

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
HOLDEN AT ABUJA
ON WEDNESDAY 31ST DAY OF MARCH, 2021
BEFORE HIS LORDSHIP: HON. JUSTICE O. A. ADENIYI
SITTING AT COURT NO. 13, MAITAMA, ABUJA

SUIT NO: FCT/HC/CV/1746/2020

IN THE MATTER OF AN APPLICATION BY ENGR.
ABUBAKAR IBRAHIM YARO FOR THE ENFORCEMENT OF
HIS FUNDAMENTAL HUMAN RIGHTS

BETWEEN

ENGR ABUBAKAR IBRAHIM YARO APPLICANT

AND

1. INSPECTOR GENERAL OF POLICE
2. DCP YUSUF KOLO (*Commander, IGP
Special Tactical Squad-IGP-STs*)
3. SGT. YAHAYA IBLONG
4. INSPECTOR FRIDAY

RESPONDENTS

JUDGMENT

The Applicant claims to be a mining Engineer; a retired Civil Servant; former Sole Administrator/Chief Executive

Officer (CEO) of the National Iron Ore Mining Company (NIOMCO), Itakpe, Okene, Kogi State; and at the material time a visiting lecturer in the Department of Mining and Minerals Engineering, of the Ahmadu Bello University, Zaria, Kaduna State. The summary of his case is that, on the 18th day of May, 2020, at about 12.45pm, some armed officers of the Special Tactical Squad of the 1st & 2nd Respondents invaded his premises in Gwarinpa area of Abuja; that the horrific manner of the invasion made him and his family to be apprehensive of being attacked by armed robbers; that the officers molested and harassed him and his children who were in the house with him at the material time; that after combing his house and premises, the officers invited him, his children and driver to their office at Guzape, where they were informed by the 4th Respondent that they were tracking suspected kidnappers whose location was disclosed to be a spot around the Applicant's house.

The case of the Applicant is further that he and his family were eventually released on bail at about 6.00pm on the same day but that their phones and a laptop were taken from them and have remained in their custody ever since.

The Applicant further alleged that in the course of invading his house, the 3rd Respondent shot his son, by name **Sadiq**, in his right arm, and that he had to be operated upon twice at the National Hospital, Abuja.

Being aggrieved by the alleged degrading and dehumanizing treatment meted out to himself and his family; and the invasion of the privacy of his home, the Applicant commenced the instant action for the enforcement of his fundamental rights *vide* originating Motion on Notice filed in this Court on 05/06/2020, pursuant to the **Fundamental Rights (Enforcement Procedure) Rules, 2009**, whereby he claimed against the Respondents, the principal reliefs set out as follows:

- 1. A declaration that the acts of the officers, men, operatives or privies of the 1st and 2nd Respondents to wit:- invading the privacy and home of the Applicant situate at House No. 36, off First Avenue, Gwarimpa II Estate, Abuja, on the 18th May, 2020 and subjecting the Applicant (and members of his household) to degrading and dehumanizing treatment as well as psychological torture is unlawful, unconstitutional, arbitrary and an egregious violation of the Applicant's Fundamental Human Rights as guaranteed by Sections 34(1) and 37 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and Articles 4, 5 and 6 of the African Charter on Human and Peoples Rights (Ratification And Enforcement) Act LFN, 2010.**
- 2. An order for the payment of the sum of ₦50,000,000.00 (Fifty Million Naira) only as damages jointly and severally against the Respondents in favour of the Applicant for the violation of the Applicant's Fundamental Rights as aforesaid.**
- 3. An order directing the Respondents to tender a clearly worded unreserved apology to the Applicant to be conspicuously published in two national dailies.**

4. An order directing the Respondents to return all the phones and a laptop seized from the members of the family of the Applicant by the Respondents on the 18th May, 2020 forthwith.

In response to the originating motion on notice, the 4th Respondent deposed to a *Counter affidavit* on 07/10/2020, on behalf of the Respondents. The 4th Respondent claimed he was the leader of the team dispatched to investigate the case of kidnapping of a legal practitioner and two of his friends along Abaji-Abuja Road, which was reported to their office on 18th May, 2020; that they swung into action and tracked the alleged kidnappers on **Google map to House 36 Road 13, Gwarinpa, FCT**, where the kidnappers were alleged to have made calls to demand for ransom; that on getting to the premises they introduced themselves as Police men and informed the people in the premises of their mission. The 4th Respondent denied that his team members molested the Applicant or anyone else; that it

was when his team members heard a gunshot from the Boys' quarters area of the Applicant's house and saw some persons scaling the fence that his colleague, the 3rd Respondent, shot at the direction; that immediately it came to his attention that someone received gunshot wounds, he took steps to give him prompt medical attention, that it was later he found out that it was the Applicant's son who was in the Boys' quarters that received the gunshot wound; that he was not sure if it was the Police gunshot or the one shot by the kidnappers that hit the Applicant's son. The Respondents denied treating the Applicant as a common criminal or treated him in a dehumanizing or degrading manner.

The Applicant filed a *Further Affidavit* on the 09/10/2020, to deny the contents of the Counter Affidavit.

I had carefully examined and considered the totality of the facts deposed in the affidavit evidence placed

before the Court by the contending sides, together with the totality of the written arguments canvassed by their respective learned counsel in the written submissions filed alongside their processes. It is to be noted that on 16/11/2020, when the application was heard, the Respondent's learned counsel was absent. As a result, the Court, pursuant to the provision of **Order 12 Rule 3 of the Fundamental Rights (Enforcement Procedure) Rules**, deemed the written address filed to support the Respondents' *Counter Affidavit* as having been duly adopted.

I should also add that on the well known principles that the Court is entitled to peruse every document in its file in the determination of a suit before it, I had proceeded to equally consider the *Further and Better Counter Affidavit* filed by the Respondents on 25/01/2021 together with the attached written submissions of their learned counsel, in further determination of this suit. I note however that the said *Further and Better Counter*

Affidavit is similar in content to the initial *Counter Affidavit* filed by the Respondents on 07/10/2020, both deposed to by the 4th Respondent.

Now, the question of infringement of fundamental rights preserved by the provisions of **Chapter IV** of the **Constitution** is largely a question of fact to be determined on the basis of evidence adduced by parties to the action. As such, the law remains sacrosanct, as correctly submitted by the Respondents' learned counsel, that the onus is heavily on the Applicant who asserts an infringement to supply material evidence to establish such breach. See *Onah Vs. Okenwa* [2010] 7 NWLR (Pt. 1194) 512 @ 535; *Dongtoe Vs. C.S.C., Plateau State* [2005] 1NHRLR Vol. 1 78(SC) @ 116.

In the instant case therefore, it is incumbent on the Applicant to prove, by credible affidavit evidence, that his fundamental rights as enumerated in the reliefs

claimed were breached by the alleged acts and conducts of the Respondents.

I had in the foregoing summarized the case presented by the Applicant. According to him, his house, aforementioned was invaded by officers of the FIB Special Tactical Squad (STS) Force Headquarters, FCT, Abuja, on 18/05/2020, on the pretext that they were on the trail of some suspected kidnappers who were alleged to have kidnapped a lawyer and his friends along the Abuja-Abaji Road.

The Respondents did not deny entering the premises of the Applicant on the date in question. I agree with the submissions of **Mr. Taiwo**, of learned counsel for the Respondents that indeed one of the primary statutory duties of the Police is to investigate allegations of crime reported to it; and that no responsible Police would ignore a complaint of suspicions of crime reported to it.

However, the contention in the instant case is not that the officers of the 1st Respondent responded to the complaint of suspicions of kidnapping reported to them. What is in controversy is the manner in which the Respondents responded to or acted upon the report of allegation of kidnapping that led them to the Applicant's premises on the date in question; and whether, in the process, the Applicant's fundamental rights were violated.

In this regard, I had carefully assessed and placed side by side the Applicant's vivid account of his experience, which he termed as "horrific;" and that of the 4th Respondent, who was the leader of the team that carried out the said operation on the date in question. I refer specifically to the depositions in paragraphs 5-20 of the Affidavit in support; and the depositions in paragraphs 8-20 of the 4th Respondent's *Counter Affidavit*, which contained the Respondent's denials and version of what transpired on the date in question.

I however found the Applicant's account more credible and plausible than that of the 4th Respondent. The first question that comes to mind is if indeed the 4th Respondent and his men, on getting to the premises of the Applicant, truly introduced themselves with civility and informed the occupants of their mission, how was it that the Applicant and his children mistook them for armed robbers to the extent that the Applicant's son had to attempt at running for dear life and in the process he was shot by the 3rd Respondent? If indeed the 4th Respondent and his officers introduced themselves as Police officers to the Applicant and his householders, how was it that they broke the entrance door and forcibly gained entrance into the house; and asked them to lie face down on the floor?

The 4th Respondent claimed that they heard gunshot from the Boys' Quarters area of the Applicant's house which was why the 3rd Respondent had to shoot back and that it was not clear which shot hit the Applicant's son; but

then the evidence on record is that it was when the Applicant's son was running away to a neighbouring premises and the 3rd Respondent was pursuing him that he was shot by the 3rd Respondent in the process.

The graphic details of what transpired as deposed in paragraphs 14(a)-(g) of the Affidavit in support were not satisfactorily debunked by the 4th Respondent in his *Counter Affidavit*.

Again, if the officers of the Respondents, led by the 4th Respondent, acted with civility as he claimed, how was it that a shot was fired at the ears of the Applicant's son, **Umar**, at close range, in order to deafen him, when he dared to inquire from them as to the reason for the invasion of his residence. The depositions in paragraph 10 of the Affidavit in support and paragraph 6 of the *Further Affidavit* were not satisfactorily denied by the 4th Respondent in his *Counter Affidavit*.

In the *Further Affidavit* filed by the Applicant, he further described how the operatives of the 1st and 2nd Respondents jumped into his compound via the fence between his house and that of his neighbour, firing shots in the process; and how they destroyed the lock to the main entrance of his house. He attached to his *Further Affidavit*, photographs of the damaged lock of two doors in his house which were forcibly opened by officers of the Respondents, as further proof that his house was forcibly broken into by the Respondents.

The Applicant further maintained that contrary to the claim of the 4th Respondent, they were not informed of the reason for the invasion of his house until they got to their office in Guzape and when they discovered the caliber of person he was; and that no stranger was in his house or premises at the material time as it was time of Ramadam when he and his family were observing the fast and the due to the Covid-19 restrictions, he was not permitting visitors to his house at the material time.

Now, the basis upon which the Respondents invaded the Applicant's home and premises, as deposed to by the 4th Respondent in paragraph 6 of the *Counter Affidavit*, is that suspected kidnappers were tracked to House 36, Road 13, Gwarinpa, FCT. The 4th Respondent attached the Google Map analysis, which depicted the pictures of trees, apparently in front of the house in question. It is to be remembered that the Applicant had deposed in paragraph 17 of his *Affidavit* in support of the application, that his house in question was along the road side and that there were mango trees opposite his house which usually provide shade to members of the public.

As such, the Google Map evidence provided by the Respondents as the basis for the invasion of the Applicant's premises, is clearly not full proof that the suspected kidnappers made the alleged phone calls from inside the Applicant's house; since the map did not

pinpoint the Applicant's house as the exact location where the alleged phone call were made. I so hold.

According to the written report lodged by one **Idakwo Daniel Attah** at the office of the Police Headquarters on 18/05/2020, copy of which is attached as **Exhibit A** to the *Counter Affidavit*, the alleged kidnapping took place on 16/05/2020. The officers of the 1st Respondent claimed they swung into action by tracking the location where the suspected kidnappers made a call with the phone belonging to one of the victims to demand for ransom. The 4th Respondent did not state in his *Counter Affidavit* the space of time when the suspected kidnappers made the alleged phone call and when they arrived at the location to which they traced the origin of phone call. As such, there is nothing to show, from the depositions in the *Counter Affidavit*, that the suspected kidnappers were static or stationed in that particular location or that they were inside the Applicant's premises at that material time.

As stated by the Applicant, since his house was by the road side, it is easy for anyone to stand in front of his house to make calls. As such, and on the basis of the foregoing analysis, I hold that it was totally wrong, unreasonable and unlawful for the 4th Respondent and his team to have singled out the Applicant's house for invasion on the date in question.

I agree with the submissions of **Mr. Ibrahim**, of learned counsel for the Applicant, that whilst the powers of the Police under the much touted **s. 4** of the **Police Act** to prevent and detect crime, *inter alia*, is never in doubt; however these powers are to be exercised in accordance with laid down rules and procedure, and with due regard to the constitutional fundamental rights of citizens. As, such, there indeed is no room for arbitrariness and recklessness on the part of the Police in the exercise or carrying on of their statutory powers and duties.

The Court will not shirk its judicial responsibility in drumming it home to the Police and indeed agents of state, time and again, that in carrying out their statutory duties of crime prevention and detection, they must at the same time be sufficiently circumspect in order not to trample upon or violate the fundamental rights of innocent citizens in the process. This often admonition was again well sounded by the Court of Appeal in Chika Enyinnaya Vs. The State [2014] LPELR-22924(CA). In this case, the Enugu State Police Patrol Team, invaded the premises of a Native Doctor, along Enugu-Port Harcourt Road, upon receiving intelligence report that crime was being committed in the premises. In the process, one of the persons found in the premises was shot dead by one of the Police Officers in the team. He was charged and convicted for manslaughter. In dismissing his appeal to the Court of Appeal, His Lordship, **Agim, JCA** (now JSC) held as follows:

“It is therefore important to call to mind that the crime prevention patrol is a very useful crime prevention mechanism. It is one of the police operational strategies for responding to acute demands for crime control and prevention in the community. There is no doubt that the Police crime prevention Patrol is aimed at eliminating opportunity for the commission of crime. It involves walking or driving around the area and keeping a look out for potential problems.

...As useful as this crime prevention scheme is, it can become a danger to the very society it seeks to protect if it is not conducted according to the constitution and other laws of the land. The fact that police officers are at any time engaged in any crime prevention activity including city patrol is no excuse or justification for the officers to be lawless and destroy the lives and properties of any person in the community. Crime prevention and control is law

enforcement. You can only validly and effectively enforce law through compliance with law.

... The fact that officers are on crime prevention patrol is no license for the officers to become lawless and invade the privacy of persons and their homes in disregard of the law or unlawfully kill anybody in the name of being on patrol.”

In the instant case, I hold that there is no justification whatsoever for the officers of the Respondents, led by the 4th Respondent, to forcefully and in a Gestapo fashion, invade the home and privacy of the Applicant, in the name of attempting to track down suspected kidnappers. It became obvious that the 3rd and 4th Respondents made a wrong move in harassing the Applicant and his householders, when they later found out the calibre of who the Applicant was.

There is also nothing to show that any of the Applicant's children or any of his householders, who were found in the house at the material time, were criminals or

engaged in kidnapping activities. No incriminating objects were alleged to have been found in the Applicant's possession or with any of his householders or in his home on the date of the invasion. It was indeed a misguided operation and I so hold.

I indeed examined the Google Map analysis referred to in paragraph 6 of the *Counter Affidavit* and attached as **Exhibits B** and **B1** thereto. As I stated earlier on, there is nothing in the analysis that pinpointed the Applicant's house as the exact location from where the suspected kidnappers made phone calls. The analysis merely zeroed on the Applicant's street (House 36 - 40). Apparently, the officers of the Respondent attacked the Applicant's house because it is the first one on that street. Again, the Respondents have also not placed any materials before the Court that the Applicant or any of his householders were armed when they invaded the house. As such, I found it rather reckless and an excessive

use of force for the 3rd Respondent to have shot near the ear of the Applicant's son, merely because he inquired of them of the cause of the invasion of their residence. The same 3rd Respondent later shot another of the Applicant's sons in the arm, as evidence on record revealed.

In short, what the officers of the 1st Respondent did on the date in question, from my assessment of the totality of the affidavit evidence placed on record, is to treat the Applicant and his householders as nothing short of common criminals. Even convicted criminals are, by law, entitled to be treated with decency and dignity; how much more innocent citizens. The conduct of the 4th Respondent and his team, on the date in question, cannot be acceptable in the name of crime detection and prevention. I so hold.

The Applicant has contended that his fundamental right to the dignity of his person was violated by the

Respondents, by invading the privacy of his home and subjecting him to degrading and dehumanizing treatment; as well as psychological torture on the date in question. He contended that his fundamental rights preserved by the provision of **Ss. 34(1)(a)** and **37** of the **Constitution**; and **Articles 4, 5 and 6** of the **African Charter on Human and Peoples Rights (Ratification And Enforcement) Act**, were breached by the Respondents.

Section 34(1)(a) of the **Constitution** provides as follows:

“34.(1) Every individual is entitled to respect for the dignity of his person, and accordingly –

(a) no person shall be subjected to torture or to inhuman or degrading treatment;”

Article 5 of the **African Charter of Human and People’s Rights (Ratification and Enforcement) Act** also provides as follows:

“5. Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.”

The evolving standards of decency that mark the progress of a maturing society demand that every citizen be accorded the dignity that his person deserves regardless of his/her status or standing.

The provision of **s. 34(1)(a)** of the **Constitution** has been given judicial interpretation in long line of judicial authorities. In interpreting the words “*torture*” and “*inhuman and degrading treatment*” used in **section 34(1)(a)** of the **Constitution**, the Court of Appeal held in *Uzuokwu Vs. Ezeonu II* [1991] 6 NWLR (Pt. 200) 708, per **Tobi JCA** (as he then was), @ 778 thereof as follows:

“A physical brutalization of the human person. It could also be a mental agony or mental worry... inhuman treatment is a barbarous, uncouth and cruel treatment... which has no human feeling on the part of the person inflicting the barbarity or cruelty.”

Again in the AG & Commissioner of Justice, Kebbi State Vs. Jokolo & Ors. [2013] LPELR-22349(CA), the Court of Appeal, relying on Black’s Law Dictionary, defined **“inhuman treatment”** as follows:

“The learned authors of Black’s Law Dictionary, 9th edition, page 854 also define ‘Inhuman treatment’ as ‘Physical or mental cruelty so severe that it endangers life or health.’ A degrading treatment is to do unpleasant things to someone and to make him lose self respect. Thus ‘degradation’ is ‘1. A reduction in rank, degree, or dignity... a lessening of a person’s or thing’s character or quality... A wearing down of something, as by erosion.’”

As also correctly submitted by the Applicant's learned counsel, the purport of s. 34(1) of the **Constitution** is that no one should be inflicted with intense pain on his body or mind nor be subjected to physical or mental cruelty so severe that it endangers his life or health, relying on the authorities of Andee Iheme Vs. Chief of Defence Staff & 3 Ors. [2018] LPELR-5354(CA) & Ahuronye Vs. Ikonne [2015] All FWLR (Pt. 811) 1233 @ 1239.

Again, **section 37** of the **Constitution** also provides as follows:

“37. The privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications is hereby guaranteed and protected.”

In the instant case, my view is that it was possible for the Respondents to have carried out their statutory duties of crime detection by visiting the Applicant's home without

necessarily violating his right to the privacy of his home. It is all a matter of approach. However, the facts at the Court's disposal, as analyzed in the foregoing, clearly established that the 3rd and 4th Respondents acted recklessly and in the process violated the Applicant's right to his private life by the manner in which his home was invaded and disrupted without lawful justification on the date in question. I so hold.

I agree with the submissions of the Applicant's learned counsel that the fact that the operatives of the 1st and 2nd Respondents were tracking kidnappers was no license for them to become lawless and invade the privacy of the Applicant's home in utter disregard for his fundamental rights. The authority of Aliyu Ibrahim Vs. COP [2007] LPELR-3747(CA) cited by the Applicant's learned counsel is very apposite to the case at hand. In that case, the Court of Appeal held that the acts of the security agents of State, forcefully entering into the Appellant's home and dragging him out, as in the instant

case, amounted both to degrading and inhuman treatment as well as a violation of his right to private and family life.

From my assessment of the Applicant's narration and description of the fearsome and terrifying manner in which the officers of the 1st Respondent invaded his house on the date in question, it cannot be contested that he indeed was inflicted with mental and psychological pain, torture and apprehension as he claimed. In the circumstances, I am satisfied that the Applicant has clearly established, without equivocation, that the Respondents violated his fundamental rights guaranteed by the provisions of **Ss. 34 and 37 of the Constitution** and is therefore entitled to be compensated in damages.

The Applicant has claimed the sum of **₦50,000,000.00 (Fifty Million Naira)** only as compensation for the violation of his fundamental rights by the Respondents. He further sought the Court's order directing the

Respondents to tender a clearly worded unreserved apology to him to be conspicuously published in two national dailies.

By the provisions of s. 35(6) and s. 46(2) of the **Constitution**, read together with the provision of **Order XI** of the **FREP Rules**, the Court is empowered to make any such orders as it may consider just or appropriate for the purpose of enforcing or securing the enforcement of any of the fundamental rights to which the Applicant may be entitled, which include the power to award damages. This much is also underscored by the Court of Appeal in Anogwie Vs. Odom [2016] LPELR -40214(CA), where it was held that:

“...once the Court has found that the fundamental rights of applicant has been violated by the act(s) or conduct of a respondent, the affected person (applicant) is entitled to compensation, in the circumstances.”

See also Emmanuel Ukpai Vs. Mrs. Florence Omoregie & 4 Ors. [2019] LPELR-47206(CA), cited by the Applicant's learned counsel.

Now, in proceeding to fix the quantum of damages payable by the Respondents to the Applicant in the instant case, I have taken into account such factors prescribed by the Court of Appeal in the case of A. G. Federation Vs. G. O. K. Ajayi [2000] 12 NWLR (Pt. 682), in consideration of the measure of exemplary or aggravated damages in fundamental right enforcement suits, which, *inter alia*, are:

- 1.The frequency of the kind of violation the Applicant is subjected to by the Respondent.
- 2.The fundamental nature of the Applicant's violated right.

3.The arbitrariness and brazenness of the conduct of the Respondent and the motivation for the violation.

4.The need for deterrence on overzealous officers of state who may be inclined towards similar indecent acts.

5.The continually dwindling value of the Naira.

6.The status or standing of the victim in the society.

See also the cases of Odogu Vs. A. G. Federation [1996] 6 NWLR (Pt. 456) 511; Williams Vs. Daily Times [1990] 1 NWLR (Pt. 124) 1; Eloichin (Nigeria) Limited Vs. Mbadiwe [1986] 1 NWLR (Pt. 14) 47, where it was held that exemplary damages are awarded whenever the Defendant's conduct is sufficiently outrageous to merit punishment such as where it discloses malice, fraud, cruelty, insolence, flagrant violation of the law and such like.

In the present case, the Applicant, in paragraphs 2 and 3 of his Affidavit in support, deposed to his rich profile and standing in the society as a Mining Engineer; a retired Federal civil servant; a former Sole Administrator/Chief Executive Officer (CEO) of the National Iron Ore Mining Company (NIOMCO), Itakpe, Kogi State; and at the material time a visiting lecturer in Ahmadu Bello University, Zaria, where he taught Mining Engineering in the Department of Mining and Minerals Engineering. The Respondents did not controvert these depositions.

The Gestapo fashion in which the officers of the 1st Respondent invaded the Applicant's house and in the process, breaking his doors, shooting his son and inflicting fear, terror and panic in his entire family further portrayed the officers of the 1st Respondent as overzealous and unduly overbearing. Sad enough, there is nothing on the record to show that the Respondents eventually apprehended the suspected kidnappers

whose chase led them to inflict terror on the Applicant and his family on the date in question.

I have found the facts highlighted above, viewed *vis – a – vis* the factors set out in the case also cited in the foregoing; together with the fact that this Court takes judicial notice of the frequency of brazen and arbitrary violation of fundamental rights of hapless citizens by the officers and agents of the 1st Respondent, at least if matters of this nature that this Court has had to adjudicate upon are anything to go by; as relevant in determining the quantum of compensation to which the Applicant is entitled.

The Applicant also prayed the Court to order the Respondents to return all the phones and a laptop seized from members of his family on the date in question. The Applicant deposed to this fact in paragraph 19 of his Affidavit in support; which deposition the 4th Respondent seemingly admitted in

paragraph 18 of his *Counter Affidavit*. The Court therefore has no difficulty in granting this relief.

In wrapping up this judgment, it is imperative to remark that the instant action is determined as relating to the Applicant alone. Even though he has made allusions to infringements committed by the actions of the officers of the 1st Respondent against his children and other householders; the Court did not take such into consideration in arriving at its judgment in this case. The suit is decided on the basis of the infringements committed against the Applicant alone. The position of the law, by the provision of **s. 46(1)** of the **Constitution**; is that a suit for redress of infringement of fundamental rights is individual and is not filed in representative capacity. See also the recent authority of *Chief of Naval Staff & Ors. Vs. Archibong & Anor.* [2020] LPELR-51845(CA).

In this regard, I agree with **Mr. Taiwo's** submissions that the present suit sure cannot enure to the benefit of the Applicant's children or any other members of the family present on the date of the invasion but who were not parties to the instant action.

In the overall analysis, I find merit in this action and the same succeeds. Accordingly, judgment is hereby entered in favour of the Applicant, jointly and/or severally against the Respondents in the following terms:

1. It is hereby declared that the acts of the officers, men, operatives or privies of the 1st and 2nd Respondents in invading the privacy and home of the Applicant situate at House No. 36, off First Avenue, Gwarimpa II Estate, Abuja, on the 18th May, 2020 and subjecting the Applicant to degrading and dehumanizing treatment as well as psychological torture is unlawful, unconstitutional, arbitrary and a gross violation of the Applicant's Fundamental Human Rights as guaranteed by Sections 34(1) and 37 of the

Constitution of the Federal Republic of Nigeria, 1999 (as amended) and Articles 4, 5 and 6 of the African Charter on Human and Peoples Rights (Ratification And Enforcement) Act LFN, 2010.

2. The sum of ₦5,000,000.00 (Five Million Naira) only is hereby awarded in favour of the Applicant against the Respondents, jointly and/or severally as damages and compensation for the violation of his fundamental rights as afore declared.

3. The Respondents, jointly and/or severally are hereby ordered, forthwith, to release to the Applicant, the phones, laptop and every other item retrieved from him and his household on 18th May, 2020.

4. I make no further orders as to costs.

OLUKAYODE A. ADENIYI

(Presiding Judge)

31/03/2021

Legal representation:

**Abdulaziz Ibrahim, Esq. (with A. I. Muhammad, Esq.) – for
the Applicant**

Malik D. Taiwo, Esq. – for the Respondents