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Addis Ababa City First Instance Court  
Yeka Bench

File No.: 28836  
Date: July 19, 2022

**Judge: Mikias Girma**

**Plaintiff:** Defend the Environment - ቁም ለአካባቢ – (Attorney Melkamu Ogo - Present)

**Defendants:** 1<sup>st</sup>: Addis Ababa Water and Sewerage Authority – (Hiwot Tilahun – Absent)

2<sup>nd</sup>: Addis Ababa Administration Housing Development Corporation – Absent

3<sup>rd</sup>: Yeka Abado Midre Genet Houses No.485-490 Owners' Association - Absent

The file has been examined and the following judgment has been rendered.

### **JUDGMENT**

On February 17, 2022, the plaintiff submitted its suit stating that the Addis Ababa City Yeka Abado Condominium Project 13's sewerage system and toilet flush pipes exploded and leakages have been outflowing the residential area and enters directly into the Legetafo River since 2017. Therefore, the residents of the condominium and the surrounding community and approximately around 100,000 citizens who live along the river's banks are victims of the pollution. The plaintiff claimed that there have been violations of Article 44 of the FDRE Constitution, Article 15 of the Environmental Pollution Control Proclamation No. 300/2002, and other relevant legislation which recognizes citizens' right to live in a clean and healthy environment. Further, the plaintiff asserted that, on 15<sup>th</sup> June 2021, a warning notice was given for the first and second defendants to take appropriate action regarding the ongoing pollution. Nevertheless the defendants acknowledged the wrongdoing, neither of the parties took the necessary steps to undertake essential measures to cease the pollution and address the issue. Thus, the plaintiff requested the court to declare the defendants to be jointly and severally liable to take the necessary measures to stop the discharge of toilet swages and waste water into the area; to ensure restoration of the place contaminated by the pollution to its previous state and ensure its safety. Moreover, the plaintiff claimed that the court should recognize its entitlement to file a separate civil suit for material and moral damages against the defendants in the future because the subject posed in this case is complicated and needs further research to assess the actual damage.

Accordingly, the defendants were served with the summons and ordered to submit their respective statement of defense in response to the statement of the claims brought against them. On 08 March 2022, the first defendant the Addis Ababa City Water and Sewerage Authority submitted its statement of defense arguing that it is not responsible for the construction of Yeka Abado Project and took no part in the construction of waste disposal and sewerage lines directly or indirectly. Further, the Authority argued that the second defendant bears the responsibility for the design and building of the condominiums including the waste disposal system. The same defendant stated that it bears no liability for the damage

resulted from the pollution and therefore the claims of the plaintiff should be dismissed by the court as it is a lawsuit brought with false allegation and not sufficiently supported by evidence.

On 8<sup>th</sup> March 2022, the second defendant submitted a statement of defense. As a preliminary objection the defendant asserted that the plaintiff has no right and vested interest to file the law suit against defendants. Accordingly, the defendant requested the court to dismiss the lawsuit. Moreover, the same defendant asserted that its responsibility is construction of the condominiums that is completed with high quality standards. However, the construction of the sewerage lines outside of the condominium site is the responsibilities of the first defendant. Thus, the second defendant asserts that the toilet swage was supposed to flow out of the condominium site and joins the city sewerage lines that are constructed by the first defendant. Therefore, according to the second defendant, the fact that the sewerage runs out to the residential villages and the river is caused by the first defendant's defect in the sewerage line construction and not by a defect in the construction of the condominiums. The second defendant also argued that the first defendant is the one accountable as per Article 41(17) of Addis Ababa City Executive Organs Establishment Proclamation No. 74/2011. Furthermore, the defendant addressed that on 2<sup>nd</sup> July 2020 Addis Ababa Administration Housing Development Corporation visited the place and notified the first defendant to discharge its responsibility. Lastly, the second defendant defended that the claim of the plaintiff is not supported with enough evidence and the suit should be dismissed by awarding compensation for the losses and costs incurred by the defendant.

On 27<sup>th</sup> October 2021, the third defendant submitted a statement of defense arguing that the court should reject the plaintiff's claim as the association has no contractual or non-contractual responsibilities. Besides, it asserted that the association has fulfilled its responsibilities as it tried to prevent the damage caused by the improper construction of the building that removed the toilet and sewage from other condominium building since 2018, and spend more than 1500 (one thousand five hundred) Birr every three months. Further, the defendant stated that the plaintiff's claim is not supported with sufficient evidence.

In assessment of the case, the court rejected the preliminary objection of the defendants and proceeded to entertaining the merits of the case. Afterwards, the court identifies the following issues: whether the defendants are jointly and severally to prevent the leakage of waste water in Yeka Abado Project 13? Are the defendants accountable to rehabilitate the polluted environment back to its initial conditions?

Afterwards, the court has called upon the witnesses of the plaintiff and defendants to give their respective testimonies in accordance with the issues of the case. The witnesses of the plaintiff testified that the toilets and other sewage pipes in the Yeka Abado condominium project burst causing a leak that run straight into the river. An overpowering smell emanating from the waste is disturbing to the neighbors and the community residing in the area who tried to resolve the problem themselves.

Then, the witnesses of the first defendant have testified that starting from 2017 the defendant is mandated to manage sewerage system of condominium houses. Yet, the second defendant took responsibility of constructing the condominium houses and sewerage systems. Further, they testified that the first defendant has done repair works on the pipes to minimize the leakage.

The second defendant had no witness. Thus the court called upon the witnesses of the third defendant who testified that the sewerage system of the building blocks from 486 up to 490, in Yeka Abado Project 13 condominium are problematic and leakage of the toilet swage and the waste water run into the surrounding environment and the river. Further, the witnesses testified that the first defendant had repaired the pipes, yet the leakage keep flowing into the surrounding area. Moreover, they have asserted that the community has been trying to repair the damage from their own pocket.

The court examined the issue in accordance with the witness testimonies and relevant legislations. The court determined the main points of contention in the case, one, whether the defendants are jointly or severally to prevent the leakage of waste water in Yeka Abado Project 13? Two, whether the defendants are accountable to rehabilitate the polluted environment back to its initial conditions?

During the oral argument, the court has understood that the sewerage and pipelines of the Addis Ababa City Yeka Abado Project 13 Condominium Housing are damaged leading the leakage of the swage and liquid wastes to the surrounding area and Legetafo river. Moreover, as it is confirmed by the witnesses' testimonies the waste has a very bad smell and is disturbing the community. The witnesses further asserted that except for the measures taken by the local community no repair or maintenance has been done for the sewerage lines.

The court acknowledged that the residents of the area and the passersby have the right to live in safe and healthy environment. As per Article 12(1) of the Environment Pollution Control Proclamation No. 300/2002, any party who is failing to maintain environmental safety standards and create environmental pollution causing risks and damages to public health and environmental pollution shall be held liable for such offenses. Under Article 50(9) and (17) of the Addis Ababa City Executive Organ Establishment Proclamation No. 74/2014, Addis Ababa Water and Sewage Authority has duties and functions for collecting waste from residents, establish sewerage system, licensing to contractors, undertake regular repair of sewerage system and septic tanks maintenance and supervision, and related activities. It has also been stated the authority is responsible for water distribution. This shows the first defendant has a legal responsibility to fix the damage done by the busted sewerage system and pipelines.

Therefore, the court herein declares that the first defendant is legally accountable for the environmental pollution caused against the Addis Ababa City Yeka Abado Project 13 condominium housing due to the sewerage and pipelines damaged. Thus, as per Article 50(17), Proclamation No. 74/2014, the Authority must take appropriate measures to stop the

outflow of the swage and liquid waste. Besides, the second and third defendants are also responsible to take their part in rectifying the problem.

As per Article 17(C) of the Environment Pollution Control Proclamation No. 300/2002, the defendants are found to be jointly and severally liable to maintain environmental safety and standards. Further concerning the third defendant, the sewerage system is bursts to cause the waste spill out as confirmed by testimonies and causing additional damages to public health and the environment, the defendants shall be held legally liable for restoring the environment back to its initial condition.

### **DECISION**

- The court herein declares that the defendants are jointly and severally liable for leakage and spilling of sewerage in Yeka Abado Project 13 and they shall ensue that the spillage is contained by taking necessary actions.
- The court declares that the defendants are jointly and severally liable to restore the polluted environment to its initial conditions.
- The plaintiff has a right to file a new lawsuit to claim compensation for the moral and material damage sustained by victims per the Civil Code of Ethiopia.

### **ORDER**

- The right to appeal is intact.
- A Copy of the judgment will be given to the requesting party.
- The file is closed and archived.

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Addis Ababa City First Instance Court  
Yeka Bench

An invisible judges' signature