

Godwill v Ghana (striking out) (2021) 5 AfCLR 410

Application 048/2020, *Marizu Godwill v United Republic of Tanzania*

Order, 3 September 2021. Done in English and French, the English text being authoritative.

Judges: ABOUS, TCHIKAYA, KIOKO, BEN ACHOUR, MENGUE, MUKAMULISA, CHIZUMILA, BENSAOULA, ANUKAM, NTSEBEZA and SACKO

The Applicant failed to respond to communications and indicated a lack of interest in continuing with the case. The Court ordered the case to be struck off.

Procedure (striking out, 16-20)

I. The Parties

1. Mr Marizu Godwill (hereinafter referred to as “the Applicant”), is a national of the Federal Republic of Nigeria, who states that he is a businessman. He alleges the violation of the Charter in relation to policy decisions and legislations targeting African businesses in Ghana.
2. The Respondent State is the Republic of Ghana, which became a Party to the African Charter on Human and Peoples’ Rights (hereinafter referred to as “the Charter”) on 1 March 1989 and to the Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of the African Court on Human and Peoples’ Rights (hereinafter referred to as “the Protocol”) on 16 August 2005. It also deposited on 10 March 2011, the Declaration under Article 34(6) of the Protocol, through which it accepts the jurisdiction of the Court to receive cases from individuals and Non-Governmental Organisations.

II. Subject of the Application

A. Facts of the matter

3. The Applicant avers that during his youth, he witnessed the critical situation faced by Namibian students in Nigeria, which prompted him to fight for the unity of Africa. To this end, he launched the

initiative of “African Unity Legacy Project”.

4. He thus claims to be disheartened by the “incidents of disunity happening in leading African States who are supposed to be championing African unity...”
5. According to the Applicant, the xenophobic attacks against African citizens in South Africa, as well as the “diplomatic row and stand-off between the Nigerian and Ghanaian governments over the demolition of the Nigerian Embassy and the alleged ill-treatment of the Nigerian citizens and other African citizens residing in Ghana...” do not foster African unity or the concept of *Ubuntu*.
6. He also argues that “these recent events, especially the alleged policy decisions and legislations targeting businesses belonging to African citizens in Ghana...” violate the provisions of the Charter.
7. He finally asserts that “it is in the quest to fight against the above mentioned anomalies which are threatening African unity that the above Application has been made...”

B. Alleged violations

8. The Applicant alleges the violation of Articles 12(5), 23(1) and 27(1), 28, 29(8) of the Charter.

III. Summary of the Procedure before the Court

9. The Application was filed at the Court on 5 December 2020.
10. On 11 December 2020, the Registry acknowledged receipt of the Application and informed the Applicant that his Application had been registered.
11. On 12 December 2020, the Registry requested the Applicant to provide clarification on the facts of the matter and also to provide information on exhaustion of local remedies. However, the Applicant did not submit any information in reply to that request.
12. On 27 July 2021, the Registry sent a reminder to the Applicant to provide the information which had been requested for through the notice of 12 December 2020.
13. In his reply, via email, on 10 August 2021 to the Registry, the Applicant reiterated the administrative steps that he had taken in relation to exhaustion of local remedies. Overall, however, the Applicant offered very little clarification in relation to the facts. Significantly, the Applicant indicated that, he no longer “felt so strong about the Application” and left it to the Court to decide on how to proceed.

IV. On the strike out of the Application

- 14.** The Court notes that, Rule 41(2)(a) of the Rules provides:
All of the information ... that is set out in the relevant part of the Application form, should be sufficient to enable the Court to determine the nature and scope of the Application without recourse to any other document.
- 15.** The Court further notes the pertinence of Rule 65(1) of the Rules , which provides that:
 1. The Court may at any stage of the proceedings decide to strike out an Application from its cause list where:
 - a. An Applicant notifies the Court of his/her intention not to proceed with the case;
 - b. An Applicant fails to pursue his case within the time limit provided by the Court.
- 16.** The instant situation falls under Rule 41(2)(a) and 65(1)(b) of the Rules in view of the fact that the Applicant has failed to attend to the requests for clarification on his claims which were very general and on exhaustion of local remedies, despite being provided with thirty (30) days to do so.
- 17.** The Court requires that parties to an application should pursue their case with diligence and the failure to do so leads to the logical conclusion, that a party is no longer interested in pursuing their claim.
- 18.** The Court notes that the Application, as filed on 5 December 2020, makes vague references to violations of human rights. Furthermore, the Applicant submits various claims without giving separate factual background or context. The Court notes further, that the Application raises general claims as regards treatment of Africans in Ghana and other African countries without much substantiation. Thus, the Application is insufficient for the Court to determine the nature and scope without recourse to any other document as required under Rule 41(2)(a) of the Rules.
- 19.** Moreover, in view of the Applicant's reply of August 2021, in which he failed to provide the Court with clarity on the facts of the matter and failed to indicate the judicial remedies which he had exhausted; the Court decides, to strike out the Application from its Cause List, in accordance with Rule 65 (1)(b) of the Rules.
- 20.** Nevertheless, the decision to strike out the Application does not prevent the Applicant, by showing good cause, from applying for restoration of his matter to the Court's Cause List pursuant to the Rule 65(2) of the Rules.

V. OPERATIVE PART

21. For these reasons:

The Court,

Unanimously,

- i. *Orders* the striking out of the Application from the Cause List of the Court.