

IN THE HIGH COURT OF 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/2797/2024  
MOTION NO: FCT/HC/M/16076/2024  
DELIVERED ON THE 07/04/2025

**BETWEEN:**

HYELASINDA FORTE LIMITED.....CLAIMANT/RESPONDENT

**AND**

1. RURAL AND URBAN HOMES LIMITED } .....DEFENDANTS  
2. MALLAM MUSA DANGOGGO ALIYU }

**AND**

1. MBWIDIFFU PATIENCE IBRAHIM } ..PARTY SEEKING TO BE JOINED  
2. MARY HYELASINDA IBRAHIM }

**RULING**

By a motion on notice dated 27/11/2024 and filed on 29/11/2024, the Applicant prayed for the following reliefs:

- 1. An order of this Honourable Court joining Mbwidiffu Patience Ibrahim as 3<sup>rd</sup> Defendant/Counter-Claimant and Mary Hyelasinda Ibrahim as 4<sup>th</sup> Defendant in this suit.*
- 2. And for such further order or orders as this Honourable Court may deem fit and proper to make in the circumstances.*

The application is supported by 6-paragraphs affidavit, with exhibits A and B attached thereto and a written address. In the written address, Godwin O. Diugwu, Esq. for the Applicant raised one issue for determination as follows:

**“Whether having regard to the peculiar facts and circumstances of this case, this application ought not to be granted as prayed.”**

Learned counsel for the Applicant submitted that party seeking to be joined is a necessary party who is not only interested in the subject matter of the proceedings but whose absence in the matter will render the Court unable to effectually and completely adjudicate upon the issue before the Court. He relied on the case of **DAPIALONG V. LOLONG (2007) 5 NWLR (PT. 1026) 199** and **OJO V. OGBE (2007) 9 NWLR (PT. 1040) 542**. He further submitted that the Applicant is the owner of the property in question and does not know the Claimant but knows Mary Hyelasinda Ibrahim.

In opposition, the Claimant/respondent filed a counter affidavit of 6 paragraphs and a written address wherein Manzuma Ibrahim, Esq for the Claimant/respondent distilled a sole issue for determination as follows:

**“Whether the Applicant herein is entitled to the relief sought in this application.”**

Learned counsel for the Claimant/respondent contended that for an Applicant to succeed in an application for joinder, such an Applicant must show sufficient interest in the suit and that the judgment of the Court will be prejudicial to such a person. He referred the Court to the case of **NDAKENE V. ADAMU & ORS (2023) LPELR-59972 (SC)**.

Manzuma Ibrahim, Esq. further contended that the reliefs sought by the Claimant in this suit does not in any way affect the Applicant as the shops are distinct from those claimed before this Court.

On 17/2/2025, Godwin O. Diugwu, Esq. adopted his written address as his argument in urging the Court to grant the application. Manzuma Ibrahim, Esq. for the Claimant/Respondent adopted his written address as his argument in urging the Court to dismiss the application.

It is settled law, that the ***“... only reason which makes it necessary to make a person a party to an action is that he should be bound by the result and the question to be settled therefore must be a question in the action which cannot be effectually and completely settled unless***

*he is party.*” See **PEENOK INVESTMENTS LTD V. HOTEL PRESIDENTIAL LTD (1982) 12 SC (REPRINT) 1** and **TAFIDA V. BAFARAWA & ORS (1999) 4 NWLR (PT. 597) 70.**

I have given a consideration to the processes filed on both sides of the case. The issue to be resolved, in my opinion is “*whether the party sought to be joined is a necessary party within the contemplation of the rules of this Court.*”

It follows therefore, that a party who is to be so bound by the outcome of the matter, must not only be aware of the case against him but must also be given every reasonable opportunity to defend it. However, where there is no case made against a party, that party will have no business in such a case.

Having stated the above, I must proceed to peruse the claims of the Claimant, viz-a-viz the statement of claim to determine whether the party sought to be joined is likely to be affected by the outcome of this case.

I have carefully examined the 18-paragraph statement of claim, and the reliefs against the defendants jointly and severally, which are as follows:

- a. *A Declaration that the sale of 4 units of 9 square metre shops describes as SHOP NO: TCFG-01, TCFG-02, TCDF-05, TCDF-20 at Karmo District Market, Abuja at the total purchase price of ₦16,035,000.00 (Sixteen Million, Thirty-Five Thousand Naira) only by the Claimant to the Defendants is valid and subsisting, the Claimant having made full of the said purchase price of the property to the Defendant.*
- b. *An Order of specific performance, compelling the Defendant to complete and handover immediate physical and actual possession of the 4 units of 9 Square metre Shops described as SHOP NO: TCFG-01, TCFG-02, TCDF-05, TCDF-20 at Karmo District Market, Abuja to the Claimant forthwith, the Claimant having made all payments as agreed by the Defendants.*

- c. *An Order of specific performance, mandating the Defendants to immediately execute Deed of Assignment, Power of Attorney, and all other necessary documents that may be required in obtaining the consent of the Honourable Minister of the Federal Capital Territory to the assignment of the said property known as 4 units of 9 square metre shops described as SHOP NO: **TCFG-01, TCFG-02, TCDF-05, TCDF-20** at Karmo District Market, Abuja to the Claimant.*
- d. *An Order of perpetual injunction restraining the Defendants, their servants, agents, privies or otherwise from selling, leasing, assigning or dealing or alienating property known as 4 units of 9 square metre shops described as SHOP NO: **TCFG-01, TCFG-02, TCDF-05, TCDF-20** at Karmo District Market, Abuja*
- e. *The sum of **₦10,000,000.00** (Ten Million Naira) only as damages for the breach of contract.*
- f. *The cost of this suit at **₦5,000,000.00** (Five Million Naira) only.*

The case of the Claimant is against the Defendants and specifically relates to shop nos. **TCFG-01, TCFG-02, TCDF-05, TCDF-20** at Karmo District Market, Abuja.

On the other hand, the depositions of the party seeking to be joined, in paragraph 3 of its affidavit are as follows:

- a. *That the Applicant seeking to be joined is the owner of two shops out of the shops the Claimant/Respondent is claiming having paid for the shops and entrusted the document to MARY HYELASINDA IBRAHIM who is her younger sister. The photocopies of the said document is hereby marked as Exhibit "A".*
- b. *That the Applicant seeking to be joined was not aware of the matter until the 25<sup>th</sup> day of November 2024 when his counsel informed her that the 1<sup>st</sup> and 2<sup>nd</sup> Defendants has not replied letter in respect to the two shops which she applied for an update on. The said letter of Application s hereby marked as Exhibit "B".*

- c. *That some of the property in question which is the subject matter before this Honourable Court belongs to the Applicant (party seeking to be joined).*
- d. *That the Applicant (party seeking to be joined bought the shops and entrusted MARY HYELASINDA IBRAHIM who is her younger sister.*
- e. *That the Applicant who is the owner of the some of the properties in dispute before this Court does not know the Claimant (HYELASINDA FORTE LIMITED) but the Applicant only knows MARY HYELASINDA IBRAHIM.*

In the Applicant’s Further and Better Affidavit in support of the motion on notice, it was deposed in paragraph 3 as follows:

- a. **That the Applicant seeking to be joined is the owner of two shops out of the shops the Claimant/Respondent is claiming having paid for the shops and entrusted the document to MARY HYELASINDA IBRAHIM who is her younger sister.**
- b. ....
- c. **That the shops identified as shop 1026 and 1438 which the Claimant/Respondent is seeking reliefs before this Honourable Court are the same shops belonging to the 1<sup>st</sup> Applicant seeking to be joined.**
- d. **That the same shops identified as shop 1026 and 1438 which is the subject matter before this Honourable Court belongs to the 1<sup>st</sup> Applicant (party seeking to be joined).**
- e. ....
- f. ....
- g. ....
- h. ....
- i. ....

The Claimant/Respondent in paragraph 3 of its Counter Affidavit deposed as follows:

**i. That contrary to paragraphs 3 (a) of the Applicants affidavit, the shops claimed by the Applicant before this Court are not the shops the Claimant/Respondent is claiming before this Court.**

**ii. That contrary to paragraphs 3 (d) of the Applicants affidavit, the shops bought and entrusted to me are not the shops claimed by the Claimant/Respondent before this Court.**

I have also looked at the two Exhibits, i.e. Exhibits “A” and “B” attached to the affidavit of the Applicant. In essence, while the Claimant/Respondent’s claim relates to shop nos. **TCFG-01, TCFG-02, TCDF-05, TCDF-20** at Karmo District Market, Abuja, the Applicant, i.e. is party seeking to be joined has also alleged a right to two out of the four shops which is the subject matter before this Court.

Order 13 Rules 18 (3) empower this court to order that the name of any party who ought to have been joined or whose presence before the Court is necessary to effectually and completely adjudicate upon and settle the questions involved in the proceedings be added.

I am of the respectful view that the Applicant is a necessary party to be joined as a party to this proceeding to enable the Court to effectually and completely adjudicate and determine all the issues raised in this suit. Application for joinder is hereby granted.

**SIGNED:  
HON. JUDGE  
07/04/2024.**

**APPEARANCE:**

*M. A. Kagara, Esq, for the Claimant/Respondent*

*Godwin Diugwu, Esq, for party seeking to be joined*