

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/330/2023

MOTION NO: FCT/HC/M/14861/2024

DELIVERED: ON THE 07/04/2025

BETWEEN:

1. PWG ENGINEERING LTD
2. JUMOKE LAWOYIN

}.....CLAIMANTS/RESPONDENTS

AND

1. ARCHITRAX CONSULT NIG. LTD
2. OLANIYI OLANIYAN ALABI
3. SUNTOP WAY PROPERTIES LTD
4. FEMI OYEDOKUN
5. AKANIYENE ASINDI
6. EMEYENE ASINDI
7. AJAKA CHINEDU
8. MAIDUGU ADAMS
9. DANIEL MNGUTYO
10. SAMUEL INDYER
11. BENSON NNADOZIE
12. IJEOMA BENSON NNADOZIE
13. CHIWENDU NWANKWO
14. OLUGBENGA ODEYEMI
15. EBUNNA CHUKWUBUDE
16. EKENE CHUKWUBUDE

}.....DEFENDANTS

17. FELICIA OGBUISI
18. OKWARA CHINONSO PHILIP
19. SAMUEL NWAFOR
20. ABIOLA AROWOLO
21. OKEKE ODI CHRISTIAN
22. BETTY AMIHERE
23. PROMISE CHIDUBEM
24. MOSES CHINGLE
25. ANTHONY OKOYE
26. EYINNAYA OJE
27. JUSTINE GBERINDYER
28. CHUKWUNONSO ANOLIEFO
29. PAUL OGBU
30. DAHIRU MOHAMMED
31. SUFIYANU ALIYU
32. RUFAI WADA
33. UNKNOWN PERSONS

AND

1. IFEDI. AK. NIG. LTD (IFEDI HOMES)
2. DONCARTA HOMES AND PROPERTIES LTD
3. WAKACREDIT LTD

PARTIES SOUGHT TO BE JOINED

RULING

This Ruling is at the instant of (1) Ifedi.AK. Nig. Ltd (Ifedi Homes) (2) Doncarta Homes & Properties Ltd and (3) Wakacredit Ltd who

approached this Hon. Court vide Motion No. **M/14861/2024** and sought for the following reliefs:

- (1) *An Order for leave to join Ifedi AK Nig. Ltd (Ifedi Homes) Doncarta Homes & Properties Ltd and Wakacredit Ltd as Defendants in this suit.*
- (2) *An Order of this Hon. Court joining Ifedi AK Nig. Ltd, (Ifedi Homes), Doncarta Homes and Properties Ltd, and Wakacredit Ltd as Defendants in this instant suit.*
- (3) *Any further or other order(s) as this Hon. Court may deem fit to make in the circumstances of this case.*

The said motion is accompanied by grounds upon which the application is brought and an affidavit of 19 paragraphs deposed to by the 2nd Claimant (Jumoke Lawoyin).

It is the deposition of the Deponent that on 24/07/2023 she received a call from one Onyinye who told her that she was calling on behalf of herself and some persons who had built houses on the 1st Claimant's land in Wumba and that the said Onyinye invited her to a meeting which was held at Genesis Restaurant, Novare Mall, Apo, Abuja on the 25/07/2024.

The Applicants aver further that at the meeting she met 11 persons most of whom stated that they were brought to the Claimant's land by Ifedi A.K. Ltd (Ifedi Homes) one of the party sought to be joined and further claimed that a title document was issued to them by the 2nd Defendant.

Some of the names include Mr. Asindi, Mr. Henry, Mr. Chinedu, Architect Daniel.

The Applicant stated further that Mr. Asindi informed her that they had initially commenced a land transaction with Ifedi AK Nig. To purchase land for all of them, to which she told them that 2nd Defendant had no authority to sell the subject matter.

That the parties sought to be joined are part of those earlier listed as unknown and they will be affected by the final decision of the Court.

A written address was filed wherein the issue ***“whether from the circumstances of this case, the application of the Claimants/Applicants ought not to be granted by the Hon. Court”*** was formulated for determination.

Learned Counsel argued the above issue succinctly in urging the Court to grant the application of the applicant in the interest of justice.

Reacting to the application, 1st and 2nd Defendants/Respondents filed a counter affidavit of 51 paragraph deposed to by Olaniyi Olaniyan Alabi, the 2nd Defendant/Respondent in this case.

It is the deposition of the 1st and 2nd Defendants/Respondent that the Applicant’s affidavit is replete with distorted facts, intended to mislead the Court as the Claimants/Applicants are aware that the parties they seek to join are neither proper parties, necessary parties nor desirable parties.

The Respondent aver that the 1st party (Ifedi A.K Nig. Ltd) sought to be joined by the Plaintiff/Applicant happens to be third party and one of the corporate subscriber of the 1st Defendant, the 2nd party (Doncarta Homes

and Properties Ltd) is also a third party and corporate subscriber, who brought subscriber in the estate project of the 3rd and 4th Defendants on behalf of the Claimants/Applicants whereas the 3rd party sought to be joined is only a company the first Respondent took loan from, for the development of the property in dispute.

That the issues before the Court will be effectively and completely determined without the presence of the parties sought to be joined and they will not be affected by the Judgment.

A written address was filed wherein the issue “*whether the application by the Claimants/Applicants satisfies the conditions for joinder of a party to a suit*” was formulated for determination. Counsel submitted that a person should not be joined as a defendant against whom there is no case by the Claimant against him, and therefore Court is urged to dismiss this application in the interest of justice.

I have gone through the affidavit in support of the reliefs contained on the face of the application in view, on the one hand, and the counter affidavit in opposition to the application on the other hand. Having regard to the circumstances of this suit, it appears to me that the question to be determined is whether the parties sought to be joined are persons whose presence before the Court as Defendants will be necessary in order to enable the Court to effectually and completely adjudicate upon and settle all the questions involved in the cause or matter.

The first point that must be made here is that joinder of persons or parties in one action as Defendants is clearly permissible under the Rules of this Hon. Court.

For avoidance of doubt Order 13 Rule 4 of the Rules of this Hon. Court 2025 provides:

“Any person may be joined as Defendant against whom the right to any relief is alleged to exist, whether jointly, severally or in the alternative. Judgment may be given against one or more of the Defendant as may be found to be liable, according to their respective liabilities, without any amendment.”

There are however two conditions that must be met for such joinder be made, to wit;

(1) Is the cause or matter liable to be defeated by the non-joinder of the third party as a Defendants?

(2) Is the third party a person who ought to have been joined as Defendant so that he may be bound by the result of the trial or his presence before the Court as a Defendant is necessary in order to enable the Court effectually and completely adjudicate upon and settle all the questions involved in the cause or matter. See *AJAYI VS. JOLAYEMI (2001) 10 NWLR (Pt. 722) Pp 29 – 30 para. F – H and CROSS RIVER STATE NEWSPAPERS CORPORATION VS. ONI & ORS. (1998) 1 NWLR (Pt. 1371) Pg. 23, paragraph G – C.*

The governing principle which is a cardinal rule for the administration of justice is that determination of litigation must be in the public interest. Hence where the issues between the parties involve third parties whose interest are affected and the non-joinder of the party will result in further litigation, such parties are necessary parties.

Therefore, those whose presence will be necessary for the effectual and complete adjudication of the matter before the Court, and their presence as parties is important, the Court with or without an application, can join them as parties.

The question is, whether (1) Ifedi A.K Nig. Ltd (Ifedi Homes) (2) Doncarta Homes and Properties Ltd and (3) Wakacredit Ltd are necessary parties in this suit so much that their absent will affects the just and complete adjudication of the matter before this Court?

It is the averment of the Claimants/Applicants that the parties sought to be joined were part of the unknown persons who purportedly purchased several portions of the Claimants land from the 1st – 4th Defendants in breach of their agreement. That Ifedi A.K. Nig. Ltd one of the parties sought to be joined purchased 1 hectare of the Claimant's land, Doncarta Homes and Properties Ltd also bought 1 hectare from the 3rd and 4th Defendants and that 1st and 2nd Defendants also executed a deed of assignment with one Waka Credit Ltd selling off 8 plots of the subject matter.

In opposition, 1st and 2nd Defendants stated as in paragraph 7, 8 and 9 of the counter affidavit as follows;

“(7)the 1st party (Ifedi A.K. Nig. Ltd) sought to be joined by the Plaintiff/Applicant happens to be a third party and one of the Corporate subscribers of the 1st Defendant”.

“(8) The 2nd party (Doncarta Homes and Properties Ltd) sought to be joined by the Claimants/Applicants is also a third party and a Corporate subscriber, who was brought into subscribe on the Estate

Project by the 3rd and 4th Defendants/Respondents on behalf of the Claimants/Applicants.

“(9) The 3rd party sought to be joined is only a company the first Respondent took loan from, for the development of the property in dispute.”

From the above affidavit before the Court, it is obvious that the parties sought to be joined by the Claimants/Respondents have interest in the subject matter of litigation, I so hold. 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 of the action and the questions to be settled. From the affidavit evidence before the Court, it is obvious that parties sought to be joined are necessary parties in the determination of this suit.

Consequently, application of the Claimants/Applicants is hereby granted as prayed. Consequently, Ifedi A.K Nig. Ltd (Ifedi Homes), Doncarta Homes and Properties Ltd and WakaCredit Ltd are hereby joined as Defendants in this suit.

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

APPEARANCE:

F. D. Ayinde, Esq, for the Claimants/Respondents

Obinna S. Nwosu, Esq, with Ele Imoke Echi, Esq, for the 1st – 4th Defendants

O. Okeke, Esq, for the 5th – 32nd Defendants