

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY,  
IN THE ABUJA JUDICIAL DIVISION,  
HOLDEN AT COURT NO. 7 APO, ABUJA.**

**BEFORE HIS LORDSHIP: HON. JUSTICE O. A. MUSA.**

**SUIT NO:FCT/HC/CV/376/2021**

**BETWEEN:**

PRINCE ENGR.ARTHUR EZE            ---            CLAIMANT/RESPONDENT

**AND**

1. MGSL MORTGAGE BANK LTD        ----            DEFENDANTS/OBJECTORS

2. DR.(MRS) VIRGY ANOHU

**RULING**

**DELIVERED ON THE 18<sup>TH</sup> NOVEMBER, 2021**

On the 11<sup>th</sup> day of February 2021, the claimant, Prince Arthur Eze, commenced this suit via Writ of Summons under the undefended list Procedure claiming the following:

(a)        The outstanding sum of \$1,361,783.69 or \$1, 917,819.19 respectively upon the refund of N500,000.00(Five Hundred Million Naira) paid at either the IFEM (Intra-Bank Foreign Exchange Market) of 305.21 to USD or the BDC(Bureau de Change) exchange rate of N462.03 to USD 1.

OR ALTERNATIVELY

(b)        The Naira equivalent sum of the defendant's liquidated debt of \$1,361,783.69 or \$1,917,819.19 respectively at the extant exchange rate of N380 per USD1 as published by the central bank of Nigeria on its website([cbn.gov.ng/rates/exch\\_rate\\_by\\_currency.asp](http://cbn.gov.ng/rates/exch_rate_by_currency.asp)) as at 2/2/2021 which is \$1,361,783.19 at N380 per USD1=N728,771,292.

(c) Ten Percent (10%) post Judgment interest from the date of Judgment till the date of final liquidation of the judgment sum.

(d) Cost of this action, N5,000,000.00(Five Million Naira Only)

The claimant in support of the Writ of Summons filed under the Undefended Writ Procedure filed a 38 Paragraph affidavit deposed to by Prince Ikechukwu Eze, a staff of Atlas Petroleum International Company Ltd of No 12 Chari close Maitama Abuja. The claimant relies on all the paragraphs of the affidavit in support of his claims as endorsed on the Writ of Summons.

The Defendants/Objectors through their counsel Asiwaju Adegboyega Awomolo SAN upon been briefed filed a Notice of Preliminary Objection on the 10<sup>th</sup> day of November 2021 challenging the Jurisdiction of the Court to entertain the suit on the sole ground that the matter arose from the operation of the Companies and Allied Matters Act. The Learned silk supported his Objection with a written Address filed on the same 10<sup>th</sup> day of November 2021.

The claimant respondent in response to the Defendants/Objectors Notice of Preliminary Objection filed, on the 12<sup>th</sup> day of November 2021, a Written Address in opposition to same which he called a reply on points of law.

The Defendants/Objectors on the 15<sup>th</sup> day of November 2021 equally filed Reply on points of law to the claimant's/Respondent's written address in opposition to the preliminary objection.

The Court has carefully and painstakingly gone through all the processes filed by all parties in this suit and issues contained therein and has settled for a sole issue for determination to wit:

“whether this court can exercise jurisdiction on the subject matter of this suit considering the claimant’s claims as endorsed on the Writ of Summons”

The Defendants/Objectors counsel in page 3 paragraph 200 of his written address in support of preliminary objection rightly submitted that it is the case presented by the claimant that determines the jurisdiction of the court. See the case of ***Prince NNANNA UKAEGBU & 3ORS V APGA & 2ORS 2020 8NWLR PT1725 Pg112 Paras B-C***

Well, its trite that Jurisdiction is fundamental to any court proceeding in the absence of which any step or action taken by the court will be a nullity.

The Defendants/Objectors counsel aptly captured it all in page 5 of his written address when he placed reliance on the case of ***STB PLC V OLUSOLA (2008)1NWLR (PT.1009)561*** where the court made it clear on how jurisdiction is determined in the following words:

“It is the claim of the plaintiff that must be carefully scrutinized in order to determine the nature of a case for the purpose of determining jurisdiction of the court to try the matter”

Furthermore, the defendants have forcefully argued that by section 251(1)(e) of the Constitution of the Federal Republic Nigeria; this court lacks jurisdiction to entertain this matter arising from the operation of the Companies and Allied Matters Act or any other enactment replacing the Act or regulating the operation of companies incorporated under the Companies and Allied Matters Act.

Section 251(1)(e) of the Constitution of the Federal Republic of Nigeria 199 provides thus:

Notwithstanding anything to the contrary contained in this constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the Federal High Court shall have and exercise Jurisdiction top the exclusion of any other Court in civil causes and maters-

(e)Arising from the operation of the companies and Allied matters Act or any other enactment replacing the Act or regulating the operation of the Companies incorporated under the companies and Allies matters Act

Both parties in this matter are ad-idem on the immutable principle of law which requires the court to look at the claimant's claim in determining jurisdiction. This principle has been applied in plethora of cases. What is left is for the court to embark on a microscopic analysis of the claims as endorsed on the Writ of Summons in other to decipher if the court has jurisdiction to entertain same bearing in mind the objection of the Defendants.

For clarity purpose, I shall reproduce the claims hereunder as endorsed on the writ:

- (a) The outstanding sum of \$1,361,783.69 or \$1, 917,819.19 respectively upon the refund of N500,000.00(Five Hundred Million Naira) paid at either the IFEM (Intra-Bank Foreign Exchange Market) of 305.21 to USD or the BDC(Bureau de Change) exchange rate of N462.03 to USD 1.

OR ALTERNATIVELY

- (b) The Naira equivalent sum of the defendant's liquidated debt of \$1,361,783.69 or \$1,917,819.19 respectively at the extant exchange rate of N380 per USD1 as published by the central bank of Nigeria on its website([cbn.gov.ng/rates/exch\\_rate\\_by\\_currency.asp](http://cbn.gov.ng/rates/exch_rate_by_currency.asp)) as at 2/2/2021 which is \$1,361,783.19 at N380 per USD1=N728,771,292.
- (c) Ten Percent (10%) post Judgment interest from the date of Judgment till the date of final liquidation of the judgment sum.
- (d) Cost of this action, N5,000,000.00 (Five Million Naira Only)

The above reproduced claims of the claimant are unequivocal, plain and devoid of any ambiguity. The claims do not in any way relate to shares, dividends and allotment of shares. The claims simpliciter are for the refund of funds transferred to the defendants by the claimant which exhibits **PAE 1 & 2** clearly support. On the above stance of the court, I find solace and strength on the claimant's counsel submission contained in page 12 paragraph 3:12 of his written address in opposition to the preliminary objection where he posited relying on ***Continental Industrial Gases Ltd v Onoteko (1981 1SC6, P.31)*** that it is not in every case involving a company or body formed under Companies Act, 1968, that the Federal High Court must exercise Jurisdiction.

The Court agrees with his submission that before the jurisdiction of a state High Court is ousted, the matters must pertain to operation of Companies Act in relation of Companies formed under the Act or any enactment regulating the operation of Companies incorporated under the ACT.

The matter before me as could be gleaned from the endorsement on the Writ strictly bothers on refund of money had and received and nothing more. All other facts contained in the claimant's affidavit in support of the Writ which the court will not delve into at this preliminary stage are ancillary to the primary claims of the claimant as endorsed on the Writ.

So therefore, in conclusion, I hold that this court has jurisdiction to entertain this matter bothering on refund of funds transferred to the defendants/objectors and I so hold.

To this end, the preliminary objection of the defendants/objectors lacks merit and is hereby accordingly dismissed. I make no order as to cost.

**APPEARANCE**

C. Prince Oli Esq. with me Babatunde Tijani Esq.

For the Claimant/Respondent.

Akinyosoye Arosanyin Esq. with Kelvin Ugiagbe Esq.

For the Defendant/Application.

Sign

Hon. Judge

18/11/2021