**Kinyanjui v Mwendia**

**Division:** Court of Appeal of Kenya at Nairobi

**Date of judgment:** 26 May 2000

**Case Number:** 74/99

**Before:** Tunoi, Bosire and Owuor JJA

**Sourced by:** LawAfrica

**Summarised by:** W Amoko

*[1] Private members’ club – Disciplinary action against member – Jurisdiction of the Court to review*

*decision – Manner in which discretion to review is to be exercised.*

*Lee v Showmen’s Guild of Great Britain* [1952]

**JUDGMENT**

**TUNOI, BOSIRE AND OWUOR JJA:** This is an appeal by the unsuccessful Plaintiff from the judgment of the High Court of Kenya at Nairobi (O’kubasu J as he then was) given on 25 February 1999. By it the court ordered that the Plaintiff’s suit against the Defendants, Messrs K Mwendia and four others sued as Trustees of Parklands Sports Club, be dismissed with costs. The Plaintiff is a known city advocate while the Defendants are trustees of Parklands Sports Club, a famous members’ club offering recreational, entertainment and related facilities to its members. It is not in dispute that the Plaintiff has been a fully paid member of the club since 1991 until his expulsion in 1996. By a plaint dated 14 May 1996 the Plaintiff averred that he was wrongly expelled from the club in that he was denied the right to be heard by the main committee of the club and neither was he supplied with a copy of the complaint preferred against him by a senior member of the club. He therefore sought from the superior court an injunction to restrain the club from interfering with his rights under the club’s constitution; a declaration that his expulsion was illegal; and a declaration that he is still a *bona fide* member of the club. Our perusal of the record and the evidence tendered before the superior court shows that on 4 February 1996 at about midnight the Plaintiff and a Mr Ndichu were involved in an exchange of words within the club premises. As a result of the incident a complaint was lodged against the Plaintiff. The complaint was duly considered by the main committee of the club which recommended that the Plaintiff be expelled. His appeal to the annual general meeting of the club was discussed, considered and rejected. Throughout all the stages the Plaintiff’s complaint travelled and his eventual expulsion, he was notified of the impending action and was accorded the opportunity to be heard. The Learned Judge held that the club had a constitution and the Plaintiff was expelled in accordance with rule 58 thereof. He was given an opportunity to answer the accusation against him. Since everything was done in accordance with the rules, the Learned Judge was not prepared to interfere with the rules of a private club. The Plaintiff has now appealed to this Court. He contends that the Learned Judge was wrong in not realising that the rules of natural justice were breached. On such appeal, the first and fundamental question for this Court to consider is whether the club rules were observed. These included the right of the Plaintiff to be heard and that the nature of the accusations must be explained to him. We are satisfied that the club observed its rules to the letter, and everything done leading to the expulsion of the Plaintiff was in accordance with the rules of the club. We cannot perceive of any breach of the fundamental rules of natural justice. No doubt the Plaintiff misbehaved during the material night. His conduct was detrimental to the reputation of the club. The entire membership that formed the annul general meeting were unanimous that he had to go. He was subsequently expelled. The rules empowered the club to expel the Plaintiff since in its opinion he had been guilty of conduct injurious to the club and its wider interests. The courts have no wish to sit on appeal from decisions of a social club, such as the Defendants’, so long as they see that there is fair play on any expulsion. *Lee v Showmen’s Guild of Great Britain* [1952] 2 QB 329. In the case before us there are no grounds for interference since the Plaintiff had notice of the accusations against him and was given ample opportunity to be heard. The club and all its organs observed the procedures laid down by the rules. The appeal, in our view, is frivolous and completely devoid of merit. It is dismissed with costs. For the Appellants: *D K Muigua* instructed by *Kariuki Muigua and Co*

For the Respondent:

*F N Ojiambo* instructed by *Kaplan and Stratton*