

IN THE HIGH COURT OF LESOTHO

HELD AT MASERU

CIV/T/47/2019

In the matter between:

MOFEE JEREMIA MOFEE

PLAINTIFF

AND

**THE COMMISSIONER OF POLICE
ATTORNEY GENERAL**

**1ST DEFENDANT
2ND DEFENDANT**

Neutral Citation: Mofee Jeremia Mofee v The Commissioner of Police & Anor
CIV/T/47/2019 [2021] LSHC 97

JUDGMENT

Coram : Hon. Mr. Justice E.F.M.Makara
Dates of Hearing : 8 March 2021
Date of Judgment : 3 June 2021

ANNOTATIONS

CITED CASES

1. Commissioner of Police v Rantjanyane LAC(2011-2012)
2. Phole Mokotjo v Commissioner of Police CIV/T/520/2014

MAKARA J.

[1] The Plaintiff instituted Court proceedings in which he sued the Defendant for:

1. M250 000.00 for unlawful detention;
2. 18.5% interest per annum from the date of judgment;
3. Costs of suit
4. Further and or alternative relief.

[2] The Defendant initially entered appearance to defend but subsequently admitted liability save that he contested the quantum of damages prayed for.

[3] It is common cause that the litigation was predicated by the unlawfulness of the detention of the Plaintiff for more than 48 hours and that this, contrary to both the constitutional and statutory provisions on the prescription of the time limits for the purpose.

[4] The Court is, reluctantly, tasked to consider a justifiable quantum of damages occasioned by the consequent transgression against the Constitutional liberty of the subject. It is, realizable from the prayers that the Plaintiff has restricted the remedy he seeks for around the invasion of his liberty. He has not in his prayers included contumelia as an incidental violation of his rights. There are a plethora of decisions of this Court where the abuse of power and authority by the police has been equivocally denounced. One such instance is where the police arbitrarily detain the citizens beyond the stated time constrains. This Court associates itself with the denunciations. Against this backdrop the Court is again obliged to compensate the Plaintiff as a way of

detering the police from continuing with similar incidences. In the task, the Court has received guidance from the judgment by Sakoane J (as he then was) when cited **Commissioner of Police v Rantjanyane**¹ with approval in the case of **Phole Mokotjo v Commissioner of Police**². In this case the Court, reacting to the analogously similar circumstances determined that a payment of M50, 000.00 as general damages would suffice as compensation for detention of a suspect for 3 days. A rather disturbing aspect in the present case is that there is no certainty in the number of days during which the Plaintiff was detained.

[5] In the premises, the Plaintiff is found to have proven his case on the balance of probability. Thus:

1. The defendants are ordered to pay the Plaintiff compensation in the amount of M50, 000.00 with interest at an ordinary rate and not at 18.5% as prayed for.
2. The Court deserves a right to prefect a judgment without derailing from the content.

**EFM MAKARA
JUDGE**

For Plaintiff : Adv. Ntoko instructed by T. Mahlakeng & Co.
For Defendant : Adv. T. Mohloki from Attorney General's Chambers

¹ LAC (2011-2012) page 140

² CIV/T/520/2014

