

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT GUDU - ABUJA**  
**ON WEDNESDAY THE 23<sup>RD</sup> DAY OF JUNE 2021.**  
**BEFORE HIS LORDSHIP; HON. JUSTICE MODUPE OSHO-ADEBIYI**  
**SUIT NO. CV/2686/2020**

**BETWEEN**

1. MESSRS UCHE OKORONKWO AND  
OBI OKORONKWO COMPANY LIMITED ..... } **PLAINTIFFS**  
2. MECMERAB RESOURCES NIGERIA LIMITED } }

**AND**

MRS. NONYE JOHN DANOR-----DEFENDANT

**RULING**

The Applicants filed this application praying this Court to set aside the ruling/order of this Court made on the 24<sup>th</sup> day of February, 2021 recognising one Mr. Uche Okoronkwo as the 1<sup>st</sup> Plaintiff in this suit. Accompanying the application is an affidavit of 12 paragraphs deposed to by one Mr. Moses Erih, the managing director of the 2<sup>nd</sup> Plaintiff.

The applicant is contending that this Honourable Court on the 24<sup>th</sup> of February 2021, was misled into recognising the author of the letter of instruction as the 1<sup>st</sup> plaintiff. That the said author of the letter of instruction came to Court to divert the attention of the Honourable Court from looking into the processes already filed on behalf of the 1<sup>st</sup> Plaintiff and that the notice of change of counsel filed on behalf of the 1<sup>st</sup> Plaintiff is calculated to circumvent the course of justice and urged this court to grant the application.

The Respondent filed a counter affidavit of 6 paragraphs in opposing the Applicant's application on the ground that the Court is functus officio with regard the issue of representation of the 1<sup>st</sup> Plaintiff as the 1<sup>st</sup> Plaintiff was represented in Court by one of its directors Mr. Uche Okoronkwo where he identified Messrs Obla & Co as Counsel to the 1<sup>st</sup> Plaintiff in open Court. Counsel urged the Court to refuse the application.

I have examined the affidavit and written address filed by respective Counsel and the issue to be determined is "whether this Court can set aside the ruling of this court delivered on the 24<sup>th</sup> of February 2021".

It is trite that a Court is functus officio subsequent to delivering its judgment as a Court cannot sit on appeal over its own decision. The only circumstance permitted by law for a Court to set aside its own order is when;

- a) The order is a nullity owing to failure to comply with an essential provision such as service of process.
- b) When the order was made against a party in default.
- c) When the order has been obtained by fraud or misrepresentation.
- d) When fresh evidence has been discovered which, if tendered at the trial, will have an opposite effect on the judgment. Per OgundareJSc in ANATOGU VS. IWEKA II (1995) 8 (NWLR (PT.415) 549 @585 para H; 586 para A-C

Prior to filing this application, two lawyers had stood up in open Court on behalf of the 1<sup>st</sup> Plaintiff. Joseph Obla Esq., announced his

appearance for the 1<sup>st</sup> Plaintiff, while Sambo I. Vongyen had announced appearance for both Plaintiffs. Faced with this dilemma where both lawyers were insisting on appearing for the 1<sup>st</sup> Plaintiff, this Court insisted on the 1<sup>st</sup> Plaintiff coming to Court to identify his lawyer. A gentleman by name Mr. Uche Okoronkwo appeared in Court and announced himself as the alter ego of the 1<sup>st</sup> Plaintiff, identified Barrister Obla as lawyer to the 1<sup>st</sup> Plaintiff.

Barrister Obla had subsequently moved his motion for joinder of the directors of the 1<sup>st</sup> Plaintiff particularly Mr. Uche Okoronkwo to this suit. Ruling was yet to be delivered when Barrister Sambo I. Vogyen filed this application to set aside the order of the Court on the grounds that the Court was misled into accepting Mr. Uche Okoronkwo as the alter ego of the 1<sup>st</sup> Plaintiff. That the said Mr. Uche Okoronkwo is not a director of the 1<sup>st</sup> plaintiff, hence not the alter ego of the 1<sup>st</sup> Plaintiff. Where issues of misrepresenting facts to persuade a court in giving a particular order comes up, the court is bound to listen to both parties not minding that the court is functus officio. 1<sup>st</sup> Plaintiff in this suit is “MESSRS UCHE OKORONKWO & OBI OKORONKWO & CO”. Hence 1<sup>st</sup> Plaintiff is a separate legal entity on its own. The gentleman by name Mr. Uche Okoronkwo had appeared in Court to identify himself as the alter ego of “Messrs Uche Okoronkwo & Obi Okoronkwo & Co” both parties had attached CTC of particulars of directors of 1<sup>st</sup> Plaintiff obtained from the Corporate Affairs Commission. A scrutiny of the particulars of directors has the name of the directors of the 1<sup>st</sup> Plaintiff as “Okoronkwo Uche” and “Okoronkwo Obi” with both signatures duly appended. The Court

thereafter looked at the signature of the said Mr. Uche Okoronkwo who appeared before this Court and discovered that his signature is a deviation from that contained in the CAC particulars of directors.

Alagoa JCA in DALHATU VS. DIKKO (2005) AF WLR (Pt. 242) 483 @ 494, Paras B-C, held that a signature is the writing or otherwise affixing of a person's name or mark, to represent his name by himself or by his authority. The learned jurist held further that it is crucial to consider whether the document bears any signature or mark on it, whether such a signature or mark is with the authority of the person whom the signature or mark represents.

Whereas in this case, a signature happens to be the prime focus on a document, the Court has the powers to compare signature said to be that of the person with the disputed signature. Section 101(1) of the Evidence Act 2011 states

*“In order to ascertain whether a signature, writing, seal or finger impression is that of the person by whom it purports to have been written or made, any signature, writing, seal or finger impression admitted or proved to the satisfaction of the court to have been written or made by that person may be compared with the one which is to be proved although that signature, writing, seal or finger impression has not been produced or proved for any other purpose”*

See *AGBAHOMOVO VS. EDUYEGBE* (1999) 3 NWLR (PT.594) 170 @ 183; paras D-E, where Onu JSC held that a judge has a right to look at a document in the file which was not tendered as an exhibit.

From the processes before me filed by Obla & Co;

1. The Letter of authority/instruction written to the firm of Obla & Co and signed by “Uche Okoronkwo” (the gentleman who appeared in court) has a completely different signature from the particulars of directors attached to the processes by Obla & Co. The said letter is dated 30<sup>th</sup> October 2020.
2. The National driver’s licence of the Federal Republic of Nigeria attached to the processes filed by Obla & CO has a signature of Uche Okoronkwo which is also at variance with the letter of instruction signed by the gentleman who appeared in court and introduced himself as Uche Okoronkwo. It is quite strange that the firm of Obla & Co. has two different signatures of the alleged Uche Okoronkwo.
3. The estate development agreement between 1<sup>st</sup> Plaintiff and Mecmerab Resources Ltd is signed by Uche Okoronkwo & Obi Okoronkwo. The signature of Uche Okoronkwo is also at complete variance with the signature on the letter of instruction to Obla & Co. signed by the gentleman that appeared in court and introduced himself as Uche Okoronkwo.

On the contrary, the letter of instruction/authority issued to Barrister I. S. Vongjen & Co attached as Exhibit A to this application was duly signed by Uche Okoronkwo & Obi

Okoronkwo on behalf of “Messrs Uche Okoronkwo & Obi Okoronkwo & Co”. Both signatures match the two signatures contained in the CTC of particulars of directors which both lawyers ironically pleaded. The signature on the National driver’s licence of Uche Okoronkwo pleaded by both counsel also matches that contained in the CAC particulars of directors pleaded by Barrister I. S. Vongjen.

The only defence raised by Obla & Co as to the originality of the signature in the letter of authority/instruction issued to Barr. I. S. Vongjen & Co is that the letter of instruction was doctored while Barr. Obla & Co has absolutely no defence nor explanation why the signature on the letter of instruction issued to his firm purportedly signed by the gentleman that came to Court who claimed to be the alter ego of 1<sup>st</sup> Plaintiff is at complete variance with the CTC of particulars of directors. Barr. Obla & Co failed to furnish the Court with any evidence why the court should discountenance the letter of instruction issued to the firm of I. S. Vongjen & Co bearing the signatures of both directors of the 1<sup>st</sup> Plaintiff, which in the eyes of the Court, matches the signature contained in the CTC of particulars of directors from CAC.

It is worthy to note that the supposed Mr. Uche Okoronkwo who appeared before this Court prior to filing of this application had stated in open court that it is his signature appended to the letter of instruction/authority issued to the firm of Obla & Co and dated 30/10/2020. Nowhere in the processes filed by the firm of Obla &

Co proffered an explanation nor a defence as to why the signature purportedly signed by Mr. Uche Okoronkwo (the gentleman who appeared in court) on the letter of instruction issued to Obla & Co. when compared to the signature of Uche Okoronkwo as evidence in the CAC particulars of directors was at variance.

The only logical reasoning from the above is that the firm of Barr. Obla & CO were not instructed by the rightful Mr. Uche Okoronkwo of Messrs Uche Okoronkwo & Obi Okoronkwo & Co and I so hold. Consequently, it is hereby ordered that the order of the Court recognising Mr. Uche Okoronkwo who issued letter of instruction to the firm of Obla & Co and who appeared before this Court as the alter ego of the 1<sup>st</sup> Plaintiff is hereby set aside on the grounds stated above.

Parties: Absent

Appearances: Sambo I. Vongjen appearing with F. C. Anthony for the Plaintiff/Applicant. Defendant not represented.

**HON. JUSTICE MODUPE R. OSHO-ADEBIYI**

**JUDGE**

**23<sup>RD</sup> JUNE, 2021**