

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY,
IN THE ABUJA JUDICIAL DIVISION,
HOLDEN AT COURT NO. 11 BWARI, ABUJA.**

BEFORE HIS LORDSHIP: HON. JUSTICE O. A. MUSA.

SUIT NO. CV/366/2020

BETWEEN:

MR PETER TOBECHUKWU OKAFOR

APPLICANT

AND

1. ECONOMIC AND FINANCE CRIMES COMMISSION
2. ACTING CHAIRMAN ECONOMIC AND
FINANCE CRIMES COMMISSION
3. DUBAHADIZA
4. VINTAGE PRESS LIMITED
5. ACCESS BANK PLC
6. ECO BANK PLC
7. FIDELITY BANK PLC
8. GUARANTY TRUST BANK PLC
9. HERITAGE BANK PLC
10. POLARIS BANK PLC
11. STANBIC IBTC BANK PLC
12. STERLING BANK PLC
13. FIDELITY BANK PLC

RESPONDENTS

JUDGMENT

DELIVERED ON THE 19th FEBRUARY, 2021

On 19th December, 2020 the Applicant filed an originating motion to enforce his fundamental Rights in which he claimed as follow See Reliefs

1. **A DECLARATION THAT** the 1st Respondent's publication declaring the Applicant wanted by the 1st Respondent and 2nd Respondents on the 2nd December, 2020 on the official website of the 1st Respondent

and in other National Dailies on a civil transaction that failed on consideration between the Applicant and the 3rd Respondent which is pending before this Honourable Court (Suit No. FCT/HC/CV/3332/2020 Between Avastone Global Services Limited v. Duba Hadiza) without any prior order or leave of a court of competent jurisdiction to that effect, is unlawful, illegal, wrongful, ultra vires, unconstitutional and constitute a flagrant violation of the fundamental rights of the Applicant to personal liberty, private and family life, freedom of movement and the right to not to be subjected to inhuman and degrading treatment as guaranteed under sections 34,37, 35 (2), 41 and 46 of the Constitution of the Federal Republic of Nigeria 1999 (as Amended); Orders II Rules 1, 2-5 of Fundamental Rights Enforcement Procedure Rules 2009 and Articles 4, 5, 6 and 7 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Cap A9, Laws of the Federation of Nigeria 2004.

2. **A DECLARATION THAT** the continuous use of the 1st and 2nd Respondents by the 3rd Respondent to harass and intimidate the Applicant in a civil transaction which the 3rd Respondent failed as a result of breach the of contractual terms without an order of a court of competent jurisdiction, is an infringement of the Applicant's Fundamental Rights guaranteed and protected under sections 34, 37, 35 (2), 41 and 46 of the Constitution of the Federal Republic of Nigeria 1999 (as amended); Orders II Rules 1, 2-5 of Fundamental Rights Enforcement Procedure Rules 2009 and Articles 4, 5, 6 and 7 of African Charter of Human and Peoples' Rights

(Ratification and Enforcement) Cap A9, Laws of the Federation of Nigeria 2004.

3. **A DECLARATION THAT** the continuous invitation of the Applicant to the office of the 1st Respondent over a period of 12 months and up to ten consecutive times in respect of the said civil transaction that failed on consideration so as to forcefully elicit information from the Applicant amounts to violation of the Applicant's Fundamental Human Rights guaranteed and protected under sections 34, 37, 35 (2), 41 and 46 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) Orders II Rules 1, 2-5 of Fundamental Rights Enforcement Procedure Rules 2009 and Articles 4, 5, 6 and 7 of African Charter of Human and Peoples' Rights (Ratification and Enforcement) Cap A9 Laws of the Federation of Nigeria 2004.
4. **A DECLARATION THAT** the constant harassment and intimidation of the applicant by the 1st and 2nd Respondents on because of the aforesaid civil transaction that fail as a result of breach of the contractual terms, a matter already pending before this Honourable Court, amounts to gross abuse of the Applicant's fundamental right to Personal Liberty as guaranteed under sections 34, 37, 35 (2), 41 and 46 of the Constitution of the Federal Republic of Nigeria 1999 (as amended); Orders II Rules 1, 2- 5 of Fundamental Rights Enforcement Procedure Rules 2009 and Articles 4, 5, 6 and 7 of African Charter of Human and Peoples' Rights (Ratification and Enforcement) Cap A9, Laws of the Federation of Nigeria 2004.

5. **A DECLARATION THAT** a registered company being a juristic person can be represented by any of its officials, staffs, Directors, secretary and any other persons as may be appointed to represent them both in civil transactions or in any criminal investigative invitation as long as the person has a full knowledge of the events, the cause of the invitation and can be able to answer every question put to him in that regard.
6. **A DECLARATION THAT** the 4th Respondent's Publication against the Applicant declaring the Applicant wanted on its daily news publication platform 'The Nation News' on the 2nd of December, 2020 is mischievous,, damaging, baseless, unsubstantiated, defamatory and libellous and infringes on the Fundamental Rights of the Applicant.
7. **A DECLARATION THAT** it is unlawful for the 1st Respondent to freeze or render inoperative the account or accounts of the Applicant without a valid Order of a Court of competent jurisdiction.
8. **AN ORDER** of this Honourable Court restraining the 1st and 2nd Respondents from arresting, detaining, inviting without bases (or because of a civil transaction), intimidating and/or harassing the Applicant.
9. **AN ORDER** of this Honourable directing the 1st, 2nd and 4th Respondents to publish simultaneously retraction/apologies in respect of the said libellous statement made against the Applicant and remove the Applicant's name and photograph as a "wanted person" on the 1st Respondent website and in other National dailies (especially that of the 4th Respondent) and online platforms.

10. AN ORDER of this Honourable court directing the 1st, 2nd and 4th Respondents to write an apology letter to the Applicant and same should be published on the 1st Respondent's websites and three other national dailies (including that of the 4th Respondent) and other online media platform for unlawfully tarnishing the Applicant's image.
11. AN ORDER of this court directing the 5th to 13th Respondents to release the restrictions placed on the following bank accounts of the Applicant: Account Number 0019634965 Access Bark, Account Number 2203061335 Eco Bank, Account Number 401109511 Fidelity Bark, Account Numbers 0046777055, 0046777048 and 0215454437 Guaranty Trust Bank, Account Number 5100221815 Heritage Bank, Account Number 1771749487 (USD) Polaris Bank, Account Number 0018208686 Stanbic IBTC Bank and Account Number 0065134879 Sterling Bank.
12. AN ORDER of this Honourable Court directing the Respondents to jointly and severally pay to the Applicant the sum of ₦500, 000, 000 (Five Hundred Million Naira) only as general and aggravated damages for the loss of financial and business relationships and goodwill as a result of the said Publication.
13. The sum of ₦5, 000, 000 (Five Million Naira) for legal fees and services.
14. And for further order or orders as this Honourable Court may deem fit to make in the circumstance.

The claim of the Applicant is against the E.F.C.C and 12 orders. The claimant also file along with is motion a statement containing his name and

description, the reliefs sought the grounds upon which the reliefs are sought as well as a verifying affidavit of 39 paragraphs. In support of his claim the claimant annexed various exhibits to the affidavit. Counsel also filed a written address in support of the claims.

On the record 1st and 2nd, 6th, 8th, 10th, 11th and 13th filed counter affidavits while the 3rd, 4th, 5th, 9th and 12th Respondents did not file any process in this suit. Counsel to the above mentioned Respondents who filed counter affidavits also filed written addresses. However, it must be pointed out that the 1st and 2nd Respondent counter Affidavit as well as that of the 8th Respondent filed their counter Affidavit on 26/1/2021. The matter had indeed come up on the 18/1/2021 and same was held and adjourned for judgment before the said 1st and 2nd as well as 8th Respondents file their processes.

They were filed out of time without the leave of court and there is no application before this court to regularize their processes. This court will not look at the said processes in determining this matter. When this matter came up for hearing on 18th January, 2021 counsel for the applicant as well as those of the 6th, 11th and 13th Respondents appeared in the court for the matter. Counsel for the 10th Respondent did not appear though he filed a written address. Counsel for the applicant adopted his written address while counsel for the 6th, 11th and 13th also adopted their written addresses.

They all relied on the facts as contained in the affidavit. Counsel for the applicant also relied on the further and better Affidavit it filed on the 22nd

December, 2020 in Response to the counter Affidavit of the 13th Respondent.

I will rely on provision of order XII Rule 3 of the fundamental Rights Enforcement procedure Rule 2009 in ordering that the address of the 10th Respondent filed before this court on 22nd December, 2020 be and is hereby deemed as adopted.

I have carefully peruse all the processes file by the parties. I have also listened carefully to counsel adopt their various written addresses in support of their case. The applicant has hinged his claim on the Enforcement of his fundamental Right. Section 46(1) of the Nigeria provide as follows.

Any person who alleges that any of the provisions of this chapter has been is being or likely to be contravened in any state in relations to him may apply to a High court in that state for readdress in an application for the Enforcement of fundamental Right brought under the fundamental Right Enforcement procedure rule s an applicant owes it a duty to show clearly that his fundamental Right as guaranteed by the constitution have been ,is being or likely to be violated or infringe upon. if he can show this, it will be sufficient see the case of Nigerian Navy VS Garrick (2006) 4 NWLR (Pt 969) 69 at page 111 paras F.

In the instant case, the reliefs sought by the applicant are in the main declaratory or directive. The law is well settle that where the claim of the plaintiff is declaratory or directive the plaintiff must prove his case. It does not matter if the defendant does not file a defence. In other words, the

onus of proof that the fundamental Right of the applicant has been, is being, or likely to be infringe upon is on the applicant. This accord with the provision of section 46 (1) The key word their being "Any person who alleges.." To determine if the applicant has approve it case, the court will have to consider the evidence as contained in the affidavit filed before it. All the processes filed must be given due consideration to resolve the issue. This is because fundament Rights of citizen are taken most seriously and the court will not hesitate to come down heavily on anyone who infringes on such Right even slightly.

In the instant case the applicant depose that the 3rd Respondent made a complaint against the company Avastone Global services ltd to the 1st and 2nd Respondents. That pursuant to the said letter the said 1st and 2nd Respondents wrote him a letter of invitation to their office. A letter in issue is annexed here to as exhibit "G" the applicant also aver that he maintains the various bank account with the 5th to 13th Respondent.

The accounts numbers and the banks which they are maintains are as follows: Account Number 0019634965 Access Bank, Account Number 2203061335 Eco Bank, Account Number 401109511 Fidelity Bank, Numbers 0046777055, 0046777048 and 0215454437 Guaranty Trust Bank, Account Number 5100221815 Heritage Bank, Account Number 1771749487[USD] Polaris Bank, Account Number 0018208686 Stanbic IBTC Bank, Account Number 0065134879 Sterling Bank, whether the applicant honoured the invitation by the 1st and 2nd Respondents was not stated explicitly by the

applicant. He never stated also that he was at anytime arrested unlawfully or detained unlawfully by the Respondent.

According to the applicant, the 1st and 2nd respondents cause the 5th to 13th Respondents to block his several accounts Aforementioned. He said his several cheques issued against the said account were rejected by noted that the Applicant did not exhibit any account opening document to show that he own or operated any of the account stated. He also did not annexed any cheque which he issued and which the bank rejected or returned unpaid. search as I have, I did not see any evidence disclosing that the fundamental Rights to life, Liberty, dignity of Human person , fair hearing, private and family life, thought, conscience and Religion, expression, association, movement discrimination, acquisition of immovable property; which Rights are guaranteed by the constitution to the applicant were violated. There is also no evidence adduced in the afraid showing that the applicant was afraid that the Respondents will violate any of his said Right if he had honoured the invitation of the 1st and 2nd Respondents.

The law is trite, that where a citizen is of the belief that a crime has been or is about to be committed such citizen has the rights under the law to report to the law enforcement agents. see Onah Vovenwa (2010)3 NWLR (pt.1194) 512 C A in similar vein, where a complaint is made against a person to any of the agencies such an agent is entitle in law to investigate the complaint.

See the case of Atakpa V. Ebetor (2015)3 NWCR (pt1447) 549 C.A. in the instant case. The 1st and 2nd Respondents by exhibit "G" duly invited the applicant to their office. By the very tone of the said exhibit "G" infact from the very first sentence, the 1st and 2nd Respondents clearly informed the applicants of their mission which was to investigating an alleged case of breach of Trust, conspiracy and obtaining money under false pretence."

There is no way by any stretch of the imagination that an imitation pursuant to an investigation, can be elevated to the status of an act violating the fundamental Rights of the applicant. If anything The said invitation exhibit "G" afforded the applicant an opportunity to state his own side of the case , which opportunity its seems, he spurned. Where an opportunity is given to a party but he failed to take it, he cannot be heard to complain about his rights been violated. Further still, the 10th Respondents had stated in its counter affidavit at paragraph 5, that the account number 1771749487 belong to Avastone Global service ltd and not the applicant. The 11th Respondent has stated at paragraph 9 of its counter affidavit that the account number 0018208686 belongs to Avastone Global service limited and that neither Avestone Global service limited nor the applicant have issue any cheque or attempt to undertake any transaction on the account for the period between 25th June, 2020 to date.

The 10th Respondent also at paragraph 5 depose that the account number 1771749487 belongs to Avastone Global Service limited and that account is under Garnishee. The 13th Respondent on its part despite been mentioned As a party who also received the letter of the 1st and 2nd Respondents to

place a post no debit status on the applicant account, was not alleged by the applicant to have frozen any account belonging to the applicant. Infact paragraph 27 of the applicant's verifying affidavit in support clearly listed the accounts which were frozen and the banks in which those account were operated. The account with the 13th Respondents is not listed as those frozen on the orders of the 1st and 2nd Respondents.

In all I hold that the fundamental Rights of the applicant has not been violated, his not been violated, and is likely to be violated by the Respondents as alleged by the applicant. In the light of this, I hold that applicant's case failed and ought to dismiss and is hereby dismissed.

APPEARANCE

Akosa Egbunike Esq. for the 1st & 2nd Respondent claimant counsel.

B. A. Oyaobha Esq. for the 11th Respondent Stambic IBTC Bank Plc.

Z. M. Musa Esq. for the 3rd Respondent Hadiza Duba.

Tolu Olanide Esq. for the 6th Respondent Eco Bank Plc.

Oluwafisayode S. Aimid for the 10th Respondent Polaris Bank Plc.

Sign

Hon. Judge

19/02/2021