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JUDGMENT SUMMARY

GODFRED ANTHONY AND IFUNDA KISITE v. UNITED REPUBLIC OF TANZANIA

APPLICATION NO. 015/2015

RULING ON JURISDICTION AND ADMISSIBILITY

26 SEPTEMBER 2019

A DECISION OF THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

Date of Press Release: 26 September 2019

Arusha, 26 September 2019: Today, the African Court on Human and Peoples' Rights (the Court) delivered its Ruling in the case of *Godfred Anthony and Ifunda Kisite v. United Republic of Tanzania*.

Messrs Godfred Anthony and Mr. Ifunda Kisite (the Applicants), are nationals of the United Republic of Tanzania (Respondent State), each currently serving thirty (30) years' prison sentence following their conviction for conspiracy to commit a felony and for armed robbery. The Applicants alleged that they were sentenced to a non-existent sentence which inflicted on them mental and physical suffering, that the Respondent State failed to provide them with free legal assistance, thereby violating Article 7 of the African Charter on Human and Peoples' Rights (the Charter) and their right to be treated equally. They also sought reparations to rectify the alleged violations.

The Respondent State raised an objection to the jurisdiction of the Court, stating that the Court is not empowered with unlimited jurisdiction to sit as a court of first instance or an appellate court to decide matters already finalised by its highest judicial organ.

The Court observed that the Applicants alleged various human rights covered by the Charter and therefore dismissed the Respondent State's objection. With regard to other aspects of jurisdiction provided for in Article 3(1) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (the Protocol), the Court held it had personal jurisdiction given that the Respondent State is a Party to the Protocol and has deposited the Declaration prescribed under Article 34(6) of the Protocol and this Declaration allows individuals, such as the Applicant, to file the application as per Article 5(3) of the Protocol. The Court determined that its temporal and territorial jurisdiction were confirmed since the alleged violations are continuous, given that the

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Applicants remain in prison based on a conviction that they contend to be inconsistent with the Charter and also because the alleged violations took place in the Respondent State's territory. The Court therefore determined that it had jurisdiction to consider the matter.

On the admissibility of the Application, The Court considered two objections raised by the Respondent State. The first objection related to the Applicant's failure to exhaust local remedies before filing the Application as required by Article 56(5) of the Charter and Rule 40(5) of the Rules of Court. On this point, the Respondent State argued that the first Applicant did not appeal against the decision of the High Court to the Court of Appeal, and further that the second Applicant did not file for review of the Court of Appeal's dismissal of his appeal.

The Court rejected the Respondent State's contention indicating that the second Applicant filed an appeal to the Court of Appeal which, while considering the Second Applicant's appeal observed that all the three co-accused persons, including the two Applicants before this Court, committed the crimes in concert and deserved the same sentence. Therefore, there was no need for the second Applicant to seize the Court of Appeal as the result was already known. The Court further decided that the second Applicant did not need to file an application for review as it is an extra-ordinary remedy within the Respondent State's judicial system.

The Respondent State also claimed that the Application is inadmissible because the Applicants took too long to bring their claim to this Court. The Court upheld the Respondent State's objection in this regard and reasoned that the Applicants had not justified the filing of their Application five years and four months after exhaustion of local remedies as they had simply stated that they were "indigents". The Court further held that, the Applicants having been represented in the domestic courts and having not taken other measures to redress their situation distinguished their situation from that of other applicants whose Applications had been found admissible despite being filed five years after exhaustion of local remedies. The applicants in the other matters demonstrated that they had taken some measures to redress their situations before filing their applications before this Court

To this end, the Court held that the Application had not been filed within a reasonable time and thus failed to meet the requirement of Article 56(6) of the Charter and Rule 40(6) of the Rules. Following this finding, the Court concluded that since the admissibility requirements under the Charter and the Rules are cumulative, an Application that fails to meet one of the requirements fails the admissibility test. The Application was, thereby, declared inadmissible.



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On costs, the Court ordered that each Party should bear its own costs.

Further Information

Further information about this case, including the full text of the decision of the African Court, may be found on the website at <http://en.african-court.org/index.php/56-pending-cases-details/880-app-no-015-2015-godfrey-antony-and-another-v-united-republic-of-tanzania-details>

For any other queries, please contact the Registry by email registrar@african-court.org and africancourtmedia@gmail.com The African Court on Human and Peoples' Rights is a continental court established by African countries to ensure the protection of human and peoples' rights in Africa. The Court has jurisdiction over all cases and disputes submitted to it concerning the interpretation and application of the African Charter on Human and Peoples' Rights and any other relevant human rights instrument ratified by the States concerned. For further information, please consult our website at www.african-court.org