

**THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY ABUJA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT COURT NO. 13, WUSE ZONE 2, ABUJA
BEFORE HIS LORDSHIP: HON JUSTICE A. S. ADEPOJU.
THIS 20TH DAY OF MAY 2022
FCT/HC/CV/2577/2021**

BETWEEN:

GLOVER PRINCESS -----APPLICANT

AND

1. MADAM SUSANNAH CHINYERE OYO

2. MISS OGECHUKWU OYO

3. MR IFEANYI

4. MR VINCENT DURUEKE -----RESPONDENTS

Applicant appears in person.

1st Respondent in Court.

C. M. NWANKWO for the 1st Respondent.

JUDGMENT

Upon a Motion on Notice brought pursuant to **Order 2 rules 1,2,3** and **5** of the fundamental rights (Enforcement procedure) Rules 2009 and Sections **33, 34, 35, 37, 41, 42** of the **1999** constitution of the Federal Republic of Nigeria as amended and the inherent jurisdiction of this honorable Court, praying for the following;

- a) **A DECLARATION** that the maltreatments, oppression, dehumanization, discriminations, threat to life of applicant,

physical and mental tortures, inhuman and degrading treatments, subject of the applicant to servitude and slavery, deprivation of the applicant's right to personal liberty, deprivation of right to movement of the applicant, the infringement of applicant's right to privacy of home and family life; are all illegal, unlawful, unconstitutional, null and void. And that the applicant is compensated with 50 billion naira by the respondents.

b) **AN ORDER** that the subjection of the applicant to torture both physically and emotionally; the inhuman and degrading treatments given to the applicant by the respondents; the threat to life of the applicant by the respondents, the subjection of the applicant to slavery and servitude, the invasion of applicant's privacy to home, the infringements of applicant's rights to freedom of movement and liberty are all illegal; as all these violate applicant's human rights as guaranteed by sections 33, 34, 35, 37, 41 and 42 of the 1999 constitution of the Federal Republic of Nigeria as amended. And that the applicant is claiming 50 billion naira as compensation for all her losses both physically, emotionally, socially, culturally, psychologically, health wise, and financially.

c) **AN ORDER** that the deprivation of the applicant's right to personal liberty, the privacy of applicant's home and family life , as guaranteed and protected by section 37 of the 1999 Constitution of Federal Republic of Nigeria as amended; is unlawful, null and void. And that applicant is compensated by the respondent with fifty

billion naira.

- d) **AN ORDER** that the restrictions of movements of the applicant as guaranteed and protected by Section 41 of the 1999 Constitution of the Federal Republic of Nigeria as amended; are all illegal and unlawful and gross violations of the fundamental rights of the applicant. And that the applicant is compensated with 50 billion naira by the respondents.
- e) **AN ORDER** that all the discriminations done to the applicant by the respondents violated applicant's right, as protected and guaranteed by Section 42 of the said constitution. And that all the unlawful and illegal oppressions, dehumanization, discriminations of the applicant by the respondents are gross infringements of applicant's fundamental human rights, illegal, unlawful, null and void. And that all these resulted to both physical, health, mental, social, economic financial, emotional and psychological tortures; losses; damages and pains to the applicant and are highly condemnable. And that applicant is demanding 50 billion naira as compensation from the respondents. That the applicant has really suffered a lot of damages, agonies, sorrows, pains and losses.
- f) **AN ORDER OF URGENT INJUNCTION** restraining the respondents from further dehumanization and infringements of applicant's rights as guaranteed by the **1999** constitution of the Federal Republic of Nigeria as amended, because the applicant is not a slave to the respondents and not a slave to anybody at all. But

rather the applicant is a human being created by Almighty Allah (God Almighty) and protected by the provisions and laid down Rules of the constitution.

- g) **AN ORDER** compelling the respondents to adequately compensate the applicant with fifty billion naira for all the infringements to adequately compensate the applicant with fifty billion naira for all the infringements of applicant's right, inhumane treatments, discriminations, oppressions and frustrations done to the applicant by the respondents.
- h) **AN ORDER** that the said dog be immediately taken away and the respondents heavily fined and sanctioned.
- i) **AN ORDER** that the sale of this property be immediately reviewed and revoked. And that the said property be revalued and the sale thrown open to valued prospective buyers; who shall appropriately use and maintain the said property, because the respondents are notable to so do.
- j) **And** for such further order or orders as this honorable Court may deem fit to make in these circumstances.

Application is supported by a 21 paragraphs Affidavit deposed to by the Applicant, and attached to the said motion is a written address, applicant's statement in support of the Motion, Exhibits "**A**" a petition written against the respondent to the commissioner of police FCT, Abuja, Exhibit "**B**" petition written against the defendants/ Respondent to the

Director AEPB Abuja, Exhibit “C” petition written against the Respondents to the Hon. Minister of FCT.

In response, the 1st respondent filed a 53 paragraphed counter affidavit deposed to by herself, placed reliance on all the averments, attached the following;

- 1) **Exhibit “S01”** a rent receipt by the applicant for a shop at the 1st respondents residence in the Sum of **N280,000** dated **10/9/2019**,
- 2) **Exhibit “S02”** cash receipt of rent paid by the applicant dated **04/01/2021** in the Sum of **N280,000** for the same shop in the same address,
- 3) **Exhibit “S03”** Notice of Abatement from AEPB served on 14/10/21,
- 4) **Exhibit “S04”** *“Repost of intimidation from some staff of AEPB”* dated **3/11/2021**.

The 2nd respondent filed a 30 paragraphed affidavit deposed to by herself, denying the averment contained in the applicant’s affidavit in support of the motion on Notice.

The 3rd respondent filed 29 paragraphed affidavit deposed to by himself as a cousin of the 2nd respondent, denied the averment contained in the applicants affidavit in support of her Motion, and corroborated the facts as contained in the 1st and 2nd respondents’ affidavits.

The 4th respondent filed a 29 paragraphed affidavit deposed to by a cousin of the 2nd respondent and being versed with the facts of this case, 4th respondent equally denied the averments as contained in the applicant's affidavit supporting her Motion on Notice.

The four (4) respondents jointly filed a written address as their submission in this suit and urged the court to discountenance in its entirety the said Motion on Notice filed by the applicant and award them damages for wasting their time. No further application/replies were filed hence the Judgment.

Upon a deep perusal through the filed applications especially the Motion on Notice by the applicant, the written address in support of applicant's statement supporting the Motion and exhibits attached on one hand, and on the other hand, reading through the depositions contained in the 1st, 2nd, 3rd, and 4th respondents counter affidavit with attached exhibits from the applicant's written address filed on the 6/10/21 it can be gleaned that the crux of this suit is that the applicant is a tenant of the 1st respondent occupying a room at the gate house at an agreed Sum N280,000 as exhibited in Exhibits "S02" respectively. And that the applicant is alleging that the dog of the 1st respondent causes her nuisance by physically attacking her, and stooling on her door steps, rendering into force labor of packing and clearing same, and also that the sale of the 1st respondents house by the government be reviewed and revoked in public interest because the 1st respondent has altered the

master plan of the house and land, and has added all sorts of structures to the said house, the respondent does not appreciate the house and the good will of the FRN, and that the respondents have dehumanized the applicant threatening her with their thugs (her life), her properties, car parts, and monies stolen, bringing carpenters, bricklayers and upholstery makers to her door steps.

Applicant added that prior to renting the said apartment the 1st respondent assured her that there was water and electricity but all turned out to be false, she had to spend monies to fix the floors, walls, ceiling, toilets and roof where water is coming from.

Applicant set out issues for determination in summary asking the court

- 1) Whether slavery is still in force and
- 2) Whether there should not be equity, good conscience and natural justice in treating human beings who are tenant in a house owned by another?
- 3) Whether the forceful breaking in and out of her apartment by the respondents depriving her freedom of movement is not an infringement of her right?

Applicant further cited a plethora of authorities to support her submission and urged the court to grant same.

On the part of the respondents, apart from denying the averments as contained in the applicants affidavit supporting her Motion on Notice,

1st respondent in her counter affidavit stated facts particularly in paragraphs 9 – 53 that have neither been challenged nor denied by the applicant.

Having carefully listened to submission and processes filed, a good starting point will be looking at the position of the law and in so doing, I have singled out an issue for determination which is;

- 1) *whether or not the reliefs sought by the applicant disclosed a cause of action to be tried and granted under the rules of fundamental human rights procedure as alleged by her Motion on Notice brought pursuant to Order 2 Rules 1, 2, 3, & 5 and Section 33, 34, 35, 37, 41 and 42 of the 1999 constitution of the Federal Republic of Nigeria as amended?***

For the purpose of clarity chapter IV of the 1999 constitution as amended provides for 12 rights and guarantees such rights to be fundamental human rights that every citizen is entitled to. **Order 2 Rule 1**, ensure any citizen whose right is violated or infringed upon or breached or likely to be breached of his fundamental rights provided under the people's Rights Act and Universal of human Rights system to apply to a court to enforce or remedy such breach or infringements but for the cause of action to exist the right allegedly violated must be one of those rights protected and provided for under chapter iv of the 1999 constitution supra, and the African charter.

A cause of action is a fact or facts that give rise to a right of action, that factual situation is what gives any person a right to judicial relief. This is the position of the Supreme Court in the decided case of **BARBUS& CO. (NIG) LTD VS. OKAFOR UDEJI (2018) LPELR 44501 SC.**

The following are Rights contained under Chapter 4 of the 1999 constitution as amended, which the claimant/applicant predicated her Motion upon.

- **SECTION 33 – Right to Life**
- **SECTION 34 – Right to Dignity of human person**
- **SECTION 35 – Right to Personal liberty**
- **SECTION 37 – Right to Private and family life**
- **SECTION 41 – Right to Freedom of movement**
- **SECTION 42 – Right to Freedom of discrimination.**

Now going by the provisions of Order ii Rule 1, 2, 3, 5 & 6 Supra, it provides for Rule 1.

ORDER II COMMENCEMENT OF ACTION

CAUSE OF ACTION

1. ***“Any person who alleges that any of the Fundamental Rights provided for in the Constitution or African Charter on Human and people’s Rights (Ratification and Enforcement) Act and to which he is entitled, has been, is being, or is likely to be infringed, may apply to the court in the state where the infringement occurs or is likely to occur, for redress:***

Provided that where the infringement occurs in a state which has no Division of the Federal High Court, the Division of the Federal High Court administratively responsible for the State shall have jurisdiction. From No. 1 in the Appendix may be used as appropriate.”

MODE OF COMMENCEMENT

2. ***“An application for the enforcement of the Fundamental Right may be made by any originating process accepted by the Court which shall, subject to the provisions of the Rules, lie without leave of Court.***
3. ***An application shall be supported by a Statement setting out the name and description of the applicant, the relief sought, the grounds upon which the reliefs are sought, and supported by an affidavit setting out the facts upon which the application is made.”***

APPLICANT’S WRITTEN ADDRESS.

4. ***“Every application shall be accompanied by a Written Address which shall be a succinct argument in support of the grounds of the application.”***

RESPONDENT’S WRITTEN ADDRESS.

5. ***“Where the respondent intends to oppose the application, he shall file his written address within 5 days of the service on him of such application and may accompany it with a counter affidavit.”***

APPLICANT'S ADDRESS ON POINTS OF LAW.

6. *“The applicant may on being served with the respondent's Written Address, file and serve an address on points of law within 5 days of being served, and may accompany it with a further affidavit.”*

From my observation and understanding the reliefs sought by the applicant are those based on infringement of her rights as contained on the face of her Motion on Notice. However a close perusal and microscopic look at the facts contained in the affidavit in support of the originating motion and submissions contained in the written addresses, has revealed that these allegations, are more or less tortuous liabilities borne out of a tenant and landlord relationship than they are under fundamental rights enforcement procedure. The allegations contained in the affidavit are hostile in nature requiring calling of witness; in order words the facts are contentious and require filing of pleadings. It is better adjudicated upon with the filing of writ of summons by the applicant and I so hold.

A plethora of authorities are to the effect that in order to come by way of Fundamental Right (Enforcement Procedure) Rules the reliefs must be founded on any rights guaranteed in Sections 33 – 44 of the 1999 Constitution as amended; see the case of **TUKUR V GOVERNMENT OF TARABA STATE (1997) NWLR (PT. 510) 549 SC**. This was a case of deposition of the former Emir of Muri by the government in 1986. The Late Emir was substituted with his son, and was also detained. He

commenced an action at the Federal High Court for the enforcement of his fundamental rights. The Supreme Court held that the action raised principally a Chieftaincy question over which the Federal High Court lacked jurisdiction.

The late Emir went back to the state High Court to commence similar action, seeking similar reliefs as in the first action; while asking that the court quash the deposition order, complaining of breach of fair hearing, deprivation of liberty and freedom of movement. The Supreme Court held that in an action under the Enforcement Rules, a condition precedent to the exercise of the court's jurisdiction is that the enforcement of fundamental right should be the main/principal claim not an accessory claim. Where the main claim is not the enforcement of a fundamental right, the jurisdiction of the court cannot be properly invoked and the application will be incompetent.

See also the case of **EGBONU V B. R. T. C (1997) 12 NWLR (PT. 531) 29 SC** where the Supreme Court also held that an action for wrongful dismissal from employment cannot be brought under the Rules since it belongs to a different class of action on contravention or threatened contravention of a fundamental right. In the decided case, the appellant's main claim was based on wrongful dismissal and was founded on contract as held by the Supreme Court.

I have gone through the written submission of the Learned Counsel to the respondents and agree totally with him that the substantive claim in this suit is not one that falls within the scope and ambit of the

fundamental rights matter. The authority of **NWACHUKWU V NWACHUKWU (2018) 17 NWLR (PT. 1648) PG 357 RATIO 7** relied on by the respondents at page 13 – 15 of their written address is apt and adopted by the court. It is also not in doubt that the aggregate of facts contained in the applicant’s affidavit did not disclose a cause of action actionable under the Enforcement of Fundamental Rights Rules. The case of EFCC V Diamond Bank Plc (2018) 8 NWLR (PT. 1620) PG 61 is cited at page 12 of the respondents’ address where the Supreme Court held Thus;

“By virtue of Section 46(1) of the Constitution of the Federal Republic of Nigeria... ..”

See also the case of **NWACHUKWU V NWACHUKWU Supra.**

All what I have been labouring to state is that the Applicant’s action is incompetent and that this court lacks the jurisdiction to entertain same. Before I conclude this ruling, let me quickly observe that the written address of the applicant is weird. It does not appear to be professionally drafted. The provision of Order 33 Rule 2 of the FCT High Court Civil Procedure Rules provides a guide on what a written address should contain when it provides thus:

“A written address shall be printed on white A4 paper, set out in paragraphs, numbered serially and shall contain;

a. The claim of the applicant on which the address is based.

b. A brief statement of the facts with reference to the exhibit(s) attached to the application or tendered at the trial.

c. Issues arising from the evidence and...

d. A succinct statement of argument on each issue incorporating the purpose of the authorities referred to with full citation of each authority.”

Furthermore Order 2 Rule 5 of the Fundamental Rights Enforcement Procedure states that every application shall be accompanied by a written address which shall be a succinct argument in support of the grounds of the applicant. I found the written address of the applicant to be unwieldy. However I have taken pains to sift out all the necessary fact before reaching my conclusions.

As I have earlier stated, the Applicant’s action is incompetent for not disclosing a cause of action that is justiciable under the Fundamental Rights Enforcement Procedure Rules. Therefore the jurisdiction of this court cannot be activated to entertain same. The action is hereby struck out.

SIGNED

HON. JUDGE
20/5/2022

C. M. NWANKWO: We shall be asking for a cost of ~~₦~~**2,000,000 (Two Million Naira)** to mitigate the effect of tossing around the widow, and the unnecessary action against the respondent.

APPLICANT: I am objecting to the application for cost for being baseless and unmeritorious.

COURT: The sum of ~~N~~**200,000 (Two Hundred Thousand Naira)** is awarded as cost against the applicant to defray the expenses incurred by the respondent in the course of litigation.

SIGNED

HON. JUDGE
20/5/2022