

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT JABI**

THIS WEDNESDAY, THE 3RD DAY OF NOVEMBER, 2021

BEFORE: HON. JUSTICE ABUBAKAR IDRIS KUTIGI – JUDGE

SUIT NO: CV/2157/2014

BETWEEN:

FIRST BANK OF NIGERIA PLC CLAIMANT/APPLICANT

AND

- | | | |
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| <p>1. BAYCO NIGERIA LIMITED</p> <p>2. LUBB UNION CONSTRUCTION COMPANY LIMITED</p> <p>3. SDV SECURITY COMPANY LIMITED</p> <p>4. ALH. SHEHU MOHAMMED NDANUSA
(alias Shehu MahmuD Abubakar)</p> <p>5. ABUJA GEOGRAPHIC INFORMATION SYSTEM
(AGIS)</p> <p>6. FEDERAL CAPITAL DEVELOPMENT AUTHORITY</p> <p>7. MINISTER OF THE FEDERAL CAPITAL TERRITORY</p> | } | <p>...DEFENDANTS/
RESPONDENTS</p> |
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RULING

By a Motion on Notice dated 27th September, 2021 and filed on 6th October, 2021, the Claimant/Applicant seeks for the following Reliefs:

- 1. An Order of the Honourable Court allowing the Claimant/Applicant to amend its REPLY to the Joint Statement of Defence of 5th – 7th Defendants and the additional Statement on Oath of Godwin Iji in support thereof in terms of the proposed amended REPLY and Statement on Oath of Godwin Iji herein altogether attached and marked as Exhibit A.**
- 2. An Order of the Honourable Court deeming the Amended Claimant/Applicant's Reply to the 5th – 7th Defendant Joint Statement of Defence and additional Statement on Oath of Godwin Iji filed simultaneously with this Application as duly filed and served the appropriate filing fees having been paid.**
- 3. And for such other Order(s) as this Honourable Court may deem fit to make in the circumstances.**

The application is supported by a 15 paragraphs Affidavit with one annexure marked as **Exhibit A**, the proposed Amended Reply to 5th – 7th Defendants Joint Statement of Defence and the proposed Amended additional statement on oath of Godwin Iji. A brief written address was filed in compliance with the Rules of Court in which one issue was raised as arising for determination to wit:

“Whether this application has merit to be granted.”

The brief address which forms part of the Record of court then referred to the settled principles governing the grant of an amendment and it was contended that on the materials, they have satisfied or fulfilled these principles and that the amendment sought is intended to place relevant facts and documents before court for the purpose of determining the real issues in controversy in this suit.

In opposition, the 5th – 7th defendants filed a Counter Affidavit of five (5) paragraphs together with equally a brief written address in compliance with the Rules of Court. In the address, one issue was raised as arising for determination, to wit:

“Whether it is just and proper for this Honourable Court to allow an Amendment of the claimant Reply pleading which raises new facts inconsistent with the case presented by the statement of claim in this suit.”

The address which forms part of the Record of Court equally dealt with the settled principles governing the grant of an amendment of pleadings and in particular a Reply pleading and it was contended that in this case, the amendments sought by claimant in its Reply seeks to alter or change the character of the case pleaded and presented by the claimant in its statement of claim and thus extremely prejudicial.

At the hearing, learned counsel for the Applicant and 5th – 7th Defendants/Respondents relied on the processes of court and each in turn urged the court to grant the application on one hand and on the other side that the application be dismissed.

I have carefully read the processes filed by contestants on both sides of the aisle and the narrow issue is whether the court should grant the amendment to the Reply pleading of claimant. The relief relating to filing of the additional deposition of Godwin Iji is clearly to reflect the amendment to the Reply pleadings if granted. The grant of this relief is therefore clearly predicated on the success of the Relief on Amendment. I will therefore start with a consideration of that point.

The question of grant of an Amendment to the pleadings generally is one to be decided on fairly settled principles. By the clear provisions of the Rules of Court, the court may at any stage of the proceeding allow either party to alter or amend his pleadings in such manner and on such terms as may be just for the purpose of determining the real question in controversy between the parties. See **Adekeye V. Akin-olugbade (1987)3 N.W.L.R (pt 60)214.**

The wide powers which the court may exercise in granting amendments cover amendments sought during, before and after trial of an action before judgment and even after judgment has been reserved. See **Okafor V. Ikeanyi (1979)3-4 SC 99 at 144.** Different considerations and principles determine how the court exercises or grants this indulgence at whatever point the application is brought.

An amendment is therefore nothing but the correction of an error committed in any process, pleading or proceeding which is done either as of course or by consent of parties or upon notice to the court in which the proceeding is pending. **Adekeye V. Akin-Olugbade (supra).**

The primary basis upon which the courts allow an amendment of pleadings is to ensure that a court determines the substance and or justice of the case or grievance

that has being brought to court for judicial ventilation and adjudication. The courts have over time therefore always taken the positive and salutary stand or position that however negligent or careless the errors or blunders in the preparation of court processes and we must concede that these happen regularly, the proposed amendment ought to be allowed, if this can be done without injustice to the other side or the adversary.

In **Laguro V Toku (1992) 2 NWLR (pt.223) 278**, it was firmly established by the Apex Court that in the exercise of its powers to amend, the court is guided by the following principles namely:

- a) The consideration of the justice of the case and the rights of the parties before it.**
- b) The need to determine the real question or questions in controversy between the parties.**
- c) The duty of a judge to see that everything is done to facilitate the hearing of any action pending before him and wherever it is possible to cure and correct an honest and unintended blunder or mistake in the circumstances of the case and the amendment will help to expedite the hearing of the action without injustice to the other party.**
- d) If the court is an appellate court, the need to amend the record of the trial court, so as to comply with the facts before the trial court and decision given by it in order to prevent the occurrence of substantial injustice.**
- e) Amendments are more easily granted whenever the grant does not necessitate the calling of additional evidence or the changing of the character of the case and in that aspect no prejudice or injustice can be said to result from the amendment. See also Wiri V. Wuche (1980) 1-2 S.C. 12; Afolabi V. Adekunle (1993) 2 SCNLR 141; Akinkuowo V. Fafimoju (1965) NWLR 349.**

I have endeavoured to set out *in extenso* the above principles governing the grant of an amendment. The task before me is to apply the above principles to the facts

of this case guided by the imperatives or dictates of justice and ensuring that parties have a fair platform to present their grievances.

In situating the justice of this application, it may perhaps be pertinent to give some background faces of the matter. I will only give or state the facts as are relevant to place the fairness and indeed justice of the application.

This is a matter with a fairly chequered history and filed as far back as 2015 to in substance invalidate the revocation of a certain plot 478 allocated to 1st defendant; to restore or reinstate its ownership and general damages for the unlawful revocation. The claim also has alternative reliefs which I need not reproduce here. The 3rd and 4th Defendants filed their defence as far back as 30th March, 2015. The 5th – 7th Defendants filed their defence on 30th October, 2015 and in Response the plaintiff filed its Reply to the 3rd and 4th defendants defence and also Reply to the 5th – 7th Defendants joint statement of defence on 19th May, 2016 which was regularised by order of court on 22nd November, 2016. With the settlement of pleadings and after failed attempts at settlement out of court, hearing then commenced on the same date, when plaintiff called their first witness, Mr. Godwin Iji.

In the course of leading this witness, counsel sought for adjournment to allow him get certain relevant documents. The difficulties in getting these documents completely stalled further proceedings as the plaintiff continuously sought for adjournment on the basis of the challenges they faced in getting certain documents which they claim are in possession of 5th – 7th defendants.

The present counsel, **J.A. Akubo, Esq.** on the record came into the case effectively on 14th February, 2020 when he appeared for the first time. In that time he has equally filed interlocutory applications and of note is the application to **file an additional witness statement of the same Godwin Iji** to support the Reply filed by them as far back as 19th May, 2016 in response to the 5th – 7th defendant defence filed on 30th October, 2015.

The application was vehemently contested by counsel to the 5th – 7th defendants and in a considered Ruling dated 9th March, 2021 where I considered in detail the import of a Reply, I held that the additional witness statement of Godwin Iji in support of the Reply which had not been filed could now be filed.

Hearing then continued on 27th September, 2021 where **PW1 Godwin Iji** now adopted this additional witness deposition dated 27th February, 2020 filed to support their Reply to the 5th – 7th Defendants defence. Again during trial, certain documents were sought to be tendered through this witness which failed admissibility challenges and were not admitted. Clearly in response to these evidentiary challenges, the claimant have now filed the extant application to amend its Reply and to again file a new deposition of the same Godwin Iji to reflect the amendment.

Having provided the above background facts, lets now determine the justice of the extant **amendment** to the Reply vis-a-vis the **existing process** already filed by claimant and on which evidence has been led on the Record.

For purposes of clarity, I will repeat the entirety of the Amendments sought as contained in the proposed **Amended Reply to 5th – 7th defendants joint statement of defence thus:**

- “1. The Claimant maintained all her averments in the amended statement of claim as if same is repeated in this reply and set out seriatim.**
- 2. The Claimant in reply to paragraphs 5 (a)-(c) of the 5th – 7th Defendants Joint Statement of Defence states that at all material time, the documents presented to the Claimant in relation to Plot 478, Cadastral A00 Central Business District Abuja belong to the 1st Defendant, this is more fortified as the search report issued by the 5th – 7th Defendants and/or their authorized Agency (AGIS) confirmed so.**
- 3. The Claimant in further reply to the above paragraph particularly paragraph 5(c) states that if the original documents or any other documents relating to the above plot does not belong to the 1st Defendant, the 5th – 7th Defendants would not have issued search report in respect of the plot confirming the ownership of the said plot to be the 1st Defendant. In further confirmation that the documents issued to the 1st Defendant herein in respect of the land in dispute was issued by the 5th – 7th Defendants, the later received payment of the ground rent in the sum of N666,727.60 (Six Hundred and Sixty Six Thousand Seven Hundred and Twenty Seven naira Sixty Kobo) only into its UBA PLC account paid by**

the former on 17/7/2007 and did not return or reject the said money paid by the 1st defendant. The AGIS- UBA Plc teller or deposit slip in that regard is hereby pleaded and shall be relied upon at the hearing of this case.

4. That the original copies of the R of O dated 16/5/1998, Acknowledgment of Re-certification and Re-issuance of C of O dated 5/2/2006 as well as Search report dated 13/7/2007 issued in favour of Bayco Nigeria Limited and Revenue Collectors Receipt No. 000740985 dated 22/11/2002 for N18,934,636.08 being payment for C of O Bill on File No. MFCT/LA/97/MISC/17262 and other documents were lost in transit by one of the old Counsel that initially handled this case in the Law Firm of Messrs Greenfileds.
5. The Claimant in reply to paragraph 7 of the 5th – 7th Defendants Joint Statement of Defence states that the title documents and acceptance letter given to the 1st Defendant as attached to the processes filed by the Claimant are in the custody of the 5th – 7th Defendants by this reply are put on notice to produce the original of the said Acceptance Letter.
6. The Claimant in reply to paragraph 9 of the 5th – 7th Defendants Joint Statement of Defence states that the assertion(s) therein are purely matters of law or argument and should be expunged from the Statement of Defence as same has no place in pleadings but in the alternative, the Claimant shall rely on what is in her possession to prove her claim in the proceeding before this Honourable court.
7. The Claimant again in reply to paragraph 11 (a) – (c) of the 5th – 7th Defendants Joint Statement of Defence states that once again they are pleading law instead of facts which has no place in pleadings but in direct response to what they are pleading, the Claimant states that the officials in the Department of the 5th – 7th Defendants issued a valid search report to the Claimant to the effect that the land or plot in transaction is free from all encumbrances. The search report earlier pleaded is herein relied upon.

- 8. The Claimant in reply to paragraph 12 of the 5th – 7th Defendants Joint Statement of Defence states that the said document speak for itself and the said paragraph should be discountenanced as same search report was issued by the 5th – 7th Defendants before the transaction between the parties was concluded. The pleaded search report is repeated in this reply.**
- 9. The Claimant in reply to paragraph 13 of the 5th – 7th Defendants Joint Statement of Defence states that the search report was duly paid for, receipt issued for the payment and the search duly issued by AGIS to the effect that the plot is free from all encumbrances and it is on that basis that the Claimant line hook and sinker believed on it and effected payment in respect of the plot. All these were done before the transaction was concluded. The receipt for payment for the search report is hereby pleaded.**
- 10. The Claimant in response to paragraphs 13, 14 and 15 of the 5th – 7th Defendants Joint Statement of Defence states that the basis of the Claimant entering the contract was solely on the valid search report issued to the 1st Defendant by the 5th – 7th Defendants and that there is no way the Claimant without the assurance of the 5th – 7th Defendants and there is no way the Claimant without the assurance of the 5th – 7th Defendants through its issued search report, would have entered the transaction in the first place being aware of land speculations in Abuja.**
- 11. The Claimant in reply to paragraph 19 of the 5th – 7th Defendants Joint Statement of Defence states that what was alleged there was a mere denial as all the documents in favour of the 1st Defendant were all issued by the 5th – 7th Defendants and that all they are doing here is nothing but a mere denial.**
- 12. The Claimant further to the above states that after this Suit was filed, the 5th – 7th Defendants herein were initially represented by a State Counsel in the person of Damilola Awesu Esq. Who never denied title documents in issue were forged before Marcel Osigbeme Esq. Was engaged in this suit. Furthermore, there was a time the Claimant's Counsel and the Counsel**

representing 5th – 7th Defendants held a meeting on 13/10/2015 on the need to chart a course to resolve the matter amicably which meeting was instigated by the said Counsel to the 5th – 7th Defendants. The Minutes of meeting aforesaid is hereby pleaded and shall be relied upon at the hearing of this Suit. The said meeting was attended by G.G. Bawa Esq., Deputy Director, Litigation in FCDA then.

13. The Claimant avers that the title documents and search report in issue relating to the land in dispute did not emanate from it nor was same forged by it or by the 1st Defendant but rather emanated from the 5th – 7th Defendants officially. And this is supported by the fact that the said Defendants raised a bill for outstanding Ground Rent payable and the 1st Defendant did paid the sum of N666,727.60 (Six Hundred and Sixty Six Thousand Seven Hundred and Twenty Seven naira Sixty Kobo) only into the 5th Defendant’s Account No: 01282955001104 on 17/7/2007 with UBA Plc which Account Number is now 1003766522. A copy of the Bank teller is hereby pleaded and shall be relied upon at trial. That in the course of this trial, the Claimant shall apply to the Court to issue UBA Plc a Subpoena to produce the 5th Defendant’s Statement of Account from 1/1/2000 to 31/12/2002 and from 1/1/2007 to 31/12/2007 respectively.”

At the risk of cluttering this Ruling but for purposes of ease of understanding, let me also reproduce the contents of the existing Reply to 5th – 7th Defendants joint statement of defence filed by claimant as far back as 19th May, 2010 thus:

- “1. The Plaintiff maintained all her averments in the statement of claim as if same is repeated in this reply and set out seriatim.**
- 2. The Plaintiff in reply to paragraphs 5 (a)-(c) of the 5th – 7th Defendants Joint Statement of Defence states that at all material time, the documents presented to the Plaintiff in relation to Plot 478, Cadastral A00 Central Business District Abuja belong to the 1st Defendant, this is more fortified as the search report issued by the 5th – 7th Defendants and/or their authorised Agency (AGIS) confirmed so.**

- 3. The Plaintiff in further reply to the above paragraphs particularly paragraph 5(c) states that if the original documents or any other documents relating to the above plot does not belong to the 1st Defendant, the 5th – 7th Defendants would not have issued search report in respect of the plot confirming the ownership of the said plot to be the 1st Defendant. The document or search report had earlier been pleaded is relied upon in this reply.**
- 4. That the Plaintiff in reply to paragraph 6 (a)-(g) of the 5th – 7th Defendant's Statement of Defence states that the averments contained therein are purely administrative nomenclature of the 5th – 7th Defendants as the plaintiff confirmed through her search report which report clearly showed that the 1st Defendant was validly issued the Certificate of Occupancy under consideration, and that if Mallam M.S.U. Kalgo is not in the position to issue same for the Hon. Minister, the report would not have confirmed the Certificate of Occupancy as valid. The search report is herein relied upon.**
- 5. The Plaintiff in reply to paragraphs 7 of the 5th – 7th Defendants Joint Statement of Defence state that the evidence of offer by the 1st Defendant is attached to the processes filed by the Plaintiff and the acceptance thereof is in the custody of the 5th – 7th Defendants, the 5th – 7th Defendants by this reply are put on notice to produce the original of the said Acceptance Letter.**
- 6. The Plaintiff in reply to paragraph 9 of the 5th – 7th Defendants Joint Statement of Defence states that what they are saying there are purely matter of law or argument and should be expunged from the Statement of Defence as same has no place in pleadings, in the alternative the Plaintiff shall rely on what is in her possession to prove her claim in the proceeding before this Honourable Court.**
- 7. The Plaintiff again in reply to paragraph 11 (a) – (c) of the 5th – 7th Defendants Joint Statement of Defence states that once again they are pleading law instead of facts which has no place in pleadings but in direct**

response to what they are pleading the Plaintiff states that the officials in the Department of the 5th – 7th Defendants issue a valid report to the Plaintiff to the effect that the land or plot in transaction is free from all encumbrance. The search report earlier pleaded is relied upon herein and notice is given to the 5th – 7th Defendants to produce same at the trial of this Suit.

8. The Plaintiff in reply to paragraph 12 of the 5th – 7th Defendants Statement of Defence states that the said document speak for itself and the said paragraph should be discountenanced as same search was issued by the 5th – 7th Defendants before the transaction between the parties was concluded. The pleaded report of the search is repeated in this reply.
9. The Plaintiff in reply to paragraph 13 of the 5th – 7th Defendants Statement of Defence states that the search report was duly paid for receipt issued for the payment and the search report duly issued by AGIS to the effect that the plot is free from all encumbrance and it is on that basis that the Plaintiff line hook and sinker believed on it and effected payment in respect of the plot. All this was done before the transaction was entered and concluded.
10. The Plaintiff in response to paragraphs 13, 14, and 15 of the 5th – 7th Defendants Statement of Defence states that the basis of the Plaintiff entering the contract was solely on the valid search report issued to the Plaintiff by the 5th – 7th Defendants and that there is no way the Plaintiff without the assurance of the 5th – 7th Defendants through its search report, would have entered the transaction in the first place being aware of land speculations in Abuja.
11. The Plaintiff in reply to paragraph 19 of the 5th – 7th Defendants Statement of Defence states that what was alleged there was a mere denial as all the documents in favour of the 1st Defendant were all issued by the 5th – 7th Defendants and that all they are doing here is nothing but a mere denial.

12. The Plaintiff in reply to paragraph 20 of the 5th – 7th Defendants Statement of Defence states that the office that issued the said Certificate of Occupancy is from the 5th – 7th Defendants office and the new Certificate as indicated is from the office and no other office known to the Plaintiff for the issuance of such Certificate(s).

13. The Plaintiff in response to paragraph 29 of the 5th – 7th Defendants Statement of Defence states that the application made by Remedium Chamber, payment receipt for the search, the search report are all the products of the 5th – 7th Defendants. All of these documents were earlier pleaded in the Statement of Claim of the Plaintiff and the 5th – 7th Defendants are put on notice to produce the original of the said receipt and report at the trial of the Suit.

14. The Plaintiff in further reply to the above paragraph under reference states that the report was issued by the 5th – 7th Defendants, and the Plaintiff wholly believed on the report and paid for the property on account of the 5th – 7th Defendants search report based on the processes followed for conducting the search and the ensuing report that was eventually relied upon by the plaintiff.”

Now paragraph 2 of the proposed Amended Reply is clearly a repetition of paragraph 2 of the existing reply and entirely redundant or immaterial. Paragraph 3 is similarly a repetition of paragraph 3 of the existing Reply. The addition made in the new paragraph 3 seeks to alter fundamentally the narrative with respect to payments and how it was made which forms the fulcrum of the case of claimant in its pleadings and over which evidence has already been given by PW1.

Paragraph 4 above clearly is a repetition of the evidence of PW1 in his further witness deposition dated 27th February, 2020. The said **paragraph** was struck out by this court in a considered Ruling on 27th September, 2021 predicated on the fact that it was evidence led in support of facts not pleaded. It is curious that this same averment is now sought to be brought in through the back door.

Paragraph 5 above is a repetition of paragraph 5 of the existing reply and therefore equally redundant and immaterial. The case of the 5th – 7th defendants is that they

never issued the contested documents of title. The claimant in the substantive claim has streamlined in detail how it got the documents and how payments were made. The question of the integrity of the title documents of plaintiff has always been a precisely defined issue since pleadings were filed. Paragraph 5 above adds nothing new to the issues in dispute.

Paragraphs 6, 7, 8, 9, 10 and 11 are similarly a rehash of the same paragraphs contained in the earlier reply filed on 19th May, 2016, the only addition vide paragraph 9 is that **“the receipt for payment for the search report is pleaded”**. The specific mention of the pleading of the receipt of payment adds nothing to the paragraph to the clear extant that in both paragraphs, mention was made of the payment for the search report with receipt duly issued, which allegedly led to the issuance of the search report. The specific mention of the fact that the receipt for search report is now pleaded in real terms adds nothing to the paragraph. The settled Rule of pleadings is to plead material facts and not evidence.

Paragraph 12 of the proposed Reply is a completely new case of complaint involving even counsel **Damilola Awesu, Esq.** who is now late and in no position to respond. The new allegations equally now been made in respect of counsel now handling the matter cannot be made through the conduit of a reply and therefore clearly this is an attempt to frame a new case or to alter the face of the case on which issues were joined and evidence led, particularly at this stage when counsel and his clients, the 5th – 7th defendants are in no position to even respond.

In law, an Amendment will not be allowed if such an amendment will violate the rule of *audi alterem* portions. The rule will be infringed if an amendment is introduced at such a stage that the other side no longer has the opportunity of adducing its own answer to the point which the amendment has enabled the applicant to introduce. See **Okolo V UBN (1999) 10 NWLR (pt. 623) 429 at 437.**

Indeed, even if the new case now been made of the issue of the possible amicable settlement of the case had any traction, and I am afraid it does not have, it will have no bearing on the proof by claimant of the case presented on established legal threshold.

Paragraph 13 of the proposed Reply again contains elements of what was pleaded in paragraph 3 above which I had earlier treated. At the risk of prolixity, this

paragraph seeks to alter the narrative with respect to payment contrary to the case made out years ago by claimant and on which it has already led evidence. In paragraph 25 of the Amended statement of claim, the claimant pleaded that **“the 1st and 3rd defendants later revised the ground rent payable to N666,727.20 (as against the initial sum of N458,601.75) and by letter dated 15th August, 2007, the 1st defendant confirmed payment of the amount...”** The amendment now being sought vide the reply is clearly an attempt to create a scenario which directly conflicts with the position established on the existing pleadings and evidence led.

As I have sought to demonstrate, some of the amendments are quite irrelevant or immaterial having been already streamlined in the existing statement of claim and reply filed to the 5th – 7th defendants statement of defence; while some of the amendments are clearly prejudicial as attempts are being made to actively change or alter the nature of the claims before the court and which in addition will be inconsistent with the testimony of the sole witness so far called by the claimant. It is really difficult for the extant application for amendment to avoid the label and or allegation that it was brought or made mala fide. See **Chief Adedapo Adekoye V Chief O.B. Akin-Olugbade (supra) 214; Celtel (Nig.) Ltd V Econet Wireless Ltd (2011) 3 NWLR (pt.1233) 156 at 167-168 and Okolo V UBN (supra) 429.** To grant this extant application is to violate the consecrated principles governing the grant of an Amendment.

As I round up, let me call in aid the instructive decision of the Court of Appeal in **H.I. Iyamabor V. Mr. Mavis Omoruyi (2011)26 WRN 87** where it was stated as follows:

“Justice demands that in order to determine the real matter in controversy, pleadings may be amended at any stage of the proceedings, even in the Court of Appeal or this court (Supreme Court) to bring them in line with the evidence already adduced; provided the amendment is not intended to overreach and the other party is not taken by surprise and the claim or defence of the said other party would not have been different, had the amendment been averred when the pleadings were first filed. Per Akpata, JSC in Laguro V. Toku (1992)2 NWLR (pt.223)278; (1991)2 SCNJ 201.

A court of equity should never allow a cunning or crafty application to lord over an amendment sought mala fide, at the detriment of the adverse party. In order to ensure that justice is done to the parties, the court should open its eyes wide and with a meticulous and searching mind comb through the entire application. Per Niki Tobi, JCA (as he then was) in Aina V. Jinadu (1992)4 NWLR (pt.233)91. A refusal will be inevitable, especially if it is designed to overreach or outmanoeuvre the adverse party with the aim of winning the victory at all cost.”

In the final analysis the application to amend the Reply to the joint statement of defence of 5th – 7th Defendants fails and with the failure, the application to file an additional witness statement of Godwin Iji to incorporate the amendments to the Reply equally fails. You cannot put something on nothing and expect it to stand is a well known legal axiom.

I once again call on counsel to act post haste and ensure that this matter is now concluded without any further delay. It is a sad commentary that a fairly simple case to be settled on fairly settled principles has dragged this long. It is difficult to see how confidence will be engendered in the administration of justice if cases of this nature drags on interminably without end. I say no more.

The application however fails and it is dismissed.

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Hon. Justice A.I. Kutigi

Appearances:

- 1. Dr. J.A. Akubo, Esq., for the Plaintiff/Applicant.**
- 2. John Alu, Esq., for the 3rd and 4th Defendants/Respondents.**
- 3. Marcel Osigbemeh, Esq., for the 5th – 7th Defendants/Respondents.**