

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
CASE NO. HCT-CV-CS-0034 OF 2000

THE MANAGEMENT COMMITTEE OF BRIGHT
HIGH ACADEMY & 2 OTHERS PLAINTIFFS

VERSUS

THE NEW VISION PRINTING PUBLISHING
CORP. & OTHERS..... DEFENDANTS

25th August,2002

BEFORE: HON. MR. J.B.A. KATUTSI:

RULING:

The three plaintiffs sued the defendants for defamation. When the suit was called on for hearing learned counsel for the defendant raised three preliminary points of objection. I will go through these points serration.

The first point of abjection is that the first plaintiff has no locus standing to sue. It is argued for the defendants that the first plaintiff is not a legal entity and therefore has no legal capacity to bring this action. The first plaintiff is said to be “THE MANAGEMENT COMMITTEE OF BRIGHT HILL ACADEMY’. In the plaint, it is stated that this plaintiff “is the body managing the school Bright Hill Academy.” The statutory Notice of intention to sue was served by “THE BOARD OF GOVERNORS AND STAFF OF BRIGHT HILL ACADEMY.” (see annexure “L” to the plaint.) As correctly observed by learned counsel for defendants in his submission the suit is filed not by “THE BOARD OF GOVERNORS AND STAFF OF BRIGHT HILL ACADEMY” as first plaintiff but by an entity known as “MANAGEMENT COMMITTEE” Learned Counsel for the Plaintiff argues that the Board of Governors of Bright Hill Academy and “The Management Committee of Bright Hill Academy” is one and the same entity and that the

difference is mere matter of misnomer. To resolve this issue we must go to the Education Act 10/1970. Section 35 (4) provides as follows:

“(4) Every school owner shall establish for his school a Board of Governors or a management committee, as the case may be, in accordance with the regulations made under this Act by the minister.”

In their written statement of defence defendants by paragraph 2 thereof stated:

“The Defendant shall raise a preliminary objection to the effect that the plaint is bad. In law and discloses no cause of action and shall pray that it be dismissed summarily with costs on the following grounds:

- (a) The first plaintiff is not a legal person and therefore has no legal capacity to bring this action;
- (b) Even if the first plaintiff were to have capacity to sue, it is incapable of being defamed.”

The issue of deference in names was not raised. I will therefore in this ruling restrict my self to the objection raised above.

It is urged that there is no indication that the school was duly registered for it to enjoy any legal status. In the plaint it is averred that: “The first plaintiff is the body managing the school Bright Hill Academy.” The status of this Bright Hill Academy is not given. It is not stated whether Bright Hill Academy is a public or Private School. What is clear is that it was still in its infancy and not yet registered by the time complained of.

Not only that. Rule 15 of the “Education (Management Committee) Rules SI 116-5 reads as follows:

“Suits by or against a management committee, the school or the trustees of a school, if any, shall be entered into, in the name of the members of the management committee”.

While it is true that the Education Act Cap. 116 was repealed by Education Act 10/70, Section 45 (2) (a) reads as follows:

- (2) Not with standing the provisions of subsection (1) of this section,
 - (a) any statutory instrument made under the Act repealed by this Act and in force immediately before the commencement of this Act shall continue in force as if it has been made under this Act until it is revoked by another statutory instrument made under this Act”

I am not aware of nor have I been referred to another statutory instrument that revoked statutory instrument No. 1165-5. I would with respect uphold the first objection.

The second objection is that the second and third plaintiffs do not have the capacity to sue because they did not serve any statutory notice.

In reply it is intended that the statutory notice which was served on the defendants is headed

“The Board of Governors and staff of Bright Hill Academy.” I will here in reproduce the first part of this

Notice.

“NOTICE TO INTENDED DEFENDANT (under S1.1 of Act 20 of 1969)

TAKE NOTICE that the Board of Governors of the above named school intends to institute a suit against in the High Court of Uganda by which they will seek special, general and exemplary damages for defamation.” As can be seen the second and third plaintiffs do not feature here. It is the board of governors, which intended to institute a suit against the defendants. The second and third plaintiffs cannot be smuggled in using any stretch of pretext. The second objection is

accordingly upheld. There is no use in going into other legs of objection. The suit will be struck out the list with costs to the defendants. I so order.

J.B.A. Katutsi

JUDGE

25/8/2003

Katusi for the plaintiff.

Waluda for defendants.

Nabatanzi clerk.

Ruling delivered.

J.B.A. Katutsi

JUDGE