

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT COURT 10, AREA 11, GARKI, ABUJA

BEFORE HIS LORDSHIP: HON. JUSTICE S. B. BELGORE

MOTION NO. FCT/HC/M/4396/2022

DATE: 29-05-2024

BETWEEN

HON. BASSEY EWA

}

CLAIMANT

AND

- 1. MINISTER OF THE FEDERAL CAPITAL TERRITORY**
- 2. FEDERAL CAPITAL DEVELOPMENT AUTHORITY**
- 3. CENTENARY CITY PLC**

}

**DEFENDANTS
/APPLICANTS**

R U L I N G

(DELIVERED BY HON. JUSTICE S. B. BELGORE)

The 3rd Defendant/Applicant vide a Motion on Notice Number M/4396/2022 dated 7th day of April, 2022 but filed on the 8th day of April, 2022.

The said application seeks for a lone relief to wit:

“An Order of this Honourable Court dismissing this suit, in limine for want of jurisdiction”

Or in the Alternative,

“An Order of this Honourable Court striking out the name of the 3rd Defendant herein, for non-disclosure of any reasonable cause of action against the 3rd Defendant”

This application is premised upon the following grounds. They are:

1. The Claimant has no cause or right of action against the 3rd Defendant herein.
2. The Claimant lacks the locus standi to institute this action against the 3rd Defendant herein.
3. That the writ of summons of the Claimant did not disclose any cause of action against the 3rd Defendant.
4. That this Honourable Court has no jurisdiction to entertain this matter.

Moving the Motion in Court, Mrs. C. C. Chukwu Esq. holding the brief of Mr. N. Okoro Esq. submitted that they have filed a 10 paragraphs affidavit in support of this Motion and a written address. He relied on the depositions contained in the affidavit and as well adopted his written address as his oral argument in urging the Court to grant his application.

Responding swiftly to this application is the submission of the Claimant/Respondent that they have filed a 9 paragraphs of counter-affidavit. Also, Mr. A. A. Nwonye Esq. filed a written address which he

adopted as his oral argument while relying on the contents of counter-affidavit in urging the Court to dismiss the Motion on Notice.

Reacting on points of law, the Applicant's Counsel said that he filed a further affidavit in response to the Claimant's counter-affidavit along with a written address. He relied on the two processes and urged the Court to grant the application.

The two Learned Counsel in their written addresses formulated one issue for determination in this application. The issue submitted is the same as it is similarly worded.

According to the Applicant, the issue is ***“Whether given the facts and circumstances of this matter, this Hon. Court has the requisite jurisdiction to entertain this matter against the 3rd Defendant”***

While according to Respondent's Counsel, the issue is; ***“Whether given the facts and circumstances of this matter, this Hon. Court has the requisite jurisdiction to entertain this matter”***

I agree with both Learned Counsel that this is the only issue to be determined in this application.

It is the contention of the Applicant's Counsel who submitted that this Honourable Court has no jurisdiction to entertain this matter. He said that jurisdiction is a threshold issue, and once raised, must be determined first, before proceeding any further in a matter. He referred this Honourable Court to the case of **BELLO VS. DAMISA (2017) 2 N.W.L.R. (PART 1550)**, where the Supreme Court held as follows:

“ The issue of jurisdiction is a threshold issue which is of paramount importance. Therefore, when it is raised, it must be looked into first or at least at the earliest opportunity, more especially because any proceedings conducted without jurisdiction, no matter how Well it is conducted, is a nullity. ELUGBE v. OMOKHAFE (2004) 18 N.W.L.R. (PART 905) 319referred to. page 475, paras. A – B”

For this Honourable Court to have jurisdiction to entertain this matter, the Claimant must show that it has a right and cause of action against the Defendants before the Court. He argued that a cause of action and standing to sue are linked to the issue of jurisdiction of a trial Court. If the Claimant does not have a cause of action or the standing to sue, this Court cannot properly assume jurisdiction to entertain this matter. We humbly refer this Honourable Court to the case of **ODIMEGWA VS. IBEZIM (2019) 9 N.W.L.R. (PART 1677) 244.**

The law is settled beyond doubt, as to what a cause of action means and the documents the Court should look at, in determining whether a cause of action is disclosed in a matter. He referred the court to the case of **SOCIETY BIC S.A. VS. CHARZIN IND. LTD. (2014) 4 N.W.L.R. (PART 1398) 497 at 533- 534**, where the Supreme Court defined what ‘cause of action’ means in the following words:-

“The term ‘cause of action’ is judicially defined as denoting every fact (through not every piece of evidence) which it would be necessary for the Plaintiff to prove, if traversed, to support his right to the Judgment of the Court.

It is any action on the part of the Defendant which gives the Plaintiff a cause of complaint. See LASISI FADARE & ORS. VS. A. G. OYO STATE (1982) 4 SC 1 at 7; READ v. BROWN (1888) 22 QBD 128 at 131 ADIMORA v. AJUFO (1988) 3 N.W.L.R. (PART 80) 1. It is the entire set of circumstances giving right to enforceable claim”

The law is also settled that in determining whether or not a suit discloses a cause of action, it is the Statement of Claim that the Court looks at. Once the Statement of Claim raises some issues of law or fact calling for determination by the Court, a cause of action is established, even if the case is weak and not likely to succeed. Thus a pleading can only be said to disclose no cause of action where it is such that nobody can understand what claim the Defendant is required to meet. See **GOVERNOR EKITI STATE VS. AKINYEMI (supra) at 401 paras. E – F and IDACHABA vs. ILONA (2007) 6 N.W.L.R. (PART 1030) 277.**

He urged the court to take a look at the Statement of Claim filed by the Claimant herein. He said that the Statement of Claim filed by the

Claimant herein, did not disclose any wrong done by the 3rd Defendant against the Claimant to warrant this action against the 3rd Defendant.

On the part of the Respondent he submitted on the issue of jurisdiction, that the Claimant agrees with the 3rd Defendant's assertion that the issue of jurisdiction is a threshold issue which, once raised must be determined first before proceeding any further in the matter.

It is settled law that in deciding whether there is a reasonable cause of action, the determining factor is the Statement of Claim. The Court needs only to look at and examine the averments in the statement of claim of the Claimant. See **AJAYI VS. MILITARY ADMIN. ONDO STATE (1997) 5 N.W.L.R. (PART 504) 237.**

The facts as contained in the 3rd Defendant's Motion cannot form the basis on which to determine whether there is a reasonable cause of action against the 3rd Defendant. The answer to the question of whether the statement of claim discloses a reasonable cause of action is to be found in the statement of claim itself and not in any affidavit or other extraneous document by the 3rd Defendant.

From the statement of claim, the fact or combination of facts on which the Claimant have premised their right to sue the 3rd Defendant seem to be as pleaded in paragraphs 19 to 23 of the Claimant's statement of claims. Particularly, paragraph 19 clearly states that the Claimant's property was illegally revoked by the 1st and 2nd Defendants and same reallocated, together with other portions of land to the 3rd Defendant in this suit. The cause of action against the 3rd Defendant is therefore largely founded on

the fact that the property is occupied by the 3rd Defendant and whose interest will be greatly affected by the outcome of this suit.

As to issue of whether the 3rd Defendant is a proper party in this suit, it is trite law that there are different classes of people who can be party to a suit. The Court held in **GREEN VS. GREEN (1987) 3 N.W.L.R. (PART 61) page 480** held thus:

”Proper parties are those who, although not interested in the Plaintiff’s claim are made parties for some good reasons e.g. where an action is brought to rescind a contract, any person is a proper party to it who was active or concurring in the matter which gave the Plaintiff a right to rescind. Desirable parties are those who have an interest or who may be affected by the outcome of the case. Necessary parties are those who are not only interested in the subject matter of the proceedings but in their absence, the matter cannot be fairly dealt with”

It is evident that the 3rd Defendant is a party having an interest in the property the subject matter of this suit and who will be affected by any decision reached by this Honourable Court in this matter and the 3rd Defendant is presently in possession of the land in dispute. Jurisdiction is not limited to the settlement of dispute between two people but also the inclusion of consequential parties who will be affected by the decision of the Court one way or another. These parties are known as necessary parties to the suit. As seen in the case of **S.W.V. NIG. LTD. VS. AMCON (2020) 3 N.W.L.R.** where the Court gave the three classes of parties which are;

- a. Proper parties
- b. Desirable parties
- c. Necessary parties

I have considered the two arguments and submissions urging me to grant this application and the one inviting me to dismiss the same.

I think the law has long been settled in this aspect. And that is the reason I can only follow the submission of the Plaintiff/Respondent and come to conclusion that paragraph 6 of the Respondent's counterclaim is apt and apposite.

The two Learned Counsel agree that it is the law that what the Court needs to look at is the statement of claim and no more.

If that is the case, then paragraphs 19 – 23 of the Statement of Claim cannot be ignored at this stage as the Applicant want the Court to do. For instance, paragraph 19 says;

“Subsequent inquiries by the Claimant revealed that the 1st defendant purported to have compulsorily acquired the Claimant's property and had infact merged with other Plots of land and re-allocate same to a company, Centenary City Plc for the Development of a commercial centre or premises for the building of Abuja town Centenary City.

It is for the above reason that I find no merit in this application and it is therefore dismissed.

SIGNED
S. B. Belgore
(Judge) 29-5-2024