

IN THE HIGH COURT OF JUSTICE OF THE F.C.T.

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT KUBWA, ABUJA

ON FRIDAY THE 24TH DAY OF JUNE, 2022

BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA

JUDGE

SUIT NO.: FCT/HC/CV/150/2021

BETWEEN:

CHRIS JOYCE OGENYI

**(TRADING UNDER THE NAME & STYLE OF
CHEMEC ENTERPRISES)**

----- } CLAIMANT

AND

1. CHIEF ANTHONY OZOFFIAH

2. MR. JUDE OKOYE

----- } DEFENDANTS

**RULING ON PRELIMINARY
OBJECTION**

In this Writ, the Plaintiff – Chris Joyce Ogenyi trading under the name and style of Chemec Enterprises instituted this action against Chief Anthony Ozoffiah and Mr. Jude Okoye. He claims that he is the owner of the Res which is Plot B1/5 at Mpape Layout, FCT Abuja. That he is entitled to the peaceful possession and enjoyment of the same. That the Defendants cannot dispossess him of the said Res or allow other person to take care and maintain the said Res for him.

He wants an Injunction to restrain the Defendants from trespassing and further trespass into the Res.

He wants Fifty Million Naira (₦50, 000,000.00) as General Damages for the said trespass.

The Defendants were served and they filed a Preliminary Objection challenging the Suit for being incompetent. They claimed that the Suit has no cause of action against the Defendants and that Chemec Enterprises is not a juristic person and has not been registered at the CAC. That this Court therefore has no jurisdiction to entertain the Suit. They urged Court to strike out the case.

They filed Affidavit of 7 paragraphs and a 5 pages Written Address. They raised 2 Issues for determination which are:

1. Whether the Writ and Statement of Claim disclosed any cause of action in this Suit against the Defendants to invoke this Court's jurisdiction in the trial of this Suit.

2. Whether Chemec Enterprises is a Juristic person.

They submitted that there is no disclosed reasonable cause of action in both the Writ and Statement of Claim against the 1st & 2nd Defendants showing that they have violated or about to violate the right of the Plaintiff. That Plaintiff has not established any case against the Defendants to give right of action. They referred to the case of:

Attorney-General Bayelsa V. Attorney-General Rivers State

(2007) All FWLR (PT. 349) 1012 @ 1026 Paragraphs F – G

That there is no wrongful act by the Defendants and no consequential damage suffered by the Plaintiff. They referred to the case of:

Dairo V. UBN PLC

(2007) All FWLR (PT.392) 1846 @ 1905 – 1906

Attorney-General of the Federation V. Abubakar

(2007) 10 NWLR (PT. 1041) 1 @ 75 Paragraphs E – H

That in this Suit the Plaintiff failed to show in the Writ, the wrongful act of the Defendants against him that tantamount to trespass. No action of the Defendants that has caused the infringement of the right of the Plaintiff is shown. They urged Court to dismiss the Suit for being frivolous and for not disclosing any cause of action against the Defendants.

On Issue No. 2, the submitted that Chemec Enterprises us not a juristic person and that Court lacks jurisdiction. They referred to the case of:

Nkemdilim V. Madukolu

(1962) NLR 587 @ 595

That the Suit is incompetent as the Claimant is a business name and has no legal capacity to sue or be sued. It has no legal personality. They referred to the case of:

**AMAC V. The Occupier
(2021) LPELR – 56473 (CA)**

They urged Court to dismiss the Suit for being incompetent and also to award damages of Two Million Naira (₦2, 000,000.00) against the Plaintiff.

The Plaintiff was served but it not respond orally or in writing.

COURT:

It is the law and had been held in plethora of cases that where a person is served a Process and he fails to respond, that it is deemed that such person had admitted the facts as it is contained therein. That is why it is held that facts unchallenged are deemed admitted especially where the person who ought to challenge such facts was given all the judicial leverages but fails to challenge such facts.

That is exactly what happened in this case. The Plaintiffs were served the Preliminary Objection but they did not challenge same and no reason given. This Court deems that the Plaintiff have admitted all the facts as set out in the said Preliminary Objection since facts unchallenged are deemed admitted.

Again, unless and until a Suit discloses a Cause of Action against the Defendant, such Suit cannot fly judicially speaking.

For a Suit to be competent it must disclose the wrongful act of the Defendant which has infringed on the right of the Plaintiff and which the Plaintiff wants to seek redress

against the Defendant. It must also disclose the legal right of the Plaintiff and the wrongful act of the Defendant. Otherwise, it will be held that the action is incompetent and the Court will have no jurisdiction to entertain it. This means in every proper action there must be a known and disclosed Plaintiff(s) and a known Defendant(s) whose action mostly wrongful has upset the legal right of the Plaintiff and which the Plaintiff has premised his Suit on and which he wants the Court to determine and find Judgment in its favour. Anything short of that means that the action of such Plaintiff is incompetent and Court will have no jurisdiction to waste its time on such frivolous incompetent Suit. See the cases of:

Cil Risk Asset Management Limited V. Ekiti State Government & Ors
SC 990/2018 – Unreported

Rinco Construction Limited V. Vee Pee Industries Limited
(2005) 9 NWLR (PT. 929) 85 @ 96

So where a Writ is premised on mere speculation and does not disclose a clear cause of action, the Court will not waste its time to trash such case into the judicial waste bin where such case rightly belong. See the cases of:

Amaechi V. Gov. River State
(2017) LPELR – 43065 (CA)

Sayimna Adam V. Hussaini Zauna Shuaibu & Ors
(2016) LPELR – 40179 (CA)

In this case, there is no disclosed cause of action against the Defendants in this Suit both in the Writ and the Statement of Claim.

Even the issue of trespass was not clearly disclosed to warrant the Court allowing the Defendants to put up a Defence. There is even no defined legal right of the Plaintiff that is challenged by the wrongful act of the Defendants. This is pure case of person obsessed with filing Suit in Court trying to waste her time, resources and the time of the Court by parading around the Court and flooding the Court with Court Processes most of which has no cause of action. This is a typical Suit filed by land speculation and persons who thrive in filing frivolous application trying their luck on trespass and case of double allocation. This Suit is grossly incompetent. So this Court holds.

On Issue No. 2, it is not in doubt that the Plaintiff, going by that name – Chemec Enterprises, has no legal personality to sue. The Plaintiff did not challenge that fact.

The Defendants had stated that the Plaintiff is not registered at CAC. The Plaintiff did not challenge that fact. This means that the Plaintiff had admitted that fact. So this Court holds.

There is no point the Court wasting its time to elucidate on the fact of unregistered business name where there is no disclosed cause of action and the action in the main is even grossly incompetent. The Court agrees with the

submission of the Defendants in the Preliminary Objection in that regard.

It is glaringly clear that this Suit is incompetent; there is no disclosed cause of action against the Defendants. There is no wrongful act of the Defendants which the Plaintiff wants to seek redress on. The Plaintiff has no legal capacity to even institute the action.

The Preliminary Objection is meritorious. It is GRANTED.

The Court hereby DISMISSES the Suit of the Plaintiff.

This is the Ruling of this Court.

Delivered today the ____ day of _____ 20222 by me.

K.N. OGBONNAYA
HON. JUDGE