

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

**BEFORE HIS LORDSHIP: HON. JUSTICE MUHAMMAD S. IDRIS**

**COURT: 28**

**DATE: 10<sup>th</sup> February, 2022**

**SUIT NO: FCT/HC/GWD/CV/68/2021**

**BETWEEN**

**MR. RICHARD ARUKA**

**MRS GEORGINA ARUKA**

**AND**

**1. THE CHAIRMAN, ECONOMIC AND  
FINANCIAL CRIME COMMISSION (EFCC).**

**2. ECONOMIC AND FINANCIAL CRIME COMMISSION (EFCC)**

**3. CHINYERE JANE OKAFOR**

**4. JOHN SMALL UGWU**

**CLAIMANTS/RESPONDENTS**

**DEFENDANTS/APPLICANTS**

**RULING**

The 1<sup>st</sup> and 2<sup>nd</sup> Defendants/Applicant filed a notice of Preliminary Objection No: **M/5755/2021** dated and filed on 13<sup>th</sup> September 2021, seeking this Honourable Court to dismiss the suit in its entirety on the grounds that:-

- i. That the alleged acts of the 1<sup>st</sup> and 2<sup>nd</sup> Defendants/Applicants that led to the institution of this suit and the entire investigations of this case took place in

- ii. Sokoto State and vest jurisdiction in the High Court of Sokoto State as contemplated in section 46 of the 1999 Constitution.
- iii. That the persons alleged by the Claimants/Respondents of infringing on their rights are not made parties in this suit which is fatal to the Claimants/Respondents' suit.

Applicants attached to this Preliminary Objection a 6-paragraph affidavit and a written address.

The affidavit is deposed to by one Ezire Ufuoma, a litigation officer in the Legal and Prosecution Department of Economic and Financial Crimes Commission. The deponent states that the Claimants/Respondent in their Statement of Claim and Witness deposition on oath alleged that the EFCC Sokoto Zonal Office, Bawa Usman Kaltungo the Zonal Head of the EFCC Sokoto Zonal Office violated the Claimants/Respondents fundamental Human Rights, and that the letter referred to in paragraph 38 of the Claimants'/Respondents' Statement of Claim alleges acts of illegality by the Sokoto Zonal Office of the EFCC. That the letter did not allege any violation of the Claimant's Right by the 1<sup>st</sup> and 2<sup>nd</sup> Defendants/ Applicants, as the 1<sup>st</sup> and 2<sup>nd</sup> Defendant did not do anything violating the rights of the Claimants/Respondents'.

In his written address, counsel to the 1<sup>st</sup> and 2<sup>nd</sup> Defendant formulated two issues for determination:-

1. Whether having regards to the fact that the cause of action giving rise to this suit and the entire investigation all took place in Sokoto State, as well as the fact that Bawa Usman Katungo, the zonal head of the EFCC, Sokoto and the Sokoto zonal office are in Sokoto State, this Honourable court has the Territorial jurisdiction to entertain and determine this suit.

2. Whether this Honourable Court can entertain and determine this suit without the necessary parties.

On issue 1, counsel to the Defendant/Applicant contends that the cause of action which ordinarily should confer jurisdiction on this Honourable Court took place in Sokoto, outside the territorial jurisdiction of this Honourable Court, thus, vesting territorial jurisdiction on the High Court of Sokoto State. He placed reliance on the Supreme Court decisions in ***MAILANTARKI VS TONGO &ORS (2017) LPELR-42467, AND AUDU VS APC &ORS (2019) LPELR-48134(SC)***.

On issue two, counsel contends that the entirety of the Claimants/Respondents suit is predicated on the alleged violation of the Claimants/Respondents' rights by Kaltungo Usman Bawa, the Zonal Head of Sokoto Zonal office of EFCC. That the entire investigation into the case was conducted in Sokoto State by Usman Bawa Kaltungo as alleged by the Claimants/Respondents, hence, Usman remains a necessary party in this suit and ought to have been joined. That failure to make Usman Bawa Kaltungo a party in the suit, is fatal to the suit of the Claimants/Respondents. He cited the Court of Appeal decision in ***KATAMI V. KATAMI (2018) LPELR- 6417 (CA)***.

Counsel urges the Court to strike out this action with substantial cost in favour of the 1<sup>st</sup> and 2<sup>nd</sup> Defendants/Applicants.

In opposition, the Claimants/Respondents Counsel filed a reply on points of law dated and filed on the 1<sup>st</sup> day of November 2021. Learned counsel in the preliminary objection raised two issues for determination thus:

1. Whether this Honourable Court is clothed with territorial jurisdiction to hear and determine this matter.
2. Whether proper parties are before this Honourable Court in this matter.

On issue 1, counsel admits that jurisdiction is the cornerstone of all litigations. See ***ODUKO V. GOVERNMENT OF EBONYI STATE (2009) 9 NWLR (PT 1147) P. 439 at 462-463 Paragraphs F-A.***

Counsel argues that jurisdiction of a court is determined from the Plaintiff's claim and not the defendant's statement of defense. See ***ODUKO V. GOVERNMENT OF EBONYI STATE (supra).*** That a consideration of the Claimants' Statement of Claim and their reply to the Defendants/Applicants Statement of Defence, reveals that the claims for the Claimants is against illegal enforcement of contract between the Claimants and one Late John Small Ugwu by the Defendants who are all strangers to the said contract, and for illegal sharing of lands at Kweita, Abuja, seizure of title documents of the Claimant's lands located at Kweita Abuja, challenge of the title and business of Georgina Hotel and bar also in Kweita, Abuja by the Defendant.

Counsel further contends that this Court has jurisdiction to hear and determine matters relating to lands in Kweita, Abuja, and to entertain matters arising from contractual dispute between the Defendant and the 3<sup>rd</sup> Defendant within its territorial jurisdiction. That the matter does not bother solely on fundamental rights violations which took place in the Sokoto Zonal Office of the 1<sup>st</sup> and 2<sup>nd</sup> Defendant. Counsel maintains that where the issue of fundamental right violation is not the central matter but merely ancillary to the substantive case before this Honourable Court,

such matter can be brought before the Court pursuant to the rules of the court and not pursuant to the fundamental Right Rules or pursuant to section 46 of the Constitution, since the dispensing of the fundamental right violation will not settle all the matter before the court. see *Umuahia Capital Development Authority v. Ignatius &Ors* (2015) LPELR- 24910 (Pp 26-28 Paras C-A). Counsel further submits that where there are multiple cause of action occurring at diverse territorial or geographic jurisdictions of other States High Courts, a Claimant is at liberty to pick and chose which jurisdiction to institute his matter. He cited ***SARKI V SARKI &ORS (2021) LPELR- 52659 (Pp 13-25 Paragraphs E-C) and UZOUKWU VS. EZEONU II (1991) 6 NWLR Part 200 P. 708 at 71 Paragraphs G-H.***

On issue 2, counsel to the Claimants/Respondent argues that Mr. Bawa Usman Kaltungo, Zonal Head of Sokoto Zonal Office of the Applicants at all times acted as agents of the disclosed principal, the 1<sup>st</sup> and 2<sup>nd</sup> Defendants, that joining him in this matter is unnecessary. Counsel urges the Court to strike out the Defendants/Applicants Application with substantial cost.

From the totality of the Defendants/Applicants written address and the Claimants/Respondents Reply on Points of Law, two issues can sufficiently be distilled for a determination of this Notice of Preliminary Object, and I wholly adopt the two issues raised by the Claimants/Respondents:-

1. Whether this Honourable Court is clothed with territorial jurisdiction to hear and determine this matter.
2. Whether proper parties are before this Honourable Court in this matter.

On the first issue, it is trite that to determine jurisdiction, it is the statement of claim that the court will look at. See ***INAKOJU VS. ADELEKE & ORS (2007) LPELR-1510 (SC)***.

Granted, courts are usually not seized of matters that occur outside their territory. See ***DAIRO VS. UBN (2007) 16 NWLR (Pt. 1059)***. This however does not mean that the subject matter of the issue in dispute should not be considered once the issue of territorial jurisdiction is raised. The court has a duty to critically look into the Claimants Statement of Claim to decipher if indeed the subject matter/cause of action vests jurisdiction on the court to hear and determine the matter before it.

I have carefully considered the Claimants' Statement of claim, and what can be gleaned as the substance of the claimants' case are as follows:-

- i. The 1<sup>st</sup> Claimant claims against the Defendants for illegally arresting and detaining him for the purpose of allegedly enforcing a contract allegedly entered into between the 1<sup>st</sup> Claimant and Late John Samuel Ugwu in favour of the 3<sup>rd</sup> Defendant.
- ii. The 1<sup>st</sup> Claimant seeks a declaration that his arrest and detention by the 1<sup>st</sup> and 2<sup>nd</sup> Defendants, and the forceful seizure of part or all of his property and business at Georgina Hotel & Bar after Kweita General Hospital, Kwali, Abuja by the 3<sup>rd</sup> Defendant, to enforce the purported contract between the 1<sup>st</sup> Claimant and one John Samuel Ugwu in favour of the 3<sup>rd</sup> Defendant, is illegal and beyond the powers of the 1<sup>st</sup> and 2<sup>nd</sup> Defendant. The 1<sup>st</sup> Claimant also seeks a restoration of the said property at Kweita, Abuja to him by this Court.

From the totality of the Claimants Statement of Claim and Witness Statement on oath, it is obvious that the cause of action in this matter arose from the mode allegedly adopted by the Defendants in enforcing a contract which the 1<sup>st</sup> Claimant claims to have had with one Late John Samuel Ugwu. This mode of enforcement as alleged by 1<sup>st</sup> Claimant, eventually led to a violation of his fundamental right. The fundamental right violation is therefore ancillary, as the substantive case of the Claimants is that the Defendants had no right to enforce the contract which the 1<sup>st</sup> Claimant had with the Late John Samuel Ugwu, in the manner they did. Where the violation of the alleged right is merely incidental or ancillary to the principal claim or relief, it will be improper and preposterous to address such action as one for enforcement of a fundamental right. See **SEA TRUCKS NIGERIA LTD VS. PANYA ANIGBORO (2001)2 NWLR (Part 696) 159 at 178 G-H.**

Part of the Plaintiff's Claim is also for the restoration of a Plot of land measuring 200 × 120 ft located beside Lokoja- Abuja Expressway after Kweita General Hospital, Kwali, Abuja.

Having held that the cause of action arose from the mode allegedly adopted by the defendants in the enforcement of a purported contract between the 1<sup>st</sup> Claimant and Late John Samuel Ugwu in favour of the 3<sup>rd</sup> Defendant, it is true that the subject matter of a contract is more technical than other cause of action, this because where the parties as in this case resides in different states, it may be difficult to decide which State High Court has jurisdiction.

The appropriate order to look at is **Order 3 Rule 3 of the Federal Capital Territory High Court Civil Procedure Rules**

which states that all actions for specific performance, or upon breach of any contract, may be commenced and determined in the judicial division in which such contract ought to be performed or in which the defendant resides or carries on business.

From the above provision, it is clear that the place where the contract ought to have been performed or where the Defendant resides or carries on business may determine jurisdiction of the court. These conditions being disjunctive so that any of them could give the court jurisdiction to hear the matter.

Having in mind that the Claimant resides and carries on business (the subject matter of the alleged contract) in Abuja, and that the property which the Defendants allegedly seized in satisfaction of the performance of the contract, is located in Abuja, it therefore follows that this Court has the jurisdiction to hear and determine the matter as instituted before it.

In addition, it is also trite that the location of a land in dispute determines the court that can exercise original jurisdiction. See ***DWEYE VS. IYOMAHAN (1983) 2 SCNLR 135 at 138.***

The issue of whether the High Court of the Federal Capital Territory has exclusive jurisdiction over land matters in the Federal Capital Territory has been settled through a plethora of cases. See ***ADISA V ONYINWOLA (2000) 10 NWLR (Page 16 of 34 679) 116 at page 217.***

**Order 3 Rule 1 of the Federal Capital Territory High Court Civil Procedure Rules** clearly states that all suit relating to land or any mortgage or charge on land or any interest in land, or any inquiry or damage to land and **actions relating to personal property distrained or seized for any cause, may be**



**commenced and determined in the judicial division in which the land is situated, or the distraint or seizure took place.**

On issue two, under the Fundamental Right (Enforcement Procedure) Rules, 2009 and section 46 of the Constitution of the Federal republic of Nigeria 1999 as amended, any applicant for the enforcement of his or her fundamental rights can institute his action against any or all persons who contravenes his or her fundamental right. The failure to join all those involved in the contravention or breach of the applicants' fundamental rights will not affect the success of his action. See ***CHINEDO & ORS V. IREKA (2016) LPELR-40510.***

In other words, failure to join all alleged culprits will not defeat the action once the applicant can show that those brought before the court actually violated his or her rights.

It is the duty of the claimant as in this case, to sue all relevant and interested parties, but if that if the Claimant fails to do so, it does not mean that his action would fail. See ***MR. ONAYEMI V. O. KUNUBI & ANOR (1966) NMLR P.50***

The 1<sup>st</sup> and 2<sup>nd</sup> Defendants/Applicants being disclosed principals of the Sokoto Zonal office of EFCC are necessary parties. The courts have held it for quite long that no cause or matter shall be defeated by reason of misjoinder or non-joinder of parties and the court may in every cause or matter deal with the controversy so far as regards the right and interests of the parties actually before it.

It is helpful to always remember that technical justice is no justice at all and a Court of law should distance itself. Court of law should not be unduly tied down by technicalities.

Particularly where no miscarriage of justice would be occasioned. Justice can only be done in substance and not by impeding it with mere technical irregularity that occasion no miscarriage of justice where the facts are glaringly clear. The Court should ignore mere technicalities in order to do substantial justice see ***ABUBAKAR VS YARA-DUA (2008) 4 NWLR (pt 1078)465. See also AKIN VS BOB (2010) 17 NWLR (PT 1223) 421 ,FARFA OIL LTD VS A.G FED. (2013) 18 NWLR (PT882) 453.*** From the analyzed position of the law and a critical look at the entire application it follows that this application is lacking in merit. Accordingly same is hereby dismissed.

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**HON. JUSTICE M.S IDRIS  
(PRESIDING JUDGE)  
/2022**