

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY ABUJA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT COURT NO. 13 WUSE ZONE 2, ABUJA
BEFORE HIS LORDSHIP: HON JUSTICE A. S. ADEPOJU.

FCT/HC/CV/900/2020

BETWEEN:

PASTOR GODWIN UBE-----CLAIMANT

AND

1. THE REGISTERED TRUSTEES OF THE MOUNTAIN OF FIRE AND MIRACLES MINISTRIES INTERNATIONAL.	}-----DEFENDANTS
2. DR. DANIEL OLUKOYA	

7-02-2022

IKECHUKWU MALEDO for the claimant/respondent

C.I..A. OFOEGBUNAM for the defendant.

RULING

This ruling is in respect of a preliminary objection dated 26th day of October, 2020 and filed on the 27th October 2020 by the 1st and 2nd defendants wherein the applicants seek a sole Order to wit:

An Order striking out/dismissing this action, suit No. FCT/HC/CV/900/2020: PASTOR GODWIN UBE Vs. THE REGISTERED TRUSTEES OF THE MOUNTAIN OF FIRE AND MIRACLES MINISTRIES INTERNATIONAL and DR. DANIEL OLUKOYA for want of jurisdiction and failure to disclose a reasonable cause of action” and for such Order or further Orders as this honorable court may deem fit to make in the circumstance.

The grounds upon which the application is brought are;

1. The claimant commenced this suit vide a writ of summons and statement of claim dated and filed 24th January, 2020
2. This suit is spent, academic and a gross abuse of the process of this Honourable Court by the claimant who prior to the commencement of the suit had by a letter dated 17th January, 2020 resigned his membership and Pastorship.
3. No justifiable/reasonable cause of action is disclosed in this suit in which the exact/potential defamatory words attributable to the defendants are not set out in the originating processes/statement of claim.

In the 6 paragraph affidavit in support deposed to by Godfrey Omoha, the deponent averred that the claimant commenced this suit on 24th January, 2020 and the objective is to prevent the defendants from making prejudicial announcement about him during the defendant’s edition of “Power must change hands” programme slated for 1st February, 2020. And that prior to the commencement of this suit, the claimant had resigned his membership and Pastorship of the 1st defendant (Mountain of Fire and Miracles Ministries) as shown in the document dated 17th January 2020, attached hereto as Exhibit A1. That on the account of the resignation, the claimant lost the right to lead or

conduct members of the 1st defendant (Mountain of Fire and Miracles Ministries) in any of its programme, and also on the account of the resignation, the claimant's cause of action if any, became stale and academic. In addition the deponent averred that the claimant did not state/set out in his statement of claim, the exact words used by the defendants against him and the publication of same to identified parties. The claimant he said had also not set out the precisely the proposed defamatory words which the defendants planned to make public concerning his person during the 17th February 2020 programme "power must change hands" and lastly that no reasonable cause of action has been disclosed against the defendants in this suit.

The learned counsel to the defendants/applicants Abimbola Kayode, filed a written address dated 26th of October, 2020 in support of the preliminary objection.

On the contrary, and on behalf of the claimant/respondent, one Saheed Arigbede a legal practitioner with Temple Grey Attorneys, solicitors to the claimant/respondent averred in paragraphs 3(ii) –xxiii thereof that he was informed that the claimant was a clergy man and a Pastor serving with the 1st defendant as the overseer designate of the 1st defendant's International Headquarters Annex Utako Abuja until January 2020 when he wrote a letter of resignation to the 1st defendant following attempts by the 1st and 2nd defendants to undermine his authority and bring ridicule and opprobrium to his person. That as at the date he commenced this action against the 1st and 2nd defendants, his resignation from the services of the 1st defendant had not been accepted by the church. And that he decided to resign from the services of the 1st defendant and commenced this suit due to the fact that despite his position as the head of the Headquarters

annex of the church in Abuja, it seems clear that the 2nd defendant was bent on stripping him of his responsibilities based on trumped up allegation. That the 1st and 2nd defendants fabricated an allegation of misappropriation of funds meant for the acquisition of land for the church against him and based on it he was invited by the police.

He also complained that the 2nd defendant without any justification directed him to terminate a programme tagged “Help from above” in deference to another programme “water manna” which is anchored by the 2nd defendant. That he tried to explain to the 2nd defendant that he could not terminate the program because it was a revelation he personally received from God and it was quite evident that over the years the program had been a source of blessing to members of the church and that following this incident, the 2nd defendant accused him of insubordination and threatened to strip him of his responsibilities. That this threat became real on 2nd January, 2020 when the 2nd defendant by telephone directed him to step aside as the overseer of the International Headquarters Annex. That in addition to all of this, the 2nd defendant kept bombarding him with messages on whatsapp threatening him with ex-communication and public disgrace. That the 2nd defendant specifically threatened to make another announcement denouncing him at the next “Power must change hands” programme to be broadcast live on Cable Television on 1st February 2020 and to also denounce him as a fraud and dubious person.

Similarly, counsel to the claimant, Ikechukwu Maledo Esq. filed a written address in support which was later adopted as their oral argument.

In response to the counter affidavit, the 1st and 2nd defendants filed a further affidavit in support of the preliminary objection, and a Reply on point of law, the

deponent averred that contrary to the suggestion in the averments in paragraph 3 xv of the claimant's affidavit, the claimant is not above the law and/ or invitation by the police to assist in the investigation of a crime. That the claimant has also failed to place before the court the libelous words likely to be uttered/published against him by the defendants.

In the submission on point of law the learned counsel to the defendants submitted that the claimant have not controverted the material averments in the affidavit in support of defendant's notice of preliminary objection. Particularly the fact that the defendants have not published/uttered or threatened to utter any libelous words and that there are no defamatory words placed before the court to sustain a cause of action rooted in libel. He submitted further that material averments in an affidavit which are not controverted are deemed admitted. He cited the authorities of **OMBUGUADU VS. C.P.C. (2013) NWLR (pt. 1341) 415 @ 428 para F-G. MAT HOLDINGS LTD. VS. UBA PLC.(2003) 2 NWLR (pt 803221) @ pg.87 par.D.**

He further submitted that the claimant has not responded to all the issues raised in the defendant's address. He placed reliance on the cases of **T.G.F.A. (Nig.) Ltd. Vs. M. L. LTD.(2005) 17 NWLR(pt.953) 20 @ 83(paragraphs F-G). OKONGWU VS. N.N.P.C.(199) 4 NWLR (pt.113) 296 @ 309 per NNAEMEKA AGU JSC.**

Finally, he stated that the law is settled that a claim rooted on allegation of libel must specifically plead the offending words and urge the court to hold that the claimant's failure to plead the offending words spoken/to be published by the defendants herein in their statement of claim is fatal to the claimant's suit. He relied on the authority of **Labati Vs. Badmus (2007) 1 NWLR(pt.1014) 199 @ pg 211 para D-E** where the court to held "Libel is defamation in permanent form"

that is published by the defendant by means of printing, minting, writing, pictures or the like, sign or matter of defamation to the plaintiff. The libel must be pleaded in the statement of claim also in the case of **ONYEJIKE VS. ANYABOR(1992) 1 NWLR , pt.(218) 432 @ 450 para. E**, where the court also held thus “In a libel action, the words complained of must be pleaded, the words used are the material facts and they must therefore be set out in the plaintiff’s pleadings to enable the court determine whether they constitute grounds of action.” He also referred to the defendant’s address.

Finally the court was urged to strike out the claimant’s claim.

The essence of this application is to determine whether the claimant’s claim discloses a reasonable cause of action, what is a reasonable cause of action. The Supreme Court in the case of **BARBUS & CO (NIG) LTD & ANOR VS. OKAFOR UDEJI(2018) LPELR 4450** had this to say “The question may be asked, what is reasonable cause of action? Tobi JSC(of blessed memory) in **RINCO CONSTRUCTION COMPANY LTD VS.VEEPEE INDUSTRIES LTD & ANOR(2005) LPELR 2949 SC. @ pg 14 paragraphs E-G** defined reasonable cause of action as follows;

Reasonable cause of action means a cause of action with some chances of success. For a statement of claim to disclose a reasonable cause of action, it must set out the legal rights of the plaintiff and the obligation of the defendants. It must then go on to set out the facts constituting infraction of the plaintiff’s legal rights or failure of the defendants to fulfill his obligation in such a way that if there is no proper defence, the plaintiff will succeed in the reliefs or remedy he seeks”.

The law is trite that where issues of reasonable cause of action is raised, it is the statement of claim, or as in this case the averments in the affidavit in support of an originating summons or motion that ought to be considered so long as the statement of claim or the affidavit in support of the originating motion discloses some cause of action or raise some questions which can be decided by a judge, there is reasonable cause of action. The mere fact that the case is weak and not likely to succeed, is no ground for striking out or dismissing it. ***See YUSUF & ORS VS. AKINDIPE & ORS(2000) 8 NWLR pt669 @ 378 per OKORO JSC.***

See PANASONIC INDUSTRIES LTD VS. BASSEY (2019) LPELR 46914 C.A.,
MCON INSURANCE CORPORATION VS. OLOWOFOYEKU(2005) LPELR 5946 C.A.

Every individual fact which a plaintiff supposed to prove in order to succeed in its claim is a cause of action.

See also ***IBRAHIM VS. OSIM(1988) LPELR 1403 SC. Per UWAIS JSC*** where the court stated that *“I think “Reasonable cause of action” means a cause of action with some chances of success, when as required by paragraph 2 of the rules only the allegations on the pleadings are considered. If when those allegation are examined it is found that the alleged cause of action is certain to fail, the statement of claim should be struck out”* this definition was approved by this court in ***CHIEF DR. IRENE THOMAS & ORS VS. THE MOST REVEREND TIMOTHY OMOTAYO OLUFOSOYE(1996)1 NWLR 609 @ pp68 PER OBASEKI JSC”***.

It is apposite to state that from the authorities cited in order to determine above whether there is a disclosed reasonable cause of action, the court must resort to the statement of claim and that is precisely what this court would do. The facts pleaded by the claimant are basically centered on the allegation he claimed were made against him by the 2nd defendant. He pleaded in paragraph 22-25 that the

2nd defendant threatened to disgrace him publicly at a programme tagged “Power must change hands” on the 1st February 2020 or at any event/program of the church. In one of the reliefs sought, the claimant is asking the court to protect his reputation which he said he has built for 21 years and also preserve his integrity. It is interesting to observe that the claimant filed his amended statement of claim on the 16/12/2020, though the writ of summons was filed on 24th January, 2020. It is trite that the statement of claim supersedes the writ of summons.

There are no material facts stating or showing that the 2nd defendant made any announcement concerning the claimant at the said program or any other forum. In addition I hold the view these that facts pleaded in paragraphs 22-25 of the statement are merely preemptive and no action can be founded on a speculative or preemptive facts. The action of the claimant is founded on tort of defamation and as rightly pointed out by the learned counsel to the defendants, the claimant have failed to plead or particularize the offending words that are calculated to bring him to disrepute or opprobrium See the case of **BEKEE & ORS VS. BEKEE(2012) LPELR CA** where the court held *“it is the law that the plaintiff must of necessity plead in verbatim in his statement of claim the exact words uttered by the defendant”*. See **THE SKETCH PUBLISHING CO. LTD. & ANOR VS. AJAGBEMOKEFER(1989) LPELR 3207 SC.**

Also in the case of **IROM VS. OKIMBA(1998) LPELR 1541 SC. Per BELGORE JSC**, the court held *“It is settled law that in libel and slander it is essential to know the very words or as nearly as possible on which a plaintiff found his claim.”* He must in his pleadings set out the words with reasonable certainty. See **COLLINS VS.**

JURE(1955), QB 564 at pg 571, LORD DENNING L J said “*In libel action it is essential to know the very words on which the plaintiff finds his claim... ..*

In libel and slander the very words complained of are the facts in which the action is grounded. It is not the facts of the defendant having used defamatory expression alleged which is the fact on which the case depends”

The argument of the claimant’s counsel that the claimant’s action is not founded on the tort of defamation but rather on the threat of the tort of defamation has no basis in law. A claimant cannot preempt or speculate what has not been uttered by a defendant. The word must have been uttered, spoken or published, and must be defamatory see **DAIRO VS. UNION BANK & ANOR(2007) LPELR 913 SC.**

Finally, I endorse the submission of the defendant’s counsel that the claimant’s suit does not raise a live issue, it is an academic exercise and it is hereby dismissed.

Signed

Hon. Judge

7/02/2022.