

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT APO – ABUJA**

**THIS ..... DAY OF JANUARY, 2025.**

**BEFORE: HON. JUSTICE JUDE O. ONWUEGBUZIE – JUDGE**

**SUIT NO: FCT/HC/CV/2127/2021  
MOTION NO. M/385/2024**

**BETWEEN  
DE CEES PROPERTY LTD. ....PLAINTIFF/APPLICANT**

**AND**

- 1. MR. UKUEVO JACKSON STEPHEN**
- 2. MALAM ABDLSALAM  
(AKA OKENE MAN) .....DEFENDANTS/RESPONDENTS**

**RULING**

**INTRODUCTION**

By a Motion on Notice dated the 22<sup>nd</sup> day of January, 2024, and brought pursuant to Order 25 Rues 1, 2 and 3 of the FCT High Court (Civil Procedure) Rules, 2018, Section 6 (6) of the Constitution of the Federal Republic of Nigeria 1999 as amended and Under the Inherent Jurisdiction of the Honourable Court.

The Applicant prays for the following reliefs:

1. AN ORDER of this Honourable Court granting leave to the Claimant/Applicant to amend the originating processes in this suit as highlighted in paragraphs 20, 21, 22, 23, and 24 of the proposed amended statement of claim.
2. AN ODER of this Honourable Court granting leave to amend paragraphs 26 (A-J) reliefs of the Claimant in this suit as highlighted in the proposed amended statement of claim.

3. AN ORDER of this Honourable Court for leave to amend the name of the 2<sup>nd</sup> Defendant from MALAM ABDUSALAM (AKA OKENE MAN) to YAKUBU SALAMI being his true name in the originating processes.
4. AND FOR such further orders(s) as this Honourable Court may deem fit to make in the circumstances of this case.

The Grounds of this Application are as follows:

1. That upon service of the originating processes on the Defendants, the 2<sup>nd</sup> Defendant has alleged that the names as stated on the writ is not his true name.
2. That it is important to reflect the true names of the Defendants for any order of this Honourable court to be binding on them.
3. That this suit cannot be completely, wholly and effectively adjudicated upon and determined without amending the originating process to reflect the true and correct names of the 2<sup>nd</sup> Defendant.
4. That there will be miscarriage of justice if the reliefs are not amended.
5. That the reliefs sought to be amended is one that the Court can grant in the circumstances of this case.

The motion is attached with a thirteen (13) paragraphed Affidavit deposed to by one Simeon A. Tyongbegha Esq. a Counsel in the law firm of the counsel to the Claimant/Applicant in this case. Attached with the motion is exhibit A, In compliance with the rules of this Court, the Applicant filed a written address as his legal argument in support of his application.

By way of opposition, the Defendant/Respondent filed an eight (8) paragraph counter-affidavit deposed to by one Ihuoma Promis Aneke a counsel in the law firm of the Counsel to the Defendant/Respondent in this suit.

The Claimant/Applicant having received the Defendant's counter affidavit, filled a Further and Better Affidavit of thirteen paragraphs deposed to by one Christian O. Odonwaeze Esq., a Counsel in the office of the Claimant/Applicant. Also attached is written address in compliance with the rules of the court.

## COURT'S ANALYSIS

An application for amendment of pleadings calls for the exercise of the Court's discretionary powers which must be applied judiciously and judicially. An appellate court will intervene where it is shown that the trial Court did not exercise its discretion properly. **MELIFONWU V. EGBUNIKE & ORS (2000) LPELR-6828(CA) (PP. 7-10 PARAS. F)**

In the case of **THE REG. TRUSTEES OF INTERNATIONAL SECONDARY SCHOOL, ORLU & ANOR V. BICOZ OIL COMPANY NIG LTD & ORS (2014) LPELR-22836(CA) (PP. 35-36 PARAS. E)** the Court said:

**The Court should allow all amendments that are required for the purpose of using already available evidence and what is more using the findings of facts of the trial Court. The Court does not set a time limit to do justice and in the same vein it does not or perhaps also cannot set a time limit to grant on amendment designed to achieve justice between the parties. In William Rain v. Alexander Bravo (1872) L.R. 4P. C.A. 287 the application to amend was made when the Judge was reading his judgment. It was refused by the trial Judge but it was ultimately granted by the Privy Council. The main concern of the Court in granting or refusing to grant an amendment is the interest of justice. All amendments ought to be granted if thereby justice is done between the contending parties. The Court below acted rightly in granting the amendment sought. Grounds 3 therefore fail. Ground 2 which also dealt with the Amendment also fails."**

**Per IGE ,JCA (Pp. 35-36, paras. E-D)**

As a general rule, a party would be granted leave to amend his pleadings before the end of hearing or judgment and sometimes even on appeal. I take my guide from **OGUMA V. INTERNATIONAL BANK FOR WEST AFRICA (1981) 2 NWLR (PT. 20) 124; SALAMI V. OKE (1987) 14 NWLR (PT. 63) 1.**"Per EKPE ,JCA (P. 20, paras. B-C).

Therefore, the argument of the Defendant/Respondent at paragraph 4.1 to 4.9 of his written address is in my view, completely misconceived, hence discountenanced. I so hold.

#### COURT'S DECISION

In the final summation therefore, leave is hereby granted to the Claimant/Applicant to amend her processes to enable the court determine the real issues in controversy between the Claimant/Applicant and the Defendant/Respondent; as set out on the face of the motion paper in reliefs 1 to 3 respectively.

This is the ruling of the court.

-----  
Hon. Justice Jude O. Onwuegbuzie

#### Appearances:

1. G.C Ugwueze Esq., for the Claimant/Applicant,
2. Clement Chinedu Igata Esq., for the Defendant/Respondent.