

IN THE HIGH COURT OF JUSTICE OF THE F.C.T.

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT ZUBA, ABUJA

ON FRIDAY THE 4TH DAY OF APRIL, 2025

BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA
JUDGE

SUIT NO.: FCT/HC/CV/4042/2024

BETWEEN:

JEROME GABRIEL ADUKU

APPLICANT

AND

1. INSPECTOR GENERAL OF POLICE

2. ASSISTANT INSPECTOR GENERAL OF POLICE

(ZONE 7 POLICE COMMAND)

3. MR. OSAGIENE FESTUS

} RESPONDENTS

JUDGMENT

In this case premised on FREP, the Applicant, Jerome Gabriel Aduku sued the Inspector General of Police, Assistant Inspector General of Police (Zone 7 Police Command), and Mr. Osagiene Festus, claiming the following Reliefs:

- a) A Declaration of this Honourable Court that the arrest and detention of the Applicant on the 20th February,

2024 to 22nd February, 2024 and 27th May, 2024 to 29th May, 2024 by the officers of the 1st and 2nd Respondents at the instigation of the 3rd Respondent without being charged to Court within 24 hours is an abuse of the Applicant's Fundamental Rights to Dignity of Human Person, Personal Liberty and Fair Hearing as enshrined in 34(1)(a); 35 (1), (4) and (5)(a) and 36(1), (4), (5) and (8) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and Articles 2, 3, 4, 5, 6 and 7 of the African Charter on Human and Peoples Rights (Ratification and Enforcement) LFN 2004.

- b) A Declaration of this Honourable Court that the continuous invitation, extortion and threat of arrest of the Applicant by the officers of the 1st and 2nd Respondents at the instigation of the 3rd Respondent without being charged to Court amounts to abuse of the Applicant's Fundamental Rights to Dignity of Human Person, Personal Liberty and Fair Hearing as enshrined in 34(1) (a); 35 (1), (4) and (5) (a) and 36(1), (4), (5) and (8) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and Articles 2, 3, 4, 5, 6 and 7 of the African Charter on Human and Peoples Rights (Ratification and Enforcement) LFN 2004.

- c) An Order of this Honourable Court restraining the 1st and 2nd Respondents respectively from further arresting, detaining, and threat of arrest of the Applicant, and restricting the Applicant's bank account pending when the Applicant is charged to Court for any criminal offence, if any.
- d) The sum of ₦100,000, 000.00 (One Hundred Million Naira) only against the 1st, 2nd and 3rd Respondents respectively, jointly and severally being compensation for the gross violation of the Applicant's Fundamental Rights and the psychological and emotional trauma suffered by the Applicant.
- e) And for such Order or further Orders as this Honourable Court may deem fit to make in the circumstance of this case.

GROUND UPON WHICH THE RELIEFS ARE SOUGHT

- a) The men and officers of the 1st and 2nd Respondents at the instigation of the 3rd Respondent arrested and detained the Applicant from 20th February, 2024 to 22nd February, 2024 and 27th May, 2024 to 29th May, 2024 in respect of civil transaction between the Applicant and the 3rd Respondent.
- b) That on the 29th June, 2024, the Applicant was invited and detained again by the men and officers of 1st and 2nd Respondents for 10 hours by the Investigating Police Officer,

Mr. Musa Hassan Garba without being charged to Court for any offence alleged.

- c) That throughout the period the Applicant was arrested and detained by the men and officers of the 1st and 2nd Respondents, the Applicant was not charged to Court within 24 hours as required under S.35(1), (4) and (5)(a) of the Constitution of Federal Republic of Nigeria, 1999 (as amended).
- d) The Applicant have continued to receive calls from the officers of the 1st and 2nd Respondents threatening to further detain the Applicant if he did not secure another land for the 3rd Respondent.
- e) The continuous invitation and detention of the Applicant by the men and officers of the 1st and 2nd Respondents at the instigation of the 3rd Respondent without being charged to Court is a gross violation of the Applicant's Fundamental Rights to Dignity of Human Person, Personal Liberty and Fair Hearing as enshrined in 34(1)(a); 35 (1), (4) and (5)(a) and 36(1), (4), (5) and (8) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and Articles 2, 3, 4, 5, 6 and 7 of the African Charter on Human and Peoples Rights (Ratification and Enforcement) LFN 2004.
- f) The Applicant's Right to his personal liberty is guaranteed under S.35 (1),(4) and (5)(a) of the Constitution of Federal Republic of Nigeria, 1999 (as amended) and as such the Applicant has a right to be charged to Court within 24 hours where there is a Court of competent jurisdiction within a radius of forty kilometers when arrested by the men and officers of the 1st and 2nd Respondents.

- g) There are Courts of competent jurisdiction within the radius of forty kilometers within Wuse Zone 3 where Zone 7 Command of the 2nd Respondent is located.
- h) The arrest and detention of the Applicant by the men and officers of the 1st and 2nd Respondents at the instigation of the 3rd Respondent without being charged is a gross abuse of the Applicant's Fundamental Rights to Dignity of Human Person, Personal Liberty and Fair Hearing as enshrined in S.34(1)(a); 35 (1), (4) and (5)(a) and 36(1), (4), (5) and (8) of the 1999 Constitution of the Federal Republic of Nigeria (as amended), and Articles 2, 3, 4, 5, 6 and 7 of the African Charter on Human and Peoples Rights (Ratification and Enforcement) LFN 2004.

He supported the application with an Affidavit of 23 paragraphs, and further Affidavit of 16 paragraphs.

In this case, the Applicant alleged that he had an agreement to secure land allocation for the 3rd Respondent. That while processing the allocation, it was discovered that the place of allocation had been taken up by government. That he notified the 3rd Respondent who pleaded to him to get another allocation in a land with Certificate of Occupancy. That the 3rd Respondent paid him **₦2,000,000.00 (Two Million Naira)** only.

That while he was still on it, he discovered that it was not possible, so he asked the 3rd Respondent to take back his money – **₦2,000,000.00 (Two Million Naira)**. That the 3rd Respondent refused.

That he was invited by the Police in February 2024.

That on 20th February, 2024, he went to the Zone 7 Police Command, and was informed that the 3rd Respondent had petitioned Police alleging that he defrauded him of **₦2, 000,000.00 (Two Million Naira)**, and was subsequently detained. That he was granted Admin Bail on 22nd February, 2024. That the officers of the 1st & 2nd Respondents demanded that he refund the said sum of **₦2, 000,000.00 (Two Million Naira)** to the 3rd Respondent. That all attempt to refund the money was thwarted by the 3rd Respondent as he refused to collect same, insisting that the Applicant should get him a plot of land.

That he was invited again to the Zone 7 Command, and was arrested and detained on 29th May, 2024, when Admin Bail was again granted, and he requested more time to secure the land for the 3rd Respondent. That on 29th May, 2024 he was invited, arrested and detained for the third time by the Police for about 10 hours, without being charged to Court as required by law and Constitution.

That ever since, he has been threatened by officers of the 1st & 2nd Respondents to further arrest and detain him if he does not get another land for the 3rd Respondent.

That till date, the 3rd Respondent failed to collect the said **₦2, 000,000.00 (Two Million Naira)** since he could not get another land.

That the several arrest and detentions and threats had affected him psychologically, and that the action of the Respondents had violated, and continued to violate his Rights under the Constitution and FREP. That it has

caused him some financial losses. Hence, the filing of the present application.

In his Written Address he raised a sole Issue for determination which is:

“Whether the actions of the Respondents has violated and/or threatened to violate his Right to Dignity of his human person, personal liberty, and fair Hearing as provided in S. 34(1), 35(1), (1) & (5), S. 36(1), (4) & (5) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), Article 2 – 7 of the African Charter on Human and Peoples Rights (Ratification and Enforcement) LFN 2004, as to be entitled to the Reliefs sought.”

He submitted that the action of the Respondents has violated his Rights to Dignity of Human Person, Personal Liberty, and Fair Hearing as grounded under the extant provision of the Constitution. He referred to the cases of:

Uzoukwu V. Ezeonu

(1991) 6 NWLR (Pt. 200) 708 @ 760

Duruaku V. Nwoke

(2015) 15 NWLR (Pt. 1483) 417 @ 482 Para B – H

That the transaction between him and the 3rd Respondent is civil, and that the 1st & 2nd Respondents and their officers are not empowered to meddle into civil matters.

That he was detained on several occasions without any charge filed against him in any Court as required by law –

S. 35(1), (1) & (5) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

That based on the said violation, he is entitled to his Reliefs in that regard. That he is entitled to exemplary damages to deter the Respondents from further violation, for the breach of the Rights. He referred to the cases of:

Odiba V. Azege
(1998) 9 NWLR (Pt. 560) 386

Ekochi Nig. Ltd V. Mbadiwe
(1986) 1 NWLR (Pt. 14) 1

Iyere V. Bendel Feed & Floor
(2008) 18 NWLR (Pt. 1119) 300

First Bank V. Attorney General of the Federation
(2018) 7 NWLR (Pt. 1617) 121 @ 174

That award of damages is obligatory in FREP. That Court has power to award damages and determine its quantum. He referred to the case of:

Nig. Air Force & Ors V. Chia & Ors
(2021) LPELR – 53293 (CA)

He urged Court to grant the application and Reliefs sought.

The 3rd Respondent filed a Counter of 36 paragraphs, vehemently challenging the application. He attached 3 documents in support. He claimed that the Applicant had defrauded him, and had sold the land he purportedly got for him, and that the land was never in existence, and that

the Applicant should pay damages to him for holding the said **₦2, 000,000.00 (Two Million Naira)** for over 9 years – **₦15, 000,000.00 (Fifteen Million Naira)**, and **₦2, 000,000.00 (Two Million Naira)** for embarrassing him with this application.

In the Written Address he raised 2 Issues for determination which are:

- (1) Whether he is liable for the alleged infringement of the Rights of the Applicant in this case?**
- (2) Whether the Applicant can restrain the Nigerian Police from investigating the Applicant?**

He submitted that he is not liable to the allegation of infringement of the Applicant's Rights. That as a citizen he has duty to report commission of crime to the Police, and that Police has right under the law and Constitution to investigate the crime. He referred to the case of:

Fajemirokun V. CB
(2009) LPELR – 1231 (SC)

That Police cannot be sued for performing their duty under the law – Police Act and Constitution of the Federal Republic of Nigeria. He referred to the cases of:

Okanu V. Commissioner of Police Imo State
I Case of Human Right Act 407

Atakpa V. Ebetor
(2015) 3 NWLR (Pt. 1447) 549 @ 558

Upelle V. James & Ors

(2021) LPELR – 56290 (CA)

That he cannot be held responsible for the action of the Police, and that Police cannot be held responsible for performing their duty.

That the Applicant only agreed to refund the money in 2024. That he is not liable to pay damages to the Applicant for making complaint to Police. He referred to the case of:

**Extension Publication Ltd B. Babatunde & Ors
(2024) LPELR – 61905 (CA)**

Where the Court held that he cannot be held responsible for the arrest of the Applicant because it is clear that there is a reasonable suspicious of committing a crime – defraud.

That he did not spearhead the arrest and detention of the Applicant, and that Police acted on their own volition in this case. He urged the Court to dismiss the application in that regard.

On Issue No. 2, he submitted that the Applicant cannot restrain the Police from investigating the alleged crime. That his submission offends the law, is overreaching, illogical, and violates the Right of Police under **S. 241 of the Constitution of the Federal Republic of Nigeria, 1999** (as amended), and **S. 4 of the Police Act**. That no Court has power to restrict the Police. He referred to the cases of:

**Inspector General of Police & Anor V. Uba & Ors
(2014) LPELR – 23968 (CA)**

**Nweke V. Federal Republic of Nigeria
(2016) LPELR – 41525**

He urged Court to refuse the application, and uphold the Counter Affidavit of the 3rd Respondent.

The Applicant filed a Further Affidavit of 16 paragraphs and Reply on Points of Law. He submitted as follow:

That he did not sell any land belonging to the 3rd Respondent at Brick City Estate nor presented himself as a Land Agent to the 3rd Respondent or anyone else.

That the 3rd Respondent asked him to process the land at the said adjacent to Brick City Estate which was secured with perimeter fence, and that I should help him secure the process the documents of title, and I charged the 3rd Respondent.

That he did not process or issue the land documents attached by the 3rd Respondent as **EXH JER 2**.

That the transaction between him and the 3rd Respondent is civil, but that the 3rd Respondent wanted to use the 1st & 2nd Respondents to recover the **₦2, 000,000.00 (Two Million Naira)**.

That he agreed to refund the said **₦2, 000,000.00 (Two Million Naira)**, but that the 3rd Respondent wants him to pay damages to him on the money which he is not entitled to.

He urged Court to discountenance the Counter Affidavit, and hold that the 1st & 2nd Respondents had violated his

Rights at the instigation of the 3rd Respondent. That the Counter Affidavit contains arguments.

COURT

This Court has summarized the stand of the parties, and it is the humble view of this Court that that the 1st & 2nd Respondent violated the Rights of the Applicant by failing to take him to Court within 48 hours after arrest, and by inviting him and detaining him on 2 different occasions without charging him to Court.

It is also the view of this Court that though the 3rd Respondent has the right and was right to make the report to Police, but by his own averment in paragraph 29 of his Counter, it is clear that his whole intension was to use the 1st & 2nd Respondents to secure the money given to the Applicant for the land deal, and the subsequent invitation by Police was to see if the 1st & 2nd Respondents will cover the Applicant into giving more money to the 3rd Respondent as interest on the **₦2, 000,000.00 (Two Million Naira)**.

Again, the 3rd Respondent asking for damages of **₦15, 000,000.00 (Fifteen Million Naira)** from the Applicant also confirms that fact, that the whole aim is to use the 1st & 2nd Respondents to get his pond of flesh. Hence, failure of the 1st & 2nd Respondents to charge the matter to Court violated the Rights of the Applicant especially on the two (2) subsequent invitations. So this Court holds.

By **S. 35(1) of the Constitution of Federal Republic of Nigeria, 1999** (as amended), a person has a right to report

suspicious to commit or actual commission of crime. The Police has a duty to invite, investigate, charge and prosecute, as the case warrants, where crime is or about to be committed. They have right to do so under **S. 4 of the Police Act** and **S. 251 of the Constitution of the Federal Republic of Nigeria, 1999** (as amended). But their power to do so does not extent to perpetually inviting and threatening to invite and detain a person. They have to exercise their power both under the law/Act and the Constitution within the limit as empowered.

Incessant and intermittent invitations on several occasions over the same issue without any new fact thereto cannot be exercising their power to arrest, detain, and investigate. They ought to have charged the matter to Court of competent jurisdiction instead of continuous invitation as in this case.

The 3rd Respondent admitting and stating that he refused to collect the **N2, 000,000.00**, and for asking for **₦15, 000,000.00 (Fifteen Million Naira)** damages as interest on the money, says it all, and shows his real intension of going to the Police in the first place. Hence, he instigated the 1st & 2nd Respondents to act as Debt Recovery Agency. Though he did not join hand in the arrest, detention, and on those 2 to 3 occasions, and could not have forced the Police to charge the Applicant to Court. He is not liable for the violation of the Applicant's Rights, but the Police is responsible.

Definitely, no doubt, the several invitations and detention have its psychological and emotional effects on the Applicant. Of course, he lost some finances during the period as he could not do anything for those days.

The application is meritorious. The Court grants the Reliefs to wit:

Reliefs (a) to (c) granted as prayed.

The Court Orders the Police (1st & 2nd Respondents) not to further arrest the Applicant on the same issue without charging him to Court if new fact emerges on the issue.

The 1st & 2nd Respondents are to pay to the Applicant the sum of **₦20, 000.00 (Twenty Thousand Naira)** for violating his Rights.

This is the Judgment of this Court.

Delivered today the _____ day of _____ 2025 by me.

K.N. OGBONNAYA
HON. JUDGE

APPEARANCE:

APPLICANT'S COUNSEL:

CHIKA HENRY EZE ESQ.

3RD RESPONDENT'S COUNSEL: SEGUN OLATUNJI ESQ.