

SWAZILAND HIGH COURT

Titus Kunene

Applicant

v

The Minister of Works & Transport

1st Respondent

The Minister of Enterprise & Employment

2nd Respondent

The Government of The Kingdom Of Swaziland

3rd Respondent

The Attorney General

4th Respondent

Case No. 3049/2001

Coram SAPIRE, CJ

For Applicant L. MAMBA

For Respondents P. MSIBI

JUDGMENT

(18/04/2002)

This is an application in which the applicant approached the court on a matter of urgency on the 14th day of November 2001. The grounds of urgency were never demonstrated

2

Nonetheless points in limine were argued on behalf of the respondents. The parties had, prior to the hearing entered into a settlement in respect of a portion of the claim and it had been agreed that the respondents accepted liability for:

- (a) payment of an amount of E690 000
- (b) interest thereon at the rate of 9% per annum calculated from the date of the contract on the 27th July 2001 amount at that stage E20 734.00
- (c) payment of the valuer's costs which amounted to 10% of the value of the property in question which is E69 000.00

The agreement of settlement was noted on the 23rd November and made an order of court.

The remaining claims were postponed to the 7th December, 2001 for adjudication. On that date the

matter came before me and the points in limine were raised. The first point in limine was that the application could not succeed in law because the applicant had not complied with the provisions of Section 2 of the Limitations of Legal Proceedings against the Government Act Number 21 of 1972. The failure to comply was particularised as being the absence of a letter of demand that is required by that Section.

There appears to be no answer to that point in limine and the application falls to be dismissed on this ground alone.

The second ground dealt with the question of urgency and as I have indicated there was no question of urgency at all in this case. In order to discourage applicants from abusing the urgency procedures the irregularity in this respect cannot be condoned and is another reason for dismissing the application.

The application is therefore dismissed with costs.

SAPIRE CJ