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LEGAL NEWS

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Court of Appeal Reaffirms Protection of Personal Reputation in Defamation Claims

Recently, the Court of Appeal of Tanzania in *Erastus Mtui v. Coca-Cola Kwanza Ltd & Others* revisited the delicate balance between an employer's right to inform the public regarding terminated employees and such individuals' right to have their reputation protected, holding that a seemingly ordinary public notice can amount to defamation when it creates unjustified suspicion about a former employee.

Background of the Case

Erastus Mtui, a former Finance Director of Coca-Cola Kwanza Limited (the Company), was employed by the Company from 2011 until his termination on 8 April 2021. About 33 days after his dismissal, the Company caused public notices containing Mtui's name and photograph to be published in *Mwananchi* and the *Citizen* newspapers and on related online platforms. The notices informed the public that Mtui was no longer an employee of the Company and stated that the Company would not be responsible for any business transactions or agreements entered into by him. Mtui considered the publications defamatory, arguing that they portrayed him as dishonest and untrustworthy, thereby damaging his reputation and professional standing. He filed a petition in the High Court seeking declarations, damages, apologies, and injunctive relief. The High Court dismissed his claim, holding that the publications were not defamatory, prompting him to appeal to the Court of Appeal.

Arguments Raised by the Parties

The appellant, Erastus Mtui, argued that the notices and online publications were defamatory because the inclusion of his photograph together with cautionary statements suggested that he was likely to engage in fraudulent or unauthorized business dealings. He contended that the publications injured his personal and professional reputation; caused loss of business opportunities; led to negative public comments; and resulted in emotional distress to his family. He further argued that the trial court misapplied the law of defamation and failed to properly evaluate the evidence showing reputational harm. On the other hand, the respondents maintained that the notices merely communicated a truthful fact that Mtui was no longer their employee and were published in good faith to inform customers, stakeholders, and the public. They argued that the notices did not accuse him of fraud or criminal conduct, contained no defamatory imputations, and were justified by truth and public interest.

Decision of the Court

The Court of Appeal allowed the appeal and overturned the High Court's decision. It held that although the fact of Mtui's termination was true, the inclusion of his photograph, the disclaimer of liability, and the cautionary language created an impression that he was untrustworthy and capable of improper conduct. The Court found that a reasonable reader would interpret the publications as casting suspicion on his character, thereby making them defamatory. It further held that the respondents failed to prove any public benefit or factual basis justifying the cautionary tone used in the notices. Consequently, the Court declared the publications defamatory, ordered the respondents to issue apologies and remove the defamatory content. It also awarded special damages of TZS 4,700,000, punitive damages of TZS 20,000,000, and general damages of TZS 100,000,000, and granted costs of the appeal in favour of the appellant.

To read the Judgment [click here](#)

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