

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

BEFORE HON. JUSTICE J. ENOBIE OBANOR
ON THIS 20TH DAY OF JUNE, 2024

MOTION NO: CV/1102/2024

BETWEEN:

CHIKODI OKEORJI CLAIMANT

AND

1. ABUJA ELECTRICITY DISTRIBUTION PLC } DEFENDANTS
2. FAUZIYA TAUHEED (AKA HAJIYA BINTA) }

JUDGMENT

DELIVERED BY HON. JUSTICE J. ENOBIE OBANOR

By an Originating Summons dated 2nd of February, 2024 and filed on the same date, the Applicant, raised the following questions for determination:

1. Whether the Order of Injunction made by the High Court of the FCT on 8/12/2020, in Suit No: CV/1094/2020: Between: Chikodi Okeorji, Esq v. AEDC & 2 Ors, restraining the Defendants from disconnecting the electricity supply or connection of the Claimant at his residence, in any manner howsoever, pending the hearing and determination of the Suit, imbued any form of legal right whatsoever on the Claimant.

2. Whether the action of the Defendants in disconnecting Claimant's electricity connection at Claimant's residence at Seeman Estate, Phase 4, Kubwa Abuja, on 31/10/2023, which disconnection lasted up to 6/11/2023, in brazen affront and violation of a valid and subsisting order of Court made by the High Court of the FCT on 8/12/2020, in pending Suit No: CV/1094/2020:Between: Chikodi Okeorji, Esq v. AEDC & 2 Ors, restraining the Defendants from disconnecting the electricity supply or connection of the Claimant, pending the hearing and determination of the Suit, does not amount to a violation of the legal rights imbued on the Claimant by the Order.
3. Whether, having regard to the legal principle of ubi jus ibi remedium, the facts and the entire circumstances of this case, the Claimant is not entitled to remedy in damages for Defendants' breach.

Upon determination of the above questions, the Claimant seeks the following reliefs:

1. A DECLARATION that the Order of Injunction made by the High Court of the FCT on 8/12/2020, in Suit No: CV/1094/2020:Between: Chikodi Okeorji, Esq v. AEDC & 2 Ors., restraining the Defendants from disconnecting the electricity supply or connection of the Claimant at his residence, in any manner howsoever, pending the hearing

and determination of the Suit, imbued the Claimant with legal rights.

2. A DECLARATION that the action of the Defendants in disconnecting Claimant's electricity connection at Claimant's residence at Seeman Estate, Phase 4, Kubwa Abuja, on 31/10/2023, which disconnection lasted up to 6/11/2023, despite the Order Injunction made by the High Court of the FCT, on 8/12/2020, in a pending Suit No: CV/1094/2020: Between: Chikodi Okeorji, Esq v. AEDC & 2 Ors., restraining the Defendants from disconnecting the electricity connection of the Claimant, pending the hearing and determination of the Suit, amounts to a brazen violation of order of Court made in favour of the Claimant.
3. A DECLARATION that the action of the Defendants in disconnecting Claimant's electricity connection at Claimant's residence at Seeman Estate, Phase 4, Kubwa Abuja, on 31/10/2023, which disconnection lasted up to 6/11/2023, in brazen disobedience of the Order of Injunction made by the High Court of the FCT, on 8/12/2020, in Suit No: CV/1094/2020: Between: Chikodi Okeorji, Esq v. AEDC & 2 Ors., restraining the Defendants from disconnecting the electricity connection of the Claimant, pending the hearing and determination of the Suit, amounts to a violation of Claimant's rights.

4. The sum of N500,000,000 (Five Hundred Million Naira) being special, general, exemplary, punitive and aggravated damages against the Defendants for violation of Claimant's rights.
5. 35% interest per annum on the Judgment sum until full and final liquidation.

The Originating Summons was filed alongside a 25-paragraph Affidavit deposed to by the Claimant, 8 Exhibits and a Written Address. In response, the Defendants filed their Counter Affidavit in Opposition to Claimant's Originating Summons dated 27th May, 2024 and filed on the same day alongside a Written Address.

Briefly, the facts of the case are as follows: Sometime in February, 2020, the Claimant took out an action against the 1st Defendant and 2 others vide a Writ of Summons in Suit No.: CV/1094/2020, Between CHIKODI OKEORJI ESQ. V. AEDC & 2 ORS over the 1st Defendant's threats to disconnect his house with Meter No. 07084815526 on the allegation and report that it was faulty. The 1st Defendant also required the Claimant to pay a penalty for the faulty meter and also bear the cost of procuring a new one. The Court made an order of interlocutory injunction on 8/12/2020 restraining the Defendants from disconnecting the Claimant's electricity supply at his residence pending the hearing and determination of the substantive suit. On 31st of October, 2023 while the Court Order was subsisting, the 1st Defendant

through its agent; the 2nd Defendant disconnected the electricity supply at the Claimant's House. Hence, this suit.

Hearing commenced on the 22nd of April, 2024. The 1st and 2nd Defendants moved their respective notices of preliminary objection on the 29th of May, 2024.

The 1st Defendant in its notice of preliminary objection sought the following reliefs:

1. An Order striking out the claimants' suit against ABUJA ELECTRICITY DISTRIBUTION PLC with costs for lack of competence and lack of court's jurisdiction.
2. An Order striking out the name of the 2nd defendant from this suit on the ground that the 2nd defendant is an agent of a disclosed principal (the 1st defendant) and her presence is not needed or necessary for the effectual determination of the issue in this suit.
3. Any other order(s) the court deems fit to make in the circumstance.

The grounds upon which the reliefs are sought are as follows:

- 1 This suit is an abuse of court processes as the claimant has a pending suit (CV/1094/2020-Chikodi Okeorji v AEDC & 2 Ors) against the 1st defendant on the same subject matter before the FCT High Court.

2. The 2nd defendant is a staff and agent of a disclosed principal - the 1st defendant and incurs no personal liability for any act done while acting for the 1st defendant therefore there is no cause of action against her.
3. The remedies in the domestic forum provided as conditions precedent for a customer to exhaust before suing an electricity distribution company as provided by the Nigerian Electricity Regulatory Commission's Customer Protection Regulations 2023 (formerly known as Customer Complaint Handling Standards and Procedures 2005) as empowered by Sections 80 and 96 of the Electric Power Sector Reform Act (now under Section 226 of the Electricity Act 2023) were not exhausted before bringing this suit.
4. That this Honourable Court cannot assume jurisdiction over a matter that is not proper and competent before him.

The 1st Defendant its Written Address formulated four (4) issues for determination as follows:

1. Whether the suit does not constitute abuse of court processes in the light of the pendency of Suit CV/1094/2020 before the High Court of FCT having the claimant and 1st defendant as parties and related subject matter.
2. Whether the joining of the 2nd defendant who is an agent of the 1st defendant is not a misjoinder in this suit.

3. Whether this court can entertain the claimant's claims where he has not exhausted the internal remedies provided by Nigerian Electricity Regulatory Commission's Customer Protection Regulations 2023 (formerly known as Customer Complaint Handling Standards and Procedures 2005) as empowered by Sections 80 and 96 of the Electric Power Sector Reform Act (now under Section 226 of the Electricity Act 2023).
4. Whether the court can assume jurisdiction where the claimant's suit and claims against the 1st defendant are not proper before the court.

On issue 1, Counsel argued that there is a pending suit between the Claimant and the 1st Defendant with Suit No. FCT/CV/1094/2020 over the same subject matter which is meter with number 07084815526 which makes this suit an abuse of Court process. Counsel relied on *AJAM V. SPDC (NIGERIA) LIMITED* (2008) NWLR Pt. 1094 Pg. 66 at Pg. 91 (CA) and urged the Court to strike out the suit

On issue 2, Counsel argued that an agent acting on behalf of a disclosed principal incurs no liability and that the Claimant has not disclosed any cause of action against the 2nd Defendant. Counsel argued that in a case such as this, the Court ought to strike out the name of the 2nd Defendant. Counsel relied on the cases of *ESSANG V. AUREOL PLASTICS LTD* (2002) FWLR Pt. 129

Pg. 1471 at 1488, CHEVRON (NIG) LTD V. LD (NIG) V. UNIJOS (1994) 1 NWLR Pt. 323 631 at 659, Paras F-G.

On issue 3, Counsel argued that the Claimant has not yet exhausted the domestic forum remedy procedure for the pre-litigation disputes resolution mechanism provided in the Customer Protection Regulations 2023 (formerly known as Customer Complaint Handling Standards and Procedures 2005) as empowered by Sections 80 and 96 of the Electric Power Sector Reform Act (now under Section 226 of the Electricity Act 2023) and that the Claimant can only approach the Court where these internal mechanisms fail. Counsel relied on the case of WALSH BLANC SERVICES LTD V. ABUJA ELECTRICITY DISTRIBUTION PLC (SUIT NO; CV/530/2022 with Motion No: M/3466/2022) and others. Counsel urged this Court to strike out the suit.

On issue 4, Counsel simply argued that the suit is not proper and is incompetent, hence the Court should decline jurisdiction.

In response, the Claimant filed a Counter-affidavit in opposition to the 1st Defendant's Notice of Preliminary Objection dated 29th April, 2024 alongside a Written Address wherein he raised a sole issue for determination to wit:

Whether the present objection is not misconceived and ought to be dismissed for being frivolous and lacking in merit.

Counsel argued that the Claimant ought not to follow the pre-condition procedures before instituting this suit because the instant case does not seek to ventilate issues of electricity customer complaint and/or its handling under the Nigerian Electricity Law regime but rather to determine whether or not the order of this Court made on 8th December, 2020 imbued any form of legal right on the Claimant in whose favour the order was made.

Counsel argued that the argument of the 1st Defendant that this Suit is an abuse of Court process because it seeks to re-litigate an already pending issue before another Court is misconceived. Counsel stated that CV/2542/19 instituted in 2019 between the Claimant and AEDC differs from this instant suit – CV/1094/2020 and it would have been an abuse of Court process if the previous case was merged with the instant one.

Learned Counsel argued that the 2nd Defendant's name cannot be struck off the list when she is neither present in Court nor represented by a Counsel.

Counsel added that in any event, the 2nd Defendant would still not be absolved from liability on the mere ground of vicarious liability as both Defendants need to be held jointly and severally liable. Counsel urged the Court to dismiss the preliminary objection with substantial cost and proceed to determine the Originating Summons.

The 2nd Defendant also filed a Notice of Preliminary Objection which was accompanied by an 18-paragraph Affidavit deposed to by one Ifeanyi Alonu and a Written Address. The 2nd Defendant prayed the Court for the following reliefs:

1. An order striking out her name as the 2nd Defendant in this suit on the ground that the 2nd Defendant is an agent of a disclosed principal (the 1st Defendant) and her presence is not needed or necessary for the effectual determination of the issues in this suit.
2. An order striking out this suit as it was commenced erroneously under originating summons where there are disputed facts and conjectures that require the calling of evidence.
3. Any other order(s) the Court deems fit to make in the circumstance.

The 2nd Defendant raised the objection on the following grounds:

1. That the 2nd Defendant is a staff and agent of a disclosed principal – the 1st Defendant and incurs no personal liability for any act done while acting for the 1st Defendant therefore there is no cause of action against her.
2. The Claimant's claims and some of the facts in support are mere conjectures and in dispute which will require the calling of evidence in support and such cannot be commenced by originating summons but by writ.

3. That this honourable Court cannot assume jurisdiction over a matter that is not proper and competent before him.

In the written address Counsel raised two issues for determination to wit:

- 1. Whether joining of the 2nd Defendant who is an agent of the 1st Defendant is not a misjoinder in this suit.**
- 2. Whether bringing this suit vide originating summons where the claims of the Claimant discloses disputes and conjectures is proper instead of the writ of summons.**

On issue 1, Counsel argued that it is settled law that an agent acting on behalf of a known/disclosed principal incurs no liability and that by the affidavit evidence tendered by the Defendants, it is clear that the 2nd Defendant is a staff of the 1st Defendant and she acted in her capacity as an employee when the act leading to this suit occurred. Counsel relied on the cases of *ESSANG V. AUREOL PLASTICS LTD* (2002) FWLR Pt. 129 Pg. 1471 at 1488 paragraph G-H and *GTB V. UMEH* (2017) LPELR – 42163 (CA) at Pp. 19-21 paras. F.

Counsel argued that in an instance where a party is not needed for effectual determination and such party is joined to a suit, the proper order for the Court to make is to strike out the name of such party that was inadvertently joined to the suit. Counsel

urged the Court to strike out the name of the 2nd Defendant from this suit for misjoinder.

On issue 2, Counsel argued that the claim against the Defendants involves disputable facts that require calling of evidence to determine and that this makes the adoption of the Originating Summons an inappropriate method of instituting this suit. Counsel relied on DOHERTY & ANOR V. DOHERTY (1967) LPELR – 25506 (SC), FG & ORS V. ZEBRA ENERGY LTD (2002) LPELR – 3172 (SC), ADEYELU II & ORS V. OYEWUNMI 7 ORS (2007) LPELR – 167 (SC), OLOMODA V. MUSTAPHA & ORS (2019) LPELR – 46438 (SC) and others.

Counsel urged the Court to mind all the averments in the processes of both parties especially the affidavits and counter affidavits to determine if this matter does not require the calling of evidence and strike out the suit.

In response, the Claimant filed a reply on points of law to the 2nd Defendant's Preliminary Objection. Counsel argued that the question to be answered is whether the principal, material and substantial facts in this case have been sufficiently proven by the documentary evidence in this case.

Counsel argued that apart from the principal facts of this case which is the existence of the Court Order which is evidenced by CTC of the Order and the disconnection which is evidenced by the "Disconnection Notice" all other facts are either introductory

or ancillary and these facts have not been denied by the Defendants. Counsel relied on the cases of JIMOH V. OLAWOYE (2003) 10 NWLR Pt. 828 Pg. 307 and TANKO V. MODI (2019) 8 NWLR Pt. 1675 Pg. 387.

On the issue of striking out the name of the 2nd Defendant, Counsel argued that the 2nd Defendant is a necessary party to this suit. Counsel argued that where the action of the agent is so instrumental to the cause of action or reprehensible, the claim that he/she was a mere agent of the disclosed principal will not remove him/her from being a necessary party. Counsel relied on ALADE V. OLU (2001) 7 NWLR Pt. 71 Pg. 131 Paras A-E and urged the Court to dismiss the objection with substantial cost and proceed to determine the originating summons.

RULING

I have carefully read the argument canvassed in the preliminary objections filed by both Defendants and the reply from the Claimant and I hereby adopt with slight amendments the issues for determination as raised by the 2nd Defendant to wit:

- 1. Whether the 2nd Defendant is a necessary party to be named in this suit having been certified as an agent of a disclosed principal-1st Defendant.**
- 2. Whether the Claimant instituted this suit through the proper originating process in view of the possibility of disputes as to the facts of the case.**

ISSUE 1

Whether the 2nd Defendant is a necessary party to be named in this suit having been certified as an agent of a disclosed principal-1st Defendant.

The relationship that exists between the principal and his agent is a fiduciary one wherein the principal expressly or impliedly consents that the agent should act on his behalf with third parties and the agent who similarly consents so to act. See **IRONBAR CROSS RIVER BASIN AND RURAL DEVELOPMENT AUTHORITY AND ANOR (2004) 2 NWLR Pt. 857 Pg. 411 at 431**. One of the sacrosanct principles governing the agent-principal relationship is that where an agent conducts authorized businesses on behalf of a disclosed principal, the agent generally does not incur liability. See **ESSANG V. AUREOL PLASTICS LTD (SUPRA)**. The law is settled and this position of the law was re-emphasized in the case of **FAIRLINE PHARMACEUTICAL INDUSTRIES LTD & ANOR V. TRUST ADJUSTERS NIGERIA LTD (2012) LPELR – 20860 (CA)** where the Court of Appeal held thus:

“The general principle of law is that a contract made by an agent acting within the scope of his authority and for a disclosed principal is in law the contract of the principal and the principal and not the agent is the proper person to sue or be sued upon such a contract. The common law rule is *qui facit per*

***allium, facit perse, a sam facere indeptur* which means that he who acts through another is deemed in law to do the act himself."**

An exception to this general principle applies where the agent acts outside the scope of his authority. In such a situation, the agent becomes liable except where the principal authorizes his actions. See **FEBSON FITNESS CENTRE & ANOR V. CAPPA HOLDINGS LTD & ANOR (2014) LPELR-24055 (CA)**

By paragraph 2 of the Affidavit in support of the Notice of Preliminary objection filed by the 2nd Defendant, the 2nd Defendant confirms that she is an employee of the 1st Defendant and works as a business manager with the 1st Defendant. This fact is also further established by paragraph 4 of the Affidavit in support of Preliminary Objection filed by the 1st Defendant all of which are not contested by the Claimant.

However, the Claimant relying on the authority of **ALALE V. OLU** (SUPRA) contends that where the action of the agent is so instrumental to the cause of action or reprehensible, the claim that he/she was a mere agent of a disclosed principal will not remove him/her from being a necessary party.

It is important to note that the agent-principal relationship is not one that can be undone by reason of the 'instrumentality' of the agent's act to the cause of action especially in a case like this one where the principal has not denied responsibility for

the action of the agent. In *ALALE V. OLU* as cited by the Claimant, the Court held that:

"A claim that a party is merely acting as an agent of a disclosed principal may certainly not remove him from being a necessary or proper party."(underlining mine)

This, in my opinion, implies that the Court must carefully consider the circumstances surrounding each case in order to determine if the agent can be sued personally. As I stated earlier, there are some exceptions to the principle of the agent-principal relationship but the instant case does not fall within any of the exceptions obtainable in law.

In ***ANEGE & ORS V. ALANEME & ORS (2020) LPELR -50445 (CA)***, the Court per Muhammed Lawal Shuaibu, JCA held that:

"I have also stated in this judgment how the act of the agent can affect the principal (sic) legal position by certain acts which though performed by him are not to be treated as the agent's own act but as acts of the principal. The situation is in law as if it was the principal that did what the agent did or omitted to do. Where the principal of an agent is known or disclosed, the correct and proper person to sue for anything done or omitted to be done by the agent is the principal. ...From the above, the respondents as claimants in the lower Court are not at liberty to pick

and choose who to sue where the agent has disclosed his principal.”

As long as the 2nd Defendant was not acting on a frolic of her own, the principal is the only entity who can sue or be sued. See **AKALONU V. OMOKARO (2003) FWLR Pt. 175**. An action against an agent in his private capacity for acts done on behalf of a known and disclosed principal is incompetent. See **FEDERAL GOVERNMENT V. SHOBU NIGERIA LTD & ABOR (2014) 4 NWLR 45**.

Issue 1 is therefore resolved in favour of the Defendants. The 2nd Defendant's name is hereby struck off the names of parties to this suit.

ISSUE 2

Whether the Claimant instituted this suit through the proper originating process in view of the possibility of disputes as to the facts of the case.

It is trite that where there are disputed facts, such actions should not be commenced by Originating Summons. See **DOHERTY & ANOR V. DOHERTY (1967) LPELR – 25506 (SC)**, **FGN & ORS V. ZEBRA ENERGY LTD (2002) LPELR – 3172 (SC) Pg. 66**, **ADEYELU & ORS V. OYEWUNMI & ORS (2007) LPELR – 167 (SC)**.

It was also held in the case of **OKADA AIRLINES LTD v. FAAN (2014) LPELR-23342(CA)** thus:

“What this rule of court states are the proceedings that may be begun by originating summons and in no ways suggests that it is only when a law or document must be submitted for interpretation before a proceeding may be begun by originating process. The order of court is clear and unambiguous. Once there is no serious dispute as to facts and only to the construction of an enactment or instrument made under any law with regards to a party's right or claim in his favour, an originating summons can be commenced.”

In **VINCENT ELE ASOR V. INDEPENDENT NATIONAL ELECTORAL COMMISSION (2013) LPELR-20695 (CA)**, the appellate Court explained the nature of an originating summons thus:

“The nature of originating summons has been very well pronounced in a number of legal authorities. The Supreme Court, per Onnoghen, JSC in Dapianlong v. Dariye (2007) 8 MJSC 140: (2007) 4 SC (Pt. III) 18 said that: “the originating summons procedure is a means of commencement of action adopted in cases where the facts are not in dispute or there is not

likelihood of their being in dispute and when the sole or principal question in issue is or is likely to be one directed at the construction of a written law, Constitution or any instrument or of any deed, will, contract or other document or other question of law or in a circumstance where there is not likely to be any dispute as to the facts. In general terms, it is used for non-contentious actions or matters i.e. Those actions where facts are not commenced by originating summons, pleadings are not required rather affidavit evidence are employed; see Director, State Security Service v. Agbakoba (1999) 3 NWLR (Pt. 595) 314..."

In HON. A.G & COMMISSIONER FOR JUSTICE, AKWA IBOM STATE & ORS v. ESSIEN (2020) LPELR-49576(CA), the Court of Appeal relied on the case of OGUEGEGO V PDP (2015) LPELR-24519(CA) where the Court held that:

"The Supreme Court has held that in determining whether the facts in support of an originating summons are contentious, it is the nature of the claim and the facts deposed to in the affidavit in support of the claims that will be examined to see if they disclose dispute of facts and a hostile nature of the proceedings."

On page 3 of the 2nd Defendant's Notice of Preliminary of Objections, Counsel argued thus:

"The Claimant came up with various issues (which the Defendants are disputing) ranging from the presentations of Court Order to the 2nd Defendant and his (sic) team whereas he was never around as well as claims of his visit to the Defendant's office (which the Defendants are disputing), pasting and publishing of Court Order (which the Defendant vehemently denied) and the refusal of the manager to collect the letter he took there (which the Defendants are disputing) and to the claims for special and general damages are matters that cannot be determined without calling evidence one way or the other."

Notwithstanding the aforementioned argument of the 2nd Defendant, I agree with the Claimant to the extent that the very facts which are relevant to this case are undisputed. The Defendants are not challenging the existence of the Court Order made on the 8th of December, 2020. The Defendants did not also deny that its agents disconnected the Claimant's electricity on 31st of October 2023. This is evidenced by the depositions in the affidavit filed especially Paragraph 5 of the 2nd Defendant's Notice of Preliminary Objection which states thus:

“That at the time of the disconnection, I was carrying out my duties as an employee of the 1st Defendant but unaware of any pending suit or Court order against my employer.”

In my opinion, these two material facts which are undisputed qualifies this suit to be instituted via Originating Summons. See **TANKO V. MODI (2019) 8 NWLR Pt. 1675 Pg. 387**

To order the calling of witnesses to give oral evidence to prove these facts will lead to an eventual waste of the time of this Court.

Issue 2 is resolved in favour of the Claimant.

Given that the Preliminary Objection succeeds in part, it is necessary at this point to delve into the substantial suit and give judgment thereof.

In his Written Address in Support of the Originating Summons, the Claimant raised three issues for determination to wit:

1. Whether the Order of Injunction made by the High Court of the FCT on 8/12/2020, in Suit No: CV/1094/2020: Between: Chikodi Okeorji, Esq v. AEDC & 2 Ors, restraining the Defendants from disconnecting the electricity supply or connection of the Claimant at his residence, in any manner howsoever, pending the hearing and determination of the

Suit, imbued any form of legal right whatsoever on the Claimant.

2. Whether the action of the Defendants in disconnecting Claimant's electricity connection at Claimant's residence at Seeman Estate, Phase 4, Kubwa Abuja, on 31/10/2023, which disconnection lasted up to 6/11/2023, in brazen affront and violation of a valid and subsisting order of Court made by the High Court of the FCT on 8/12/2020, in pending Suit No: CV/1094/2020: Between: Chikodi Okeorji, Esq v. AEDC & 2 Ors, restraining the Defendants from disconnecting the electricity supply or connection of the Claimant, pending the hearing and determination of the Suit, does not amount to a violation of the legal rights imbued on the Claimant by the Order.
3. Whether, having regard to the legal principle of ubi jus ibi remedium, the facts and the entire circumstances of this case, the Claimant is not entitled to remedy in damages for Defendants' breach.

Counsel in arguing all the issues together submitted that an order of a court of competent jurisdiction remains valid and binding unless and until it is set aside by the trial Court itself or by an Appellate Court. Counsel argued that the order remains binding and must be obeyed until it is set aside, no matter how much a party believes that the order was ignorantly made.

Counsel relied on **OYENYA V. FAMILUSI 92000) 1 NWLR Pt. 641 Pg. 446 Para. B (CA)** and contended that the Defendant's act of disconnecting the Claimant's house from electricity supply for a period of 7 days is a violation of the existing Court Order and an infringement on the legal rights vested on the Claimant.

On the issue of damages, Claimant submitted that a party will not be denied exemplary damages because it was not specifically pleaded, once it is shown that the facts in the pleadings are enough or sufficient to support the claim. Counsel relied on **C.B.N V. OKOJIE (2004) 10 NWR Pt. 882 Pg. 488 at P. 520**. Counsel urged the Court to answer all the question in his favour, and graciously grant the reliefs sought.

In response, the Defendants filed a 1st and 2nd Defendants' Counter Affidavit in Opposition to Claimant's Originating Summons deposed to by the 2nd Defendant alongside a Written Address wherein Counsel raised 3 issues for determination to wit:

1. Whether the right emanating from an interlocutory/interim order in a subsisting suit can give rise to a right of action for a fresh suit between persons who are parties to that pending/subsisting suit.
2. Whether an employer can be held liable for the act of an employee who acted based on an intervening act while ignorant of an existing Court Order.

3. Whether the Claimant's claim for damages will be proper in the circumstances of the present suit.

On issue 1, Counsel argued that an interlocutory/interim order in a subsisting suit cannot give rise to a right of action for a fresh suit between persons who are parties to the pending/subsisting suit because allowing such a suit will lead to multiplicity of actions which is consequently an abuse of Court process. Counsel relied on **OGAR & ORS V. IGBE & ORS (2019) LPELR -48998(SC)** and **NAICOM V. INCORPORATED TRUSTEES OF THE PRAGMATIC SHAREHOLDERS' ASSOCIATION OF NIGERIA (2021) LPELR – 57389 (CA)** amongst others. Counsel argued that the subject matter of both claims are the same and that the Claimant ought to have instead invoked the powers of the Court in the earlier instituted case to punish the disobedience of its order where that is proven.

On issue 2, Counsel argued that since the 2nd Defendant was not aware of the existence of the Court Order, it counts as an intervening act and exempts the 1st and 2nd Defendants from liability. Counsel relied on the case of **UMUDJE & ANOR V. SPDC (NIG) LTD (1975) LPELR – 3375 (SC)** Pp. 17-19 Paras. F-F.

On issue 3, Counsel submitted that the Court cannot determine the claims of the Claimant for damages as the burden of proof placed on the Claimant has not been discharged. Counsel relied

on **OLOMODA V. MUSTAPHA & ORS (2019) LPELR – 46438 (SC)**.

It has already been established above that the substantial facts of this case are undisputed.

It has also been established by the aforementioned cases that an Originating Summons is the appropriate method of instituting this suit. "The entire reason for setting out questions for determination in an Originating Summons is for the Court to be guided by those questions. The questions are the compass that ought to steer the Court in the right direction so that it does not veer off the dispute submitted to it." See **BESONG v. OCHINKE & ORS (2022) LPELR-59622(SC)**

The argument that the 2nd Defendant did not see a copy of the Court Order pasted beside the electric meter of the Claimant does not also hold water. The sanctity of the Court must be protected at all times. An order of the Court must be held with the highest regard. The sacrosanct nature of Court Orders was re-emphasized in the case of **OKO-OSI v. AKINDELE (2013) LPELR-20353(CA)** where the Court held that:

"It's a trite veritable principle, that obedience to lawful orders of Court is fundamentally a sine qua non to the good order, peace and stability of the Nigerian Nation, nay any nation for that matter. Paradoxically, the alternative to obedience of lawful

Court orders is brute self help and anarchy. As authoritatively held by the Supreme Court: Disobedience to an order of Court should, therefore, be seen as an offence directed not against the personality of the judge who made the order, but as a calculated act of subversion of peace, law, and order in the Nigerian Society."

Where such a Court Order exists, it behooves on the 1st Defendant in this case to intimate its employees on the contents of the Court Order and its implications, especially when there has been a reshuffle of the staff. The 1st Defendant must bear the consequences of disobeying the Court Order.

On the remedy of damages, having also previously held that the substantial and material facts of this case are not in dispute, the decision of the Court in OLOMODA V. MUSTAPHA & ORS as cited by the Defendants does not apply. In my opinion, the Claimant has been able to sufficiently by affidavit evidence prove that he suffered damages as a result of the disconnection of his house from electricity supply by the Defendants.

I hereby make the following orders:

1. A DECLARATION that the Injunction Order issued by the High Court of the FCT on 8/12/2020 in Suit No: CV/1094/2020 (Chikodi Okeorji, Esq v. AEDC & 2 Ors.) restraining the Defendants from disconnecting the

Claimant's electricity at his residence pending the hearing and determination of the Suit, granted the Claimant legal rights.

2. A DECLARATION that the Defendants' disconnection of the Claimant's electricity at his residence in Seeman Estate, Phase 4, Kubwa, Abuja, from 31/10/2023 to 6/11/2023, despite the High Court of the FCT's Injunction Order on 8/12/2020 in Suit No: CV/1094/2020 (Chikodi Okeorji, Esq v. AEDC & 2 Ors.) restraining the Defendants from disconnecting the electricity connection of the Claimant, pending the hearing and determination of the Suit, constitutes a violation of the Court's order in favor of the Claimant.
3. A DECLARATION that the Defendants' disconnection of the Claimant's electricity at his residence in Seeman Estate, Phase 4, Kubwa, Abuja, from 31/10/2023 to 6/11/2023, in defiance of the High Court of the FCT's Injunction Order on 8/12/2020 in Suit No: CV/1094/2020 (Chikodi Okeorji, Esq v. AEDC & 2 Ors.), violates the Claimant's rights.
4. The sum of N1,000,000.00 (One Million Naira) general damages against the Defendants for violation of Claimant's rights.
5. 10% interest per annum on the Judgment sum until full and final liquidation.

HON. JUSTICE J. ENOBIE OBANOR

Judge

Appearances: