



Neutral Citation Number: [2013] EWHC 293 (QB)

Case No: HQ12D03203

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 13/02/2013

Before:

THE HON MR JUSTICE EADY

Between:

MOHAMMED HUSSEIN AL AMOUDI

Claimant

- and -

(1) ELIAS KIFLE

Defendants

(2) ETHIOPIAN REVIEW, INC.

**(a company incorporated under the laws of
Florida, USA)**

**Mr. Desmond Browne QC and Mr. Jonathan Barnes (instructed by DLA Piper LLP) for the
Claimant**

The Defendants did not appear and were not represented

Approved Judgment

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Transcript of the Stenographic Notes of Marten Walsh Cherer Ltd.,
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MR. JUSTICE EADY:

1. The sole purpose of today's hearing in this libel action has been for the court to assess the appropriate amount of damages that should be awarded to the claimant, Mohammed Hussein Al Amoudi.
2. In considering that question, I need hardly say that it is not relevant to take into account the recoverability of any award. It may well be that the claimant will in fact recover nothing, but his true objective is to obtain the award with a view to demonstrating the falsity of the libel and having a proportionate and reasonable sum as an outward and visible sign that he is entitled to have his reputation vindicated. That has long been recognised as one of the main functions of an award of libel damages.
3. The assessment was ordered by Master Eastman on 26th November last year. He had, on 20th September last year, granted judgment in default of acknowledgment of service. The defendants in the action, Elias Kifle and Ethiopian Review Inc. (a company incorporated in accordance with the laws of Florida), had been served with the claim form and particulars of claim out of the jurisdiction, with his permission, granted on 30th July.
4. The defendants have chosen not to engage with the proceedings and have not produced any evidence at all to support the truth of the claims. This has happened before and it seems that the first defendant is determined, for some reason, to conduct a campaign of denigration by making defamatory allegations about the claimant, some of which are quite outlandish, without ever having to face the claimant in court or making any attempt to support his charges.
5. On the last occasion, HHJ Parkes QC, in July 2011, awarded £175,000 to demonstrate the falsity of an allegation about Sheik Al Amoudi's daughter, Sarah. The claimant had on that occasion been able to show that it was quite untrue. Whereas she was said by the defendant to be facing a stoning in Saudi Arabia with the connivance of the claimant, she was in fact a student living in England out of harm's way.
6. This time, the allegation is that the claimant has been trafficking 45,000 Ethiopian women a month, apparently sold into slavery and abused in various ways. These allegations that are truly shocking and obviously seriously defamatory.
7. This case is not an example of so-called "libel tourism" because the claimant is suing over the publication to a wide readership in this jurisdiction. Furthermore, it is quite apparent that he is widely known among people in England in a business and banking context, but also in particular among the Ethiopian community here. That is because of his business activities, his wide investments in Ethiopia and his activities on the humanitarian front, in particular in the context of those suffering from AIDS. He has business connections here, he has a family home here, and is a frequent visitor. His children have been educated here. The connections are clearly very strong with this jurisdiction.
8. The first defendant is the registrant of www.ethiopianreview.com and www.ethiopianreview.net and he calls himself the publisher and editor in chief of the online news site Ethiopian Review. The second defendant, the corporation, is also

properly joined, in my judgment, as a defendant because of being a participant in the posting of the content at those web addresses. I was shown material, at pages 178, 188 and 191-2 which bear out that proposition. The second defendant appears to share the mailing address of Ethiopian Review and it also appears to receive money into its bank account by way of contributions for the maintaining of the Ethiopian Review. That is supported by the evidence of Mr. Simon Airey.

9. The words complained of in this action took the form of a news article on the Ethiopian Review published originally on the internet on 29th March of last year. The material is available to this day.
10. Complaint was first made by the claimant's solicitor on 4th April 2012, but this was greeted with typical scorn by the defendants. The first defendant's response was to make a posting on the same day with the heading "Al Amoudi's lawyer threatens to file another lawsuit". There was also displayed a letter addressed to the solicitor which included the words, "Where are you going to sue me this time? In Timbuktu? Bring it on please", apparently indicating an eagerness to engage with any such proceedings.
11. For his part, the Sheik has complied with the necessary directions to bring this matter to court as quickly as was possible. The list of documents was served on 14th December of last year. The defendants failed to serve a list. Since that date also the defendants have been on notice of the date of this hearing. The claimant offered witness statements for exchange but the defendants tendered no statements of their own. The trial bundle for this hearing was served on the defendants, eventually, on 1st February 2013.
12. So far as the scale of publication in this jurisdiction is concerned, the claimant relies on each of five witnesses who gave evidence before me in the hearing as actual readers within the jurisdiction. They also gave evidence as to others who read the words and to some extent believed there might be truth in them. Those witnesses are: Mr. Tadios Abegaz, Mr. Yalew Kebede, Mr. Abraham Workneh, Mr. Habtamu Kirubel and Mr. Biniam Tesfagiorgis.
13. It appears, in the light of their evidence, and from what I have seen of the comments made on the website, that there is likely to have been a substantial readership here. It is clear that the allegations were, as it were, "doing the rounds" among a significant number of people, not least because of the plight of an Ethiopian maid in Lebanon which had received wide publicity. She had apparently been abused in the street and later killed herself. This made many Ethiopians angry and readier to believe stories about people trafficking.
14. Again, some credence appears to have been given to the story because of the impressive, or apparently impressive body, Ethiopian Review Intelligence Unit, which was said to have confirmed the claimant's involvement in the supposed trafficking. Against that background, I plainly cannot assume that the allegations were just dismissed or that no harm was done to the claimant's reputation. It seems to me likely, particularly among the Ethiopian community in this country, that very significant damage has been done to his reputation.

15. Like HHJ Parkes, it seems to me right to conclude, on the evidence before me, that the likely readership in this jurisdiction will have been measured in the thousands. Apart from the Ethiopian community particularly, it seems to me likely also that the allegations will have been read by journalists and business associates of the claimant in this jurisdiction who follow the subject matter of Ethiopia and/or the claimant's business activities.
16. As to the seriousness of the allegations, there can be no doubt. It is indeed difficult to imagine a more serious or gross allegation.
17. The claimant gave evidence before me as to his anger over the words and his distress, upset and embarrassment which are, of course, readily understandable. Furthermore, Mr. Browne has relied on a number of factors which have had the effect of seriously aggravating the damage to the claimant's feelings. There was, for example, no attempt to verify the facts, apparently. No contact was made with the claimant or anyone on his behalf prior to publication. There was the dismissive reaction to the solicitor's complaint. There was also, on 25th June last year, a post headed "Blood money in DC??" (DC here standing for District of Columbia).
18. It is necessary to refer briefly to the content of that publication. It was concerned with a soccer tournament that was said to be kicking off on 1st July at the RFK stadium in Washington DC and concluding on 7th July. The event was supposed, it said, to celebrate Ethiopian culture. The question was then asked, "Ask yourself, where is the money coming from?" A little later on it said:

"[It] is being funded by some 'fat cats' in Addis Ababa. Some say the funding comes exclusively from Al Amoudi, one of the wealthiest people in the world - a renowned billionaire. Others say the funding comes from a former cabbie who is now the CEO of MIDROC by the name of Arega Yirdaw."

A little further on it is said:

"I do not have explicit truth that Al Amoudi or Arega Yirdaw are directly involved in child prostitution - for the record I am not saying they do. But there are rampant rumours that the affiliates of these wealthy 'fat cats' have blood money in their pockets."

That is clearly an aggravating factor.

19. On 29th August of last year, there were published rumours of the claimant's possible demise. That article included the following paragraph:

"We have clearly stated that the information was unconfirmed, but it led to a mass hunt and in two days a Woyanne rat called Ben found the drunkard sheik for us at Bole Airport looking dazed and shaken. Before and after releasing the information, we did a serious investigation, contacting numerous individuals who might have knowledge of Al Amoudi's whereabouts. We even called the lie factory himself and spoke with his rude

assistant. Under the circumstance what Ethiopian Review has done is a serious journalism which led to the truth".

A little further on the claim is made:

"What makes Ethiopian Review the best and most trusted Ethiopian media is you the readers".

That demonstrates not only aggravation, but also another example of the defendants claiming to be serious purveyors of news.

20. Again, on 18th October last year, the original allegations were republished.
21. There was a further example of the claims made by the first defendant in the evidence of the claimant himself. At paragraph 32 of his witness statement, he said this:

"Since the start of these proceedings the First and Second Defendants have published on the Ethiopian Review website, on or around 5 December 2012, an interview (in Amharic, the native language of Ethiopia) in which the First Defendant falsely accused me of 'robbing the people of Ethiopia' and of 'sending people to kill' a journalist in Ethiopia. In that interview the First Defendant also stated, in relation to the court proceedings in respect of the previous article:

"They accused me in the UK because they could not win their case in here, in short. If he presented his accusations in this country [i.e. the United States] the judges would laugh and dismiss the case; so he tried to sue me in the UK. But in the UK, I was sentenced to pay 175,000 UK pounds. In order for that to be effective, the case should be seen in this country, in America, they have to see the case. I asked the judges to send my case to America, because it would be better to have Al Amoudi suing me in America ... what they are doing is a joke. Why would I take it seriously?"

22. That is plainly suggesting that an application was made to the courts in this country challenging jurisdiction. That is simply untrue. No such challenge has been made, either in this case or in the previous case. All this bears out Mr. Browne's submission that the first defendant appears to bear malice towards the claimant.
23. The purpose of libel damages is well-known and is really threefold. First of all, to compensate the relevant claimant for hurt feelings and distress; secondly, to serve as a sign of vindication; and, thirdly, to provide compensation for any actual injury to reputation. Awards must be proportionate and no greater than is necessary to achieve those objectives. That was made clear by the Court of Appeal in the case of *John v. MGN Limited* [1997] QB 586. We now effectively operate, allowing for inflation, to a maximum for libel damages of about £240,000.
24. Reference was made to a number of cases for comparable awards which are, of course, of limited assistance only because circumstances vary so much from one case

to another. But I record the fact that reference was made by Mr. Browne to: *Ghannouchi v. El Arabiya* [2007] EWHC 2855; to *Veliu v. Mazrekaj* [2007] 1 W.L.R. 495; *Berezovsky v. Terluk* [2010] EWHC 476 and, of course, to the decision of HHJ Parkes two years ago in *Al Amoudi v. Kifle* [2011] EWHC 2037.

25. Taking those matters into account and bearing in mind the principles outlined in the case of *John v. MGN Ltd*, it seems to me that the appropriate figure in this case is £180,000.

MR. BROWNE: Would your Lordship therefore give judgment for Sheik Al Amoudi for £180,000 and I would ask for indemnity costs. Again, I would submit that the question of recoverability is by the way, but it would recognise what the Court of Appeal said was the criterion for the grant of such an award. Namely, conduct such as to take the situation away from the norm. That is probably the politest thing that anyone would ever say about Mr. Kifle, that his conduct is away from the norm.

MR. JUSTICE EADY: Yes. That seems to be borne out for the reasons summarised in my judgment a moment ago.

MR. BROWNE: Yes and HHJ Parkes did the same. Can I just say this. Ordinarily, I would also be asking for an injunction but we recognised the reality of the situation on the previous occasion. Namely, that the court might be slow to grant an injunction in circumstances where the defendant was beyond the reach of the court, on the other side of the Atlantic, and there was no reason to think that he was likely to come here.

MR. JUSTICE EADY: I think that is the realistic approach.

MR. BROWNE: That is simply why I do not ask for an injunction. I would not want anyone to read anything more significant into it.

That, I think, ends the day's proceedings. Thank you very much.