



Arusha, Tanzania

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JUDGMENT SUMMARY

BAEDAN DOGBO PAUL AND BAEDAN M'BOUKE FAUSTIN

V.

REPUBLIC OF CÔTE D'IVOIRE

APPLICATION No. 019/2020

JUDGMENT ON MERITS AND REPARATIONS

5 SEPTEMBER 2023

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

Arusha, 5 September 2023: The African Court on Human and Peoples' Rights has, today, rendered judgement in the case of *BAEDAN Dogbo Paul and BAEDAN M'Bouke Faustin v. Republic of Côte d'Ivoire*.

On 15 May 2020, *BAEDAN Dogbo Paul and BAEDAN M'Bouke Faustin* (hereinafter referred to as "the Applicants") filed before the African Court on Human and Peoples' Rights (hereinafter referred to as "the Court") an Application instituting proceedings against the Republic of Côte d'Ivoire (hereinafter referred to as "the Respondent State").

In 1980, the Respondent State expropriated, for the purpose of constituting a public reservation area, a plot of land located in Abidjan, belonging to the Applicants. Following legal proceedings, the Respondent State was ordered to pay the Applicants compensation for the loss of their customary rights in the amount of eight hundred and twelve million four hundred and forty-eight thousand (812,488,000) CFA francs. The

Applicants alleged that by obstructing the payment of this compensation, the Respondent State violated their rights as follows: the right to property protected by Article 14 of the Charter; the right to be informed of their right to compensation after expropriation protected by Article 9 of the Charter; the right to have their cause heard protected by Article 7 of the Charter; the right to respect for their dignity and the prohibition of all forms of degradation protected by Article 5 of the Charter; the right of all citizens to equality before the law protected by Article 3 of the Charter and the right to enjoy the rights and freedoms protected by Article 2 of the Charter.

The Respondent State contested the personal jurisdiction of the Court, arguing that as the effective date of the withdrawal of its Declaration was set at 30 April 2021, it was no longer a Respondent after this date, for it to be notified of an Application on 11 April 2022, that is, over eleven (11) months after this date.

The Court rejected this objection on the grounds that the date of 30 April 2021 is the deadline at which it no longer receives Application against the Respondent State. The Court held that it has temporal jurisdiction since the Application was filed with its Registry on 15 May 2020.

The Respondent State also challenged the temporal jurisdiction of the Court, arguing that the rights allegedly violated predate the entry into force of the applicable Protocol. The Court partially dismissed the Respondent State's objection, admitting that with regard to the right of ownership of the plot of land expropriated in 1980, its temporal jurisdiction is not established insofar as it is an instantaneous act which ended before the date of entry into force of the Protocol in respect of the Respondent State. The Court held that the other violations alleged by the Applicants are continuous in nature as long as the Respondent State has not paid the indemnity for purging the customary rights of the Applicants.

The Respondent State raised two objections to admissibility, namely, the failure to exhaust the local remedies and filing of the Application within an unreasonable time.

On the objection regarding the Application's inadmissibility based on non-exhaustion of the local remedies, the Respondent State argued that the Applicants did not raise before the national courts the violations they have filed before this Court.

The Court partially accepted this objection. It held that with regard to the alleged violation of the right of ownership of the plot of land sold to third parties by the Respondent State, the Applicants who did not appeal the judgment of the Court of First Instance failed to exhaust the domestic remedies. On the other hand, with regard to the rights arising from the compensation proceedings and the non-payment of the debt, the Court considered that after the AGEF cassation appeal before the highest court of the Respondent State, the Applicants had no further appeal to exercise. The Court therefore on this point rejected the objection based on the non-exhaustion of local remedies.

On the objection based on filing of the Application within an unreasonable time, the Court noted that between the date of its referral and the last appeal exercised by the Applicants, one (1) year and two (2) months twenty-five (25) days elapsed, and considered that this period is reasonable. Having dismissed the objections, the Court held in conclusion that the Application was admissible.

On the merits, the Applicants raised four (4) allegations of violation of their rights: the right to be informed that they are entitled to compensation after expropriation; the right to respect for their dignity; the right to equality before the law; the right to enjoy rights and freedoms and the right to have their cause heard.

On the violation of the right to be informed of their right to compensation after the expropriation, the Applicants argued that in the course of the compensation procedure, they were not informed that in addition to the reparations, they were also entitled to compensation. They hold the Respondent State responsible for the violation of this right.

The Respondent State argued that the Decree regarding the purge of the customary land rights was published in the official gazette and that it was up to the Applicants to take cognizance of it. The Court held that the Applicants, who were represented before the national courts by two lawyers, cannot hold the Respondent State responsible for the violation of their right to information on the content of a regulatory text adopted and

published in the official gazette after over seven (7) years. The Court declared that the Respondent State did not violate the Applicants' right to information.

On the violation of the right to respect for their dignity, the Applicants argued that the numerous difficulties they encountered in the execution of the judicial decision rendered in their favour caused them psychological trauma and undermined their dignity.

The Court considered that non-payment of a debt cannot be analyzed as a degrading treatment or an attack on the dignity of the creditor, and declared that the Respondent State did not violate the Applicants' right to respect for their dignity.

With regard to the alleged violation of the right to equality before the law, the Applicants alleged that they were not treated in the same way as other landowners who had their land expropriated. They argued that not only were the other land owners compensated but also were relocated to other sites before the start of the public buildings construction work.

The Court noted that the conditions of expropriation of the Applicants' lands were not identical or similar to those of the landowners to whom they compare themselves. The Court therefore held that there has been no violation of the right to equality before the law.

The Court also rejected the Applicants' allegation that the Respondent State violated their right to enjoy rights and freedoms, noting that in the present case it does not find any discriminatory treatment against the Applicants since, ultimately, a court decision recognized their right to compensation and quantified the same.

On the other hand, the Court considered that by refraining, for more than thirteen (13) years, from paying the Applicants the amount of the compensation for the expropriation awarded by the Abidjan Court of Appeal, the Respondent State violated their rights to the execution of a court decision as well as their right to be heard within a reasonable time, protected by Article 7(1) of the Charter.

As regards reparations, the Applicants prayed the Court to order the Respondent State to pay them the sum of thirty-three billion nine hundred and fifty-five million three hundred and forty-one thousand one hundred and sixty-two (33,955,341,162) CFA francs, being the total compensation for the purge of customary rights in addition to the interest thereon, the compensation cost in cash and the proceedings and experts costs. The Applicants also prayed the Court to award each of them the sum of five hundred million (500,000,000) CFA francs in compensation for the moral damage they suffered.

The Respondent State prayed the Court to dismiss the entire reparation claims made by the Applicants.

The Court considered that the claims for payment of cash compensation, reimbursement of lawyers' fees, expert fees and costs of proceedings before the national courts were not been proven and consequently dismissed the same.

On the other hand, the Court ordered the Respondent State to reimburse the Applicants the sum of nine hundred and sixty-three thousand (963,000) CFA francs being bailiff's fees. It granted them the amount of three million (3,000,000) CFA francs each in compensation for the moral damage they suffered, and ordered the Respondent State to execute the judgment rendered by the Court of Appeal of Abidjan on 13 July 2007 in the matter between the Applicants and the AGEF Company by paying the Applicants the totality of the compensation for the loss of their customary rights over the expropriated parcel of land.

The Applicants argued that the fact that they had to await payment of this compensation for more than thirteen (13) years was for them a source of loss of opportunities to invest and make a profit, for which they prayed the Court to order the Respondent State to pay them the sum of two billion (2,000,000,000) CFA francs as well as default interest for debt not paid on time.

The Court upheld their claims and awarded them, respectively, the sums of five million (5,000,000) CFA francs for loss of opportunity to invest and two hundred and thirty-five million, three hundred and sixty-six thousand, eight hundred and five (235,366,805) CFA francs being interest for late payment.

Finally, the Court decided that each party should bear its own costs.

Further information:

Further information on this case, including the full text of the judgment of the African Court, is available on the website: <https://www.african-court.org/cpmt/details-case/0192020>

For all other enquiries, please contact the Registry by email at registrar@african-court.org.

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