The Courts

The Magistrate Court of Jerusalem				**C 008811/04**	
Before:	**The Honorable Judge Aviv Malka**			**Date:**	9 November 2009

In the matter of:

1. **Abu Sneina _____**
2. **Abu Sneina _____**
3. **Abed Al Rasek _____**
4. **Jallal Faizal _____**
5. **Abu Sneina _____**
6. **Abu Sneina _____**
7. **Abu Sneina _____**
8. **Hashem _____**

Represented by Adv. Copti Mazen — **The Plaintiffs**

Versus

1. **The State of Israel**
2. **The Israel Defense Forces**

Represented by Adv.: the Tel Aviv District Attorney's Office – Civil — **The Defendants**

Judgment

The Plaintiffs, members of one extended family, who reside in four buildings proximate to each other.

There is no disagreement that in October 2001 the IDF forces took the buildings over and held them for 10 days, from 5 October 2001 until 15 October 2001 (clause 1 of the Plaintiffs' summations).

The Plaintiffs claim compensation for that, and their complaint is divided in to two topics: for the damage caused to the apartments and their contents and for money and valuable objects that they claim were stolen.

The Defendant defends itself with the claim that the taking over the buildings was within military activity protected by the law. That claim is split into two – first, the exemption granted to the State according to Article 5 of the **Civil Tort Law (the**

State's liability), 5712 – 1952 (the "**State's Liability Law**") (Clauses 163 onwards of the Defense's summations). Second, the exemption granted to the State due to its actions as a State outside the State's borders ("**ACT OF STATE**"), actions that are not judicable (Clause 205 onwards to its summations).

Alternately, the Defendant claims that the Plaintiffs' claims should be rejected because their version was found to be unreliable.

Prior to entering the debate itself, I shall clarify the importance of the distinction that he Plaintiffs made between their claims for damage that was caused to the apartments and their contents, and their claims regarding damage caused due to the stealing of money and valuable objects.

I shall further make another distinction – the claimed damage to the apartments and their contents should be carefully examined, whether they include damage *per se*, damage of malice. These go together with the theft damage, distinguished from the damage to the apartment and its contents as a result of the inevitable use of it.

The validity of these distinctions is related to the Defense's claims.

The defense granted to the State in Article 5 of the State's Liability Law, may only apply to the damage that was caused as a result of the military activity.

That defense does not apply to criminal acts, including damage performed just for the sake of it, in malice or to damage due to theft. These actions are not actions that are necessary for the purpose of the military activity and they should be addressed merely as criminal acts.

Therefore, the discussion shall be split below according to those distinctions.

I shall leave the discussion regarding the theft claims to the end and first discuss the claims regarding property damage. First, I will examine, factually, whether this damage was an inevitable result of the military activity or whether it is malicious vandalizing.

The nature of the property damage

There is no disagreement that at the time that the IDF soldiers were at the Plaintiffs' homes, they used the Plaintiffs' belongings and the damage was caused as a result of that.

The Plaintiffs described the damage in their affidavits, as wreckage and destruction. The Plaintiffs enclosed pictures to the affidavits and filed photos in the proceedings – P/1 (a pack of photos), P/2, P/3, P/4, P/5, P/6, P/7 (a pack of photos), P/10 and P/11 (a pack of photos) etc.

The Defendant claims that this damage was inevitable damage, deriving from the soldiers' operational activity. The soldiers that were in the house, clarified that at the first stage, according to their instructions, they were supposed to perform a thorough search in the house for locating weapons.

Afterwards, they were supposed to fortify the house in order to turn it into a post that will protect them to the extent possible. For that purpose they used the home's furniture – closets, sofas etc.

I have thoroughly read the material in front of me and looked at each of the photos and have been convinced that the damage in the Plaintiffs' apartments matches the version given by the soldiers who were at the place.

The main impression from the photos is – disorder, and not necessarily damage.

These photos match the soldiers' description regarding the thorough search that they had to perform in the house in order to ensure their safety.

The damage that is observed from the photos also matches the soldiers' version regarding the use of the furniture in order to fortify the house.

And note, it is not possible to expect the IDF soldiers to return into the closets the equipment taken out of them during the search or to arrange the house before leaving it.

This damage, as well as the inconvenience caused by the mere evacuation of the house – and I have no doubt that it involves significant inconvenience and distress – all of those may be considered as a necessary evil accompanying the military activity.

It should be emphasized that should I had seen in the photos any evidence for destruction for the purpose of destruction, as occurred, to our sorrow, in other places, I would have not hesitated to determine so and to address such destruction, in the same manner as I shall address the Plaintiffs' claims regarding thefts.

In light of the aforesaid, according to the material before me, I have been convinced that all of the Plaintiffs' property damage is the result of military activity.

The relevant question is therefore – can the Defendant enjoy, under these circumstances, the defense granted to it according to Article 5 of the State's Liability Law.

<u>The applicability of Article 5 of the State's Liability Law</u>

The relevant provisions in the State's Liability Law are these:

Article 5 determines the following:

> **"The State is not liable for damage for a deed performed by a combatant action of the Israel Defense Forces."**

Article 1, the definitions article determines the following:

> "**A Combatant Action – including any action of fighting terror, actions of hatred or uprising, as well as an action for the prevention of terror, actions of hatred or uprising performed under circumstances of risk for life or body.**"

The plaintiffs claim (clause 33 onwards of the summations) that the seizure of their home by the IDF forces, is not within the scope of a "Combatant Action" as such is defined in the law, and they lean on the following distinctions:

First distinction, originating in the 50's Civ.App311/59 **The Tractors Station Plant Vs. Chayat** where it was determined, by the Honorable Judge Cohen, that the essence of the action should be examined and not the war. Meaning, the action itself should be examined while disregarding its background and the circumstances.

A second distinction is between a "Combatant Action" and a "policing action" or an "aiding action" (clause 38 of the summations). The Plaintiffs further add and present cases that determine the borders between all of them, and the circumstances in which an aiding action is liable to become a Combatant Action.

A third distinction is between a Combatant Action and a "guarding action" (clause 44 of the summations).

Ultimately, it is agreed by the Plaintiffs too, that a number of parameters are required in order to determine whether the subject matter is a Combatant Action or not, as determined by President Barak in **Civ. App. 5964/92 Jamal Kasem Bnei Uda Vs. The State of Israel** ("**Bnei Uda Civ. App**"), as follows:

> "**and therefore, in answering the question whether an action is "combatant" all of the incident's circumstances should be examined. The purpose of the action should be examined, the location of the incident, the length of activity, the identity of the acting military force, the threat preceding it and projected from it, the strength of the active military force and its scope, and the length of the incident. All of those shed light on the nature of the special combatant danger that the action caused**."

Based on these distinctions and rules and according to the material before me, my conclusion is clear, that the action, subject matter of this case, the seizure of the Plaintiffs' home, is included within the scope of a "Combatant Action" as it is defined in the State's Liability Law. Below I shall specify my reasons.

First, the term "war" changed its contents along the ten or twenty past years. While in the past it was a word designated for a confrontation between armies, while each of the armies represents a recognized and defined state, these days, I believe that no one would deny that fighting terror is a war in every aspect.
The terror does not represent a state and does not operate an organized army, according to the traditional conception. According to the nature of its actions, in the rear, in the heart of civil population, it might have been classified within the criminal offences field. However, today, no one will doubt that the terror is a first grade security threat, and not only to the security of the state and its citizens, but it is also a threat to the wellbeing of the whole world.
In short – the war against terror is a war in every aspect, and an action intended to fight terror may be a "Combatant Action".

Second, the period in which the events subject matter of this proceeding occurred, was a period full of terror in Israel. Hundreds of innocent and guiltless people were killed in murderous terror actions.

The State was in a period of war that was even worse than any other war, as it was happening within the core of the rear – towards babies, elderly, children and youth and [included] harm to all levels of the non-fighting population.

In such state of affairs, actions performed by the security forces, in order to stop the raging terror wave, were actions within the scope of war in every aspect.

Third, this specific action was performed in order to prevent the continuation of the terror actions against the Jewish settlement in Hebron. That action occured after and following the fact that the Jewish settlement in Hebron was subjected to ongoing shooting from the Arab areas of the city.

The cruel shooting of a sniper to the stroller of the baby Shalhevet Pass, was one of the causes for initiating this action (the Defendant's summations, clauses 9 onwards).

Thereby, I reject the Plaintiffs' claims as if the Defendant did not prove its version regarding the background for the aforesaid action, or that there are contradictions in the soldiers' testimonies (clauses 59 onwards of the summations). There is a significant level of cynicism in the Plaintiffs' claims in these clauses. Is there any significance to the fact that one of the soldiers attributed the action to the murder of the baby Shalhevet Pass, while another attributed it to the murder of four people?! The entrance to the Plaintiffs' home was in October 2001, within a stormy period of blood bath, and it does not make any difference when exactly was the decision made to enter the Arab neighborhood in order to stop the shooting.

Fourth, the Plaintiffs draw to my attention that the seizure of the buildings and all of the period of the soldiers' staying in them was not accompanied by shooting or any other danger to the soldiers.
The Plaintiffs seek to direct me to the conclusion, while referring me to case law, that in light of the aforesaid, it is not Combatant Activity, but rather seizure of the building for observance and patrols.
I cannot agree with that.
The Plaintiffs rely on judgments in which the courts mention the risk level to the soldiers as a test for the determination whether the activity is combatant or not (**Civ.App 5621/97 The State of Israel Vs. Maher Mohammed,** the aforesaid **Bnei Uda Civ. App** and others).

It is true that an immediate life danger that requires an immediate response of the soldiers for their own protection may serve as a good indication that establishes the soldiers' action as a Combatant Action even if it did not set off as such.

However, it will be a logical failure to conclude from that, as the Plaintiffs are moving me to conclude, the opposite. As if any action that does not entail an immediate and imminent life danger, may not be a Combatant Action.

I have no doubt that there might be a Combatant Action in every aspect, even if it does not entail an immediate life danger to the security forces.

In continuation to that, a life danger as one of the components of a Combatant Action, does not necessarily have to be a life danger to the military force.

A Combatant Action in every aspect, may also be performed in order to prevent life danger to the citizens, as that is the core of IDF's purpose, as clear from its name – The Israel Defense Forces.

In this case the life danger was clear and immediate. Danger to the civil population on which the IDF set out to protect, and danger to the soldiers who were situated right in the middle of a hostile area, regarding to which it may be presumed with very high certainty that it is swamped with terrorists who will be happy to abuse any opportunity to harm soldiers.

Moreover, the real danger may exist in Combatant Activity, even if it does not realize eventually.
Meaning – there are numerous Combatant Actions which entail real and concrete danger which, to everyone's joy, does not realize eventually. It could be that it actually does not realize because of the activity of that same military force in a professional and deterring manner.
It would be absurd to determine that such action, in which the force prevented the danger to the soldiers' life, will not be considered as a combatant action because of its successful result.
In this case, the fact that in hindsight, to our joy, there was no extraordinary event, lies in the deterring factor of the force, and there should not be a conclusion drawn from it that the danger was not real danger.

Ultimately, the real life danger to which the force was subject the whole time of its stay at the place, may be indicated from the significant investment of the soldiers in the fortification of the place until its turning into an actual "post".

Fifth, President Barak mentions in the Bnei Uda Judgment that the identity of the active force is also one of the components for the determination whether the activity is Combatant Activity or not.
In this case the subject matter is Unit 202, and it is well known that this is one of the units having extensive reputation as a fine operational unit.
There is no doubt that should the activity had been a marginal activity of observations, as the Plaintiffs describe it – the IDF would not have chosen one of its selected units for its performance.

I believe that the aforesaid is sufficient in order to understand that the aforesaid force's activity at the Plaintiffs' home was Combatant Activity in every aspect.

In light of the aforesaid, I determine that the State has a defense against the Plaintiffs' Complaint in all matters related to the Plaintiffs' complaint regarding their property that was damaged upon the seizure of the homes.

I reject the Complaint in that clause.

The Plaintiffs' claims regarding the theft damage

The Plaintiffs, except for Plaintiff 6, claim, as aforesaid that significant amounts of money were stolen from them, as well as valuable jewelry. As I mentioned above, this type of damage is not subject to the protection of Article 5 of the State's Liability Law.

A criminal action may not be included in the definition of a "Combatant Action". Stealing property or its malicious destruction for that purpose only are not fighting actions.
That logic exists also in Article 5c of the State's Liability Law, an article that was legislated in Amendment no. 4 in 2002 (and therefore does not apply in our matter). In that Article it was explicitly determined that the State is not liable for damage caused in a confrontation area for actions performed by the security forces, except for damage that are in the second schedule, which specifies damage that was caused by someone who was convicted in an offence for the same deed that caused the damage.
In other words, according to the Amendment, the State has no defense against damage which is the result of a criminal act (for which there has been a conviction).

Therefore, with regard to those claims of the Plaintiffs, the actual claims should be discussed – have the Plaintiffs met the burden of proof to show that money and valuable objects were stolen from them.
I shall immediately say – I was not at all convinced in the truthfulness of the Plaintiffs' claims. It seems that the naturally angered Plaintiffs, in light of the difficult experience they had undergone, are trying to obtain compensation in an indirect manner.

The Plaintiffs refer to the fact that the Defendant did not bring the regiment's commander, Ya'acov, to testify (Clause 148) and neither did it bring all of the soldiers who participated in the operation (Clause 150 of the summations) and move that I shall conclude from that, that it should be held against the Defendant.
These claims lean on evidence law established legal practices.
However, even such established legal practices must pass the test of reasonableness.
The Plaintiffs' demand that the Defendant bring for testimony all of the soldiers that participated in the operation is patently unreasonable.
In addition, the Defendant explained that the regiment's commander, Ya'acov did not come to testify due to his stay as an emissary abroad (page 33 line 3). It could be that that is faulted according to evidence law, due to his being a principle factor. However, in this case, that should not change the result.
Even that evidential rule cannot save a complaint that was doomed to fail *ipso facto*.
That meaning, in a case where the Plaintiffs themselves failed to meet the burden of proof imposed on them, the Complaint will be rejected regardless, and notwithstanding the Defense's omissions.

In this case, the Complaint in itself, *ipso facto,* raises wonders and doubts which mandate its rejection.

First, the claims in the Complaint are not reasonable.
There are 8 Plaintiffs, each representing a household, who live in four buildings. Seven of them, except for Plaintiff 6 claim thefts.
The money and jewelry stolen, according to the Plaintiffs claim were not concentrated in one place, but were in different homes, hidden in different places, according to the Plaintiffs' version.
The force that held the buildings was not composed of one or two soldiers. It had 8 to 10 soldiers (so did the soldiers testify, page 4 line 7, page 34 line 1, page 40 line 8). These soldiers were those who performed the searches in the house and afterwards stayed in the buildings, each soldier in his place and position.

Therefore, the Plaintiffs' claims entail a claim that all of the soldiers or most of them were involved in the stealing.
In other words, if I follow the Plaintiffs' version, then a large number of thefts occurred at the place, at least 7 and maybe even more (since the money and the valuable objects, according to the Plaintiffs' version, were hidden in a number of places). The claim leads to the conclusion as if at the same action, the unit that seized the house was composed entirely or mostly of thieves.
The claim is not reasonable.

Moreover, according to the Complaint the amounts stolen are enormous - $120,000, almost JOD 50,000, NIS15,000 and additional gold and jewelry.
The soldiers stayed there, by each other, in isolation and intensity for 10 days.
In light of the conclusion, as aforesaid that there could not be one soldier stealing – it would be unreasonable to think that under the conditions that the soldiers were staying, such scope of thefts would not have leaked from one soldier to another. The reality shows that such information, under such conditions, cannot remain concealed. Much more so when there are a number of soldiers involved. It would be appropriate to refer to the testimony of the soldier Anastes, who knew to tell that in one of the houses there was actually a bag full of jewelry found, but it was delivered by him to an officer, and theft was not carried out (page 41 line 22).
In that matter, the fact that the investigation of the Investigating Military Police (Metzach) did not reveal anything, speaks for itself.

If these enormous obstacles that the Plaintiffs did not overcome are not sufficient, the Plaintiffs confront another obstacle – a reasonable person who hides in his home large amounts of money, or when a person has jewelry or other valuable objects, he should know accurately and clearly how much money is held in his home, what are the jewelry and valuable objects, and where all of them are hidden exactly.
A person who claims that there are valuable objects in his home, but cannot describe them or does not know the amount of money held, and cannot even give a clear and accurate version of where those objects were held – does not sound reliable.
As shall be further clarified, the Plaintiffs failed to present reliability.

The last obstacle in the list of obstacles confronted by the Plaintiffs, which they did not succeed in overcoming either, is an alternative claim regarding the gap of time between the exit of the IDF soldiers and the Plaintiffs' entering their homes.

There is no disagreement that the IDF soldiers stayed in the Plaintiffs' homes only for 10 days and left the homes on 15 October 2009 [mistake in the original] (clause 1 of the Plaintiffs' summations).

There is also no disagreement that the Plaintiffs returned to their homes not before 17 October 2009 (in answers to a questioner, answer 13b, all of the Plaintiffs declare that they returned to their homes after about two weeks. The Plaintiffs explicitly mention the date 17 October 2001 as the date of their return (Plaintiff 1 in P/1, Plaintiff 2 in D/4, Plaintiff 4 in D/6, Plaintiff 5 in D/7, Plaintiff 6 on page 29 line 27, Plaintiff 7 in D/8 and Plaintiff 8 on page 31 line 18).
With regard to what happened after the soldiers left and prior to the return of the Plaintiffs to their homes, there is no information in the file.
It is not inevitable that if anything was actually stolen from the Plaintiffs, the theft was performed during those days in which the homes remained empty.

Moreover, it is known that the people of the Palestinian Authority as well as reporters, entered the homes at some date after their evacuation by the IDF soldiers. Meaning that a large number of people went around the homes after the military force left them. It is not inevitable that any one of those people, or a few of them, took some objects from the Plaintiffs' apartments.

In light of the lack of faith that the Plaintiffs themselves have in the Palestinian Authority's people (page 22 line 4) it seems that the conclusion that they were the ones who performed a theft, to the extent anything was actually stolen, is more reasonable than the claim against the IDF soldiers.

The aforesaid leads me to the conclusion that this Complaint has no grounds, and is no more than the result of this family's members coming together for a joint purpose – to receive from the State funds that they are not entitled to and to make a fortune on behalf of the public.

Just for the sake of additional caution, I shall specify below the arguments of each of the Plaintiffs.

Plaintiff 1, ---------- Sneina

In the Complaint he claims that $120,000 were stolen from him and does not mention anything else.
In his affidavit he claims (clause 15) that $120,000 were stolen from him, that were kept in one of the blankets in the bedroom and he mentioned that his wife's golden jewelry that was kept in one of the closets, was stolen too.
In answers to a questioner (answer 9b to D-3) he does not mention the jewelry.
In his examination he changes his version with regard to the money too and claims that it was in a mattress (top of page 18).

The changes in Plaintiff 1's version and the lack of consistency undermine his reliability.

His testimony in an examination before me, adds onto that lack of reliability.

On page 14 (line 15 onwards) it seems as if the Defendant's attorney is pushing Plaintiff 1 to remember that money was stolen from him. This is how the examination was conducted:

> "**Q. What did they steal from you, only money?**
> **A. At the time, I do not know, my wife fell on the floor.**
> **Q. What disappeared, only money or other things as well?**
> **A. The breakage that occurred and destruction that was in the home.**
> **Q. What disappeared from the home?**
> **A. I was no home, when I came in there was no home.**
> **Q. What was stolen from the home?**
> **A. At the time only money. The whole house was wrecked but only money was stolen…**"

Plaintiff 1's answers seem strange, as if he had "forgotten" the claimed theft and he focuses only on the damage caused to his apartment. Moreover that is strange, in light

of the enormous gap between the value that he himself claims for the damage – NIS 88,500 (in the Complaint) and the money stolen, according to his claim, in an amount of $120,000 – almost five times that amount.
In addition, as may be seen, in his above testimony, he does not mention at all that jewelry was stolen from him, even though the Defendant's attorney almost put the words in his mouth.

Plaintiff 1's lack of reliability is revealed also in his various versions regarding the money taken out from the house by his son Halil. In his testimony at the Investigating Military Police (P/6) he claimed that Halil took out an amount of JOD 5,000, in his examination (page 13, line 15) he testifies that Halil took JOD 28,000, and only two lines later he claims that Halil took out only JOD 13-14 thousand.

On a side note it should be noted, that also the claim raised by the Defendant, regarding the lack of reasonability in holding such a large sum at home, has reason in it. Much more so once the explanation given by Plaintiff 1 turned out as a false explanation. The Plaintiff claimed that he held the money at home, because according to his religion he does not open a bank account (page 16 line 19), while documents attached to his affidavit indicate that he has a bank account (receipts including details of checks that he gave to the JNF).

In light of the aforesaid, there is no option but to reach the conclusion that the Plaintiff's version is not at all reliable and it is not possible to accept it.

Plaintiff 2, ---------- Abu Sneina

The same as Plaintiff 1, Plaintiff 2's version is also full of inaccuracies that turn it into completely unreliable.
This Plaintiff claims in the Complaint that JOD 7,500 were taken from his home.
In his affidavit (clause 11) 150gr. of gold are added to that.
In an exhibit to the summations, the gold reaches 170 gr.
In his testimony in the transcripts (page 20) the amount goes up to JOD 7,800.

When he was asked how much money was in the house, he claimed he does not remember (page 20 line 4).
Since that witness went into the home at the time of the seizure and took some money with him, he was asked how much money he took, he answered that he did not count and he does not know (page 10 lines 21, 25 and 27).
The question naturally rises – if so, how can Plaintiff 2 quote the exact amount of money missing and stolen according to him?
That would be sufficient to fully reject his version.

If that is not enough, in his testimony at the Investigating Military Police, Plaintiff 2 mentions that he took out of the house JOD 10,000 or 5,000 (D/4 page 3 line 14).
Such difference in the error margin is not reasonable at all, and it seems as if the amounts were quoted with no connection to reality.

In addition, considering the complete lack of knowledge of Plaintiff 2 regarding the amounts of money held, according to his claim, in his home, the fact that he knew to accurately quote the weight of the gold stolen, is surprising.

That fact is even more surprising in light of the fact that it was not raw gold that was weighed, but rather bracelets and rings (page 19 line 5). How does the Plaintiff know the accurate gold weight of that jewelry?!

The witness was examined in a cross examination and was asked (page 19 line 2) as follows:

> "**Q. Was there anything else stolen from you except for cash money?**
> **A. No. Sorry yes, my wife's gold**."

Notwithstanding the correction of the slip of tongue, I actually attribute significant meaning to it.
On a side note, it should also be noted that according to Plaintiff 2's version, the money and gold were held in a locked drawer that was fractured and broken into by the soldiers.
If there would be any truth in that version, there is no doubt in my heart that Plaintiff 2 would have bothered to photograph the broken drawer and to explicitly tell me that that is the drawer that was broken into.
Among the tens of photos submitted to me, Plaintiff 2 did not refer to such photo.

In light of the aforesaid, there is no need in the additional contradictions that the Defendant refers to, in order to demonstrate the unreliability of the Plaintiff 2.
I therefore reject all of his claims regarding theft.

Plaintiff 3, ---------- Sneina

Plaintiff 3 claims that JOD 8,700 were stolen from him.

In that Plaintiff's testimony too there are contradictions that shadow his reliability, both with regard to the Shekel value of the amount of money stolen from him and the cost of repairs required to his apartment.

Truly, Plaintiff 3's version does not suffer from large and clear cracks as those of Plaintiffs 1 and 2, but under the circumstances of this proceeding, I do not need such cracks in order to negate his version.

Plaintiff 3's Complaint was filed together with the Complaints of the other Plaintiffs – what seems like a clear organization towards a joint purpose.
In such a situation, when the versions of some of the members are found to be unfounded, it influences the others' versions and leads to the conclusion, that they did not join the organization other than out of motives of an attempt to obtain what they do not deserve.

The fact that this Plaintiff's version is more consistent than those of the other Plaintiffs, can in these circumstances at the most, indicate that Plaintiff 3 was more careful than the others, in what he said and testified.

Plaintiff 4, Jallal Faizal ----------

In the Complaint, Plaintiff 4 claims that JOD 29,000 were stolen from him.

In his testimony at the police (P/9) he claims that JOD 29,000 were stolen from him, as well as NIS 2,800 and vegetables and fruit from his store.
In the affidavit there is no mention of the NIS, only of the Dinars.
His version is that JOD 5,000 were his, while JOD 24,000 belonged to his father in law, Plaintiff 1 (page 26 line12).
According to the interrogation at the Investigating Military Police (D/6) his money was laid in trousers, in the closet. In a cross examination (page 26 line 16) he testifies that the money was in clothes in a closet.
As to these testimonies too, Plaintiff 4 did not enclose any photo of the closet, the clothes or any other detail to establish his version.
As to the amount of JOD 24,000 belonging according to him to Plaintiff 1 – Plaintiff 4 testifies with regard to himself that he does no know anything regarding that money, since his wife told him about it (page 26 line 15).
Plaintiff 4's wife did not come to testify, and Plaintiff 1 did not say anything in that matter either.

In light of the aforesaid, Plaintiff 4's testimony also contributes quite a bit to the feeling formulated in this matter, regarding the organization of the family for the purpose of obtaining money from the State.

Plaintiff 5, --------- Abu Sneina

In the Complaint Plaintiff 5 claims that NIS 12,000 were stolen from him, as well as JOD 800.
In his affidavit he specifies NIS 7,920 (out of which NIS 7,000 belong to his son) and JOD 80, and he further claims regarding the theft of his wife's jewelry.

In answers to questioner (D/3 answer 9b) he claims that JOD 8,700 were stolen from him, in a value equivalent to NIS 53,000.

In his testimony at the Investigating Military Police (D/7 second page), he claims that JOD 80 were stolen from him, as well as NIS 9,400.

In a cross examination (page 28 line 18), he claims that he had NIS 7,000 and JOD 80.

In his testimony at the police (P/10) he claims to a theft of NIS 8,000 and JOD 80 as well as 200 gr. of gold valued at NIS 11,000.

In a list attached to his summations, Plaintiff 5 mentions an amount of NIS 12,000 as well as JOD 800.

I do not believe that it is appropriate to continue and discuss this Plaintiff's claims. All that needs to be determined is his lack of reliability.

Plaintiff 6, ------- Abu Sneina

This Plaintiff does not claim any thefts.

Plaintiff 7, --------- Abu Sneina

Plaintiff 7 claims that NIS 3,000 were stolen from him, according to the Complaint.

In his affidavit he mentioned that NIS 2,600 were stolen from him as well as his wife's jewelry without mentioning their value.
In his testimony at the police (P/12) he claims that he had NIS 5,100 that disappeared as well as NIS 7,000 worth of gold.
In his testimony at the Investigating Military Police he does not mention an amount.

The aforesaid aggregation indicates that this Plaintiff too is not reliable at all.

Plaintiff 8, Hashem ----------

In the Complaint Plaintiff 8 claims that JOD 10,000 were stolen from him as well as 400 gr. of gold.

His testimony in that matter is consistent, unlike the other Plaintiffs, both in his affidavit and his examination.

No documents of his testimonies upon the filing of a complaint or the Investigating Military Police's interrogation were submitted to me.

However, in one matter, lack of reliability appears. In clause 11 of his affidavit he declares that "**important documents and certificates**" disappeared from the house as well. On the other hand, in his cross examination he takes back that claim and confirms that no documents were taken from the home (page 32 line 10).

As I had already mentioned with regard to Plaintiff 3, the fact that the Plaintiff was consistent in his testimonies regarding the amounts that were, according to him, stolen from him, does not indicate other than that Plaintiff 8 was more careful than the other Plaintiffs in the testimonies and versions.

Plaintiff 8's complaint is part of the organization of family members, and it should not receive any other status.

Summary

As I mentioned above, this Complaint is not reasonable in light of the scope of claimed thefts and the circumstances.
The fact that the Plaintiffs' testimonies have no basis in reality and they are full of contradictions is added to that.
My conclusion is, as I had already noted above, that the Plaintiffs, members of one family, joined forces together to try and make a fortune on behalf of the State.

While writing this judgment, when I determined that the Defendant has a defense against the Plaintiffs' claim for damage that was caused to them as a result of the seizure of their homes, I thought to myself that when I finish the judgment, I shall write some warm words to the Plaintiffs, for being innocent victims of the conflict, together with other hundreds and thousands of innocent victims.

Now, after reaching the above conclusion that the Plaintiffs (except for Plaintiff 6) filed this complaint, with the clear intention of receiving funds that they do not deserve, I do not believe that the Plaintiffs deserve any warm word. On the contrary, they deserve to have exemplary expenses imposed on them that shall include also an element of deterrence from filing such futile complaints.

Therefore, I reject the entire Complaint, and instruct each of the Plaintiffs (except for Plaintiff 6) to pay the Defendant an amount of NIS 5,000 as expenses for this proceeding.

Plaintiff 6's complaint is rejected with no order for expenses.

On a side note I find it appropriate to mention that in the filing of this Complaint an entity named the "Center for the Defence of the Individual". I do not know what is the part of that entity in the formulation of this Complaint and in the structuring of the Plaintiffs' versions. Neither do I know what is the status and role of that entity in the proceedings before me, however, it is clear to me that it would have been appropriate for that entity, to better examine references to it, so that it will not find itself in embarrassing situations such as this, and so that it shall not turn into an entity that encourages futile complaints and attempts of deceit.

Aviv Malka 54678313-8811/04

Given today, 22nd of the Month of Heshvan, 5770 (9 November 2009), in the parties absence.

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Malka Aviv, Judge

Typist: Efrat Tuvia