

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/1105/2020

DATE: 25/1/2024

BETWEEN

1. JOYCE TRAVELS AND TOURS LTD. } CLAIMANTS
2. AUGUSTINE IKUBESE }

AND

1. BRANZUK GOLD LIMITED }
2. FEDERAL MINISTRY OF TOURISM } DEFENDANTS
3. CULTURE AND NATIONAL ORIENTATION }
4. BAYELSA STATE GOVERNMENT, }
5. MINISTER OF INFORMATION AND }
6. CULTURE }
7. MERIT GORDON OBUA }

R U L I N G

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

In this Preliminary Objection dated 5th March, 2021 and brought by 2nd and 4th Defendants/Applicants praying essentially for reliefs. They are;

1. That this Honourable Court lacks the requisite jurisdiction to entertain the Claimant's suit against the 2nd and 4th Defendants/Applicants.
2. That the 2nd and 4th Defendants/Applicants are not proper and necessary parties in this suit.

It is premised on the following grounds:

1. The 2nd and 4th Defendants are not juristic personalities.
2. The Claimants have not established any cause of action against the 2nd and 4th Defendants/Applicants.
3. The Claimant's action can be properly determined by this Court without the Defendants/Applicants being made parties.

In support of this preliminary objection is a written address adopted by the Learned Counsel to the 2nd and 4th Defendants/Applicants Mr. Orji Nelson. Therein, he submitted four issues for determination to wit:

1. Whether this Honourable Court can assume jurisdiction to entertain the Claimant's suit against the 2nd and 4th Defendants/Applicants.
2. Whether the Claimants have established any cause of action against the 2nd and 4th Defendants/Applicants in this suit as constituted?
3. Whether the Plaintiff's action can be determined without the 2nd and 4th Defendants being made parties in this suit?

4. If issues (i) and (ii) above are answered in the negative, what order can this Honourable Court make in the circumstance?

He finally urged the Court to grant the Application.

On the part of the Claimants' Counsel, he submitted that they have filed a written address dated and filed on 11th October, 2021 which he adopted as his response as he urged the Court to dismiss the preliminary objection.

On the 1st issue as submitted by the Learned Counsel to the Applicant, it is his summary submission that the Court should hold that the 2nd and 4th Defendants/Applicants are not juristic persons that can sue and be sued nor necessary or proper parties in this suit and as such would not be bound by the final decision of this Court. And that without the 2nd and 4th Defendants/Applicants being made parties in this action, the suit can be effectually and completely determined by this Honourable Court.

It is his contention on the 2nd issue that there is nowhere in the Claimants' statement of claim where it is shown that the 2nd and 4th Defendants' issued Appointment Letter to the Claimants. He referred to the statement of claim and exhibits attached thereto.

In a swift response, on the part of the Claimants who submitted a singular issue for determination which read thus;

“Whether this Court has the jurisdiction to determine this suit as constituted, having regards to the facts and circumstances of this case?”

Reacting to the submission of the Applicant's Counsel on the issues, he contended that Counsel merely stated that 2nd Defendant is not juristic

person without substantiating or preferring argument in support of same. While impliedly agreeing that the 4th Defendant is a juristic person.

He contended further that issues 1 and 2 are such that can only be determined after evidence had been led at trial as the said issues relate to the substantive suit. It is after credible evidence had been led and admissible documents tendered, that it can be determined whether a cause of action exists against the 2nd and 4th Defendants, as well as whether or not the 2nd and 4th Defendants are necessary parties that should be bound by the Judgment of this Court with respect to the claims of the Claimants.

I have considered the arguments and submissions of both Learned Counsel for and against the grant of this preliminary objection.

In the case of **ALALADE VS. PRESIDENT OF THE OTA GRADE 1 CUSTOMARY COURT (2021) L.P.E.L.R. 55656 (CA)**, it was held as follows;

“I consider it well settled that jurisdiction is determined by the claim of the Plaintiffs. It is what the Plaintiffs’ submits to the Court for adjudication, that is to say, the subject matter and claim that determines whether the Court has jurisdiction to entertain the claim or not. Therefore, the process to be examined in determining if the Court has jurisdiction to hear and determine the matter submitted to it for adjudication is the Plaintiff’s claim. See ADETAYO v. ADEMOLA (2010) L.P.E.L.R. 155

**(SC); TUKUR VS. GONGOLA STATE (1989) L.P.E.L.R.
– 3272 (SC)”**

Now, let me x-ray the content of the statement of Claimants vis-à-vis the position of law stated above.

Paragraph 12 reads:

“The Claimants avers tat sometime in June, 2014, it was appointed by the 1st – 5thDefendants as their Ticketing Consultant for purposes of the International Fashion show (Africa Fashion Reception) held on the 3rd – 5th July, 2014 at the Bayelsa State Banquet Hall, Ovom, Yenagoa. The letter of appointment of the Claimants, specifically signed by the 5th Defendant, MERIT GORDON OBUA, is hereby pleaded and will be relied upon at the trial of this suit”.

Paragraph 14 says:

“The Claimants avers that in accordance with the tenor of the letter of appointment of the Claimants, the scope of work was agreed upon by the parties in Abuja, which included that the Defendants shall pay the bill for the tickets issued to the Defendants’ local and International contingents, before the Managing Director of the claimants would leave the Hotel Accommodations booked for him both in Bayelsa and Abuja for purposes

of the agreement of the parties. The following agreement in respect of fund were also made;

- a) That the outstanding bill in favour of the Claimants as at Friday, 14th July, 2014 was ₦34,258,116.00 (Thirty-Four Million, Two Hundred and Fifty-Eight Thousand, One Hundred and Sixteen Naira).*
- b) That the Backlog of payment as at 30th March, 2014 was ₦1,657,200.00 (One Million, Six Hundred and Fifty-Seven Thousand, Two Hundred Naira).*
- c) That 5% of tickets already purchased on behalf of the Defendants as at Friday, 4th July, 2014 was ₦1,989,327.40 (One Million, Nine Hundred and Eighty-Nine Thousand, Three Hundred and Twenty-Seven Naira, Forty Kobo), being service charge.*

The agreement of the parties with the 1st and 5th Defendants representing the 2nd, 3rd and 4th Defendants, signed by the Managing Director of the Claimants and the Managing Director of the 1st Defendant, MERIT GORDON OBUA though titled Internal Memo and dated the 4th day of July, 2014 is hereby pleaded and contend at the hearing of this suit that the said document, though titled Internal Memo of the 1st Defendant, represented part of the agreement between the parties in this suit by reason of the fact that the Managing Director of the Claimants signed same along with the Managing Director of the 1st Defendant, who is the 5th Defendant, who represented the 2nd, 3rd and 4th Defendants, the fact that it is titled Internal Memo, notwithstanding”

Paragraph 24 provides:

“The Claimants avers that having been so appointed the Ticketing consultant of the Defendants for purposes of issuing tickets to their contingents across the world, it swung into action within a short time, working day and night with its workers and issued about Two Hundred and Twenty-Two (222) air tickets for both domestic and International guests of the Defendants for purposes of the International Fashion Show (Africa Fashion Reception) held on the 3rd – 5th July, 2014 at the Bayelsa State Banquet Hall, Ovom, Yenagoa. The computer generated copies of the total number of tickets issued by the Claimants for the Defendants’ guest/contingents across the world is hereby pleaded and will be relied upon at the trial of this suit”

From the paragraphs quoted above, it is not in doubt that 2nd and 4th Defendants/Applicants cannot be let go at this stage of this proceedings. See the case of **ABUBAKAR VS. USMAN (2018) L.P.E.L.R. – 44089 (CA)** where it was held as follows;

“In dealing with the question of the nature of the claim before the trial Court and whether the Court has jurisdiction over that claim, I should have no difficulty but look at the statement of claim in order to ascertain what indeed is the claim at the Court. That it is the law. See ADETONA & ORS. VS. IGELE GENERAL

ENTERPRISES (2011) 7 N.W.L.R.; ADEYEMI VS. OPEYORI (1976) 9 – 10 SC 31, 49. There is the need therefore to look at the statement of claim. It is the statement of claim or should I say the facts averred and stated therein put together that confer on the Court the jurisdiction to entertain any particular matter in line with the law or statute which established that Court”

See **AKPOBOLOKEMI & ORS. v. IHENACHO & ORS. (2016) L.P.E.L.R. – 40563 (CA)** where it was held thus:

“It is also trite law that in determining the jurisdiction of a Court to entertain a suit, the primary and ultimate part of call is the writ of summons, the statement of claim and the reliefs sought therein. Consequently, when an issue of jurisdiction is being addressed, it must be determined on the basis of the Plaintiffs’ averment in his statement of claim and not on the Defendants’ answer in the statement of defence”

In effect therefore, I have no difficulty in coming to conclusion that this Court has jurisdiction to hear and determine the case of the Claimants.

This application which is preliminary objection is lacking in all merit, and it is therefore dismissed.

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S. B. Belgore
(Judge) 25 -1- 2024