



IN THE HIGH COURT OF SIERRA LEONE
LAW COURTS BUILDING
SIKA STEVENS STREET

CC 94/18

AL
AGRICULTURE PRODUCTS

PLAINTIFF

AND

SAHID KOROMA & ANOR.

DEFENDANT

REPRESENTATION:

ALHAJI M. KAMARA ESQ.

COUNSEL FOR THE PLAINTIFF

C.F. MARGAI & ASSOCIATES.
(ROBERT B. KOWA ESQ.)

COUNSEL FOR THE DEFENDANT

BEFORE THE HON. MR. JUSTICE SENGU KOROMA JA.
RULING DELIVERED ON 3RD JULY, 2018

1. This is an application by way of notice of motion dated the 1st day of June, 2018 filed for and on behalf of the defendant herein for the following orders:-
 - 1) That the National Commission for Privatization be added as a defendant in this action.
 - 2) That the Attorney-General and Minister of Justice be added as Defendant.
 - 3) That the Ministry Of Lands, Country Planning and the Environment be joined as defendant,
2. At the hearing of the application, the Defendant/Applicant (hereinafter referred to as the "Applicant") uses the affidavit in support sworn to on the 12th day of June, 2018 with the exhibits attached thereto.
3. The relevant part of the affidavit is found in paragraphs 5 thereof in which the deponent states that the substratum of the matter is to evict the Applicant from the premises occupied by them as the Plaintiff/Respondent (herein after referred to as the "Respondent") is now claiming freehold title to the said land; paragraph 6 that the plaintiff is a mere lessee and the property is owned by the state. The deponent further avers in paragraph 7 that the best purpose of justice will be served if all the relevant parties that will help the court to have a full and frank disclosure of the land transaction are joined as Defendants to this action.
4. In his oral submission, R.B Kowa Esq. for the Applicant states that the application is made pursuant to Order 18 rules 4 sub rules 1 of the High Court Rules, 2007.
5. The Respondent opposes the application and relies on the affidavit in opposition sworn to on the 18th June, 2018. In the said affidavit, the deponent exhibits A E B ¹⁻² which are copies of the conveyance and contract of sale in respect of the subject matter of this action.

6. By that sale, he deposes, the NCP is functus of the property. He further avers that both the Attorney-General and Minister of Justice and Minister of Lands, Country Planning and the Environment (MLCPE) are strangers to the property. The deponent avers that this application is a deliberate attempt to delay the action and consequently deprive the Respondent from enjoying his property.
7. In his oral submission, A.M. Kamara Esq. Counsel for the Respondent argues that the Court will only entertain an application for joinder of parties where those parties have an interest in the matter. For this, he refers the Court to Order 18 rule 6 sub rules 3 of the High Court Rules, 2007. Mr. Kamara submits that the property has been sold to the Respondent by Exhibit AB 1-2 by the National Commission for Privation (NCP) by way of divestiture. He refers to Section 2 of the Interpretation which gives a definition of divestiture and the NCP Act, 2002 which lists the names of companies slated for divestiture, which includes the Sierra Leone Produce Marketing Board which owned P.K Oil seed mill. Mr. Kamara also refers this Court to Sections 19 and 20 of the NCP Act.
8. Counsel for the Respondent concludes that the High Court Rule referred to by his colleague has nothing to do with this application.
9. In determining this matter, I have taken into consideration that in the affidavit in support, the Applicant agrees that the Respondent is a Lessee of the said property but exhibits nothing to show that the said Applicants are lawfully on the land. A perusal of Exhibits AEB 1-2 reveals that the transaction between the Respondent and the NCP is one of outright sale and not a lease as the Applicant is alleging. I therefore agree with Counsel for the Respondent that the NCP, the Attorney-General and the Ministry Of Lands, Country Planning and the Environment have no relevant role to play in this matter.
10. I have also perused Exhibit RBK 2, the Amended Statement of Defence and Counterclaim, and I note that in the said counterclaim, the Applicant is

praying that the Respondent abides by the original agreement to sell that portion of the land occupied by the Defendants to carry on their business. This further show that the title of the Respondent in the said land is not in dispute.

11. In the circumstances, adding the intended Defendants as parties will only complicate a simple and straight forward case. I will stop at this point to avoid making a comment that will prejudice the substantive matter.
12. The second issue I have to consider is the scope of Order 18 Rule 4 subrule 1 of the High Court Rules relied on by R.B. Kowa Esq.
13. Order 18 Rule 4 sub-rule 1 provides as follows:-
 - “subject to sub-rule (1) of rule 5 two or more persons may be joined together in one action as Plaintiffs or as Defendants without the leave of the Court or where-
 - (a) If separate actions were brought by or against each of them, as the case may be, some common question of law or fact would arise in all the actions; and
 - (b) All rights to relief claimed in the action (whether they are joint, several or alternative) are in respect of or arise out of the same transaction or series of transactions.
14. Counsel for the Respondent in arguing that the intended Defendants have no interest in this matter refers to Order 18 Rule 6 sub-rule 3 which provides that:-
 - “any application by any person for an Order under sub-rule (2) to add that person as party shall be made by motion supported by an affidavit showing the person’s interest in the matter in dispute before or at the trial.”
15. I agree with him. The Applicants have not established the interest of the intended Defendants in this matter. The property has been divested through sale by the NCP which is authorised by virtue of Part V, Sections 19

and 20 of the NCP Act, 2002, more particularly Section 20 (1)(a) in this case. This subsection provides that "for loss making public enterprises engaged in production, the divestiture shall be by outright sale without any further capitalization.

16. The subject matter of this action was a loss making subsidiary of the SLPMB and so it was out rightly sold to the Respondent herein following the laid down procedure in the NCP Act. After that sale, the government of Sierra Leone ceased to have any interest in that asset and thus cannot serve any useful purpose in making them parties. If the Applicants believe they have a valid legal relationship with the intended Defendants, they are presumed to know the steps to be taken.

In the circumstances, I Order as follows:-

1. Application for leave to add the National Commission for Privatization, the Attorney-General and Minister of Justice and the Ministry of Lands, Country Planning and the Environment as Defendants in this action is refused.
2. No Order as to costs.



Hon. Mr. Justice Sengu M. Koroma JA