IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE APPELLATE DIVISION
HOLDEN AT ABUJA

FRIDAY, MAY 17, 2019

BEFORE THEIR LORDSHIPS:

HON. JUSTICE PETER OYIN AFFEN - PRESIDING JUDGE
HON. JUSTICE ASMAU AKANBI-YUSUF - JUDGE

APPEAL NO: FCT/CVA/26/2019

BETWEEN:

ETHA VENTURES LIMITED ... ... APPELLANT

AND

DAILY SHOW GLOBAL ENTERPRISES NIG. LIMITED ... RESPONDENT

J U D G M E N T

THIS IS an appeal against the Ruling of the Chief District Court No. 14 holden at Wuse Zone 2 (Coram: *His Worship, Hauwa S. Aliyu*) delivered on 31/1/19 in Suit No. CV/17/2018 between the Respondent herein [as Plaintiff] and the Appellant [as Defendant]. The Appellant was a tenant of the Respondent at Rochas Plaza, No. 9 Conakry Street, Zone 3, Wuse, Abuja between 1st March 2014 and 31st July 2017. The Respondent alleged that the Appellant vacated the demised premises without paying the rents that had accumulated over the years, whereupon it took out a Civil Summons dated 5/10/18 against the Appellant in the District Court [hereinafter "the Lower Court"] claiming the following reliefs:

1. A declaration by this Honourable Court [that] the Defendant owes the Plaintiff arrears of rent for the shop measuring 92.89m^2 located at Rochas Plaza, No. 9 Conakry Street, Zone 3, Wuse, Abuja occupied by the Defendant from the 1st day of March 2014 to the 31st day of July 2017 when the Defendant vacated the said shop/premises.

2. An order of this Honourable Court mandating the Defendant to immediately pay the Plaintiff the total sum of Two Million Two Hundred Thousand Naira (₦2,200,000.00) being the Defendant's balance of arrears from the year (sic) 1st day of March 2014 to the 28th day of February 2015 at the rate of Two Million Five Hundred Thousand Naira (₦2,500,000.00) per annum, the Three Hundred Thousand Naira (₦300,000.00) paid by the Defendant on the 28th day of June, 2016 having been deducted.

3. An order of this Honourable Court mandating the Defendant to immediately pay the Plaintiff the total sum of Two Million Five Hundred Thousand Naira (₦2,500,000.00) being the Defendant's balance of arrears from the year (sic) 1st day of March 2015 to the 28th day of February 2016.

4. An order of this Honourable Court mandating the Defendant to immediately pay the Plaintiff the total sum of Two Million Five Hundred Thousand Naira (₦2,500,000.00) being the Defendant's balance of arrears from the year (sic) 1st day of March 2016 to the 28th day of February 2017.

5. An order of this Honourable Court mandating the Defendant to immediately pay the Plaintiff the total sum of Two Million Five Hundred Thousand Naira (₦2,500,000.00) being the Defendant's balance of arrears from the year (sic) 1st day of March 2017 to the 31st day of July 2017 when the Defendant vacated the shop/premises of the Plaintiff.

6. The costs of this suit.

The Appellant could not see its way clear that the Lower Court was invested with requisite jurisdiction to entertain and determine the matter as constituted, and filed a notice of preliminary objection dated 27/12/18 praying that the "action be struck out for lack of jurisdiction" on the following grounds:

1. That the debt of which (sic) the Plaintiff is invoking the jurisdiction of the court to recover is far beyond the monetary jurisdiction of this Honourable Court as enshrined in the District Court (Increase in Jurisdiction of District Judges) Order 2014;

2. That the claim of the Plaintiff is not within the purview of the Recovery of Premises Act, hence the Act is not applicable in the case before my worship (sic) and as such Order 2 para b of the District Court (Increase in Jurisdiction of District Judges) ORDER 2014 cannot be invoked in this case by the Plaintiff.

The preliminary objection did not find favour with the Lower Court which dismissed it in a considered Ruling [at pp. 12 -14 of the Records] and held firmly thus:

> "The very foundation upon which the claimants are before this court is that the defendant had possession of the property for more than 3 years without paying as at (sic) when due and when served with quit notice, and the defendant vacated without paying his (sic) liabilities, unpaid rent is rent that is/was not paid when due, it therefore becomes rent arrears. Now this rent arrears emanated from landlord/tenant relationship that existed between the two parties in court.
>
> The fact that the matter before the court is for arrears of rent and not for possession can never rob this court with (sic) its requisite jurisdiction as enshrined in the Increase Order 2014.
>
> The wordings of Order 2(b) need no adumbration. It says "where the annual rental value of the property".
>
> The counsel with due respect his resulting (sic) to technicality and technicality has no place in courts of our land, what is obtainable in the courts of our land is the doing of substantial justice, this is based on the principle of that where there is a right there is a remedy.
>
> Finally on this application, the claim of the plaintiff alone is the document that determines whether or not a court has jurisdiction over a matter. See: AKPANBO OKADIGBO vs. CHIDI & ORS 2015 LPELR-2456 SC

And the claim of the plaintiff is for rent arrears of a sum not above the monetary jurisdiction of the court, I hereby dismiss their (sic) application with a cost N10,000 for bringing this frivolous application in the presence of increase Order 2014. I rely on SECTION 61 OF DISTRICT COURT LAW."

It is against the said Ruling that the Appellant has now appealed to this court, raising two (2) grounds of appeal as contained in paragraph 3 of the Notice of Appeal dated 11/12/19 [at pp. 22 – 23 of the Records] as follows:

"Ground 1

(ERROR IN LAW)

The learned trail (sic) Chief District Judge erred in law when he assumes (sic) jurisdiction when the District Courts (Increase in Jurisdiction of District Judges) Order 2014 did not confer same on the court.

Particulars of Error

1. The claim is for recovery of debt that arose out of a contract.
2. The debt arose out of a contract between Plaintiff and Defendant.
3. The Defendant is not the tenant to the Plaintiff during the filing of the substantive suit and as such, the action was not a tenancy matter.
4. Neither were the required statutory notices for recovery position before the court.

GROUND 2

(ERROR IN LAW)

The learned trial Judge erred in law by awarding costs against the Defendant for canvassing his understanding of the provision of law.

1. District Courts (Increase in Jurisdiction of District Judges) Order 2014 is the law regulating the monetary jurisdiction of Chief District Court in FCT Abuja.
2. The defendant was penalised for constructing the provisions of a statute/Order differently from the court.
3. The application is not frivolous and the defendant is still desirous to further canvass his position."

At the hearing of the appeal on 7/5/19, the briefs of arguments filed and duly exchanged by the parties were adopted by their respective counsel. The following two (2) issues for determination are distilled in the Appellant's Brief dated and filed on 15/4/19 [which is settled by *E. C. Ugwuodo, Esq.*]:

1. Whether the Honourable Trail (sic) court was not in error when he dismissed the appellants preliminary objection and assumed jurisdiction in the matter with monetary claim far above the provisions of District Courts (Increase in Jurisdiction of District Judges) Order 2014
2. Whether honourable trial court was not in error when it awarded cost of N10,000.00 (Ten Thousand Naira) only against the appellant on the basis that the Appellant's Preliminary Objection was frivolous.

Two (2) issues are equally formulated in the Respondent's Brief dated and filed on 26/4/19 [which is settled by *Mrs Kelechi V. Uzoanya*] as follows:

1. Whether the trial court has jurisdiction to entertain this suit in the circumstance of the case and was right when it dismissed the Appellant's Preliminary Objection.
2. Whether the trial court has the powers to award cost of Ten Thousand Naira (₦10,000.00) only against the Appellant, having dismissed the Appellant's Preliminary Objection.

What can be gleaned from the foregoing is that save for slight variations in phraseology, the issues distilled for determination by the parties are essentially the same. But whereas the Appellant's first issue appears overly conclusory and takes for granted that a determination has already been made that the monetary claim before the lower court far exceeded the provisions of District Courts (Increase in Jurisdiction of District Judges) Order 2014, the Respondent's first issue seems to me more succinct. As it relates to the second issue for determination distilled from the Appellant's Ground Two, it does not seem to us that the said ground of appeal is founded on

any finding or pronouncement made by the Lower Court in the Ruling appealed against. The Lower Court did not say anywhere that it was awarding costs against the Defendant "for canvassing his understanding of the provision of law". The law is well-settled that in order for a ground of appeal and/or issue for determination distilled therefrom to be valid, it must be founded on or derived from a valid complaint touching on the ratio decidendi of the decision appealed against. It certainly will be unfair or unjust to accuse the trial court that it erred in law or misdirected itself when the issue the learned judge is accused of did not form part of his decision. See ***NZE v ARIBE (2016) LPELR-40617(CA); ANOZIA v NNANI & ANOR (2015) LPELR -24277 (CA); (2015) 8 NWLR (PT. 1461) 241 OBOSI v NIPOST (2013) 21397 CA; UNILORIN v OLAWEPO (2012) 52 WRN 42; ALATAHA v ASIN (1999) 5 NWLR (PT. 601) 32; PUNCH NIG. LTD v JUMSUN NIG. LTD (2011) 12 NWLR (PT. 1260) 162. OSSAI v FRN (2013) WRN 87; SHETTIMA v GONI (2012) 18 NWLR (PT. 1297) 413.*** The allegation that costs were awarded against the Defendant for canvassing his understanding of the law is clearly a figment of the Defendant's imagination not derived from the Ruling appealed against. Ground Two is clearly extraneous to the Lower Court's Ruling and it will be and is accordingly struck out for being incompetent.

Now, the central issue thrust up in this appeal, which falls within a narrow compass, has to do with whether the trial court has the requisite jurisdiction to entertain the suit as constituted and was right in dismissing the preliminary objection. What this court has been invited to do is to construe the provisions of the *District Courts (Increase in Jurisdiction of District Judges) Order 2014* which sets out the monetary jurisdiction of the different grades of District Courts in the Federal Capital Territory with a view to ascertaining

whether the Respondent's claim before the lower court fell within or without its monetary jurisdiction.

The Appellant contends that the Lower Court fell into error to have assumed jurisdiction to entertain the Respondent's claim for the recovery of a total sum of ₦8,241,665.00 as arrears of rent allegedly owed by the Appellant before it vacated the demised premises on 31/7/17, when the said sum is in excess of the courts' monetary jurisdiction as stipulated in the *District Courts (Increase in Jurisdiction of District Judges) Order 2014*. The Appellant maintained that Respondent's claim is not a suit 'between landlord and tenant for possession of house or land' under Order 2 (b), but one for recovery of arrears of rent simpliciter under Order 2(a) and/or Order 4 which limits the monetary jurisdiction of a Senior District Judge to claims not exceeding N3m; as such, the Lower Court was in error when it assumed jurisdiction to entertain the suit based on the annual rental value of the property under Order 2(b), insisting that the jurisdiction of courts are circumscribed by statute and a court cannot confer jurisdiction on itself by misconstruing relevant statutes. Placing reliance on the cases of ***AJADI v AJIBOLA [2004] 16 NWLR (PT. 898) 105, OFONEME ENUKORA v FEDERAL REPUBLIC OF NIGERIA [2018] 6 NWLR (PT. 1615) 355 at 364, OKOLO v UBN [2004] 3 NWLR (PT. 859) 87*** and ***COTECNA INTERNATIONAL v MERCHANT BANK LTD [2006] 9 NWLR (PT. 985) 275 at 297***, the Appellant urged us to allow the appeal and strike out the matter for want of jurisdiction.

On its part, the Respondent submits that it is not in dispute that the case at the trial court was between a landlord and tenant for arrears for the period the tenant was in possession as agreed by the parties but failed to pay rent, and the mere fact that Appellant [qua tenant] has vacated the

premises does not remove the cause of action from the realm of landlord and tenant, the cause of action arose from the Appellant's possession of the Respondent's shop as tenant without paying rent due to its landlord. The Respondent maintains that judging by the wordings of Order 2 (b) of the *District Courts (Increase in Jurisdiction of District Judges) Order 2014,* what determines the court's jurisdiction once a case has to do with a landlord and tenant relationship is the annual rental value of the property; and the fact that the matter before the court is for arrears of rent only and not for possession cannot rob the lower court of its jurisdiction as enshrined in Order 2 (b). Citing the case of ***JOYLAND LIMITED v WEMABOD ESTATES [2008] ALL FWLR (PT. 435) 1711*** – *per Muntaka-Coommasie JSC* and insisting that the annual rental value of the premises is ₦2.5m whereas the monetary jurisdiction of the Lower Court (being a Senior District Court) is ₦3m, the Respondent urged us to uphold the Lower Court's decision dismissing the Appellant's objection and affirming its jurisdiction to entertain the claim.

Now, the pre-eminent status or stature of jurisdiction in the scheme of legal proceedings is well ingrained in our jurisprudence. It is therefore merely restating the obvious that jurisdiction is the first test in the legal authority of a court or tribunal and its absence disqualifies the court or tribunal from determining the substantive issues submitted to it for adjudication. This is so because jurisdiction is the very lifeline of judicial power [and judicialism] without which the entire proceedings constitute a nullity however brilliantly they may otherwise have been conducted. Indeed, jurisdiction is everything: without it a court has no power to take one step in the proceedings beyond merely declaring that it lacks jurisdiction; there would be no basis for the continuation of proceedings pending and the court downs its tools in respect of the matter before it the moment it holds the opinion that it is bereft of jurisdiction. Jurisdiction is a radical and crucial question of competence and

any defect in the competence of the court is fatal and snuffs out the life of adjudication from the court; such defect is extrinsic to the adjudication on the merit and the proceedings however well conducted and decided they otherwise may be a nullity. See ***MADUKOLU v NKEMDILIM (1962) 1 ALL NLR 587 at 595; ROSSEK v ACB LIMITED [1993] 8 NWLR (PT. 312) 382 at 437 C-G; 487 G-B; MATARI v DANGALADIMA [1993] 3 NWLR (PT. 281) 266; OLOBA v AKEREJA [1988] 3 NWLR (PT. 84) 508*** and ***OKE v OKE [2006] 17 NWLR (PT. 108) 224*** amongst a host of other cases. Owing to its fundamental and intrinsic nature and effect in judicial administration, it is neither too early nor too late in the day to raise the issue of jurisdiction, nor is the court finicky or fussy about the manner in which it may be raised. It can be raised viva voce [see ***PETROJESSICA ENTERPRISES LIMITED v LEVENTIS TRADING COMPANY LIMITED [1992] 5 NWLR (PT. 244) 675 at 678*** and ***NDIC v CBN [2002] 7 NWLR (PT. 766) 272***], or for the first time on appeal without any restraints as to leave or otherwise. See ***WESTERN STEEL WORKS LTD & ANOR v IRON STEEL WORKERS LTD [1987] 2 NWLR (PT. 179) 188, MAGARI v MATARI [2000] 8 NWLR (PT 670) 722 at 735, ADERIBIGBE v ABIDOYE [2009] 10 NWLR (PT.1150) 592, 615, AKEGBE v ATAGA [1998] 1 NWLR (PT 534) 459 at 465, STATE v ONAGORUWA (1992) 2 SCNJ 1*** and ***ATTORNEY-GENERAL, LAGOS v DOSUMU [1989] 3 NWLR (PT.111) 552.*** Jurisdiction can also be raised by the court *suo motu* once sufficient facts or materials are available without any charge of bias by any of the parties insofar as the parties are afforded the opportunity to address the court on the issue so raised. See ***SAMSON IWIE v SOLOMON IGIWI [2005] 3 MJSC 82 at 112*** *–per Niki Tobi, JSC*, ***OLORIODE v OYEBI (1984) 1 SCNLR 390, OBIKOYA v THE REGISTRAR OF COMPANIES (1975) 4 SC 31, 35, NNPC v ORHIOWASELE & ORS (2013) LPELR–20341 (SC); NDAEYO v OGBONNAYA (1977) 1 SC 11*** and ***ELEBANJO V DAWODU (2006) 15 NWLR (PT.1001) 76.*** In civil jurisprudence, where the

issue arises as to whether or not a court can entertain a suit, it is to the plaintiff's claim that reference must be made in order to find an answer. See ***ADEYEMI v OPEYORI (1976) 9 - 10 SC 31 at 49, NZEKWE v NNADOZIE (1952) 14 WACA 361; TUKUR v GOVERNMENT OF GONGOLA STATE [1989] 4 NWLR (PT. 117) 517 at 549*** and ***METTERADONA v AHU [1995] 8 NWLR (PT. 412) 225***. Jurisdiction is determined by the plaintiff's demand and not the defendant's answer which merely disputes the existence of the claim but does not alter or affect its nature. Put differently, it is the statement of claim and not the statement of defence that is to be looked at in order to determine jurisdiction. See ***C.G.G. (NIG) LTD v OGU [2005] 8 NWLR (PT 927) 366, ABIA STATE TRANSPORT CORP. v QUORUM CONSORTIUM LTD [2004] 1 NWLR (PT 855) 601 at 621, ATTORNEY-GENERAL, KWARA STATE v WARAH [1995] 7 NWLR (PT. 405) 120, ANIGBORO v SEA TRUCKS (NIG) LTD. [1995] 6 NWLR (PT. 399) 35*** and ***NUORAH v OKEKE [2005] 10 NWLR (PT. 932) 40***. In ***OLOBA v AKEREJA supra at 527***, *Oputa, JSC* highlighted the steps a court should take when confronted with a jurisdictional challenge as follows:

> "The first step is to look at the jurisdiction conferred by statute on the... court. The second step is to look at the claims before that court. The third and final step is to examine the claims against the jurisdiction to find out whether those claims fall within or without the jurisdiction of the... court."

But even though jurisdiction is donated by the claim before the court, 'the jurisdiction of a court or tribunal is not something you employ a searchlight to discover: it must be plain for all to see'. See ***OBI v INEC [2007] 11 NWLR (PT. 1046) 565 at 669 E*** *–per Oguntade, JSC*. In the peculiar scheme of legal proceedings, a court is vested with jurisdiction to entertain and determine the application by which its jurisdiction is challenged. See ***BARCLAYS BANK OF NIG LIMITED v CENTRAL BANK OF NIGERIA (1976) 6 SC 175 at 188 -189, IWUAGOLU v AZYKA [2007] 5 NWLR (PT. 1028) 613***

at 630 and ***WILKINSON v BANKING CORPORATION (1948) 1 KB 721 at 724.***

The fortunes of this appeal will turn on the proper construction of the provisions of the *District Courts (Increase in Jurisdiction of District Judges) Order 2014* issued under the hand of the Honourable Minister of FCT, which sets out the enhanced jurisdiction of the District Courts in the Federal Capital Territory. The provisions of Orders 2 and 4 are relevant for present purposes and bear reproducing here for reasons of clarity.

> "2. Subject to the provisions of the District Courts Act (Cap. 495) 1990 and any other written law, a Chief District Judge I and II, and Senior District Judge I and II as well as District Judge I shall have an exercise jurisdiction in civil cases or matters:
>
> a. In all personnel 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 (₦5,000,000:00) naira in the case of Chief District Judge I; Four Million (₦4,000,000:00) naira in the case of Chief District Judge II; Three Million (₦3,000,000:00) naira in the case of Senior District Judge I; Two Million (₦2,000,000:00) naira in the case of Senior District Judge II; and One Million (₦1,000,000:00) naira in the case of District Judge I.
>
> b. In all suits between landlord and tenant for possession of any land or house claimed under agreement or refused to be delivered up, where the annual rental value does not exceed Five Million (₦5,000,000:00) naira in the case of Chief District Judge I; Four Million (₦4,000,000:00) naira in the case of Chief District Judge II; Three Million (₦3,000,000:00) naira in the case of Senior District Judge I; Two Million (₦2,000,000:00) naira in the case of Senior District Judge II; and One Million (₦1,000,000:00) naira in the case of District Judge I."

"4. Where in any action, the debt or demand consists of a balance not exceeding Five Million (₦5,000,000:00) naira in the case of Chief District Judge I; Four Million (₦4,000,000:00) naira in the case of Chief District Judge II; Three Million (₦3,000,000:00) naira in the case of Senior District Judge I; Two Million (₦2,000,000:00) naira in the case of Senior District Judge II; and One Million (₦1,000,000:00) naira in the case of District Judge I as the case may be after an admitted counterclaim or set-off of a debt or demand claimed or recoverable by the defendant from the plaintiff, a district Court Judge shall have jurisdiction and power to hear and determine such action within the limits of his personal jurisdiction and power."

An examination of Order 2 reveals that whilst paragraph (a) applies to every conceivable action founded on or arising from contract or tort, or both contract and tort for which the total sum claimed must not exceed the monetary jurisdiction prescribed for the different cadres of District Court Judges, paragraph (b) applies only to suits between landlord and tenant for possession of any land or house claimed under agreement or refused to be delivered up where the annual rental value of the house or land in respect of which possession is sought does not exceed the monetary jurisdiction of the District Judge before whom the action is brought. It would seem therefore that insofar as the claim is between landlord and tenant for possession of land and the annual rental value of the property falls within the monetary jurisdiction of the relevant District Court, the total amount claimed could potentially exceed the court's monetary jurisdiction. This is so because the determinant of the jurisdiction in a claim for possession under Order 2(b) is the annual rental value of the property rather than the total amount claimed as unpaid rent, mesne profits or damages for use and occupation, etc. On the flip side however, Order 2 (b) will not apply where there is no claim for possession of land or house *per se* notwithstanding that

the suit is between landlord and tenant. That is to say, it is not in every claim between landlord and tenant that the jurisdiction of a District Court will be determined by reference to the annual rental value of the property.

To our mind, if the lawmaker had intended Order 2(b) to apply to all suits between landlord and tenant, then the words "*for possession of any land or house claimed…*" would not have been necessary at all. In interpreting a statute, the cardinal canon the court should always turn to before all others is that it "*must presume that a legislature says in a statute what it means and means in a statute what it says there*" [see ***CONNECTICUT NAT'L BANK v GERMAIN, 112 S. Ct. 1146 at 1149 (1992)***], and "*when the words of a statute are unambiguous, then this first canon is also the last: judicial enquiry is complete*" as the legislature "*is presumed to act intentionally and purposely when it includes language in one section but omits it in another*". See ***ESTATE OF BELL v COMMISSIONER, 928 F.2d 901 at 904 (9th Cir. 1991)***. In ***KOLAWOLE v ALBERTO [1989] 1 NWLR (PT. 98) 382***, the Supreme Court [per *Nnaemeka-Agu, JSC*] quoted with approval the dictum of *Viscount Simon* in ***HILL v WILLIAM HILL (PARKLANE) LIMITED (1949) A.C. 530 at 546-547*** to the effect that:

> "When the legislature enacts a particular phrase in a statute, the presumption is that it is saying something which has not been said immediately before. The rule that meaning should, if possible, be given to every word in the statute implies that unless there is good reason to the contrary, the words add something which would not be there if the words were left out".

In the instant appeal, the Respondent's claim is for a total sum of ₦8,241,665.00 as arrears of rent allegedly owed by the Appellant from 1st March 2014 to 31st July 2017 when it vacated the demised premises. It is expressly averred in paragraph 11 of the Particulars of Claim dated

5/10/18 that "*the Defendant on the 31st day of July 2017 vacated the said shop/premises without paying his (sic) arrears of rent to the Plaintiff*". Thus, even though the action is between landlord and tenant, it certainly is not a suit for possession of land or house for which the lower court's jurisdiction could be determined by reference to the annual rental value of the property as envisaged by Order 2(b) of the *District Courts (Increase in Jurisdiction of District Judges) Order 2014*. The lower court was therefore wrong to have assumed jurisdiction to entertain and determine the matter on the basis that the "*rent arrears emanated from landlord/tenant relationship that existed between the two parties in court*" and that because the annual rental value falls within its monetary jurisdiction, "*the fact that the matter before the court is for arrears of rent and not for possession can never rob this court with (sic) its requisite jurisdiction as enshrined in the Increase Order 2014*".

It seems to us that whilst a claim for arrears of rent [without any limitation on the amount claimed] may be subjoined in a suit between landlord and tenant for possession under Order 2(b) insofar as the annual rental value of the property sought to be recovered does not exceed the monetary jurisdiction of the relevant District Court under Order 2(b), a claim for arrears of rent *simpliciter* that is excess of the monetary jurisdiction of the Lower Court cannot be saved by calling in aid the annual rental value of the property from which the arrears arose.

The Respondent has relied heavily on ***JOYLAND v WEMABOD ESTATES LTD (2008) LPELR-1636(SC)*** in urging us to uphold the decision of the lower court and dismiss the present appeal. In that case, the Supreme Court [per Muntaka-Coomassie, JSC] construed the provisions of s. 17 (1) (b) of the Magistrate Court's Law, Cap 127 Laws of Lagos State [*impari materia* with

Order 2(b) of the *District Courts (Increase in Jurisdiction of District Judges) Order of 2014*] and held that "*the Senior Magistrate Grade 1 was perfectly in order to have assumed jurisdiction in a claim of annual rental value of ₦15,000.00 (Fifteen Thousand Naira) and was also very correct when he made the said orders.*" But what appears in bold relief is that the claim before the Magistrate Court was for "*possession of one story building with boys quarters of ₦15,000.00 being arrears of rent for March 1993 to March 1994 and Mesne profit thereafter at the rate of ₦1,250 per month from 1st April, 1994",* which is markedly different from the scenario we are confronted with here. Since there is no claim for possession at all, the reliance placed on ***JOYLAND v WEMABOD ESTATES LTD supra*** is therefore overly misplaced. As *Lord Steyn* once said, "*In law, context is everything*" See ***REGINA v SECRETARY OF STATE FOR HOME DEPT., EX PARTE DALY [2001] UKHL 26, [2001] 3 ALL ER 433.*** It cannot be overemphasised that no one case is exactly like another; and justice and fairness demand that the *ratio decidendi* of the earlier case '*should not be pulled by the hair of the head and made willy-nilly to apply to cases where the surrounding circumstances are different*'. See ***OKAFOR v NNAIFE [1987] 2 NSCC 1194 at 1198*** *–per Oputa, JSC* and ***GREEN v GREEN [1987] 3 NWLR (PT. 61) 480 at 501***. The decisions relied upon must be inextricably and intimately related to the factual matrix that gave rise to it so as not to take the ratio outside the parameters of the facts of the decision and the principles decided therein. See ***ADEGOKE MOTORS v ADESANYA [1989] 3 NWLR (PT. 109) 250 at 265 - 275*** and ***MULIMA v GONIRAN [2004] All FWLR (PT. 228) 751 at 785***.

Jurisdiction is always a crucial question of competence extrinsic to the adjudication on the merits, it is in the interest of justice to raise jurisdiction in order to avoid the dissipation of scarce judicial time and resources on

proceedings that would eventuate in a nullity. That is what the Appellant did but was unfortunately overruled by the lower court. It has been held that the courts '*have no more right to decline the exercise of jurisdiction which is given than to usurp that which is not given: the one or the other would be treason of the Constitution*'. See ***COHEN v VIRGINIA (1821) 19 US 264 at 404*** –per John Marshal, CJ.

We accordingly allow the appeal and record an order striking out Suit No. CV/17/2018 – *ETHA VENTURES LIMITED* v. *DAILY SHOW GLOBAL ENTERPRISES NIGERIA LIMITED* for want of jurisdiction. There shall be no order as to costs.

PETER OYIN AFFEN
Presiding Judge

ASMAU AKANBI-YUSUF
Hon. Judge

Counsel:

E. C. Ugwuodo, Esq. (with him: C. S. Onah, Esq.) for the Appellant

Kelechi Uzoanya for the Respondent