

Case brief – Summary

Judge – NEJIB BESHIR

Court – ----- Addis Ababa City Administration - First Instance Court

Division - Bench -----Gulele Civil Bench

Filing date-----June 14, 2013 G.C (07/10/2013 E.C)

File Number -----28006

Date of Decision -----Date: (19/03/2015 E.C) 11-28-2022 G.C

Parties:-

Plaintiff: Defend the Environment (Registered Civil Society Organization - CSO)

Address: Addis Ababa City, Kirkos Sub-City, Wereda 07

Defendants: 1st Gulele Sub-City Trade Bureau

2nd Ethiopia Live Animal Traders Association

This case was initiated by a claim plaintiff brought, on the basis of Article 11 of the Environmental Pollution Control Proclamation No. 300/2002, against the Defendants concerning the Shegole Live Animals Market Center. The market center is located at Gulele Sub-City Wereda 10, which is owned and administered by the later party. According to the claim, the Market Center is found very close to the residential areas of the shegole neighborhood by sharing borders or fences with residential houses. Due to the poor management and infrastructures built with sub-standard quality, the market center causes noises, emissions, odor and pollution seriously threatening the health and safety of residents and passersby and affecting the socio-economic activities in the area.

Thus, the plaintiff claimed that this is in violation of Environmental - Human Rights, specifically the right to live in a safe and healthy environment of the people enshrined under Article 44(1) of the FDRE Constitution and the relevant environmental legislations including the Environmental Pollution Control Proclamation No. 300/2002. Accordingly, the plaintiff plead to the court that: 1) to order the defendants relocate the Shegole Live Animal Market Center to another location after cleaning up the existing area of the market; and 2) as for the health and economic and moral damage caused to the public and private individuals, to secure the plaintiff's right to bring civil claims infuture against the defendants.

Based on the claims brought and the relief sought, the Court summonsed the defendants to submit its statement of defense. Following this order of the court, the defendants submitted its

statements of the claim on July 13, 2021 arguing that the plaintiff's claim should be rejected by the court for the reasons that plaintiff does not have a vested interest in the matter; the plaintiff should have first referred the matter to the concerned administrative authority before bringing it to the court; the plaintiff cannot demand the relocation of the Market Center as the Center fulfills all the standards required by the law.

On the trial held on October 29, 2020 the court rejected the preliminary objection of the defendants reaffirming that the plaintiff has a right to bring public interest litigation on the grounds of Article 11 of Proc. No. 300/2002. Thence, the court framed three issues, namely: 1) Whether the market center causes noise, emission, odor, and pollution affecting the health and socio-economic lives in the area? 2) Whether the market center fulfilled standards and requirements set by relevant laws? 3) Whether the Plaintiff can demand the defendants to relocate the market center and demand cleanup or restoration of the polluted area.

In consideration of these issues, the court analyzed the arguments and evidence presented by the parties in accordance with the relevant legislations. The court also ordered the Addis Ababa Environmental Protection Authority (AAEPA) to investigate the adverse impacts of the market center on the environment and human health and to to the court. On this basis, AAEPA brought a two-page impact assessment report stating that the Market Center is not environmentally friendly and is posing danger on people's health and socio-economic activities of the area. Moreover, the Health Offices of the Gulele Sub-City, Gulele Wereda, the Ethiopian Human Rights Commission (EHRC), and the Federal Obdusman also state that the area is highly polluted.

Based on the findings and evidences presented to it, the court finds that the Shegole Live Animal Market Center which the defendants owned and administeres is causing noise, swarage, odor and similar polluting emissions resulting to health and socio-economic impacts on the residents and the passerby. Accordng to the defendants on the date April 16, 2022 the Market Place has a lease holding certificate on the land the size of which is 4,950 meter square with lease holding no. 10/31/33109/00. However, the evidence showed that the market center's infrastructure does not fulfill the standards and requirements set by the relevant legislations.

On this basis, Article 3(1) of Proc. No. 300/2002 prohibits anyone from causing pollution on the environment in violation of the relevant rules and regulations. It also requires that any

person who causes any pollution shall clean up or pay the cost of cleaning and restoration. Therefore, the court passed the judgement that the defendants are found liable per the claim submitted against them by the plaintiff. In its judgement, the court also passed the following orders:

Order of the Court

- The defendantss must restructure the Live Animal Market Center in accordance with the standards and requirements in a manner that does not cause adverse negative impacts on the environment and; otherwise, if the center cannot be restructured the defendantss shall relocate the Market Center after cleaning up the area on its own cost;
- The defendantss should clean up and restore the area to its original state at its own cost;
- The right of the plaintiff to bring a civil suit for compensation in the future for the people who sustained health, social, economic, and moral damage as a result of Market Center's pollutant activity remains intact.

