

**IN THE HIGH COURT OF JUSTICE FEDERAL CAPITAL TERRITORY**

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT JABI –ABUJA**

**HIS LORDSHIP: HON.JUSTICE M.S. IDRIS**

**COURT NUMBER: 28**

**DATE:-16<sup>TH</sup> JUNE, 2023**

**FCT/HC/CV/2586/2023**

BETWEEN:

**MR. MADUEKE KINGSLEY OGBODO  
(for himself and on behalf of Members  
of the Obuoffia Welfare  
Association Abuja Unity Branch)**

**APPLICANT**

And

**FIRST BANK PLC-----**

**RESPONDENT**

**JUDGMENT**

This suit was filed by the Applicant on the 7<sup>th</sup> day of March 2023, vide an originating motion. The following reliefs were sought by the Applicant:-

- 1.A **DECLARATION** that the unauthorized lien placed by the Respondent on account of the **Applicant (with an account number 3080919860)** domiciled with the **Respondent** and the continued deprivation of the Applicant of the usage of the account and sum in the account belonging to the **Applicant's** Association under the registered name **as OBUOFFIA WELFARE ASSOCIATION ABUJA UNITY BRANCH** is illegal and

unconstitutional as it violates the Applicant's fundamental right to own property as guaranteed by **Section 44 of the Constitution of the Federal Republic of Nigeria 1999 (as amended)**.

2. AN ORDER directing the Respondent to pay the sum of **N200,000,000.00 (Two Hundred Million Naira)** as general damages in favour of the **Applicant's** Association under the registered name **OBUOFFIA WELFARE ASSOCIATION ABUJA UNITY BRANCH** for the underserved inconveniences to which the Applicant was subjected/still being subjected to by the Respondent and for the infringement of her constitutionally guaranteed rights to own property.

From the written address in support of originating motion, the Applicant averred that the Respondent (first bank) denied the Applicant usage of the account and the sum in it, which is an infringement of the Applicant's fundamental right own properties as provided in **Section 44 of the Constitution of the Federal Republic of Nigeria 1999 (as amended)**. The Applicant is also positioned to be entitled to exemplary damages and compensation for the breach of the Applicant's fundamental human rights.

Exhibits presented by the Applicant (namely EXHGP 3 -7) show that the Applicant intimated the Respondent on the lien placed in the Applicant's account, which caused unpleasant hardship to the Applicant. The Respondent, in one of the exhibits thus presented (precisely EXH GP '5') in response, stated that the account was frozen as a result of an **Applicant for Plaintiff and Motion on notice dated 25<sup>th</sup> day of July 2022** served on the Respondent, which indicated internal dispute in the association in which the Applicant is a signatory to. The Applicant, in response, stated that the matter was struck out, and thus, the Respondent has no justification to place a lien on the account.

In the Respondent's counter affidavit, the Respondent avers that the Applicant, **Mr Madueke Kingsley Ogbodo** is unknown to the Respondent, but rather the Incorporated Trustees of Obuoffia Welfare Association Abuja Unity Branch is a customer of the Respondent and maintains a current account with the said Respondent. The Respondent further avers that the lien was placed on the account when it came to the Respondent's notice that there was an internal dispute between officers/members of Incorporated Trustees of Obuoffia Welfare Association Abuja Unity Branch to preserve the fund in the accounts pending when the dispute is satisfactorily resolved. The Respondent asserted that the restriction placed on

the account was in accordance with the terms and conditions the Applicant had with the Respondent (precisely in Clause 6 of Exhibit SMM1), which mandates the Respondent to immediately stop transactions on the Applicant's account whenever there is a case of a dispute which was indicated by an Applicant for Plaintiff and Motion on notice dated 25<sup>th</sup> July, 2022 served on the Respondent on the 27<sup>th</sup> day of July 2022. The Respondent further asserted to have removed the restriction on the Applicant's account immediately after the Respondent was notified of the dispute being resolved by the Applicant. The respondents submitted exhibits (precisely exhibit SMM 5) in support of this averment.

In the Respondent's written address filed on the 19<sup>th</sup>, May 2022, the Respondent asserted that the Applicant's fundamental right was not infringed upon as asserted by the Applicant, and as such, the Applicant is not entitled to damages claimed. The Respondent cited **Sections 131, 132, and 133 of the Evidence Act, 2011**, and the case of **Adamu Erinle & ors v. Alh. Busari Aluko**, which summarily provides that the burden of proof rests on the party who asserts. The Respondent further posits that it merely kept to the contractual obligation it had with the Applicant by placing restrictions on the Applicant's account when it became aware of the dispute in the Incorporated Trustees of Obuoffia

Welfare Association Abuja Unity Branch and promptly removed the restriction once it came to its knowledge that the said dispute is resolved. The Respondent further posits that the amount claimed by the Applicant as damages was not a true reflection of the matter at hand, and neither does it demonstrate how the Respondent breached its covenants or infringed the Applicant's fundamental rights in the manner thus claimed. The Respondent prayed the court to dismiss the Applicant's relief for damages for it lacks merit and is unsupported by evidence.

In the Applicant's further affidavit in response to the Respondent's counter affidavit, the Applicant posits that the Respondent misled the court by denying knowing the Applicant, who is a trustee to the **Incorporated Trustees of Obuoffia Welfare Association Abuja Unity Branch** and whose name was contained in the certificate of incorporation of the association and other relevant documents which were required in the opening the account with the Respondent.

The Applicant claimed that the Respondent neglected to remove the lien on the account even after the Applicant intimated the Respondent that the internal dispute amongst the members of Incorporated Trustees of Obuoffia Welfare Association Abuja Unity Branch was resolved. The Applicant further reiterated that the Respondent

attempted to backdate a letter (precisely EXH GP '2') so that it would appear as if the lien on the account was lifted before the matter was instituted in this honourable court.

In the Applicant's reply on the point of law, the Applicant raised issues for determination. The Applicant posits that notwithstanding the removal of the restriction placed on the Applicant's account by the Respondent, the act by the Respondent was unlawful and without legal backing. The Applicant, in support of the issue, raised, emphasized that the Applicant's fundamental rights were infringed upon by the reckless act of freezing the Applicant's account as a result of a presumed dispute in the Incorporated Trustees of Obuoffia Welfare Association Abuja Unity Branch. The Applicant further maintained that the Respondent could not freeze the account of a customer without a court order citing the case of **GUARANTEE TRUST BANK V. ODEYEMI OLUYINKA JOSHUA (2021) LPELR-53173 (CA) AND AROGUNDADE V. SKYE BANK PLC (2020) LCN/14893 (CA)** amongst others in support of the assertion.

The Applicant also raised the issue of being entitled to the reliefs sought in the originating motion, notwithstanding the removal of the restriction on the account. In support of this issue, the Applicant cited the case of **ASUQUO V. SECTOR COMMANDER FRSC 2019 LLER/93C/13CA AND HERITAGE BANK V. S**

**& S WIRELESS LTS & ORS 2018 LLER/871L/11 CA**, which all posits victims of human rights abuse are entitled to damages.

Having critically considered the facts, evidence and legal arguments of all the parties in this suit, I believe that two issues can properly aid the court in the final determination of this suit:-

1. Whether the due enforcement of the terms and obligation in the agreement between the Applicant and Respondent amounts to a breach of the Applicant's fundamental rights.
2. Whether the Applicant is entitled to the damages claimed for the breach of the Applicant's fundamental rights.

In answering issue number 1, I must avert my mind to Clause 6 of Exhibit SMM1, which the Respondent tendered as a reason for restricting or placing a lien on the account. This clause expressly mandates the Respondent to stop transactions on the Applicant's account whenever there is a case of a dispute which was indicated by an **Applicant for Plaint and Motion on notice dated 25<sup>th</sup> day of July 2022 served on the Respondent on the 27<sup>th</sup> day of July 2022**. It is my humble opinion that the Respondent, in accordance with the terms of the contract, has the legal and contractual backing to stop all transactions in the Applicant's account immediately after it became aware of the internal

dispute in the Incorporated Trustees of Obuoffia Welfare Association Abuja Unity Branch. It is trite law the parties are bound by the terms of their contract, as exemplified in the case of **AFRICAN INTERNATIONAL BANK LTD. V. INTEGRATED DIMENSIONAL SYSTEM LTD & ORS (2012) LPELR-9710(SC)**.

However, I find it distressing that the Respondent failed to remove the lien on the account immediately after it was notified that the dispute in the Incorporated Trustees of Obuoffia Welfare Association Abuja Unity Branch had been resolved amicably. As the Applicant rightly stated, the Respondent is not an arbitral body that has the power to resolve any form of dispute in the Incorporated Trustees of Obuoffia Welfare Association Abuja Unity Branch. The Respondent claimed to have lifted the restriction on the associated account in a letter dated the 7<sup>th</sup> day of February 2023 which was acknowledged by the Applicant on the 11<sup>th</sup> day of April 2023. The Applicant claimed that the Respondent attempted to convince the Applicant to backdate the acknowledgment on the letter, which seems almost believable based on the pattern of the correspondence between the Applicant and the Respondent. The first correspondence between the Applicant and Respondent was initiated by the Applicant on the 8<sup>th</sup> day of December 2022



(precisely EXH GP4), and a response was given by the Respondent on the 15<sup>th</sup> of December 2022 (precisely EXH GP 5). Further correspondence was initiated by the Applicant on the 7<sup>th</sup> day of February 2023, after which the Applicant initiated an action on the 7<sup>th</sup> day of March 2023 in this honourable court. I find it suspicious that the Respondent's letter dated the 7<sup>th</sup> day of February 2023 (precisely EXH Smm '5') was replied to promptly when there is no prior precedence that the Respondent replies to the Applicant's letter promptly. I am also forced to cast my mind to the mere issues of technicalities raised by the Respondent in its preliminary objection in the course of this matter. It may appear that the Respondent is trying to hide under an umbrella of technicalities.

While I verily opine that parties are bound by the terms of a contract or agreement, parties must perform due diligence in ensuring that blind adherence to the terms of a contract is not causing undue hardship to the other party. In this case, the Respondent should have promptly lifted the ban on the association's account immediately after it was notified that the internal dispute in the association had been rectified by a court of competent jurisdiction. Relief one is hereby granted in favour of the Applicant.

The second issue on whether the Applicant is entitled to the sum of N200,000,000.00 (Two Hundred Million Naira) as damages for the infringement on the Applicant's right. There is no doubt that the Applicant must have faced some hardship with the ban placed on the Applicant's account. But I am of the opinion that N200,000,000.00 (Two Hundred Million Naira) is a colossal amount of money in our current economic realities, which may negatively impact on the Respondent's business. I have to consider the fact that the Respondent offers essential services to millions of Nigerians, and thus, it will not be fair to shut down the Respondent's business.

In view of the foregoing, it is my view that the parties are bound by the terms of their contract, and thus, the Respondent has the legal and contractual backing to place a lien on the Applicant's account. However, there is no doubt the Respondent's action caused hardship to the Applicant, and as such, the Applicant is entitled to damages.

**IT IS HEREBY DECLARED** that the Respondent pays the Applicant the sum of 5,000,000.00 (Five Million Naira) as damages for the hardship caused to the Applicant.

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**HON. JUSTICE M.S IDRIS  
(Presiding Judge)**

Appearance

D.Y Aliyu :- For the Respondent.

Victor Onyekachi:-For the Applicant