

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT MAITAMA**

**BEFORE HIS LORDSHIP : HON. JUSTICE Y. HALILU**

**COURT CLERKS : JANET O. ODAH & ORS**

**COURT NUMBER : HIGH COURT NO. 14**

**CASE NUMBER : SUIT NO: CV/900/2021**

**DATE: :WEDNESDAY 13<sup>TH</sup> APRIL, 2022**

**BETWEEN**

**JONAH CAPITAL NIGERIA LTD. CLAIMANT/  
RESPONDENT**

**AND**

**THE REGISTERED TRUSTEES OF DEFENDANT/  
ASSOCIATION FOR REPRODUCTIVE APPLICANT  
AND FAMILY HEALTH**

## **RULING**

The Registered Trustees of Association for Reproductive and Family Health sued as Defendant by Jonah Capital Nigeria Limited, challenged the jurisdiction of this Court on the basis of the fact that the present Suit No. CV/900/2021 constitutes an abuse of Court Process is that there is a similar Suit filed wherein the present Defendant is the 4<sup>th</sup> Claimant and that the suit which is still pending, has the same subject matter and same parties.

An affidavit of 15 paragraph and written address was filed in support of the application No. **M/7691/2021**.

Learned counsel for the Defendant/Applicant annexed in the Writ of Summons and amended

Statement of Defence in the earlier Suit i.e Suit No. CV/747/2019 pending at Kubwa High Court.

On their part, Claimant/Respondent filed counter affidavit of 14 paragraph and written address in opposition to the Preliminary Objection.

The fulcrum of the Defendant/Applicant's Preliminary objection is predicated upon the fact that Suit No. **CV/900/2021** is same and one with Suit No. **CV/747/2019** both pending before Courts 14 and 16 respectively of the FCT High Court, Abuja, hence the instant case before me is an abuse of Court Process.

To resolve this legal issue, I shall consider the parties, subject matter in the two Suits in issue vis-à-vis the respective arguments of both parties as

contained in the written addresses and averments in affidavits.

I shall however attempt to consider the general principle of Abuse of Court process and what it entails in the legal parlance.

The multiplicity of action on the same subject matter between the same parties, even where there exist the right to bring the action, is regarded as an abuse. The abuse lies in the multiplicity and manner of the exercise of the right, rather than the exercise of the right per-se.

On the other hand, abuse can also occur where two Suits between same parties on the same subject matter even where the reliefs sought were worded differently.

This was what the Court of Appeal stated in the case of ***REGISTERED TRUSTEES OF EVANGELICAL CHURCH & ORS VS. REGISTERED TRUSTEES OF GLAD TIDINGS TABERNACLE CHRISTIAN MISSION & ORS – (2017) LPELR – 43482 (CA).***

A statement made (oral or written) by a party to Civil proceedings and which statement is adverse to his case, is admissible in the proceedings as against him of the truth of the facts asserted in the statement.

An admission is an express or implied concession by a party of the truth of an alleged fact; it is a statement by a party that is adverse his case. It is presumed that no man would declare anything against himself unless it was true. It is therefore permissible for a person to rely on such evidence as

admission against interest to defeat his opponent's claim. Section 24 Evidence Act, 2011 is relevant and the cases of ***MOHAMMED VS. APC & ORS (2019) LPELR – 48061 (CA)***;

***LATEEF ATOBATELE ALI VS. UBA PLC. (2014) LPELR – 22635 (CA)***- on the issue of admission against interest.

It is the averment of Defendant/Applicant that it instituted an action as 4<sup>th</sup> Claimant on the 10<sup>th</sup> January, 2019 against the Houses for Africa Nigeria Limited as Defendant in Suit No. **CV/747/2019** and that same is subsidiary of Jonah Capital Nigeria Limited, Claimant, in the instant Suit No. **FCT/HC/CV/900/2021**.

It is further the deposition of Defendant/Applicant that the subject matter is Plot No. 2856 Cadastral

Zone E07 within Lugbe 1 Extension, Lugbe Abuja, measuring about 2585.23 square meters in size, and that it is the same with the claims in both Suits.

Application exhibited both the Writ of Summons in Suit No. **CV/747/2019** and the amended Statement of Defence as Exhibits “A” and “B” to show that the parties are same and so also the subject matter in issue.

On their part, Claimant/Respondent filed a Counter Affidavit of 14 paragraphs and Written Address in opposition to the Preliminary Objection.

Claimant/Respondent admitted in their paragraph 4 of the affidavit in opposition to the Preliminary Objection that Houses for Africa Nigeria Limited sued as shown in Exhibit “A” in Suit No. **CV/747/2019** is a subsidiary of the Claimant in Suit

No. **CV/900/2021** and a separate legal entity incorporated under **CAMA**.

Without much ado, Claimant/Respondent has admitted the fact that there is a pending Suit as at the time they proceeded to file the instant action but for the fact that Claimant is a separate legal entity even though the said Houses for Africa Nigeria Limited in Suit No. **CV/747/2019** is subsidiary of Claimant/Respondent in Suit No. **CV/900/2021**.

This I must say amounts to an admission against interest which is the best form of evidence.

Defendant/Applicant's argument is to the effect that the subject matter in both Suits are the same hence the instant action is an abuse of process.

Abuse of Court Process arises where process of Court is not used or applied bonafide. Supreme



Court has come to the conclusion that where such is the situation, the Court shall so dismiss the powers used improperly.

Having come to the conclusion that the instant Suit No. **CV/900/2021** is an abuse, I shall so dismiss same in line with the decision of Court of Appeal in ***DANNA AIRLINES LTD. VS. MUTHIR & ORS (2017) LPELR – 51276(CA)***.

Accordingly, said Suit is hereby dismissed.

***Justice Y. Halilu***  
***Hon. Judge***  
***13<sup>th</sup> April, 2022***

**APPEARANCES**

O.S Adebisi, Esq. with P.A Okwuechime, Esq. – for the Claimant/Respondent.

Isaac Enamudu, Esq. with Gregory I., Esq. – for the  
Defendant/Applicant.