

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

**ON WEDNESDAY, 11<sup>TH</sup> DAY OF MAY, 2022**

**BEFORE HON. JUSTICE SYLVANUS C. ORIJI**

**SUIT NO. FCT/HC/CV/840/2020**

**MOTION NO. M/12240/2020**

**BETWEEN**

**THE REGISTERED TRUSTEES OF THE  
SOCIO-ECONOMIC RIGHTS AND  
ACCOUNTABILITY PROJECT [SERAP]**



**CLAIMANT/  
RESPONDENT**

**AND**

- 1. THE CHAIRMAN, ABUJA MUNICIPAL  
AREA COUNCIL**
- 2. DEPUTY CHAIRMAN, ABUJA MUNICIPAL  
AREA COUNCIL**
- 3. THE SPEAKER, ABUJA MUNICIPAL  
AREA COUNCIL**
- 4. THE ABUJA MUNICIPAL AREA  
COUNCIL [AMAC]**



**DEFENDANTS/  
APPLICANTS**

**RULING**

The claimant commenced this action vide Originating Summons filed on 17/1/2020. The claimant submitted these three questions for determination by the Court:

1. Whether the AMAC Pension Edict/Law is not in conflict with paragraph 44, Second Schedule, Part 1 of the Constitution of the Federal Republic of Nigeria 1999 [as amended], [the Exclusive Legislative List], as to warrant it being declared null and void to the extent of the inconsistency.
2. Whether having regard to the provisions of the Fourth Schedule of the Constitution of the Federal Republic of Nigeria 1999 [as amended], the defendants being members of an Area Council have constitutional power to enact pension law enabling payment of life pension in favour of the 4<sup>th</sup> defendant's former Chairmen, former Vice-Chairmen and former Speakers or in respect of any other persons, whatsoever.
3. Whether the act of the defendants in enacting a pension edict/law for the benefit of former Chairmen, Vice-Chairmen and Speakers of the Abuja Municipal Area Council is not in breach of Code of Conduct for Public Officers in the Fifth Schedule of the Constitution of the Federal Republic of Nigeria 1999 [as amended].

The claimant seeks the following reliefs:

1. A declaration that the Abuja Municipal Area Council Pension Edict/Law 2019 made in excess of the defendants' power in Fourth Schedule, Part III and being in conflict with the provisions of Item 44, Second Schedule, Part 1 of the Constitution of the Federal Republic of Nigeria 1999 [as amended] is void to the extent of the inconsistency.

2. A declaration that the Chairman, Deputy Chairman and Speaker of the legislative arm of the Abuja Municipal Area Council have no constitutional or statutory authority to enact any pension law/edict whatsoever for the benefit of its former Chairmen, former Vice-Chairmen and former Speakers.
3. An order of the Honourable Court compelling the defendants to recover all previous payments made under the Abuja Municipal Area Council Pension Edict/Law 2019 from the beneficiaries and remit same into the coffers of the Abuja Municipal Area Council.
4. An order of perpetual injunction restraining, preventing and stopping the defendants or their agents, servants, privies and associates from making payment or further payment of pensions in favour of all former Abuja Municipal Area Council Chairmen, Vice-Chairmen and former Speakers.
5. And for such further order or orders that this Honourable Court may deem fit to make in the circumstances.

In support of the Originating Summons, Joel Ekong, an administrative officer of the claimant, filed a 7-paragraph affidavit; attached therewith are Exhibits AM1-AM4. Opeyemi Owolabi Esq. filed a written address. Also in support of the Originating Summons, Opeyemi Owolabi Esq. filed a reply on points of law on 12/3/2021 in response to the defendants' written address.

On 24/11/2020, HauwaYamta, a legal practitioner in the Legal Unit of the 4<sup>th</sup> defendant, filed a 19-paragraph counter affidavit in opposing the Originating Summons together with the written address of Achenyo Oyibo Esq. On the same date, the defendants filed a notice of preliminary objection to challenge the competence of the suit.

By order of the Court, defendants' preliminary objection and the Originating Summons were heard together on 16/2/2022. The Court will first deliver its ruling on the preliminary objection. If the preliminary objection succeeds, the suit will be struck out. If it fails, the Court will proceed to determine the merits of the Originating Summons.

### **RULING ON THE DEFENDANTS' PRELIMINARY OBJECTION**

The relief sought by the defendants in the preliminary objection is:

An order dismissing this instant suit *in limine* with substantial cost of N5,000,000.00 [five million Naira] only against the claimant as same is inchoate, premature, political and an infringement on separation of powers spelt out in the Constitution.

The grounds of the preliminary objection are:

1. This instant suit is not justiciable on the ground that this Honourable Court lacks the requisite jurisdiction and vires to entertain same.

2. That the plaintiff lacks the *locus standi* to institute this instant action.
3. That the Originating Summons as presently constituted discloses no reasonable cause of action or cause of action against the defendants.
4. That this Honourable Court lacks the requisite jurisdiction to entertain this instant suit as presently constituted as the necessary parties for the effective and effectual determination of this suit are not before this Honourable Court.
5. The action is not cognizable by the Court because it is asking the Honourable Court to determine political questions.
6. This Honourable Court lacks the jurisdiction to entertain the Originating Summons against the defendants given the fact that the principal/main relief is hypothetical and academic.
7. That this instant suit amounts to a flagrant abuse of judicial powers.

### Particulars

- i. This suit is an attempt to either take over the functions of the legislature or to encroach on its constitutional functions, contrary to the settled principle of separation of powers.
- ii. From the Originating Summons filed, no cause of action has been disclosed against the defendants who have simply exercised their constitutional powers and mandate.

- iii. This action is premature, speculative and academic as same is seeking to challenge uncompleted acts - because those acts have not raised legal consequences that will warrant litigation.
- iv. To have the standing to sue, the claimant must disclose in his originating process the injury that he stands to suffer by the act or omission complained about.
- v. For the claimant to approach the courts to stop the defendants from performing their constitutional functions, it must disclose sufficient legal interest in the subject matter and how the claimant's interest has been adversely affected or threatened.
- vi. The affidavit in support of the Originating Summons contains no averments disclosing the interest of the claimant or the injury that would be suffered in consequence of the bill being passed into law.
- vii. The proposed amendment is in the interest of any one who occupies the positions of the 1<sup>st</sup> , 2<sup>nd</sup> and 3<sup>rd</sup> defendants and not for the claimant and its members alone and as such they have not shown how their interest is greater than or superior to that of the citizens of this great Country.
- viii. The National Assembly of the Federal Republic of Nigeria is a necessary party in the determination of this instant suit.
- ix. The non-joinder of the National Assembly of the Federal Republic of Nigeria is fatal to the hearing and determination of this instant suit.

- x. A Court or Tribunal cannot make an order or give a judgment that will affect the interest of a person or body that is not a party to the suit and who was never heard in the matter.
- xi. The jurisdiction of the Court is determined by the principal reliefs subscribed on the claimant's originating processes, in this case the Originating Summons.
- xii. The entire suit of the claimant is challenging a proposed BILL by the 4<sup>th</sup> defendant and not an Act of the 4<sup>th</sup> defendant.
- xiii. The reliefs sought against the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> defendants i.e. 3<sup>rd</sup> question for determination is outside the competence or jurisdiction of this Honourable Court, as same should be brought before a Code of Conduct Tribunal.
- xiv. That this Honourable Court lacks the requisite jurisdiction to grant all the reliefs sought against the defendants.
- xv. Consequently, this instant suit is academic, frivolous, speculative and amounts to a flagrant abuse of judicial process.

Achenyo Oyibo Esq. filed a written address in support of the preliminary objection. In opposition, Opeyemi Owolabi Esq. filed a written address on 2/12/2020.

From the grounds of the application and the submissions of both counsel, I am of the view that there are two main issues for resolution. These are:

1. Whether the claimant has *locus standi* to institute this suit.
2. If the answer to Issue 1 is in the affirmative, has this suit disclosed a cause of action or is the claimant's complaint that gave rise to this suit inchoate?

It is trite law that in order to determine the jurisdictional issues of the claimant's *locus standi* to institute an action and whether a suit has disclosed a reasonable cause of action, the court can only examine the averments in the statement of claim where the suit is commenced by writ of summons. Where the suit is commenced by originating summons, as in the instant case, the court will only examine the facts relied upon in the affidavit in support. See **Arowolo v. Olowookere [2011] 18 NWLR [Pt. 1278] 280** and **Ibe & Anor. v. Bonum [Nig.] Ltd. [2019] LPELR-46452 [CA]**. In other words, the claimant's case is usually the court's guide in determining its jurisdiction to entertain the suit. See the case of **Inakoju v. Adeleke [2007] 4 NWLR [Pt. 1025] 423**.

It is therefore necessary to first state the facts relied upon by the claimant in support of its Originating Summons before dealing with the issues for determination. In the 7-paragraph affidavit of Joel Ekong, he stated that:

1. Claimant is a non-governmental and civil society organization established in Nigeria with the mandate to promote human rights, transparency, accountability and anti-corruption in Nigeria. It is based in Abuja and Lagos. The claimant's Certificate of Incorporation is Exhibit AM1.



2. Sometime in September 2019, it was widely circulated through the media that the defendants proposed, passed and signed into law, a bill that provides for payment of life pensions to former chairmen, former vice-chairman and former speakers of the 4<sup>th</sup> defendant. A print out of the Vanguard Newspaper online publication dated 30/9/2019 is Exhibit AM2.
3. Under the said law/edict, the 4<sup>th</sup> defendant's former council chairmen would receive an annual pension of N500,000.00, former vice-chairmen are to receive N300,000.00 while former speakers will be paid N200,000.00 each.
4. Payment of life pensions under the law will cost the Council several millions of Naira of taxpayers' money annually and will negatively affect the Council's ability to discharge its mandate of providing public goods and services to the people of Abuja and would also jeopardize citizens' access to those services.
5. The claimant wrote a letter dated 11/10/2019 [Exhibit AM3] to the 4<sup>th</sup> defendant wherein it requested the defendants to withdraw, cancel or repeal the bill/edict, as the case may be, within 14 days upon receipt of the letter.
6. The defendants did not respond to the claimant's letter and did not yield to its request in the said letter.

7. It is only the National Assembly that has power to make laws on pension under the Constitution of Nigeria. The defendants went beyond the scope of their constitutional powers to make laws on payment of annual pensions as aforesaid.
8. The 1<sup>st</sup>, 2<sup>nd</sup>& 3<sup>rd</sup> defendants will ultimately become beneficiaries of the pension edict/law they have passed. By their actions, 1<sup>st</sup>-3<sup>rd</sup> defendants have allowed their personal interest to conflict [or likely to conflict] with the performance of the functions of their offices.
9. Claimant's cause of action in this suit borders on public interest, social justice, good governance, social rights, transparency and accountability.

Having set out the facts relied upon by the claimant, I now proceed to consider the two issues for determination in turn.

## **ISSUE 1**

*Whether the claimant has locus standi to institute this suit.*

### **Submissions of Learned Counsel for the Defendants/Applicants:**

Achenyo Oyibo Esq. stated that the proposed Bill waiting to be transmitted to the National Assembly before it becomes law relates to pensions in respect of which the National Assembly has exclusive powers to make laws for the Federal Capital Territory, Abuja. He submitted that for claimant to succeed in stopping the National Assembly from performing its constitutional functions,

it must disclose sufficient legal interest in the subject matter and how their interest has been adversely affected or threatened. He referred to **Agboola v. Mallan Saka &Ors. [2008] LPELR-8461 [CA]**, **Adesanya v. The President of the Federal Republic of Nigeria [1981] All NLR 1** and other cases.

Learned counsel for the defendants further argued that to have *locus standi*, the claimant must show from its affidavit: [i] sufficient legal interest that is peculiar to it, which is directly violated or threatened by the application of the law; [ii] the injury occasioned or threatened to its interest or legal right in consequence of the application of the law; and [iii] that the injury it will suffer surpasses that of any other Nigerian. Counsel referred to **Gamobia &Ors. v. Ezeji II [1961] All NLR 606** and **Olawoyin v. Attorney General of Northern Nigeria [1961] All NLR 269** to support the submission that where a plaintiff claims a declaration that a law is invalid, the court should be satisfied that his legal rights have been, or are in imminent danger of being, invaded in consequence of the law. Mr. Achenyo Oyibo concluded that the claimant has not shown that it has sufficient interest or *locus standi* to institute this suit.

**Submissions of Learned Counsel for the Claimant/Respondent:**

Opeyemi Owolabi Esq. contended that the claimant, being a civil society and a human rights NGO [non-governmental organization], brought this suit in the interest of the public and to ensure transparency, accountability and judicious utilization of public funds and taxpayers' money by the defendants for public good. He submitted that claimant is not required to prove special interest on

*locus standi* before instituting this action since the cause of action borders on public interest, social justice, good governance, social rights, transparency and accountability.

Learned counsel for the claimant relied on the decision of the Supreme Court in **Centre for Oil Pollution Watch v. NNPC [2019] 5 NWLR [Pt. 1666] 518** and submitted that: *“In giving its Judgment, the Supreme Court ... lived to its billing as it held that the Appellant has the right to institute an action thereby expanding the scope of locus standi on environmental matters in Nigeria.”* Counsel also posited that by the said decision, *“the confine of [the] locus standi has been extended to cover public interest litigation like this one.”* He concluded that based on the decision of the Supreme Court, the claimant *“is clothed with relevant locus standi to institute this suit having initiated this suit in the public interest.”*

**Decision of the Court:**

In the case of **Arowolo v. Olowookere [supra1]**, it was restated that the term ‘*locus standi*’ denotes legal capacity to institute proceedings in a court of law. In **Adesanya v. President of the Federal Republic of Nigeria [supra]**, the plaintiff/appellant, a Senator, filed a suit to challenge the appointment of Justice Ovie-Whisky as Chairman of the Federal Electoral Commission by the President. The appointment was confirmed by the Senate. In the confirmation process, the appellant objected to the appointment saying that it violated certain provisions of the Constitution. The issue of the appellant’s *locus standi* to institute the suit was raised *suo motu* by the Federal Court of Appeal and

arguments were canvassed by the parties. The Federal Court of Appeal held that the appellant had no *locus standi* to institute the action. The appellant's appeal to the Supreme Court was dismissed.

It is worthy of note that the decision in *Adesanya's case* is still good law. The principles enunciated in *Adesanya's case* were highlighted and adopted by My Lord, *Massoud Abdulrahman Oredola*, JCA in the case of *Yunana Shibkau & Ors. v. Attorney-General, Zamfara State & Anor. [2010] 10 NWLR [Pt. 1202] 312 @ 338 [A-G] & 341 [B-C]* when he held as follows:

*"In Adesanya [supra] the Supreme Court on the issue of locus standi held thus:*

- 1) A person who seeks a remedy in a court of law in Nigeria against an unconstitutional act must show that he is directly affected by that act before he can be heard.*
- 2) A general interest which is common to all members of the public is not litigable interest to accord standing in a court of law.*
- 3) There must be an assertion of right by such a person which is peculiar or personal to him and that right must have been infringed or that there is a threat of such infringement.*

*Section 6[6][b] of the 1999 Constitution does not confer locus standi on any litigant to have free, automatic and unbridled access to a court in order to ventilate any issue under the sun, mundane or otherwise. The sub-section*

*merely allows the court to examine any question regarding such a litigant's civil rights and obligations. ... In this regard, it can be seen that before a person can institute and maintain an action under section 6[6][b] of the 1999 Constitution, he must show or establish that his "civil rights and obligations" have been or likely to be infringed upon by the defendant or respondent ..."*

In **Yesufu v. Governor, Edo State [2001] 3 NWLR [Pt. 731] 519**, the Supreme Court - in holding that the plaintiff/appellant had no *locus standi* to institute the suit - reiterated the principle that a plaintiff, to enable him invoke the judicial powers of the court, must show sufficient interest or threat of injury he would suffer. See also **Olusi v. Bishi&Ors. [2016] LPELR-41412 [CA]** and **Chidi B. Nworika v. Ann Ononze-Madu&Ors. [2019] LPELR-46521 [SC]**.

In the light of the principles in the above cases, there can be no doubt that the claimant has not shown that it has sufficient interest in the subject matter of this suit i.e. the "*Abuja Municipal Area Council Pension Edict/Law 2019*" which, according to the claimant, was enacted by the 4<sup>th</sup> defendant to provide for pension for former chairmen, vice chairmen and speakers of Abuja Municipal Area Council.

Learned counsel for the claimant did submit that the claimant, as a non-government organization, has *locus standi* to institute this action since the cause of action borders on public interest, social justice, good governance, social rights, transparency and accountability.

I have read the case of Centre for Oil Pollution Watch v. NNPC [supra]; [2018] LPELR-50830 [SC] relied upon by claimant's counsel. In that case, appellant, a non-government corporate entity, sought the restoration of the Ineh and Aku streams, the only sources of water supply to the Acha Autonomous Community of Isukwuato Local Government Area of Abia State contaminated by the oil spillage occasioned by the negligence of the respondent. The appellant further claims the provision of medical facilities and treatment of victims of the oil spillage by the respondent.

The plaintiff/appellant averred that the respondent was negligent in the causation and containment of the oil spillage which it fully knew to be dangerous to ecosystem, marine aquatic lives, fauna and flora and should have anticipated the devastating effect the oil spillage would have on the people of the community from their use and consumption of the contaminated water in the two streams.

The respondent [as defendant], by motion on notice, entreated the trial court to strike out the suit *in limine* on the ground that plaintiff lacked the necessary *locus standi* to institute and maintain the action on the alleged oil spillage in Acha Community. Persuaded by the defendant's arguments, the trial court struck out the suit "*for want of locus standi on the part of the plaintiff.*" The plaintiff's appeal to the Court of Appeal was not successful. The plaintiff/appellant further appealed to the Supreme Court.

The issue for determination by the Full Panel of the Supreme Court was whether a Non-Governmental Organization [NGO], like plaintiff/appellant, has *locus standi* to commence action on environmental matters. In determining this issue, the Supreme Court invited some learned senior counsel as *amici curiae* who expressed their views, namely: [i] The Hon. Attorney General of the Federation [who was represented by Dayo Akpata, the Solicitor-General]; [ii] Wole Olanipekun, SAN; [iii] Adegboyega Awomolo, SAN; [iv] A. B. Mahmoud, SAN; and [v] Lucius Nwosu, SAN [now of blessed memory].

In the Leading Judgment, *His Lordship, Chime Centus Nweze, JSC* restated the principle that a person must have sufficient legal interest in the subject matter of the suit before he can have the requisite *locus standi* to institute the action. His Lordship referred to some statutory provisions relating to environmental matters and judicial decisions from other jurisdictions. His Lordship noted at *pages 57 [para. F] – 58 [para. B] of the LPELR* that:

*“In India, the Supreme Court, without any statutory enactment, but rather for the overall need to do justice, generally, liberalized the traditional rule on locus standi with respect to environmental degradation, since, in the Court’s view, maintaining a clean environment is the responsibility of all persons in the Court, Muharaj Singh v. State U. P. AIR 1976 SC 2607; Raflam Municipal Council v. Vardhchard, AIR 1980 SC 1622; S. P. Gupta v. Union of India, AIR 1982 SC 149, 189. ...”*

At *page 64 [paras. E-F] of LPELR*, His Lordship concluded thus:



*“In all, then, I take the humble view that, in environmental matters, such as the instant one, NGOs, such as the plaintiff in this case, have the requisite *standi to sue*. ...”*

In his contribution, His Lordship, Kumai BayangAkaahs, JSC stated:

*There is no gainsaying in the fact that there is increasing concern about climate change, depletion of the ozone layer, waste management, flooding, global warming, decline of wildlife, air, land and water pollution. Both nationally and internationally, countries and organisations are adopting stronger measures to protect and safeguard the environment for the benefit of the present and future generations.*

*The issue of environmental protection against degradation has become a contemporary issue. The plaintiff/appellant being in the vanguard of protecting the environment should be encouraged to ensure that actions or omissions by government agencies or multi-national oil companies that tend to pollute the environment are checked. Since other commonwealth countries such as England, Australia and India have relaxed their rigidity in the application of the concept of *locus standi* in public interest litigations, Nigeria should follow suit. The communities affected by the spillage leading to the environmental degradation may not muster the financial muscle to sue and if good spirited organisations such as the plaintiff are denied access to sue, it is the affected communities that stand to lose.*

It seems to me that the case of Centre for Oil Pollution Watch v. NNPC was decided on its peculiar facts. The Supreme Court did not establish a general principle on *locus standi* but only “*liberalized the traditional rule on locus standi with respect to environmental degradation*”. My Lord, Chime Centus Nweze, JSC was definite and specific when he held that “*in environmental matters, such as the instant one, NGOs, ... have the requisite standi to sue*”. In my respectful view, the Supreme Court did not liberalize the concept of *locus standi* in respect of all matters such as challenge of an Act or a Law passed by parliament or the legislature.

In the instant case, I am not persuaded to liberalize or extend the frontiers or scope of *locus standi* to the subject matter of this action, which is to invalidate or strike down “*Abuja Municipal Area Council Pension Edict/Law 2019*”. In my humble opinion, only the Supreme Court, which is a Court of Policy, can liberalize or expand the scope of *locus standi* to include the challenge of an Act or a Law passed by parliament or the legislature by an individual or NGO as it did in respect of “*environmental matters*”. I hold that the claimant lacks the *locus standi* to institute this suit. In the event that I am wrong in my decision, let me consider Issue 2.

## ISSUE 2

*Has this suit disclosed a cause of action or is the claimant's complaint that gave rise to this suit inchoate?*

*Submissions of Learned Counsel for the Defendants/Applicants:*

The defendants' counsel posited that from the Newspaper publication [Exhibit AM2], the claimant is challenging a Bill of the 4<sup>th</sup> defendant and not an Act of the 4<sup>th</sup> defendant. He cited the case of **Attorney-General of Bendel State v. Attorney General of the Federation [1981] 1 All NLR 85** to support the view that a Bill is the draft for a proposal of an Act of the National Assembly for consideration by the National Assembly with a view to passing it into Law. It was submitted that the claimant's claim is challenging the inchoate and premature process of the 4<sup>th</sup> defendant i.e. the Pension Bill which is still undergoing the rites of passage from Bill to an Act of the National Assembly. Thus, the claimant's reliefs are premature as the Bill has not become a law.

Achenyo Oyibo Esq. further submitted that the jurisdiction of the courts in determining the constitutionality of any law does not extend to inchoate process such as bill or other legislative processes. The Court cannot inquire into the constitutionality of a bill or an inchoate legislation. He referred to **Attorney-General of Bendel State v. Attorney General of the Federation & Ors. [1982] 3 N.C.L.R. 1, Hughes and Vale Pty. Ltd. v. Grair [1954] Argus L.R. 1094** and others cases. Counsel stressed that the suit is challenging the uncompleted act of the legislative arm of the 4<sup>th</sup> defendant, which, due to the peculiar nature of the Federal Capital Territory, Abuja, is tied to the National Assembly. The said action has not yet raised legal consequences to warrant litigation. He referred to **Bakare v. L.S.C.S.C. [1992] 8 NWLR [Pt. 262] 641.**

The defendants' counsel also argued that the 4<sup>th</sup> defendant is competent to pass any bill relating to any issue that concerns it, and it is solely up to the National Assembly to either pass same into law or not. Counsel noted that the Bill complained about is not before the Court for consideration. Until the National Assembly passes the Pension Bill into Law, no person has the right to challenge the "work in progress" and the internal affairs of the National Assembly vis-à-vis the legislative arm of the 4<sup>th</sup> defendant. Achenyo Oyibo Esq. submitted that the suit amounts to an academic exercise because what the claimant is seeking to stop is a Bill which is not yet an Act. Counsel cited **Ben Electronic Co. Nig. Ltd. v. ATS & Sons & Ors. [2013] LPELR-20870 [CA]** for the meaning of a suit that is an academic exercise.

**Submissions of Learned Counsel for the Claimant/Respondent:**

Learned counsel for the claimant stated that from the Originating Summons, the claimant did not refer to the act of the defendant as a Bill. He referred to the Newspaper publication in Exhibit AM2, which reads in part:

*"A Bill in this respect was crafted and sent to the legislative arm for necessary deliberation and by the grace of Almighty God this Bill has been critically examined by the legislators and found to be worthy of being gazetted and has passed accordingly."*

Opeyemi Owolabi Esq. submitted that the defendants unlawfully passed the Pension Bill and signed it into Law. There is no evidence or proof that the

Bill which the 1<sup>st</sup> defendant has already signed into Law is currently undergoing further legislative process at the National Assembly. The claim that the Bill already signed by the 1<sup>st</sup> defendant is currently before the National Assembly for consideration is merely an afterthought. He noted that the defendants agree that by virtue of section 299 of the 1999 Constitution [as amended], the only authority conferred with power to make a law or pass a bill in favour of the Abuja Municipal Area Council is the National Assembly. Counsel then submitted that the Constitution does not assign any role whatsoever to the defendants on passing and signing a bill into law before further presenting such bill or law before the National Assembly. He concluded that this suit is about the illegal act of the defendants.

**Decision of the Court:**

From the questions for determination and the reliefs in the Originating Summons, the claimant is challenging the constitutionality or validity of “*Abuja Municipal Area Council Pension Edict/Law 2019*”. The claimant seeks, *inter alia*, a declaration that “*Abuja Municipal Area Council Pension Edict/Law 2019*” is unconstitutional and therefore void. One would have expected the claimant to present the said *Pension Edict/Law* before the Court for scrutiny in order to determine whether it is unconstitutional and invalid. The claimant did not present the Pension Edict/Law. Rather, it relied on the story or news reported by Omeiza Ajayi and Ezra Ukanwa in the Vanguard Newspaper online publication [Exhibit AM2]. The publication reads in part:

*“The Abuja Municipal Area Council AMAC has rolled out plans to honour past elected officials of the local government and as well place them on annual pension ranging from N200,000 to N500,000.*

*AMAC Chairman, Abdullahi Adamu [Candido] who announced this at a news conference Monday in Abuja said a Bill has been sent to the legislative arm for that purpose ...*

*A Bill in this respect was crafted and sent to the legislative arm for necessary deliberation and by the grace of Almighty God this Bill has been critically examined by the legislators and found to be worthy of being gazetted and has passed accordingly. ...”*

I note that there is nothing in the said report or publication to the effect that the Bill had been signed by the Abuja Municipal Area Council Chairman, Abdullahi Adamu [Candido], even if it had been passed by the legislative arm of Abuja Municipal Area Council. The least the claimant would have done was to ascertain whether the Bill has become Law and gazetted, in which case it would have obtained a copy of the said Bill. Since it is not certain from the claimant’s affidavit that the Bill reported in Exhibit AM2 has been passed into Law, the Court cannot speculate that *“Abuja Municipal Area Council Pension Edict/Law 2019”* sought to be invalidated exists.

For the above reason, I hold that the claimant’s cause of complaint or cause of action is inchoate. The word *“inchoate”* means *‘unfinished’* or *‘begun but not*

*completed'* as was held in the case of **Obidigwe v. Kay Kay Construction Ltd.** **[2004] LPELR-24561 [CA]**. Since the claimant's cause of complaint or cause of action is inchoate, it follows that the suit has not disclosed a cause of action against the defendants. Issue 2 is therefore resolved in favour of the objector.

**Conclusion:**

From all that I have said, the decision of the Court is that the defendant's preliminary objection has merit. In the circumstance, it will not serve any useful purpose to consider the merit of the Originating Summons. The claimant's suit is hereby struck out. I award cost of N100,000.00 to the defendants payable by the claimant.

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HON. JUSTICE S. C. ORIJI  
[JUDGE]

**Appearance of Counsel:**

1. Kehinde Oyewumi Esq. for the claimant.
2. Auta Nyada Esq. for the defendants.