



SWAZILAND HIGH COURT

Dan Sibangani Dlamini
Plaintiff

v

Minister For Public Works & Information
Magwagwa Mdluli & 4 others
Defendant

Attorney General
Second Defendant

Sabatha Dlamini
Third Defendant

Mashumi Thwala
Fourth Defendant

Africa Echo (Pty) Limited
Fifth Defendant

Civ. Trial No. 2142/99

Coram

SAPIRE, CJ

For Plaintiff

B.G. Simelane

For 2, 3 & 4 Defendant

P.R. Dunseith

JUDGEMENT

23/06/00

The plaintiff has sued the defendants claiming damages for an alleged defamation of the plaintiff by the 1st defendant. In the particulars of claim as amended the plaintiff describes himself as an adult male and Managing Director of the Swaziland Television Authority Mbabane in the Hhohho District. The first

defendant is the Honourable Minister for Public Service and Information, Magwagwa Mdluli. The 2nd Defendant is the Attorney General of the Kingdom of Swaziland. The 3rd defendant is Sabatha Dlamini, an adult male employee of the 5th defendant, apparently a journalist. The 4th defendant is Mashumi Thwala an adult male and the Editor of the Times of Swaziland which is the 5th defendant and the Fifth defendant is the African Echo (Pty) Ltd the company which is the publisher of the Times of Swaziland.

The amended particulars of claim quote two articles published in the Times of Swaziland on two different days. The defamation on which the plaintiff relies which is said to be injurious and defamatory of the plaintiff is alleged to be both untrue and “mistaking to the public” (sic) for particular reasons. The plaintiff states that there is a meaning to be extracted from these statements that the first defendant uttered and the second and third defendants published which conveyed to the readers of the newspaper that the plaintiff uses company cars to “loiter and scout for lovers and is therefore without morals”.

A further allegation is that the said articles were widely disseminated and distributed and read by many people in Swaziland, who understood or must have understood the said article as conveying the aforesaid meaning of and concerning the plaintiff.

The plaintiff again alleges that the meaning is defamatory of “our client”. This is an obvious repetition of the demand. It is inappropriate in the particulars of claim.

In paragraph 9 the plaintiff alleges

“by uttering and publishing such statements, plaintiff has sustained damage to his fair name and fame and reputation in his capacity as Managing Director of STVA,

priest and respected member of the community and has accordingly sustained damage in the sum of E650 000.00."

The quoted sentences are obviously grammatically inaccurate. As it stands it means that the plaintiff published and uttered the offending statements. Obviously, this is not so. The particulars of claim concludes with a statement that the first, second, third and fourth defendants are liable to the plaintiff, jointly and severally.

At the outset I do not see any basis in which the 2nd defendant can possibly be held liable for the defamation and no basis therefore appears in the particulars of claim.

I have read the articles closely and can find nothing defamatory in the first article. There is no connection between it and the second article.

As far as the second article is concerned, there too there is nothing to connect the plaintiff with the statement that motor vehicles should not be allocated to individual employees of the STVA. There is nothing to show that the vehicle with which the plaintiff had been supplied was one of those purchased by Nkambule to be used "only in scouting for girls."

The two articles appearing in the newspaper deal with different subject matter. In the first instance the plaintiff who has been suspended is said by reason of his suspension not to require a motor vehicle, and that for this reason the vehicle should be recovered from him. This has nothing to do with the allegations allegedly coming from the mouth of the Minister in the second article.

No reasonable reader of the newspaper could come to the conclusion that the Minister at any time suggested that the plaintiff was using his car to assist him in the romantic adventures described as scouting for girls.

I therefore find that the exception must similarly be upheld.

The result is therefore that the exception is upheld with costs. The plaintiff is afforded an opportunity of 7 days within which to reframe his cause of action failing which the action is dismissed.



SAPIRE, C