

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT GARKI**

**SUIT NO: CV/2237/2023**

**DATE: 19-5-2023**

**BETWEEN:**

**THE INCORPORATED TRUSTEES OF PATRIOTIC } CLAIMANT  
YOUTHS ORGANIZATION OF NIGERIA }**

**AND**

**1. ERIC OCHEME ODOH  
2. ECONOMIC AND FINANCIAL CRIMES } DEFENDANTS  
COMMISSION  
3. INSPECTOR GENERAL  
4. THE NIGERIA POLICE FORCE }**

**JUDGMENT**

**(DELIVERED BY HON. JUSTICE S. B. BELGORE)**

In the exercise of civic rights and obligations, the Claimant instituted this action by way of an Originating Summons which was dated and filed 6<sup>th</sup> February, 2023 praying this Court for the interpretation of the following questions:

- “1. Whether by the calm consideration and interpretation of **Section 6(6) A & B of the 1999 Constitution of the Federal Republic of Nigeria (as amended), Section 4 of the Nigeria Police Act 2020 and Section 6 of the Economic and Financial Crimes Commission**, the Honourable Court has no power to order for the arrest, detention and prosecution of the 1<sup>st</sup> defendant by the 2<sup>nd</sup> to 4<sup>th</sup> Defendants for offences of money laundering, running of multiple accounts, treason, illegal transfer of money and financial impropriety.
  
2. Whether by the calm consideration and interpretation of **Section 6(6) A & B of the 1999 Constitution of the Federal Republic of Nigeria (as amended), Section 4 of the Nigeria Police Act 2020 and**

**Section 6 of the Economic and Financial Crimes Commission**, the 2<sup>nd</sup> to 4<sup>th</sup> Defendant are not under legal obligation to arrest and prosecute the 1<sup>st</sup> Defendant for the offences of money laundering, running of multiple accounts, treason, illegal transfer of money and financial impropriety.”

In the event that this Court resolves this issues in its favour the Claimant also prays for the following reliefs:

- “1. A declaration of the honourable Court that by the provisions of **Section 6(6) A & B of the 1999 Constitution of the Federal Republic of Nigeria (as amended), Section 4 of the Nigeria Police Act 2020 and Section 6 of the Economic and Financial Crimes Commission**, the Honourable Court has power to order for the arrest and detention of the 1<sup>st</sup> Defendant by the 2<sup>nd</sup> to 4<sup>th</sup> Defendant for offences of money laundering, running of multiple accounts, treason, illegal transfer of money and financial impropriety.
2. A declaration of the honourable Court that by the provision of **Section 6(6) A & B of the 1999 Constitution of the Federal Republic of Nigeria (as amended), Section 4 of the Nigeria Police Act 2020 and Section 6 of the Economic and Financial Crimes Commission**, the 2<sup>nd</sup> to 4<sup>th</sup> Defendants are under legal obligation to investigate, arrest, detain and prosecute the 1<sup>st</sup> Defendant for the offences of money laundering, running of multiple accounts, treason, illegal transfer of money and financial impropriety.
3. AN order of the honourable court mandating the 2<sup>nd</sup> to the 4<sup>th</sup> Defendants to forthwith arrest, detain and prosecute the 1<sup>st</sup> Defendant for offences of money laundering, running of multiple accounts,

treason, illegal transfer of money and financial impropriety etc.

4. AND for such further or other orders as this Honourable Court may deem fit to make in the circumstances.”

The Claimant’s Originating summons was supported by an affidavit of 18 paragraphs which was deposed to by David Daudu Audu on 6<sup>th</sup> February, 2023, together with a written address of counsel.

The case of the Claimant as made out in the supporting affidavit particularly paragraphs 4 to 14 thereof are to the effect that the 1<sup>st</sup> Defendant is a public officer in the employment of the Central Bank of Nigeria and as the Assistant Director in the CBN is at the centre-stage of an alleged economic fraud including money laundering, sale of new currency, running of multiple accounts, illegal transfer of cash and other alleged financial crimes.

According to the Claimants, it has undertaken investigation into these allegations against the 1<sup>st</sup> Defendant and in the meeting of the heads of the security agencies, it was agreed that the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants herein should go after those sabotaging the efforts of the Federal Government of Nigeria through different economic frauds which are aimed at truncating the beautiful policy introduced by the Central Bank of Nigeria. It further alleged that the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants have been unable to arrest the 1<sup>st</sup> Defendant because of his connection with high-ranking government officials and therefore has been evading justice.

I must however note, at the earliest stage that no documentary evidence was placed before this Court by the Claimant.

In opposing this Suit, the 1<sup>st</sup> Defendant filed a counter affidavit of 25 paragraphs, which was deposed to by Salihu Abdulkarim Omeiza on 16<sup>th</sup> February, 2023 and a written address. The 1<sup>st</sup> Defendant also raised a counter-claim wherein he prayed for consequential reliefs against the claims of the Claimant, in the event of its dismissal.

The crux of the 1<sup>st</sup> Defendant's case, as discernable from the Counter Affidavit, is that the Central Bank of Nigeria is distinctly occupied by a human person, who is appointed by the President of the Federal Republic of Nigeria and has no connection whatsoever with the 1<sup>st</sup> Defendant. That the CBN manages, performs and carries out its functions regarding the monetary policy through the Governor of the Central Bank of Nigeria. It was further averred that the 1<sup>st</sup> Defendant is not responsible for the running, management or overseeing of the affairs of the CBN and is not aware of any infraction relating thereto.

According to the 1<sup>st</sup> Defendant, there has not been any allegation of money laundering, sale of new currency, running of multiple accounts, illegal transfer of cash or any other form of financial crime made against him. The allegations are masterminded by corrupt persons who wants to jeopardize the work of the 1<sup>st</sup> Defendant in CBN. He further stated that the 1<sup>st</sup> Defendant is entitled to fundamental right to personal liberty and same cannot be curtailed by mere allegations without any proof. It was also stated that this Court does not act on speculation or embark on wide goose chase as the Claimant failed to pointedly any evidence of the allegations against the 1<sup>st</sup> Defendant.

Furthermore, the 1<sup>st</sup> Defendant stated in the supporting affidavit that it is not the duty of the Court to help the Applicant to fish for evidence against the 1<sup>st</sup> Defendant

as a justification for the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants to investigate or arrest the 1<sup>st</sup> Defendant over unsubstantiated allegations and that the 1<sup>st</sup> Defendant, being an innocent citizen of Nigeria, has the right to personal liberty, freedom of movement e.t.c and this Court has the duty to protect the constitutional rights of the 1<sup>st</sup> Defendant. He stated that this Application is a covert and surreptitious machination to misuse the instrument of this Court and of the law as an excuse to violate the rights of the 1<sup>st</sup> Defendant and trample upon his inalienable rights.

It was also averred that it is not the intendment of the law that the Court will give a judicial approval for the violation of the rights of a citizen upon any slightest allegation of commission when no iota of evidence has been provided and that this suit is highly prejudicial, mala fide and merely intended to aid the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants or other security agencies to use it as a smokescreen to achieve the unlawful purpose of trampling upon the constitutional rights of the 1<sup>st</sup> Defendant to personal liberty, freedom of movement etc.

The 1<sup>st</sup> Defendant also stated that if this Court grants the reliefs sought and the rights of the 1<sup>st</sup> Defendant are violated and trampled upon by the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants or other security agencies, the 1<sup>st</sup> Defendant cannot be adequately assuaged or compensated in monetary terms; as this Suit is a clear indication of the ongoing plot by the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants to take steps to arrest, detain and trample upon the constitutional rights of the 1<sup>st</sup> Defendant, while hiding under the cover of unsubstantiated allegations of commission of crime.

This Court was urged to dismiss this Suit and grant the counter-claim consequentially sought by the 1<sup>st</sup> Defendant.

The Claimant did not file any further affidavit or reply on points of law to the foregoing contention or defence of the 1<sup>st</sup> Defendant.

Importantly, the 2<sup>nd</sup> to 4<sup>th</sup> Defendant also, did not file any process in opposition or defence of this Suit. The law in this regard is settled that where a party has been accorded the opportunity of being heard and he fails to utilize it, such a party cannot be heard to complain of denial of fair hearing. See the cases of **MAGNA MARITIME SERVICES LTD & ANOR. VS. OTEJU & ANOR. (2005) LPELR-1817(SC); SAMUEL VS. SAMUEL (2019)LPELR-48471 (CA).**

The above notwithstanding, the fact that the 2<sup>nd</sup> to 4<sup>th</sup> Defendants did not file any defence to this Suit also does not presuppose that the case is admitted or that the court will grant the reliefs sought. The law has been settled that a party succeeds or fails upon the strength of his case and not on the weakness or failure of defence.

In our adjectival law, a party has the burden to prove his case on the balance of probability or preponderance of evidence, and he cannot rely on possible weakness of the case of the Defendant. In **Civil Design Construction (Nigeria) Limited vs. SCOA Nigeria Limited (2007) 6 NWLR (Part 1030) 300,327** the Supreme Court per Onnoghen JSC held that:

**“It is settled law that a Plaintiff must succeed on the strength of his case and not on the weakness of the defence and that where the evidence of the defence supports the case of the Plaintiff, the Plaintiff is entitled to rely on same in proof of his case.”**

This having been said, I will delve into the merits of the case with a view to resolving the issues in controversy between the parties.

I have carefully considered the case of the respective parties, particularly the affidavit and written addresses filed by the Claimant and the 1<sup>st</sup> Defendant.

To resolve the issues before this Court, this court hereby distilled 2 issues, which are determinative of the case, to wit:

1. Whether the Claimant has proved its case having regard to the material evidence and circumstances of this case?
2. Whether the counter-claim of the 1<sup>st</sup> Defendant is meritorious?

This court is of the view that the 2 issues raised are sufficient for the resolution of this case and other ancillary issues will also be considered along the line.

On the first issue, it is pertinent to note that by Section 6(6)(a) and (b) of the 1999 Constitution, the Constitution (as amended) vests upon any person the right to approach the court in the determination of its civic rights and obligations as it extends to all matters between persons, or between government or authority and to any person in Nigeria, and to all actions and proceedings relating thereto, for the determination of any question as to the civil rights and obligations of that person. In this wise, the *locus standi* of the Claimant cannot be doubted in view of the fact that the case raises issues of law and fact as it concerns the perceived legal interest and rights of the Claimant.

In any event, cases relating to fight against corruption is not lightly treated by the Court. As a matter of course, the Court have consistently held that fight against corruption is the duty of citizen of Nigeria. Every person or organization registered under the laws of the

Federal Republic of Nigeria has a duty to ensure a corrupt free Nigeria. Such right cannot be taken away from the Claimant. In the case of **Attorney-General of Ondo State vs. Attorney-General of the Federation & 35 Ors. (2002) 9 NWLR (Part 772) 222, 339 G-H** the Supreme Court per Ogwuegbu, JSC had held that:

**“.....Any legislation on corruption and abuse of power must be of concern to every Nigerian notwithstanding that its operation will affect property and civil rights for citizens in a State. Such an enactment like all enactment of the National Assembly will be of paramount force”**

The need for concerted effort in the fight against corruption has been underscored and in **Altimate Inv. Ltd v. Castle & Cubicles Ltd (2008) All FWLR (Pt. 417) 124, 132 – 133** the Court of Appeal per Omokri, JCA stated that:

**“...it is important to mention that this is a time when the Nigerian nation is fighting the difficult battle against corruption in all its ramification. All hands should be on deck to eliminate or eradicate this social ill. Corruption or corrupt practices, if not checked, threaten the peace, order and good government. ....It is from this background that I say that the ruling of the learned trial judge is commendable and it has the effect of sanitizing the polluted and corrupt society.”**

It is a reasonable cause for a party to complain about any perceived infraction or corrupt action of another. Such a suit cannot be waived aside, as this court has the duty to look into the cause and determine the jural rights and obligations of the parties, as in this case.

On the above premise, I hold that the Claimant is entitled to bring this action and same disclosed a



reasonable cause of action, which is in the overall interest of the society.

On the merits, it is not enough for the Claimant to make assertions regarding the 1<sup>st</sup> Defendant. A party that seeks the court to grant reliefs in its favour, also has a corresponding duty to place before the Court material facts establishing the case upon which the court can rely to find for it.

It is an elementary part of the Nigerian law that he who asserts must prove. In the case, it is the evidential burden of the Claimant, against whom a potential judgment of the court would be given to prove its case, before the evidential burden would shift to the Defendants. In the case of **Adegoke v. Adibi (1992) 5 NWLR (Part 242) 410, 423** the Supreme Court per Nnaemeka-Agu JSC laid down this fundamental principle when it held thus:

**“The principle is that the burden of proof lies on he who asserts and not on him who asserts the negative of an issue. The whole concept of burden of proof in a civil case has been epitomised in Section 136(1) and (2) of the Evidence Act which provides as follows:**

- (1) In civil cases the burden of first proving the existence of a fact lies on the party against who judgment of the Court would be given if no evidence were produced on either side, regard being had to any presumption that may arise on the pleadings.**
- (2) If such party adduces evidence which ought reasonably to satisfy a jury that the fact sought to be proved is**

**established, the burden lies on the party against whom judgment would be given if more evidence were adduced; and so on successfully, until all the issues in the pleadings have been dealt with.”**

**See the cases of Veepee Industries Limited vs. Cocoa Industries Limited (2008) 13 NWLR (Part 1105) 486, 508 and Calabar Central Co-operative Thrift & Credit Society Limited & Ors. vs. Bassey Ebong Ekpo (2008) 6 NWLR (Part 1083) 362, 395.**

In the present case, the Claimant has not been able to discharge the evidential burden of proof statically placed on it to warrant this court granting the reliefs sought. The court does not act on bare facts without any concrete evidence pointedly linking the Defendant with the allegations raised.

In this case, the claim of the Claimant is primarily speculative without any factual basis and this Court does not act of speculate but upon facts; which does not exist and without any iota of material documentary evidence placed before it. In the case of **Ejezie v. Anuwu (2008) 12 NWLR (Part 1101) 446, 490 C**, the Supreme Court per Tobi, JSC held inter alia that:

**“A Court of law has no jurisdiction to speculate or conjecture. A court of law must confine itself to the evidence before it and give judgment on the evidence and the evidence alone.”**

See also the case of: **Agharuka vs. First Bank of Nigeria Limited & 2 Ors. (2010) 3 NWLR (Part 1182) 465, 482 H.**

Having not supplied any useful or material evidence before this court, it is not the duty of this court to

embark on any voyage of discovery to assist the Claimant in scavenging for evidence against the 1<sup>st</sup> Defendant to justify why the 2<sup>nd</sup> to 4<sup>th</sup> Defendants would be set in motion against the 1<sup>st</sup> Defendant, a Nigerian citizen.

According to Eso, JSC in the case of **Ebba v. Ogodo & Ors. (1984) 15 NSCC 255, 265.**

**“...A court...is not a knight errant looking for skirmishes all about the place.”**

A perusal of the allegations as disclosed by the case of the Claimant, shows that the allegations are far-reaching and cannot be used as ground for the curtailing the legal rights of the 1<sup>st</sup> Defendant except upon a clearly proven and expedient evidence, which are utterly lacking in this case. There is no evidence before this court proving any slightest infraction by the 1<sup>st</sup> Defendant nor establishing the allegations of money laundering, sale of new currency, running of multiple accounts, illegal transfer of cash or any other form of financial crime made against the 1<sup>st</sup> Defendant.

A further consideration of the Claimant’s supporting affidavit is patently filled with sweeping allegations against the 1<sup>st</sup> Defendant without more. It is indeed the Claimant has not placed any material evidence before this Court. Obviously, the affidavit in support of the Originating Summons is replete with manifestly unreliable, spuriously exaggerated and reckless contentions without any evidence thereby tainting the probative value of the assertions. In such cases, the Court does not rely or act on such spurious and obviously exaggerated allegations; and is entitled to discountenance the allegations. This is the settled position of the Court as exemplified in the case of **Aiguokkhian v. State (2004) 7 NWLR (Part 873) 565,**

576, where the apex court per Pats-Acholonu, JSC held that:

**“....when the statement or evidence of a witness is of such obvious exaggerated proportions that it enters into the realm of either fantasy or is an affront to intelligence or is reckless in its utterance, it should be ignored and consigned to a garbage and treated with utmost contempt, disdain and of course rejected in its entirety. Such evidence would beshown to be manifestly hostile to reason and intelligence as to be nigh impossible that it should be believed by the court.”**

Without much ado, this court finds that the Claimant has not proved its case against the 1<sup>st</sup> Defendant to warrant to the invocation of the judicial powers of this Court to direct the 2<sup>nd</sup> to 4<sup>th</sup> Defendants to undertake any action against the 1<sup>st</sup> Defendant. Accordingly, this case fails and is hereby dismissed in its entirety.

On the second issue regarding the counter-claim of the 1<sup>st</sup> Defendant. The 1<sup>st</sup> Defendant has sought for counter-claim in the following terms, to wit:

- “1. A declaration that the 2<sup>nd</sup> – 4<sup>th</sup> Defendants cannot arrest, detain and prosecute the 1<sup>st</sup> Defendant in relation to any unfounded allegations of money laundering, sale of new currency bank notes, running of multiple accounts, illegal transfer of cash e.t.c for any length of time in the absence of proof of commission of any criminal offence by the 1<sup>st</sup> Defendant.
2. A Declaration that by the provisions of **Section 35(1)(c) & (7) of the 1999 Constitution** (as amended), unfounded and baseless allegations against the 1<sup>st</sup> Defendant, in the absence of any justification and justiciable ground cannot ground

the arrest, detention and prosecution of the 1<sup>st</sup> Defendant.

3. A mandatory order retraining the 2<sup>nd</sup> – 4<sup>th</sup> Defendants, or any other security agency, their agents, privies, assigns, or anybody connected to them from any form of intimidation, arrest, detention and prosecution of the 1<sup>st</sup> Defendant, in connection without any unfounded criminal allegation against the 1<sup>st</sup> Defendant.”

In proving his entitlement to the counter-claim, the 1<sup>st</sup> Defendant adopted and relied upon his counter-affidavit in opposition to the substantive suit. Every person has an inalienable right against unlawful actions by agents of the State. It follows that basic rights of Nigerian citizens cannot be brazenly violated except in the manner provided for in the 1999 Constitution. This is the kernel of the decision of the Supreme Court in the case of **Fawehinmi vs. Abacha & 3 Ors. (1996) 9 NWLR (Part 475) 710, 742 B**, where the Supreme Court per Musdapher, JSC stated inter alia that where the freedom of an individual is curtailed or abridged. It must be shown that such an act is brought within the confines of the law.

In the present case, I have not found any bases warranting the 2<sup>nd</sup> to 4<sup>th</sup> Defendants herein to set in motion the machinery of the law enforcement against the 1<sup>st</sup> Defendant/counter-claimant. It is therefore an affront to the rule of law and constitutionality for the 1<sup>st</sup> Defendant to be subjected to unending fear and apprehension of abuse of his rights and possible arrest and detention over allegations that has been demonstrated to have no bases.

The 1<sup>st</sup> Defendant can only be subjected to any sanction when he has been tried in a court of competent jurisdiction and found wanting.

Curtailement of his rights cannot arise from a mere allegation without more. In the case of **Odigie vs. Nigeria Paper Mills Limited (1993) 8 NWLR (Part 311) 338, 354** the Court of Appeal per Okulaja, JCA held that:

**“As outlined supra, the position of the law in this country today is that when allegation of crime is levelled against a person in the nature of crime, it is the court set up under the Constitution that must have the jurisdiction to resolve the issue and no administrative investigating panel has such jurisdiction.....**

**The allegation must be proved beyond reasonable doubt.....”**

This position of the law has remained sacrosanct and in the earlier case of **Garba vs. University of Maiduguri (1986) 1 NWLR (Part 18) 556, 707** the Supreme Court per Oputa, JSC held that:

**“Now justice is only reached through the ascertainment of the truth and the instrument which our law presents to us for the ascertainment of the truth or falsehood of criminal charge, is trial in the open court – No rush inquiry will take the place of open trial.”**

This court has a duty to protect the rights of the 1<sup>st</sup> Defendant and stop the likelihood of violation of his rights, which appears imminent in the present circumstances.

Accordingly, this court has the judicial powers to grant a counter-claim or even make a consequential order protecting the 1<sup>st</sup> Defendant from the misuse of powers by the 2<sup>nd</sup> to 4<sup>th</sup> Defendants.

On that note, I found merit in the counter-claim of the 1<sup>st</sup> Defendant and same is hereby granted as prayed.

It is therefore DECLARED that:

- i. The 2<sup>nd</sup> – 4<sup>th</sup> Defendants cannot arrest, detain and prosecute the 1<sup>st</sup> Defendant in relation to any unfounded allegations of money laundering, sale of new currency bank notes, running of multiple accounts, illegal transfer of cash e.t.c for any length of time in the absence of proof of commission of any criminal offence by the 1<sup>st</sup> Defendant.
- ii. By the provisions of Section **35(1)(c) & (7) of the 1999 Constitution (as amended)**, unfounded and baseless allegations against the 1<sup>st</sup> Defendant, in the absence of any justification and justiciable ground, cannot ground the arrest, detention and prosecution of the 1<sup>st</sup> Defendant.

A MANDATORY ORDER is hereby made:

- i. Restraining the 2<sup>nd</sup> – 4<sup>th</sup> Defendants, or any other security agency, their agents, privies, assigns, or anybody connected to them from any form of intimidation, arrest, detention and prosecution of the 1<sup>st</sup> Defendant, in connection without any unfounded criminal allegation against the 1<sup>st</sup> Defendant.

I make no order as to costs.

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**S. B. Belgore**  
(Judge) 19/5/23