7IN THE HIGH COURT OF JUSTICE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT HIGH COURT MAITAMA – ABUJA

BEFORE THEIR LORDSHIPS:

(1). HON. JUSTICE C. N. OJI
(2). HON. JUSTICE S. U. BATURE

APPEAL NO. CVA/797/2021

SUIT NO. AB/SDC/CV/265/07/2019

ON THE 13TH DAY OF FEBRUARY, 2024

BETWEEN:

1. SANDRA IBI
2. JENNIFER IBI ....APPELLANTS

AND

MUNABO NIG. LIMITED...RESPONDENT

APPEARANCES:
Chris Nneji Esq for the Respondent.
Applicant's Counsel absent.

JUDGMENT

(DELIVERED BY HON. JUSTICE S. U. BATURE)

This is an Appeal against the Judgment of the Senior District Court, F.C.T, Abuja issued and delivered under the hand of His Honour Hon. Musa A. Jobo on the 15th day of December, 2020, in SUIT NO. AB/SDC/CV/09/2019.

The Respondent herein (as the Plaintiff) obtained Judgment against the Appellants herein, in the aforementioned suit.

However, the Appellants, being dissatisfied with the said judgment of the lower Court, filed a Notice of Appeal dated 1st April, 2021, but filed on the 15th June, 2021.

The Appeal is predicated upon four grounds as follows:-

"(1). GROUND ONE

The Judgment is against the weight of evidence.

(2). GROUND TWO

The Judgment of the Honourable Court was delivered without jurisdiction.

PARTICULARS OF ERROR

1. ***The Honourable Court delivered judgment above the monetary jurisdiction of a Senior District Court within the Federal Capital Territory, Abuja.***

2. ***The monetary jurisdiction of Senior District Courts within the FCT was increased to NGN 3, 000, 000.00 (Three Million Naira) only.***

3. ***In the present appeal the cumulative judgment of the Lower Court amounts to over NGN 5, 000, 000.00 (Five Million Naira) which is over the jurisdiction of the Senior District Court and even that of the Chief District Court.***

4. ***The FCT High Court has jurisdiction in respect of all claims and resulting judgments above the sum of NGN 5, 000, 000.00 (Five Million Naira).***

5. ***The Counter Claim of the Appellants before the Senior District Court was N7, 300, 000.00 (Seven Million Three Hundred Thousand Naira) which sum is over and above the jurisdiction of the District Court within the Federal Capital Territory, Abuja.***

(3). GROUND THREE

The Lower Court was biased in determination of the suit against the Appellants and this bias influenced the Court to reach a decision in the suit and has occasioned a miscarriage of justice.

PARTICULARS OF ERROR

1. ***The bias of the Lower Court led the Honourable Judge to hold that "on the claim of the Counter-Claimant of the sum of N7, 300, 000.00 (Seven Million Three Hundred Thousand Naira) only as monies expended in improving the Garden Park, it is quite clear that the DW1 during her cross examination has admitted that the Defendants did not obtain any written consent of the landlord to make improvement or carryout development on the premises".***

2. ***The evidence of the improvements made by the Appellants on the Garden Park were admitted in evidence and unchallenged by the Respondent yet the Honourable Court failed to enter judgment in favour of the Appellants.***

3. ***The trial Court ignored evidence of the actual improvement made by the Appellants to the knowledge of the Respondent.***

4. ***The trial Court administered technical justice instead of substantive justice when Courts have moved away from administration of technical justice.***

5. The trial Court ignored evidence of the fact that the Respondent's directors and officers stood by and watched the Appellants sink money into the Garden Park only for the Respondent to deny the same fact because they did not give consent in writing.

(4). GROUND FOUR

The Honourable Court erroneously assumed jurisdiction over dispute brought by Plaintiff's, the within named Respondent

PARTICULARS OF ERROR

The Plaintiff a registered company ought to have approached the Federal High Court or FCT High Court for the reliefs sought."

The parties filed and exchanged briefs of argument.

The Appellants' brief of argument is dated 2nd June 2022 but filed on 24th June, 2022.

Meanwhile, the Respondent's brief of argument is dated 7th November, 2022 and filed on the same day.

In addition, the Respondent filed a Notice of Preliminary Objection, challenging the jurisdiction of this Honourable Court to entertain this Appeal.

The Notice of Preliminary Objection is brought pursuant to Section 6(6) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and under the inherent jurisdiction of this Honourable Court.

It is equally dated 7th November, 2022 and filed same day premised on the following grounds to wit:-

"(1). The purported appeal as presently constituted is fatally incompetent, the Respondent not being a legal entity/juristic person known to law.

(2). Parties on appeal must be same as parties on record from the trial Court.

(3). That purported appeal is incompetent having been predicated upon an incompetent record.

(4). Issue two (2) formulated from ground 1 of the Notice and Grounds of Appeal is patently incompetent as the said issue 2 is distilled from an omnibus ground of appeal.

(5). Issue one (1) as formulated from ground 2 in the Notice and Grounds of Appeal is fatally incompetent.

(6). Consequently, the said issue one as formulated from Ground 2 of the Notice of and Grounds of Appeal is liable to be struck out same having not emanated/stemmed from the text of the judgment ipsissima verba appealed against."

In response to same, the Appellants filed a reply on points of law dated 7th November, 2023, filed on the same date.

Consequently, since the issue of jurisdiction is paramount and a threshold issue, we shall first of all consider the Notice of Preliminary Objection filed by the Respondent in this appeal.

The arguments in support of the Preliminary Objection are contained in pages 3 – 6 of the Respondent's brief of argument filed on 7th November, 2022.

In his arguments in support of the Preliminary Objection U.B. Eyo Esq learned Counsel to the Respondent submitted that their Preliminary Objection is anchored on three main independent planks/legs each, which is sufficiently potent to dispose of the Appellants' Appeal.

Therefore, having considered the arguments canvassed for and against this Preliminary Objection, we shall raise a sole issue for determination to wit:-

"Whether this preliminary Objection ought to be sustained."

The first leg of the learned Counsel's objection is that a party or parties on appeal must be designated as the same on record from the trial Court. That the names of the parties reflected on record, prepared in pursuance of the appellate jurisdiction of the Court for filing should reflect the same party or title as that obtained in the trial Court.

Counsel relied on the case of ***AMANA V IGALA AREA TRADITIONAL COUNCIL (2022) 15 NWLR (Pt.1854).***

But, that in the instant case, the present entity designated as Munabo Nig. Limited, in this Appeal, was never a party to the proceedings at the trial District Court and therefore incapable of being a party to this present Appeal. And that the resultant effect of the failure of the Appellants not to join the appropriate legal entity in the instant appeal is that the appeal is fatally incompetent.

Learned Counsel equally relied on the cases of ***CALABAR MUNICIPAL GOV'T V EYO HONESTY (2022) 2 NWLR (Pt.1815) Pg. 446, PARAS B – C, (SC); OSTANKINO SHIPPING CO. LTD V THE OWNER, THE MT BATA (2022) (Pt.1817) Pg. 397, PARAS C – E (Incomplete citation).***

Learned Counsel prayed the Court on that score to uphold and dismiss the appeal with cost.

Meanwhile, responding to this leg of the Preliminary Objection, in their reply on points of law, Mr. Sixtus Atser, learned Appellants' Counsel relying on cases cited on record including ***CHIEF FAWEHINMI V N.B.A (NO.2) (1989) 2 NWLR (Pt.105) 558; NJOKU V U.A.C FOODS (1999) 12 NWLR (Pt.632) 552 @ 565,*** submitted that the Appeal as presently constituted is competent. That the Respondent being the Claimant at the trial Court proceeded against the Appellants who were the Defendants. Judgment having been entered in favour of the Claimant (now Respondent), the Appellants filed this Appeal against the entire judgment of the trial Court.

That the Appellants have no intention to file this appeal against any other persons but only the Respondent and the Respondent cannot be heard to think that they were misled by the incorrect spelling of the Respondent's name, i.e. MUNABO NIG. LIMITED. That same is well intended to be the

correct name of the Respondent whose correct spelling is MUNABD NIG. LIMITED. That same is clearly a misnomer.

Learned Counsel relied on the case of ***NJOKU V U.A.C. FOODS (supra),*** where the Court held among other things that amendment of name of a party (in cases of misnomer) will be allowed only where a juristic or natural person is sued and the name is incorrectly or incompletely written.

Counsel equally relied on the case of ***NNAMDI AZIKWE UNIVERSITY V NWOKOYE & ANOR (2018) LPELR-43961 (CA),*** while re-reiterating their earlier arguments, that the parties on record are the same, and the incorrectly spelt name of the Respondent is a misnomer which an application or amendment can be entertained by the Court.

Now, we have observed that in the entire records of this Appeal, the name of the Respondent is MUNABD NIG. LIMITED including on the first page of the Record of Appeal dated 15th day of December, 2020.

However, in the documents contained in the said Record of Appeal, the name of the Respondent (who was the Plaintiff at the trial Court) is MUNABD NIG LIMITED.

Now, we agree with the arguments of learned Appellants' Counsel on this issue that in cases of a MISNOMER, an amendment can be entertained by the Court. But, having gone through the entire records in this Appeal, we have not found any such application for this Appeal Court to consider on the issue of amendment of the Respondent's name which was clearly misspelt in this case.

Perhaps, if Appellants' Counsel had brought such an application, the Respondent would not have brought this issue as a ground in its Preliminary Objection.

Nevertheless, we have observed that in this case, the Respondent/Objector is saying that MUNABO NIG. LIMITED was never a party to the proceedings at the trial Court, it is not saying that MUNABD NIG. LTD was not a party to the proceedings at the trial Court.

Since that is the case, it means that the correct party sued at the lower Court is the same party in this appeal, but whose name was incorrectly spelt in parts of the records of this Appeal.

There's a world of difference between suing a wrong party and misspelling the name of the correct party. At best, this will be treated as a MISNOMER.

Even at trial Court, where a party is sued in a wrong name, which is a misnomer, it is a situation that is curable and which does not affect the jurisdiction of the Court.

See: ***MTN NIGERIA COMMUNICAITONS LTD V ALUKO & ANOR (2013) LPELR-20473 (CA) per OKEDOLA JCA,*** where the Court held at ***PP. 34 – 38, PARAS B – F*** as follows:-

> "***Now, where there is a mistake with regard to the name of a litigant in an action, such a mistake is described as a misnomer, it simply means a misdescription of or wrong use of a name. It is a mistake as to the name and not a mistake as to the identity of the particular party to the litigation. The former can be corrected while the latter cannot be corrected. Hence, in the case of misnomer, an application can be made to amend the Writ in order to substitute the mistaken name for the correct one. This could result in a juristic person being substituted for a non-juristic one. Howbeit, the Applicant who craves such an indulgence in the form of an amendment must show that there are reasonable grounds or basis in his use of the wrong name in the first instance. Misnomer is all about mistake as to name and not mistake about identify. It is simply a wrong use of a name if the party identified to be used exists but a wrong name has been used to describe it, that strictly speaking is s misnomer put differently, misnomer does not lie in giving the name of the wrong person but in mistakenly giving a "wrong name" to the right person and the intended person to be sued."***

See: ***S.A. ABDULAZEEZ INTL. RESOURCES LTD & ANOR V FBN & ANOR (2020) LPELR-51229 (CA); A.B. MANU & CO (NIG) LTD V CONSTAIN (W.A) LTD (1994) LPELR 14550 (CA).***

From the arguments canvassed on both sides as well as the entire records at our disposal in this Appeal, it is our view that the issue of suing a wrong party never arose before the trial Court.

Therefore MUNABD NIG. LTD, who sued as a Plaintiff before the Lower Court in SUIT NO: AB/SDC/CV/07/2019 is the same party in this Appeal (now a Respondent) whose name was incorrectly spelt as MUNABO NIGERIA LIMITED. We so hold.

Therefore, the first leg of this Preliminary Objection fails and it is hereby overruled and dismissed.

The second leg of the Preliminary Objection is that this appeal as presently constituted is patently incompetent having been predicated upon an uncomplete record of appeal, which learned Counsel argued, is supposedly the Bible of the Appeal.

Submitted in that regard that in the instant case, the Appellants' record of appeal transmitted to this Honourable Court is fatally incompetent as it is incomplete and therefore liable to be struck out.

Counsel referred us to the pages 3 and 4 of the Originating process upon which the jurisdiction of the Court was activated, which Counsel argued is devoid and or bereft of vital pages containing the reliefs thereon.

Counsel submitted that the consequential outcome of such exclusion is that the appeal is incompetent.

Counsel relied on the following cases:-

ANYAKORAH V PDP (2002) 12 NWLR (Pt.1843) 1.

SHITTA BEY V A.G FEDERATION (1998) 10 NWLR (Pt.570) 392;

SOMMER V F.H.A (1992) 1 NWLR (Pt.219) 548;

ADEGBUYI V A.P.C (2015) 2 NWLR (Pt.1442) 1 referred to (P.38), Paras B –D).

Meanwhile, responding to the issue in their reply on points of law, learned Appellants' Counsel conceded that the High Court just like the Court of Appeal can only assume appellate jurisdiction when the entire records of the Appeal have been transmitted from the trial Court.

However, learned Counsel submitted that incomplete records of Appeal does not render the appeal incompetent.

Counsel relied on the case of ***ATOSHI & ORS V AGBU & ORS (2018) LPELR-44477 (CA).***

Thus, from the arguments canvassed on both sides in this appeal, it does appear that the parties herein agree that the record placed before us is an incomplete record of appeal.

We have observed that the application for issuance of civil summons against the Defendants at the Lower Court contained on page 2 of the record of Appeal is incomplete as the Reliefs are numbered 1 and 2.

The next page being No. 3, (which Respondent's Counsel referred to in his arguments) appears to be incomplete.

Furthermore, we have observed that Page 5 is missing from the Record of Appeal made available to us.

The index of documents on the Record of Appeal, itemised the Contents of the Record of Appeal, serially numbered 1 – 11.

Serial No. 3, is for a Court Order dated 11th February, 2019 (which is to be on page 5 of the record). But, as stated earlier, page 5 is missing from the Record of Appeal.

Indeed, in the case of ***ATOSHI & ORS V AGBU & ORS (supra)*** cited by Appellants' Counsel, the Court of Appeal held that an Appeal Court faced with such a situation, has three options namely:-

(a). The Court can hear the appeal on such incomplete records or documents presented before it, provided the parties give their express consent, which consent must be clearly recorded by the court and this will constitute a successful defence of waiver against a future resilation by any of the consenting parties.

(b). The Court can hear the appeal on such incomplete records where the missing part of the record is, in its view, not material.

(c). In the alternative, the Court can refuse to hear the appeal and take the last resort and order the remittance of the case to the Lower Court to hear it "de novo".

In this case, option (a) above is not applicable, since parties did not consent to hearing of the Appeal on incomplete records of Appeal.
This is clearly evident, from this Preliminary Objection filed by the Respondent.

On option (b) above, we wish to refer to the case of ***OWANTA V I.N.E.C (2020) 4 NWLR (Pt.1713) Page 72, PARAS F –G the Court per ADEKEYE, JSC*** held that:-

> ***"A record of appeal is made up of the proceedings and relevant documents tendered during the proceedings at the Lower Court. It is therefore wrong for an appellate Court to base its decision in a case on incomplete record transmitted to it without the vital documents and without having the privilege of seeing the documents. Where an Appellate Court makes pronouncement affecting the rights of the parties without the help of material documentary evidence, such decision would occasion a miscarriage of justice."***

Moreso, on duty of Counsel to ensure Record of Appeal is complete, the Supreme Court in the case of ***MICHAEL V B.O.N (2015) 12 NWLR (Pt.1473) p. 409, Paras E-H, per Akaahs, JSC*** held that:-

> ***"It is the Counsel's duty to ensure that the record of appeal is a complete record. A party cannot complain of incomplete record since he had an opportunity during settlement of record to have the document included in the record. Counsel ought to devote personal attention to what should be embodied in the record of the Court, otherwise it may lead to putting judgment record before the appellate Court and consequently delay the hearing of the appeal."***

In the instant case, by the Notice of Preliminary Objection, the attention of Appellants' Counsel was drawn to the incompleteness of the record of appeal. Rather than do the needful by simply applying to the Court to file a supplementary record of appeal, Counsel decided to join issues with the Respondent in proceeding to respond to the Preliminary Objection by filing a reply on points of law.

Therefore, on effect of incomplete record of appeal on hearing of Appeal, the Court in ***MICHAEL V B.O.N (supra)*** held that:

> ***"A Court is not obliged to grant a hearing to a party where the record is incomplete and the party's attention is drawn to it and in spite of this, the party insists on proceeding with his case without remedying the situation."***

On the materiality or otherwise of missing parts of records of appeal, His Lordship NIKI TOBI, JSC (of blessed memory), in the case of ***OKACHI V ANIMKWOI (2003) 18 NWLR (Pt.851) Page 1, held that an appeal can be heard when the records are incomplete if the missing part, in view of the opinion of the Court, is so immaterial that it cannot affect the decision of the appeal one way or the other.***

In the instant case, although portions of the Reliefs sought before the trial Court are clearly missing from the record of Appeal, we have averted our minds to the said other parts of the records wherein the said reliefs are clearly captured in the final Written Addresses of parties as well as in the judgment of the Court.

Please see pages 12 – 13, 22 – 23 (containing the Reliefs) of the record of Appeal. As well as pages 94 -95 of the record of appeal. Although on the index of documents, the Court order dated 11th February, 2019 was intemised to be on page 5, and there's no page 5 on the said record of appeal, we have observed that page 6 of the record contains the Court Order dated 11th day of February, 2019.

It is therefore, our humble view that there is no missing part of the record that is so material as to prevent us from hearing this Appeal on this 2nd ground of the Preliminary Objection.

Besides, where Counsel on the opposing side in this case the Respondent disputes the incompleteness of Records of Appeal, he ought to take appropriate steps in that regard.

We rely on the case of ***AKPAN V F.B.N PLC (2018) 10 NWLR Part 1628, PP. 589 – 590, Paras G – E, 891 Para D (CA),*** where the Court held as follows:-

> ***"The Appellate Court has a duty to ensure the records are complete as settled by the parties where a Respondent disputes the genuineness or authenticity of the record of appeal or of portions thereof, he is duty bound to depose to an affidavit to challenge the said record, which will be served on the Judge or Registrar of the Lower Court and on the other party."***

In this case, there's no such affidavit before us. Thus, it is deemed that whatever is missing in the record is one that is so immaterial that it will not affect the hearing of the appeal.

Therefore, having opted to go with option (b) above, we are of the firm view that this Court has the requisite jurisdiction to hear this appeal. We so hold.

Consequently, the argument on this 2nd leg of the Preliminary Objection is hereby overruled and dismissed.

This brings us to the 3rd and last leg of the Preliminary Objection.

Learned Respondent's Counsel's argument is premised on ground 1 as embodied on the Notice and Grounds of Appeal herein.

Learned Counsel submitted that this ground even though masqueraded as a ground of jurisdiction is nonetheless incompetent on the ground that the said ground of appeal as well as issue 1 formulated therefrom is incompetent same having not emanated from the Judgment of the trial Court appealed against by the Appellants.

Submitted, that a ground of appeal which does not emanate from the Judgment appealed against is an incompetent ground and so is the issue arising from such a ground of appeal. That in the instant case, issue one,

which is derived from ground 2 of the Notice and Grounds of Appeal did not emanate from the decision of the Judgment appealed against by the Appellants.

Counsel cited the case of ***F.B.N V MED CLINICS (1999) 9 NWLR (Pt.471) 195 (CA)*** in support of his submissions on the issue. Submitted further that contrary to issue one which is nominated from ground two of the Notice and Grounds of Appeal, there is nowhere in the entire gamut of the trial Court's Judgment where the Court fixed the cumulative judgment of the trial Court to an amount above N6, 000, 000 (Six Million Naira) as decided by it.

Counsel further argued that, it is the law that a ground of appeal must be couched in such a way to attack the Judgment or decision of a Court on the issue decided by it and not otherwise by importing or imputing into the judgment that which was never contained therein.

Counsel relied on the cases of ***FULBOD INVESTMENT LTD V ALPHA MERCHANT (1996) 10 NWLR (Pt.478) 344 @ 351 (CA; ETIOMOMO V APINA (2019)15 NWLR (Pt.1696) Pg. 557 @ 583, Paras F – G.***

The Court is urged to uphold the Preliminary Objection on this ground and to dismiss the appeal with cost.

Meanwhile, learned Appellants' Counsel while responding to this issue in their reply on points of law, while relying on cases cited on record, submitted where an Appellant complains that a Judgment is against the weight of evidence, he is simply implying that there were certain pieces of evidence on the record which, if applied would have changed the decision in his favour or that there are certain pieces of evidence that had been wrongly applied against him.

That in civil cases, the Appellate Court will analyse the entire record of appeal before arriving at its decision.

With respect to Ground 5 of the Grounds of Objection (having regards to ground 2 of the Notice and Grounds of Appeal), Counsel submitted that a Court without jurisdiction lacks the powers to adjudicate upon a matter brought before it.

Counsel relied on the case of ***GABRIEL MADUKOLU V JOHNSON NKEMDILIM F.S.C 344/1960, per LORD VAHE BAIRAMIAN, F-J.***

On the whole, learned Counsel urged the Court to discountenance the Preliminary Objection and to dismiss same.

First of all, it is imperative to note at the onset that the Appellants are complaining about the whole decision of the trial Court.

Therefore ground one is stating that the Judgment itself is against the weight of evidence. While ground two is that the judgment of the Honourable trial Court was delivered without jurisdiction.

On the other hand, it was argued for the Appellants in their reply on points of law that when an Appellant complains that a judgment is against the weight of evidence all he means is that when the evidence adduced by him is balanced against that adduced by the Respondent, the judgment given in favour of the Respondent is against the weight which should have been given to the totality of the evidence before the Court.

On the implication or effect of an omnibus ground of appeal, Counsel relied on the Supreme Court decision in ***ANYAOKE V ADI (1986) 3 NWLR (Pt.31) 731.***

Indeed, an omnibus ground of appeal postulates that there was no evidence which if accepted would support the finding of the learned trial Judge of the inference which he made. See: ***SPARKLING BREWERIES V UBN (2001) 89 LRCN 2564 at 2579.***

Moreso, the issue of jurisdiction (which is ground 2) as contained in the Notice of Appeal is so sacrosanct in determining any proceedings that it can be raised on appeal, and even for the very first time at the Supreme Court.

OLOBA V AKEREJA (1988) 3 NWLR (PART 84) 508 @ 530, PARAS C – E per OBASEKI JSC.

See: ***AWUSE V ODILI (2003) 18 NWLR (Pt.851) 151, PARAS H, 173 A – B (SC),*** where it was held thus:

"Matters of jurisdiction can be raised at any time even at the last stage in Supreme Court. Jurisdiction being a threshold issue, can be taken at any time even on appeal and in the Supreme Court before judgment. It could be raised immediately before judgment and if so raised, the Court must stop delivering the judgment until the issue of jurisdiction is cleared. Again jurisdiction is one issue the Court can raise suo motu, although it cannot resolve it suo motu."

Therefore, having carefully looked at the Notice of Appeal and the grounds set out vis-a-vis the records made available to the Court. It is our considered view that the grounds clearly emanate from the decision complained of by the Appellants, which is premised on the whole decision as well as on the jurisdiction of the Lower Court. The grounds are therefore not incompetent.

In view of this, learned Counsel's submission on this issue is hereby discountenanced. We resolve the sole issue against the Respondent and in favour of the Appellants. Consequently, this 3rd and final leg of the Preliminary Objection is equally overruled and dismissed.

We shall now proceed to consider the merits or otherwise of this appeal. In doing so, we shall adopt the two issues formulated by Mr. M.S. Agaku Esq Appellants' Counsel in their brief of arguments to wit:

1. Whether the Honourable Senior District Court (The trial Court) had the requisite jurisdiction to entertain the subject matter of the suit as instituted at the trial Court and whether the Judgment of the trial Court did not exceed the monetary jurisdiction of the Court as provided by law. (Distilled from Ground 2 of the Notice of Appeal).

2. Whether the Judgment of the trial Court was against the weight of evidence (distilled from Ground 1 of the Notice of Appeal).

ON ISSUE 1

Learned Appellants' Counsel submitted on issue one, that the District Court Act of the FCT provides for the jurisdiction of the District Courts. That the District Court Act, Cap 495 Laws of the FCT, 2007 governs the jurisdiction of the District Court in the FCT. And that Section 5 of the Act provides that

the District Court shall have jurisdiction as is conferred on it by the Act of the National Assembly or any other written law. Reference was equally made to Section 2(b) of the Act.

Further argued, that by virtue of the provisions of the (District Courts increase in jurisdiction of District Judges) Order, 2014 issued under the Hand of the Honourable Minister of the FCT, which sets out the enhanced jurisdiction of the District Courts in the FCT. That jurisdiction of the Senior District Judge 1 is TWO MILLION NAIRA only, while that of a Senior District Judge II is ONE MILLION NAIRA only. Reference was made to the provisions of Orders 2 and 4.

That conversely, the monetary jurisdiction in cases of Landlord and Tenant suits is same as above. That in this case the maximum jurisdiction of the trial Judge in both monetary and cases of rental value of the subject matter is ONE MILLION NAIRA.

Learned Counsel further argued that in this Appeal, the cumulative Judgment of the trial Court amounts to above Six Million Naira (N6, 000, 000.00) which is more than the Five Million Naira jurisdiction of the Senior District Courts II within the FCT, as at the time of the delivery of the Judgment of the trial Court. Submitted that the learned trial Court therefore, delivered judgment above the monetary jurisdiction of a Senior District Court II and even uproariously, above that of the Chief District Court within the Federal Capital Territory.

On substantive jurisdiction of a Court, Counsel relied on several authorities cited on record including ***OYEWUNMI V ADESINA & ORS (2022) LPELR-57237 (CA); MUSA V UMAR (2020) 11 NWLR (Pt.1735); MAILANTARKI V TONGU (2018) 6 NWLR (Pt.1614) 69.***

On the importance of jurisdiction in adjudication, Counsel referred the Court to ***EGUAMWENSE V AMAGHIZEMWEN (1993) LPELR -1049 (SC); MADUKOLUM V NKEMDILIM (1962) A. N. L. R. (Part 2) 586 @ 589-590; FRN V NWOSU (2016) 17 NWLR (Part 1541) 226 @ 272, C – F.***

Making reference to pages 100 to 103 of the record of Appeal, on the holding of the Court, learned Counsel submitted that at the time the tenancy ended till judgment was given on the 15th day of December, 2020 is 36 months. That the monetary judgment, multiplied by 36 months gives

a total above N6, 000, 000.00 (SIX MILLION NAIRA) which according to Counsel is way above the jurisdiction of the Senior District Court of the Federal Capital Territory.

Learned Counsel further argued that the Counter Claim of the Appellants before the trial Court as seen in pages 7 – 11 of the record of Appeal was N7, 000, 000.00, which is also above the jurisdiction of the Court.

Further argued that the Court went further to make monetary judgment against the Defendants in favour of the Plaintiff, despite the fact that the Plaintiffs never sought monetary reliefs. Submitted moreso that it is the F.C.T. High Court that has the jurisdiction with respect to claims and resulting judgments above the sum of Five Million Naira (N5, 000, 000.00), as such, the trial Court lacked the jurisdiction to entertain the suit or even give a judgment above its monetary jurisdiction. Hence, Counsel argued that the whole proceedings at the trial Court amounts to a nullity and urged the Court to so hold.

Submitted further, that the rental value of the property, the subject matter of this litigation as stated in the Deed of Lease (seen at pages 36 to 40 of the Record, particularly page 37) is Two Million Naira per Annum, which is above the jurisdiction of the trial Court in cases of Landlord and Tenant and urged the Court to resolve issue one in favour of the Appellants in the interest of justice and of law.

In his response on issue one, learned Respondent's Counsel mostly dealt with arguments which tilted more towards the Preliminary Objection, and the merits or otherwise of the evidence adduced before the trial Court. However, learned Counsel submitted at paragraphs 5:9 – 5:11 of the Respondent's brief, that it is the Plaintiff's claim as endorsed or borne out in the plaint (pleadings) at the trial Court that determines the Court's jurisdiction and not otherwise. That not even the Defendants (now Appellants') Counter Claim at the trial Court that determines the Court's jurisdiction. Counsel relied on several authorities cited on record including ***TUKUR V GOVERNMENT OF GONGOLA STATE (1989) 4 NWLR (Pt.549) Para B.***

Further submitted, that it is also common place that it is the reliefs sought by a party in an originating or initiation process that determines the Court's jurisdiction.

Counsel relied on the case of ***OKOROCHA V P.D.P (2014) 7 NWLR (Pt.1406) Pg. 213 @ 221.***

Now, from the records available to us in this Appeal, the Plaintiff (now Respondent) commenced an action before the District Court of the Federal Capital Territory by way of plaint on the 20th day of December, 2018 claiming the following:-

"a. A declaration that the Defendant's continuous occupation of the Plaintiff's property is illegal and unlawful: the tenancy having been determined by effluxion of time; the Defendant's breach of his covenant to pay rent and by the service of statutory notice.

b. An Order of this Honourable Court compelling the Defendant, her agents and legal representatives to IMMEDIATELY give up the vacant possession of Park No. 1884B' A01, Area 8, NBHD Park, Garki District, Abuja.

c. An Order of this Honourable Court compelling the Defendant to pay mesne profit accruing on the property at the rate of N166, 666.66 (One Hundred and Sixty Six Thousand, Six Hundred and Sixty Six Naira Sixty Six Kobo) per month from 19th September, 2017 till when the Defendant gives up vacant possession of the property.

d. The sum of N500, 000.00 (Five Hundred Thousand Naira) only, as the cost of this suit.

e. And any other Order(s) this Honourable Court may deem fit to make in the circumstance of this case."

The Defendants also Counter claimed against the Plaintiff as follows:

"a. A declaration that the Defendants/Counter Claimants lease/tenancy on the property known as Park No. 1884B, A01, Area 8, NBHD Park, Garki District, Abuja is still subsisting till July 2019.

b. ***A declaration that the Plaintiff's Notice of Owner's Intention to Recover Possession of the Park No. 1884B, A01, Area 8, NBHD Park, Garki District, Abuja is premature and therefore unlawful and illegal.***

c. ***A declaration that the Plaintiff's act of subleasing the part of the property lease to the Defendants/Counter Claimants amounted to breach of the leased agreement and a trespass.***

d. ***An Order of Court directing the Plaintiff to pay the Defendant/Counter Claimants the sum of N7, 300, 000.00 as monies expended in improving the garden park or in the alternative allow the Defendant/Counter Claimant to continue to occupy the lease property until the cost for the improvement is recovered.***

e. ***An Order of this Honourable Court directing the Plaintiff to abate the nuisance on the leased property forthwith till the expiration of the current lease/tenancy.***

f. ***An Order of this Honourable Court directing the cost of this suit fixed at the rate of N100, 000.00 (One Hundred thousand Naira) only."***

From the facts as glimpsed in the record of Appeal, the Appellants (Defendants at the trial Court, were yearly tenants of the Plaintiff's property now Respondent) property, i.e Park No. 1884 B, A01, Area 8 NBHD Park, situate at Garki District, Abuja.

The Plaintiff (Respondent) averred that the rent reserved on the property for the said tenancy was the sum of N2, 000, 000.00 (Two Million) per annum. But that the Defendants (Appellants) last paid the sum of N2, 000, 000.00 (Two Million Naira) rent on the property for the period from 25th June, 2017 to 24th June, 2018. That the Defendants have not paid the annual rent reserved on the property for the period covering from 25th June, 2018 to 24th June, 2019.

The necessary notices were served on the Defendants (Appellants) through Plaintiff's (Respondent) Solicitors. That when the Defendants

(Appellants) refused to abide by the terms of the Tenancy Agreement nor renew their tenancy, they were advised by Plaintiff (Respondent) Solicitors via a letter, to yield possession of the premises to the Plaintiff.

But, that Defendants continued to occupy the premises. Hence, the institution of the suit by the Respondent as Plaintiff before the Lower Court.

At the end of the trial, the learned District Judge, in a considered judgment, found in favour of the Plaintiffs and equally dismissed the Defendants' Counter Claim. (See pages 101 – 102 of the record of appeal).

The trial Court held at page 102 as follows:

> ***"1. The Defendants shall forthwith quit and deliver up immediate vacant possession of that premises known as Park No. 1884B, A01, Area 8 NBHD Park, Garki District, Abuja to the Plaintiff.***
>
> ***2. The Defendants shall pay to the Plaintiff the sum of N166, 666.66 (One Hundred and Sixty Six Thousand, Six Hundred and Sixty Six Naira Sixty Six Kobo) as unpaid rent per month from 1st August, 2018 till vacant possession is given to the Plaintiff.***
>
> ***3. N100, 000.00 (One Hundred Thousand Naira) is hereby awarded to the Plaintiff and against the Defendant as cost of this suit."***

As stated earlier the Appellants have raised the issue of jurisdiction in this appeal, as seen in the first issue formulated for our determination.

Appellants contend that the trial Court had exceeded its jurisdiction both on subject matter and monetary jurisdiction on what is awarded in favour of the Respondent.

Jurisdiction no doubt, is the life wire of any judicial adjudication.

It is a threshold issue. Thus, in order for any Court to adjudicate on a matter, it must have the requisite jurisdiction.

See: ***MADUKOLUM V NKEMDILIM (1962) ALL NRL.***

Now, as at the time the trial Court delivered its judgment in respect of the suit, which was on the 15th day of December, 2020, the applicable law in relation to jurisdiction of the District Courts of the Federal Capital Territory, is Federal Capital Territory (FCT) District Courts (increase in jurisdiction of District Judges) Order, 2014.

Section 2(a) and (b) of the Act provides thus:-

"(2a). ***In all personal suits, whether arising from contract or from tort, or from both where the debt or damage claimed, whether as balance claimed or otherwise; is not more than Five Million Naira (N5, 000, 000.00) in the case of Chief District Judge 1; Four Million Naira (N4, 000, 000.00) in the case of Chief District Judge II; Three Million Naira (N3, 000, 000.00) in the case of Senior District Judge 1; Two Million Naira (N2, 000, 000.00) in the case of Senior District Judge II; and One Million Naira (N1, 000, 000.00) in the case of a District Judge 1.***

(2b). ***In all suits between Landlord and Tenant for possession of any land or house claimed under agreement or refuse to be delivered up, where the annual value of rent does not exceed Five Million Naira (N5, 000, 000.00) in the case of Chief District Judge 1; Four Million Naira (N4, 000, 000.00) in the case of Chief District Judge II; Three Million Naira (N3, 000, 000.00) in the case of Senior District Judge 1; Two Million Naira (N2, 000, 000.00) in the case of Senior District Judge II; and One Million Naira (N1, 000, 000.00)."***

In this case, at the time of delivery of the judgment by the trial Court, the learned presiding District Judge was a Senior District Judge II (as seen on page 103 of the record of Appeal. Indeed having carefully considered the reliefs sought by the Plaintiff (Respondent), there's no doubt that recovery of premises and arears of rent was within the jurisdiction of the trial Court.

However, in terms of the monetary relief sought particularly Relief (C) which was to cover the period between 1st August, 2018 until Defendant gives up possession from the record the Defendants did not yield possession up till the time of judgment and when the trial Court gave its judgment i.e on the 15th day of December, 2020, in favour of the Plaintiff (Respondent). Therefore, the monetary award, no doubt exceeded what the trial Court could award at the time, which is N2, 000, 000.00 (Two Million Naira).

Moreso, the Counter Claim of the Defendants which claim was for the sum of N7, 300, 000.00, was also clearly not within the jurisdiction of the Senior District Judge II. And as learned Counsel for the Appellants rightly argued in the Appellants' brief, the amount stated in the Counter Claim is way beyond even the jurisdiction of the Chief District Judge 1, which is N5, 000, 000.00 (Five Million Naira).

Section 5, of the District Court Act Cap 495, Laws of the F.C.T 2007, governs the jurisdiction of the District Courts in the F.C.T.

Indeed, Section 5(2) further states that:

> ***"No District Court shall exercise a jurisdiction and power in excess of those conferred upon him by his appointment."***

Therefore, in view of the foregoing, it is our considered view, that the trial Court ought not to have tried the matter (in view of the reliefs sought) as well as the Counter Claim. Likewise, from the evidence on record, the annual rental value of the property is N2, 000, 000.00. Therefore, in granting relief (c) and the monetary sum awarded in favour of the Plaintiff (Respondent), the trial Court clearly exceeded its jurisdiction.

On the effect of a Court exceeding its jurisdiction, the Supreme Court, in the case of ***OLOBA V AKEREJA (1988) 3 NWLR (Part 84) 508 @ 520, Paras C –E, per OBASEKI JSC,*** held thus:-

> ***"The issue of jurisdiction is very fundamental as it goes to the competence of the Court or tribunal. If a Court or tribunal is not competent to entertain a matter or claim or suit, it is a waste of valuable time for the Court to embark on the hearing and***

determination of the suit, matter or claim. It is therefore, an exhibition of wisdom to have the issue of jurisdiction or competence determined before embarking on the hearing and determination of the substantive matter. The issue of jurisdiction being a fundamental issue can be raised at any stage of the proceedings in the Court of first instance or in the appeal Courts."

It is therefore imperative that a Court is clothed with the requisite jurisdiction to entertain a suit before it delves into the determination of the suit, because once it is shown by a party that a Court of law either before or after a proceedings, lacks the jurisdiction to entertain or adjudicate on a matter such as in this case, the whole proceeding no matter how brilliantly conducted will be null, and void and of no effect whatsoever.

In ***EFFION V STATE (1995) LPELR-1026 (SC) P. 39, PARAS D – F, per Onu JSC,*** the Court held thus:-

"It is trite that any decision reached without jurisdiction or in excess of jurisdiction would be abortive, null and void."

See: ***A.G OF IMO STATE V A.G. RIVERS STATE & ORS (2021) LPELR-P.29, Paras A – C, per Adah J.C.A.***

Therefore, flowing from the above, it is evident in this case that the entire proceedings of the Lower court, is null, and void and of no effect.

Consequently, we resolve issue 1 in favour of the Appellants.

ON ISSUE 2

Having found that the entire proceedings leading up to this appeal was a nullity, to proceed in treating issue 2 formulated by Appellants in this Appeal, would no doubt amount to an exercise in futility.

On the whole, we find this Appeal to be meritorious and we hereby allow it.

The Judgment of the trial Court i.e Senior District Court II, Coram Musa I. Jobbo delivered on the 15th day of December, 2020 is hereby set aside.

We have taken judicial notice of the Federal Capital Territory, District Courts (increase in jurisdiction of District Court Judges Order, 2021, made pursuant to the provisions of Section 17 of the District Courts Ac (CAP 495) Laws of the Federation of Nigeria (Abuja) 1990 and Section 18 paragraph (b) of the Federal Capital Territory Act (CAP 503) Laws of the Federation of Nigeria 2006, where jurisdiction of District Court Judges was increased to N7, 000, 000.00 (for Chief District Judge 1) and lesser amounts triable by respective District Judge.

We therefore Order that the matter be remitted to the Chief District Judge 1 for re-assignment to the appropriate District Judge for trial De-novo.

No order as to cost.

Hon. Justice C. N. Oji
Presiding Hon. Judge
13/2/2024

Hon. Justice S. U. Bature
Hon. Judge
13/2/2024