

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT COURT 29, GUDU-ABUJA
ON TUESDAY THE 9TH DAY OF FEBRUARY, 2021
BEFORE HIS LORDSHIP: HON. JUSTICE MODUPE R. OSHO- ADEBIYI
SUIT NO: FCT/HC/CV/2373/18

BETWEEN:

1. DEO GRATIAS INTERNATIONAL SCHOOL LIMITED }
2. DR. GEORGE ODABI----- } CLAIMANTS/RESPONDENT

AND

1. ECOBANK NIGERIA LIMITED }
2. CHIEF ALOY C. EZENDUKA }
3. THE HONOURABLE MINISTER,----- } DEFENDANTS/APPLICANTS
MINISTRY OF FEDERAL CAPITAL TERRITORY }
4. FEDERAL CAPITAL DEVELOPMENT AUTHORITY }
5. ABUJA GEOGRAPHICAL INFORMATION SYSTEM (AGIS) }

RULING

Learned Counsel to the Defendants in the substantive suit filed a motion on notice dated the 27th day of August 2018, brought pursuant to Order 43(1) and (2) of the High Court of FCT (Civil Procedure) Rules 2018 and under the inherent jurisdiction of this Honourable Court, praying the Court for an Order dismissing the suit in limine for want of jurisdiction, constituting issue res judicata and abuse of court process. Application was heard on the 26th of November, 2020 and adjourned for ruling. However the Claimants in the substantive suit filed a motion on notice dated 14th December, 2020 brought pursuant to Order 36 (6) of the 1999 Constitution (As Amended) praying for “an order of this Honourable Court directing My Lord of the Federal Capital Territory High Court No. 28 Hon. Justice Modupe R. Osho-Adebiyi to recuse himself from further participating in the trial and hearing of this case filed by the Claimants/Applicants”.

I find it quite curious that the Defendants/Respondents who were severally served with this motion on the 19th and 20th of January, 2021 did not find it worthy to file a counter-affidavit to the Applicants' affidavit in support. Justice is rooted in confidence and confidence is destroyed when right-thinking individuals go away thinking that the judge was bias. Justice must not only be done but seen to be done. The Claimants who instituted this action in paragraph "i" on the grounds for the application and paragraph 5 of the affidavit in support of the motion on notice averred that the Claimants/Applicants have lost total confidence in this Hon. Court to try this matter. Thus whatever this Court would do eventually may be capable of different interpretation by the reasonable man out there. The Court of Appeal in the case of **Estisione H. (Nigeria) Ltd. and Anor. v. Osun State Government and Anor. (2012) 14 NWLR (pt. 1321) 540 at 562** His Lordship, Kekere-Ekun J.C.A., (now J.S.C.) held inter alia that –

"As stated earlier in this Judgment a judge may recuse himself from handling proceedings before him for undisclosed reasons. He may also disqualify himself where there is a likelihood of bias..." (My emphasis). May I respectfully add that adjudication may involve, among other factors, interplay of psychological, mental and jurisprudential forces. It is not robotic nor performed by automatons. So a trial Judge who, without demur, owns up that he cannot adjudicate over a dispute dispassionately should not have the business of adjudication forced down his throat (so to speak) in the name of judicial oath of office. To do so would subject the learned trial Judge to some form of psychological torture/discomfort. I do not therefore think it appropriate to compel or direct the learned trial Judge of the Court below to continue with the determination of the matter after he had solemnly expressed that he did not feel comfortable hearing the matter anymore. The learned trial Judge should deserve the benefit of the doubt in the circumstances."

Hence it will be most inappropriate and unethical for me to continue to hear applications with regards to this case file.

Accordingly, I hereby recuse myself from hearing this suit and direct the Registrar of Court to remit this file to the Honourable the Chief Judge of the Federal Capital Territory for re-assignment.

Parties: Absent

Appearances: Kingsley Uwakwe holding brief of Ifeanyi Nwosu for the Claimant. Defendant is not represented.

HON. JUSTICE MODUPE .R. OSHO-ADEBIYI

JUDGE

9TH FEBRUARY, 2021