

UGANDA / JUDGMENT

Tibakuno Nathan James v Attorney General (Complaint UHRC 131 of 2007) [2019] UGHRC 2 (11 March 2019)

[2019] UGHRC 2

COURT

Uganda Human Rights Commission

BEFORE

Dr. Katebalirwe Amooti Wa Irumba - Commissioner

CASE / FILE NUMBER

Complaint UHRC 131 of 2007

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THE REPUBLIC OF UGANDA**THE UGANDA HUMAN RIGHTS COMMISSION (UHRC) TRIBUNAL****HOLDEN AT JINJA****COMPLAINT NO: UHRC/JJA/131/2007****TIBAKUNO NATHAN JAMES:.....**

And

ATTORNEY GENERAL:.....**BEFORE HON. COMMISSIONER DR. KATEBALIRWE AMOOTI WA IRUMBA****DECISION**

The Complainant (C), Tibakuno Nathan James alleged that on 7th December, 2007 at around 10:30 a.m., he was arrested by police officers from Kagoma Police Post on the allegation of theft and malicious damage to property and taken to Jinja Central Police Station (CPS) where he was detained until 13th December 2007 at 3.00 p.m. when he was taken to Court.

 $\mathbf{1}$

C therefore prayed to the Tribunal to order for compensation to him by the Respondent (R) for the alleged violation of his right to personal liberty.

Issues:

The issues that were to be determined by the Tribunal are:

- Whether C's right to personal liberty was violated by State agents. \$1.\$
- \$2\$. Whether R is liable for the violation.
- \$3.\$ Whether C is entitled to any remedy.

During the first hearing of this matter on 19th February 2013, Counsel for the Commission (CC) informed the Tribunal that the Commission had obtained a certified copy of the Lock-up register from Jinia Central Police Station (CPS) which indicated that C had been detained at that Police Station from 7th December, 2007 up to 13th December, 2007 when he was taken to court thus, making a total of 7 days in detention. This amounts to 5 days of illegal detention, taking into account the 48 hours or the equivalent two days allowed by the Constitution of Uganda for legal detention of suspects before they can be released on police bond or taken to court.

Considering this evidence, I urged both parties to settle this matter amicably in order to avoid wastage of public funds on hearing it. Counsel for the Respondent (RC) Kabundu Eva and C accepted my advice, and C proposed to be paid UGX. 1,500,000/= (one million, five hundred thousand shillings only) as adequate compensation for the violation of his right to personal liberty five days.

In addition, on 17th April 2014, RC Kiyingi Josephine who was then handling this matter, informed the Tribunal that having looked at the complaint file, she also confirmed that the matter was suitable for amicable settlement. She therefore took it upon herself to settle it within one month.

Furthermore, on 4th November, 2016 RC Cheptoris Sylvia informed the Tribunal that RC Josephine Kiyingi who was in personal conduct of this matter had informed her that the Solicitor General had approved the proposal for settlement of this matter. On 7th May, 2018, the said former RC reiterated the same information to confirming the Tribunal that this matter had been approved for settlement. She therefore prayed to be allowed two weeks to conclude the settlement.

Since R had agreed to settle this matter amicably and even negotiated with C and the two parties had agreed on the aforementioned amount of money for compensation, I take it that R never disputed C's allegations in this matter but rather, admitted them. There is therefore no need for me to waste the valuable Tribunal time on further litigation in this matter. Accordingly, I accept and allow the results of the negotiations carried out by the two parties.

Therefore, I award to C the sum of \$UGX.1,500,000/= (One million, five hundred thousand shillings only) as general damages in compensation for the violation of his right to personal liberty.

I therefore order as follows:

ORDERS:

- $\$1$. The complaint is wholly allowed.
- R (Attorney General) is ordered to pay to C, Tibakuno Nathan James a total sum of \$2.\$ \$UGX.1,500,000/= (One million, five hundred thousand shillings only) as general damages in compensation for the violation of his right to personal liberty.
- Interest at the rate of 10% per annum to be paid on the total sum of UGX. 1,500,000/= \$3.\$ (One million, five hundred thousand shillings only) calculated from the date of this decision until payment in full.
- Each party to bear their own costs. 4.

Either party may appeal to the High Court of Uganda within thirty (30) days from the \$5.\$ date of this decision if not satisfied with the decision of this Tribunal.

So it is ordered.

LITH
DAY OF MARCH, 2019 DATED AT JINJA ON THIS.....

SIGNED BY:

$\overline{\$4}$

DR. KATEBALIRWE AMOOTI WA IRUMBA PRESIDING COMMISSIONER

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