

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

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT KUBWA, ABUJA

ON FRIDAY THE 16TH DAY OF JULY, 2021

BEFORE HIS LORDSHIP: HON. JUSTICE K. N.

OGBONNAYA

JUDGE

SUIT NO.: FCT/HC/CV/1325/20

BETWEEN:

CUBANA LOUNGE LTD

} **CLAIMANT**

AND

1. REV. CHIDIEBERE AMAKAEZE

2. CHUWKUNWEM AMAKAEZE

3. DULUEM AMAKAEZE

} **DEFENDANTS**

4. ADAOLISA AMAKAEZE ANYA

5. UJU AMAKAEZE OWOH

6. CHIMMERI AMAKAEZE ONOYE

JUDGMENT

On the 5/3/20 the Claimant Cubana Lounge Ltd Institute this Suit against Rev. Chidiebere Amakaeze, Chuwkunwem Amakaeze, Duluem Amakaeze, Adaolisa Amakaeze Anya, Uju Amakaeze Owoh, Chimmeri Amakaeze Ononye.

The Plaintiff is seeking for the determination of the following question in order to determine by the direction of the Court as to who and how much to be paid as rent

for its use and possession of Plot 81 Adetokunbo Ademola Crescent Wuse II Abuja FCT.

1. Are the Defendants who are the Administrators, Administratrix and Beneficiaries of the Estate of Late Michael Nwobi Amakaeze not bound to negotiate and agree with the Claimant as one indivisible unit on the terms and condition of the new lease for another term of 10 years which they are bound to grant to the Claimant with respect to Plot 81 Adetokun Ademola Crescent, Wuse II, Abuja the subject matter of this Suit, hereinafter called the Res.
2. Whether the said Defendants can make a desperate and conflicting claims as to the rent payable by Claimant for its use and occupation of the Res.
3. Whether the Court is not entitled to direct the Claimant as to what to do, in the light of the failure, neglect and or refusal by the Defendants, who are the administrators, administratrix and beneficiaries of the said estate of the late Michael Nwobi Amakaeze to meet with the Claimant and mutually agree on the terms and conditions (including rent payable) of the new lease for another 10 years, with respect to the said Res.

The Claimant seeks the following Reliefs against the 6 Defendants;

1. An Order of this Court granting relief to the Claimant by way of interpleader (Direction) by directing the contending said defendants to meet with Claimant within such a time as may be ordered by Court or extended by the Court and mutually agreed on the rent payable in respect of the Res.

2. An Order that the agreement mutually reached by the Claimant and the defendants with regard to the terms and conditions (including rent payable) of the new lease for another term of 10 years to be granted to the claimant with respect to the Res shall be filed in Court.
3. An Order grant to the Claimant relief by way of interpleader with regard to whom to pay the rent to be paid mutually agreed among the Defendants in respect of the Res.

The application is based on the following grounds:

1. The contending administrators and beneficiaries are making adverse claims to different amount that are to be paid as rent for the property with the Res in this Suit.
2. That the contending Defendants are refusing to harmonise their desperate positions and consent to a common meeting with the Claimant who is the tenant in the property forming part of the Estate of the late Michael Nwobi Amakaeze.
3. The failure of the Defendants to meet with the Claimant and mutually agree on the rent payable in respect of the Res, is making it difficult for a new lease agreement to be finalized and executed in favour of the Claimant.
4. Claimant claims no interest in the Res order than direction.
5. Claimant does not collude with any of the Defendants

6. Claimant is willing to transfer any agreed rent into the Court or pay over same as may be directed by Court.

The Claimant Counsel Afam Osuigwe SAN supported this with an Affidavit of 36 paragraph deposed to by Kingsley Okafor.

In the Written Address in support the Claimant Counsel has ask the Court to determine the questions raised in this application and make an order accordingly on such terms as may be just.

He had submitted that because of the adverse claims by the Defendants in this case the Claimant may be exposed litigation or even a hostile action pursuit to the enforcement of the Garnishee Order Absolute. The Claimant had deposed to the fact that it claims no interest in the subject matter in dispute other than for direction of the Court. Again that does not collude with any of the Claimant/Defendant and that it is willing to pay or transfer the subject matter into Court or dispose of it as the Judge may direct that it has deposed to the requisite Affidavit needed to invoke the of the Court to act as appropriate. He referred to the case of:

MAGNESSON VS KOIKI (1993) 9 NWLR (PT.317) 287 SC

That the Claimant as a stakeholder can bring an application for direction being a tenant in possession of the Res to whom the right of new 10 years lease inures on such terms and condition as the parties may mutually agree.

That the need for direction of the Court is more necessary in the light of seemingly conflicting decisions in the peculiar circumstance of this matter.

That the Defendants who are administrators, administratrix and beneficiaries of the Estate have failed to harmonize their position and advise it as to who to deal with in respect of the property. That the Claimant is willing to pay a mutually agreed rent but will not want to run the risk of being accused of dealing with the wrong person or of paying a sum other than the one agreeable to all the beneficiaries and administrators/administratrix of the Estate.

The Claimant urged the Court to grant the Reliefs by way of interpleader by directing the said contending Administrators and beneficiaries to meet with the Claimant and mutually agree on the rent payable in respect of the Res. It urged the Court to grant the reliefs with regard to whom to pay the rent to be mutually agreed among them.

Upon receipt of the Application the 1st Defendant-Rev. Chidiebere Amakaeze filed a Counter Affidavit of 12 paragraphs challenging the application. He attached 6 documents in support.

In the Written Address he raised an issue for determination which is:

1. Whether this Suit as conceived is competent.
2. If yes whether the procedure so engaged can be sustained under Order 48 Rule 1 of the FCT High Court Rules 2018.

ON ISSUE NO.1 the 1st Defendant submitted relying on paragraph 1-5 of the Counter Affidavit as follows. That the ownership of the Res is not under any contest. That 1st Defendant is the eldest son of the deceased owners family estate and was duly appointed so by Order of the Court along with his mother (deceased) who is the mother of the defendants who in turn authorized 1st Defendant as the sole administrator of the entire Estate. That the only subsisting lease agreement executed on the Res by the 1st Defendant in that capacity while the Tenant is Mr. Obinna Iyiegbu and not the purported Claimant-Cubana Lounge Ltd an Incorporated Company as shown in Exhibit 6. That name of the 2nd – 6th Defendants are (entitled to the Estate, is a party to the lease Agreement in relation to enforcement of any of its terms. That the alleged Lease Agreement by Claimant on 1/11/09 is a spurious and fake document put together by a group that so conceived since pointing out the incongruities therein in the Counter Affidavit. That this suit is palpable incompetent. He relied on the case of:

**CHEMICAL PRODUCT PLC VS. VITAL INV. LTD (2006)
46 WRN 74@ 134 LINE 20-25**

That the 1st Defendant never had any dealings or lease Agreement with Cubana Lounge Ltd, the Claimant. That 2-6 Defendant did not also have any dealing in respect of the Res. That Claimant has no and cannot conceive any right against any of them. He refers to the case of:

**BASINCO MOTOR VS. WOERMANN LINE & ANOR
(2010) 10 WRN 1@ 32-33 LINE 20-35**

**REBETED IND. LTD VS. MRS MAGREOLA & ORS
(2015) 51 WRN 1 @ 19 & 30**

That no cause of action inures to the Plaintiff as he is a stranger to the original contract. He urged Court to dismiss the action.

ON ISSUE NO. 2

The 1st Defendant submitted the procedure cannot be sustained under Order 48 R 1. That the only known proceeding known to our law is that provided under S.34 of Sheriff & Civil Process Act CAP 407 which is recognised under Order 48. He referred to the case of:

**DRAGETANOS CONST. NIG. LTD VS. FAB MADIS
VENTURES LTD & ANOR (2011) 16 NWLR (PT.1273)
308 @ 368**

That parties lease Agreement has now definitely expired since, the tenure granted by the lease having elapsed by effluxion of the time, the tenant thereon therefore ought to surrender the use/possession of same automatically and reserve no right whatsoever to dictate to the lessor (Land lord) the method procedure a renewal of the grant should follow.

That this suit therefore totally lacking in any merit just as it portends a provocative stance in challenge the true owner's right over his property. He urged the Court to dismiss the application with appropriate remedial order of cost.

On their part the 2-6 Defendants filed a Counter Affidavit of 29 paragraphs deposed to by the 2nd Defendant- Chukwunwem Amakaeze.

In the written Address they raised 2 issues for determination which are:

- 1. Who are entitled to be administrators of the estate of the Deceased Late Michael Nwobi Amakaeze who are entitled to be beneficiaries of the Estate of the said Michael Nwobi Amakaeze.*
- 2. Whether the letter of Administration dated 3/10/18 is not invalid and such liable to be revoked given the existence of prior and subsisting letter of Administration dated 9/9/1996 and 16/1/18*

They submitted the biological children of the Deceased are entitled to be administrators of the Estate of the Deceased, failing which the relatives of the deceased in that under. They referred to the case of:

KEKERE OGUN VS. OSHODI (1971) NSCC 95 @ 98

DENJOWO VS. DENJOWO (1993) 7 NWLR (PT. 306) 483

S.96 Adminrator of Estate Law CAP 5 Laws of Enugu State.

That all the Children of the Deceased are entitled to become Administrators of the Estate of the deceased. That in accordance with the agreement of the family decision the children of the deceased, the 2 & 3 Defendants were added as co-administrators of the estate of the Deceased after the demise of their mother in 2016 who was joint Administrators with the 1st Defendant. So the initial letter of Administration issued at Enugu was reissued by the same Court on the 16/1/18 following the application for addition of 2 & 3 Defendants as Co-Admin

in addition to the 1st Defendant. That all the children entitled in equal shares as the beneficiaries of the said Estate. They urged the Court to grant/resolve issue 1 in their favour and hold that 2-3 Defendants already named as administrators of the Estate of the Deceased Nwobi Amakaeze in the Letter of Administration of 16/1/18 are the only person validly appointed as Administrators and are entitled as beneficiaries in equal shares in accordance with the Estate Law of Nigeria.

ON ISSUE NO.2 –they submitted that there cannot be two Letters of Administration in existence over the same Estate. That there cannot be such 2v letters by different High Court over the same estate of the deceased. That after the initial letter granted by High Court Enugu naming Chinyereugo Amakaeze their mother and the 1st Defendant as Administrators that after the demise of their mother 2 & 3 Defendants were added as administrators with the 1st Defendant. They referred to the Letters of Administration as Exhibit A. that it was in the strength of that that 1st Defendant entered into the transaction with Claimant in this Suit in 2009.

That another letter was issued to them 1-3 Defendant against them as the administrators of the estate after the demise of their mother in 2016. That the said new Letter of Administration was issued on 16/1/18 they attached the latter as Exhibit B. That the only valid existing letter of Administration is the one issued in 16/1/18. That any other letters of Administration cannot exist over an estate. That the letter of Administration issued by Abuja High Court on the 3/10/18 to the 1st Defendant is null and void and ought to be revoked having been obtained

fraudulently and illegally. They referred to Ord 45 FCT High Court Rules on resealing. That the said Letter of 3/10/18 was obtained by 1st Defendant with intention to be the sole Administrator to the Estate of late Nwobi Amakaeze to the detriment of the others administrator and beneficiaries of the said Estate. They referred to the said letter attached as Exhibit C. that the said letter ought to be revoked. They relied on the case of:

DANJUMBO VS DAN-JUMBO (1989) 5 NWLR (PT.119) 33

That the 1st Defendant never consulted the 2-6 Defendant before making the fraudulent application before the FCT probate Division. That the 1st Defendant lied on Oath when he averred that the family of late Nwobi Amakaeze were aware of his application to FCT probate. That he knew that the other co-administrators who were opposed it if they had known about the said application. They urged Court to resolve the issue 2 in their favour and hold that the letter was fraudulently obtained and as such null and void. That Court should hold that the letter of 16/1/18 is and remains the only valid and subsisting letter of Administration.

In response to averment of 1st Defendant in that the Claimants Exhibits A1 is fake and does not represent the true agreement between the parties, they submitted that the 1st Defendant is caught in his web of lies. That his submission shows that averment in paragraph 7 & 8 (i) (ii) & (iv) of his Counter Affidavit are contradictory. That where there is a material contradiction in the averment of a party the Court is enjoined to discountenance the averment in its entirety. They relied on the case of:

AHMED VS. MIN. OF INTERNAL AFFAIRS & ORS

(2017) LPELR-431350

That Court should reject the said contradicting averments/facts in paragraphs 7 & 8 in 1st Defendant Counter Affidavit see:

EZECHUKWU VS. ONWUKA (2016) 5 NWLR (PT.1506) 529

They urged Court to uphold their argument and hold that the contradicting facts should be expunged.

That the Claimants Exhibit A1 is genuine and that 1st Defendant is aware of same and executed same too.

That the said exhibit A1 had spelt out all the words with the 1st Defendant had admitted in paragraph 7 of his Counter Affidavit. They urged Court to hold that Exhibit A1 by Claimant is the valid Lease Agreement.

That a look at both leases shows that the 1st Defendant was never referred to as the “sole administrator” of the estate of the late Michael Nwobi Amakaeze.

That in Exhibit 4 the leaser was depicted as the family of Michael Nwobi Amakaeze represented by Chidiebere Amakaeze. While in Exhibit A1 attached by Claimant which is the correct Lease Agreement the Lesser was Rev.Chidiebere Amakaeze as Administrator and representative of Administratrix of the Estate of Michael Nwodi Amakaeze. That this shows that 1st defendant was not the sole Administrator of the said Estate. That the 1st Defendant was never named as Sole Administrator even in the 1st Letter of Administration dated 9/9/1996. That

even the Letter of Administration 3/10/18 came much later after the penned the lease in issue was executed. That the leased was entered into in 2009. That even his Exhibit 2 which is the Power of Attorney purportedly donated to 1st Defendant by the Administratrix as shown in Exhibit 2 did not and cannot transmit 1st Defendant as sole Administrator. They urged Court to hold that 1st Defendant was never a Sole Administrator of the said Estate.

That 1st Defendant has not establish allegation of fraud. That the Exhibit A1 is fake. They referred to the case of:

UTB VS. AWANZIAGAWA ENT.LTD (1994) 6 NWLR (PT.348) 56.

NWOBODO VS. ONOH (1984) 1 SCNLR 1

ADELAJA VS. FANOIKI (1990) 2 NWLR (PT.131) 137

That the 1st Defendant has not been charged and the Court only discountenance his allegation as being frivolous and a mischief and ploy to delay the proceeding and cast aspersions on the document which he had admitted in paragraph 7 of his Counter Affidavit.

On the allegation/submission that the 2-6 are not parties to the leave, they submitted that 1st Defendant has no right above the 2-6 Defendants. That 2-6 are equal beneficiaries to the said Estate and that 1st Defendant has no more right than them. That the 1st Defendant is no more an Administrator than the other Administrators-2-3 Defendant.

That 1st Defendant entered into the lease Agreement on the basis of being a Beneficiary on representative capacity for all other Beneficiary.

He did not execute the Agreement on his personal capacity but as representative of the Beneficiaries of the said Estate.

That is both Exhibit 4 by 1st Defendant and Exhibit A1 by Plaintiff, the 1st Defendant acted on representative capacity.

That the 1st Defendant argument that 2-6 Defendants are not parties to the Lease cannot stand as it is false. They urged Court to uphold their issue and grant their reliefs as contained in the Counter Affidavit. Upon receipt of the 2-6 Defendants Counter Affidavit, the 1st Defendant filed a Reply on Points of Law. The 1st Defendant reiterated that his earlier submission stating that the Plaintiff has no locus. The 2-6 Defendants have no right to challenge and foster the disputes between the defendant and the plaintiff as all the Defendants are sued by the Plaintiff. He referred to **S.6(6) 1999 Constitution Federal Republic of Nigeria as amended**

ADESANYA VS. THE PRESIDENT (1988) 4 NWLR (PT.87) 189

He further stated his capacity as the Administrator of the Res is not in any way in doubt and has not been challenged on Exhibit 1-4 –the extant Lease.

That the Plaintiff is a stranger. That the suit is a misadventure as to the misconceived procedure of an

interpleader and that the issue raised by him has not been challenged.

Upon receipt of the 1-6 Defendants Counter Affidavit the Plaintiff filed a further affidavit of 26 paragraphs. He admitted several documents marked s Exhibit A1-A10. These documents are made up of several AGIs Receipts on issue of Recertification and payment there off, the Certificate of Occupancy of the Res, acknowledgement Receipt by AGIS, Letter of withdrawal of Application for Recertification Registered on 23/10/09. Into page passport of Mary Amakaeze Application for Recertification by Law Forte. Document for regularization, Demand for Ground Rent, Evidence of payment of Ground Rent.

In the further Affidavit the Plaintiff averred that the Claimant and his Counsel were never strangers or interpleaders in the issues in dispute. That the Administrators of the said Estate, the 1st Defendant and his late mother agreed that Obinna Iyegbu will relinquish the Lease Agreement grant to him by them in respect of the Res. Upon the registration of the Plaintiff as a limited liability company.

That a fresh lease be drawn between the Plaintiff and them. based on that Mazi Afam Osuigwe SAN (as he now is) on the instruction of Iyebu, prepare a Lease Agreement which was sent to the Administrators and Administratrix through the 2nd Defendant. After execution the 2nd Defendant returned the Lease agreement to the Plaintiff. That the same Administrators and administratrix have ever since represented the Estate in respect of that transaction with the Plaintiff.

That contrary to what 1st Defendant claimed that it is not true that late Chinyere Amakaeze authorized the 1st Defendant to always sign documents on his behalf in respect of the Res. That the said late Chinyere Amakaeze as Administratrix had agreed to withdraw the application she made for the recertification in respect of the Res so as to solve the double Application emanating from her and 1st Defendant. The letter was dated 23/10/09. He attached a copy as Exhibit A1.

In the letter they said Chinyere had informed AGIS that her solicitor will write AGIS in respect of the matter. She also made available to the Plaintiff copy of the data page of her international passport which the Plaintiff attached as Exhibit A2, all in a bid to facilitate the resolution of the double application recertification.

Upon the grant of the 10 years lease in favour of Plaintiff, the parties –Plaintiff and 1st Defendant and his late mother Chinyere agreed that the Plaintiff should engage service of a lawyer to represent them to complete the recertification process, pay all outstanding statutory fees on the Res so that it can register the Lease Agreement. Hence they retained the services of Mazi Afam Osiugwe to jointly represent them in completing the recertification process paying all outstanding fees. The Plaintiff also liaised with the family of the Late Michael Nwobi Amakaeze to obtain all documents Afam Osiugwe used in carrying out the said instruction. The duo made available to the Plaintiff the original Recertification and Re-issued Certificate of Occupancy issued to them by AGIS and other Title regularization and violation bill as well as Demand notices for ground Rents dated 30/7/07. All the

documents were attached as exhibit A3-A7. The Claimant paid N3, 480,000=Title Regularization bill on 20/10/09. He attached the documents as Exhibit A8-A9. Plaintiff also paid Ground Rent for N251,246.49=. he attached the Bill and evidence of payment as Exhibit A10-A11.

Upon completion of the Recertification, Plaintiff handed over to the Original Certificate of Occupancy to the Estate. The plaintiff also paid all statutory fees in respect of the Res. The demands for the lease were made on the Claimant and by the Claimant too. That at all material times, that the duo are the administrators and Administratrix of the said Estate. Which include the property in issue. That it is very clear that the duo authorized the Plaintiff to register the Agreement executed in respect of the property. That the correspondence between the plaintiff and the said Estate, the lawyer had always made it clear that he was acting on behalf of Cubana Lodge Ltd. Beside all the Respondents never disputed plaintiff's position on the lease and or occupation of the property.

There was no further Counter challenging the plaintiff's further Counter Affidavit to the Plaintiff's further Affidavit by any of the Defendants.

COURT

In this suit it is not in doubt that the property at the centre of the debacle in this suit, plot 81 Adetokunbo Ademola street wuse II belongs to the beneficiaries of the late Michael Nwobi Amakaeze. It was initially administered by the 1st Defendant Rev. Chidiebere

Amakaeze and his mother Mary Amakaeze as administrator and Administratrix of the estate of the said late Michael Nwobi Amakaeze. The said Mary Amakaeze died intestate sometimes in 2016, leaving the Defendants who are all her children. The said property –Res was leased out to the Cubana Lounge according to the Claimant (Exhibit 4) by the 1st Defendant, Rev. Chidiebere Amakaeze as Administrator and representative of the administratrix of the said estate. The lease was for 10 years from 1/11/09 to 3/10/19. But 6 months before the expiration of the tenancy the Claimant notified the Defendants of its interest to renew the Tenancy. The Defendants, all siblings of the same parents Michael and Mary, both late, agreed as to the request for renewal. But to the 1st Defendant the rent should be N32 Million to be paid in bloc. But to 2nd – 6th Defendants the rent should be paid within first 5 years. That is N28 Million at the time the Plaintiff wanted to pay, it was notified that the other beneficiaries should be carried along since there was a Letter of Administration Will showing that 2nd & 3rd Defendants-Chukwunwem and Duluem Amakaeze are now co-administrators of the Estate of the late Michael following the death of their mother- Mary sometimes in 2016. That Letter of Administration was issued at Probate Division of the High Court of Enugu State on the 16/1/18.

Meanwhile the property was leased out by the 1st Defendant as Administrator and the representative of the Administratrix of the late Michael's Estate, going by Exhibit 1 attached by the Plaintiff. According to the Claimant, the Lease was between the said Administrator

and representatives of the Administratrix of the Estate of late Michael Amakaeze as Lessor and Cubana Lounge, the Claimant in this case, as the Lessee.

The same document was signed by 1st Defendant, and witnessed by the 2nd defendant, Chukuwunwem Amakaeze.

This confirms that the lease was done for an on behalf of all the family- beneficiaries of the late Michael in that regard.

According to the 1st Defendant he claims that he is the sole beneficiary and administrator of the Estate of the late Michael, in that the lease was between the family of the late Michael Amakaeze, represented by Rev. Chidiebere Amakaeze, the 1st Defendant and Mr. Obinna Iyiegbu and not Cubana Lounge the Claimant in this suit. The 1st Defendant is also contending that the Lease Agreement attached by the Claimant is forged. That the lease he attached was the right one. Interestingly the said “right” Lease Agreement as claimed by the 1st Defendant was witnessed by the said 2nd defendant Chukwunwem Amakaeze. Another contention by the 1st Defendant is that the lease was with effect from 1/4/09 to 31/3/19 and not from 1/11/09 to 31/10/19 as stated in the Claimant’s Exhibit 4.

The 2-6 Defendants who are same siblings with the 1st Defendant had claimed that there was an agreement in which the parties had agreed that the lease should start from 1/11/09 because of the extensive repairs carried out by the plaintiff before the property was put in tenatable condition.

The Plaintiff had in its further Affidavit confirmed that upon coming into existence of Claimant(Cubana Lounge) that Obinna Iyiegbu should relinquish the Lease Agreement granted to him by the 1st Defendant and Administratrix of the Estate of late Michael and that fresh lease was to be drawn up between Cubana Lounge and the said Administrator and Administratrix in respect of the Res.

Consequently upon that Mazi Afam Osigwe SAN (as he now is) was instructed by Iyiegbu to prepare the Lease Agreement which was sent to the Administrator and Administratrix for execution through the 2nd Defendant. It was duly executed and returned. The said 2nd Defendant witnessed the said Lease Agreement. There is no contention as to the rent paid for the said lease.

But upon the Claimant indication to renew the lease problem ensued as to who the plaintiff should pay the new rent to.

The 1st Defendant now claimed that by the Letter of Administration of the FCT High Court in 3rd October, 2018 he is now the sole Administrator while the 2-6 Defendants claim to be beneficiaries and 2 & 3 Defendants claim that by the Letter of Administration from Enugu State High Court Probate Division of 16th January, 2018 they are now co-administrators to the said Estate following the demise of their mother in 10/12/2016 and the cancellation of the Letter of Administration dated 9/9/96. Meanwhile the Letter of Administration by FCT High Court was granted to the 1st Defendant as the son of the deceased.

The Crux of the issue in this suit is that the Plaintiff does not know the faction of the Defendants whom it can pay the renewed rent to since there are obvious factional disputes among the Defendants. To the 1st Defendant, he should be the one that the Claimant should negotiate with but that he has no business with the present Claimant who he claims was not in existence as at the time the Res was leased out. Initially that it was Obinna Iyiegbu that he entered into Lease Agreement with. That the present Claimant is unknown to him.

The Plaintiff has in its further affidavit clarified the issue of the present plaintiff being the rightful plaintiff in this case. The 1st Defendant had no response to that. So to that extent the Plaintiff suing or taking this action in its name Cubana Lounge Ltd is proper. Most importantly the said Obinna Iyiegbu who the 1st Defendant recognised is the CEO, major share holder and the linchpin in the said Cubana Lounge Ltd. That settles the issue and further confirms that the plaintiff's action in that ground is proper.

It is imperative to reiterate what is sought by the Plaintiff in this case which are:-

(1) whether all the Defendants as administrators and administratrix of Late Michael should not negotiate with the Plaintiff as one entity on the new terms and conditions for the lease of 10 years.

(2) whether the same Defendants as beneficiaries of the said estate can make disparate and or conflicting claims to the rent payable by Claimant for the Res, Plot 81 Adetokunbo Ademola Crescent Wuse II Abuja and.

(3) whether this Court is not entitle to direct the Plaintiff on what to do if the Defendants fails, neglects and refuse to meet with the Plaintiff and agree as to the terms and condition of the lease by making an order that is appropriate in that regard. Meanwhile the 2-6 Defendants are willing and ready to meet with 1st Defendant to determine the issue of the said Rent/Lease.

Having summarised the stories of all the parties for and against in relation to the said questions posed it is the humble view of this Court that the 1st -6th Defendants as Administrators and Administratrix and beneficiaries of the said estate are bound to negotiate as one entity and agree with the plaintiff as an indivisible unit on the terms and condition of the new Lease for another term since all of them have agreed to the renewal of rent and are NOT adverse to the Claimants intention and indication to renew the tenancy of said Plot 81 Adetokumbo Ademola Crescent Wuse II Abuja.

On the 2nd question, it is the humble view of this Court that the Defendants should not have disparate and conflicting Claims as to the rent payable by the Claimant for the use and occupation of the said plot 81, the Res since they are all the Beneficiaries and Administrators and Administratrix of the said Estate of late Michael Nwobi Amakaeze.

On the 3rd question it is the humble view of this Court that it has the power to direct the Claimant on the step to be taken if the Defendants failed to agree or refused to meet with the plaintiff and mutually agree on the terms of the new Lease of the property to the plaintiff which is not in doubt.

The decision of this Court as stated above is based on the following reasoning's:

To start with all the parties have agreed to the new rent. They are all siblings, to late Michael Amakaeze the 1st, 2nd & 3rd Defendants are the administrators of the Estate of the Late Michael Amakaeze going by the Letter of Administration dated 16/1/18 attached by the 2-6 Defendant in their Affidavit. The 1st Defendant did not challenge, fault or controvert that fact. Yes by that letter of 16/1/18, the 1st Letter of Administration of 9/9/96 was cancelled by the same Probate division of Enugu State High Court which issued the first letter of administration of 9/9/96 in which the 1st Defendant and late Mary Amakaeze were appointed as Administrators and Administratrix of the Estate of Late Michael Amakaeze. A closer look at the Letter of 16/1/18 puts no one in doubt. Again the 1st Defendant did not challenge that document. For clarity the said Letter it is clearly stated thus:

“ the former letter of Administration granted by High Court of Enugu state on the 9th September, 1996 was revoked by the Court Order Suit No: E/409m/17, dated today the 16th day of January, 2018.”

By the above it is very clear that the 1st Defendant is not the sole Administrator of the Estate of the late Michael. He had never been the sole administrator of the Estate of Late Michael Amakaeze. In the old revoked letter of Administration of 9/9/96, he was a co-administrator with his late mother Mary (who died in 10/12/16) before the said Letter of Administration of 16/1/18 was issued.

By the advent of the letter of 16/1/18 the 1st Defendant became a co-Administrator of the Estate of late Michael together with Chukwunwem and Duluem Amakaeze, who had the consent and authority of the 4-6 Defendant to depose to the Counter Affidavit on their behalf.

The 1st Defendant's claim as the sole administrator of the Estate of the Late Michael is of no moment. This is because there is no how the Court can issue 2 letters of administration over the same estate of the same deceased. The document exhibit 1 which the 1st Defendant claims to be a letter of Administration issued by the High Court FCT Probate division dated 3/10/18 is of no moment. To start with the said Letter never nullified or revoked the letter of Administration dated 16/1/18, issued almost 9 months before letter of 3/10/18. It did not even mention anything about revocation of the said Letter of 16/1/18 or its existence. That is strange and cast doubt about the authenticity of the said FCT High Court Letter of Administration.

The 1st Defendant never disclosed in his affidavit to the FCT High Court that there was already in existence the said Letter of Administration by Enugu High Court Probate Division. Beside a closer look at the way the said Letter of Administration purportedly issued by FCT High Court was worded makes one to doubt its authenticity aside from the fact that the issue of 1st in time can even be applied hereby.

For clarity purpose it is imperative to state its content in full. The said letter states thus:

“BE IT KNOWN that on the 3rd October, 2018 Letters of Administration of the personal/Real property of Michael Nwobi Amakaeze (Deceased)who died on the 30th December, 1995 intestate and at the time of HER/HIS death bonafide place of abode ABUJA within the Jurisdiction of this Court and LETTERS OF ADMINISTRATION were granted by this Court REV. CHIDIEBERE AMAKAEZE of 13B UNIJE STREET IND. LAYOUT, ENUGU lawful SON the said deceased having been first duly sworn.”

It is interesting to note that the letter was not signed by anyone. The wordings and framing of the said Letter of Administration purportedly issued by the FCT High Court on 3/10/18 as claimed by the 1st Defendant leaves much to be desired as to its authenticity given the omission of the key preposition and the framing of grammar generally. The fact that it was not authored by anyone and not equally signed makes the said letter worthless and fake. The letter of 9/9/96 was signed by the author. So also the Letter of 16/1/18 was equally signed and authored. But strangely the Letter Exhibit 1 attached by the 1st Defendant in which he lays claims as sole administrator of the Estate of Late Michael Amakaeze by Letter of Administration issued by the FCT High Court was neither signed nor authored. There is a stamp of the Probate Department on the document but it has no person's name as the Probate Registrar. That is strange. Most importantly there is no where a Court of co-ordinate Jurisdiction can issue another letter of Administration for the estate of a Deceased in which there is in existence a letter of Administration issued

earlier by another Court of co-ordinate jurisdiction without reference to save or revocation as the case may be. So to that extent the said Exhibit 1 by the 1st Defendant is a nullity. It is very likely that it was issued if actually the FCT High Court issued same, in error because the 1st Defendant did not disclose to the FCT High Court that there was already in existence a Letter of Administration by another Court (earlier) in Enugu State on the same Estate.

In the face of the lease attached by 1st Defendant it is clearly shown that the 1st Defendant was and only acted as representative of the family of the Michael. In the lease the preamble is:

“The Lease Agreement is made

BETWEEN

**The Family of Late Michael Nwobi Amakaeze
Represented by Rev. Chidiebere Amakaeze”**

From the above the lease is not between the 1st Defendant and Obinna Iyiegbu. It is between the family of Late Michael. The 1st Defendant acted as a Representative of the family not as the Sole Administrator of the Estate of the Late Michael Amakaeze as he claims.

To that extent his claim in the Counter Affidavit is wrong. To start with as at 5/9/08 his mother was still alive and bubbling. She was still a substantive co-administrator of the said Late Michael’s Estate. So the 1st Defendant would not have had exclusive control over the Lease

Agreement with Iyiegbu. He was just a co-administrator and nothing more.

In the said preamble to the Lease/Tenancy Agreement it stated thus:

“...include their successors in title, executors, administrators”

Most importantly the 2nd Defendant witnessed the lease on behalf of the members of the Late Michael’s family. That fact was not disputed by the 1st Defendant. Most importantly the 1st Defendant did not deny the clarification made by the Plaintiff and concurred by the 2-6 Defendants in their Counter Affidavit on how the Plaintiff come to be in the property and when the Obinna Iyiegbu agreed to relinquish the said property to the Plaintiff. Having not challenged that fact the 1st Defendant had admitted same. So this Court holds that the suit is properly filed in the name of the Plaintiff.

Again the 1st Defendant not denying the date of 1/11/09 as the commencement date for the Lease had invariably admitted that the lease commenced on 1/11/09 as against 1/4/09. Facts admitted need no further proof. Interestingly the same 2nd Defendant witnessed the said lease that commenced from 1/11/09 and ended on 31/10/19. Based on that this Court hold that the duration of the Lease Agreement is from 1/11/09 to 31/10/19 and not 1/4/09 to 30/3/19, as the 1st Defendant alleges.

The claim of the 1st Defendant in that regard is strange when one considers the letter for renewal written by the Plaintiff Counsel on 11/7/16 requesting for

renewal of the Rent which stated in its first paragraph thus:

“we act as solicitors to CUBANA LOUNGE LTD your tenant at Plot 81 Adetokumbo Ademola Crescent Wuse II Abuja.....

We have our Client’s instruction to respectfully request for the renewal of the lease for another 10 years...”

That letter was copied to all the Defendants. The letter did not put anyone in doubt who the tenant is. That confirms that the 1st Defendant knows that CUBANA LOUNGE was the tenant.

From the correspondence of the 1st Defendant through the letter of his Counsel to the Plaintiff’s Counsel dated 11/2/19, it recognised that there was subsequent renovations effected by the Plaintiff. That confirms the submission of the 2-6 Defendants that there was the lease of 1/11/09. Again the letter written to the 1st Defendant on July 11th 2016 puts no one in doubt about who the tenant is. All the above show that the authentic Lease Agreement was that which show that the lease was to commence on the 1/11/09 and not on 1/4/09. The letter of the 1st Defendant’s Counsel on instruction of the 1st Defendant dated 11/2/19 shows in paragraph 3. thus:

“Based on that assessment and given the recommendable reasonable case of relationshipover 10 years you your landlords family writes you to accept thatas basis for the renewal sought.”(emphasis mine)

The above shows that the Res is for all the Administrators and Administratrix beneficiaries of the Late Michael as shown in the Letter of Administration of 16/1/18. That is why the 1st Defendant Counsel invited the Plaintiff to have the meeting with all the Defendants and not with only 1st Defendant. The 1st Defendant and his Counsel knew all the while that the Plaintiff is the tenant. After all the Plaintiff Counsel described himself as the solicitor to the Plaintiff- CUBANA. The 1st Defendant never raised the objection to that because he knows abnitio that Cubana is their tenant.

Even in the application of the 1st Defendant to FCT High Court he described himself as thus:

“ I/we Rev.Chidiebere E. Amakaeaze son of the above deceased hereby apply for grant of Letter of Administration

/Probate

.....

Who prior to his/her death had fixed place of Abode at 17 Anan Street, New Haven Enugu State of Nigeria”.

The above had shown that the 1st Defendant claimed to be the son of Late Michael was out to deceive the Probate Department of the FCT High Court. He deliberately hide the fact that he was a co-administrator of the Estate of the Deceased. Portraying himself as the “son” he was out to no good.

He knew as at the 10/5/18 that there was the letter of Administration issued by Enugu State Probate Division

was in existence. But he decided to deceive the FCT High Court by stating that he is and describing himself as the son of the Deceased in his application to the FCT Probate Department. It is obvious that his brothers were never aware of his application though their names were listed in the declaration of next of Kin. He knows that the Letter of Probate-Administration issued by Enugu State was still subsisting then as it does now. The FCT High Court Probate Department will not have issued another Letter of Administration to 1st Defendant. To that extent the said letter by FCT High Court Probate Division is a nullity so this Court holds.

That is why this Court strongly holds that since the 1st Defendant and all the 2-6 Defendants as beneficiaries of the Estate of Late Michael Amakaeze as well as the Administrators and Administratrix are bound to agree with the plaintiffs as one on the terms of the new Lease of the said Plot 81 Adetokunbo Ademola which is their common “patrimony” since all the defendants are all beneficiaries they should not have conflicting claims/plans as to the rent to be paid by the Plaintiff for the said Plot 81 the Res in this suit. Hence the need for all of them to meet to resolve the said issue of rent, terms and conditions of the new rent without any further delay.

So this Court hereby orders. That the 1-6 Defendants are to meet with the Claimant in order to resolve that issue once and for all to mutually agree on the terms and condition including the amount of rent payable for the New lease for another 10 years which they have agreed to.

This Court also hereby order that all the Defendants in this Suit should meet with Plaintiff within the next 60 days from the date of this Judgment or so soon thereafter and to mutually agree to the rent to be paid by Plaintiff for the new rent in respect of the said Plot 81.

(2) This Court hereby ordered that any agreement reached between the Plaintiff and the Defendants as the terms and condition of the new lease including the Rent agreed to be paid for the said rent of Plot 81 by the Plaintiff shall be filed in Court.

The Defendant should mutually agree as to who the said rent should be paid to and also how the money paid as the Rent should be shared among all the beneficiaries.

If the Defendant fail to reach agreement as to who the money should be paid to the Plaintiff should pay the money into an interest yield account of the FCT High Court until the issue is resolved.

This is the Order of this Court made today theday of2021 by me.

.....

K.N.OGBONNAYA

HON. JUDGE.

