



IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDING AT MAITAMA  
BEFORE HIS LORDSHIP: HON. JUSTICE H. B. YUSUF



**SUIT NO: FCT/HC/CV/120/15**

**BETWEEN:**

1. ULOVER INTERNATIONAL RESOURCES LTD )  
2. CHARLES MADUKA OKEIYI ).....PLAINTIFFS

**AND**

ECONOMIC AND FINANCIAL CRIMES COMMISSION (EFCC)..DEFENDANT

**JUDGMENT**

The facts leading to the presentation of this action are relatively straight forward. One **Mrs. Veronica Ulonma Onyegbula**, a cashier with the Police Pension Office in Abuja was investigated by the Defendant sometimes in 2012 alongside other suspects in connection with the allegation of diversion and misappropriation of *Police Pension Fund* running into several billions on Naira. **Mrs. Veronica Ulonma Onyegbula** is a Director in the 1<sup>st</sup> Plaintiff Company and a biological sister of the 2<sup>nd</sup> Plaintiff herein. Criminal proceedings were commenced in Charge No. FCT/CR/64/2012 by the Federal Government of Nigeria against her and other suspects upon the conclusion of investigation by the Defendant herein.

Meanwhile the Federal Government of Nigeria presented an application by way of ex parte motion for interim forfeiture of certain assets traceable to the Defendants in Charge No.: FCT/CR/64/2012 which order was granted on 3<sup>rd</sup> May, 2012 by Gummi, CJ (as he then was). Some of the landed properties affected by the interim order of forfeiture allegedly belonged to Mrs. Veronica Ulonma Onyegbula. The properties in issue were specifically captured as items 28–37 on the schedule of attached properties which was annexed to the application.

The Plaintiffs herein have alleged that some of the attached properties belonged to them and not Mrs. Veronica Ulonma Onyegbula. That the order of interim forfeiture was made in error. Consequently they have commenced by way of Originating Summons seeking the determination of the following questions:

- 1. WHETHER** an interim Order of forfeiture/attachment made pursuant to Sections **28 and 29** of the Economic & Financial Crime Commission Act 2011 (sic), when found to have been made in error can still be vacated by same Court?
- 2. WHETHER** by virtue of **Section 37 of the Companies and Allied Matters Act Cap C20, L.F.N, 2004**, the 1<sup>st</sup> Plaintiff who is not a party to criminal charge **No: FCT/HC/CR/64/2012** between Federal **Republic of Nigeria Vs. Esai Dangabar & 5**

**ORS**, is bound by an interim Order of attachment/forfeiture, made in the said criminal charge?

3. **WHETHER** by virtue of the Irrevocable Power of Attorney dated **21<sup>st</sup> day of February 2008**, duly registered in the land Registry Umuahia Abia State, in Respect of properties situated at **103/104 Ozuitem street, Enugu Road Amuziukwu Umuahia Abia State**, created in favour of the 1<sup>st</sup> Plaintiff by **Prince Green Nwadinobi Nwafor**, the said property can be validly attached/forfeited in the charge **No. FCT/HC/CR/64/2012**, on assumption that it belong to the 5<sup>th</sup> Accused person mentioned in the charge?
  
4. **WHETHER** on the face of the *Irrevocable Power of Attorney* dated 20<sup>th</sup> day of April 2004, duly registered in the Land Registry, Umuahia, Abia State, in respect of properties situated at Plots **140. 142 & 143 Ehinmiri Housing Estate, Umuahia** and **created in favour of the 2<sup>nd</sup> Plaintiff by Messrs Egunor Nigeria Limited**, evidencing the acquisition of the property described therein by the 2<sup>nd</sup> Plaintiff, the said property of the Plaintiffs can validly be attached/forfeited in the charge **No. FCT/HC/CR/64/2012** on assumption that it belonged to the 5<sup>th</sup> Accused person mentioned in the charged?

5. **WHETHER** the independent acts or omissions of a non-executive director of a company can be said to be the act of the company having regards to the provisions of **Section 66(1) of Companies and Allied Matters Act Cap C20 LFN 2004**, thus imputing liability on the company?
6. **WHETHER** the interim order of attachment/forfeiture granted in charge **No: FCT/HC/CR/64/2012**, dated **3<sup>rd</sup> of May 2012**, between **Federal Republic of Nigeria Vs. Esai Dangabar & 5 ORS** wherein the 2<sup>nd</sup> Plaintiff's family property/inheritance bequeathed on him by his late father in accordance with Igbo Customary Law and situated at Umugbalu Village Oboro, Ikwuano L.G.A, Abia State, listed in **No. 31** in the schedule of assets and properties attached, can be vacated by this court upon its finding that the order was made in error?
7. **Whether** the Defendant, vide a private businessman can lawfully manage the properties and assets of the 1<sup>st</sup> Plaintiff in view of the subsistence of the judgment of a Court of coordinate jurisdiction in suit **NO: FHC/L/C5/12/12 in Dr. Erastus B.O. Akingbola and the Chairman, Economic and Financial Crimes Commission and Anor**, delivered on the 26<sup>th</sup> June 2012, when the judgment has not been overruled, set aside or the execution of same stayed by court under Section 6

**of the Constitution of the Federal Republic of Nigeria 1999  
(as amended), 2011?**

Depending on the answers that may be proffered by the Court to the above questions the Plaintiffs seek the following reliefs against the Defendant:

1. **A Declaration** that the interim Order of attachment and forfeiture made by the High Court of the Federal capital Territory, on the **3<sup>rd</sup> day of May 2012** in Charge **No. FCT/CR/64/2014** between the **Federal Republic of Nigeria Vs Esai Dangabar & 5 ORS** wherein the properties of the Plaintiffs were erroneously listed in the schedule of assets and properties filed in the criminal charge was made in error and to that extent remain, null and void.
2. **A Declaration** that the act of a non-executive director of the 1<sup>st</sup> Plaintiff, or an agent acting on its behalf, which was neither authorized nor sanctioned by the board members of the company, cannot be said to be the act of the company.
3. **A Declaration** that the 1<sup>st</sup> Plaintiff is a company duly registered under the companies and Allied Matters Act, with a distinct legal personality from the directors and its members and power to hold property, sue and be sued in that capacity.

4. **A Declaration** that the interim Order of forfeiture/attachment granted by the High Court of the FCT on the assets and properties of the Plaintiffs as identified in the schedule of assets and properties, in Charge **No. FCT/CR/64/2012, between Federal Republic of Nigeria Vs Esai Dangabar & 5 ORS**, where the Plaintiffs are not parties in the charge was made in error.
5. **A Declaration** that the two registered Power of Attorney respectively created in favour of the Plaintiffs in respect of properties known and described as plots 140, 142, 143, and 144 Ehimiri layout and its appurtenances, situated at Ndume, Umuahia Eku in Umuahia Noarth L.G.A duly acquired by 2<sup>nd</sup> Plaintiff, and properties lying and situated at plot 103/104 Ozoitem Street/Umuezehi Amuziukwu Umuahia in Umuahia North Local Government of Abia State, conferred absolute legal title on the Plaintiffs and as such cannot be attached/forfeiture in a criminal charge where the plaintiffs are strangers to the suit.
6. **A Declaration** that the 2<sup>nd</sup> Plaintiff's ancestral/family inheritance built by his late father, which he inherited as the first and only surviving son of the Okeiyi dynasty was wrongly attached/forfeited in the interim Order of

attachment/forfeiture made by High Court of the FCT, in Charge No. **FCT/CR/64/2012, Between FRN VS ESAI DANGANBA.**

7. **A Declaration** that the purported appointment of a third party **(ETUDO & CO)** to manage the real property of the Plaintiffs attached/forfeited by the order of 3<sup>rd</sup> May, 2012 is invalid, unconstitutional, and null and void.
8. **A Declaration** that the steps taken by the Defendant in and over the properties of the Plaintiffs are ultra vires, irregular, null and void.
9. **AN ORDER** setting aside the purported exercise of powers of management, control, holding, alienation and transfer of any or all of the Plaintiffs' properties covered by the said Order of the Court of 3<sup>rd</sup> May, 2012.
10. **AN ORDER** of perpetual injunction restraining the Defendant, its agents, privies, officers, assigns however called or persons deriving powers, authority, direction and order from the Defendant from further trespassing into any of the Plaintiff's properties, attaching, forfeiting, sealing, seizing, holding or dealing with any of the Plaintiffs' properties above listed, in any form adverse or prejudicial to the interest of the Plaintiffs.

11. **AND SUCH FURTHER ORDER(S)** as this Honourable Court may deem fit to make in the circumstance.

One Mr. Oko Joseph Egwu, the General Manager of the 1<sup>st</sup> Plaintiff Company deposed to a supporting affidavit of 48 – paragraphs with nine annexure marked as exhibits A1–A9. There is also a written address in obedience to the Rules of the Court.

Upon the receipt of the originating process the Defendant filed a notice of preliminary objection on the ground that this action constitutes a gross abuse of Court process. The grounds listed in support of the objection are specifically listed as follows:

1. That the instant Originating Summons issued by the Plaintiffs constitutes a gross abuse of the processes of this Honourable Court.
2. The reliefs sought by the Plaintiff are incompetent and unsustainable by the instant application.
3. Given the facts and circumstances of this case the Originating Summons of the Plaintiffs is a misnomer and an aberration.

In support of the preliminary objection is an affidavit of 29-paragraphs deposed to by one Simon Iorzua, a detective with the Defendant Commission to which photocopies of certain documents



were attached as exhibits RJ 1 – RJ 4. There is also a written address in support of the preliminary objection.

In opposing the notice of preliminary objection the plaintiff filed a 14–paragraphs counter affidavit and a written address. The affidavit was deposed to by one Ahmed Sadiya, a Litigation Secretary in the firm of I. C. Ejiofor & Co. representing the Plaintiffs.

In keeping with the practice which crystallized in plethora of decisions that Originating Summons be taken together with Preliminary Objections (where applicable) the Defendant also filed a counter affidavit of 29-paragraphs in opposition to the Originating Summons while the Plaintiffs with leave of Court filed a further affidavit of 10–paragraphs and a further written address. All the processes were duly adopted by the respective Counsel in the open Court. The preliminary objection as the expression connotes is an objection which is initiated or commenced at the earliest opportunity. It should be taken at once. See **MUHAMMED V. OLAWUMI (1993) 4 NWLR (PT.288) 384** and **OLORIADE V. OYEBI (1984) 1 SCNLR 390**.

The outcome of this exercise will determine the fate of the substantive claim. This is so because it is now trite Law that proceedings conducted in the face of jurisdictional defect is a nullity ab initio. On this point of Law see **DAPIANLONG & ORS V. DARIYE**

**& ANOR (2007) 4 S.C (PT.III) 118 162-163** where the apex Court held thus:

**“It is settled law that jurisdiction is a radical and crucial question of competence because if a court has no jurisdiction to hear and determine a case, the proceedings are and remain a nullity ab initio, however well conducted and brilliantly decided they might be since a defect in competence is not intrinsic, but extrinsic to the entire process of adjudication. Jurisdiction is therefore considered to be the nerve centre of adjudication; the blood that gives life to the survival of an action in a court of law in the very same way that blood gives life to the human being in particular and the animal race in general.”**

See also:

- 1. MADUKOLU V. NKEMDILIM (1962) 2 SCNLR 341;**
- 2. ONYENUCHEYA V. MILAD, IMO STATE (1997) 1NWLR (PT.482) 429;**
- 3. UTIH & ORS V. ONOYIVWE (1991) 1 NWLR (PT. 166) 166.**

Now the main ground in support of the objection filed by the Defendant is that this action is an abuse of Court process. If this

allegation is satisfactorily established the Court the Court would in consequence be robbed of the jurisdiction to hear and determine the Plaintiff's case.

In **ALLANAH & 2 ORS V. KPOLOKWU & 2 ORS (2016) LPELR-40724 SC** His Lordship Sanusi, JSC has this to say:

**“To my mind, some of the features of abuse of court process include the under mentioned features, even though they are by no means exhaustive. These features are:**

- (i) Filing of multiplicity of actions on the same subject matter against the same opponents on the same issues or numerous actions on the same matter between the same parties even where there is in existence, a right to commence the action.**
- (ii) Instituting different actions between the same parties simultaneously in different courts even though on different grounds.**
- (iii) Where two or more similar processes are used in respect of the exercise of the same right, for instance, a cross appeal and a respondent's notice.**

**(iv) Where two actions are instituted in court the second one asking for relief which may however be obtained in the first, the second action is, prima facie vexatious and an abuse of court process.”**

See also:

- 1. OKORODUDU V. OKORODUDU (1977) 3 S.C 21;**
- 2. SARAHI V. KOTOYE (1992) 9 NWLR (PT.204) 156;**
- 3. OGOEJIOFOR V. OGOEJIOFOR (2006) 3 NWLR (PT.996) 206; and**
- 4. OKOROCHA V. PDP (2014) 7 NWLR (PT.4406) 213.**

In this case the Defendant had contended that the Plaintiffs have earlier filed a similar action in suit NO. FCT/CV/1839/15 between the 2<sup>nd</sup> Plaintiffs herein (as 2<sup>nd</sup> Plaintiff in the earlier suit) while Messrs Somadok Global Services Ltd was the 1<sup>st</sup> Plaintiff. The 2<sup>nd</sup> Plaintiff herein is a Director of Somadok Global Services Ltd. Apart from the Defendant herein who was listed as the 2<sup>nd</sup> Defendant in the earlier action, the Attorney General of the Federation and Mrs. Veronica Ulonma Onyegbula were also listed as the defendants respectively.

The questions put forward on the face of the interpleader summons in the earlier suit filed on 14/05/2015 are as follows:

1. Whether by the contents of Exhibit A1, and depositions in the affidavit in support as to the particular of ownership of buildings numbered 28, 29 and 31 in the schedule of attachment, and columns ascribed to 3<sup>rd</sup> Respondent, the buildings could be said to belong to Somadok Global Services Nigeria Limited and Mr. Charles Maduka Okeiyi.
2. Whether from the contents of the exhibits and the affidavits, the attachment/Forefeiture on;
  - a. Building Housing Ulover International Resources Ltd, Ketchis Bottling Company, situate at plot 140-142 Ehinmiri Housing Estate, Umuahia, Abia State.
  - b. 6 Bedroom Duplex Housing Somadok, situated at 14 Ola Adeshile Street, Ajao Estate, Oshodi-Isholo, Lagos.
  - c. A Family ancestral home, Mansion with BQ, SITUATED AT Umugbalu Village Oboro, Ikwuano L.G.A, Abia State

**Is proper and valid in Law?**

3. Whether the 2<sup>nd</sup> Respondent is entitled to make demand for rents from the occupants of the buildings through a third party, Facility Manager (Etudo & Co)?

In a related development the reliefs sought in that earlier action consequent upon the resolution of the above questions are as reproduced hereunder:

1. AN Order declaring ownership of the said buildings numbered 28, 29 and 31 in the schedule of properties, in Exhibit A3 to the Claimants.
2. An Order setting aside the interim Order of attachment/forfeiture granted upon the building specified in number 28, 29 and 31 in the schedule of properties as per Exhibit A2 and A3.
3. An Order directing the 2<sup>nd</sup> Respondent to release forthwith to the Claimants, the aforesaid properties and desist from further interference with the property in a manner prejudicial to the title of the Claimants.
4. And for such further Order(s) as this Honourable Court may deem fit to make in the circumstance of this case.

I have carefully perused and scrutinized the processes filed in the previous action and I have no doubt in my mind that the following points are not in dispute.

- (a) That the earlier action was filed to challenge the attachment of some properties (i.e. items 28, 29 and 31 on the list of attached properties) allegedly traceable to Mrs. Veronica Ulonma Onyegbula on the ground that the properties belonged to the family and company of the Plaintiffs.

(b) That the present action is founded on similar grounds and similar relief. (i.e. properties Nos. 28, 31, 32 and 33).

The only difference is simply that in the earlier suit Messrs Somadok Global Services Nig. Ltd (as 1<sup>st</sup> Plaintiff therein) and the 2<sup>nd</sup> Plaintiff herein jointly claimed ownership of the said properties. See paragraph 4 (K) and (L) of the affidavit in support of the earlier suit to the effect:

4(k) - That the said Order of attachment was erroneously made on property numbered in the schedule (exhibitA3), as the property described in the said column 29 of the attachment/ forfeiture Order, clearly belongs to the (1<sup>st</sup> Applicant/Claimant, which acquisition was fully funded by the 2<sup>nd</sup> Applicant/Claimant as the alter-ego of the 1<sup>ST</sup> Applicant/Claimant.

4(l) - That the 2<sup>nd</sup> Applicant/Claimant bought the building stated in number 29 of the schedule, on behalf of the 1<sup>st</sup> Applicant/Claimant from one Chief Ben Unachukwu through his Estate Agents.

Turning to the instant action a different company (i.e. Ulover International Resources Ltd) being the 1<sup>st</sup> Plaintiff herein was presented as the joint owner alongside the 2<sup>nd</sup> Plaintiff in this suit.

See paragraphs 20-24 of the affidavit in support of the instant action:

20. That in the above schedule of assets and properties (Exhibit4), properties belonging to the Plaintiffs in this suit was erroneously listed among the properties traced to the 5<sup>th</sup> Accused person in the charge.

21. That properties listed in Nos. 28, 31, 32 and 33 in the schedule of assets and properties, i.e. in Exhibit A4, are the properties of the Plaintiffs, which were acquired by them many years ago before the alleged investigation and consequent arraignment of the 5<sup>th</sup> Accused person in the charge.

22. That the only relationship between the Plaintiffs and the 5<sup>th</sup> Accused person in the charge, Mrs. Veronica Ulonma Okeiyi Onyegbula is that she is a non-executive director in the 1<sup>st</sup> Plaintiff's company being a going concern of the family and the eldest daughter in the 2<sup>nd</sup> Plaintiff's family.

23. That the acquisition of the properties listed in Nos. 28, 31, 32 and 33 in the schedule referred to in paragraph 21 above, were fully funded by the 1<sup>st</sup> and 2<sup>nd</sup> Plaintiffs respectively, without any contribution, involvement or participation of Veronica Okeiyi Onyegbula.



24. That neither the 1<sup>st</sup> Plaintiff nor the 2<sup>nd</sup> Plaintiff was a party to the criminal charge No: FCT/CR/64/2012 between Federal Republic of Nigeria V. Esai Dangabar & 5 Ors.

From the clear facts and circumstances of the respective suits I am satisfied that the parties and reliefs claimed in the two suits are substantially the same. As a matter of fact the Plaintiffs did not deny the facts in support of the preliminary objection with respect to the pendency of Suit No. FCT/HC/CV/1369/15. All they said was that the earlier suit was struck out on 18<sup>th</sup> December, 2015. However, there is nothing to support this bare assertion. If indeed the earlier suit has been struck out the learned Counsel for the Plaintiffs ought to know that the Court is not a magician. The only acceptable mode of bringing such development to the attention of the Court is by presenting a Certified True Copy of the proceedings of that day or the order striking out the said action. This the Plaintiffs have failed to do thereby leaving this critical point as to whether the earlier suit was still pending to speculation. Regrettably Courts of law cannot speculate.

In **EJEZIE V. ANUWU (2008) 4 S.C 167** the Supreme Court per Tobi, JSC (of blessed memory) aptly captured the Law thus:

**“A court of law has no jurisdiction to speculate or conjecture. A court of law must confine itself to the**

**evidence before it and give judgment on the evidence alone.”**

The point must also be made that the object of this action is essentially for declaration that title in the disputed properties vests in the Plaintiffs and not Mrs. Veronica Onyegbula. If that be the case it is settled law that declaration of title to land cannot be made without the benefit of oral evidence. The third ground in support of the preliminary objection tends to take cognizance of this point of law. The ground is reproduced below albeit at the risk of repetition:

**“Given the facts and circumstances of this case the Originating Summons of the Plaintiffs is a misnomer and an aberration.”**

I am surprised that the learned senior counsel to the Respondent failed to proffer any legal argument on this point. However submissions of counsel are simply meant to assist the Court in the fair and just determination of cases brought before the Court for adjudication. Therefore failure on the part of Counsel will not deter the Court from doing substantial justice as dictated by the facts and circumstances of each case. After a careful scrutiny of the Plaintiffs’ claim, I hold as I should that the Plaintiffs cannot in good faith approach the Court vide Originating Summons for declaration of title to land. There are plethora of decision of superior Courts on

this trite point of Law. See the Supreme Court case of **ADDAH VS UBANDAWAKI (2015) 7 NWLR (PT. 1458) 325 AT 344 .**

What that means to me is that the action of the Plaintiffs is indeed an abuse of Court process as it is incompetent given the facts and circumstances of this matter and I so hold.

At the end of the day I hold as I should that this action is an abuse of process in view of the pendency of a similar action in Suit No. FCT/HC/CV/1839/15 and the wrong procedure adopted by the Plaintiffs in the presentation of this action. If that be the case, the objection taken by the Defendant is meritorious and accordingly upheld. This suit is liable to be and is hereby struck out being an abuse of Court process.

Having disposed of the preliminary objection in favour of the Defendant Commission there would be no need for digging further into the merit of the substantive claims. However, in the event that I am wrong in my finding on the preliminary objection I shall consider the Originating Summon on its merit.

### **SUBSTANTIVE ISSUE**

After a calm and dispassionate consideration of the processes filed by parties it is clear to me that the only issue for consideration is whether the forfeiture order made on 3<sup>rd</sup> May, 2012 by Gummi, CJ

(as he then was) in respect of items 28, 31, 32 and 33 on the scheduled of attached items was made in error on the ground that the Plaintiffs herein are the lawful owners of the said properties to the exclusion of Mrs. Veronica Ulonma Onyegbula who is standing criminal trial in charge NO. FCT/HC/CR/64/2012 and who is the primary target of the said order. To facilitate ease of understanding the properties in dispute are captured in the table below:

**SCHEDULE OF THE ASSETS AND PROPERTIES SUBJECT MATTER OF THE ORDER OF INTERIM FORFEITURE.**

<b>S.N</b>	<b>DESCRIPTION</b>	<b>UNIT</b>	<b>ADDRESS</b>	<b>OWNER</b>
18.	Companies Building Housing Ulover International Resources Ltd, Kechis Bottling Company	1	Plots 140 - 142 Ehinmiri Housing Estate, Umnalna, Abia State.	Veronica 0.0
31.	A mansion with a B Q	1	Umugbalu Village, Ikwuano L.G.A, Abia State.	Veronica 0.0
32.	1, two storey Building with Shops and Flats.	6	No. 103, Ozuitem Street, Enugu Road, Amuziukwu, Umuahia, Abia	Veronica 0.0

			State.	
33	1, Three Storey Building with Shops and Flats.	6	No. S104, (as above)	Veronica 0.0

The contention of the Plaintiffs is that the ownership of the properties in dispute has nothing to do with the **Mrs. Veronica Ulonma Onyegbula** (the biological sister of the 2<sup>nd</sup> Plaintiff and a Director of the 1<sup>st</sup> Plaintiff Company) who is presently standing trial for allegation of graft at the Police Pension office in Abuja. See paragraphs 20 to 24 of the affidavit in support of the Originating Summons reproduced elsewhere above.

The Defendant has however joined issues with the Plaintiffs on the ownership of the disputed property. Paragraph 17 to 19 of the Defendant's counter affidavit is very clear on this point:

17. That contrary to the depositions by the deponent in the affidavit in support of the Originating Summons that the 1<sup>st</sup> Plaintiff is being owned, run and managed by the 2<sup>nd</sup> Defendant herein the following facts emerged:

- (a) That Exhibit A1 attached to the Plaintiffs' shows that the 1<sup>st</sup> Plaintiff was incorporated on 7<sup>th</sup> November, 2004.

- (b) From 2004 when the 1<sup>st</sup> Plaintiff was incorporated the company was solely managed by Mrs. Veronica Ulonma Onyegbula (the 4<sup>th</sup> Defendant in Charge No. FCT/CR/64/2012) as the Managing Director and she was the sole signatory to the account of the 1<sup>st</sup> Plaintiff. Attached herewith are two of the letters signed by Mrs. Veronica Ulonma Onyegbula (which the same (sic) as Okeiyi Veronica Ulonwa) dated 15<sup>th</sup> November, 2006 marked as Exhibit RJ2.
- (c) While Mrs. Veronica Ulonma Onyegbula (the 4<sup>th</sup> Defendant in Charge No. FCT/CR/64/2012) was a public servant with the Police Pension Office and colluded with others to make fraudulent withdrawals from the Police Pension Office account part of which funds she diverted into acquiring properties in the name of the 1<sup>st</sup> Plaintiff herein she was also the Managing Director of the 1<sup>st</sup> Plaintiff herein.
- (d) That Plaintiff's Exhibit A2 clearly shows that it was filed on 21<sup>st</sup> February, 2012 when investigations against Mrs. Veronica Ulonma Onyegbula (the 4<sup>th</sup> Defendant in Charge No. FCT/CR/64/2012) was already at its peak and Mrs. Veronica Ulonma Onyegbula in connivance with the 2<sup>nd</sup> Plaintiff herein have started making

desperate moves to conceal the genuine ownership of the 1<sup>st</sup> Plaintiff and properties acquired in its name.

18. That after the assets and properties were temporarily forfeited the 2<sup>nd</sup> Plaintiff herein has been using different means to obstruct and prevent the Defendant from gaining access to most of the properties and assets traced to Mrs. Veronica Ulonma Onyegbula (the 4<sup>th</sup> Defendant in Charge No. FCT/CR/64/2012).

19. That the 2<sup>nd</sup> Plaintiff has been acting as a front for Veronica Ulonma Onyegbula (the 4<sup>th</sup> Defendant in Charge No. FCT/CR/64/2012), he has made several efforts to frustrate the operation of the Defendant in respect of the assets and properties traced to Veronica Ulonma Onyegbula (the 4<sup>th</sup> Defendant in Charge No. FCT/CR/64/2012) and claiming at different for a that he is the owner of the assets and properties traced to Veronica Ulonma Onyegbula (the 4<sup>th</sup> Defendant in Charge No. FCT/CR/64/2012).”

The Plaintiffs in their further affidavit did not deny the above state of affairs. They merely stated that there is nothing before the Court to show that Mrs. Veronica is the sole signatory to the 1<sup>st</sup> Plaintiff company bank account.

I have painstakingly evaluated the evidence put forward by parties and I am comfortable to hold that the evidence of the Plaintiffs is nothing but a litany of carefully concocted falsehood. The Plaintiffs herein cannot in good conscience claim ownership of the attached properties under the misguided impression that Mrs. Veronica Onyegbula has nothing to do with those assets. The concocted falsehood of the Plaintiffs was effectively deflated by Exhibits RJ 4 and RJ 5 attached to the Defendant's counter affidavit. The exhibits are letters written by the Law firm of E.C. Ikeji & Co. on the express instructions of Mrs. Veronica Onyegbula to the Chairman of the Defendant to challenge the way and manner the defendant was managing Mrs. Veronica Onyegbula's temporarily forfeited assets inclusive of the 1<sup>st</sup> Plaintiff Company herein. For ease of clarity the introductory paragraphs of exhibit RJ 4 dated 24/2/15 is hereby reproduce below.

“We are Solicitors to Mrs. Veronica Onyegbule, (hereinafter referred to as Our Client) the 5<sup>th</sup> Accused person in the above mention case which is currently pending at High Court 5 Maitama Abuja and we have her instruction to write to you as follows:

That you Commission by a letter with reference No: AS/066/EFCC/AFU/TC/VOL.3 dated the 18<sup>th</sup> day f



February 2015 on the above mentioned subject matter and involving the above mentioned Criminal Case which is currently pending at the High Court No. 5 Maitama Abuja, an addressed to the Manager Ulover International Resources Limited, and Kechi Bottling Company two companies involved in the temporary forfeiture Order granted to your Commission by my Lord Honourable Justice L.H. Gumni (Rtd) of the FCT High Court purported to have appointed the firm of Etudo & Co. as the new Manager of Our Client's property/Assets without any order of a Court of competent jurisdiction."

The tone of the above exhibit is very emphatic on the point that Mrs. Veronica Onyegbula has vested interest in the disputed properties which her Solicitors on her instruction described as "Our Client's property/Assets." The Court is at liberty to believe the content of exhibit RJ4 which affirmed the interest of Mrs. Veronica Ulonma Onyegbula (the 4<sup>th</sup> Defendant in Charge No. FCT/CR/64/2012) in the properties which are the subject matter of this suit.

From the totality of what has played out above, it cannot be true that the Plaintiffs are the owners of the properties affected by the forfeiture order made on 3<sup>rd</sup> May, 2012. Mrs. Veronica Onyegbula has sufficiently demonstrated on the face of exhibit RJ 4 that she has

vested interest in those assets and that explains why she engaged Solicitors to contest the interim management of the asset. She also clearly admitted that the assets belonged to her.

Having demonstrated by credible evidence that Mrs. Veronica Onyegbula who was under investigation by the EFFCC has possible link with the subject matter of the interim attachment under consideration it would therefore appear to me that the Respondent has justified the making of the said order of interim attachment.

In **THE SUN PUBLISHING LTD V. F.R.N, CA/A/505/2012 (UNREPORTED)** delivered on 18<sup>th</sup> May, 2018 and made available to this Court by the learned Counsel to the Respondent the Court of Appeal (Abuja Division) held at page 20 inter alia as follows:

**“Section 7 of the Act gives special power to the Commission to cause investigation to be conducted as to whether any person, corporate body or organization has committed an offence under the Act or other law relating to economic and financial crimes. Section 26 of the EFCC Act makes it clear that the Commission can seize property of a person under investigation and or upon search can apply for interim forfeiture of properties of a person under investigation where there is evidence that the**

**properties are proceeds of economic crime vide proper application being made to the Court of competent jurisdiction by a motion Ex Parte for interim forfeiture of the property concerned to the Federal Government.”**

The Court went further to say that:

**“It is not correct to say as Appellant had contended that a person must be first arrested or apprehended, charged to Court and prosecuted to conviction before Sections 7, 26, 28 and 29 will enure for the benefit of the EFCC to apply to the Court for interim forfeiture.”**

Arising from the foregoing I must also as I should disagree with the position of the Plaintiffs’ Counsel that Mrs. Veronica Onyegbula is a non-executive Director of the 1<sup>st</sup> Plaintiff Company. Exhibit RJ2 attached to the Defendant’s preliminary objection put a lie to this assertion. The exhibit is a letter dated 15<sup>th</sup> November, 2006 and written on the letter head of the 1<sup>st</sup> Plaintiff herein and addressed to the Manager of Wema Bank, Awolowo Road, Ikoyi, Lagos. Mrs. Veronica Onyegbula signed as the Managing Director of the 1<sup>st</sup> Plaintiff. She also signed a similar letter dated the selfsame 15<sup>th</sup> November, 2006 and attached to exhibit RJ2 in her capacity as the Managing Director of the 1<sup>st</sup> Plaintiff.

It is also interesting to note that the 1<sup>st</sup> Plaintiff Company under the leadership of Mrs. Veronica Onyegbula as alter ego and directing mind made it abundantly clear from its letter head that it operates from the property captured as No. 28 on the Order of interim attachment and forfeiture! In fact that is the head office of the 1<sup>st</sup> Plaintiff Company herein. The two letters written to Wema Bank Plc by the 1<sup>st</sup> Plaintiff company were sign by Mrs Veronica Onyegbula in her capacity as the Managing Director of the 1<sup>st</sup> Plaintiff company.

The question then is what is the role or function of the Managing Director of a company? Is the Managing Director indeed a non-executive director of the company? In my view a Managing Director cannot in all honesty be said to be a non-executive officer of a company. That would be (and to put it lightly) a manifestation of ignorance of the functions of the Managing Director of a company who is undoubtedly the Chief Executive Officer (CEO) of the company. It is therefore not true that Mrs. Veronica Onyegbula is a non-executive Director of the 1<sup>st</sup> Plaintiff Company.

To further demonstrate the insincerity of the Plaintiffs herein I refer to the earlier action in suit No. FCT/HC/CV/1839/15 wherein a different Company (i.e. Somadok Global Services Nig. Ltd) and the 2<sup>nd</sup> Plaintiff herein claimed to be the owner of the temporarily forfeited assets in dispute. The question now is how the 1<sup>st</sup> Plaintiff

herein as opposed to Messrs Somadok Global Services Nig. Ltd suddenly became interested in the disputed assets. This clearly shows that the Plaintiffs herein are playing pranks with the Court and must not be encouraged to continue in that wise and I so hold.

There is also another angle to the claim of the Plaintiff. The Respondent at Paragraph 20 of the affidavit in support of its Notice of Preliminary Objection which now formed part of the record of the Court stated as follows:

**“That efforts to invite the 2<sup>nd</sup> Plaintiff herein for clarification on his claims on the assets and properties have proved abortive as he has been a fugitive, his address cannot be traced and investigations have revealed that he has been living abroad but has been instructing several people including counsel to ensure they wrestle forfeited properties from the Defendant and frustrate the effect of the order of forfeiture granted by this Honourable Court.”**

The 2<sup>nd</sup> Plaintiff who is the alter ego of the 1<sup>st</sup> Plaintiff did not deny this point. This is quite instructive. If indeed the Plaintiffs have any vested interest in the disputed properties it is curious that the 2<sup>nd</sup> Plaintiff neglected and refused to cooperate with the Defendant in the course of investigation. The Plaintiffs have annexed Powers of

Attorney and Deed of Assignment which they relied upon as their root of title. Unfortunately the Court cannot properly look at those documents in an Originating Summons procedure such as the instant case as held elsewhere above. But the question that would agitate the mind of any reasonable person is why the Plaintiffs failed to confront the Defendant with those documents for proper investigation in order to ascertain the veracity of their claim to title. The attitude of the Plaintiffs strongly suggests that they are not serious contender as far as title to the disputed properties is concern and I so hold.

I need to also comment on the nature of the interim order of forfeiture under attack by the Plaintiffs. Granted that the interim order of forfeiture was made to preserve the properties in dispute pending completion of investigation and trial of Mrs. Veronica Onyegbula and others, is this action not premature and does it not amount to undue interference with the power of the Defendant and the Order of the Court. I take into account the fact that the Order was made on 3<sup>rd</sup> May, 2012 by Gummi, C.J (as he then was) and there was no application to set same aside since then. The Order does not pretend to be final in nature. The Order was to remain in force pending the hearing and determination of the criminal charge against the accused persons listed on the face of the order. Mrs

Veronica Onyegbula was no doubt listed as the 4<sup>th</sup> accused person therein. By and large the Order is preservatory in nature. If Mrs. Veronica Onyegbula is found to be innocent at the end of the trial in charge No. FCT/HC/CR/64/2012 the order would naturally abate. Given the circumstances of the pending criminal trial the Order of Interim forfeiture is in order and cannot be faulted.

The case of **DANGABAR V. FRN (2014) 12 NWLR (PT.1422) 575 AT 607** cited by the learned Counsel to the Defendant is clear on this point. The Order of Interim forfeiture is to prevent the suspect or accused as the case may be from dealing with proceeds of crime held by him or the third parties on his behalf.

At the end of the day I agree as I should with the learned Counsel to the Defendant that the Plaintiffs has not established their claims as same is lacking in merit.

In rounding off this Judgment I must state for the records that the seven questions formulated by the Plaintiffs are answered in the negative and resolved against them and in favour of the Defendant.

Similarly the consequential reliefs listed on the face of the Originating Summons by natural implication are bound to be and are hereby dismissed in its entirety for want of merit.

**SIGNED**  
**HON. JUSTICE HUSSEINI B. YUSUF**  
**(PRESIDING JUDGE)**  
**05/05/2020**