

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA
ON THIS 17TH DAY OF FEBRUARY, 2025
BEFORE HIS LORDSHIP HON. JUSTICE J.O ONWUEGBUZIE
SUIT NO: CV/1856/24

BETWEEN:

YEMISI SELIAT OLADUNJOYEAPPLICANT

AND

UNITED BANK FOR AFRICARESPONDENT

JUDGMENT

Before this Honourable Court is a Notice of an Application for Enforcement of Fundamental Rights dated the 2nd day of October, 2024 and filed on the same day through an originating motion. The application is brought pursuant to Order 1 Rules 2, 3, 4, of the Fundamental Rights (Enforcement Procedure) Rules, 2009; Section 44 and 46 (1) & (2) of the Constitution of the Federal Republic of Nigeria 1999 (as Amended), Articles 14 of the African Charter on Human and People's Rights (Rectification and Enforcement Act, LFN 2010), Articles 17 of the Universal Declaration on Human and People's Rights, Order 11, Order X and XII of the Fundamental Right (Enforcement Procedure) Rules, 2009 and Under the Inherent Jurisdiction of this Honourable Court.

The Applicant seeks the following Reliefs:

(1) A DECLARATION that the action of the Respondent freezing/preventing the Applicant to operate her business account number 2066491660 with account name Yemisi Seliat Oladunjoye domiciled with the Respondent since March 2020, thereby denied her access to her funds, without due process of law is unconstitutional, null, and void and a violation of the Applicant's right to own property as enshrined under the provisions of Section 44 of the Constitution of the

Federal Republic of Nigeria 1999 as amended, Article 17 of United Nations Declaration of Human Rights and Article 14 of the African Charter of Human and People's Rights.

(2) AN ORDER of this Honourable Court directing the Respondent to lift the restrictions placed on the Applicant's business account numbers 2066491660 with account name Yemisi Seliat Oladunjoye domiciled with the Respondent.

(3) AN ORDER of Perpetual Injunction restraining the Respondent whether by herself, agents, privies, or servants from interfering with Applicant's business account number 2066491660, with account name Yemisi Seliat Oladunjoye domiciled with the Respondent without due process of law.

(4) AN ORDER of this Honourable Court mandating the Respondent to pay to the Applicant the sum of 100,000,000.00 (One Hundred Million Naira) Only as general damages for the unlawful freezing of Applicant's business account number 2066491660 with account name Yemisi Seliat Oladunjoye domiciled with the Respondent.

(5) AN ORDER of this Honourable Court mandating the Respondent to pay to the Applicant the sum of N50,000,000.00 (Fifty Million Naira) Only as punitive, compensatory and exemplary damages for maliciously, willfully and persistent refusal to unfreeze the Applicant business account number 2066491660, with account name Yemisi Seliat Oladunjoye domiciled with the Respondent.

(6) AN ORDER OF THIS HONOURABLE COURT directing the Respondent to pay the Applicant the sum of N2,000,000.00 (Two Million Naira) only as the cost incurred by the Applicant for the legal services and litigating this suit.

(7) AND ANY OTHER ORDER(S) as the Honourable Court may deem fit to make in the circumstances of the case.

The Grounds of the Application are as follows:

1. The Applicant is a registered business woman and a member of Quick Teller, paga and AMMBAN. She holds business account number 2066491660, with the Respondent. However, in March 2020, the EFCC directed the Respondent to Freeze her business account without a court

order, a clear violation of her right to own property and dignity of human person.

2. On the 11th March 2020, the Applicant discovered that her business account was restricted and upon inquiring with her other banks, she found that all her business accounts were on PND. It was only after being wrongfully apprehended by EFCC official at GT Bank that she discovered the reason for the restriction –an accusation of receiving N50,500.00 from a suspected Yahoo fraudster, which was suspected to be the proceeds of a crime.
3. Despite being a registered business woman and member of Quick Teller, Paga, AMMBAN, and explaining the rules allowing them to receive transfer where customer cards are malfunctioning, the Respondent refused to lift the restriction on her account, causing untold hardship and frustration.
4. After seven months, some of her banks started lifting the PND, and the Applicant wrote to the EFCC to inform them that some of her accounts had been unfrozen, while others remained frozen by the Respondent and some other banks. She was advised to hire a lawyer to write to the Respondent, stressing the consequences of their failure to lift the restriction on her account despite several visits to their branch.
5. Despite hiring several lawyers to write to the Respondent, the Respondent still refused to lift the PND, causing continuous economic injuries, loss of clients, inestimable losses, business collapse, and a clear breach of her fundamental rights. This action rendered the Applicant cash-trapped, and all her pleas and requests for withdrawal and transfer were denied despite having sufficient funds in her account.
6. The Respondent's freezing of the Applicant's business accounts caused her untold hardship in running her business, nearly leading to depression. As at the time of the restriction, the Applicant had N612,000.00 (Six Hundred and Twelve Thousand Naira) Only, compared to the sum of N50,500.00 (Fifty Thousand Five Hundred Naira) alleged by the Respondent to be a proceed of crime.
7. Therefore, the Applicant is entitled to specific, general, exemplary, punitive damages, and the cost of litigation on account of the said violations.

The application is accompanied with a Statement of Facts and a Supporting Affidavit of 26 paragraphs deposed to by Yemisi Seliat Olagunjoye the Applicant

herself, with attached Exhibit A, B, C, D, E, F and Exhibit G respectively. In compliance with the rules of this Court, the Applicant filed an accompanying written address as her legal argument in support of the Application.

In opposition to the application before the Court, the Respondent filed a 20 paragraph Counter-Affidavit deposed to by one Blessing Olutubo, an Area Control Officer of the with the Respondent. The Counter Affidavit is attached with Exhibit UBA1 and a written address as their legal submission in support of the case.

Upon the receipt of the Counter-Affidavit the Applicant filed a further and Better Affidavit of 5 paragraph, deposed to by one Salami Amidat Jumoke a litigation Secretary in the office of the Applicant's Counsel. The Applicant also filed a Reply on Points of Law as her legal argument in support of her application.

THE APPICANT'S CASE

The Applicant's case is contained in her Statement of Facts and Affidavit in Support. There will be no need reproducing same here as references would be made from them in the cause of this judgment.

THE RESPONDENT'S CASE

The Respondent's case is contained in its Counter Affidavit. There will be no need reproducing same here as references would be made from same in the cause of this judgment.

COURTS ANALYSIS

I have considered the application before the court, the Supporting Affidavit, Further Affidavit, the Counter Affidavit of the Respondent, the attached exhibits and the written addresses of the Applicant and the Respondent, as well as the

Applicant's Reply on Pints of law and I am of the view that the issues for determination are:

- 1 Whether from the Affidavit evidence before the court the Applicant has succeeded in establishing a breach of her Fundamental rights by the Respondent as enshrined in Sections 44 and 46 of the 1999 constitution of the Federal Republic of Nigeria and Articles 14 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, LFN, 2010.**
- 2 Whether the Applicant is entitled to the reliefs sought in the accompanying statement.**

The first issue is whether from the Affidavit evidence before the court the Applicant has succeeded in establishing a breach of his Fundamental rights by the Respondents as enshrined in **section 44 of the 1999 Constitution.**

Before I proceed further, it is pertinent to look at the provisions of **Section 44 of the 1999 constitution (as amended)** as same forms the basis for the application of the Applicant for enforcement of his right.

For purpose of clarity the said **section 44 (1) of the 1999 Constitution** is hereunder reproduced as follows:

No movable property or any interest in an immovable property shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except in the manner and for the purposes of prescribed by a law among other things...

The main grouse of the Applicant in this suit is that her right to own and or use her property has been violated by the restriction or frozen of her account number 2066491660, domiciled with United Bank for Africa by the Respondent and as

such, his fundamental rights to own and or use her property as enshrined in **Section 44 (1) of the 1999 Constitution** has been violated.

The Law is settled that any person who alleges that any of his Fundamental Rights as enshrined in the Constitution has been, is being or likely to be contravened may apply to a court for redress. **Section 46 of the Constitution of the Federal Republic of Nigeria 1999** which provides as follows:

“Any person who alleges that any of the provisions of this chapter has been, is being or likely to be contravened in any state in relation to him may apply to a High court in that state for redress...”

Under the circumstance, The Court has a duty to carefully examine the reliefs and the affidavit evidence before the court to ascertain whether or not the Applicant’s right has been violated.

I have carefully gone through the contents of the Affidavit in Support of this application, particularly paragraphs 4 to 24 thereof. As well as paragraph 3 i to 3viii of the Applicant’s further Affidavit. The Applicant in those paragraphs, narrated how the EFCC directed the Respondent to freeze her account 2066491660, domiciled with United Bank for African the Respondent herein because of an accusation of receiving N50,500.00 from a suspected Yahoo fraudster, which was suspected to be the proceeds of a crime.

On the contrary the Respondent at paragraphs 4, 5, 6, 7, 8, 9, 10, 11i to 11vi, 12, 13, 14, 15, 16, and 17 denied all the assertions and averments contained in the Applicant’s affidavit in support of the application.

Now the pertinent question here is, whether what was alleged by the Applicant in the supporting affidavit and her Further Affidavit have been proved to show *prima*

facie case that there has been a violation of her right to own a property as contained in **section 44(1) of the 1999 Constitution**. It is only when a *prima facie* case has been made out that the Respondent would be asked to justify the contravention or violation of a fundamental right. **OLISA AGBAKOBA v. THE DIRECTOR (STATE SECURITY SERVICE & ANOR.) (1994) 6 NWLR(Pt.351) 475 at 482.**

It is trite law that, an Applicant for the enforcement of her fundamental right, has the initial onus to show that her reliefs comes under the scope of the fundamental right and prove exactly how it was contravened.

In **NWANGWU & ANOR. v. DURU & ANOR.(2001) LPELR-7001Pg. 16-17, paras. C-B** his lordship CHUKWUMA-ENEH, J.C.A held that:

It is well settled that an applicant for the enforcement of his fundamental right under Chapter IV of the Constitution has the initial onus of showing that the relief he claims comes within the purview of the fundamental rights as encompassed by sections 30-44 of the Constitution.

Going through the application and a careful examination of all the Exhibit A to H, there is no iota of evidence before the court to establish that the EFCC directed the Respondent to freeze the account of the Applicant. All the exhibits the Applicant attached to the affidavit in support do not in any way proof that her account number 2066491660 with the Yemisi Seliat Oladunjoye was frozen by the Respondent and neither does any of the Exhibit A to Exhibit H proves or suggest that the EFCC directed the Respondent to place PND on the said Applicant's account, or links the EFCC to the assertions of the Applicant.

The position of the law is clear, that in establishing a claim for violation of fundamental right, the burden of proof lies on the Applicant. The Applicant has not

succeeded in discharging the said burden of proof here, as she has failed to adduce evidence to substantiate her allegation of freezing or restriction of her account number 2066491660 with the Yemisi Seliat Oladunjoye. I take my guilde from **ALHAJI OTARU & SONS LTD. v. IDRIS (1999) 6 NWLR (PT.606 at 330) OR (1999) LPELR-419 (SC) P. 14, PARAS. B-C and AFOLABI & ORS v. WESTERN STEEL WORKS LIMITED & ORS (2002) LPELR-12158(CA)(P.9, paras A-E)**

This court cannot grant this application just based on affidavit averments without proofs, more so all the depositions which the Respondent has denied. There cannot therefore be a declaration of violation any right in favour of Applicant in this regard.

COURT'S DECISION

From the foregoing, therefore the Applicant has not shown how her fundamental right as enshrined in **section 44(1) of the 1999 Constitution** was violated.

The issues are therefore resolved in favour of the Respondent. Consequently, the reliefs of the Applicant hereby fail for being unmeritorious.

In the light of the foregoing, the application lacks merit and hereby dismissed.

I make no award as to cost.

This is the judgment of the Court.

Hon. Justice Jude O. Onwuegbuzie

Appearances:

1. Sarafadeen A Salimon Esq., for the Applicant.
2. Nkem Egbuta Esq., for the Respondent.