

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT COURT 20 GUDU - ABUJA
ON WEDNESDAY THE 31ST DAY OF MAY 2023.
BEFORE HIS LORDSHIP; HON. JUSTICE MODUPE OSHO-ADEBIYI
SUIT NO. CV/47/2022

BETWEEN

MISS ANNE ONUCHI IGBANI ----- CLAIMANT/RESPONDENT

AND

GUARANTY TRUST BANK LTD ----- DEFENDANT/APPLICANT

RULING

The Defendant on 22/11/2022 filed a preliminary objection brought pursuant to Order 15 Rule 18 of the High Court of the FCT Abuja (Civil Procedure) Rules 2018 and under the inherent jurisdiction of this Court praying the Court for the following orders;

1. AN ORDER of this Honourable Court striking out this suit as against the Defendant for want of jurisdiction.
2. AN ORDER of this Honourable Court dismissing this suit in its entirety.
3. AND for such further or other order(s) as this Honourable Court may deem fit to make in the circumstances

The grounds upon which this Application is brought are as follows:

1. The originating processes constitute an abuse of the process of this Honourable Court as same is riddled with omissions, typographical and grammatical errors making the writ incompetent thereby robbing this Court of the jurisdiction to entertain the suit.
2. The statement of claim discloses no reasonable cause of action against the Applicant as the Applicant has refunded the sums claimed to have been deducted from the Claimant's account, hence extinguishing the cause of action.

Attached is a written address wherein counsel raised two (2) issues for determination to wit;

1. Whether the several errors on the face of the originating processes render same incompetent?
2. Whether the originating processes disclose any cause of action against the Applicant to imbue this Honourable Court with jurisdiction?

And a reply on points of law wherein counsel responded to issues distilled from the Claimant's written reply on points of law to the preliminary objection. Counsel relied on a number of authorities like; **Coker v. Adetayo (1992) 6 NWLR (Pt. 249) 612 at pages 625,**

paras. H-B; Lokpobiri v. Ogola (2016) 3 NWLR [Pt. 14991 SC. 328 at pg. 360-361; Cookey v. Fombo (2005) 15 NWLR (Part 947) 182; Seagull Oil Ltd. v. Moni Pulo Ltd. (2011) 5 N.W.L.R (Part 1271) 525 at 548 Paras. F-H; Odediran v. NPA (2004) 7 NWLR (Pt. 872) 230 Pp. 244-245, paras. G-B and L.L.S.P.I.A. Ltd. v. MT (2021) 10 NWLR (Pt. 1784) 347 at Pp. 397, para. A; 398, paras. B-C amongst others.

The Claimant in opposing this application, filed a written reply on points of law wherein Counsel submitted that that the preliminary objection defaulted the provisions of **Order 43 Rule 1 and Order 23 Rule 1 of the FCT High Court (Civil Procedure) Rules 2018** relying on **Eze v Lawal (1997) 2 NWLR (pt 487) 333; Oshoboja v Alhaji Surakatu. Amuda & Ors (1992) 6 NWLR (250) 690 @ 702 and TBWA CONCEPT LTD v. NWOSU & ANOR (2021) LPELR-53823 (CA)** amongst others.

Upon examining the processes filed in relation to this preliminary objection, the issue to be determined is;

“Whether this Court can grant the Applicant’s application”.

The Defendant/Applicant has stated in paragraph 1 that the grounds upon which this application is brought is that;

“The originating processes constitute an abuse of the process of this Honourable Court as same is riddled with omissions, typographical and grammatical errors making the writ incompetent thereby robbing this Court of the jurisdiction to entertain the suit”. (Underlined for emphasis).

It is the law that the presence of omissions, typographical and grammatical errors in a legal document does not render the document invalid. In **Salbie & Anor V. INEC & Ors (2008) LPELR-4922 (CA)** it was held thus;

“It is trite that our Courts of law being Courts of Equity as well pursue substantial justice. Thus, the court will look at the intention of the parties and not merely the form. It is therefore wrong to argue as it was done in this case that typographical error or slip or mistake robs the court of the jurisdiction to entertain a matter”.

A Court process is a sacred and most important document which must be thoroughly done and thoroughly finished, however, omissions, typographical and grammatical errors do not in reality detract from the merits of the case as such. The apex Court acknowledged that blunders may occur, but such blunders cannot deny the party committing it the opportunity of having his case heard on the merit as held in **AKPAN v. THE STATE (1992) 6 NWLR**

(Pt.248) at 439. Therefore, the said omissions, typographical and grammatical errors cannot rob this court of its jurisdiction to entertain this suit.

However, it is necessary to point out that the duty of counsel in preparation of Court processes should be taken seriously. In **OMAGE V. C.O.P OGUN STATE(2019) LPELR-47192(CA)** Per TALBA ,J.C.A (Pp. 4-5 paras. F) held

“...It is our duty to point out such error so that counsel will take correction. It is expected that before a counsel file any process in Court, he must have read through the process and ensure that there are no mistakes or error. Although nobody can claim to be perfect but Tobi JCA (as he then was) admonished counsel on the need to master the art of brief writing in the case of Amadi v. Essien (1994) 7 NWLR (pt 354) 106 at 112. He stated that:

"Brief writing is a very major aspect of Appellate trial which requires utmost skill. It is an act which must be imbibed by any counsel interested or involved in Appellate practice. It is a function which needs great skill and expertise and which can only be acquired by a very serious application of a highly organized professional mind."

Consequently, it is my view that the said omissions, typographical and grammatical errors cannot rob this court of its jurisdiction to entertain this suit, however, learned counsel should master the art of brief writing and imbibe the skill of reading through processes to ensure there are no mistakes or errors as much as possible.

On the second ground which is that;

“The statement of claim discloses no reasonable cause of action against the Applicant as the Applicant has refunded the sums claimed to have been deducted from the Claimant's account, hence extinguishing the cause of action”.

In **Akibu V. Oduntan (2000)13 N.W.L.R (pt.685)446** at 463, the Supreme Court defined cause of action as:

“A cause of action is defined as the entire set of circumstances giving rise to an enforceable claim. It is in effect the fact or combination of facts which give rise to a right to sue and it consists of two elements:

- (a)The wrongful act of the Defendant which gave the Plaintiff his cause of complaint, and*
- (b) The consequent damage.”*

It is trite law that it is the originating processes that are examined by the court to ascertain whether they raise some questions fit to be

determined by a court as held in **Iliyasu V. Rijau (2020) All FWLR (pt 1025) p. 452 at 472; paras. D –E.**

Now, it is the duty of the court to look at the statement of claim with a view to determine whether or not the facts averred have disclosed a cause of action, that is to say whether there is a wrong alleged by the Claimant on the part of the defendant which the Claimant suffered and which he needs a remedy. The claimant from paragraphs 3 to 36 of the statement of claim has pleaded the alleged wrongful act of the Defendant and the alleged damage suffered by the Claimant has been clearly set out in the said paragraphs of the Statement of Claim. Summarily, the substance of the cause of complaint here is the alleged wrongful grant of loan on the salary account of the Claimant, wrongful deductions in servicing the loan, and praying the court that the Loan be cancelled, refund the sums already deducted, grant the Claimant access to her salary account and for damages. A Statement of Claim is said to disclose a reasonable cause of action when it sets out the legal right of the Claimant and the obligations of the Defendant. It must further set out the action constituting the infraction of the Claimant's legal right or the failure of the Defendant to fulfill his obligation in such a way that if there is no proper defence, the Plaintiff will succeed in the relief or remedy which he seeks as held in **ROYAL CHEMICAL AND ALLIED PRODUCTS (NIG) LTD V. GOV OF OYOSTATE & ANOR(2007) LPELR-11849(CA).**

After a careful consideration of the Statement of Claim, I am satisfied that it has clearly set out the legal rights of the Claimant and the obligation of the Defendant. It has further set out the failure of the Defendant to meet its obligations. The Statement of Claim clearly discloses a reasonable cause of action. It discloses questions fit to be decided by a court. It is the law that any perceived weakness of the Claimants' case is not a relevant consideration when the question is whether or not the Statement of Claim has disclosed a reasonable cause of action.

In the light of the foregoing, I found no merit whatsoever in the Defendant's preliminary objection and it is hereby dismissed.

Parties: Absent

Appearances: MobayonleOgunwumiju appearing for the Defendant.
F. I. Aliuna appearing for the Claimant.

HON. JUSTICE MODUPE OSHO-ADEBIYI
JUDGE
31ST MAY, 2023