds arising from the transaction.

13. The FIA states that it consequently issued freezing directives on 11th March 2026 and 16th March 2026. FIA states that when those freezing directives were initially issued, they were unaware that the ACB had also imposed restriction notices affecting the same funds. By 19th March 2026, however, FIA states that they had become aware of the ACB's restriction notices.

14. They proceed to state that on 20th March 2026, YIL complained that the freezing directives were paralysing its business operations and asked for some relief. In this regard, they state, YIL specified two bank accounts which it said were necessary for the day-to-day operations of Amaryllis hotel. FIA states that it acceded to the request and subsequently released the said two bank accounts from the Freezing Directives.

15. Thereafter, FIA mentions that it proceeded to withdraw its remaining freezing directives. FIA's explanation for that withdrawal was and remains that the ACB had already issues Restriction Notices in respect of the same bank accounts under Section 23 of the CPA, and that since the ACB was the lead institution in the investigation, it was neither proper nor desirable for FIA to duplicate efforts and maintain freezing directives on the same accounts when it was not the lead investigating authority.

16. The result of all this, for the sake of clarity, was that the ACB's Restriction Notices remained in place whilst FIA's Freezing Directives fell off.

17. Upon the expiry of the statutory period for that validity of the Restriction Notices of three months, the ACB applied before the Senior Resident Magistrate Court at Lilongwe for renewal of the same under section 23(3) of the CPA.

18. The learned Magistrate however declined the application on or about the 22nd of June, 2026. In substance, the learned Magistrate stated that he was not satisfied that the ACB had shown sufficient cause for continuation of the restraints imposed by the Restriction Notices, as effectively, the ACB was only saying that the Restriction Notices should be renewed because investigations remained ongoing.

19. Following the learned Magistrate's refusal to renew the ACB restriction notices as stated above, on 23rd June 2026, FIA issued fresh freezing directives over the same funds.

20. The ACB, meanwhile, also subsequently (although not immediately) filed an appeal in this Court seeking to challenge the learned Magistrate's decision, and further sought preservation of the funds pending determination of the appeal.

21. The Court, upon a careful preliminary examination of the issues raised, proceeded to grant the application for an Interim Order. The Interim Order effectively preserved the continued operation of the Restriction Notices. As stated above, YIL brought an application before this Court challenging that Interim Order and, separately, challenging the fresh FIA Freezing Directives.

22. Section 23(1) of the CPA empowers the Director of the ACB (Also loosely called the Director General of the ACB), where the Bureau has instituted an investigation or prosecution in respect of an offence under the CPA, to issue a written notice (a Restriction Notice) preventing a person, without the Director's written consent, from disposing of or otherwise dealing with property, or proceeding with a specified contract, transaction, agreement or arrangement, which is the subject of, or otherwise implicated in, the investigation or prosecution.

23. Section 23(3) of the CPA provides that a restriction notice continues to be in force for three months or until cancelled by the Director, whichever occurs earlier, but that it may, upon expiry, be renewed for further periods of three months upon application to a magistrate, showing cause why the notice should be renewed.

24. The intention of Parliament in fashioning this provision is, in my view, unmistakable. Parliament decided to divide the restraint and preservation regime under Section 23 of the CPA into two stages. At first instance, the Director is given power act administratively. This makes good sense. The unilateral administrative measure ensures that he or she may act with deliberate speed to preserve property. But for that power, it is possible that in certain circumstances, property could be dissipated if such action were to await a prior authorising court order.

25. The second stage is that of continuation of the restraint and/or preservation upon expiry of a prescribed period, in this instance a period of three months. Parliament decided that this stage should no longer be an exclusively administrative Executive matter. It introduced judicial oversight and supervision. This is, among other things, to ensure effective checks and balances, and more so mindful that the power of the State of restraint and preservation of property is a very intrusive power which implicates property rights, or apparent property rights, of affected individuals. At this stage, therefore, the design of the legislation is such as to require the Director of the ACB to approach a magistrate Court and show cause why continuation of the Restriction Notice restraint remains justified.

26. Sections 23(5), (6) and (7) reinforce the supervisory jurisdiction of the courts. It allows a person who is aggrieved by a Restriction Notice to approach the High Court and seek reversal or variation of the same.

27. The FCA on the other hand creates a comparable but distinct regime. Section 23(4) of the FCA empowers FIA, where it has received a suspicious transaction report, or whenever where it has reasonable grounds to suspect that funds in a customer's account may be proceeds of an offence or may be related to terrorist financing, to direct a

reporting institution not to proceed with a transaction and, where appropriate, to freeze affected funds for a period not exceeding ninety working days.

28. The purpose, as is expressly stated in Section 23(4), is to enable FIA to make necessary inquiries concerning the transaction and, where appropriate, to inform and advise an appropriate competent authority.

29. Section 23(5) then provides that the Court may, upon application by FIA, extend the operation of the Freezing Directive. Thus, here again, Parliament provided for an initial administrative intervention but, just like under the Section 23(3) of the CPA regime, deliberately required judicial intervention if the Freezing Directive is to continue beyond its initial statutory life of ninety working days.

30. There is, to my mind, a clear and common underlying purpose behind these two statutory regimes. It is to give the State the ability to act swiftly where potentially tainted property is at risk of dissipation or destruction.

31. There is then a recognition that the need for speed at the commencement of an investigation reduces as time passes, and requires judicial oversight and supervision for purposes of accountability. Initial administrative restraint is thus, under these regimes, in effect, an emergency mechanism, and that continued restraint is ultimately a matter for the Court to decide.

32. In now proceed to specifically deal with the challenge by YIL to the FIA's fresh freezing directives

33. Counsel Kambale for YIL began by accepting, and correctly so in my view, that FIA possesses important statutory powers and that those powers are indispensable to the effectively investigation of money laundering and other financial crimes. The challenge was thus directed not at the existence of the power, but at the nature of its exercise in the particular circumstances of the present case.

34. Counsel Kambale submitted that nothing material had changed between 21st April 2026, when FIA withdrew its earlier freezing directives relating to the same subject matter, and 23rd June 2026, when it issued fresh directives immediately after the Senior Resident Magistrate had declined to renew the ACB restriction notices.

35. Counsel contended that throughout the intervening period, the relevant accounts had remained frozen under the ACB's restriction notices and that there had, therefore, been no new transactions in those accounts capable of generating fresh reasonable grounds for suspicion.

36. Counsel accordingly asked the simple but important question as to what new fact existed on 23rd June 2026, which did not exist on 21st April 2026 when FIA voluntarily withdrew its freezing directives.

37. Counsel further submitted that permitting one agency to impose a fresh administrative restraint immediately after another agency's application to renew a similar measure before a Court had failed, would undermine not only the intention of Parliament in requiring judicial supervision at the expiry of three months or 90 working days as the case may be, but that it would also seriously undermine the authority of the Court.

38. Counsel submitted that if this practice is to be tolerated by the Courts, it will entail that a Restriction Notice issued by the ACB could run for three months, and upon a Court declining its renewal, FIA could immediately impose another administrative restraint of the exact similar effect, in the form of a freezing directive, thus overly extending the period within which pure administrative action without judicial supervision was envisaged by the legislature.

39. Counsel Kambale argued that by reason of the unjustified continuation of the Freezing Directives, YIL was suffering very substantial commercial prejudice. He stated that YIL cannot access funds that they so desperately require. Counsel urged that even though two operational accounts had been excluded from the directives, the prejudice that YIL was suffering in relation to its business, extended well beyond the narrow ability of the YIL to meet its immediate day-to-day operational expenses. He argued

that for instance, the company had creditors and also other broader financial obligations for which the restrained funds were required.

40. FIA strongly opposed the application. Counsel Msosa for FIA explained that FIA's original interest in the transaction had arisen independently from the information received from the RBM, and further that such interest arose even before FIA became aware of the ACB's restriction notices.

41. Counsel submitted that FIA's withdrawal of its earlier freezing directives did not mean that its investigation or its interest in the preservation of the funds in the accounts herein had ceased. Rather, she contended, FIA considered it unnecessary to maintain duplicate restraint measures on the same subject matter while the ACB's restriction notices remained effective, and the ACB took the lead in the investigations.

42. According to FIA, the refusal by the learned Magistrate to renew the ACB's restriction notices materially changed FIA's position. She stated that at that point, the property herein was no longer protected by the ACB's restraint measures upon which FIA had previously relied. Under these circumstances therefore, counsel argued, FIA considered itself entitled to re-engage its statutory power under section 23(4) and re-issue the freezing directives.

43. Counsel Msosa proceeded to state that FIA's interest in the matter was also heightened by the substantial cash withdrawals from YIL's accounts in January 2026. Counsel submitted that FIA relied upon the volume and speed of the said withdrawals together with a suspicious transaction report that gave rise to reasonable grounds for continued investigation.

44. Counsel argued that once large amounts of money leave the banking system in cash form, tracing the movement thereof becomes substantially more difficult. FIA's concern, she argued, therefore extended beyond the legitimacy of the underlying hotel sale transaction to the subsequent movement and destination of the funds.

45. The Court accepts that FIA has demonstrated a legitimate interest in investigating the sudden withdrawal of huge sums of money in cash from YIL's accounts, and the subsequent movement of the relevant funds. The movement of very substantial sums of money in cash, particularly against the background of a transaction involving substantial public pension funds which matter is itself under investigation and has been the subject of a Parliamentary Inquiry, is not something which FIA can reasonably be expected to have simply ignored.

46. Section 23(4) of the FCA clearly does not require FIA to establish criminality, or even evidence of a prima facie case of criminality in order to issue a freezing directive. All it requires is the existence of *"reasonable grounds to suspect that funds of a particular customer account maintained at any reporting institution may be proceeds of an offence or related to terrorist financing"*.

47. The necessity of FIA's legal powers to issue freezing directives in appropriate cases would be rendered practically useless if FIA were required, before investigating, to prove or show evidence of the very criminality which the investigation is intended to establish or disprove in the first place. Indeed, Counsel Kambale, it will be recalled, began by also acknowledging this position.

48. That said however, I must say that the Court has serious concerns about the sequence of events that led to the issuance of FIA's fresh freezing directives herein. The difficulty is not that the FIA lacked an investigative interest. As the Court has already stated above, they plainly did. The difficulty however lies in the process they followed to have the freezing directives re-issued.

49. As earlier observed, FIA had previously decided, for reasons which were perfectly understandable, that the existence of simultaneous administrative restraints by both the ACB and themselves, which served substantially the same purpose, was unnecessary.

50. It should also be borne in mind that FIA withdrew its freezing directives, and decided to place reliance on ACB processes fully aware that the ACB's restriction of the accounts herein could only continue beyond three months if ACB could show cause for

renewal of the same and satisfy a Magistrate of the necessity to renew the same. In other words, they knew or ought to have known, that the continued validity of the ACB's restriction notices beyond three months depended on an Order of a Magistrate.

51. It goes without saying that the ACB and indeed FIA were certainly aware that the renewal, being premised on the exercise of reasoned discretion by a Court, could possibly be declined. The language of showing cause before the Magistrate is language that clearly suggests oversight and supervision over the continuation of such a measure and such oversight and/or supervision would mean little, if at all, were the court to be expected to invariably agree with the investigating agency based on any cause at all, even if the same was found to be far from satisfactory. As it turns out, this is exactly what happened in the instant case, that is to say that the learned Magistrate formed the view that no sufficient cause had been shown, and therefore declined to renew the ACB's restriction notices.

52. At that point, it would appear to me, the orderly course for FIA to take was not for them to immediately administratively re-issue substantially the same restraint measure whose continuation the Magistrate's Court had just declined to authorise with reasons. First, one would have expected that the ACB could quickly move, perhaps immediately, to challenge the Magistrate's determination and seek appropriate interim protection from the Court. They eventually did come to Court with an intended appeal and also seeking interim relief, as we shall see later in this Ruling, although it took them significantly more time than perhaps one would have expected.

53. Equally, given the developments at Court which FIA, as the country's financial intelligence authority must surely have closely followed and monitored, if FIA considered it appropriate to reinstate the freezing directives under Section 23 of the FCA, which freezing directives it had earlier voluntarily withdrawn, they should have come to the High Court to make an urgent application for reinstatement of the same, within the purview of section 23(5) of the FCA. The urgency that would have justified the original administrative measures was no longer there. In the case of ***Prof. Arthur Peter Mutharika vs Anti-Corruption Bureau***, Criminal Case No. 140 of 2020, this Court explained at length the justification for *ex-parte* measures and why law

enforcement institutions may not be allowed to bring one *ex-parte* application after another before the Court, by praying in aid different statutory regimes whose effect is basically the same. The Court clearly stated in that case that what justifies the initial *ex-parte* mechanism is the need to proceed with an element of surprise and with speed to avoid dissipation or destruction of assets sought to be preserved. Once the period for maintaining such a measure elapses, the competent authority may not simply use another regime to justify another *ex-parte* application. This, by parity of reasoning, and indeed *afortiori*, applies in the instant case where we are basically talking about not just an *ex-parte* measure which is made by an independent Court after being approached by a law enforcement agency without notifying the affected party, but a situation where the party interested in having the measure, imposes the same by itself and administratively.

54. What occurred here, with respect to FIA, is rather troubling. Upon expiry of the ACB's Restriction notices, the learned Senior Resident Magistrate declined to renew the same. On the following day, FIA imposed fresh freezing directives based on the same transaction and relating to the same funds and bank accounts without recourse to the Court. If that practice were accepted and tolerated by these courts, the statutory requirement for judicial supervision in relation to the continuation of the administrative restraint measures beyond a period of three months could easily be sidestepped or ignored through inter-agency succession of the administrative imposition of essentially the same measures.

55. With respect, Parliament in fashioning the measures under Section 23 of the CPA and Section 23 of the FCA, could not have intended the existence of a kind of relay race in which one investigative competent authority carries the baton of an administrative freezing measure for the first statutory period of three months under one Act and, when a Court declines renewal under that Act, pass the baton to another competent authority having a similar administrative power under another Act, and thereby turning back the clock for judicial oversight and supervision by a further ninety calendar days.

56. Indeed, during argument, when Counsel Msosa was presented with this scenario, she conceded that Parliament could not have intended such a consequence when it provided for the respective similar measures under the respective pieces of legislation.

57. I therefore hold that the proper course for FIA to have taken was to urgently approach the Court to revive the freezing directives. The Courts (High Court)(Civil Procedure) Rules, 2017 (CPR 2017) make clear provision for the courts to be approached on an extremely urgent basis on any day of the week and at any time, where satisfactory reasons exist under Order 4 Rule 5 of the CPR. Further, under Order 10 Rule 9, the CPR prescribe a procedure for making an oral application for urgent relief, with a written application to follow later. Among the justifications for making such an application under the Rules, is *"the need to protect persons or property",* that it is appropriate *"to prevent the removal of persons or property from Malawi"*, or *"because of other circumstances that justify making the order asked for."*

58. Under these circumstances, the Court cannot find a proper reason why FIA decided to side-step the Court process as a reaction to an unfavourable result for the ACB in a process before another Court.

59. The Court recognises that various pieces of financial-crimes legislation, including the CPA and the FCA in the instant case, provide very powerful tools for competent authorities to use precisely because financial crime is frequently committed with sophistication, is frequently rapid and often committed under circumstances that are difficult to detect. However, the exceptional potency of those powers also makes the judicial safeguards that have been prescribed to accompany them correspondingly important.

60. I therefore consider the Applicants' concerns about the manner in which FIA proceeded to issue the Freezing Directives herein to be well founded. The integrity and authority of the Court, and hence the rule of law, will be compromised if law enforcement institutions are to be allowed to seek to circumvent court process in the manner in which FIA conducted itself in the instant matter.

61. I would therefore set aside the Freezing Directives herein, as I hereby do, and order that if FIA is mindful of the same, it should make application before a competent Court.

62. That conclusion however, does not mean that the bank accounts herein are now unfrozen. It will be recalled that the Court heard that application together with the matter of the YIL's challenge of an interim Order that this Court made in favour of the ACB in respect of the denial by the Senior Resident Magistrate Court at Lilongwe to renew the restriction notices herein.

63. It is to that issue that I now turn.

64. Counsel Kambale for YIL in essence, argued that section 23(3) of the CPA permits renewal only for further periods of three months. He argued that an order expressed to remain effective *"until determination of the appeal"*, may as well continue beyond three months, because experience in Malawi shows that appeals are not heard all that quickly, and that this would thereby remove the very periodic judicial safeguard which Parliament deliberately created.

65. I must say that I find some merit in that submission. Section 23(3) of the CPA does not contemplate one renewal with a potentially indefinite effect. The language of the section is clear and precise. A restriction notice continues to be in force for three months, and may be renewed for further periods of three months at a time, upon the ACB showing cause. In this regard, it is my considered view that an appellate or supervisory court, such as this Court in this instance, even though it has inherent jurisdiction to issue interim reliefs in order to ensure that its own processes are not rendered nugatory, may not proceed to override the clear statutory three months' period for the continued validity of a restriction notice, in any event.

66. Indeed, in stating this, I also recall that whilst the ACB invoked the exercise of the Court's inherent jurisdiction, arguing that interim preservation was necessary to prevent the appeal from being rendered nugatory, the ACB did not proceed to contest the point that the interim measure imposed by the Court could not exceed the maximum period of three months that the law envisages, unless there be a fresh application and extension.

67. The Court finds indeed that there would plainly be little utility in entertaining an appeal concerning whether funds should remain preserved or not if, before the appeal could be determined, the funds could lawfully be dissipated. However, any interim measure imposed by the Court under the circumstances must remain subject to the timelines imposed by section 23(3) of the CPA and may not have a life beyond three months from the date when the order granting interim renewal was granted. In the present matter, such date was the 8th of July 2026. The parties must therefore be mindful of the timelines herein.

68. As regards the merits of the imposition of the Interim Order extending the operation of the Restriction Notices herein, the material before the Court discloses that there were very substantial and thus far unexplained cash movements and that these, indeed, legitimately require thorough investigation.

69. The ACB has indicated that its investigation includes tracing the money trail and profiling of persons suspected of having benefited from the transaction. FIA similarly relies upon these very substantial cash withdrawals, in billions of Malawi Kwacha, and the difficulty of tracing funds once removed from the formal banking system in the form of cash.

70. The nature of the property, the magnitude of the transaction, the magnitude of the cash withdrawals coupled with the speed at which they were made, the need to trace where the cash withdrawn was taken to and for what purposes, and the need to thoroughly investigate all these matters, still provide, at this point in time, a good and sufficient cause in this Court's view, for preserving the status quo for a further but limited period.

71. I have also considered the Respondent's submission that freeing up the money held in the frozen accounts would not render an appeal nugatory because the hotel itself provides adequate substitute security. Whilst at face value that argument might sound persuasive, it quickly runs into difficulties. The hotel, according to the Respondent, was already sold to the PSPTF. That transaction is, itself, under investigation. The RFI has gone on record, demanding rescission of the transaction. In other words, the whole

arrangement remains heavily contested. Under those circumstances, the Court cannot take comfort in the assertion by YIL's Counsel that if the money were released, the hotel itself would constitute good security.

72. In the circumstances, I am satisfied that an immediate order leading to the immediate unfreezing of the bank accounts herein would expose the subject matter under preservation by the restriction notices herein to a material risk of dissipation.

73. The Interim Order renewing the ACB's restriction notices will consequently be sustained.

74. Pausing there, however, the Court notes that ACB, in its grounds of appeal and skeleton arguments, criticised the learned Magistrate for requiring the demonstration of *"sufficient cause"* when section 23(3) merely requires them to *"show cause"*. I am not persuaded that the statutory expression *"showing cause"* means that any reason, however inadequate, suffices. To *"show cause"* necessarily requires the applicant competent authority, being the Director of the ACB in this case, to place before the Court a reason or reasons that is or that are capable in law and in fact of justifying the Order being sought. It surely does not suggest that even a reason that is plainly irrelevant, irrational or otherwise incompetent would suffice merely because it can linguistically be described as a *"cause"*.

75. Thus, the distinction between *"showing cause"* and *"showing sufficient cause"* should not be overemphasised. Parliament cannot have intended that the Magistrate, under the Section 23(3) of the CPA regime, should merely act as a rubber stamp as long as the ACB director furnishes a reason, any reason at all, for renewal. The very requirement that the ACB should be returning to the court after every three months for renewal of the restriction upon showing cause, necessarily requires that the Bureau must provide a rational and justifiable cause (reason) for continued restriction.

76. Further to this, it is also important to emphasise that what may constitute sufficient cause at the beginning of an investigation may not constitute sufficient cause after six, nine or twelve months, or later. Each case is of course to be determined on its own facts

based on its circumstances. One thing that is clear though, is that the necessity for maintaining the restriction notice will ordinarily reduce over time, unless there be convincing reasons for concluding otherwise.

77. I must emphasise, as I have done previously, that the words *"investigations are still ongoing"* cannot work like a magic wand or a master password by which the competent authority may indefinitely unlock another three months of continued restraint. There comes a point at which continued restraint, unsupported by demonstrable investigative progress or other proper justification, ceases to be preservation and begins to resemble deprivation without due process before a competent Court.

78. The law permits substantial interference with proprietary interests because there is a legitimate public interest in preventing suspected proceeds of crime from disappearing. However, that justifiable interference carries with it a corresponding obligation upon the investigating competent authorities to proceed with due diligence and resolve. Even in the case of utmost complexity, such complexity will not immunise the arising delay from critical judicial scrutiny. The courts will still consider such matters in context, including the nature and complexity of the investigation and the steps actually taken thereafter.

79. Thus, competent authorities that are involved in investigating various financial crimes, such as the ACB and FIA in the instant case, must necessarily cooperate when investigating the same matter or closely connected matters as we see in the present case. Offences such as various corrupt practice offences under the CPA, money laundering and associated financial crimes do not always neatly fit into clearly demarcated statutory boundaries that separate the work of one agency from another. Inter-agency collaboration is critical. And then, whilst at it on inter-agency collaboration, it is imperative that collaboration or cooperation must ultimately work to strengthen the rule of law, and not to, inadvertently or otherwise, weaken the accountability safeguards which the law has established. Thus, where two competent investigative authorities, such as the ACB and FIA in the instant case, possess overlapping restraint powers, they must coordinate not merely in the actual investigation itself, but also in the lawful and

orderly management of those powers, ultimately working together to uphold the rule of law.

80. In the present matter, once the ACB's restriction notice had expired and required renewal by a Magistrate Court, and the learned Magistrate declined renewal, the safer and institutionally proper course was, to reiterate the point, to approach a higher Court promptly for an appropriate remedy.

81. The Court is presently prepared to preserve the funds because there remains sufficient material to justify continuation of restraint measures under the restriction notices in issue and because releasing funds at this stage may irreversibly defeat any subsequent asset recovery proceedings.

82. However, the Court also wishes to emphasise that it is mindful that the investigation herein has already taken a substantial period of time. Some of the cash transactions relied upon as a basis for the continued investigations are said to have occurred in January 2026. The ACB and FIA have had the benefit of restraint for months now. There is need to show progress and or other convincing justification in subsequent renewal applications before the Magistrate.

83. There must ultimately be discernible movement from suspicion to investigation, from investigation to investigative findings and evidence, and, where the evidence warrants it, from investigation to prosecution, preservation, forfeiture or other proceedings authorised by law. That, in my considered view, is the philosophy of the law. Put differently, the State cannot be permitted to continue to indefinitely say: *"We have not established enough to prosecute or take any other legal action, but because we are still trying to establish whether we might get enough to do so, the property must remain frozen until we get what we want."* That is not a scheme of justice as fairness. At some point, the law requires a conclusion to the process, one way or the other.

84. Each successive renewal application must therefore be assessed against the investigation as it then stands, not merely against the suspicion which existed when the first notice was issued, or prior renewal authorised. Each three months interval will

present an opportunity for the competent authority and the Court to examine the developments and/or justifications for further restraint.

85. In conclusion, this Court holds that, on the material presently before the Court, immediate release of the funds would create an unacceptable risk that restricted assets that are relevant to the ongoing investigation herein could be dissipated before final and fair determination of the issues being examined.

86. Accordingly, I direct that the ACB's Restriction Notice which this Court renewed on an interim basis on 8th July 2026 is hereby made final, to last for three months effective from the said 8th day of July 2026.

87. The parties having thoroughly ventilated all the substantive issues during the hearing of the applications dealt with in the present Ruling, and the Court having decided to dispose of the issues by way of its review powers under Section 26 of the Courts Act, the appeal falls away.

88. Given the unusual history of these proceedings and the mixed fortunes of the parties on various aspects of the issues placed before the Court, I consider it appropriate to order that each party should bear its own costs.

89. It is so ordered.

Delivered in Chambers at Lilongwe this 25th day of September 2026.

REDSON E. KAPINDU, PhD

JUDGE