

IN THE HIGH COURT OF LESOTHO

In the Applications of :

MATHETSO FOLOKO	Applicant
SOLOMON LETHOBA	Applicant
CHARLES MAHASA	Applicant
THABO TLALINYANE	Applicant

vs

L.A.D.B. AND OTHERS	Respondents
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J U D G M E N T

Delivered by the Hon. Mr. Justice M.L. Lehohla on the
12th day of March, 1996

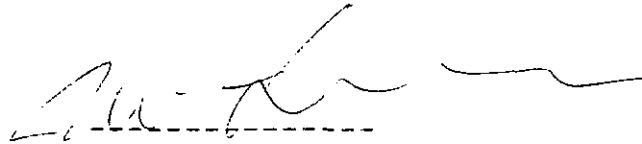
I will start with the last point relating to so-called non-disclosure. It appears to me that the argument or the raising of points in limine relating to non-disclosure was premature in the sense that at the time the application was made and the affidavits were filed, there hadn't yet been any payment to any of the applicants by respondents 2 and 4. The payment was subsequent to the filing of Founding Affidavits so that raising the point in limine based on the contention that there was non-disclosure was not only ill-conceived but was premature, so on that basis the point in limine relating to that point is dismissed.

Next comes the case of urgency. I have listened to the argument relating thereto. It has been made clear to me that

there was the stage when the fund held by second respondent was alive but two years later information got disseminated among the applicants that the fund is being dissolved and that they have not received any money from that fund to which they had been making contributions so that to me it appears that the legitimacy of moving an application on the basis of urgency was well-founded and was precipitated by this new development which occurred two years or so afterwards. Therefore the point raised in limine challenging the basis on which the urgency was perceived is also dismissed.

Now, comes the last point that relates to dispute of fact. Regarding the point raised in limine as to the dispute of fact, this was in part centred on contents of para 4.1 where the Managing Director or 4th respondent is said to have acted together with the 1st respondent and second respondent to place monies in their personal accounts. The true position is that nowhere have applicants stated that that was the case. Nowhere has use been made by them of the word personal. All that they said was that the monies were kept in a salaries account of the Bank by the 4th respondent and the Bank itself, so that any dispute of fact based on this misconception cannot but fail. Moreover paragraph 1.5 clearly avers that the 4th respondent is cited in his official capacity. This averment places the matter beyond dispute.

I dismiss the point raised in limine based on that also
and reserve the question of costs pending argument on the merits.

A handwritten signature in black ink, appearing to be 'M. K.', written over a horizontal dashed line. The signature is fluid and cursive.

J U D G E

12th March, 1996

For Applicants : Miss Tau

For Respondents: Mr. Sekake