

BEFORE THE ENVIRONMENT AND LAND USE APPEAL TRIBUNAL

ELAT 357/13

In the matter of:

Action Sociale Sans Frontieres & Ors

Appellant

v/s

Minister of Environment and Sustainable Development

Respondent

IPO:

United Basalt Products

Co-respondent

RULING

1. The present appeal is against a decision taken by the Minister of Environment (hereinafter referred to as "the Minister"), for having approved an application made by the United Basalt Products ('UBP') for a Environment Impact Assessment ('EIA') for the proposed modernization works at UBP Stone Crushing Plant at Geoffroy Road, Bambous. The respondent raised a *plea in limine* as follows: *the Respondent moves that the appeal be set aside in as much as the Appellant no. 1 was not a legal entity at the time of the lodging of the present appeal.* The matter was argued. We have duly considered the submissions of all counsel.
2. The appeal was lodged before the defunct Environment Appeal Tribunal on the 23rd September 2008, as borne by the record. The appellant no.1 is the Action Sociale Sans

Frontiere. Evidence was adduced by the respondent, by calling as witness an officer from the Registrar of Association, that the *Action Sociale Sans Frontiere* is an association that was first registered on the 6th October 2008.

3. Some jurisdictions allow for public interest litigation or even class actions by a representative on behalf of a group of plaintiffs. It is a settled principle that a class action *per se* does not find its existence in our jurisdiction. For an association to have the capacity to sue or be sued, it must be a legal person having the same powers to do so as a natural person. In this country, these powers are entrusted in a registered association by virtue of **s.9 of the Registration of Association Act 1978**:

Section 9 (1) of the Act stipulates "*A registered association shall be a body corporate with perpetual succession and a common seal bearing its name and shall have all the rights and powers of a natural person.*"

Section 9 (4) of the Act stipulates "*A registered association may sue and be sued under its corporate name and service of any notice or process by or on the secretary shall be deemed to be service on behalf of or on the association.*"

4. In this context, I find that since there is no evidence on record to show that "**Action Sociale Sans Frontieres**" was a recognized legal entity, having the powers of a natural person at the time of the lodging of the case in September 2008. A body or group which is not a legal or natural person cannot *de facto* enter a case. At the material time, that is at the time of lodging the appeal it must have had the capacity to do so as a legal person or a natural person. We agree with the submissions of learned counsel appearing for the State that the **Action Sociale Sans Frontieres** did not have *locus standi* at the time of the lodging of the appeal because only a natural or legal person can enter a case before a Court or Tribunal.

5. For all the reasons set out above, we find that the *plea in limine* was rightly taken. The motion is granted **quoad** the **Action Sociale Sans Frontieres**. Whilst bearing in mind that the appeal has also been entered by other appellants, the appeal cannot be set aside but the appellants are to take a stand in the light of this ruling.

Ruling delivered on 15th December 2017 by

Mrs. J. RAMFUL

Vice President

Me.V Reddi

Assessor

Mr. M. Busawon

Assessor