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REVIEW OF SUIT NUMBER CA/L/1157/2018; BETWEEN PILGRIMS AFRICA LIMITED v. ANTHONY BOYSON

Introduction

The Court of Appeal of Nigeria delivered a landmark judgment in Suit Number CA/L/1157/2018; Pilgrims Africa Limited ("Appellant") v Anthony Boyson ("Respondent") on the 27th February, 2025 wherein the Court delivered defining pronouncements on employment tenancy, the recognition of employment relationships created by conduct in the absence of a written contract, and the legal implications of failing to afford an employee the opportunity to be heard before disciplinary action or termination.



2.0 Summary of Facts

The Respondent commenced an action at the National Industrial Court against the Appellant following his dismissal on 12th September 2011 from his role as an employee of the Appellant, a security logistics company. He alleged that the Appellant failed to pay his August 2011 salary and the prorated salary for 1st to 12th September 2011. He further claimed that the Appellant unlawfully entered his residence on 1st September 2011, seized his family's belongings, and evicted his wife without notice. He also contended that he was suspended via email and denied access to corporate systems without being given an opportunity to defend himself against allegations of fraud and theft, which he said were unsubstantiated. The Respondent asserted that these actions defamed him and harmed his reputation within the security logistics sector. He sought declarations for wrongful dismissal and unlawful invasion, payment of outstanding salaries, return of seized property, an apology, and general damages.

The Appellant denied the allegations, maintaining that the investigation conducted at the Respondent's Port Harcourt residence was prompted by suspected fraudulent activities involving the Respondent and his wife through a company known as Marisec. It stated that the investigation was carried out lawfully, with police presence, after the Respondent allegedly absconded when notified of the allegations.

The Appellant also denied any forceful eviction, asserting that the Respondent had been redeployed to Lagos and that his wife left the premises voluntarily. The Appellant further maintained that the dismissal was justified, citing the Respondent's refusal to attend investigative hearings and attempts to flee the country.

The National Industrial Court held that the Respondent's dismissal was wrongful and accordingly granted all the reliefs sought. Dissatisfied with this outcome, the Appellant lodged an appeal before the Court of Appeal. The Court of Appeal's decision is examined below.



3.0 The Decision of the Court of Appeal

The Duty of An Employer to Adhere to the Principles of Natural Justice in its Disciplinary Procedure

The Court reaffirmed the settled principle that while an employer has the right to terminate employment, such termination must comply with laid-down procedures and must not violate the employee's right to fair hearing. In determining whether a dismissal is lawful, the Court emphasized three core considerations: (a) whether the dismissal followed the disciplinary procedure or applicable employment documents; (b) whether the person issuing the dismissal letter was competent to do so; and (c) whether the employee was afforded fair hearing in accordance with natural justice.

The Court held that the Respondent sufficiently established wrongful dismissal. Although there was no formal written contract, the Court noted that implied terms and statutory protections still bind the employer. The Respondent's testimony showed he was suspended, disconnected from the employer's communication channels, and dismissed without being confronted with the allegations of fraud or given the opportunity to defend himself.

On the other hand, the Appellant's case was weakened by inconsistent and unreliable testimony. The employer's witness could not confirm whether the Respondent was issued a query, suspension letter, or the alleged email inviting him to a disciplinary panel. Crucially, the employer failed to produce any evidence of such communication, which the Court held was fatal to their case, as the burden lay on the employer to show that fair hearing was provided.

The Court further held that serious allegations such as fraud require strict adherence to procedural fairness. Since the Respondent was neither informed of the allegations nor given the chance to face his accusers, the disciplinary and dismissal process failed the test of natural justice. The trial Court was therefore right to conclude that the Respondent's dismissal was wrongful.

EVICTIION NOTICE

3.2 Legal Status of an Employee Residing in Employer-Provided Accommodation and the Proper Procedure for Lawful Eviction

The Appellant contended that the Respondent had no legal interest in the premises, as he and his wife occupied the property solely by virtue of their employment. Being mere licensees, they could not claim trespass or wrongful eviction against the Appellant who owned the property. Despite this, the trial Court held the Appellant liable for forcible eviction, even though the Respondent only relied on information allegedly provided by his wife, who was never called as a witness. The Appellant submitted that this amounted to hearsay and could not prove forcible entry or eviction.

The Respondent argued that his eviction was unlawful because the Appellant forcibly entered his residence, removed his belongings, and did so without notice or a court order. He highlighted that the Appellant's own pleadings and witness testimony admitted entering the apartment, involving police officers,

and taking items, which confirmed the invasion. Counsel maintained that these facts were undisputed and clearly established wrongful eviction. He stressed that in civil cases, unchallenged evidence must be accepted as credible. The Respondent therefore urged the Court to uphold the finding that the eviction was illegal and amounted to unfair labour practice.

The Court of Appeal held that the Respondent was a licensee, not a tenant, since no tenancy agreement existed and his occupation of the employer's premises was solely at the employer's discretion. However, even as a licensee, the law requires that he be given reasonable notice before revoking his right of occupation. Relying on *A.P. Ltd v. Owodunni* and *Oyekoya v. G.B. Ollivant*, the Court emphasized that a licensor must allow a reasonable period for the licensee to vacate and remove personal belongings.

In this case, the Respondent was still in active employment on the day the Appellant's Managing Director forcefully entered his residence and barred him from re-entry. The evidence, which the Appellant did not contradict, showed that no notice reasonable or otherwise was given before the eviction. The Court of Appeal therefore held that the employer's conduct amounted to unlawful and premature revocation of licence, entitling the Respondent to damages.

Importantly, the Court of Appeal stressed that even where an employee occupies quarters purely as a licensee, an employer cannot resort to self-help or forceful entry, as this constitutes unlawful eviction and unfair labour practice.

In addressing whether the Respondent's occupation of the employer-provided accommodation conferred the status of a tenant or merely that of a licensee, the Court clarified the distinction between both legal relationships within the employment context. A licensee, the Court noted, is one who is granted permission by the owner to use or occupy premises without acquiring any legal estate or proprietary interest in the property. The right of occupation is personal, informal, and revocable, typically arising from the needs of employment rather than an intention to create a tenancy. The employer retains substantial control and may access the premises freely, and upon termination

of employment or revocation of the licence, the employee is required to vacate the property within a reasonable time. Importantly, a licensee cannot transfer, assign, or sublet the premises, as no proprietary right exists to support such dealings.

Conversely, the Court affirmed that a tenant enjoys a legal estate or interest in the property coupled with exclusive possession for a specified duration under a tenancy agreement whether expressly written or clearly inferred. This arrangement characteristically bears greater formality, is typically subject to the payment of rent, and vests control of the premises in the tenant for the term of the tenancy, restricting the landlord's access. A tenant's rights extend to statutory and contractual protection against unlawful eviction, and the tenant may sublet or assign the property (subject to agreed terms), reflecting the proprietary nature of such an interest.

This distinction, as emphasized by the Court, is critical in employment relationships, as an employee accommodated solely by virtue of employment without exclusive possession or an identifiable intention to create tenancy will ordinarily be regarded as a licensee, and not a tenant, notwithstanding long occupation or absence of a written agreement.

3.3 Creation of Employment Agreement By Conduct in the Absence of a Written Agreement

The Court additionally clarified that in employment law, the absence of a written contract does not negate the existence of an employment relationship, nor does it leave the employee without protection. The Court emphasized that implied terms, conduct of the parties, and statutory protections may collectively establish, interpret, and regulate the employment relationship, ensuring that employees are not deprived of rights merely because formal documentation is lacking.

3.4. Quantum of Damages for Wrongful Termination/Dismissal from Employment

The Court of Appeal affirmed that although the traditional measure of damages for wrongful dismissal is salary in lieu of notice, modern labour jurisprudence guided by *Skye Bank Plc v. Adegun* now allows courts to award higher and more appropriate compensation where the circumstances justify it. In particular, where a dismissal is accompanied by unfounded allegations of misconduct or fraud, the resulting stigma, reputational harm, and difficulty securing future employment may warrant substantial general damages.

Relying on Supreme Court authority, the Court held that each case must be determined on its facts and that an employee must prove suffering “beyond the ordinary,” such as reputational damage or diminished employability. The Respondent in this case satisfied this burden, as the employer dismissed him on allegations of fraud without hearing him, thereby breaching fairness and attaching an unproven stain on his character.

The Court found no justification to interfere with the trial Court's award of USD 9,600 as unpaid emoluments and ₦1,000,000 as general damages for wrongful dismissal, illegal eviction, and confiscation of property. The award was considered fair, given the wrongful process adopted by the Appellant and the prejudice suffered by the Respondent, including loss of reputation, loss of livelihood, and damage to personal belongings.

4.0 Implications and Takeaways:

- a) while an employer has the right to terminate employment, such termination must comply with laid-down procedures and must not violate the employee's right to fair hearing.
- b) In determining whether a dismissal is lawful, the Court emphasized three core considerations: (i) whether the dismissal followed the disciplinary procedure or applicable employment documents; (ii) whether the person issuing the dismissal letter was competent to do so; and (iii) whether the employee was afforded fair hearing in accordance with natural justice.
- c) The question of whether there was fair hearing during the dismissal process is so weighty that, where the Court finds that an employee was not afforded fair hearing, it renders the dismissal wrongful entitling the employee to damages.
- d) It is no longer the law that in a claim for wrongful termination of employment that an employee will only be entitled to the amount which he would have earned over the period of notice. The law now stipulates that damages for wrongful termination should not be restricted to one month's salary as notice pay; instead, a substantial amount may be awarded as general damages in deserving cases.
- e) In employment law, even in the absence of a written contract, implied terms and statutory protections still apply.
- f) Employer-provided accommodation does not automatically create a tenancy; the employee may simply be a licensee.
- g) In employment relationships, accommodation tied strictly to the job is typically a licence, not a tenancy, regardless of duration of occupation except where there is a written tenancy agreement.
- h) An employee who occupies employer-provided accommodation without executing a tenancy agreement is generally regarded in law as a licensee rather than a tenant. However, the absence of a tenancy agreement does not give the employer unfettered power to evict. Even as a licensee, the employee is entitled to reasonable notice before the employer can lawfully revoke the right of occupation. Where an employer fails to give such reasonable notice, the employee/licensee becomes entitled to damages for the wrongful eviction.



THE LAW CREST LLP

www.thelawcrest.com

LAGOS

Continental Re Centre, First Floor, 17,
Olosa Street, Victoria Island, Lagos State.
234-8096595974, 9087430535

ABUJA

Suite 16 Extension, Jinifa Plaza
Central Business District
FCT, Abuja.
234-8104424434, 8067800167