

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

ON WEDNESDAY, 20TH MAY, 2020

BEFORE HON. JUSTICE SYLVANUS C. ORIJ

SUIT NO. FCT/HC/CV/2313/2018

MOTION NO. M/5257/2020

BETWEEN

MR. CHIBUZOR K. OKOYE

PLAINTIFF

AND

- 1. MR. ANTHONY EMEKA OKPALA**
- 2. INCORPORATED TRUSTEES OF THE
NEW PLAZA TRADERS ASSOCIATION
AREA 1 ABUJA**
- 3. AGHADINULO IKECHUKWU CLEMENT**
- 4. ABDULRAHMAN SANI**
- 5. OKORO FRANCISCA EZINNE KALU**
- 6. OBI CHARLES**
- 7. ONYEKABA THADDEUS**
- 8. ANOKE AMAECHI FABIAN**
- 9. CHIKWADO EZENWOYE**
- 10.SOLOMON UGWU**
- 11.IKENNA OBI**
- 12.SAGIR SHEHU**

DEFENDANTS

AND

1. CHINEDU OKORO
2. CHIMAOBI NWOSU
3. MUSTAPHA ALIYU
4. JIDE WELL
5. MOSES IHEOMA
6. OSITA UMEH
7. OLA OMOANIFOWOSHE



**PARTIES SEEKING
TO BE JOINED AS
PLAINTIFFS/
APPLICANTS**

RULING

On 11/7/2018, the plaintiff [claimant] instituted this suit against the 1st& 2nd defendants. In the statement of claim filed along with the writ of summons, it is averred that plaintiff is a member of the 2nd defendant. The 1st defendant is the chairman of the Board of Trustees of 2nd defendant. The plaintiff contested and won the election as the executive chairman of the New Plaza Traders Association Area 1, Abuja. It is the defendants' responsibility to swear-in and recognise him as the duly elected executive chairman of the executive committee of the Association. The silence of the defendants has not gone down well with the members of the 2nd defendant. The 1st defendant and other members of the Board of Trustees are throwing their weight behind Mr. Clement Aghadinaulo who did not contest election but who is perceived to be their man.

The plaintiff claims the following orders from the Court: [i] an order directing the defendants to validate him as the duly elected executive chairman of the executive committee of the said Association; [ii] an order restraining the defendants from enthroning Mr. Clement Aghadinaulo as the executive

chairman of the executive committee of the said Association; [ii] an order restraining the defendants from allowing Mr. Clement Aghadinulo and his agents, privies, assigns and any other person whatsoever to use the common seal or any other property of the 2nd defendant as the executive committee of the said Association; and [iv] a declaration that the action of the defendants in not directing that he [the plaintiff] be sworn-in as the executive chairman of the executive committee of the said Association is wrongful and illegal.

On 7/5/2019, the 3rd-12th defendants - i.e. Mr.AghadinuloIkechukwu Clement and 9 others - filed *Motion No. M/5885/2019* for an order of the Court joining them as defendants in the suit.In the affidavit in support of the motion, Mr.AghadinuloIkechukwu Clement stated that he is the chairman-elect of the 2nd defendant;while 2nd-6th applicants are respectively the elected vice chairman, secretary, vice secretary, treasurer and the financial secretary. The 7th& 8th applicants are respectively the chairman and secretary of the electoral committee for the 2nd defendant while the 9th& 10th applicants are members of the electoral committee of the 2nd defendant.The application for joinder was granted on 19/11/2019.

This ruling is on *Motion No. M/5257/2020* filed on 13/2/2020 by the parties seeking to be joined as plaintiffs/applicants for the following orders:

1. An order of the Honourable Court joining the applicants as 2nd to 8th plaintiffs in this suit: *Suit No. CV/2313/18*.

2. An order deeming all the processes filed and served on the applicants as properly filed and served.
3. And for any further order or orders as this Honourable Court may deem fit to make in the circumstance.

In support of the motion is the 7-paragraph affidavit of Cyril Amanna, a counsel in the law firm of Donald Nwankwo and Associates; and the written address of Donald NwankwoEsq. In opposition, the 3rd defendant filed a counter affidavit of 10 paragraphs on 20/2/2020 along with the written address of C. O. NnadiEsq. At the hearing of the motion on 25/2/2020, the learned counsel for the parties adopted their respective processes.

In the affidavit in support of the motion, Barrister Cyril Amanna stated that he was informed by ChineduOkoro [the 1st applicant] that: [i] he contested and won the vice chairmanship position in the elections referred to in the substantive suit which produced the plaintiff as chairman; [ii] in the same election, the 2nd-7th applicants respectively won the positions of secretary, financial secretary, treasurer, provost, public relation officer and welfare officer of the 2nd defendant; [iii] the decision of the 1st& 2nd defendants not to swear them in was mischievous and may lead to breakdown of law and order; and [iv] the applicants seek to be joined so as to properly represent themselves in this suit. The deponent further stated that the decision of the Court will affect the applicants one way or the other.

In the counter affidavit, the 3rd defendant [AghadinuloIkechukwu Clement] stated that: [i] the plaintiff and the 1st defendant in this suit are “bound to frustrate the mandate of the 3rd to 8th defendants in this suit, who are incumbent executives” with whatever antics and ploy at their disposal; [ii] pursuant to the aforesaid, they have rallied round to build up rebellious disciples to interrupt the proceedings with facts that are not true; and [iii] the depositions in the applicants’ affidavit are false and an attempt to mislead this Court.

As rightly stated by both learned counsel, the issue for determination is whether the parties seeking to be joined as plaintiffs are necessary parties in this suit.

The applicants’ counsel referred to **B. B. Apugo & Sons Ltd. v. OHMB [2016] LPELR-40598 [SC]** for the principles guiding the joinder of parties to a suit. He posited that the applicants have shown in the affidavit in support of the application that they were jointly elected with the plaintiff in the elections mentioned in this suit. This presupposes that they have joint interest with the plaintiff. Donald Nwankwo Esq. submitted that for an effective and complete determination of the claims before the Court, there is need for the applicants to be joined because the outcome of the suit will affect them. He referred to the cases of **Azubuike v. PDP & Ors. [2014] LPELR-22258 [SC]** to support the principle that it is the duty of the courts to ensure that parties who are likely to be affected by the result of an action are joined accordingly. Learned counsel concluded that the applicants are necessary parties in this suit.

Learned counsel for the 3rd-12th defendants referred to the cases of **Adefarasin v. Dayekh [2007] 11 NWLR [Pt. 1044] 89** and **Green v. Green [1987] 3 NWLR [Pt. 61] 480** for the factors or principles which guide the courts in determining a necessary party to an action. He argued that the applicants are not directly involved in the writ and processes filed in this suit. Therefore, the issues in this case will be effectually determined without the applicants being parties in the action. If the applicants are not joined, the *res* of this matter will still be determined judiciously. C. O. Nnadi Esq. relied on the principles in the above cases and concluded that the applicants are not necessary parties in this suit.

In Ayoade v. Spring Bank Plc. [2014] 4 NWLR [Pt. 1396] 93, it was held that necessary parties are those who are not only interested in the subject matter of the proceeding but also who, in their absence, the proceedings could not be fairly dealt with. In other words, the question to be settled in the action between the parties cannot be properly settled unless they are parties to the action instituted by the plaintiff. Anyone whose presence is crucial and fundamental to the resolution of a matter before the court must be made a party to the proceedings.

In the case of **Azubuike v. PDP & Ors. [supra]; [2014] 7 NWLR [Pt. 1529] 206**, the principle was restated that the reason for making a person to be a party to an action is that he should be bound by the result of the action. The court is expected to join as plaintiff or defendant anyone who may have a stake in the subject matter of the suit or may be affected by the decision.

In Adefarasin v. Dayekh [supra] and Green v. Green [supra] relied upon by Mr. C. O. Nnadi, it was held that the following questions are to be considered by a court in an application to join a person as a defendant in an action:

- i. Is it possible for the court to adjudicate upon the cause of action set up by the plaintiff unless the person is added as a defendant?
- ii. Is the person someone who ought to have been joined as a defendant in the first instance?
- iii. Is the cause or matter liable to be defeated for non-joinder?
- iv. Is the third party a person whose presence before the court as a defendant is necessary in order to enable the court effectually and completely adjudicate or settle all the questions involved in the cause or matter?

It is important to note that in the instant case, the applicants are not seeking to be joined as defendants. Thus, the above principles or questions are not applicable in this case. In Ayankoya v. Olukoya [1996] 4 NWLR [Pt. 440] 1, it was held that before there can be joinder of persons or parties as plaintiffs in one action - and the joinder of causes of action in one suit - two limiting factors or conditions must be established by the plaintiffs, to wit: [a] that the right to relief is in respect of, or arose out of, the same transaction or series of transactions; and [b] that if separate actions were brought by such persons, a common question of law or fact would arise.

It is clear from the processes before the Court that the applicants allege that they were elected as officers of the 2nd defendant along with the plaintiff while the 3rd-8th defendants allege that they were elected as officers of the 2nd defendant. Thus, from the claims of the plaintiff; the facts relied upon by the 3rd-12th defendants; and the facts in support of the present application, there is no doubt that the issues in this case revolve around the election of officers of the executive committee of 2nd defendant. Another related issue in the case is whether the 3rd-8th defendants on the one hand or the plaintiff together with the applicants on the other are the executive committee members who are entitled to use the common seal or other properties of the 2nd defendant.

I take the view that the right to relief of the plaintiff and the applicants is in respect of, or arose out of, the same transaction. I also hold the view that if separate actions were brought by the applicants, a common question of law and fact would arise. It is therefore necessary to join the applicants to this action to avoid multiplicity of suits where common questions of fact and law would arise.

In the light of the foregoing, the decision of the Court is that it is necessary to join the applicants as co-plaintiffs in this suit. The application is granted. The applicants are hereby joined as the 2nd-8th plaintiffs in this suit. The plaintiffs are directed to file their amended processes within 10 days from today. The defendants are directed to file their amended processes within 10 days from the date of receipt of the plaintiffs' amended processes.

HON. JUSTICE S. C. ORIJI
[JUDGE]

Appearance of Counsel:

1. ChukwumaOzougwuEsq. for the claimant.
2. C. O. NnadiEsq. for the 3rd-12th defendants.