

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/3193/2021

DATE: :MONDAY 11TH APRIL, 2022

BETWEEN

USMAN CHIROMA IBBI

CLAIMANT

/RESPONDENT

AND

1. UNKNOWN PERSON

2. THE INSPECTOR GENERAL OF POLICE DEFENDANTS

3. C.P AMAECHI OLUUMILU

4. FEDERAL HOUSING AUTHORITY

RULING

1st Defendant/Applicant's Solicitor, Jude OkeyUgwuanyi, Esq. vide application No. **M/573/2022** approached the Court for the following Orders:

1. Order extending time within which to seek leave to file memorandum of appearance, counter affidavit in opposition to the application for interlocutory injunction, statement of defence and counter claim in favour of Mrs. SpaineIyetule sued as person unknown in the substantive suit.
2. Leave to file memorandum of appearance, counter affidavit in opposition to Claimant/Applicant's Motion on Notice for

interlocutory injunction and statement of defence and counter claim in favour of Mrs. SpaineIyetule who was sued as unknown person in the substantive matter.

3. An Order extending the time within which to file the memorandum of appearance, counter affidavit in opposition to the Claimant/Applicant's Motion on Notice for Interlocutory Injunction and Statement of Defence and Counter Claim in favour of Mrs. SpaineIyetule who was sued as unknown person.
4. An Order for Leave to substitute the person unknown sued as the 1st Defendant with Mrs. SpaineIyetule.
5. An Order joining Mr. Abubakar M. Sambo as the 5th Defendant.

6. Deeming the Memorandum of appearance and counter affidavit as duly filed and served.
7. An Order for leave to serve Mr. Sambo M. Sambo all processes in this matter by substituted means by pasting at the entrance gate of No. 19 Mississippi Maitama, Abuja and by text messages in respect of hearing notice to his mobile number 08033903707.
8. And any other Orders...

Grounds in support of the application were filed, accompanied by 14 paragraph affidavit, document and a 3 page written address containing legal argument in support of the application.

On the other hand, Claimant/Respondent, who was served the instant application merely drew the attention of this Court to the fact that the person

1st Defendant/Applicant seeks to have joined is not a necessary party in that he will not be bound and or affected by the outcome of the decision of this Court.

He cited the provision of Order 13 Rule 18 of the Rules of this Court.

On its part, learned counsel for the 1st Defendant/Applicant is of the view that joining the said Mr. Abubakar M. Sambo would afford them the opportunity to counter claim against the said Abubakar, same being the person that claimed to have been authorized by the 1st Defendant/Applicant to register and stamp documents preparatory to the purported sale of the property to the Claimant who has drafted Power of Attorney, Deed of Assignment used on the purported sale of the property, and that

the said Mrs. SpaineIyetule does not know the said Abubakar M. Sambo.

Learned counsel cited the case of ***GREEN VS. GREEN (1987) LPELR – 20846 (SC)*** in urging the Court to join the said Abubakar M. Sambo being a necessary party.

COURT:-

I need to restate, that Claimant/Respondent did not file any counter to the application other than the fact that his counsel drew the attention of the Court to the fact that the said Abubakar M. Sambo is not a necessary party to this proceedings, Pursuant to Order 13 Rule 18 of the Rules of this Court.

Before I proceed to consider the issue of joinder, I shall pause here to consider the other reliefs sought

that are not opposed to, i.e reliefs 1, 2, 3, 4, 6 and 7 which are for the reason earlier reproduced.

In the absence of any objection, they are hereby granted in that Order.

I now proceed to consider the issue of joinder.

Any person who is likely to be affected by the outcome of a decision, is a necessary party to be joined in the proceedings. Joinder of parties or causes is described by our Rules of Court to prevent multiplicity of action and to avoid delay; and this saves the parties unnecessary costs and expenses.

See ***NZERIBE VS. NZERIBE & ANOR (2013) LPELR – 21930 (CA).***

The following questions are to be answered once a person is to be joined as party in a matter, to wit:-

- a. Is it possible for the Court to adjudicate upon a cause of action set up by the Plaintiff when the person is added as a Defendant?
- b. Is the person someone who ought to have been joined?
- c. Is the cause liable to be defected by non-joinder?

Above question must be answered in the affirmative for any such joinder to be justifiable.

It is the matter before the Court that shall direct the Court on the issue of joinder.

See ***BELLO VS. INEC & ORS (2010) LPELR – 767 (SC)***;

CHINWEZE & ANOR VS. MASI & ANOR (1989) LPELR 851 (SC).

The issue of title to land or house as it relates to what is before me is documentary... you cannot give what you do not have. Nemo dat quod non habet is the maxim. The claim of Claimant/Respondent is ownership of the property as the 1st Defendant/Applicant Mr. Abubakar M. Sambo's name featured as that person who claimed to have been authorized by the 1st Defendant/Applicant to register and stamp document preparatory to the purported sale of the property to the Claimant.

Whether or not the title document in possession of the Claimant/Respondent is genuine as to confer title on him and or the 1st Defendant/Applicant, it is only time and evidence that shall tell.

Mr. Abubakar M. Sambo is not likely to be bound by the outcome of the determination of the Suit of

the Claimant, nor is his presence necessary for effective and effectual determination of this Suit.

Application joining him as a Defendant will only waste the time of this Court.

The said relief for joinder is therefore refused and dismissed.

Claimant shall amend its pleadings to reflect the said Mrs. SpaineIyetule as the 1st Defendant.

Justice Y. Halilu
Hon. Judge
11th April, 2022

APPEARANCES

W.Y Mamman, Esq. with Blessing A., Esq.,
DaudaChakpo, Esq. and Salmat I.A, Esq., Anabel
G.J., Esq. – for the Claimant.

Charles Ugwu, Esq. – for the 1st
Defendant/Applicant.

C.O Simon, Esq. - for the 4th Defendant.

2nd and 3rd Defendants not in Court and not
represented.