



IN THE HIGH COURT OF FAKO DIVISION
HOLDEN AT BUEA
BEFORE HIS LORDSHIP JUSTICE KENNETH AKO TANYI
WITH HIM ME KUM CECILIA AS REGISTRAR-IN-ATTENDANCE
THIS FRIDAY THE 07TH DAY OF JUNE 2019

BETWEEN

SUIT N^O HCF/006/OS/2017

VIETTEL CAMEROON.....APPLICANTS

AND

- 1- RESEAU DES DEFENSEURS DES DROITS
HUMAN EN AFRIQUE CENTRAL
- 2- GLOBAL FORUM FOR THE DEFENSE
OF THE LESS PRIVILEGED
- 3- GLOBAL CONSCIENCE INITIATIVE
- 4- GLOBAL LINKS INTERNATIONAL
- 5- GLOBAL CONCERN
- 6- CAMEROON TELECOMMUNICATION
(CAMTEL)
- 7- ORANGE CAMEROON
- 8- THE STATE OF CAMEROON
- 9- MTN CAMEROON

.....RESPONDENTS

Parties: All absent.

**Appearances: Barrister Chepnda Isaiah for the 09th Respondent.
Magistrate Emmanuel Kilo for 08th Respondent.**

“REPUBLIC OF CAMEROON”
“IN THE NAME OF THE PEOPLE OF CAMEROON”
“RULING”

The applicant here had on the 23rd day of March 2018 approached this court through counsel Learned Barrister Enow Benjamin, with this motion on notice praying for the following orders:

An order dismissing the substantive suit herein for being res judicata, the same issues having been adjudicated upon by the constitutional council;

That this court lacks jurisdiction to entertain the issues by reason of the above.

And for many other order or future orders as the court may deem apposite to make in the circumstance of the case. This motion was buttressed by a 7-paragraph affidavit to which a lone annexure was attached styled as exhibit 'A'.

At the hearing of the motion Barrister Enow Benjamin of counsel for the applicant sought and was granted leave to adopt and rely on all the paragraphs of the affidavit as well as the lone exhibit. Counsel stated that the issue in this consolidated suit has been substantially dealt with by a court of law. Thus, their plea of res judicata will hold as they have demonstrated that the issue has been decided by another court and has not been appealed again. Counsel stated that their exhibit 'A' is a decision of the constitutional council, which was rendered on the 30th July 2018. It involved a similar application by the same plaintiff. The decision of that council is final, and it cannot be appealed against. That the said constitutional council ranks far high above this court. Making it a possibility of generating positive conflicts of law if this court were to entertain and hear this suit again with conflicting decisions. He then urged the court to dismiss the consolidated suit.

Barrister Nkea Emmanuel representing 1-5 respondents in this motion did acknowledge receipt of this motion paper and its affidavit and annexure. He stated that in as much as the reliefs sought in this consolidated suit are substantially the same with those sought from the constitutional council, only one of the plaintiffs in the consolidated suit initiated the action before the constitutional council. He submitted that if the court is minded at all to uphold the plea of res judicata, it should be granted without any costs against the plaintiffs because the reliefs sought were declaratory in nature and in the public interest.

Barrister Sumelong Awasume who represented the 6th Defendant CAMTEL associated himself with the submission of applicants here. He however prayed the court for the 1st -5th respondent to have taken us all through a voyage of discovery and forum shopping he prays the court to impose reasonable cost.

Barrister Nyambok Wendy was counsel for 7th Respondent, Orange Cameroon who fully associated herself with the submissions of the applicants here and had nothing to add.

The 9th Respondent MTN Cameroon was represented here by Barrister Chepndah Isaiah who after associating himself with the applicants here also prayed for very

substantial cost as they have been involved in the filling of processes, briefing of counsel and other expenses.

The 8th respondent, the State of Cameroon was represented by Magistrate Emmanuel Kilo Ngwa, the Deputy State Counsel Buea. He informed the court that they did receive this application and are not opposed to same. That the non-opposition by the legal department is predicated on the sacrosanct principle of res judicata as exhibited by annexure 'A' attached thereto. I do believe this briefly stated are the facts of this suit.

Estoppel per rem judicata on which the principle of res judicata arise is a rule of evidence whereby a party is precluded from disputing in any subsequent proceedings and his opponent as was held in Oduka Vs Kasumu in 1967 5 NSCC page 90 and 296 lines 5-25.

It therefore behooves the applicant to demonstrate that the issues for determination in these consolidated suits are materially similar with those that have been heard by a competent court.

I have looked at the decision of the constitutional council of Cameroon, and I find as a fact that the reliefs sought therein albeit by one of the plaintiffs in these consolidated suits are principally the same with those sought by the plaintiffs before this court.

Now, the constitutional council of Cameroon which entertained the same reliefs that were sought before this court, is a trial jurisdiction far higher than this court with exclusive jurisdiction on constitutional issues.

It is therefore evident that the reliefs sought before this court have been substantively heard and disposed of by the constitutional council. Since, the parties to the suit as well as the prayers formulated are fundamentally the same. Hence it is right to state that not only had this suit been dealt with by a competent court, but more so, it was disposed of by a court far superior to this one. This court is rightfully estopped from any further review of the facts of this case.

As concerns the issue of cost, I will not only take my cue from the ruling in exhibit 'A' which ordered the public treasury to bear the same. I have also considered that the reliefs sought by the plaintiffs therein are highly declarative in nature and without any

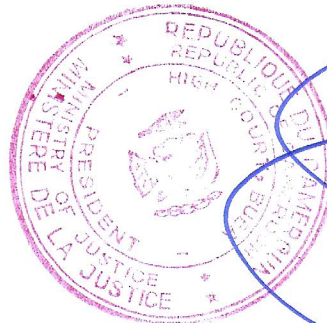
financial claims. I believe that by highlighting issues of human rights here which are of universal concern the plaintiffs were thus concern with issues affecting humanity and a harmonious existence in society and not financial gain. I will thus be minded not to make any orders as to cost.

The matter is thus dismissed with no order as to cost.



REGISTRAR-IN-ATTENDANCE

Mme KUM Cecilia MAMEH
Assistant Court Registrar



PRESIDENT

Kenneth Ako Fanyi
Magistrate