

IN THE HIGH COURT OF ESOWATINI

HELD AT MBABANE

CIVIL CASE NO. 269/2015

In the matter between

CLEMENT SIHLONGONYANE

PLAINTIFF

And

AFRICAN ECHO (PTY) LTD T/A

TIMES OF SWAZILAND

MARTIN DLAMINI

WELCOME DLAMINI

ARNOT PUBLISHERS COMPANY LIMITED

1ST DEFENDANT

2ND DEFENDANT

3RD DEFENDANT

4TH DEFENDANT

Neutral citation: *Clement Sihlongonyane v African Echo (Pty) Ltd & 3 Others*
(269/15) SZHC 02 [2023] (30th January 2023).

Coram : D. Tshabalala J

Heard : 27/03/2017 – 05/04/2018

Delivered : 30/01/2023

Summary: The law of delict – Claim for damages arising from publication of defamatory article by defendants, naming the Plaintiff his work position and

publishing his photo – impugned part of the article states that the plaintiff is accused by his relatives of collusion and theft of a testamentary will from the Master’s office and replacing it with a fake copy, because the original left him out as a beneficiary. - Effect of failure to investigate and ascertain the truth prior and or to approach Plaintiff for comment and publishing his response in the report indicative of malice.

Held: The article published by the defendants was defamatory per se.

Held: Further that here was no justification available as a defence for publication of the said defamatory material.

Held: Therefore, Plaintiff’s suit succeeds.

JUDGMENT

[1] The Plaintiff claims against four Defendants jointly and severally the one paying the other to be absolved, payment of damages for alleged defamation as follows:-

- a) Payment of E1 000 000.00 (One Million Emalangeneni).
- b) Interest calculated at 9% per annum for date of service of summons to date of final payment.
- c) Costs of suit.
- d) Any further and / alternative relief.

[1.1] The Plaintiff’s particulars of claim are set out as follows:

“1. The Plaintiff is Clement Sihlongonyane an adult male of Mbabane in the Hhohho District.

2. *The First Defendant is African Echo (Pty) Ltd trading as the Times of Swaziland a company with limited liability duly incorporated and registered in terms of the laws of Swaziland carrying on business at Stand No. 407 along Sheffield Road, Industrial Sites, Mbabane in the Hhohho District and which is the owner, proprietor and distributor of the Times of Swaziland.*
3. *The Second Defendant is Martin Dlamini an adult male employed as the Managing Editor of the Times of Swaziland newspaper of Sheffield Road, industrial Sites, Mbabane in the Hhohho District.*
4. *The Third Defendant is Welcome Dlamini an adult male whose fuller and further particulars are unknown to the Plaintiff cited herein as the journalist of the Times of Swaziland newspaper who wrote the article relating to the Plaintiff.*
5. *The Fourth Respondent is Arnot Publishers Company Limited a company with limited liability duly incorporated and registered in terms of the laws of Swaziland carrying on business at Stand No. 407, Sheffield Road Industrial Sites, Mbabane in the Hhohho cited herein as the printer of the Times of Swaziland.*
6. *The above Honorable Court has the jurisdiction to hear and determine this matter in that the cause of action arose within its jurisdiction.*

7. *On the 31st May 2012 at Mbabane an article was published on page 13 in the Times of Swaziland titled "I WAS NEVER A WITNESS TO WILL" A copy of the article is annexed hereto marked "A".*

8. *The said article stated of and concerning Plaintiff, regarding statements by Plaintiff's relatives, that being a detective Plaintiff had in his possession a copy of a will, which a person reflected as a witness in the will denied witnessing, following the disappearance of the original will of his late father, Sibonangaye Mathambo Langwenya, for which Plaintiff was accused of being behind its disappearance (or stole) in collusion with an ex-employee of the Master of the High Court's office who had access to the estate file and replaced it with a fake photocopy since it (the original will) excluded Plaintiff as a beneficiary.*

10. *The said words, in the context of the article, are wrongful, unlawful and defamatory of the Plaintiff in that they were intended and were understood by the readers of the newspaper that the Plaintiff is dishonest and a fraudster who stole his late father's will, in which he was excluded as a beneficiary, and replaced it with a photocopied will which was itself not authentic as it was allegedly witnessed by a person who denied witnessing the will in Plaintiff's possession.*

11. *As a result of the defamation Plaintiff has been damaged in his reputation as a police officer serving as senior detective of the*

Criminal Investigation Department and a law abiding citizen and his dignity as a respected police officer has been impaired.

12. *As a result of the defamation Plaintiff has suffered damages in the sum of E1 000 000.00 (One Million Emalangeni) which sum despite demand the Defendant refuses, neglects and / or fails to pay Plaintiff.*

[1.2] *Defendants a Plea incorporating amendments is as follows:*

1.

2.

3.1 *The article was based on an affidavit of attested to by Tars Mhlabane and provided to the 3rd Defendant in which Mhlabane denied signing the contested Will, referred to in the article, as a witness.*

3.2 *The allegations of the Plaintiff and his relatives in respect of each other recorded in the article were based on interviews conducted with both the Plaintiff and his relatives concerning their respective allegations regarding the contested Will.*

3.3 *The affidavit of Tars Mhlabane was used in subsequent court proceedings under Case No. 1995/2013.*

4.

- 4.1 *The article complained of and the words used therein are not defamatory nor do they suggest the meaning ascribed to them by the Plaintiff.*
- 4.2 *The Defendants further state the words used are not capable of being understood by any reasonable person to mean the Plaintiff is "dishonest and a fraudster who stole his father's Will.*
5. *In the event the above Honourable Court finds that the article was defamatory in the sense alleged by the Plaintiff, which is denied, the Defendants plead that the publication of the article was not wrongful or animus iniuriandi, more particularly:*
- a) *The Defendants were unaware of the falsity of any averments on the article;*
- b) *The Defendants did not publish the article recklessly, i.e not caring whether the context of such an article was true or false. The facts upon which the Defendant will rely in this context are:*
- (c1) *The article was based on an affidavit attested to by Tars Mhlabane and provided to the 3rd Defendant in which Mhlabane denied signing the contested Will, referred to in the article, as a witness.*
- (c2) *The allegations of the Plaintiff and his relatives in respect of each other recorded in the article were based on interviews conducted with both the Plaintiff and his relatives concerning their respective allegations regarding the contested Will.*

(c3) *The affidavit of Tars Mhlabane was used in subsequent court proceeding sunder Case No. 1995/2013.*

(d) *The article was published by the Defendants in discharge of their duty to disseminate information to the public which has a corresponding right to receive information.*

(e) *In view of the facts alleged the publication therefore was objectively reasonable.*

6.1

6.2 *...Defendants deny that the publication of the article damaged the Plaintiff in his reputation as a police officer and a law abiding citizen. It is also denied that his dignity as a respected police officer has been impaired.*

6.3 *It is further denied that the Plaintiff suffered damages in the sum of E1 000 000.00 (One Million Emalangeni) or any sum whatsoever.*

7. *In the event that the Honourable court finds that the statement in the article is defamatory under any law, which is denied, the Defendants plead that such a law would be in contravention of Section 24 of the Constitution of the Kingdom of Swaziland, as not being reasonably justifiable, in that it impinges on Defendant's Constitutionally protected right to freedom of expression."*

Plaintiff's case

- [2] The Plaintiff (PW1) testified that he was Senior Superintendant within the Royal Swaziland Police Service (now Royal Eswatini Police Service acronym REPS). He was stationed at Mbabane Criminal Investigation Department.
- [3] On the 31st May 2012 the 1st Defendant (Times of Swaziland), published an article titled "*I WAS NEVER A WITNESS TO WILL*" The article referred to the Plaintiff and others alleging that they colluded with an ex-employee of the Master of High Court of Eswatini to steal a will, for the reason that the said will excluded the Plaintiff as a beneficiary. The article alleged that the Plaintiff replaced the said original will with a fake copy. The relevant text of the article reads as follows, in part -

"I WAS NEVER A WITNESS TO WILL

Further controversy has emerged in the dispute over the Will of estate of the late Mathambo Sibonangaye Sihlongonyane.

One of Sihlongonyane's sons Detective Clement Sihlongonyane is involved in a dispute with his relatives over the authenticity of copies of the Will following the disappearance of the original one.

The Times is now in possession of an affidavit signed by Tars Mhlabane of Nkhaba, who disputes being witness to the deceased's Will where it was signed.

According to a photocopy of the disputed Will, which this publication has in its possession Mhlabane was witness number one.

However, in the emerging affidavit which is dated August 11, 2011, he disputes this

.....

The children of the late Mathambo who are opposed to Clement, now want an investigation of how Mhlabane was included as a witness yet he disputes this.

There is finger-pointing between Detective Clement and his relatives on who might have stolen the original Will of their late father's estate.

The late Mkhonta's two wives and his Clement's brothers as well as sisters, accuse him of being behind the disappearance of the Will.

However, Clement also accuses them of the same.

Only photocopies of the Will remain, but Clement's relatives said they were not a true reflection of the original one, while he firmly believes they are.

Clement alleges that his brothers and sisters, colluding with an unidentified employee of the Master of the High Court, accessed the file and stole the original Will because their father had not included them as beneficiaries of the estate. On the other hand his siblings, backed by the deceased's two wives who are also their mothers, allege that Clement, in collusion with an ex-employee of the Masters office

who had access to the estate file, stole the original Will and replaced it with a 'fake' photocopy because he had been excluded as a beneficiary."

[Underlining added].

- [4] The Plaintiff told the Court that the part of the article that tarnished his reputation was "*Clement, in collusion with ex-employee of the Master of the High Court stole the original and replaced it with a fake photo copy, because it excluded him...*"

He said that was the only portion that tarnished his image as Desk Officer in Mbabane at the time of publication.

- [5] It is Plaintiff's contention that the 1st Defendant is a widely read newspaper in Swaziland and via internet.

- [6] Plaintiff's track record included service in the Criminal Investigation Department for 22 years in different regions of the country. In his position he worked with the public and the business community. He was in-charge of or led 300 police officers in Mbabane alone, as well as officers in other regions.

- [7] When the Plaintiff read the 31 May 2012 articles, the Plaintiff felt demeaned, his image was tarnished in the eyes of the people he worked with and those he interacted with. These included senior public officials and business community.

- [8] According to Plaintiff content of the article tarnished his image in that it stated that he was dishonest, a thief who stole a document, that he committed a misrepresentation and was a fraudster.
- [9] Plaintiff averred that because of the article he lost out on a training course he was earmarked to attend as it was put on hold pending investigation of the alleged dishonest acts attributed to him. He learnt about this from Career Officer Senior Superintendent Siphso Zwane (PW2).
- [10] Plaintiff felt inferior after publication of the article due to the fact that investigations were conducted against him concerning the alleged theft of a document and replacement with a fake photocopy. He was humiliated and detained by the article.
- [11] Plaintiff alleged that he also lost on promotion because of the article. He was left out when peers that he used to be promoted with were elevated. He believed this was due to investigations launched against him at work as a result of the article.
- [12] According to Plaintiff the article also made suggestion that he was a corrupt person who colluded with ex-employees of Masters of High Court.
- [13] Plaintiff denied in evidence never stealing the said Will nor colluding with ex-employee of the Master's office. He never gave an interview wherein he accused his brothers of theft of the Will as alleged. He was never interviewed before publication of his brother's allegations that he stole the Will. Had he been approached he would have told the reporter that he never stole the Will and that he was not aware of any report of theft of a Will.

- [14] It is Plaintiffs evidence that in course of the long running family dispute with his brothers over their father's estate there were court battles involved. In those court cases there was never an issue concerning forgery of the Will. For instance, in the unsuccessful High Court application brought by his brothers wherein Plaintiff was one of the respondents, relief sought was for declaration of their father's Will as null and void, it being alleged that the testator was diabetic, illiterate and incapable of making the Will.
- [15] In justifying the quantum of E1 million damages the Plaintiff testified that relevant factors were his public status as police officer with impeccable track record since 1992; his tarnished image and the prejudice he suffered at work by being put under investigation, withdrawal of overseas training and delayed promotion.
- [16] Plaintiff referred in his evidence to another news report on him by the 1st Defendant Titled "*LUKHOZI BOSS IN GUN CHASE DRAMA*" and said it referenced the incident wherein he acted to protect personal property.
- [17] It was put to the Plaintiff under cross examination that the 31st May 2012 report complained about was not defamatory and did not damage his reputation, which assertion he denied. He denied further assertion that in fact it was the report on gun chasing drama published subsequent to the 31st May 2012 that damaged his reputation. Plaintiff maintained that gun-chase article did not damage his reputation because it was factual. He reported the incident to his superiors that he acted to protect threats to his property. The article reported that during a scuffle the Plaintiff drew his service pistol on his brothers.

Defence case

- [18] The defence led evidence of one witness, DW1, Welcome Dlamini, third Defendant and journalist who penned the impugned article. DW1's evidence in chief was basically that he interviewed both Plaintiff and his relatives prior to publication of the article complained of. It was his evidence that both the Plaintiff and his brothers accused each other of theft of the Will from the Master's office in collusion with an employee of that office, and replaced it with a fake copy. DW1 said both sides alleged that the reason for the nefarious act was because perpetrators were excluded as beneficiaries in the original Will. DW1 said that was why it is stated in the article that there was finger-pointing between the parties.
- [19] However, under cross examination DW1 explained that the Plaintiff was the first to allege in an interview with him, that his brothers stole the Will. He then interviewed Plaintiff's brothers concerning the accusation that they stole the Will, whereupon they in turn accused the Plaintiff of the said theft as reported in the article. When it was put to DW1 that he never approached Plaintiff for a comment on the accusations made by his brothers, prior to publication of those accusations, DW1 admitted and justified the omission by stating that there was no point in reverting to the Plaintiff for comment on the accusation because Plaintiff would have said the same thing as before. It was denied to DW1 that the Plaintiff ever accused his siblings of theft of the Will in any interview with DW1.
- [20] Defendants state in their plea that "*The article complained of and the words used therein are not defamatory nor do they suggest the meaning ascribed to them by the Plaintiff.*" It is further stated in Defendant's plea that the words used are not capable of being understood by any reasonable person to mean that the Plaintiff is dishonest and a fraudster who stole his father's Will.

[21] Defendants plea at paragraph 5 is that in the event the court found that the article was defamatory in the sense alleged by the Plaintiff Defendants plead that the publication of the article was not wrongful or *animo iuriandi* in that Defendants were not aware of falsity of any averments on the article, that Defendants did not publish the article recklessly.

[22] Defendants argue in their Heads that there is no basis for any reader to conclude that the Defendants intended the reader to understand that the Plaintiff was indeed dishonest and a fraudster. Defendants state that allegations of each faction in the dispute are reported in a balanced manner therefore such a meaning ascribed to the words by the Plaintiff is inconceivable and fanciful in the full context of the article.

Analysis and findings

[23] Two main issues are identified for determination:

1. Whether the published statement, the subject of the complaint in this matter was defamatory or not, that is the accusation, reportedly made by Plaintiff's siblings that he stole their father's Will in collusion with Master's office's employee, replaced it with a fake copy, because the original Will excluded him as a beneficiary;
2. If the statement was defamatory, the next inquiry is whether it was justified based on any of the defences raised by the Defendants. If the court finds that the statement is defamatory then the Defendants would be liable for damages against the Plaintiff unless they have advance a defence which in law justifies publication of the defamatory material.

[24] The South African Constitutional Court in the case of **Le Roux & others V Dey**¹ confirmed the Supreme Court of Appeal's expression of the two-stage inquiry, stated by the latter, thus:

"It is well established that the determination of whether a publication is defamatory and therefore prima facie wrongful involves a two-stage inquiry. (I use the word 'publication' to include a pictorial representation such as a photograph.) The first is to determine the meaning of the publication as a matter of interpretation and the second whether that meaning is defamatory."

The Constitutional Court noted further that to answer the first question a court has to determine the natural and ordinary meaning of the publication: how would a reasonable person of ordinary intelligence have understood it? The test is objective. In determining its meaning the court must take account not only of what the publication expressly conveys, but also of what it implies, i.e. what a reasonable person may infer from it.²

[25] The Court in **Bennet v Magongo**³ noted a description of a defamatory statement from the work of **R.F.V Heuston**, *Salmond of Torts*⁴ -

"...one which has a tendency to injure the reputation of the person to whom it refers, which tends to say, to lower in the estimation of right thinking members of society generally, in particular to cause him to be regarded with feeling of hatred, contempt, ridicule, dislike and disesteem. The test of the defamatory nature a of statement is its tendency to excite against Plaintiff the adverse opinion or feeling of other persons."

¹ CCT 45/10 [2011] ZACC 4 at [38].

² Supra Per Justice Yacoob at paragraph [39].

³ Bennet v Magongo (449/2010) [2012 SZHC 205 (14 September 2012

⁴ 11th ed at pa 422.

[26] The following is a simple interpretation of the impugned article in Plaintiff's Heads: "*when you are said to have stolen something, you are not only a thief but you are a dishonest someone who cannot be trusted. When you replace the original thing with a fake photocopy you are a fraudster because you have not only uttered a false document but you have also made a misrepresentation that the fake document is a true state of affairs.*" Plaintiff's Counsel submits, that is clearly the meaning that is capable of being ascribed to the words published by the Defendants. Plaintiff's Counsel submits in conclusion that the statement complained of is defamatory *per se*. Plaintiff's Counsel submission in this regard is in sync with Plaintiff's evidence and the particulars of claim at paragraph 10.⁵

[27] In deciding whether or not the article is defamatory *per se* the court must consider the ordinary meaning of the words used. For this reason I am inclined to accept counsel's submission as recorded in the preceding paragraph. To borrow from the Supreme Court decision in **Africa Echo (Pty) Ltd t/a Times of Swaziland and Others v Inkhosatane Gelane Simelane**⁶

"My considered view is that the meaning attributed to the articles convey the defamatory meaning which the Plaintiff seeks to place upon them, which is their natural meaning. This means that the articles are perse defamatory of the Plaintiff....and I also find these meanings to be natural ones to draw from the words used."

⁵ See above at paragraph [1.1] of this judgment.

⁶ 77/2013 [2014 SZHC 83/ (03 December 2014)

[28] The quote above captures precisely my views *in casu*, and is supportive of my finding that the 31st May 2012 article was defamatory *per se* of the Plaintiff. I have no doubt that a reasonable reader of average intelligence in this country, would be justified, from reading the article to conclude that the Plaintiff, a Detective within the police service could be a suspect of theft and fraud.

[29] Mere mention in, the article that there was finger-pointing among the feuding relatives, that is the Plaintiff on one side and his siblings and others on the other side, does nothing to change the defamatory nature of the article to the Plaintiff. This is more so in the absence of Plaintiff's response or comment recorded in the article against allegations of theft and fraud made against him. DW1's evidence under cross examination was that the Plaintiff was the first to make the same allegations against his brothers, in an interview with him. Plaintiff denies this. When he put the allegations to the brothers that was when they made the allegations against the Plaintiff which found their way in the impugned article of the 31 May 2012. It should be noted from DW1's evidence that he never reverted to the Plaintiff to get his reaction to the accusations of theft and fraud made by his brothers. DW1 concluded that it was pointless to get Plaintiff's comment because he would have said the same thing. Plaintiff testified that had he been interviewed he would have denied the accusations and set the record straight.

[30] It is my view that the short-cut taken in the verification process, and publishing such damaging accusations concerning the Plaintiff in the manner it was done was detrimental and unfair to him. The article, no doubt damaged and lowered his esteem in the minds of ordinary men and women who read it.

- [31] Having found that the article was defamatory *per se*, I proceed to consider if there are relevant defences raised by Defendants that justify publication of the defamatory material.
- [32] According to Defendants' plea as amended, publication of the article was not wrongful or *amino iniurandi*. Defendants posited that there can be no wrongfulness because Defendants were unaware of falsity of any averments in the article; that Defendants were not reckless in the publication of the article in that they relied on Tars Mhlabane's affidavit that was subsequently filed in subsequent court proceedings, in which he denied signing the contested Will; that publication was in the course of discharge of Defendant's duty to disseminate information to the public who had the right to information; lastly that any law under which the court found that the statement is defamatory, such a law would be in contravention of Section 24 of the Kingdom's 2005 Constitution on Defendants' constitutionally protected right to freedom of expression.
- [33] It was submitted on behalf of the Plaintiff that Defendants failed to ascertain the truth on the damaging allegations against the Plaintiff said to have been uttered by his siblings and published by Defendants. Plaintiff's assertion remains uncontroverted that there were never two copies of wills or any other will which excluded Plaintiff as beneficiary. The only issue between Plaintiff and his relatives was their father's Will that was missing, per the Master's report. There is credence in Plaintiff's contention that Defendants failed to ascertain the truth when they could and should have done so, for instance from the court documents or proceedings. Defendants' ignorance of the falsity of the statements by Plaintiff's siblings seems to me to be self-created and as such cannot avail as a defence. Failure to ascertain the correct facts coupled with failure to get Plaintiff's comment prior to publication of

defamatory material can indeed be indicative of malice. It establishes *animus iuriandi*. In **Chinamasa v Jongwe Printing & Publishing Co. (Pty) Ltd & Another**⁷ the court indeed note that “...failure to investigate or get comment from the person who is the subject of a story is indicative of malice.” See also **Buthelezi & Another v Ndlela & Another**.⁸

[34] The importance of the duty of the media to inform the public is cardinal in a democratic society and cannot be overemphasized. The media’s duty to report or right of expression also has corresponding responsibility not to infringe the rights of others to dignity and the right not to be defamed. The constitutional rights of Defendants to self-expression stop at the doorstep of the next person’s constitutional right not to be defamed and subjected to indignity. These competing constitutional rights must be balanced and none is more important than the other. The Defendants have failed to advance any sustainable defence of justification for publication of the offensive statements against the Plaintiff.

Quantum of Damages

[35] The court in **Phila Buthelezi & Another v Ndlela & Others**⁹ quoted the following apt excerpt on reputation, from **National Media Ltd v Bogoshi**¹⁰ per Hefer JA,

“...reputation is the fundamental foundation on which people are able to interact with each other in social environments...the good reputation of the individual represents and reflects the innate dignity

⁷ 1994 (1) ZLR 133 (A) at 167-168

⁸ (1737/15) [2020] (174) 16th September 2020.

⁹ *ibid.*

¹⁰ 1998 (4) SA 1196 (SCA)

of the individual, a concept which underlines all the charter rights. It follows that protection of a good reputation of an individual is of fundamental importance to democratic society”

The caption underscores the importance of reputation of an individual, which forms the basis for compensation and payment of damages as redress in the event of unlawful infringement and impairment of the individual’s reputation.

[36] Relevant factors for consideration for a fair quantum of damages were identified in **Buthelezi’s case**¹¹ citing with approval the case of **Dlamini v The Swazi Observer and Others**¹² -

- 1) Character and status of Plaintiff.
- 2) Nature and extent of the publication.
- 3) The nature of the imputation.
- 4) Probable consequences of the imputation.
- 5) Partial justification.
- 6) Retraction or apology
- 7) Comparable awards, taking into account devaluation in monetary value.

The list is not exhaustive.

[37] It is common cause that at the material time, the Plaintiff was a Detective and Desk officer at Mbabane police station, a position which placed him in the public eye. Plaintiff’s evidence remains uncontroverted that he interacted and worked with high profile people including business people.

¹¹ *Supra*

¹² 1319/2016 [2017] SZHC 86 at para [19]

He supervised junior officers including detectives in respect of whom he led by example.

[38] It is undisputed that The Times of Swaziland enjoys wide circulation in the country and on internet platforms. Plaintiff's evidence corroborated by PW2 is to the effect that publication of the defamatory statement temporarily delayed his promotion. It directly affected his career development when his scheduled overseas training in Paris and in Botswana was withdrawn pending investigations of allegations of impropriety emanating from the article. It is also relevant for quantum of damages that no apology was extended by Defendants to the Plaintiff.

[39] From quick survey made in **Buthelezi's case**,¹³ in 2020, the highest award made locally for defamation was E550, 000 scored by the Plaintiff in **Inkhosatana Gelani's case**¹⁴ which award was confirmed by the Supreme Court. In **Dlamini v Swazi Observer**,¹⁵ E200, 000 was awarded to the 1st Plaintiff and E100, 000 to the 2nd Plaintiff, while in **Buthelezi's case** E350, 000 was awarded the 1st Plaintiff and E175,000 to the 2nd Plaintiff. Each case must be treated according to its own merits and peculiar circumstances, there can be no-size-fits-all.

[40] The court must warn itself against awarding excessive damages in defamation cases in general, and where the media is concerned, in particular, in order to safeguard against stifling, freedom of expression, free flow of information, and debates in society. Plaintiff's claim of E1Million is no doubt excessive and disproportionate.

[41] In exercise of my discretion bearing in mind all the above considerations I am of the view that infringement of Plaintiff's reputation will be vindicated

¹³ Supra.

¹⁴ supra

¹⁵ supra

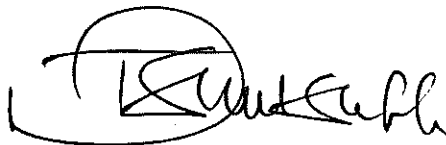
with award of E100, 000.00 (One Hundred Thousand Emalangeni). I therefore make the following orders:

[41.1] Plaintiff's claim succeeds.

[41.2] Defendants are ordered jointly and severally to pay damages to Plaintiff in the amount of E100, 000. 00 (One Hundred thousand Emalangeni), one paying the others absolved.

[41.3] Costs of suit to the Plaintiff.

[41.4] Interest on the said award at 9% per annum calculated from date of issue of this judgement, to date of payment.



D Tshabalala
Judge

For Plaintiff: S. Bhembe – Bhembe Attorneys.

For Defendants: Advocate P. Flynn instructed by Musa Sibandze Attorneys.