

IN THE HIGH COURT OF JUSTICE OF THE F.C.T.

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT ZUBA, ABUJA

ON FRIDAY THE 5TH DAY OF JULY, 2024

BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA
JUDGE

SUIT NO.: FCT/HC/CV/174/2022

BETWEEN:

MALLAM SHEHU DIKKO

CLAIMANT

AND

- | | | |
|---|---|------------|
| 1. ATTORNEY-GENERAL OF THE FEDERATION | } | DEFENDANTS |
| 2. INDEPENDENT CORRUPT PRACTICES AND
OTHER RELATED OFFENCES COMMISSION | | |
| 3. THE STATE SECURITY SERVICES | | |

JUDGMENT

In this Suit the Claimant sued the Attorney General of the Federation, Independent Corrupt Practices and other Related Offences Commission (ICPC) and The State Security Services (SSS) on the 28th of October, 2022. In it he seeks for the interpretation of the question raised as regards the provision of the **S. 318(1) and Items 1 – 26 Part 2 5th Schedule of the 1999 Constitution of the Federal Republic of Nigeria** (as amended), **S. 18(1) Interpretation Act, S. 2 & 6 (b) of the ICPC Act, Article**

I(1) NFF Statutes 2010. He also seeks the interpretation of the question raised as regards **SS. 44(1) and 35(1) of the 1999 Constitution of the Federal Republic of Nigeria** (as amended). He sought for the grant of the Consequential Order as set out in the said Originating Summons.

The Court deems as if read and set hereunder seriatim the said questions and the 25 Consequential Orders as if they are set hereunder seriatim. He filed Affidavit of 104 paragraphs. He attached 29 documents marked as **EXH 1 – 19.**

In the Written Address of 27 pages he raised the same 8 questions for determination. He argued the Issues together and submitted as follows, urging this Court to holds thus:

That the Claimant as other colleagues who are not parties to this Suit is not public officers and are not subject to the jurisdiction of the 2nd Defendant. They referred **S. 318(1) Interpretation Act** of the Constitution on what a public service of the Federation is and the public service of a State.

They submitted that the NFF Executive Members which the Claimant is one of is a private Association and the said Executive Officer of NFF cannot be conferred the status of a public officer.

That the Claimant as other Executive Members of the NFF was not mentioned in the constitutional provision and is not intended to be public servants or officers by the Constitution.

That since the NFF Executive was not named they are not intended to be included as public officers or public servants. Hence, the Claimant is excluded as public officer or servant.

That those who are public servants/officers are members of the Public Service of the Federation or State going by the provision of **S. 18(1) Interpretation Act**. They also submitted and referred to **Part 2, 5th Schedule of the 1999 Constitution of the Federal Republic of Nigeria** (as amended) where it provides that Public Servant does not include Chairmanship or membership of Private Association or Societies like the Nigerian Football Federation (NFF). They referred to the case of:

Abdulrauf Abdulkadir Moddibo V. Mustapha Usman & 2 Ors (2020) 3 NWLR (PT. 1712) 470 @ 536 – 537 Para E – A

where the Supreme Court – per Abba’ Aji defined what a Public Officer is. He urged Court to hold that he the Claimant is not a Public Officer just like his colleagues in NFF Executives are not also Public Officers by virtue of the position they are occupying as NFF Executive Members. That they are therefore not under any obligation to declare their assets after taking Oath of office.

That by **Item 11 (1) – (3) of the 1st part 5th Schedule of the Constitution**, that assets they acquired prior to or during the subsistence of their tenure as Executives of NFF cannot be subject of an investigation by Code of Conduct Bureau or Tribunal or the 2nd Defendant in this case.

That by the provision of **S. 6 ICPC Act** the 2nd Defendant is only empowered to fight corruption in the public sector. That by **S. 6 (b) of the same Act**, the 2nd Defendant is not empowered to investigate or prosecute the activities of the Claimant as Executive member of the NFF, being a Private Association. That the 2nd Defendant has no power to investigate and prosecute the Claimant or his colleagues over any matter arising from the activities of NFF or over his property as he is not a public officer. That offences which the 2nd Defendants has power to prosecute are as contained in **SS. 8 – 27 of the Act** and it does not include or apply to the Claimant. He urged the Court to so hold. He referred to the case of:

**Lawal V. Federal Republic of Nigeria
(2022) 7 NWLR (PT. 1829) 279 @ 332**

That the Claimant and other Executives of the NFF are excluded from those who the 2nd Defendant has power to investigate and/or prosecute as they are not Public Officers. Hence, their assets acquired prior to their assumption of office as Executive Members of NFF cannot be subject of investigation and possible prosecution or seizure by the 2nd Defendant. They urged Court to so hold.

That assuming the 2nd Defendant has power to seize their property, it must do so with a valid Court Order sought and obtained. That in Suit **FHC/TS/1007/19** filed by the 2nd Defendant against Amaju Pinnick & Ors – (the Claimant was a party therein), that the 2nd Defendant sought for Interim forfeiture of the properties of the Defendants in

that case. That the Court declined same on the ground that only one property out of the several sought to be forfeited was acquired after the 19th of December, 2014 when the Defendants in that case assumed office as Executive Members of NFF. That the same Motion was struck out because of withdrawal by the 2nd Defendant. That rather than re-file the Motion, the 2nd Defendant invaded the property of the Claimant and made a red-mark/inscription of Notice **“Under Investigation by ICPC”** on the property of the Claimant. That they also issued **Notice of Seizure of Claimant’s property** at Maitama without any valid Order.

That he has a right to peaceful possession and enjoyment of the property by virtue of **S. 44 (1) of the 1999 Constitution of the Federal Republic of Nigeria** (as amended). He referred to **Article 14 of the African Charter on Human and People’s Right**.

That the action of the 2nd Defendant and its agents are illegal, unlawful and a violation of **Article 14 of the African Charter on Human and People’s Right** and **Article 17 of the International Convention on Civil and Political Right**. He referred to the case of:

Opara V. N.C.S.B
(2011) 8 NWLR PT. 1 & 29

where the Court held that the compulsory acquisition and/or seizure of a citizen’s property should be on strict compliance of the law. That the purported attach and seizure of the property of the Claimant by the 2nd Defendant is illegal, null and void as the purported seizure

was done without a valid Court Order. Hence, their action is a flagrant violation of the Claimant's Fundamental Right to acquire, possess and own property. He referred to the decision in the case of:

**Miscellaneous Offences Tribunal V. Okafor
(2001) 18 NWLR (PT. 745) 310 @ 327**

That the subject matter of the 2nd Defendant investigation on refusal of the Claimant to declare his asset and the Claimant and his colleagues living beyond means have been to rest in the Suit **FCT/ABJ/CR/93/19** in which Judgment had been delivered and the Claimant and the other of his colleagues were all discharged and acquitted by the Court on all counts including the issue of asset declaration. That by that Judgment no Court or Agency of Government can invite the Claimant for the purpose of investigation on the same issue already fully determined by the Court. He referred and relied on the provision of **S. 36 (6) of the 1999 Constitution of the Federal Republic of Nigeria** (as amended) which provides that "where a person is tried by a Court of competent jurisdiction for a criminal offence and is discharged and acquitted, he shall NOT be tried for offence which has the same ingredient as the offences save upon Order of a superior Court." He also referred and relied on the case of:

**PML (Securities) Co. Ltd V. Federal Republic of Nigeria
(2018) 13 NWLR (PT. 1635) 157 @ 186 Para B – D; 195
Para E and 196 Para A – B**

He further submitted that subject matter of investigation, consequent upon which his property is purportedly seized and the written inscription on the property by the 2nd Defendant, form part of the facts sequel to which the case **FCT/ABJ/CR/93/19** was filed. That upon the discharging and acquittal of the Claimant and his colleagues that the 2nd Defendant or any agency cannot reinvestigate or prosecute him again. He urged Court to so hold.

That he is therefore entitled to the Declaratory Reliefs as he has laid credible evidence to that effect. He referred to the case of:

Akinbade V. Babatunde
(2018) 7 NWLR (PT. 1618) 366 @ 388

That by the credible facts and documentary evidence he has provided cogent and convincing reasons why he is entitled to the Reliefs sought. He concluded by referring to the case of:

Umera V. N.R.C
(2022) 10 NWLR (PT. 1838) 349 @ 390 Para E – F, 391 Para E – F

He urged the Court to grant all his Reliefs as sought in the interest of justice.

The 1st Defendant – Attorney General of the Federation entered appearance and filed a Counter Affidavit of 6 paragraphs on the 8th day of February, 2023. In the Affidavit the 1st Defendant denied all the paragraphs 1 – 104 of the Affidavit in support filed by the Claimant save as

paragraphs 7 & 8. The 1st Defendant submitted that it is the chief law officer of the Federation and never investigated the unwarranted investigations of the Claimant and his property by the 2nd & 3rd Defendants as alleged. That it only gave advice based on what the reports of investigation by the 2nd & 3rd Defendants were. That the 2nd & 3rd Defendants have the power to arrest, investigate and detain anyone on reasonable suspicion of committing a crime and to prevent crime. That the 1st Defendant has no power to investigate or arrest anyone alleged to be involved in committing a crime and was never involved in the allegation raised in this Suit by the Claimant. That the 1st Defendant did not do any wrong to the Claimant and cannot therefore accept any liability in this case for action of any agency of the government.

In the Written Address the 1st Defendant raised a preliminary Issue which is:

“Whether the Claimant made out a case against the 1st Defendant to warrant the Reliefs claimed against him in this Suit.”

He also raised a lone Issue for determination which is:

Whether the Applicant as adduced cogent and verifiable evidence to be entitled to the Reliefs sought for enforcement of his Fundamental Right.”

On the preliminary Issue, the 1st Defendant submitted that the Claimant did not make out any case against the 1st Defendant to warrant the grant of the Reliefs sought in this Suit. That the Claimant has not established any wrongful

act done to him by the 1st Defendant. That there is no cause of action against the 1st Defendant. He referred to the cases of:

**Uwazuruonye V. Gov. Imo State
(2013) 8 NWLR (PT. 1355) 28 SC**

**Attorney-General of Abia V. Attorney-General of the Fed.
(2007) All FWLR (PT. 362) 1818**

That there is no link between the Claimant and the 1st Defendant.

Also that the 2nd & 3rd Defendants have the capacity to sue and be sued as juristic persons and government agencies. But they do not take instruction and are not under the supervision of the 1st Defendant. That there is no need to join the 1st Defendant in this Suit as the 2nd – 3rd Defendants can defend themselves. Again that the 1st Defendant is not a proper/necessary party as the Issue in dispute can be determined without making him a party as there is no claim against him too. He referred to the cases of:

**Ojo V. Ogbe
(2007) 9 NWLR (PT. 1040) 542 and 557 @ 559 Para B – A (CA)**

**Ntoe Ansa V. Archibong Ishie
22 NSCQR 708 @ 804 – 805 Para E – B (SC)**

He referred to the provision of the Constitution **S. 150 (1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended)**. And **S. 174(1)** too. That he is not

involved in investigation of cases. That it is at the end of investigation that the report files are forwarded and the 1st Defendant will then perform its constitutional function as the circumstance warrants. That he was not aware of the Claimant's allegation against the 2nd – 3rd Defendants. That the Reliefs in this case does not concern him. He referred to the cases of:

**Kano State V. Attorney-General of the Federation
(2007) 6 MJSC 8**

**Attorney General Rivers V. Attorney-General Akwa-Ibom
(2011) 8 NWLR (PT. 1246) 31 @ 202**

**Ayonkoya V. Olukoya
(1996) 4 NWLR (PT. 440) 1**

That the 1st Defendant was misjoined as a party in the Suit and Court should strike out his name from the Suit.

On the sole/lone Issue for determination on whether the Claimant is entitled to his Reliefs in this case as per the alleged Fundamental Right violations based on the evidence he had presented, the 1st Defendant submitted that the Claimant is not entitled to the Reliefs because he did not adduce facts/evidence to prove the violation of his Fundamental Rights. That the Declaratory Reliefs sought are not backed by any established Constitution of the law. That there are no clear cut evidence to back the allegation up. He referred to the cases of:

**Chrome Ins. Brokers Ltd & Or V. EFCC & Ors
(2018) LPELR – 44818 (CA)**

**Bello Adamu V. Commissioner of Police Kaduna
(2019) LPELR – 49456 (CA)**

**CBN V. Jacob Oladele Amao & 2 Ors
(2011) 201 LRCN**

That the Claimant failed to assert the allegation of violation of his Right. They referred to **S. 131 of the Evidence Act 2011** and the case of:

**INEC V. Afuna
(2013) 11 NWLR (PT. 1366) 494**

On **S. 36 (1) & 9** and **S. 44 (1) & 46 of the 1999 Constitution of the Federal Republic of Nigeria** (as amended), that the Claimant did not place facts before the Court as to who breached his Right and liberty. That the Claimant's Right is not absolute. He referred to **S. 45 of the 1999 Constitution of the Federal Republic of Nigeria** (as amended).

That the 2nd – 3rd Defendants has the power to investigate, arrest and detain and prevent commission of crime under **S. 4 of the Police Act**. He referred to the case of:

**Onah V. Okenwa
(2001) All FWLR (PT. 565)**

That the Claimant failed to establish a case against the 1st Defendant. He referred to the cases of:

**Adekunle V. Attorney-General Ogun State
(2014) LPELR – 22569 (CA) 36 – 37**

Udo & Ors V. Essien & Ors

(2014) LPELR – 22684 (CA) Para A – F

That the facts in the Affidavit are bereft of any substance to convince the Court that the Claimant's Right was breached or that the 2nd – 3rd Defendants acted ultra vires their power. That the Rights of the Claimant set in **S. 36, 39 & 44 of the 1999 Constitution of the Federal Republic of Nigeria** (as amended) were not breached as the 1st Defendant has shown. Hence, the Claimant failed to prove his case. He urged Court to dismiss the application with cost in favour of the 1st Defendant.

The 2nd & 3rd Defendants did not file any Counter Affidavit in challenge of the case of the Claimant. As already stated, the 2nd Defendant only filed a Preliminary Objection which this Court has dismissed because it lacks merit. The Court refers to its reasoning in the said Ruling. It holds it as if it is set hereunder seriatim as part of this Judgment as regard the 2nd Defendant. The Court shall not waste its judicial time referring and citing judicial authorities. It will rather follow judicial authorities and pronouncement in dispersing justice.

COURT

It is the law that where a party served a Process like Originating Summons as in this case and such party is given ample time and opportunity to respond but fails to do so, such party cannot cry wolf where the Court holds that the case of such Applicant is not challenged and that the facts are not rebutted or controverted and that all allegation therein are deemed and are actually admitted by

the party who failed, refused and ignored to respond and slept on its right to be heard. Again, the constitutional right to fair hearing like all other rights is not absolute, open-ended and in perpetuity. It must be enjoyed and exercised within a reasonable time, otherwise that sacred provision of the Constitution will be abused, thrown to the dust and it will lose its judicial and constitutional efficacy and the whole aim of enshrining it in the Constitution and the intendment of the Drafters of the Constitution and the law.

Where parties or a party fail to respond to Court Process – Originating Summons as in this case, the Court will not hesitate to state it as it is and raise the gavel and pronounce that the case in issue, as far as those parties/party are concerned, is not challenged, controverted or issues rebutted. The Court shall go further to accept the allegation so raised in that case against such party/parties stating and entering Judgment against such party/parties in favour of the Claimant in that case.

In this case the 2nd & 3rd Defendants did not file any Counter Affidavit in challenge of the case of the Claimant. The 3rd Defendant did not even enter appearance in pen or paper and never had a Counsel representation too. The only thing done by the 2nd Defendant is the futile attempt by the 2nd Defendant who filed a Preliminary Objection but did not file a single paragraph of Counter Affidavit challenging the Originating Summons. This Court had dismissed same as shown by the Ruling earlier delivered today.

As it stands, its only the 1st Respondent who filed Counter Affidavit of 6 paragraphs that challenged, rebutted the Originating Summons. Hence, the Court holds that the case of the Claimant, as far as the 2nd & 3rd Defendants are concerned, have admitted the allegations of the Claimant raised against them in this case. To that extent the Court enters Judgment against the 2nd & 3rd Defendants and in the interest of the Claimant in this case.

The Court has summarized the submission of the Claimant on the Counter Affidavit filed by the 1st Defendant, the question is, is there any merit in the case of the Claimant and has he established his case through his Affidavit and the documentary evidence so much so that this Court should enter Judgment in his favour and grant both the declaratory, consequential Orders and ancillary Reliefs sought? Again, was the Fundamental Right of the Claimant breached as claimed and has he established that it was breached so much so that this Court should so hold and grant the Reliefs in that regard? Also, has the Claimant made out a case against the 1st Respondent/Defendant to warrant the grant of the Reliefs claimed against the 1st Defendant? Is the Claimant entitled to the Reliefs in this case going by the evidence adduced to establish his case save as regards the allegation of violation of his Fundamental Rights?

Not answering the questions seriatim, it is the very humble view of this Court that the Claimant has established its case with cogent and verifiable evidence and he is entitled to the grant of the Reliefs sought in this case especially as

regards the violation of his Fundamental Right as established. There is merit in the case of the Claimant as he has established his case through the cogent facts and documentary evidence as shown in the 29 documents attached and marked as **EXH 1 – 29**. This Court has no doubt that he deserves the Judgment to be entered in his favour and grant both the declaratory, ancillary and consequential Orders/Reliefs as sought.

The action of the 2nd & 3rd Defendants breached the Fundamental Right of the Claimant as established by him. That fact was not challenged in this case. It was not controverted by the 2nd & 3rd Defendants. The feeble attempt by the 1st Defendant to justify the action of the 2nd & 3rd Defendants failed because the 1st Defendant was not authorized by the 2nd & and 3rd Defendants to hold brief for them. The 1st Defendant's submission in that regard is only an act of a meddlesome interloper and busy-body. The Claimant is entitled to the breach of his Right and he has through the facts in his 104 paragraphs Affidavit and the 29 documents attached as Exhibits established same. So this Court holds.

The Court based the above on the following reasons and determined the questions raised in the Originating Summons.

By virtue of **S. 318** and **Part 2, 5th Schedule, Items 1 – 16**, the Nigeria Football Federation (NFF) is not a public office. The Executive members of the same NFF are not public officers. In the length and breadth of the provision of

the Constitution, the Claimant as a member of the Executive of the NFF is not a public officer going by the clear provision of the **5th Schedule Part 2 Item 1 – 16**. The governing law establishing the NFF is not a law made by the National Assembly and it does not take effect under the constitutional provision as an act of the National Assembly going by the definition of Act of National Assembly – See **S. 318 (1)**.

Again, by the definition of public service the NFF is not categorized as a public service too as service it renders is not service of the Federation in any capacity in respect of the Government of the Federation or the State. See the definition of Public Service of the Federation and State under **S. 318 (1) of the 1999 Constitution of the Federal Republic of Nigeria** (as amended). In that wise the Claimant just as other members of the executive and chairman of the NFF are not subject to public service/officer law.

Even the provision of **Article 1 NFF Statute, 2010** defines and described the NFF thus:

“a private organization of an associative nature. It is formed for an unlimited period.”

By the definition and meaning of NFF as shown in **Article 1(1) NFF Statute, 2010** it clearly shows that NFF is a private association and not public office and it means that its Executive members are not public officers too. Again, by **S. 18(1) of the Interpretation Act** public officers means

members of public service of Federation or State by Constitution.

It is also the provision of the Code of Conduct Bureau and the Constitution that public officers are bound by law and Constitution to declare their Assets. That means that any person who is not a public officer is not bound to declare his/her Assets. In this case, the Claimant as an officer of a private Association and NOT being a public officer is not bound by any law or the Constitution to declare his Assets. That means that same applies to all Executive members of the NFF who are also members of the private Association as they were elected by the statute of NFF. So this Court holds.

Again, by the provision of the ICPC Act – **S. 2 ICPC Act**, *a public officer means a person employed or engaged in any capacity in the PUBLIC SERVICE of the Federation, State or Local Government.* By the above definition the Claimant just like any member of the Executives members is not a public officer and is therefore not bound to declare their Assets being an Executive member of the NFF, as public officers are bound to do. So this Court holds as regards the first question posed by the Claimant in this case.

On question No. 2 – whether the 2nd Defendant has power vires to investigate the Claimant as Officer and Executive Committee Member of NFF going by **S. 2 & 6 (b) ICPC** and **S. 318 (1)** and **Item 1 – 16 Part 2 of 5th Schedule of the Constitution.**

By the definition of official means any officer, agent, servant, privy or employee serving in any capacity in a public body. NFF and its officers are private bodies and private officers discharging or rendering executive duties/functions for and at NFF.

By the extant provision of the ICPC Act it is very clear that the Act is meant to fight corruption, investigate and arrest, interrogate and prosecute public officers who fail to abide by the provisions of the law. It is not indicated in any provision of the ICPC Act that officers in private organizations like the NFF should be investigated by the 2nd Defendant going by **S. 2 & 6** as well as other Sections of the Act. The Act is meant, as it is stated, for public officers. Hence, the 2nd Defendant, ICPC, has no vires to investigate the Claimant as officer of the NFF. So this Court holds. So by the content of **S. 10(b) ICPC Act** the 2nd Defendant has power to examine officers of public bodies, advise public bodies etc. They have no vires to investigate activities of the officers of private associations like the NFF and the Claimant who is an Executive member of NFF. So this Court holds.

On the question No. 3 on **SS. 44 (1) & 36(1) of the 1999 Constitution of the Federal Republic of Nigeria** (as amended) and **S. 318 (1)** and **Item 1 – 16 5th Schedule Part 2**, whether the 2nd Defendant has power to seize, seal and attach the movable and immovable properties of the Claimant working under NFF in furtherance of any investigation as it pertains the Claimant working and running the NFF.

A look at the provision of **S. 44 (1) of the 1999 Constitution of the Federal Republic of Nigeria** (as amended) it provides that the Claimant has the right to acquire moveable property. But such property (right and interest therein) shall, if actually acquired compulsorily, shall be in a manner or purpose prescribed by law. This means that where right and interest of moveable property is to be taken it must be in accordance with the procedure permitted by law and for the purpose prescribed by law. So where such interest and right are taken or acquired in a manner not prescribed by law, such action is illegal, unlawful, null and void haven not followed due procedure and for the purpose prescribed by law. See **S. 44 (1) of the 1999 Constitution of the Federal Republic of Nigeria** (as amended). Such action when done on a temporary basis for purpose of any examination, investigation or enquiry is legitimate. See **S. 44 (2) of the 1999 Constitution of the Federal Republic of Nigeria** (as amended).

A look at the provision of **S. 18 (1) of the Interpretation Act** immovable property means land and land includes building and other things attached to the earth or fastened to anything so attached.

A look at the power of the 2nd Defendant to investigate report on fraudulent acquisition of property, the 2nd Defendant is only empowered to act where the person involved is a public officer in public service. They do not have power to act where the person involved or the property is of an individual in private service and/or where

such property was acquired in the cause of the private service.

In this case going by the provision of **S. 44 (1), S. 318 (1)** and **Item 1 – 16 Part 2 5th Schedule of the Constitution** and **S. 2 & 6(b), S. 10 & 15 ICPC Act** the 2nd Defendant has no power to seize the immovable property of the Claimant who is an officer of a Private Association – Nigerian Football Federation (NFF). The power of the ICPC is limited by their calling, statutorily speaking, to only the public offices and public officers and properties acquired through public office by public officer/office holder during their tenure in such public service or public responsibility. So this Court holds further that the 2nd Defendant has no right/power to seize, seal or attach the moveable and immovable properties of the Claimant in furthering any investigation to the practice, working and running of the NFF which is a private Association and in which the Claimant is a private officer being an executive member of the NFF. So this Court holds that the action of the 2nd Defendant in attaching, sealing and seizure of the properties of the Claimant which he acquired in the cause of his tenure as a member of the private Association – NFF as alleged and established by the Claimant is illegal, wrong and unconstitutional and a breach of the right of the Claimant. It is also overstepping the powers of the 2nd Defendant under the law as it concerns the investigation, prosecuting and seizure of the properties of the Claimant. The 2nd Defendant has no power to seize the said properties belonging to the Claimant who is an executive member of

NFF, a private Association. Any act of the 2nd Defendant in that regard is wrong, illegal and without the backing of the law. It is moreso where such sealing and seizure of the immovable property was done without a valid Order of Court of competent jurisdiction. By the provision of **S. 44 (1) & (2)** the compulsory acquisition for the purpose of investigation shall be done in accordance with the law and in a manner prescribed by law. So failure of the 2nd Defendant to obtain an Order of Court before sealing the property makes their action fundamentally wrong and illegal going by the provisions of **S. 44(1) and 36(1) of the 1999 Constitution of the Federal Republic of Nigeria** (as amended) as well as **S. 2 ICPC Act**. So the purported seizing of the property was done without the backing of the law. So this Court holds.

On question No. 6 as it pertains to **Suit No.: FHC/ABJ/CS/1107/2019** which was struck out going by the CTC of the Judgment/Decision of Court; the Defendants in that case one of who is the present Claimant. He was the 4th Defendant in that case which the Claimant attached as **EXH 7** in this Suit. In it the Court concluded thus:

“... the charge against the Defendants is dismissed and each Defendant is acquitted.”

It is on record that the matter was withdrawn by the Prosecution and relying on the provision of **S. 355 ACJA 2015** the matter was discontinued and the Defendants including the present Claimant were acquitted.

It is the law that where there is discharge and acquittal that the Defendant in such a case cannot be retried on any of the issues in such a case in any other Court. This case cannot be an exception. The Defendants were all exonerated and acquitted. As rightly pointed by the Court in the case any Defendant so discharged and acquitted as the Claimant in this case and all the other Defendants in that Suit **FCT/ABJ/CR/93/19** should be accorded all the rights and privileges under the law as far as the subject matter of the Suit is concerned. They should not be kept in a legal limbo. Their acquittal should be operative as long as or any time the same subject of the case is raised. Hence, they are immuned from any retrial of such issue in future. So this Court holds that to that extent the issue of Asset Declaration which was one of the Issues in the said **FCT/ABJ/CR/93/19** and the like as covered therein, the 2nd Defendant has no power to retry or raise any such issue since the case **FCT/ABJ/CR/93/19** was dismissed because the issue was already determined by the Court.

The same fate applies to the Suit **FHC/ABJ/CS/1107/2019** which was also withdrawn and subsequently struck out. Meanwhile, the same Court had refused to grant the filed Motion on Interim forfeiture of the properties of the Defendants in that case **FHC/ABJ/CS/1107/2019** on 4th October, 2019. The said Counsel withdrew the case and it was struck out based on the application of the Prosecution.

Going by the provision of **S. 36(9) of the 1999 Constitution of the Federal Republic of Nigeria** (as amended) which provides thus:

S. 36(9)

“No person who show that he has been tried by any Court of competent jurisdiction or tribunal for a claimed offence and either convicted or acquitted shall again be tried for that offence or for a criminal offence having the same ingredients as that offence save upon Order of superior Court.”

By the above provision of the Constitution and given the decisions of the Court in all the cases as shown in **EXH 7** and referred to in question No. 7 in this case it is evidently clear that the Defendants in all those cases and in which the present Claimant is the 4th Defendant were acquitted and the charge filed against them struck out.

Going by **S. 36(9) of the 1999 Constitution of the Federal Republic of Nigeria** (as amended) the 2nd Defendant has no power to re-open any case against the Defendants or any of the Defendants in that case. The 2nd Defendant in this case can only do so upon an Order of a superior Court. There is no such evidence that the 2nd Defendant or any of the Defendants obtained such Order. So the absence of such Order makes any action of the 2nd Defendant in that regard illegal, without vires. Again, no Federal or State Agency has the power to further invite the Defendants in that Suit especially the present Claimant or to investigate or seize any of his properties for the purpose of investigation on any of the issues already determined by the Court in all those cases.

Again, the 2nd Defendant, by the Judgment in FHC/CR/93/19 in which the present Claimant and the other Defendants in that Suit were discharged as well as by FCT/CR/324/18 and FCT/CR/2092/2020 in which the cases were struck out and dismissed, has no right under the law any longer to investigate, question and retry the Claimant who is a party in those Suits, the Claimant having been acquitted and the matter dismissed. This is in line with the provision **S. 36(9) of the 1999 Constitution of the Federal Republic of Nigeria** (as amended).

Again, the Defendants did not show in their Counter Affidavit that there are new facts and circumstance which were not known as at the time that are now known. Having not shown that and having no such right based on the Judgment of the Court, they have no right to seize the property of the Claimant and to seal same as shown in **EXH 9** in this Suit. It is not in doubt that the said **EXH 9** shows the men of the 2nd Defendant sealing the said property and pictures showing the marking on the gate of the house and on the wall/fence of the house stating that the house is under investigation. The tweet attached also states that the 2nd Defendant – **ICPC seals Dikko Abuja Residence.**

The Claimant also attached **EXH 10** which shows the publication by the 2nd Defendant on the listed properties seized. Those Exhibits puts no one in doubt about the action of the 2nd Defendant. By those myriad of Exhibits/documents attached the Claimant proved his case and established that the actions of the Defendants

especially the 2nd Defendant are unlawful, he the Claimant having been acquitted and the Defendants going ahead after the acquittal to reinvestigate and seal his property. The Claimant has shown that the Defendants are in violation of his Fundamental Right under the Constitution – **SS. 44(1)** having not obtained any Court Order and in violation of **S. 36(1) & (9) of the 1999 Constitution of the Federal Republic of Nigeria** (as amended) having been acquitted by a Court of competent jurisdiction and the other case dropped/withdrawn and struck out. There is no evidence that there is a pending Appeal or that the Defendants had filed the Suits which were struck out.

It is the law that where a person alleges that his right is about to be or is being or had been breached that the same person has to prove same before the Court with cogent evidence. In this case the Claimant has by the documents attached and averments in his 104 paragraphs Affidavit shown that the Defendants violated his Right by sealing his residence at Abuja without a Court Order and in a matter which the Court had discharged and acquitted him. By planning to and actually investigating the matter as it concerns the house the Defendants violated the provision of **S. 36(9) of the 1999 Constitution of the Federal Republic of Nigeria** (as amended). By the averment and the Judgment attached it is clear that the Defendant violated and breached the Fundamental Right of the Claimant. So this Court holds.

On the issue of whether the Claimant made a case against the 1st Defendant, it is the humble view of this Court that

the Claimant did. It is also the humble considered view of this Court that the Claimant did. To start with, the 1st Defendant is a necessary and proper party in this case in that whatever the outcome of investigation by the 2nd Defendant, the 2nd Defendant must obtain the legal advice of the 1st Defendant before it can institute an action as in the various cases referred to in the questions raised.

By virtue of **S. 10 ICPC** the 2nd Defendant (ICPC) shall make its recommendation for prosecution to the office of the Attorney-General of the Federation or Attorney-General of a State as the case may be. Again by **S. 30 of the same ICPC Act**, prosecution of a case/offence under the ICPC Act shall be initiated in the name of the Attorney-General of the Federation or Attorney-General of the State. From the above it is very clear that having the name of the 1st Defendant as a party in this Suit is the right thing to do, as the Claimant did in this case. It is the normal thing. The Claimant need not to specifically state or establish a particular claim against the 1st Defendant before it can add it as a party. So a claim against the 2nd Defendant is as well a claim against the 1st Defendant. Who delegates power to the 2nd Defendant to sue going by **S. 30 of the ICPC Act**. So this Court holds.

The Claimant has through the facts and Exhibits adduced cogent and verifiable evidence by the documents attached, established its case and he is without iota of doubt entitled to the Reliefs sought especially on the aspect of breach of his Fundamental Right to own immovable property and as per the action of the Defendants.

The action of the Defendants, harassing and intimidating the Claimant violated the Right of the Claimant especially as it relates to the Defendants re-opening the issues which were already canvassed and determined by Court in the case of **FCH/CR/93/19** and **FCT/CV/2092/20**. So also the constant invitation of the Claimant by the Defendants to answer question on issues already determined by Court in those cases in which the same Claimant, as a Defendant, was exonerated, such act by the Defendants violates the Claimant's Right. This could be seen in the letter of invitation attached as **Exhibit** as well as the publication in the several media and the Newspaper – Daily Trust September, 15th, 2019 and the Guardian Newspaper of 16th September, 2019.

So also the letter of investigation activities and letter of invitation written to the Claimant by the 2nd Defendant on 4th of October, 2019 all are embarrassing, harassing and violation of the Claimant's Right as the issues are all on the issues already considered in Court to which the Claimant had been acquitted and the matter dismissed and withdrawn. These are all seen in **EXH 9 & 10**. Letter of 16th September, 2019 to the Attorney-General of the Federation by Counsel to the Claimant also further supports the Claimant's claim as to breach of his Right. See **EXH 11**. That further shows that the 1st Defendant is not strange to the issue in dispute in this case as there were several letters/correspondence between the Claimant as a Defendant in those cases and the 1st Defendant in this case. That is captured in **EXH 11**.

EXH 12, 13, 14 & 15 are also there to prove the case of the Claimant as to the decision of the Court.

The letter of 19th March, 2020 addressed to the Attorney-General of the Federation further shows that the 1st Defendant is not a stranger to the issue in this case as shown in **EXH 16**. That is why this Court still maintains that he is a proper party in this case given the several pivotal roles he played.

EXH 17 is a further restrain Order of Court against the Defendants and the Judgment in the case of FCT/CV/2092/2020. **EXH 18** Letter of Invitation.

A look at **EXH 19**, the Code of Conduct Bureau had in a letter dated 11th January, 2021 stated in paragraph 3(1) thus:

“That the Executive Committee of the NFF being elected and on part-time basis are excluded from the application of the 5th Schedule Part 1 of the 1999 Constitution pursuant to Part 2 of the said 5th Schedule Item 1 – 16.

Notwithstanding this fact, the 2nd Defendant continued to invite, harass and intimidate and threaten and actually carried out investigation on the Claimant and sealed his immovable property claiming that it was under investigation when the Court had acquitted him and others in the previous case. That is why this Court holds that the Defendants breached the Right of the Claimant by their action.

Again, by **EXH 27 & 28**, notwithstanding that the Court had acquitted the Claimant and his colleagues as far back as 2019, the 2nd Defendant also published the seizure of the house belonging to the Claimant in Daily Trust Newspaper of Thursday the 6th day of October, 2022. Three (3) years after Court had acquitted the Claimant on issue concerning immovable property of the Claimant.

EXH 29 is a formal complaint made against the sealing of the house in Maitama – 1 River Benue Close, in which the Claimant is a tenant. That erroneous act definitely must have had a very traumatic effect on the Claimant. The images (pictures) attached as **EXH 27** puts no one in doubt that the men of the 2nd Defendant invaded, intimidated and harassed the Claimant, hence grossly violating his Right as established in this case.

The Court, having answered the questions raised by the Claimant in this case and having answered the issues in the questions raised by the 1st Defendant in their Counter Affidavit, comes to the full conclusion that the Claimant's case is meritorious and he is entitled to all the Declaratory Reliefs sought in this case as it concerns the Claimant in this case.

This Court also grants the Consequential Order as sought as it pertains/affects the Claimant only since the other members of the NFF Executive are not parties to this particular case.

As it pertains to prayer xx in this Suit the Court awards the sum of ₦5, 000,000.00 (Five Million Naira) as general

damage to be paid by the 3rd Defendant. That is, the 3rd Defendant is to pay to the Claimant the sum of ₦5, 000,000.00 (Five Million Naira) for grossly violating the Right of the Claimant as established in this case.

Prayer xxi and xxii not granted.

Prayer xxiii granted as it pertains to the Claimant alone.

Be it known that all Order made and the prayers granted in this case are only for the Claimant – Mallam Shehu Dikko, since h is the only Claimant in this case.

The Court awards the sum of ₦500, 000.00 (Five Hundred Thousand Naira) as cost of the Suit.

This is the Judgment of this Court.

Delivered today the ____ day of _____ 2024 by me.

K.N. OGBONNAYA
HON. JUDGE

APPEARANCE:

CLAIMANT COUNSEL: ALIYU ALHASSAN ESQ.

1ST DEFENDANTS' COUNSEL: LESLIA A. DAN ESQ.

2ND DEFENDANTS' COUNSEL: OLUBUNMI IKUPOLATI ESQ.

3RD DEFENDANT: NOT REPRESENTED.