

IN THE HIGH COURT OF JUSTICE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION (APPELLATE DIVISION)

HOLDEN AT MAITAMA – ABUJA.

BEFORE THEIR LORDSHIP: HON. JUSTICE Y. HALILU – PRESIDING JUDGE,

HON. JUSTICE ELEOJO ENENCHE – HON. JUDGE

THIS 28TH DAY OF FEBRUARY, 2024.

APPEAL NO. CVA/22/2023

SUIT NO. CR/08/2023

BETWEEN:

NATHANIEL OKEZU ----- APPELLANT

AND

COMMISSIONER OF POLICE ----- RESPONDENT

J U D G M E N T

By an Amended Notice of Appeal dated 20/9/2023 and filed on 22/9/2023, the Appellant, being dissatisfied with the decision of the Magistrate Court of the F.C.T. Abuja presided over by his Worship Ahmad Fatima Ibrahim dated 13/7/2023 vide Charge No. CR/08/2023 between **Commissioner of Police v Nathaniel Okezu**, appealed to this court upon the grounds set out in paragraph 3 of this Notice of Appeal.

The Appellant seeks for the following reliefs:

1. An Order of this Honourable Court setting aside the part of the decision of the Magistrate Court of the FCT, Abuja, presided over by His Worship Ahmad Fatima Ibrahim, dated 13/7/2023, complained of in the grounds of appeal.
2. This Honourable Court grants the consequential reliefs of the Appellant before the learned trial magistrate court.

Learned counsel for the Appellant filed a 24-page Amended Appellant's Brief dated 24/10/2023 and filed on 25/10/2023 wherein counsel nominated the following issues for determination:

1. Whether the learned trial magistrate was correct in law to have failed to pronounce on the consequential reliefs sought by the Appellant when even the learned trial magistrate granted the Appellant's substantive relief for the striking out of the substantive case for abuse of the process of the court?
2. Whether the learned trial magistrate was correct in law when his Worship failed to grant the consequential reliefs sought by the Appellant upon his Worship, the learned trial magistrate's dismissal of the Respondent's substantive case for want of jurisdiction and abuse of court process and when granting of the consequential reliefs will prevent self-help and aid the performance by the magistrate court the constitutional duty of enforcing the order of a High Court by virtue of Section 287(3) of the Constitution of Federal Republic of Nigeria 1999 (as amended).

On Issue 1, it is the submission that it is erroneous for the learned trial magistrate to ignore the issue raised before the court with respect to the consequential orders. The approach, as adopted by the learned magistrate, counsel noted violated the right of the Appellant to a fair hearing. See case of **J.C. ONYEKWERE IND. NIG. LTD & ANOR v NKWO MARKET COMMUNITY BANK NIG. LTD (2014) LPELR – 23752 (CA) P. 13, Paras B – F.**

It is contended that it is incumbent on the trial magistrate to rely not only on Exhibits B and C, which were interim orders but also on the judgment of the Federal High Court exhibited as Exhibit G and H to determine the applicability of Section 287(3) of the Constitution to the facts of this case.

Counsel submitted that the averment in paragraph 4 of the affidavit in support of the Notice of Preliminary Objection contained on Pages 20 – 27 of the Record of Appeal are established facts before the trial magistrate sufficient to move the court to perform its constitutional duties to enforce the orders of the Federal High Court. We were thus urged to resolve this issue in favour of the Appellant.

On Issue 2, it is the submission that it has been established that the Respondent acted most contemptuously of the orders of the Federal High Court to have unfairly arrested the Appellant and his security team, who were in possession of the subject property based on the orders of the Federal High Court expressed in Exhibit G and H. To have refused the orders of reinstatement as the learned trial magistrate did is for the trial magistrate court to endorse the contemptuous behaviour of the Respondent, which the court should not encourage. See **E.N.S. ENT. CONTRACTOR CO. OF NIG. V A.G. KADUNA STATE (1987) 2 NWLR (Pt 57) 381 at 391 Paras G – H.**

It is submitted that by Exhibit I on Page 168 of the Record of Appeal, it is beyond peradventure of doubt that the Respondent has gone beyond constitutionality and did what it did and to play a smart and fast one on the magistrate court. After contemptuously removing the Appellants from the subject property, they filed the FIR and the learned magistrate, instead of expressing dissatisfaction by restoring the Appellant and his security team, decided only to dismiss the case.

Painfully, the Appellant and his security cannot take the laws into their own hands and force themselves onto the property without an order of court. See **FRIDAY v GOV. ONDO STATE (2022) 16 NWLR (Pt 1857) 583 at 644 Paras C – D.**

It is submitted that the duty cast on this court to enforce the orders of a superior court is a constitutional one which is mandatory and not optional. See **OWOO & ORS v EDET & ANOR (2013) LPELR – 22042 (CA).** It was on the strength of these arguments that we were urged to grant the relief being sought herein.

From the records before us, the Respondent was duly served with the processes of this court but, in its wisdom, elected not to respond to this appeal. Against the backdrop of the foregoing, the effect of the failure of the Respondents to file their brief is that this appeal shall, therefore, be argued on the Appellant's brief alone. In other words, this appeal as it were becomes an undefended appeal in legal parlance. However, the situation does not necessarily confer any position of advantage on the Appellant as this appeal will still have to succeed on the strength of the case put forward by the Appellant. See the case of **MADUKASI ONUESI v. ANEKWE ANIKPE & ANOR (2023) LPELR-59823(CA)** .

On the part of the court, we have carefully considered the processes filed and submission of learned counsel to the Appellant. We are of the considered view that the sole issue that calls for determination is whether the learned trial magistrate was correct in law to have failed to pronounce on the consequential reliefs sought by the Appellant when even the learned trial magistrate granted the Appellants substantive relief for the striking out of the substantive case.

It is not in doubt that the Appellant specifically sought consequential reliefs in the Notice of Preliminary Objection, as could be gleaned on Page 17 of the Record of Appeal.

It is also not in doubt that the learned trial magistrate, in his ruling, particularly paragraph 5 of Page 205 of the Record of Appeal, held inter alia:

“From the evidence adduced, especially Exhibits B and C, which are Orders of the Federal High Court, it became clear this matter was litigated at the superior court, which automatically ousts the jurisdiction of this court and also amounts to abuse of court process...”

The court stated further in paragraph 6 thus:

“Arising from the above, it is clear that this court lacks jurisdiction to proceed with this matter, and I so hold, accordingly, the case No. CR/08/2023 between C.O.P. v NATHANIEL OKEZU is hereby dismissed for want of jurisdiction.”

In light of the above, the question that begs for an answer is whether the trial Magistrate was right to have refused to grant the consequential reliefs after finding the Preliminary Objection meritorious.

It is trite law that where a court declares that it lacks the competence to entertain a suit, it has no competence to make any further declaration in the suit. In **ADAMA & ORS v ANAJA & ORS (2023) LPELR – 5559 (CA)**, the court held as follows:

“The declaration of lack of competence in respect of the subject matter is an admission of legal incompetence to make any further valid or binding decision or declaration in the matter. The trial court, having found that it had no jurisdiction on the matter, what it ought to have done was to strike out the case, not to go ahead and determine the rights of the parties. Any subsequent finding of the court after a finding of lack of competence becomes a nullity”.

This court will, therefore, not have jurisdiction to review a null decision.

Also, in **ANYANWU & ORS v NIGERIAN SECURITY PRINTING & MINTING CO. PLC (2018) LPELR – 49773**, the Court of Appeal held that once a court holds that it has no jurisdiction, anything done on that case amounts to a nullity and any judgment given on the merit over such a case is baseless as no one can place something on nothing expecting it to stand.

These are the general rules. Like most legal propositions, the facts could present the court with some exceptions. On this score, we are moved to determine this appeal on the note that the trial magistrate, even after dismissing the matter for want of jurisdiction, ought to have proceeded to grant the consequential relief. Now, what the law forbids is for a court to make a pronouncement on a substantive matter where a court holds that it lacks jurisdiction. In this case, a cursory look at the consequential reliefs will reveal that they do not touch on any substantive matter; rather, they are

geared at restoring the parties to the status quo ante bellum, indicating that the status quo that ought to be maintained ought to be the state of affairs that existed before the Respondents forcible removed the Appellants from the premises over phoney allegations contained in an FIR which the lower court has since dismissed.

Now, it is also not in contention that the primary reason the learned trial magistrate dismissed **No. CR/08/2023 between C.O.P. v NATHANIEL OKEZU** was because the filing of the FIR and arraignment of the Appellant constituted an abuse of the judicial process of this court as the effect of the case is to employ and utilise the judicial process and proceedings of the court below to review and set aside the already enforced decisions of the Federal High Court, Coram Taiwo J. and Omotosho J. delivered on 23rd February 2022 and 27th October 2022 respectively. Both orders are contained in pages 29 and 37 of the records of appeal. Having come to the conclusion it did on the preliminary objection, the magistrate ought to have gone a step ahead to see to the enforcement of these orders, which the Respondents had clandestinely tried to subjugate. This is in fidelity with Section 287 (3) of the 1999 Constitution (as altered). The law is indeed trite that the decisions of the Federal High Court, the National Industrial Court, a High Court and all other courts established by this Constitution shall be enforced in any part of the Federation by all authorities and persons and by other courts of law with subordinate jurisdiction to that of the Federal High Court, the National Industrial Court, a High Court and those other courts, respectively. In other words, the decisions, judgments or orders of any Court of competent jurisdiction shall be binding, obeyed and enforced in Nigeria as a matter of duty incumbent upon a court called upon to do so. SEE SECTION 287 (3) OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) and

EMMANUEL OBOH & ANOR v. NIGERIA FOOTBALL LEAGUE LTD & ORS (2016)

LPELR-50559(CA). It is trite that every successful litigant is entitled to the fruit of his judgment. It is also true that the overriding function of the judicial process is for a party who turns out successful to enjoy the fruit of his labour by obtaining due satisfaction, compensation, restitution, performance or compliance with what the court has granted. Failure to grant the consequential relief deals a blow to this objective of the courts' works as it leaves the successful party hanging without any real or tangible benefit.

In conclusion, we are of the considered view that the learned trial magistrate was wrong not to have granted the consequential orders. Accordingly, this appeal succeeds, the same is hereby allowed, and the consequential orders contained in the Notice of Preliminary Objection on Page 17 of the Record of Appeal are accordingly made specifically; we hereby make an order restoring the Defendant(Appellant herein) and others working for the receiver – Mr Tajudeen Gankiale of Keystone Bank Limited back to the subject property to wit, Houses No. 7A and 7B Lake Chad Crescent, Maitama Abuja from where the Complainant/Respondents forcefully removed the Defendants and others, to enable the Defendant(Appellant herein) and others resume their duties of providing security services for the said property by virtue of the decisions of the Federal High Court, Coram Taiwo J, and Omotosho J, which decisions were made on 23rd February 2022 and 27th October 2022 respectively.

HON. JUSTICE Y. HALILU
PRESIDING JUDGE

HON. JUSTICE E. ENENCHE
HON. JUDGE