

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
CIVIL SUIT NO. 1257 OF 1997

DIFAS MUNIALO PLAINTIFF

VERSUS

1. THE EDITOR SUNDAY VISION NEWSPAPER
2. THE NEW VISION PRINTING & PUBLISHING CORPORATION
3. SEWANYO KIGANDA DEFENDANTS

BEFORE: THE HON. MR. JUSTICE R.O. OKUMU WENGI

JUDGMENT:

The plaintiff filed this case in 1997 seeking damages for defamation against the defendants. The first defendant in the Editor, the second the paper in which the publication appeared while the third defendant was sued as it later transpired, as the author of the story complained of. The plaintiff contended that in an article of the Sunday Vision of 10th August 1997 under the title “Ghost Teachers Unearthed” the publication stated that the plaintiff was such a ghost headmaster i.e. he was drawing a salary when he ought not to have been doing so. The defendants denied liability. They contended that the words were not defamatory, and, in the alternative, that the publication was privileged, and a fair comment free of malice. The following facts were agreed on namely:-

1. The publication

2. The plaintiff was employed as contended in the plaint and was on transfer
3. The plaintiff received salary at the school.

The following documents were accordingly admitted as Exhibit P.1 to P.3 that is to say:-

- (a) The Sunday Vision of 9/9/97
- (b) The letter of 23/10/96
- (c) The letter from Commissioner of Education.

Four issues were framed namely:-

- (i) Whether the publication complained of was defamatory of the plaintiff.
- (ii) Whether the publication was made in circumstances of qualified privilege.
- (iii) Whether the plaintiff suffered any damage.
- (iv) Remedies

The plaintiff gave evidence on his behalf and called one additional witness. But when it came for the defence case the defendant was unable to produce any witnesses. The case against the 3rd defendant was also dismissed leaving only two defendants. According to the plaintiff PW1, he was a long time teacher. As it turned out he had once been a distinguished headmaster of the notable Nabumali High School. in the 1990s however he had succumbed to the more humble schools like the BLK Muwonge School in Mukono District. He ran into trouble at one time facing criminal charges in the Chief Magistrates court in Mukono. In yet another set back

he had been transferred from one School to the other. But the destination School did not welcome him as the incumbent headmaster stuck on refusing to hand over to the plaintiff. The erstwhile school head became schoolless technically and in the meantime, being on the pay roll continued to draw a salary from his previous station. He narrated his ordeal as follows:-

“I retired from service two years ago. In 1997 I was a headmaster, a floating headmaster. I was not deployed as a headmaster. Yes I was a bursar in 1991 to 1996 at BLK Muwonges School in Mukono. In 1996 I was transferred to Wampewo Secondary School W.E.F I.1.1997. My predecessor did not hand over the School to me. I was rendered stationless but entitled to my salary. The Ministry of Education was clearly aware of this. I was on the computerized payroll of BLK Muwonges where I was drawing salary from.”

He went on to lament:

“My complaint is about a publication of the defendants in August to the effect that I am a ghost teacher drawing salary unlawfully... I was greatly affected... I had taught for 32 years and been Headmaster since 1973.”

In cross examination the plaintiff maintained his explanation when he said:-

“I floated as a predecessor did not hand over the school to me. But I was entitled to salary. A ghost is non-existent. I was not a ghost headmaster. I am not a ghost. I did not fleece government. I was entitled to my salary. I kept getting salary till retirement two years ago... It was not my fault that I was not rendering services. You

would be grossly wrong to say I swindled public funds. My circumstances were explainable...”

The second witness was Balam Nabuyaka who testified as PW2. He told court that the plaintiff was his headmaster at Nabumali. He told court that he was startled when he read the article referring to his idol headmaster as a ghost. He went on:-

“I was surprised because in our School Nabumali he (the plaintiff) was called “British” due to his perfect English accent and his high Caliber of training and conduct.”

From the above evidence on the record and in the absence of defence testimony I am able to say that the words complained of were grotesquely defamatory of the plaintiff. It was insensitive given that the plaintiff could but was not asked to explain himself. The story was set in the period of 1997 soon after the 1995 constitution when the idea of ghost workers had become a vulgar notoriety in public services and it was loathsome in the context of accountability by public officials be singled out as a ghost worker. Court can take Judicial notice of this. The plaintiff was unfairly labeled a ghost when he was merely a displaced serving headmaster, who was otherwise a high Caliber Education official. I am unable to agree that the words complained of were benign or that the publication was made under circumstances of qualified privilege, there being absolutely no evidence of this from Exhibit P.1. As these were the only issues framed, I would find and hold that the publication was defamatory, not privileged and that as a result the plaintiffs status in the eyes of right thinking members of society such s Nabuyaka Balam, was greatly lowered. In effect I find that the

issues have been resolved in favour of the plaintiff against the defendant. I also find that the plaintiff suffered damage and the publication was not without a tinge of malice that painted the plaintiff in terms of a degenerate. It also depicted him as a renegade head teacher in his latter life given to indecent, unprofessional and unethical conduct.

Considering the circumstances of this case and the pain visited on the retired plaintiff who had given his lifetime to the Education of Ugandans I award him the sum of shs 6,000,000 as a modest form of atonement to his injured character and status. I thus enter Judgment for the plaintiff against the defendant for

- (i) Shs 6,000,000 (6 million) as general damages.
- (ii) Interest on (i) at 12% from the date of filing till settlement in full.
- (iii) Costs of this suit.

R.O. Okumu Wengi

JUDGE

10/9/2004.