

**IN THE HIGH COURT OF JUSTICE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT JABI - ABUJA
BEFORE HIS LORDSHIP HON. JUSTICE D.Z. SENCHI.
HON. JUDGE HIGH COURT NO.13
COURT CLERKS –T.P. SALLAH & ORS
DATE: - 24/02/2020
BETWEEN: -
FCT/HC/CV/400/18**

**1. AISHA MUHAMMAD
2. MUHAMMAD ALIYU DALHATU** } **APPLICANTS**

AND

**1. RUKAYYA YUSUF ALIYU
2. RAULO MO-ALLAHYIDI
3. HOUWA AMIRU
4. UMUL YUSUF ALIYU
5. INSPECTOR GENERAL OF POLICE
6. ECONOMIC AND FINANCIAL CRIME
COMMISSION (EFCC)** } **RESPONDENTS**

JUDGMENT

The instant suit was instituted by the Applicants herein against the Respondents vide motion on notice dated 29th November, 2018 and filed on 30th November, 2018 pursuant to the provisions of Order II of the Fundamental Right (Enforcement) Procedure Rules 2009, Sections 34, 37 and 46 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), Articles 2 and 5 of the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act Cap. A9 LFN and under the inherent jurisdiction of this Court seeking the grant of the following reliefs:-

1. A declaration that the constant and unending arrest, detention and intimidation, torture, humiliation of the Applicants by the officers and men of the 5th and 6th Respondents on the instigation of the 1st, 2nd, 3rd and 4th

Respondents is wrongful, barbaric, anachronistic, unlawful, unconstitutional and a blatant violation of the Applicants' fundamental right as enshrined in the Constitution of the Federal Republic of Nigeria, 1999, (as amended) and Article 2, and 5 of African Charter on Human and Peoples Rights (Ratification and Enforcement) Act.

2. An order restraining the 1st to 4th Respondents, their agents, allied from reporting the Applicants to the Police, Economic and Financial Crime Commission (EFCC), Nigeria Army or any other sister law enforcement agency in connection with this matter.
3. An Order restraining the 5th and 6th Respondents, their officers and men, agents from inviting, arresting, torturing, humiliating and intimidating the Applicant on the subject matter of this application.
4. Damages in sum of Five Million Naira (N5,000,000.00) for the Applicants against the 1st to 4th Respondents for the unlawful and barbaric acts of constant instigation of the arrest, torture, harassment, intimidation, humiliation of the Applicants with the help of the officers and men of the 5th and 6th Respondents.
5. 10% post judgment interest until the judgment sum is finally liquidated.
6. And for such further order(s) the Honourable Court in his wisdom may deem fit to make in the circumstances.

The Applicants filed, in support of the application, a Statement setting out the relevant information, an affidavit of 26 paragraphs (with exhibits) marked C1, C2, C3 and C4 respectively. The Applicants Counsel also filed a written address. A further Affidavit and a Reply on Points of Law dated 14th November, 2019 with leave of Court granted on the 2nd December, 2019 was filed out of time.

Opposing the application, the 1st - 4th Respondents filed their Counter Affidavit of 21 paragraphs with leave of Court dated on 3rd October, 2019 and attached are Exhibits A1 - A10, B1,

C1 and D1. Their Counsel's written address dated 28th January, 2019 was also filed.

Also opposing the application, the 6th Respondent filed a Counter Affidavit of 25 paragraphs with Exhibits EFCC1 – EFCC8, EFCC9(A) – (C), EFCC10(A) & (B) and EFCC11(A) & (B). The 6th Respondent's Counsel's written address in opposition was filed as well.

Although there is proof of service as well as certificate of service to the effect that the 5th Respondent was served with the originating processes and hearing notices, the 5th Respondent did not file any response to the instant application.

The Applicants' Counsel in his written address, formulated and argued the following sole issue for determination of the instant application to wit:-

Whether the Applicants have proved their case as to warrant the grant of the reliefs sought.

Counsel to the 1st – 4th Respondents on the otherhand, distilled two issues for determination as follows:-

1. Whether an invitation by the 6th Respondent amounts to an infringement of right to liberty and privacy of the Applicants.
2. Whether the Applicants have placed sufficient materials to entitle them the award of damage.

The learned Counsel to the 6th Respondent set out two issues for determination as follows:-

1. Whether the 6th Respondent has the power to investigate a suspect upon reasonable suspicion that the suspect has committed or is about to commit an offence.
2. Whether the Applicants are entitled to the reliefs sought.

After a careful consideration of the processes in this suit and addresses of parties, it is my opinion that the resolution of the Applicants' sole issue will adequately resolve the issues of all other parties in this application. I shall therefore adopt same as the main issue for determination. The issue reads thus:-

“Whether the Applicants have proved their case as to warrant the grant of the reliefs sought.”

By the affidavit of the 1st Applicant (who is the wife of the 2nd Applicant) aver facts in support of the instant application to the effect that the 1st Applicant as well as the 1st – 4th Respondents are all staff of the Federal Judicial Service Commission located within the FCT. That the 1st Applicant had, in 2017, introduced the 1st Respondent who in turn introduced the 2nd, 3rd and 4th Respondents to a networking business known as Swissgolden. That the 1st – 4th Respondents invested in the business with their individual accounts with the SwissgoldenCompany. That the Applicants also invested in the business with their family and friends. That the Swissgolden however subsequently stopped supplying and refused to pay investors' funds which prompted the 2nd Applicant to write a letter dated 17th April, 2018 (a copy is annexed) to the 6th Respondent for assistance. The 1st Respondent had reported the 1st Applicant to the management of their office. Subsequently, the 1st – 4th Respondents reported the Applicants to the police force headquarters in April, 2018 based on which report they (Applicants) were arrested, transferred to the Maitama Police Station, detained, tortured, harassed and later released. It is the Applicants' averment that the 1st – 4th Respondents thereafter reported the same matter to the 6th Respondent, the Economic and Financial Crimes Commission (EFCC) who invited the Applicants and compelled the 2nd Applicant to admit that he would pay the money within 6 weeks or the Applicants would be detained in the 6th Respondent's custody. That the 2nd Applicant wrote the undertaking out of fear. That the 6th Respondent had been all over the Applicants to refund the money. Copy of the 6th

Respondent's letter of invitation dated 17th September, 2018 to the 2nd Applicant is annexed to the affidavit in support. That the 1st - 4th Respondents' money is not with the Applicants but with the Swissgolden Company with whom the 1st - 4th Respondents had opened accounts and paid all money into. Some of the account details are attached as exhibits to the affidavit in support. The Applicants further aver that the constant and unending arrest, torture, harassment and invitation by officers of the 5th and 6th Respondent is degrading, traumatic and inhuman. That what took place between the Applicants and the 1st - 4th Respondents is purely civil and does not call for the intervention of the men and officers of the 5th and 6th Respondents. That the 1st - 4th Respondents are making arrangements to take the Applicants to the Special Anti-Robbery Squad (SARS) unit of the Nigeria Police and if this application is not granted they may likely be arrested by SARS officers.

The Applicants further averred in the Further Affidavit in support of the application that the 1st Respondent is a Legal Practitioner, a barrister and solicitor of the Supreme Court of Nigeria from whom the 1st Applicant got the assurances to proceed into the Swissgolden networking business as she (1st Respondent) is, by training, in a better position to know when money and investment are safe. That the Applicants were arrested by the police on the 1st - 4th Respondents' report and later released on bail. Exhibits A, A1 and A2 attached to the further affidavit are copies of bail conditions and memoranda. That the 1st - 4th Respondents have been accessing their online account with Swissgolden through which they have been transacting. That the 1st - 4th Respondents paid money into the Applicants' account to be used for the Swissgolden online business and said money was paid by the Applicants to Swissgolden as confirmed by the 1st - 4th Respondents. That the Applicants were initially doing the Swissgolden business with one Hadiza Meena until they ventured out on their own.

By their Counter Affidavit, the 1st – 4th Respondents admit being co-workers with the 1st Applicant who introduced them to the Swissgolden business. They however averred that they did not have a contract with Swissgolden except online opening accounts. That the 1st Applicant pressured the 1st Respondent and gave her assurances about the business from which the 1st – 4th Respondents have not made a single profit. That the 1st Respondent made transfer of up to N8,000,000 (Eight Million Naira), the 2nd Respondent N196,000, the 3rd Respondent N150,000 and the 4th Respondent N276,000 all to the Applicants. Copies of Bank statements of the 1st – 4th Respondents are annexed to the counter affidavit as Exhibits A1 – A10, B1, C1 and D1. That the Applicants presented themselves as promoters/agents of the company and gave assurances of the safety of the 1st – 4th Respondents' money/investment. That one HadizaMeena was at first introduced to the 1st – 4th Respondents by the 2nd Applicant as the person operating the business before the Applicants established their own business. That the Applicants collected the 1st – 4th Respondents' money from HadizaMeena without their permission and have refused to pay them their money which conduct required investigation. The 1st – 4th Respondents admit that the matter was reported to the police and thereafter to the EFCC but averred that the police did not arrest the Applicants as they had only invited the Applicants.

The 6th Respondent denies the Applicants' claim against it. It is the 6th Respondent's averment in its Counter Affidavit that its Executive Chairman received a petition (a copy is attached as Exhibit EFCC1) from the 1st – 4th Respondents against the Applicants. That the petition disclosed a prima facie case of Criminal Breach of Trust and Conspiracy which required investigation. That the 1st – 4th Respondents were invited to adopt their petition and they made further statements (copies attached as Exhibits EFCC2 – EFCC5) in respect of their allegations. The 6th Respondent averred that the 1st – 4th Respondents' complaint was that the Applicants had received a total sum of N8,514,000 through money transfers (copies of

bank statements were attached as Exhibits EFCC6 and EFCC7) from them under the pretext that the money will be invested with Swissgolden, a company purported to be registered under the laws of the Federal Republic of Nigeria. The complaint is also that since collection of the money, the Applicants have failed to remit profits or investment back to the 1st – 4th Respondents and efforts by them to get their money back from the Applicants have failed. The 6th Respondent averred that during the course of its investigation it discovered that Swissgolden is not a registered entity with the Corporate Affairs Commission (CAC) as shown by CAC letter dated 19th November, 2018 a copy of which is attached to the Counter Affidavit as Exhibit EFCC8. That the Applicants were invited to the 6th Respondent's office on 24th September, 2018 to respond to the allegations against them and they did make cautionary statements which are annexed to the 6th Respondent's Counter Affidavit as Exhibits EFCC9A – C and EFCC10A – B. That the Applicants applied for bail on 24th September, 2018 and were both released on the same day. Exhibits EFCC11A – B are copies of Bail Application and Bail Bond. The 6th Respondent averred that it is a statutory body charged with the duty of investigation and enforcement of Economic and Financial Crimes laws and has the power to invite perpetrators of such crimes. That the offences of criminal breach of trust and conspiracy are criminal offences which the 6th Respondent can investigate and prosecute. That the Applicants were never detained, arrested, harassed or tortured.

Arguing his sole issue, learned Counsel to the Applicants submitted that the Applicants are entitled to the reliefs sought and their rights to dignity of human person have been blatantly infringed upon by the Respondents vide constant arrest and detention over a matter that is purely civil with no element of criminality. He contended that the 1st – 4th Respondents have threatened to continue using the 5th and 6th Respondents to intimidate, torture and embarrass the Applicants till they pay the money that is with Swissgolden. He referred this Court to Section 34(a) of the Constitution of the

Federal Republic of Nigeria 1999 (as amended) and the case of **AHURUONYE V. IKONNE (2015) ALL FWLR (PT. 811)** to submit that torture does not only consist in physical but can also be emotional. Counsel posited that the Applicant has been subjected to inhuman and degrading treatment. He contended that the Court can award damages once the infraction of the fundamental rights of a citizen has been established and urged this Court to grant the Applicants' reliefs.

Counsel to the 1st – 4th Respondents for his part submitted in his address that mere invitation of the Applicants by the 5th and 6th Respondents cannot amount to breach of the fundamental rights of the Applicants. He contended that although the 5th and 6th Respondents are constitutionally and statutorily empowered to investigate any alleged offence against persons including the Applicants and also have the power of restraint, the Applicants in this case were never arrested or detained by the Respondents as they were merely invited to respond to criminal allegations against them. Relying on the case of **GAR V. SEIRAFINA (NIG) LTD (2008) 2 NWLR (PT. 1070) P. 1**, Counsel submitted that before a party can be entitled to award of damages, he must place sufficient material facts before the Court. He submitted that the Applicants have not shown how their fundamental rights were breached and as such this Court cannot exercise its discretion in their favour. He finally urged this Honourable Court to dismiss the instant application for lacking in merit.

The 6th Respondent's Counsel's position is expressed in his address. He submitted therein that the combined effect of the provisions of Sections 6, 7, 8(5), 12(1), 13(1), 41 and 46 of the Economic and Financial Crimes Commission (Establishment) Act 2004 is that the 6th Respondent has power to investigate all cases of economic and financial crimes reported to it for possible prosecution where prima facie case is established. He also referred to the case of **JOLLY TEVORU NYAME V. F.R.N. SC.136/2009 (2010) E.C.L.R. VOL. 1 P. 240**. He contended that the 6th Respondent enjoys same

powers as the Nigeria Police Force in respect of investigation and prosecution of offenders. He posited that the Applicants' request to restrain the 6th Respondent from performing its statutory duty would amount to the Court meddling and interfering with the role and duties of a law enforcement agency and this will not be in the interest of justice. He relied on the case of **ATTORNEY GENERAL OF ANAMBRA V. CHRIS UBA (2000) 15 NWLR (PT.947) P. 67**. He submitted further that the Applicants have failed to disclose any infringement committed by the 6th Respondent for which they have approached this Court for redress. He submitted that the mere act of invitation by the 6th Respondent to the Applicants to come and answer to allegations made against them is in line with the 6th Applicant's statutory functions and does not amount to a breach of the Applicant's fundamental rights. He submitted that the Constitutional right to liberty under Section 35(1) FRN 1999 is sacrosanct but not absolute as a person's liberty may be impaired if there is reasonable suspicion of commission of an offence. Counsel cited a plethora of decided cases in support of his position. He submitted that the Applicants have not made out a case to be entitled to the reliefs sought and urged this Court to refuse their application in its entirety.

In his Reply on Points of Law, learned Counsel to the Applicants submitted that there can be no bail without arrest and detention.

Now to resolve the issues in the instant application brought by the Applicants for the enforcement of their fundamental rights the law is that the burden of proof lies on the Applicants to establish by credible affidavit evidence that their fundamental right was breached. – see the decision of the Court of Appeal in the case of **FAJEMIROKUN V. C.B.(C.L.) (NIG.) LTD. (2002) 10 NWLR PT. 774 P. 95 AT PP. 613–614 paragraphs. H-A** which decision was upheld by the Supreme Court in **FAJEMIROKUN V. C.B.(C.L.) (NIG.) LTD. (2009) 5 NWLR (PT.1135) P. 588**. See also **MR. COSMOS ONAH**

V. MR. DESMOND OKENWA & ORS (2010) LPELR-4781(CA).

Now the Applicants in this case have alleged that the 5th and 6th Respondents' acts of arresting and detaining them based on the report of the 1st – 4th Respondents in respect of a purely civil matter is an infringement of their fundamental rights particularly their right to human dignity.

Section 34 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) provides for the right to human dignity. **Section 34(1)(a)** thereof provides as follows;

34.

1. *Every individual is entitled to respect for the dignity of his person, and accordingly –*
 - a. *no person shall be subject to torture or to inhuman or degrading treatment;*

See the case of **EZEADUKWA V. MADUKA (1997) 8 NWLR (PT. 518) P. 635.**

The Applicants contend that their said right to dignity of their person was infringed upon by the 5th and 6th Respondents by arresting and detaining them over a purely civil matter.

The Respondents in this case deny that the Applicants were arrested or detained by the 5th and 6th Respondents. They allege that the Applicants were simply invited by the 5th and 6th Respondents to answer to criminal complaints made against the Applicants by the 1st – 4th Respondents. The Applicants however allege that after their arrest by the 5th Respondent they were released on bail by the 5th Respondent. They supported their allegation of arrest and bail with documentary evidence to wit Bail conditions granted by the 5th Respondent on 5th April, 2018 (see Exhibit A to the Applicants' Further Affidavit). I have looked at the said Bail Conditions dated 5th April, 2018 and I must say it supports the fact that

the Applicants were arrested and detained by the 5th Respondent.

Furthermore, the 6th Respondent has alleged that after inviting the Applicants to its office, the Applicants applied for bail and they were both released on bail on the same day. Exhibits EFCC11A and EFCC11B are copies of Bail Application and Bail Bond to prove this fact.

If the Applicants had not been arrested or detained and had simply been invited by the 5th and 6th Respondents, it meant that they were at the 5th and 6th Respondents' office of their own free will. If this was true, why did the Applicants need to apply for bail, be given bail conditions or be released on bail? Bail has been described as the freeing or setting at liberty '*one arrested or imprisoned*', upon others becoming sureties by recognizance for his appearance at a day and place certainly assigned, or entering into self-recognizance. See the case of **CALEB OJO & ANOR V. FEDERAL REPUBLIC OF NIGERIA (2006) 9 NWLR (PT.984) P. 103.**

In the circumstances, there is overwhelming evidence before this Court that the Applicants were arrested and/or detained by the 5th and 6th Respondents contrary to the denials of the Respondents.

The Applicants have alleged that the matter over which they are being incessantly arrested and detained by the 5th and 6th Respondents is a purely civil matter.

The position of the law is that where there is evidence of arrest and detention of an applicant (as in the instant case) in an application for enforcement of fundamental right, it is for the respondent to show that the arrest and detention were lawful. – see the cases of **EJEFOR V. OKEKE (2000) 7 NWLR (PT.665) P. 363 at P. 381 paragraph F and FAJEMIROKUN V. C.B.(C.L.) (NIG.) LTD. (SUPRA) at P. 111.**

Under **Section 35 of the Constitution of the Federal Republic of Nigeria 1999 (as amended)** every person (including the Applicants) is guaranteed his personal liberty. The circumstances under which a person may be lawfully deprived of such liberty are set out in **Section 35(1)(a) – (f) of the Constitution of the Federal Republic of Nigeria 1999 (as amended)**. The said provision is as follows:-

35(1) Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law

(a) In execution of the sentence or order of a Court in respect of a criminal offence of which he has been found guilty;

(b) By reason of his failure to comply with the order of a Court or in order to secure the fulfilment of any obligation imposed upon him by law;

(c) For the purpose of bringing him before a Court in execution of the order of a Court or upon reasonable suspicion of his having committed a criminal offence, or to such extent as may be reasonably necessary to prevent his committing a criminal offence;

(d) In the case of a person who has not attained the age of eighteen years, for the purpose of his education or welfare;

(e) In the case of persons suffering from infectious or contagious disease, persons of unsound mind, persons addicted to drugs or alcohol or vagrants, for the purpose of their care or treatment or the protection of the community; or

(f) For the purpose of preventing the unlawful entry of any person into Nigeria or of effecting the expulsion, extradition or other lawful removal

from Nigeria of any person or the taking of proceedings relating thereto:

Aside of the foregoing circumstances, no person shall be deprived of his personal liberty.

The onus is thus placed on the Respondents (by the law) to show that the arrest and detention of the Applicants is justified and within the circumstances provided in **Section 35(1)(a) – (f) of the Constitution**.

It is not in dispute amongst parties in this case that the 1st – 4th Respondents reported the Applicants to the 5th and 6th Respondents. The Respondents' position is that the 1st – 4th Respondents made complaints consisting of allegations of criminal acts against the Applicants for which the 5th and 6th Respondents had the duty and power to investigate.

Now every citizen has a right to report the commission of a crime or suspected crime. – see the cases of **ISHENO V. JULIUS BERGER (NIG) PLC (2008) 6 NWLR (PT. 1084) P. 582** and **JERRY & ANOR V. IGP & ORS (2014) LPELR-24625(CA)**.

As a corollary, the 5th and 6th Respondents have the duty and power under the Constitution, Police Act and the Economic and Financial Crimes Commission Act to investigate, apprehend and prosecute in respect of allegations of crime generally (in the case of the 5th Respondent) and financial crimes (in the case of the 6th Respondent). This point does not need to be over-flogged here as it has been settled by a long line of decided cases. See, to mention but a few, the cases of **ONA V. OKENWA (2010) 7 NWLR (PT. 1194) P. 512**, **ISIIYAKU & ANOR V. COP YOBE STATE & ORS (2017) LPELR-43439(CA)**, **TSANYAWA V. EFCC & ANOR (2018) LPELR-45099(CA)**, **MUSTAPHA V. FRN (2017) LPELR-43131(CA)** and **FABIYI V. STATE (2013) LPELR-21180(CA)**.

I believe the turning point of this case is whether the report made by the 1st – 4th Respondents to the 5th and 6th Respondents in respect of the events that occurred as between the Applicants and the 1st – 4th Respondents consist of allegations of crime or are of a purely civil nature.

I have looked at Exhibit EFCC1 which is the 1st – 4th Respondent's written complaint to the 6th Respondent in respect of the matter. By the said Exhibit 1, the 1st – 4th Respondents alleged that the Applicants duped them of a total sum of N8,514,000 under the pretext of investing same with a company called Swissgolden duly registered under the laws of Nigeria. The 1st – 4th Respondents allege that this money was given to the Applicants (with proof of payment attached) and the Applicants have since failed to return the money or remit any profit on investment. The 1st – 4th Respondents therein called upon the 6th Respondents to investigate the matter.

It is my considered view that, by their petition Exhibit EFCC1, the 1st – 4th Respondents clearly made allegations of crime (to wit financial crime) against the Applicants. The 6th Respondent was therefore obliged to investigate the allegations. I have looked at the Counter Affidavit of the 1st – 4th Respondents. It is the same allegations that they have made before this Court. In the circumstances, I am of the humble view that the allegations made by the 1st – 4th Respondents to the 5th and 6th Respondents were allegations of crime against the Applicants for which the 5th and 6th Respondents had the obligation to investigate and power to apprehend the Applicants under the law.

Now the Applicants did not deny collecting the alleged money from the 1st – 4th Respondents for the purpose of investing same with Swissgolden. In fact, they admitted this in their further affidavit. They however say that they did invest the money they collected from the 1st – 4th Respondents with Swissgolden. The 5th Respondent averred that it conducted investigations into the 1st – 4th Respondents' allegations and

discovered that the alleged Swissgolden is not a company registered in Nigeria as presented by the Applicants. This is supported by documentary evidence, Exhibit EFCC8. While I note (for the record) that the Applicants are not on trial here for the criminal allegations made against them, it must be stated for the purpose of the instant application that the facts before this Court do not show that the matter for which they were reported to the 5th and 6th Respondents is a "purely civil" matter. See the case of **TSANYAWA V. EFCC & ANOR(SUPRA)** where the Court of Appeal held as follows:-

"The business between the Appellant and the 2nd Respondent started as a contract for sale. The Appellant was to deposit proceeds of the sales which he failed to do, thereby, misappropriating or embezzling the funds of the 2nd Respondent. It is no longer a simple debt. It has metamorphosed into an Economic and Financial Crime against the nation. It would be recalled that the 2nd Respondent was not a Nigerian but was coaxed into coming into Nigeria to do business with the Appellant. The 1st Respondent by virtue of Section 6 and 7 of the EFCC Establishment Act 2004 empowered the EFCC to investigate cases of this nature as the transaction is centered on Economic and Financial Crime.

*As I stated earlier on in Issue 1, this is not just the EFCC helping the 2nd Respondent in the recovery of debt. See **OCEANIC SECURITIES INTERNATIONAL LTD. V BALOGUN (2013) ALL FWLR (PT. 677) PG. 633, IBIYEYE V GOLD (2012) ALL FWLR (PT. 659) PG. 1074.***

In the instant case, the Appellant misappropriated or embezzled the funds of the 2nd Respondent, thereby removing it from just a simple debt. Moreover the documents pledged to reduce the indebtedness were all discovered to be fake and the house was the subject of litigation. These altogether removed the transaction from a simple debt to be laced with crime.

The EFCC from the foregoing is entitled to investigate a petition directed at the Appellant. The investigation leading to the arrest of the Appellant is not out of place. The Appellant was also granted bail the same day.”

The facts before this Court show that there was reasonable suspicion of the Applicants having committed a criminal offence. There was therefore reasonable grounds for the 5th and 6th Respondents to proceed against them under **Section 35(1)(c) of the Constitution** acting under their statutory duties and powers.

The Applicants have averred to the effect that the 1st Respondent is a lawyer who ought to know better regarding the business with Swissgolden. I do not know what to make of these averments. As far as I know it, gullibility is not an excuse for taking advantage of another nor is it a defence to criminally breaching the trust of another (as alleged against the Applicants). Such averments cannot therefore avail the Applicants in this application. And I must add that most of the time the victims are always professionals.

Having failed to show that the matter between them and the 1st – 4th Respondents is a purely civil matter for which the 5th and 6th Respondents had no duty or power to investigate and apprehend, the Applicants have failed to show that the Respondents’ actions constitute a breach of any of their fundamental rights guaranteed by the Constitution. The Applicants have thus failed to establish a breach of their fundamental rights against the Respondents. The Applicants are therefore not entitled to any of the reliefs sought in the instant application for enforcement of their fundamental rights. The issue for determination must be resolved in favour of the Respondents and against the Applicants.

Pursuant to all the foregoing, the instant application lacks merit and it ought to be dismissed in its entirety. Accordingly,

the application is hereby dismissed with cost assess at N10,000.00 to each of the Respondents against the Applicant.

**HON. JUSTICE D.Z. SENCHI
(PRESIDING JUDGE)
24/02/2020**

Parties:-Absent.

E.F Ezea: for the Applicants.

I.I Jafar:- For the 1st -4th Respondents.

A.Amedu:- for the 6th Respondent.

5th Respondent not represented by Counsel.

**Sign
Judge
24/02/2020**