

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

BEFORE HIS LORDSHIP: HON. JUSTICE .H. MU’AZU

SUIT NO: FCT/HC/CV/191/2023

MOTION NO: FCT/HC/M/14620/2024

DELIVERED: ON THE 09/04/2025

**BETWEEN:**

1. ABOKI NATHANIEL OBIN

2. ABOKI PHILIP ESON

*(Suing as Administrators of the Estate of Late  
Ignatius Aboki)*

} .....CLAIMANTS/RESPONDENTS

**AND**

1. HON. MINISTER, FEDERAL CAPITAL TERRITORY ABUJA } DEFENDANTS/  
2. FEDERAL CAPITAL DEVELOPMENT AUTHORITY } APPLICANTS

**RULING**

By a notice of preliminary objection dated and filed on 01/11/2024, the Defendants/Applicants prayed for the relief set out below:

- 1. An order striking out and or dismissing this suit for want of jurisdiction.*
- 2. And for such further order(s) as the Honourable Court may deem fit to make in the circumstances of the instant suit.*

The grounds of the application are as follows:

- 1. That the Writ of Summons filed by the Claimants in this suit is defective and incompetent in that:**
  - a) It does not contain the address of the Claimant as required by law.**

- b) There is no signature atop the name of counsel subscribed on the Writ of Summons but a mere scribble was inserted beside the endorsement contrary to the requirement of the law on proper signing of Court process.**
- 2. That the Claimants' claims fail to disclose any cause of action or reasonable cause of action against the Defendants.**
- 3. That the Claimants' claim raises no justiciable controversy fit for judicial determination.**
- 4. That the Claimants' suit as presently constituted has not been initiated following the due process of law and in fulfilment of all the conditions precedent to the invocation of the jurisdiction of this Honourable Court.**
- 5. That this Honourable Court has no jurisdiction and cannot exercise its jurisdiction to entertain the claim as presently constituted.**

It is supported by 8-paragraphs affidavit, and a written address. On 16/12/2024, the Defendants/Applicants filed a further affidavit of 6-paragraphs and a reply on points of law. In the written address and reply on points of law, Onyebu J. Iheko, Esq. for the Defendants/Applicants raised two issues for determination by this Honourable Court as follows:

- a) Whether the writ of summons by which the Claimants commenced this suit is not defective and incompetent and consequently incapable of properly invoking the jurisdiction of this Honourable Court.**
- b) Whether this Honourable Court has the requisite jurisdiction and can exercise its jurisdiction to entertain and determine the Claimants' suit as presently constituted, in all the circumstances of this case.**

In opposition, the Claimants/Respondents filed a 4-paragraphs counter affidavit, and a written address. On 13/2/2025, learned counsel for parties on both sides adopted their processes.

IliyaBakut of No. 18 Thomas Sankara street, Asokoro, Abuja, in the Defendants/Applicants' further affidavit in support of the application deposed in paragraph 5, *inter alia*, as follows:

“5.

- a) *That contrary to paragraphs 3c, the endorsement on the writ of summons containing the name, and address of the counsel who issued the writ of summons forms part of the body of the writ of summons, and the scribbled signature sandwiched in between the formal part of the writ and the operative part where the name of counsel who issued the writ usually appear in the writ of summons does not meet the requirement of the law on the proper signing and endorsement of a writ of summons.*
- b) *That further to the immediate paragraph above, that even when the name and address of the counsel issuing the writ of summons is endorsed on the body of the writ of summons, the writ still needs to contain the name, address of the counsel and the signature atop the said name at the end of the writ of summons.”*

In their counter affidavit, JimadaMuazu of No. 7 Ajayi Crowther Street, Asokoro, Abuja deposed, *inter alia*, as follows:

“3.

- c. *That in response to the said paragraph 5 the writ was duly signed and endorsed by the Respondents/Claimants' counsel Alasan James Yassa Esq. the signature is contained in page 2 of the writ under the date in which the writ was dated.*
- d. *That the writ also contained the address for service and the name of the counsel who subscribed to the writ.*
- e. ....

*f. That the writ of summon discloses a reasonable cause of action against the Defendants.”*

Onyebu J. Iheko, Esq.counsel for the Defendants/Applicants contended that failure to state the address of the Claimants on the originating process is fatal to the competence of the suit. She relied on **EQUITY BANK OF NIGERIA LTD. V. HALILCO NIGERIA LTD (2020) ALL FWLR (PT. 337) 438 AT 452.**

Learned counsel for the Claimant/Respondent argued that the trite position of law is that the Courts have moved from the era of technical justice to an age where substantial justice is done and must be seen to be done. Learned counsel referred the Court to **APUUN V. REGISTERED TRUSTEES OF N.K.S.T. & ORS (2016) LPELR-42938 (CA) PP. 11 PARA. B.** Counsel concluded that the writ of summons filed in the registry of this Court is in compliance as in Form 1 of the Order 2 Rule 2(5) of the Federal Capital Territory High Court (Civil Procedure) Rules, 2018.

I have examined the originating processes filed in this suit and the Rules of the Court. In the instant case, the name, signature and address of the Claimants’ legal practitioner are endorsed on page 2 into page 3 of the writ of summons as follows:

*“This writ was issued by Alasan James Yisa Esq. of Alasan James & Co, Mebahel Solicitors, Legal Practitioners whose address for service is Alasan James & Co, (Mebahel Solicitors) of No. 7, Ajayi Crowther Street, Asokoro, Abuja. Legal Practitioner for the said Claimant who reside within the jurisdiction of this honourable court.”*

The signature of learned counsel for the Claimants appeared atop the endorsement on the first line between the legal practitioner’s name and address. Furthermore, the same signature, name and address of counsel for the Claimants appeared on page 6 of the Claimants’ joint statement of claim as Claimants counsel, and on other processes, i.e. Claimants’ list of witnesses, Claimants’ list of documents, and certificate of pre-action counselling.

In paragraph 1 of the Claimants' joint statement of claim, it is stated as follows:

*“The Claimants are the next of kin and administrators of the estate of late Ignatius Nuhu Aboki their late father and reside at No. 30 Ontario Crescent, Maitama Abuja within the jurisdiction of this Honourable court.”*

In its opening paragraph of the Claimants joint witness statement on oath, it is stated as follows:

*“I ABOKI NATHANIEL OBIN, Male, Adult, Nigeria Citizen of 30 Ontario Crescent, Maitama Abuja do hereby make this witness statement on oath and state as follows; that:”*

Let me also point out here, that in Form 1, the part requiring endorsement to be made on the writ before issue, provide *inter alia*, to-wit, *“for the said Claimant who resides at (d) ..... (mention the city town or district and also the name of the street and number of the house of the Claimant's residence, if any).”*

The words, *if any*, in the parenthesis in bracket in Form 1, in my respectful view, indicate that the requirement for Claimant's address in the endorsement paragraph in Form 1 of Order 2 rule 2 (5) of the Rules of the Court is not a mandatory requirement. Alasan James Yisa Esq. having stated his address in full completed Form 1 as *“legal practitioner for the said Claimant who resides within the jurisdiction of this honourable court.”*

It is not in dispute, that the Claimants' joint statement of claim attached to the writ of summons was validly signed by the legal practitioner for the Claimant. The law is trite that the claim is inextricably tied to the writ of summons. Therefore, since the claim was validly signed by the legal practitioner for the Claimants and is inextricably tied to the writ of summons, it makes the writ of summons of which it is a part of, valid. See **NNAMCHI V. NNAMCHI (2023) LPELR-61279 (CA) PP. 12 -13, PARA. D.**

Let me point out that IN **EQUITY BANK OF NIGERIA LTD. V. HALILCO NIGERIA LTD (SUPRA)**, the court noted that there was nowhere on the writ of summons that the plaintiff's address and that of his legal practitioner were endorsed.

It is my respectful view, that the writ of summons filed in this case, is in substantial compliance with Order 2 rules 1 and 2 of the Rules of the Court, 2018 and has satisfied the requirements of the Legal Practitioners Act on processes filed by a legal practitioner. See **Order 5 rules 1 and 2 of the rules of the court, 2018**. The defect contended by the Defendants/Applicants, if any, is so insignificant that it does not affect the competence of this suit. It is an irregularity and is curable.

Having said so, I hold that Issue 1 is resolved against the Defendants in favour of the Claimants.

It was further contended by the Defendants/Applicants as Issue 2, that there is no fixed claim of right asserted by the Claimants neither is there any cognizable legal right of the Claimants which the Claimants seek to enforce. Learned counsel concluded that the Claimants' case failed to disclose any cause of action or reasonable cause of action against the Defendants and to that extent is not justiciable.

Onyebu J. Iheko, Esq. submitted further that from the writ of summons and the joint statement of claim, the Claimants have not pleaded any wrongful act of the Defendants which has affected the Claimants' rights and the resulting damages therefrom. She relied on **S.P.D.C.N. V. NWAOKA (2003) 6 NWLR (PT. 815) 184 AT 209** and **CHIEF DR. IRENE THOMAS & ORS V. THE MOST REVEREND T. OLUFOSOYE (1986) 1 NWLR (PT. 18) 669 AT 682 – 683** in urging the Court to dismiss the suit.

In response, the Claimants/Respondents argued that a cause of action is the entire set of facts or circumstances giving rise to an action in Court and that the Claimant's joint statement of claim and the reliefs sought have entitled the Claimants to maintain this action in Court. He relied on **UWAZURUONYE V. GOVERNOR OF IMO STATE & ORS (2012) LPELR-20604 (SC) PP.33-34, PARA. E** and **OKOLI & ORS**

**V. ONWUGBUFOR (2018) LPELR-46660 (CA)** and urged the Court to discountenance the Defendants/Applicants' notice of preliminary objection.

I have also carefully examined the claim of the Claimants, i.e. the Claimants' joint statement of claim. In the Claimants' Joint Statement of Claim, it is pleaded, *inter alia*, as follows:

1. *The Claimants are the next of kin and administrators of the estate of late Ignatius Nuhu Aboki their late father and reside at No. 30 Ontario Crescent, Maitama Abuja within the jurisdiction of this Honourable Court.*
2. *The 1<sup>st</sup> Defendant is the Honourable Minister of the Federal Capital Territory and responsible for Land Administration in the Federal Capital Territory.*
3. *The 2<sup>nd</sup> Defendant is the body through which the 1<sup>st</sup> Defendant carries its functions.*
4. *The Claimants aver that sometimes in the year 1996, their late father was granted a right of occupancy in and over all the land known as Plot No.449, Cadastral Zone BO3, measuring about 1,160.62m<sup>2</sup> in Wuye District, Abuja, Federal Capital Territory Abuja situate within the jurisdiction of this Honourable Court for a term of 99 years.*
5. ....
6. ....
7. ....
8. ....
9. *The Claimants aver that it is on record that their late father was only able to collect the certificate of occupancy in 2011. Copy of the certificate of occupancy is pleaded and would be relied upon at the hearing of this matter.*
10. ....
11. ....
12. ....
13. ....
14. ....

15. ....
16. ....
17. *The Claimants aver that they have not been served with any notice of revocation of their plot.*”

It is a well settled principle of law for the administration of justice that a matter cannot be heard on its merits unless there is a cause of action, and the plaintiff has a right to bring the action. For there to be a valid action therefore, there must be in existence, a legal right which has been breached; and which is capable of being remedied in law. See **OSHOBOJA V. AMUDA (1992) 7 SCNJ 317 AT 326.**

In paragraphs 1, 4 and 9 of the Claimants joint statement of claim, the Claimants aver the existence of a right to *Plot No.449, Cadastral Zone BO3, measuring about 1,160.62m<sup>2</sup> in Wuye District, Abuja, Federal Capital Territory Abuja.* Furthermore, in paragraphs 2 and 3, the Claimants aver that the 1<sup>st</sup> Defendant is responsible for land administration in the Federal Capital Territory and carries out its functions through the 2<sup>nd</sup> Defendants. In paragraph 17, it is averred that the Claimants have not been served with any notice of revocation of their plot.

Where on the pleadings, there are some issues raised which are capable of being considered by the Court, it would be held to have disclosed a reasonable cause of action. On the other hand, a pleading discloses no reasonable cause of action if it is such that the claim it seeks to establish cannot be understood even with a careful examination of the statement of claim, or it is unsustainable, unarguable and incontestably bad.

I must be guided by the Supreme Court decision in **MOBIL PRODUCING (NIG.) ULTD. V. LASEPA (2002) 18 NWLR (PT. 798) AT 38** that:

*Once the allegation in the pleadings show real controversy that are capable of leading to the grant of a relief, the pleading cannot be rightly said to disclose no reasonable cause of action. The weakness of the Plaintiff's case is not a relevant*

*consideration when the question is whether or not the statement of claim has disclosed a reasonable cause of action.*

In my opinion, the averment in paragraphs 17 of the Claimants joint statement of claim has raised issue or real controversy that the Claimant's right to the *Plot No.449, Cadastral Zone BO3, measuring about 1,160.62m2 in Wuye District, Abuja, Federal Capital Territory Abuja* has been threatened or violated, and from which the Claimants are seeking reliefs from the Court.

It is well settled that the jurisdiction of the Court is determined by the claim of the plaintiff. See **BABALE V. ABDULKADIR (1993) 1 N.S.C.C. PER KARIBI-WHYTH, J.S.C.** The subject matter of the claim in this suit is within the jurisdiction of the Court and having not found any extrinsic factor affecting the jurisdiction of this Court, I hold that the Court is competent to exercise its jurisdiction. Accordingly, I resolve Issue 2 against the Defendants/Applicants. The preliminary objection fails and is dismissed.

**SIGNED:  
HON.JUDGE  
09/04/2025**

**APPEARANCE:**

*O. J. Iheko, Esq, for Defendants/Respondents*