

CC 247/11

2011

B.

NO.9

IN THE HIGH COURT OF SIERRA LEONE

(GENERAL CIVIL DIVISION)

BETWEEN:

ARNOLD BISHOP GOODING

- PLAINTIFF

AND

MI KYUNG PARK

- DEFENDANT

Counsel:

MR. A. BISHOP-GOODING Esq. Plaintiff in person

MR. J.B. JENKINS JOHNSTON Esq for the Defendant

RULING DELIVERED THIS 12th DAY OF December 2012 BY
HONOURABLE MRS. JUSTICE V.M. SOLOMON J.A.

RULING

The Plaintiff's claim against the Defendant is for the following to wit:-

1. The sum of US \$15,300/00 or the equivalent of Le 67,320,000/00 being damages for breach of contract to drill and produce 15000 liters of clean water per day at the residence of the Plaintiff.
2. The sum of US \$ 11,200/00 or the equivalent of Le 49,280,00 paid by the Plaintiff being the costs of purchase of alternative supplies of clean water.
3. Interest thereon at the rate of 30% per annum from date of writ until payment or judgment.

The Defendant entered an appearance on 23rd November 2011 and filed a defence on 9th December 2011. The Plaintiff thereafter filed summons for Directions on the future conduct of this matter and directions given by order of court dated 25th January 2012. The Plaintiff complied with the order for directions but the Defendant failed to comply. Consequently the Plaintiff filed Motion Paper dated 3rd July 2012 in which he is seeking the following orders:

1. An order that the Statement of Defence herein be struck out and Judgment for the Plaintiff be entered accordingly and the costs of this application be cost in favour of the Plaintiff.
2. Any other order that the court may deem fit.

In support is the affidavit of the Plaintiff. There is no affidavit in opposition. Adjournment was granted to enable counsel reply to the submissions of Mr. Gooding but due to his non-appearance the court withdrew the file for ruling.

Mr. Gooding relied on the affidavit in support and urged the court to grant judgment on his claim. The present application is for defence to be struck out and judgment to be entered in favour of the Plaintiff. Upon the Plaintiff's application by summons, this court gave several directions on the future conduct of this matter. The summons was relisted for further hearing to Thursday 16th February 2012. Since that time the Defendant has failed to comply with the order of court. By Plaintiff's letter of 18th June 2012, the Defendant was reminded to forward documents intended for use at the trial. By Defendants Solicitor by Letter dated 19th June 2012 the Defendant stated thus:

"Please accept my apology for the delay in filing the said documents. I was still trying to see if this matter could be settled.

However I assure you that the document will be filed by Friday 22nd June 2012 without fail although I shall still continue to explore a possible settlement".

In spite of the aforesaid, the deadline of Friday 22nd June 2012 had past and the Defendant up to now has not filed its documents for use at the trial. This court is empowered by Order 28 Rule 2(5) of the High Court Rules 2007 (hereinafter called "The Rules") to order that the action be dismissed or defence be struck out and judgment entered accordingly.

In the premises after consideration of the documents presented by the Plaintiff and the period of time during which this order of court was not complied with, it is evident that the Defendant does not wish to pursue her defence. I hereby enter judgment for the Plaintiff, the defence is struck out, with costs assessed at Le5,000,000/00.

V.M. Solomon

HON. JUSTICE V.M. SOLOMON JA