

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE NYANYA JUDICIAL DIVISION
HOLDEN AT NYANYA ON THE 31ST DAY OF MAY, 2021 VIA ZOOM
BEFORE HIS LORDSHIP, HON. JUSTICE U. P. KEKEMEKE

SUIT NO.FCT/HC/CV/577/15

COURT CLERK: JOSEPH ISHAKU BALAMI & ORS.

BETWEEN:

CHIKA CHUKWUMERIJE.....CLAIMANT

AND

- 1. ADEYEMI ENILARI ADEYEMI
(a.k.a Yemi Adeyemi Enilari)**
- 2. REGISTERED TRUSTEES OF DELATEURDEFENDANTS
YOUTH EMPOWERMENT & SOCIAL
DEVELOPMENT FOUNDATION
(a.k.a Delateur Foundation)**

JUDGMENT

The Claimant's Writ of Summons and Statement of Claim filed on the 22/12/15 against the Defendant is for the following:

1. A declaration that the imputations contained in the letter dated the 5th day of October 2015 and published by the 1st Defendant in this suit is false, malicious, baseless, frivolous and therefore libelous.

2. An order directing the 1st Defendant to retract the said libelous material and statement therein as contained in the letter dated 5/10/15 and also proceed to tender unreserved apology vide a publication in 2 widely circulated National Dailies to wit: This Day Newspaper and Daily Trust and 1st Defendant's Facebook page.
3. An order directing the Defendants to pay Claimant the sum of (N500,000,000.00) Five Hundred Million Naira jointly and severally as general damages.
4. N2 Million as cost of litigation.

The Defendants were served with the Writ of Summons, Statement of Claim and all other processes. The Defendants filed a Statement of Defence and Counter Claim dated 13th day of May 2016 wherein they counterclaim as follows:

- (1) An order awarding the sum of N1 Billion Naira only in favour of the Defendants/Counterclaimants against the Claimant/Defendant to Counterclaim for emotional trauma and injury occasioned by his reprehensible conduct.

In proof of his case the Claimant called four witnesses. The resume of the case as garnered from the Claimant and the three other witnesses whose evidence is a replica of the others except the Claimant is that on or about the 11th day of October 2015, the 1st Defendant published on Nigeria Taekwondo Black Belt College Facebook page a letter dated Monday 5/10/15 purportedly addressed to “President, Nigeria Taekwondo Federation” concerning the Claimant with the caption “PETITION: Abuse and Assault of Taekwondo Athletes”. That the publication attracted hate, ridicule and contempt to the personality of the Claimant as could be gleaned from the comments of over 39 persons who read same. That the content of the letter are false.

That at the Taekwondo Team Camp held at Febson Hotel, Wuse Zone 4 Abuja, the Claimant was diligent, friendly and offered selfless trainings with his versatile knowledge and experience in Taekwondo. That Claimant deployed his personal equipment to improve athletes’ fitness levels. That throughout camping

period, there was no chaos or any act of violence amongst the athletes or any person.

Claimant's Witnesses claim to have read the 1st Defendant's publication which they claim to be false. They deny that the Claimant abused any athlete mentally or psychologically throughout their stay in camp. That Claimant is a good man and of unquestionable character and firm.

The Claimant tendered Exhibit A & A1.

Exhibit A – The Facebook page of Nigeria Taekwondo Black Belt College containing the Petition complained of, posted by Yemi Adeyemi, the 1st Defendant addressed to the President Nigeria Taekwondo Federation. The Defendants also opened their Defence and called five witnesses.

In summary, the evidence of the Defence is that the 1st Defendant is amongst others a martial artist and took up taekwondo in 1984. He was the PRO of the Nigeria Taekwondo Black Belt College of Nigeria now the Secretary-General of the college. That 2nd Defendant is an NGO whose objectives are to

empower youth development and the promotion of social reforms. It is a voice of the voiceless. It is involved in advocacy campaign against injustice. The 1st Defendant was described in evidence as a father figure to young athletes. The 1st Defendant who is PW4 admitted posting a Petition Exhibit A on the Facebook page of the Taekwondo Black Belt College to allegedly keep members of association abreast of the happenings within the association. That the contents of the said Exhibit A are true. That the Claimant's conduct was disclosed to him by DW3 Temitope Ayodele who was in camp. That a call was put through to the Claimant to ascertain the veracity of the report but he rebuffed same. PW4 was in camp and was the male captain of the 1st week in camp when the Taekwondo Team was at Febson Hotel, Wuse Zone 4, Abuja in preparation for the 2015 All African Games.

That on more than one occasion during training sessions, he saw Claimant slap DW1 who is the current National Chairman of the Female Bancan Weight division. That he equally saw the Claimant slap Esther Uzoukwu on a number of occasions during

the training sessions in the Abuja Camp. He reported same to the Secretary General of the Nigeria Taekwondo Federation PW5 who promised to look into the matter.

DW1 in her evidence said on the 17th, 18th, 19th and 20th of August 2015, the Claimant slapped her during training sessions. That it was habitual so she developed phobia for him. That one occasion two of the coaches Victor and Malik cautioned him but he persisted. When asked by DW5, she confirmed the receiving of the slaps from Claimant. That a disciplinary committee was set up. She was not available but her testimony was recorded on phone.

DW2's evidence is that she was also in camp during the preparation for the All African Games 2015. That Claimant was in the habit of hitting her with excessive force when he gave routine instructions during training sessions. It was not anything like any of the training sessions she had encountered. She remembered the event of 17th August 2015 because the Claimant attempted to hit her with an iron rod but one Master Tony

Anafulua coach intercepted him. She was severely impacted by the slaps. She received a call from the DW5 to give evidence before the Disciplinary Committee. She sent it by e-mail and whatsapp message because she had returned to School.

The DW5, a subpoenaed witness was the Secretary General of the Nigeria Taekwondo Federation. He received a report of the slapping of athletes in camp from DW4. He called the Claimant who was allegedly doing that. The Claimant came and said it was because the athletes were not disciplined and that the coaches were not doing their job and that he meant no harm. That he was trying to bring sanity to the camp. He reported to the President of the Federation who said he did not want any distraction. That the Lagos State Taekwondo Association also complained about assault on their athletes. That the matter was referred to the Disciplinary Committee and they sat on it. The Claimant was invited but he did not attend. They took evidence from the Complainant and did a report to the Ministry.

That DW1 & DW2 confirmed that Claimant slapped them. The report of the Disciplinary Committee on the case of assault is

Exhibit C. He stated that the conclusion of the report is that the Claimant committed the acts complained of and that he should be suspended for three months from all Taekwondo activities.

The Defendants' Counsel adopted his Final Written Address dated 25/02/21. He raised two issues for determination:

- (1) Whether having regard to the totality of the evidence led and the circumstance of this case, the words complained of by the Claimant are defamatory?.
- (2) Whether the Defence of justification and Qualified Privilege avails the Defendants in this case?.

Learned Counsel submits that from the totality of evidence led by the Claimant's Witnesses, he has failed woefully to prove by preponderance of evidence that the words complained of in their ordinary and natural meaning were defamatory of him or that the Defendants lowered his esteem in the eyes of right thinking members of the public. That throughout the entire trial, the Claimant failed to call a Third Party to give evidence of the publication and his or her reactions to same. The Claimant

failed to call a witness to show that as a result of the Defendant publication (Exhibit A) he or she has begun to think less of the Claimant.

He argued that PW1 – PW4 are not Third Parties envisaged by law. The Claimant also failed to lead evidence to prove that Exhibit A is defamatory and that it lowered him in the estimation of right thinking members of the public. He urges the Court to resolve the first issue in his favour.

On issue 2, Counsel argues that the Defence of Justification is a complete defence. He urges the Court to dismiss the Claim.

The Claimant's Counsel also adopted his Final Written Address dated 19/01/21. The two issues raised in the said final address are same as raised by the Defence.

Learned Counsel submits that Exhibit A and the comments thereto amount to the Defamation of the person of the Claimant. That Exhibit A clearly shows that its publication and comments

from people that read same exposed the Claimant to hate, opprobrium, odium and has lowered his estimation in the eyes of right thinking people in the society.

I have also read the Defendants' reply on point of law. The High Court of the FCT (Civil Procedure) Rules 2018 does not provide for Counterclaimant's Final Written Address or Claimant's reply to Counterclaimants Final Written Address etc. They are a surplusage. They are accordingly discountenanced.

The issues for determination as canvassed by parties are:

- (1) Whether by the totality of evidence the words complained of by the Claimant are defamatory.
- (2) Whether the defence of justification and Qualified Privilege avails the Defendants in this case.

I shall reproduce Exhibit A, the publication complained of, which is the crux of this action:

“Monday 5th October, 2015

The President,

Nigeria Taekwondo Federation,

Federation Office,
National Stadium,
Surulere – Lagos,
Attn: Mr George Ashiru

Dear Sir,

**PETTITION: ABUSE AND ASSAULT OF TAEKWONDO
ATHLETES.**

We are a registered non-profit making organization in Nigeria amongst other things, our activities are the following:

Youth empowerment

Youth development

Social reforms and social development.

Leading to the just concluded African Games at Congo Brazzaville, during the camping of Taekwondo athletes in Abuja, we have reports of some female athletes who were physically abused and assaulted while some more (all athletes names withheld) were both mentally and psychologically abused by Chika Chukwumerije. Some athletes reported the abuse to some of the Federation's representative and coaches who could

neither address nor arrest the situation, instead the abuse and assault increased after the initial complaint and report.

The Chairman of our organization Mr Yemi Adeyemi-Enilari made a personal call to Mr Chukwumerije on Monday 21st September at about 07.55 hrs (local time) who responded when asked about the allegations that “the athletes should write to the (National Sports Commission) NSE”. Mr Chika Chukwumerije seems to believe that there is nothing that can be done and with reports that, that camping was not the first time he will be physically assaulting athletes especially females. We implore you and your board to look into this matter with utmost seriousness with a (view) to eradicating abuse of our national heroes by anyone who may feel like ‘an untouchable’. Because Mr Chika Chukkwumerije is a Board Member of the NTF, Assistant National Technical Adviser and Athletes Representatives all at the same time. It may appear that he can do anything with regards to these athletes and get away with it because he can victimize them and influence them not (being) picked for future tournaments, which was visible from the

selections of athletes to the recently concluded African Games 2015.

Mr President (NTF) you have been a former national and international athlete yourself and you know when such treatment can do to the psyches of these young Nigerians not just as athletes but as humans in general as well as their development N.B. concerned athletes names are being withheld (for now) because of fear of reprisal attacks, stigmatization and victimization, also the names of officials to whom complaint were initially made and laid are withheld for now also. We assure you that if this matter is not looked into and properly addressed, we shall escalate it.

Yours faithfully

Signed

Yemi Adeyemi-Enilari

Chairman: Delateur Foundation.

Cc. DG. National Sport Commission

Cc. National Human Right Commission”.

I have also read the comments that followed the post reproduced above. The gravamen of the Petition is crystal clear. It is against the Claimant. It complained of the assault on athletes in camp. That they were psychologically and mentally abused.

Libel as alleged in this case is any written or printed words which tend to lower a person in the estimation of right thinking men or cause him to be shunned or avoided or expose him to hatred, contempt or ridicule. The publication posted on facebook by the Defendant in this case was not denied. The 1st Defendant admitted posting same.

However, a libel for which an action will lie is a false and defamatory statement made or conveyed by printed or written words or in some permanent form published of and concerning the Claimant to a person other than the Claimant without careful justification or excuse which tend to injure him in his business or profession.

In *GUARDIAN NEWSPAPERS LTD & ANO VS. AJEH (2011) LPELR (1343) SC.*

The Supreme Court held that the essential ingredients of libel are:

- (1) The words complained of must have been written.
- (2) The publication must be false.
- (3) The words must be defamatory or convey defamatory imputation.
- (4) The words must refer to the Claimant.
- (5) It must be the Defendant who published the words.
- (6) The onus is on the Claimant to prove he was the one referred to in the alleged libel.

There is no doubt in the instant case, that the words complained of are written and posted on the facebook page of Nigeria Taekwondo Black Belt College by the 1st Defendant.

I have read the words complained of and the comments that ensued. The Claimant evidence is that the publication attracted hate, ridicule and contempt to his personality. That the publication is false and not true. The Claimant's Witnesses's evidence is that they read the publication. That it was merely

fabricated to injure the Claimant's good reputation. That it was fictitious, untrue, baseless and malicious. The words complained of are capable of lowering the Claimant in the estimation of right thinking men or cause him to be shunned or avoided or to expose him to hatred, contempt or ridicule or convey an imputation on him disparaging or injurious to him in his office, profession or calling.

This could be seen from the comments of some calling for a boycott of tournaments or seminars organized by the Claimant. There is also evidence that the Lagos State Taekwondo Association also wrote boycotting some events organized by the Claimant. It is therefore clear that the words are defamatory. The law is that the Plaintiff must first establish that the alleged libel was published to a third person namely to some persons other than the Claimant himself as publication is the foundation upon which a cause of action in libel is based.

The Defendants Counsel argued that the Claimant's witnesses are his professional colleagues in the Nigeria Taekwondo

Federation and that the said witnesses would ordinarily have a compromised point of view of the Claimant. That the Claimant is expected to call someone outside his professional circle as a third party to discharge the burden placed on him by law. That the Claimant having failed to call someone outside the professional circle, he has failed to prove that the publication was made to a third party who are ordinary and right thinking members of the public.

I disagree, with due respect to Learned Counsel to the Defendants. The Witnesses in my humble view are members of the society. There is nothing to suggest that they cannot think rightly. A third party means any other person aside the Claimant.

In the circumstance the witnesses qualify as third person or party whose assessment or opinion can weigh or determine the question whether the Claimant's reputation has been lowered in their eyes.

On whether the words refer to the Claimant. There is evidence on both sides to the effect that the words refer to the Claimant. The Defendants admitted same. The words complained of also boldly mentioned the name of the Defendant. Exhibit A was also posted on the facebook page of the Nigeria Taekwondo Black Belt College by the 1st Defendant. He admitted referring to the Claimant.

The final question to be resolved is whether the words complained of are false. The Claimant's witnesses testified in evidence and said they are false, fabricated and fictitious. That there was no chaos in camp. That the Claimant did not assault anyone. That the Claimant was a selfless and good person. The Defendant testified and said the publication he made was as a result of reports he got from the athletes who were assaulted. That he reached the Claimant on phone who rebuffed him and said they should direct their Petition to National Sports Commission. He therefore forwarded a Petition Exhibit A to the President of the Nigeria Taekwondo Federation and posted same on the said facebook page. He called DW1 & DW2 who were

the athletes assaulted. They gave evidence of how they were assaulted.

DW3 is a captain of one of the teams who witnessed the assault. He also gave evidence. The DW5 is the Secretary-General of the Taekwondo Federation at the time. He said he received the report of the assault on the athletes. That a disciplinary committee was set up. The Claimant failed to appear but the DW1 & DW2 gave their testimony. Exhibit C is the report/findings of the disciplinary committee. The conclusion of the report is that the Claimant committed the assault. That Claimant should apologise to the athletes including the Taekwondo Community for assaulting female athletes.

2. Where he fails to do so, he should be suspended from all Taekwondo activities for 3 months.

From the foregoing, it could be deduced that the Exhibit A published of the Claimant is true.

The Defence of justification which the Defendant put up in this case means that the alleged defamatory statement is true. The law is that when such a Defence is raised, the burden is on the Defendant to prove the truth of the words complained of. The Defendant must prove that the defamatory imputation is true by justifying the precise imputation complained of. It is not necessary to prove the truth of every word in the libel. If the Defendant prove, that the main charge or gist of the libel is true, he needs not justify the statements which do not add to the sting of the charge.

See *DUMBO VS. IDUGBOE (1983) 1 SC NLR 29*.

The gist of the charge as contained in the alleged libelous publication Exhibit A is that the Claimant assaulted athletes who were in camp at Febson Hotel preparatory to the All African Games in Congo Brazzaville. That they were psychologically and mentally traumatized.

A justification of the truth of the substantial imputation by the Defendant is sufficient though it does not extend to every epithet

or term of general abuse that may be found in the description or statement of the imputation.

In the instant case, it is my view that the Defendants have justified the precise imputation complained of and I so hold. The Defendants have proved that the gist of the libel is true.

In the circumstance, the suit crumbles and it is accordingly dismissed.

The Defendant filed a counterclaim on the ground that the it is the failure of Nigeria Taekwondo Federation, National Sports Commission and Federal Ministry of Youths and Sports to address its complaint that led to the institution of this suit. That the suit would have been unnecessary if the above organization had dully investigated the complaints against the Defendant to counterclaim.

I have read the totality of the counterclaim. It is basically directed against the Nigeria Taekwondo Federation, the National

Sports Commission and the Federal Ministry of youth and sports. They are necessary parties. They are not parties to this suit. The Counterclaimant has a duty to bring before the Court all parties whose presence are crucial to the resolution of the case and failure to do so, the action is liable to be struck out.

See *ADISA VS OYINWOLE (2000) 6SC (PT.11) 47.*

The rule is that persons against whom complaints are made in an action must be made parties to the suit.

See *MOBIL OIL PLC VS. D E N R LTD (2004) 1 NWLR (PT. 853) 42.*

Aside the above, the averment contained in the counterclaim are not proved. There is no iota of evidence by the Defendant suggesting that he suffered any injury as a result of the failure of the said bodies to investigate the complaint contained in Exhibit A. The counterclaim also lacks merit. It is frivolous, time wasting, rootless and hollow. It is dismissed.

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HON. JUSTICE U.P. KEKEMEKE

(HOH. JUDGE)

31/05/2021