

IN THE FEDERAL COURT OF APPEAL
IN THE KADUNA JUDICIAL DIVISION
6TH NOVEMBER, 1978. FCA/K/27/78
CORAM:- S. J ETE, M. L. UWAIS, A. ADEMOLA, JJCA

MRS. MWADA MSHELLIA APPELLANT
AND
1. GIDEON G. BARDE RESPONDENTS
2. PLATEAU PUBLISHING CO.

DEFAMATION - Libel - Determining whether a publication is libellous
- The principle is that the article must be read as a whole.

DEFAMATION - Libel - A sentence in a publication may be considered
defamatory - But other articles may take away its sting - The article in
issue in this case read as a whole is not defamatory.

FACTS

The plaintiff/appellant, a teacher, filed an action for libel against the defendants/respondents. The libel was said to have been contained in an article in the Nigeria Standard Newspaper of 19th June 1976, captioned "School Teacher Sacked". The article stated that the appellant was sacked "for negligence of duty" and that she was found "to be incompetent in the discharge of her duties." At the trial, the appellant who called two witnesses, testified and admitted that her appointment as a teacher was terminated because she was negligent of her duty. Appellant's main complaint was that the article described her incompetent as a teacher.

The trial court held that if read as a whole the article was not libellous of the appellant. Appellant then appealed to the Court of Appeal against the trial Court's decision;

ISSUE FOR DETERMINATION

Whether the paragraph of the newspaper report that referred to the appellant as incompetent should be read in isolation of the rest of the article.

HELD (Unanimously dismissing the appeal per judgment of the Court delivered by **UWAIS JCA**)

Determining whether a publication is libellous

1. The principle for interpreting whether a publication is libellous is that the article including the caption must be read as a whole so that the context of the words complained of may be determined: See Nevill v. Fine Arts and General Insurance Co., (1897) A.C. 68 at 72 and 78. (p. 522 C)

Libel - A sentence in a publication

2. A sentence in a publication may be considered defamatory but there may be other passages which take away its sting: See English and Scottish Co-op. Ltd v Odhams Press Ltd (1940) 1. KB 440 at 452. We agree with the learned trial judge that the article read as a whole cannot be construed to be defamatory of the appellant. (p. 522 D)

REPRESENTATION

Ibrahim Hamman for Appellant.

1st Respondent not represented.

2nd Respondent not represented.

CASES REFERRED TO

Nevill v. Fine Arts and General Insurance Co., (1897) A.C. 68 at 72 and 78

English and Scottish Co-op Ltd v. Odhams Press Ltd (1940) 1 . KB 440 at 452

JUDGMENT DELIVERED BY UWAIS JCA

This appeal was heard on 19th September, 1978 when it was dismissed and we reserved our reasons for doing so. We now give the reasons.

The appellant who was a teacher brought an action for libel in the Plateau State High Court, Jos against the 1st and 2nd respondent who

were the editor and publishers of a newspaper "The Nigeria Standard" respectively. The libel was said to have been contained in an article in the Nigeria Standard issue of 19th June, 1976, which was captioned "School Teacher Sacked." The article read:-

"A Primary School Teacher with the Kobi Primary School Bauchi, Mrs. Mwada Mshellia has been sacked by the Bauchi Dass Local Education Authority recently for negligence of duty. This was disclosed to The Nigeria Standard by Education Secretary, Alhaji Aliyu Bununu in Bauchi. The sacked teacher, Alhaji Aliyu said, was found busy outside her classroom during official hours, while the children were busy playing inside the classroom.

He revealed that Mrs. Mshellia who was on a temporary appointment with the Bauchi L.E.A. had been found to be incompetent in the discharge of her duties. He warned that he would not hesitate to terminate the appointment of any teacher found to have neglected his or her duty."

Before the lower court the appellant testified and admitted that her appointment as a teacher was terminated because she was negligent of her duty. She called two witnesses one of whom was her husband. He said that when he read the article in The Nigeria Standard he became surprised that she was sacked for negligence and incompetence and he began to wonder if she went to college before he married her. The other witness, Daniel Gwallam, gave evidence to the effect that when he read the article he was shocked that she was found to be incompetent and as a result of the article he "lost confidence in her." He then came to regard the appellant as a person who got her certificate from unrecognized institute. He also thought that she might have obtained her certificate illegally or by cheating.

The gravamen of the appellant's complain at the trial was that the article described her incompetent as a teacher. The learned trial judge held that the article was not libellous of the appellant because if read as a whole no reasonable person would ascribe to it any defamatory meaning as alleged by the appellant and her witnesses.

The main argument canvassed before us by the learned counsel

for the appellant is that the paragraph of the newspaper report that referred to the appellant as incompetent should be read in isolation of the rest of the article and if this is done, the allegation of incompetence which is actionable per se was established and it follows that the respondents bore the onus of disproving the action. He then submitted that the learned trial judge misdirected himself for failing to hold that the appellant was defamed.

The learned counsel did not quote any authority to show that the paragraph of the article containing the allegation of incompetence ought to have been read in isolation of the rest of the article. **The principle for interpreting whether a publication is libellous is that the article including the caption must be read as a whole so that the context of the words complained of may be determined: See Nevill v. Fine Arts and General Insurance Co., (1897) A.C. 68 at 72 and 78. A sentence in a publication may be considered defamatory but there may be other passages which take away its sting: See English and Scottish Co-op. Ltd v Odhams Press Ltd (1940) 1. KB 440 at 452. We agree with the learned trial judge that the article read as a whole cannot be construed to be defamatory of the appellant. It is for these reasons that the appeal failed and it was dismissed.**

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