

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION (APPELLATE DIVISION)
HOLDEN AT COURT 11, BWARI, ABUJA

BEFORE THEIR LORDSHIP:

HON. JUSTICE S. B. BELGORE (PRESIDING JUDGE)

HON. JUSTICE A. A. FASHOLA (HON. JUDGE)

CLERKS:

(1) ESEOGHENE EJOVI

(2) GBENGA FATADE

(3) PRECIOUS UGO DIKE

SUIT NO: FCT/HC/CVA/70/15

M/41/21

DATE: 22/9/21

BETWEEN:

FRANCIS OSEMWINGE..... APPELLANT

AND

CHIEF KENNETH CHUKWU.....RESPONDENT

RULING

By way of a Motion on Notice number M/41/21, the applicant who incidentally is the Respondent in this appeal prayed for a sole relief to wit:

“And order striking out/dismissal of the appeal number CVA/70/15.”

There are 5 - grounds for applying to this Court as can be seen on the face of the Motion papers.

In support is a 10-paragraphs affidavit and a written address. Just about 2 minutes ago, learned Counsel to the Respondent/applicant moved the application and relied on all the processes filed. He also cited the case of **INUBAZOR VS. AMAKA (1981) 5 SC 165** which was not contained in his written address. Other numerous cases contained in this address includes **ALHAJI SULE YAHAYA VS. JOHN ABOH & ORS. (2015) CA/A/483/M/2021; A.G. TARABA STATE VS. SELHIN CONSULT LTD (2016) LPER-45622 CA; EMMANUEL MADUIKE VS. TETELIS NIGERIA LTD) CA/L/10) (2015) etc.**

Learned Counsel to the Respondent/Applicant finally urged us to grant the application.

We have quickly and summarily considered this onesided application. The application is not challenged by the Respondent/Appellant having not filed any counter-affidavit. We have looked at the antecedent facts leading to this application. This appeal was filed as far back as 2/7/15. That is 6 years down the line. And the application despite all the opportunities extended to him to pursue his appeal could only filed the Notice of Appeal. No Brief of Argument filed and no further serious steps has been taken.

It looks like he has abandoned this appeal. Even, when he was served with this Motion on Notice to strike the appeal out on 17/9/21, he cared less and wouldn't be bordered. He simply ignored the move. All these are apparent from the 10-paragraphs affidavits especially paragraphs 4 thereof.

It is therefore clear to us, that an appeal that has been filed since 2015 and with only a Notice of Appeal filed cannot be said to be an appeal meant to be taken seriously.

In effect therefore, and rely on the case of **A. G. TARABA STATE VS. SELLIN CONSULT LTD (Supra)** and **Order 50** and **Order 5** of the **Rules of this court**, this appeal is hereby struck out for want of diligent prosecution.

Hon. Justice Suleiman B. Belgore
(Presiding Judge)
22/9/21

Hon. Justice A. A. Fashola
(Judge)
22/9/21

APPEARANCES:

Appellant not represented

W. S BAKO for the Respondent