

IN THE COURT OF APPEAL OF LESOTHO
JUDGMENT

HELD AT MASERU

C of A (CIV) 22/2015
CIV/APN/86/2015

In the matter between:

BASOTHO NATIONAL PARTY	1ST APPELLANT
NATIONAL EXECUTIVE COMMITTEE	2ND APPELLANT
JOANG MOLAPO	3RD APPELLANT
And	
LESOJANE LEUTA	RESPONDENT

CORAM: N Majara CJ, Mahase JA, Chinhengo AJA

HEARD: 13 October 2015

DELIVERED: 6 November 2015

SUMMARY

Appeal against High Court setting aside suspension and interdicting deputy leader of political party from interfering with respondent's membership and

performance of his duties as Secretary General of the political party – Parties negotiating and settling matter before hearing – Appeal withdrawn with tender for costs.

JUDGMENT

CHINHENGO AJA

[1] The 1st appellant is a duly registered political party in Lesotho. The 2nd appellant is the political party's national executive committee. The 3rd appellant is the deputy leader of the political party. The respondent was the secretary-general of the political party.

[2] By letter dated 26 February 2015 the 3rd appellant, purporting to be acting for the 1st appellant and on the recommendation of the 2nd appellant, suspended the respondent from the political party. The letter advised the respondent that he would be charged with acts of misconduct and that disciplinary proceedings would be instituted against him.

[3] After a brief exchange of letters between the appellant and the respondent on intended course of action, the respondent

applied to the High Court by way of an urgent notice of motion for an order setting aside his suspension as null and void and interdicting the 3rd appellant from interfering with his membership of the political party and performance of his duties as secretary general. The appellants opposed the motion proceedings. They lost the case. The learned judge granted the relief sought by the respondent and ordered the respondents to pay the costs of suit.

[4] The appellant appealed to this Court. The appeal was set down for hearing on 13 October 2015. At the commencement of the hearing counsel for the appellant indicated that the parties were likely to settle their dispute and asked that the appeal be postponed to the next session of the Court, in April 2016. The Court indicated that it was not inclined to postpone the appeal to the next session because all the parties had filed the necessary papers and the Court was ready to hear the appeal. In addition counsel for the respondent stated that he had just learnt about the settlement efforts. With the agreement of counsel the Court postponed the appeal to 19 October 2015.

[5] On the morning of 19 October the appellants filed with the registrar of the Court a notice of withdrawal of the appeal without a tender of costs. When the hearing resumed *Mr Nthontho* advised the Court that he had conferred with the appellants and that he was withdrawing the appeal in terms of

the notice of withdrawal filed of record. *Adv. Mohau* did not take issue with the withdrawal of the appeal. Thereafter counsel canvassed the issue of costs with the result that the appellants tendered them. With the issue of costs settled we granted leave for the appellants to withdraw the appeal.

[6] Accordingly the order of the Court is that –

1. The appeal be and is hereby withdrawn.
2. The appellants shall pay the respondent's costs of the appeal jointly and severally, the one paying the other or others to be absolved.

M. CHINHENGO
ACTING JUSTICE OF APPEAL

I agree

N. MAJARA
CHIEF JUSTICE

I agree

M. MAHASE
JUSTICE OF APPEAL

FOR APPELLANTS: Adv. KJ Nthontho

FOR RESPONDENTS: Adv. K. Mohau KC