

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT MAITAMA ON THE 23<sup>RD</sup> DAY OF NOVEMBER, 2021**  
**BEFORE HIS LORDSHIP, HON. JUSTICE U. P. KEKEMEKE**  
  
**SUIT NO.FCT/HC/CV/2547/19**

**COURT CLERK: JOSEPH ISHAKU BALAMI & ORS.**

**BETWEEN:**

**MR. CHARLES OSIYABIA.....APPLICANT**

**AND**

- |                                       |                      |
|---------------------------------------|----------------------|
| <b>1. INSPECTOR GENERAL OF POLICE</b> | } <b>RESPONDENTS</b> |
| <b>2. MR. MICHEAL OKPARA.....</b>     |                      |

**JUDGMENT**

The Applicant's Originating Motion dated 29<sup>th</sup> day of July 2019 but filed on the 30<sup>th</sup> is for the following:

- (1) An Order of Perpetual Injunction restraining the 1<sup>st</sup> and 2<sup>nd</sup> Respondents either by themselves, their agents or privies from harassing, intimidating, inviting, arresting, torturing and detaining or in any way violating the Fundamental Rights to Life, Dignity of the human person and personal liberty of the Applicant.
- (2) An Order compelling the 1<sup>st</sup> and 2<sup>nd</sup> Respondents jointly and severally to pay the sum of N5 Million only to the Applicant

as general damages for the emotional, psychological and physical trauma suffered by the Applicant as a result of the Respondents action.

(3) N500,000 as cost of the action.

Learned Counsel to the Applicant rely on the 41 paragraph Affidavit filed in support. He deposes that the 2<sup>nd</sup> Respondent used to be his landlord and he parked out of the said house since 6<sup>th</sup> day of August 2016. That he rented the house through an agent. That there was no water in the premises and the fence not secure and completed. That the 2<sup>nd</sup> Respondent promised the fence would be fixed and the fence completed one week after payment. He paid N500,000 to the 2<sup>nd</sup> Respondent as yearly rent on 24/07/14.

The 2<sup>nd</sup> Respondent reneged, despite the uncompleted fence. That robbers eventually bugled the premises and stole his 42 inch Flat Screen Television worth 147,000. He informed the 2<sup>nd</sup> Respondent. He bought cement and sand to fix the iron rail to secure his family. He sent the bill to the 2<sup>nd</sup> Respondent but he refused to reimburse him because according to him he did not authorise him to carry out the work. When the next rent was due, he deducted the cost of the work he did to secure the premises.

Consequently on 21/03/16, the 2<sup>nd</sup> Respondent served him a notice to quit when his rent was due to expire on 31/08/16. That on 20/08/16, he packed out of the 2<sup>nd</sup> Respondent's house. He came with his colleagues to inspect the house. That 2<sup>nd</sup> Respondent refused to collect the keys to the apartment. That on 26/09/16, he handed over the keys to the officers at the estate gate as agreed by 2<sup>nd</sup> Respondent's Counsel. That he was shocked to receive calls from men working under the 1<sup>st</sup> Respondent who invited him to FCT Police Command to answer a Petition by 2<sup>nd</sup> Respondent. That men of the 1<sup>st</sup> Respondent came to his office on 17/11/18 and arrested him. They could not give him a copy of the Petition. They told him orally that it was threat to life, criminal intimidation and mischief against the 2<sup>nd</sup> Respondent. He was made to write a statement. He spent the whole day.

That the men of the 1<sup>st</sup> Respondent continued to invite him to their office until they visited the premises in our company. He was shocked, the premises was over grown with weeds. The 2<sup>nd</sup> Respondent alleged that he moved out of the premises and refused to hand over the key to him. That men of the 1<sup>st</sup> Respondent asked the 2<sup>nd</sup> Respondent to bring a bill of how much he will use to put the premises in order. That 2<sup>nd</sup> Respondent brought a bill of N257,700 as cost of repairs. That the men of the 1<sup>st</sup> Respondent were intimidating him to pay. The men of the 1<sup>st</sup> Respondent refused to charge the matter to Court. That on 17/06/19, he was again arrested by men of the 1<sup>st</sup> Respondent and

taken to FCT Police Command Headquarters. They threatened to detain him until he was taken on bail again.

That after the 2<sup>nd</sup> arrest, he paid 2<sup>nd</sup> Respondent N50,000 even when he was not owing him. That he has been receiving calls from men of the 1<sup>st</sup> Respondent instigated by the 2<sup>nd</sup> Respondent inviting him to their office, threatening and harassing him with further arrest and detention. That life has been made unbearable for him. That if they are not restrained, they will continue to invite, harass, arrest, detain and intimidate him.

The Respondents were served with the Originating Motion. The 2<sup>nd</sup> Respondent filed a Counter Affidavit dated 30/07/19. He relied on his Affidavit of 3 paragraphs sworn to by the 2<sup>nd</sup> Respondent himself. He deposes as follows. That he did not report a landlord and tenant matter to the police: that he reported a case of threat to life and mischief to the 1<sup>st</sup> Respondent. That the Petition is Exhibit A. That he got Judgment in respect of arrears of rent in the District Court. The Judgment Certificate is Exhibit C. That there was no time the 1<sup>st</sup> Respondent/Applicant nor 2<sup>nd</sup> Respondent asked the Applicant to pay money to him or anybody but that the things removed or stolen from the property be returned. That he was not intimidated. That the Applicant is a difficult person.

I have also read the Applicant's Further and Better Affidavit against the 2<sup>nd</sup> Respondent's Counter Affidavit.

The issue for determination in this Originating Motion is simple. **It is whether in the circumstance of this case, the Applicant's fundamental right as enshrined in the 1999 Constitution as amended has been infringed.**

In support of the Affidavit, the Applicant attached Exhibit A which are documents of repairs allegedly carried out by the 2<sup>nd</sup> Respondent which men of the 1<sup>st</sup> Respondents are intimidating him to pay for. The total sum which the Applicant was being forced to pay is N257,700 while Exhibit B attached to the Applicant Affidavit is a bail bond stating bail conditions. The bail conditions are not on the letter headed paper of the 1<sup>st</sup> Respondent which may be intentional.

From the evidence before me, the repairs were done in the demised property arising from wear and tear of the tenement. It is therefore borne out of the landlord and tenant relationship between the Applicant and the 2<sup>nd</sup> Defendant. The 2<sup>nd</sup> Respondent in his Counter Affidavit deposes that the matter that was investigated by the 1<sup>st</sup> Respondent is that of threat to life and mischief.

I cannot see any correlation between the threat to life and mischief and the bill which the Applicant was allegedly forced to pay. The 2<sup>nd</sup> Respondent in paragraph 2 (M) said amongst others that the 2<sup>nd</sup>

Respondent requested that the things removed or stolen from the property be returned. The above is about putting the tenement in a tenable condition which it was before the Applicant took possession. The 2<sup>nd</sup> Respondent also deposed to the fact that they visited the locus in quo. This cannot certainly be for the purpose of investigating a case of threat to life and mischief. It is for the purpose of ascertaining the state of the property in question.

From Exhibit A, the Petition allegedly written by the 2<sup>nd</sup> Respondent, the 2<sup>nd</sup> paragraph has it that the house which is the tenement is in a dilapidated state, that everything in that house has been destroyed by the Applicant.

I find as a fact that:

- (1) The Applicant was threatened, harassed and intimidated.
- (2) That the reason for the said threat harassment and intimidation is because the Applicant failed to put the house in a tenantable state when vacating.
- (3) That the allegation of threat to life and mischief against the Applicant is a hoax.

Every person shall be entitled to his personal liberty save in the cases outlined in Section 35 1a – f of the 1999 Constitution as amended. From the Affidavit evidence before me, the Applicant's liberty was

curtailed by the many invitations, detention in the 1<sup>st</sup> Respondent facility during working hours for no just cause. The Courts have often frowned on the 1<sup>st</sup> Respondent dabbling into cases of landlord and tenant but more often the 1<sup>st</sup> Respondent will not comply. The slightest infraction on the liberty of a person no matter how little attract sanction. The liberty of a citizen cannot be tampered with even for a moment except there are strong reasons to the contrary. The Constitution guarantees that every individual is entitled to the respect for the dignity of his person and no person shall be subjected to torture or to inhuman and degrading treatment. See Section 34(1) of the 1999 Constitution.

Employing men of the 1<sup>st</sup> Respondent to coerce the Applicant to pay or repair damaged facilities in his former residence as did by the 2<sup>nd</sup> Respondent in connivance with his Counsel is condemnable.

In the circumstance of this case. It is my respectful view and I so hold that the fundamental right of the Applicant to personal liberty and dignity of human person were breached.

I also find as a fact that the 2<sup>nd</sup> Respondent actually participated in the said harassment and intimidation.

It is hereby adjudged as follows:

- (1) The Respondents are ordered to pay the sum of N1 Million jointly and severally to the Applicant as compensation for the breach of his fundamental rights culminating into emotional psychological and physical trauma.
- (2) An order of perpetual injunction is hereby granted restraining the Respondents either by themselves, their servants agents or privies from harassing, intimidating, inviting, arresting or torturing and detaining or in any way violating the fundamental rights of the Applicant.
- (3) N200,000 as cost of action.

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**HON. JUSTICE U.P. KEKEMEKE**  
**(HOH. JUDGE)**  
**23/11/21**