

CASE DIGEST

TORT – LIBEL; PUBLICATION MUST BE ESTABLISHED FOR THE TORT OF LIBEL TO SUCCEED

STANDARD CHARTERED BANK NIGERIA LIMITED v. DANJUMA AMEH

SUPREME COURT OF NIGERIA

(*ARIWOOLA; ABBA-AJI; GARBA; OSEJI; AGIM, JJ.SC*)

Danjuma Ameh (Respondent) was an employee of Standard Chartered Bank Nigeria Ltd. (Appellant) for several years. Due to his dedication, he was recognised and promoted consistently. However, the Appellant received a number of complaints from some of its customers alleging that there were unauthorized withdrawals from their accounts, which prompted the Appellant to carry out both internal and external investigations of the fraud complained of by its customers. The Appellant further reported the fraud to the Economic and Financial Crimes Commission and also appointed Messrs Nazif West as a consultant to investigate and recover the withdrawn fund on its behalf. The investigations led to the Respondent as the person who gave approval for the execution of some of the unauthorized mandates complained of by a customer of the appellant. Consequent to the above, the appellant called on the Respondent who made a statement to explain the extent of his participation in the alleged fraud, of which he was further issued a query. Subsequently, the Respondent by a Writ of Summons and Statement of Claim, claimed for libel against the Appellant. The Libel was said to be contained in the letters written by the Appellant to its security consultant Messrs Nazif West which were published to a third party, the managing director (MD) of Lona Global Resources Ltd., and that the said letters portrayed the Respondent as a fraudster and a common criminal, thereby severely injuring his credit, character and reputation and had been brought into scandal, odium, ridicule and contempt. The Appellant in its defence pleaded the defence of qualified privilege. At the end of the trial, the trial court entered judgment in favour of the Respondent against the Appellant. The Appellant dissatisfied with the decision of the trial Court appealed to the Court of Appeal and its appeal was dismissed. Still aggrieved, the Appellant further appealed to the Supreme Court. One of the issues for determination is *Whether the lower court was right to affirm that the tort of libel was proved against the appellant.*

Learned Counsel for the Appellant argued that the words in the exhibits (as set out) are not libellous because they are not conclusive or calculated to lower or injure the reputation of the Respondent, since they were made to the Appellant's consultant investigator to investigate fraudulent withdrawals from accounts of some customers and the Respondent confirmed two (2) of the cheques relating to the withdrawals. Further, the information contained in the exhibits from the Respondent was a report of the fraudulent withdrawals to the Economic and Financial Crimes Commission (EFCC) for investigation which the Respondent did not deny and that it was harmless in that it was a statement from the knowledge of the Respondent by the appellant; his employer, which was not conclusive but merely sought for further investigation as to the source of the funds in the Respondent's account with Stanbic IBTC. Learned Counsel on this note, submitted that the tort of libel cannot be proved without admissible evidence of publication of the words complained of to the third party by the defendant and mere authorship does not constitute libel.

Counsel to the Respondent on the other hand stated that the words contained in the appellant's exhibits are libellous of the respondent, and subsequently submitted that the lower court is right that the words were libellous and published by the appellant to a third party, which was admitted by the appellant's sole witness at the trial court.

In resolving the issue, the Supreme Court held that:

The mere authorship of the words, without more, does not constitute or amount to the tort of libel. That even if the words contained in the exhibits could be said to be libellous or defamatory of the Respondent in their ordinary and plain meaning and in the circumstances, they were written, for the Respondent to succeed in the claim, he has to prove that they were published to a third party by the Appellant and nobody else. Without proof of publication, the claim for the tort of libel cannot stand and will fail in law. Publication is the life wire of an action in libel or defamation as it is what gives a cause of action and without which, there can be no foundation for the action. For It is the publication of the libellous or defamatory words/statement to a third (3rd) party other than one plaintiff, that will determine what opinion or estimation such a third (3rd) party will have of the plaintiff on the basis of the words/statement communicated to him, by the defendant in the action.

Issue resolved in favour of the Respondent.

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