

**IN THE HIGH COURT OF THE FEDERAL
CAPITAL TERRITORY, ABUJA
HOLDEN AT ABUJA**

ON THURSDAY, 23RD JANUARY, 2020

BEFORE HON. JUSTICE SYLVANUS C. ORIJI

SUIT NO. FCT/HC/CV/1928/2018

BETWEEN

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| <ol style="list-style-type: none">1. DARSEG INTEGRATED SERVICES LTD.2. OYEWARE OLUWASEGUN OLUWASEUN
[ALIAS VICTOR O. SEUN] | } | CLAIMANTS |
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AND

- | | | |
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| <ol style="list-style-type: none">1. FEDERAL MINISTRY OF WOMEN AFFAIRS
AND SOCIAL DEVELOPMENT2. HON. MINISTER OF WOMEN AFFAIRS
AND SOCIAL DEVELOPMENT3. PERMANENT SECRETARY, FEDERAL
MINISTRY OF WOMEN AFFAIRS
AND SOCIAL DEVELOPMENT4. ATTORNEY GENERAL OF THE FEDERATION | } | DEFENDANTS |
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RULING

The claimants instituted this suit on 28/5/2018 by writ of summons. The case of the claimants, as averred in the statement of claim filed along with the writ of summons, is that by letter dated 16/12/2014, they were awarded a contract to supply 1 photocopier, 1 printer, 3 desktop computers, 3 uninterruptible

power supply [UPS] machine, 3 power stabilizers and 3 power extension cables to the 1st-3rd defendants. The contract sum was N1,582,875.00. The claimants accepted the award of contract by letter dated 21/12/2014. On 7/1/2015, the claimants and the 1st-3rd defendants executed a contract for the supply of the above items. The claimants supplied the items to the 1st-3rd defendants as agreed. The defendants have refused to pay the said sum in spite of several demands.

Based on the above facts, the claimants claim against the defendants the sum of N1,582,875,00; pre-judgment and post judgment interests on the said sum; N750,000.00 being professional fees paid for the purpose of this action; and N500,000.00 damages.

This ruling is on the preliminary objection filed by the 4th defendant [i.e. the Attorney General of the Federation] on 27/6/2019. The grounds of the application are [i] the 4th defendant is not a necessary party to the claimants' suit; [ii] the claimants have not disclosed any cause of action against the 4th defendant; and [iii] this Honourable Court can properly determine this suit without the 4th defendant.

MaimunaLamiShiruEsq., learned counsel for the 4th defendant, filed a written address in support of the preliminary objection. In opposition, Alice Adie, a litigation secretary in the law firm of Messrs Oakfield Consulting Chambers, filed a 12-paragraph Affidavit of Facts on 29/10/2019 along with the written

address of EkoEjembiEkoEsq., learned counsel for the claimants. At the hearing of the preliminary objection on 30/10/2019, counsel for the 4th defendant and for the claimants adopted their respective processes.

Learned counsel for the 4th defendant referred to the case of **Seagull Oil Ltd. v. MoniPulo Ltd. [2011] 7 NWLR [Pt. 1271] 525** for the meaning of reasonable cause of action. Counsel also stated that a necessary party is one whose participation in the proceedings is indispensable. It was submitted that from the averments in the statement of claim, the 4th defendant was not privy to the transaction or contract that gave rise to this suit. Thus, the claimants have failed to disclose any cause of action against the 4th defendant and the 4th defendant is not a proper or necessary party to the suit. This is because the reliefs claimed by the claimants can be granted without the joinder of the 4th defendant and the 4th defendant cannot answer the questions with respect to the contract that gave rise to the suit. MaimunaLamiShiruEsq. urged the Court to strike out the name of the 4th defendant from the suit.

For his part, learned counsel for the claimants argued that the 4th defendant, as the chief law officer of the Federation who oversees and supervises all legal related activities of other ministries, departments/parastatals of the Federal Government of Nigeria, is a necessary and desirable party in this suit. If the Court enters judgment in favour of the claimants, the law is that the claimants require the consent and active participation of the 4th defendant [being the *custodia legis* of Government funds] in order to levy execution and

recover funds from the 1st defendant. This makes the 4th defendant a desirable and/or necessary party for the effectual determination of this suit. He referred to section 84 of the Sheriffs and Civil Process Act and the case of **CBN v. Interstella Communications Ltd. [2018] 7 NWLR [Pt. 1618] 294.**EkoEjembiEkoEsq. urged the Court to dismiss the preliminary objection.

In the case of **Rinco Construction Co. Ltd. v. Veepee Industries Ltd. [2005] 9 NWLR [Pt. 929] 85,** it was held that a reasonable cause of action means a cause of action with some chances of success. For a statement of claim to disclose a reasonable cause of action, it must set out the legal rights of the plaintiff and the obligations of the defendant. It must then go on to set out the facts constituting infraction of the plaintiff's legal right or failure of the defendant to fulfil his obligation in such a way that if there is no proper defence, the plaintiff will succeed in the relief or remedy he seeks.

It is trite law that in determining whether or not a person has been properly joined in an action or there is a reasonable cause of action against a party, the court must examine only the writ of summons and the statement of claim. See **Okonta&Anor. v. Egbuna [2013] LPELR-21253 [CA].**If there is nothing to connect the person to the suit, such a person is not a proper party.

I have earlier set out the facts upon which the claimants' cause of action is based. The 4th defendant's counsel is correct that the 4th defendant was not privy to the transaction or contract that gave rise to the suit. However, in

paragraph 4 of the statement of claim, the claimants averred that the 4th defendant is the chief law officer of the Federal Republic of Nigeria and responsible for legal matters involving agencies of the Federal Republic of Nigeria. This averment is the basis for joining the 4th defendant in this suit.

In **Attorney General of Kano State v. Attorney General of the Federation [2007] 6 NWLR [Pt. 1029] 164**, the Supreme Court held that the Attorney General of the Federation or of a State can be sued as a defendant in all civil matters in which a claim can properly be made against the Federal or State Governments or any of its authorized agencies, in respect of any act or omission complained of by the claimant. See also the cases of **Attorney General of Anambra State v. Attorney General of the Federation [2007] All FWLR [Pt. 379] 1218**; and **Attorney General of Rivers State v. Attorney General of AkwaIbom State &Anor. [2011] 8 NWLR [Pt. 1248] 72**.

In the instant case, the complaint of the claimants is the failure of the 1st-3rd defendants to pay the contract sum for the items supplied by the claimants to them. It is not in dispute that the 1st defendant is an agency or Ministry of the Federal Government and the 2nd& 3rd defendants are officers or officials of the Federal Government. Therefore, the 4th defendant, as the chief law officer of the Federation, is connected to the 1st-3rd defendants and to the subject matter of the suit. In the circumstance, the decision of the Court is that the 4th defendant is a necessary party in this suit.

In conclusion, the preliminary objection lacks merit. It is dismissed. I award cost of N25,000.00 to the claimants payable by the 4th defendant.

HON. JUSTICE S. C. ORIJI
[JUDGE]

Appearance of counsel:

1. E. K. EjeleEsq. for the claimants.
2. F. A. AvhiobohEsq. for the 4th defendant.