



REPUBLIC OF KENYA  
IN THE COURT OF APPEAL  
AT NAIROBI  
(CORAM: TUNOI, BOSIRE & OWUOR, J.J.A)  
CIVIL APPEAL NO. 74 OF 1999  
BETWEEN

KAMAU JOHN KINYANJUI ..... APPELLANT  
AND  
K. MWENDIA & 4 OTHERS

(Sued as Trustees of Parklands Sports Club) ..... RESPONDENTS  
(An appeal from the Judgment of the High Court of Kenya at  
Nairobi (Mr. Justice O'Kubasu) dated 25th February, 1999

in  
H.C.C.C No. 1204 of 1996)

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JUDGMENT OF THE COURT

This is an appeal by the unsuccessful plaintiff from the judgment of the High Court of Kenya at Nairobi (O'Kubasu, J as he then was) given on 25th February, 1999. By it the court ordered that the plaintiff's suit against the defendants, Messrs K. Mwendia and four others sued as Trustees of Parklands Sports Club be dismissed with costs.

The plaintiff is a known city advocate while the defendants are trustees of Parklands Sports Club, a famous members club offering recreational, entertainment and related facilities to its members. It is not in dispute that the plaintiff has been a fully paid member of the club since 1991 until his expulsion in 1996. By a plaint dated 14th May, 1996 the plaintiff averred that he was wrongly expelled from the club in that he was denied the right to be heard by the main committee of the club and neither was he supplied with a copy of the complaint preferred against him by a senior member of the club. He therefore sought from the superior court an injunction to restrain the club from interfering with his rights under the club's constitution; a declaration that his expulsion was illegal; and, a declaration that he is still a bona fide member of the club.

Our perusal of the record and the evidence tendered before the superior court shows that on 4th February, 1996 at about midnight the plaintiff and a Mr. Ndichu were involved in an exchange of words within the club premises. As a result of the incident a complaint was lodged against the plaintiff. The complaint was duly considered by the main committee of the club which recommended that the plaintiff be expelled. His appeal to the Annual General Meeting of the club was discussed, considered and rejected. Throughout all the stages the plaintiff's complaint travelled and his eventual expulsion, he was notified of the impending action and was accorded the opportunity to be heard. The learned Judge held that the club had a constitution and the plaintiff was expelled in accordance with Rule 58 thereof. He was given an opportunity to answer the accusation against him. Since everything was done in accordance with the Rules, the learned Judge was not prepared to interfere with the rules of a private club.

The plaintiff has now appealed to this Court. He contends that the learned Judge was wrong in not realising that the rules of natural justice were breached. On such appeal, the first and fundamental question for this Court to consider is whether the club rules were observed. These included the right of the plaintiff to be heard and that the nature of the accusations must be explained to him. We are satisfied that

the club observed its Rules to the letter, and everything done leading to the expulsion of the plaintiff was in accordance with the Rules of the Club. We cannot perceive of any breach of the fundamental rules of natural justice.

No doubt the plaintiff misbehaved during the material night. His conduct was detrimental to the reputation of the Club. The entire membership that formed the Annual General Meeting were unanimous that he had to go. He was subsequently expelled. The Rules empowered the club to expel the plaintiff since in its opinion he had been guilty of conduct injurious to the club and its wider interests. The Courts have no wish to sit on appeal from decisions of a social club, such as the defendant, so long as they see that there is fair play on any expulsion. *Lee v The Showmen's Guild of Great Britain* [1952] 2 Q.B. 329.

In the case before us there are no grounds for interference since the plaintiff had notice of the accusations against him and was given ample opportunity to be heard. The club and all its organs observed the procedures laid down by the rules.

This appeal, in our view, is frivolous and completely devoid of merit. It is dismissed with costs.

Dated and delivered at Nairobi this 26th day of May, 2000.

P. K. TUNOI

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JUDGE OF APPEAL

S. E. O BOSIRE

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JUDGE OF APPEAL

E. OWUOR

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JUDGE OF APPEAL

I certify that this is a true copy of the original.

DEPUTY REGISTRAR