

UGANDA / JUDGMENT

Kebirungi v Mireku (Civil Suit 184 of 2022)

[2025] UGHCCD 30 (18 February 2025)

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COURT

HC: Civil Division (Uganda)

BEFORE

Nambayo, J

CASE / FILE NUMBER

Civil Suit 184 of 2022

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5 THE REPUBLIC OF UGANDA**IN THE HIGH COURT OF UGANDA AT KAMPALA****[CIVIL DIVISION]****CIVIL SUIT NO. 184 OF 2022****KEBIRUNGI SALLY SANDRA alias Goddess ::::::::::::::::::::::::::::::::::: PLAINTIFF****10 VERSUS****SYLVIA GLADYS MIREKU alias Sylvia Gladness ::::::::::::::::::::::::::::::::::: DEFENDANT****BEFORE: HON. JUSTICE ESTA NAMBAYO****JUDGEMENT**

The Plaintiff, Kebirungi Sally Sandra, filed this suit against the Defendant, Sylvia Gladys 15 Mireku, seeking for declaratory orders from this court that the Defendant's messages on their University WhatsApp stat class cohort 2004 on the 7th and 8th of June, 2022 defamed her and as such the Defendant should retract the defamatory statements, make an apology to her, that this court issues a permanent injunction restraining the Defendant from further publication of the defamatory statements against the Plaintiff and that the

20 Defendant pays damages and costs of this suit.

Background of the suit.

The background to this suit is that the Plaintiff and the Defendant were students at Makerere University Institute of Statistics & Applied Economics class of 2001-2004.

Upon completion of their studies, a WhatsApp group; "stat class 2004" was created consisting of about 54 members.

It is the Plaintiff's claim that on the 7th and 8th of June, 2022, without due regard to the Plaintiff's reputation and image, the Defendant published numerous libellous statements against the Plaintiff on the WhatsApp group, hence this suit.

Representation

30 Learned Counsel Sseguya Ismail Kimuli appeared for the Plaintiff while the Defendant neither filed a Written Statement of Defence nor attended court when the matter was called for hearing. Court proceeded ex-parte under Order 9 rule 20 (1) (a) of the Civil Procedure Rules.

35 Issues set out for trial are: -

- 1. Whether the Defendant's published statements on the WhatsApp group were defamatory against the Plaintiff?
- 2. What remedies are available to the parties.

Resolution.

40 **Issue 1. Whether the Defendant's published statements on the WhatsApp group were defamatory against the Plaintiff?**

The Law on defamation

Black's Law Dictionary, 10th Edition at page 506 defines defamation as;

"the publication of a statement which tends to lower a person in the estimation of right

45 thinking members of society generally; or which tends to make them shun or avoid that person."

In **Ssejjoba Geoffrey –v- Rev. Rwabigonji Patrick** [1977] H. C. B 37, a defamatory statement was defined as one which has a tendency to injure the reputation of the person to whom it refers by lowering him in the estimation of right-thinking members

50 of society generally and in particular to cause him to be regarded with feelings of hatred, contempt, ridicule, fear, dislike and disesteem.

In the case of **Kisaakye –v- Kadaama** HCCS NO. 2017, Musota, J, (as he then was) noted that; in defamation, the plaintiff must prove that: -

- 1. The defendant made a statement about the plaintiff to another.
- 55 2. The statement was injurious to the plaintiff's reputation in the eyes of the right thinking members of society.
- 3. The statement was false.
- 4. If the plaintiff is a public figure, or was involved in some newsworthy event or some other event that engaged the public interest, then the defendant must have 60 made the false statement intentionally or with reckless disregard of the plaintiff's rights.
- 5. There are no applicable privileges or defences.

In **Ssonko Gerald –v- Okech Tom [1978] HCB 36**, it was held that in defamation, the test is the general impression of the words on the right-thinking person and it is from 65 that perspective that the words are to be considered before determining whether they are defamatory or not. The determination depends on answering the question; "would the words tend to lower the plaintiff in the estimation of right-thinking members of society?"

In this case, the alleged defamatory words are stated in paragraph 4 (d) (i)-(xx) of the 70 plaint and the evidence presented in Exhibits "A" – "S" that;

- "... kindly and urgently get in my inbox NOW, NOW. Ushs2000/= is getting me killed by one of our own here If we fail to agree details will be shared here. ... Fellow statisticians always be very careful with people who get into your lives...people come with ulterior motives since 2009 is a very long time to be still following up someone
- 75 and want them killed Better reverse your actions else you are going to be a ruin soob she is going to be RUINED.....I loved this girl with all my heart... Took her in my family... Shared with her my everything And this is how she was ruining my life for the past over 10years@Goddess Come tell OBS and OGS why you ruined me... Jealous and Envy is devious You cannot hide anything under the sun. Why do
- 80 you think when you lost your Dad@Goddess I never showed up.....? Your family is very evil I convinced you to buy land in the neighborhood of my family's farm... I asked her to confess in inbox she refused Her husband warned me All of you watch her, RUIN is on her way before she RUNS... Never pay evil for good woman... we stay in the same location Been in her inbox and she is acting mute
- 85 Do you know what 10 years means to a person?... Try putting yourself in my shoes Let her come and explain the details of why she got Ushs 2000/= from me and used it do her so called witchcraft ...She masqueraded as a born-again Christian and got herself close into my family My parents warmly welcomed hers Kumbé they were all masquerader...@Goddess Confess the rest before I download the details of what you 90 sent our shamba boy to put on my mom's grave

- This forum will open eyes for the rest to keep woke if I keep silent another life will be ruined ...I in boxed and she acted mute I have evidence my dia I even don't remember how this@Goddess Woman forced her way into my life I remember on her wedding day she wanted me to be her matron but I refused, coz I
- 95 didn't feel that closeness and makws me a matron And i felt i dint know her man well enough to get me deeply involved I think this is where the problems started.....Even her mom was not always comfortable with me being in her dotas life since i always ensured we understood things of God much deeper.....
- I wanted to share this food with her then struggling family... The girl refused to direct 100 me to hermoms plaxe in makerere kivulu Kumbe my childhood friend Sylvia Namusoke knew all the details xoncerning her struggling family Whenever she needed soft loans i would gladly offer without interest But this skimmer aka scammer had hidden intentions for me I am a very serious born again lady ask all my close friends. This mascarader pretended to be one to get close to me I started realizing
- 105 how bad this girl and her family are when she lost her brother Isma I tied to ask them to trust God to avenge their bros death but this family did things to the deceased's body.... Bano balogo That is when i started to know kebirungi's true Ask Sandra if I have not sought audience from her in vain She assured me it's not possible..."

In paragraph d of the Complaint, the Plaintiff states that the Defendant published these

- 110 libellous statements, comments and words with malice and with the ill intention to excite the other 54 members of the "stat class 2004" to form adverse opinions or expose the Plaintiff to hatred, contempt or ridicule or injure her in her trade, business, profession, calling, office or to cause her to be shunned by the other members of the aforesaid alumni.
- 115 Counsel relied on the case of **Geoffrey Ssejjoba –v- Rev. Rwabigonji Patrick, C. S No. 1 of 1976**, where it was held that a defamatory statement is one which has a tendency to injure the reputation of the person to whom it refers by lowering him in the estimation of the right – thinking members of society generally and in particular to cause him to be regarded with feelings of hatred, contempt, ridicule, fear, dislike and disesteem".
- 120 (underlining is mine for emphasis).

In this case, I find that the above words used against the Plaintiff by the Defendant have the tendency of lowering her image and self-esteem before her colleagues and they are defamatory. The plaintiff's reputation was injured and the words used have the tendency of lowering the plaintiff's estimation before her colleagues who she studied with.

125 Therefore, I find that the Plaintiff was defamed by the Defendant.

Issue 2. What remedies are available to the parties.

Counsel for the Plaintiff referred to the case of **Prof. Oloka Onyango & 7 Ors -v-Attorney General; Constitutional Petition No. 6 of 2014** and contended that there is evidence to show that the plaintiff suffered mental anguish, shock and embarrassment 130 upon the publication of the defamatory statements by the defendant on the WhatsApp group. That the Plaintiff, a career public servant serving under the Ministry of Finance, Planning & Economic Development as a principal Economist as exhibited under EP21, suffered mental anguish, shock, emotional distress and untold embarrassment before her own contemporaries when the defendant published the said false defamatory 135 statements in the WhatsApp group against the plaintiff.

That an award of UGX 100,000,000/- as general damages would be reasonable.

In regard to the aggravated and exemplary damages counsel relied on the case of **Yusuf Sembatya Kimbowa -v- The Editor the Observer & 2 Ors HCCS No. 482 of 2018**, where Court held inter alia that the rationale behind the award of exemplary damages 140 was not to enrich the plaintiff but to punish the defendant and deter him from repeating his conduct.

Analysis

In the case of **Luzinda –v- Ssekamatte & 3 Ors, HCCS NO. 366 OF 2017**, court held that;

145 "it is trite law that general damages are awarded in the discretion of court. Damages are awarded to compensate the aggrieved, fairly for the inconvenience accrued as a result of the actions of the defendant. It is the duty of the claimant to plead and prove that there were damages, losses or injuries suffered as a result of the defendant's actions."

In **Robert Coussens -v-Attorney General, SCCA No. 08 of 1999**, Court held that;

150 "The object of the award of damages is to give the plaintiff compensation for the damage, loss or injury he or she has suffered.... and that a party claiming damages should lead evidence or give an indication of a figure of what amount of damages ought to be awarded as the quantum."

In this case, the plaintiff led no evidence to show quantum of the injury that she suffered.

- 155 She only states that she suffered mental anguish, injured feelings, psychological torture, mental distress, disrepute and inconveniences. Considering the office that she holds and the forum on which the libellous were communicated, I find the sum of UGX. 100,000,000/- prayed for excessive. I would award UGX. 5,000,000/- (five million Uganda shillings only) as general damages.
- 160 Exemplary/punitive damages are awarded to punish the Defendant for outrageous behaviour.

In the case of **SBI International holdings (u) ltd –v-COF International Co. ltd CA No.194 of 2014**, court noted that;

"punitive damages are damages awarded to a plaintiff in excess of compensatory 165 damages in order to punish the defendant for a reckless or willful act."

- In this case, I find the Defendant's conduct so reckless in that she attacked the plaintiff on the class WhatsApp group and could not relent even when the plaintiff remained silent and colleagues called upon her to desist from attacking her colleague. I agree with Counsel's submission that the Defendant ought to be punished for such conduct.
- 170 I find 500,000/- (five hundred thousand Uganda shillings only) appropriate.

Costs.

Section 27(2) of the Civil Procedure Act. Section 27 (2) of the Civil Procedure Act provides that the award of costs is in the discretion of court and costs shall follow the event unless for good reasons, court directs otherwise. In the case of **Kwizera Eddie –**

175 vs- AG, SCCA No. 1 of 2008, Ekirikubinza, JSC noted that: -

"the phrase costs follow the event means that 'an award of costs will generally flow with the result of litigation; the successful party being entitled to an order for costs against the unsuccessful party. In other words, the general rule is that a successful party will be awarded costs."

180 I find no reason to deny the plaintiff costs of this case.

Therefore, I would enter judgment for the Plaintiff with orders that: -

1. **The Defendant be and is hereby ordered to pay Ugshs. 5,000,000/= (five million Uganda shillings only) to the plaintiff as general damages.**
- **2. The Defendant be and is hereby ordered to pay to the Plaintiff Ugshs. 185 500,000/- (five hundred thousand Uganda shillings only) as exemplary damages.**
- **3. The Defendant pays costs of this suit.**

I so order

Dated, signed and delivered at Kampala on the 18th day of February, 2025.

Esta Nambayo

JUDGE

18th/2/2025.

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