

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT COURT NO 18 GUDU - ABUJA**  
**ON THURSDAY THE 12<sup>TH</sup> DAY OF DECEMBER, 2024.**  
**BEFORE HIS LORDSHIP; HON. JUSTICE MODUPE OSHO-ADEBIYI**  
**SUIT NO. FCT/HC/CV/2041/2023**

**BETWEEN**

**TRANSPARENT STAR RESOURCES LTD }.....CLAIMANT**

**AND**

- |   |   |                        |
|---|---|------------------------|
| <b>1. MINISTER OF FEDERAL MINISTRY OF WORKS<br/>HOUSING AND URBAN DEVELOPMENT</b> | } | <b>..... DEFENDANT</b> |
| <b>2. FEDERAL MINISTRY OF WORKS HOUSING<br/>AND URBAN DEVELOPMENT</b>             |   |                        |

**RULING**

Claimant filed this suit by a writ of summons on the 19/1/2023. This court had ordered the claimant counsel to address the court on the juristic personality of the defendants. Claimant counsel in his written address submitted that the 1<sup>st</sup> defendant by virtue of Section 147(1) of the Constitution of the Federal Republic of Nigeria (as amended) is a juristic person and that Section 148(1) of the Constitution likewise confers juristic personality on the 2<sup>nd</sup> defendant. **Section 147 1999 Constitution of the Constitution of the Federal Republic of Nigeria (as amended)**

*“There shall be such offices of ministers of the government of the Federation as may be established by the president”*

**Section 148(1) of the Constitution of the Federal Republic of Nigeria (as amended)**

*“The president may in his discretion assign to the vice president, or any minister of the government of the Federation responsibility for any business of the government of Federation including administration of any department of government.*

However, Section 147 of the 1999 Constitution simply deals with the establishment of offices of ministers of the government of the Federation of Nigeria. It states the procedure for the appointment of ministers, their qualifications and the Resignation of any member of the National Assembly or House of assembly. Juristic personality on the other hand is the capacity to maintain and defend actions in court. This capacity to sue is only attributed to natural persons, artificial persons or institutions by the law in other words a juristic person includes a human being, an incorporated body or a special artificial body as created by legislation and vested with capacity to sue. The question that arise at this juncture is whether Section 147 of the

1999 Constitution (as amended), which gives the president the powers to establish offices for Ministers of the government can be interpreted to mean that the office of ministers of the federation is a creation of statute and thereby a juristic personality.?? And whether section 148(1) Constitution (as amended) confers juristic personality on the Federal Ministry of works housing and urban development.

To determine this suit I will consider the issue on juristic personality raised suo motu by this Court. It is a fundamental principle of law that only natural or juristic persons can sue or be sued - see **Admin/Execs, Estate, Abacha V. Eke-Spiff &Ors. (2009) 7 NWLR (Pt. 1139) 97 SC.**

"As a general rule, only natural persons, that is to say, human beings and juristic or artificial persons such as bodies corporate are competent to sue and be sued before any law court. In other words, no action can be brought by or against any party other than a natural person or persons unless such party has been created by statute expressly or impliedly or by common law either a legal personality under the name by which it sues or it sued or a right to be sued by that name - - - This is because a law suit is in essence, the determination of legal rights and obligations in any given situation. Therefore, only such natural juristic persons in whom the rights and obligations can be vested are capable of being proper parties to law suits before Courts of law" see **IPBC NIGERIA LTD & ORS v. IBPC UK LTD (2014) LPELR-23086(CA).** Section 147 of the Constitution of the Federal Republic of Nigeria (as amended) 1999 created the office of the Ministers of the Government of the Federation. The legal personality of a statutory corporation is conferred on it expressly or impliedly by the statute creating same. The statute confers on the body the essential attributes of a juristic person.

Learned counsel submitted that S. 147 of the Constitution as cited above can be interpreted to mean that the Minister of Works, Housing and Urban development is a juristic person while Section 148 1999 Constitution can be interpreted to the effect that the Ministry of Works, Housing and Urban development is a creation of statute and a juristic person that can sue or be sued.

Contrary to the submission of learned counsel to the Applicant, S. 147 of the Constitution as cited above only created the office of the Ministers of the Government of the Federation. This makes the Minister of Federal Ministry of Works, Housing and Urban development an office created by statute and therefore a juristic person. It is necessary at this juncture, to elucidate and bring out the difference between the "office of the Minister of the Government of the Federation" and a "Ministry as an agency of the Government". Pursuant to S. 147 of the 1999 Constitution (as amended) the president of the Federal Republic of Nigeria is vested with the powers to

nominate for appointment anybody who fits the bill into the office of the Minister of the Government of the Federation subject to confirmation by the senate. Hence the office of a Minister of the Government of the Federation as in this case the Minister of Works, Housing and Urban development is a creation of statute that can sue or be sued. See **ATALOYE & ANOR VS. THE EXECUTIVE GOVERNOR OF ONDO STATE & ORS (2013) LPELR-21962 (CA)** Where the Appeal Court in deciding whether the commissioner for Land is a juristic personality whose office can sue and be sued held that being a creation of statute the duties and responsibilities attached to the office can only be performed by natural persons duly designated and held that the office of the commissioner for Lands can indeed sue and be sued. The office of the Minister of the Government of the Federation has its own duties and functions which cannot exist in vacuum and since the said office is a creation of the Constitution, it is my view and I therefore hold that the office of the Minister of Works, Housing and Urban development is a Juristic person which can sue and be sued.

A Ministry is distinct from the office of a Minister in that a Ministry as in this case, the Federal Ministry of Works, Housing and Urban development was created by the Federal Government for administrative convenience. The Federal Ministry of Works, Housing and Urban development is not a creation of statute hence it cannot sue and be sued in its own name rather it has a disclosed principal which is the Federal Government of Nigeria and it is trite law that an agent cannot be made to suffer for the acts of a disclosed principal, hence the Federal Ministry of Works, Housing and Urban development not being a creation of statute cannot sue or be sued. See **F.G.N. VS. SHOBU (2013) LPELR-21457 (CA) PP. 16-18 para A-F** where **UWA J.C.A** Held that the Federal Ministry of Works is not a Juristic person against whom an action can lie because it has a disclosed principal which is the Federal Government and that the Federal Ministry of Works was simply created not by statute but by the Federal Government for administration convenience.

From the above, I am of the view and I therefore hold that the 2<sup>nd</sup> Defendant being the Federal Ministry of Works, Housing and Urban development is not a juristic person as against the Minister of Federal Ministry of Works, Housing and Urban development who is a juristic person. Although it is trite law that this Court does not have the Jurisdiction to entertain a suit where the party sued is a non-juristic person but in this instant suit only one of the parties is a non-juristic person while the 1<sup>st</sup> Defendant is a juristic person who can be sued. The issue that comes to fore from this principle is “whether this Court has the Jurisdiction to entertain this suit?”. Flowing from the cases of **ANYANWOKO VS. OKOYE (2010) 5 NWLR (Pt. 188) Pg. 497 SC @ Pg 519-520 Paras H-B Per Fabiyi JSC; BELIVERS FISHERIES GREDGING NIG. LTD VS. UTB TRUSTEES**

LTD (2010) 6 NWLR (Pt. 1189) Pg 185 @ Pg 202 Paras D-H Per Rhodes vivoor JCA.

It is pertinent to point out that the constitution has given the attorney General the powers to sue and be sued on behalf of all government agencies. In this case, the proper party before the Court is the 1<sup>st</sup> Defendant who is The Hon. Minister, Federal Ministry of Works, Housing and Urban development. In view of this I therefore strike out the name of the 2<sup>nd</sup> Defendant for want of jurisdiction.

**Parties: Absent**

**Appearances: Chijoke Kanu appearing for the Claimant. Mustapha Tambari appearing for the Defendants.**

**HON. JUSTICE M. OSHO-ADEBIYI  
JUDGE  
12<sup>TH</sup> DECEMBER, 2024**