

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT COURT 57 MAITAMA ABUJA
THIS 14TH DAY OF JULY 2025
BEFORE HIS LORDSHIP: HON. JUSTICE ODUNAYO O. BAMODU, mni

SUIT NO. FCT/HC/CV/1085/2025

BETWEEN

1. NWANGWA UZONNA)	
2. IRVING GLOBAL & INV. LTD)	
3. KESTER AGWU)APPLICANTS

AND

1. INSPECTOR GENERAL OF POLICE)	
2. POLICE SERVICE COMMISSION)	-
3. MANNASEH JOSHUA)RESPONDENTS

REPRESENTATION

No Legal Representation.

JUDGMENT

INTRODUCTION

The Applicants by an Originating Motion dated and filed on 18th March 2025 seek to enforce their fundamental rights. The application is brought pursuant to Sections 41 (1) and 46 (1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) (1999 Constitution); and Order 2 Rules 1, 2, and 3 of the Fundamental Rights (Enforcement Procedure) Rules 2009.

The reliefs sought are as follows:

1. A Declaration that the loan contractual relationship between the 2nd Applicant and the 3rd Respondent, is purely a civil matter and that the 2nd and 3rd Respondents or their agents have no jurisdiction as Police Officers over same.
2. A Declaration that the act of the 3rd Respondent and his cronies in using the agents of the 1st and 2nd Respondents to arrest or to threaten the Applicants with arrest or to restrain the Applicants' rights to freedom of

movement over a purely civil matter, constitutes an infringement on the Applicants' rights to personal liberty and freedom of movement as guaranteed under the 1999 Constitution (as amended).

3. An ancillary order of injunction restraining the 3rd Respondent and his cronies from further causing the 1st and 2nd Respondents or any other security agents howsoever to arrest the Applicants or to threaten the Applicants with arrest over a purely civil matter that has already been concluded or over any other matter upon which the Police has no jurisdiction to entertain.
4. An order directing the 1st – 3rd Respondents jointly and severally to pay to the Applicants the sum of N500,000,000.00 (Five hundred million naira) only being general and exemplary damages for infringing on the fundamental rights of the Applicants over a purely civil transaction.

The Applicants also filed an accompanying Statement stating the grounds for the application; two affidavits deposed to by the 1st and 3rd Applicants; and a Written Address.

The 1st and 2nd Respondents were served with the Originating Motion on the 20th and 29th of April 2025 respectively, while the 3rd Respondent was served by substituted means on the 16th May 2025. None of the Respondents filed a Counter Affidavit or a Written Address.

CASE OF THE PARTIES

The case of the Applicants is that on the 30th of April 2023 the 2nd Applicant at their Wuse 2 Abuja office granted a loan of N102,000,000 to the 3rd Respondent for a duration of two months at the interest rate of 8%. The 3rd Respondent left as collateral a Toyota Land Cruiser GX-R twin turbo 2023 model, and a cheque leaflet of United Bank for Africa in the name of Bulk Stalker Engineering Limited. The 3rd Respondent defaulted and the 2nd Applicant wrote a demand letter and made several other efforts for the payment of the loan and accrued interests standing at N150,960,000, at 13th August 2024, including letters dated 10th of October 2024 and 18th November 2024 of its intention to sell the Toyota Land Cruiser.

On the 22nd of November 2024 the 2nd Applicant sold the car to the 3rd Applicant for the sum of N135,000,000.

The 2nd Applicant sent letter of invitation to the 1st and 2nd Applicants regarding investigation of obtaining the Toyota Land Cruiser GX-R Twin Turbo 2023 model under false pretence. The 3rd Respondent continued to intimidate, harass and

threaten to detain the 1st Applicant through agents of the 1st and 2nd Respondents by sending other invitation letters to the 1st Applicant's office.

Sometime in March 2025 the 3rd Applicant also received a letter of invitation from the police, including several calls threatening to arrest and detain him.

SUBMISSION OF PARTIES

The Applicant raised a sole issue for determination, namely:

1. Whether the Applicants are entitled to the reliefs sought.

D.J Edogor Esq. submits that the arrest and or threat to arrest the Applicants over a civil matter violates their rights to personal liberty under Ss.35 (1) and 41 (1) of the 1999 Constitution. That the 1st and 3rd Respondents have incessantly caused the arrest of the Applicants, while the 3rd Respondent still boasts of further using the police to arrest the Applicant. Learned counsel submits that the Applicants have a right to protect the infringement of their fundamental rights, and cites **ABDULHAMID v. AKAR (2006) 13 NWLR Pt.996, 127 at 149 B-C.**

Learned counsel further referred the court to the cases of **OKAFOR & ANOR. v. AIG POLICE ZONE 11 ONIKAN & ORS (2019) LPELR-46505 (CA); and IBIYEYE v. GOLD (2012) ALL FWLR Pt.659, 1074** on the submission that the police are not recovery agents and have no business dabbling in contractual transactions.

Counsel also cites **MCLAREN v. JENNINGS (2003) FWLR Pt.154, 528; and GOSHELENG v. STATE (2021) LPELR-56466 (CA)** that a person who malafide instigates the police against another in a purely civil transaction, as done in this case by the 3rd Respondent, cannot escape liability for the wrongful action of the police.

Learned counsel then submits that in the instant case, the police have been used to settle a civil matter, which constituted a breach of the Applicants' fundamental rights (**IGWE v. EZEANOCHIE (2010) 7 NWLR Pt.1192, 61 at 93 B-C.**

DECISION

To determine whether the fundamental rights of the Applicants have been breached as claimed, it is expedient to evaluate facts put forward and what is established before the court.

By the averments of the Applicants and the exhibits submitted, the Applicants have established, without being controverted by the Respondents, that the 3rd Respondent obtained a loan of N102,000,000 from the 2nd Applicant offering his Toyota Land Cruiser car as collateral on the 30th of April 2024. The 2nd Applicant,

after several efforts to get back the money lent plus interest without success sold the car to the 3rd Applicant for N135,000,000 when the 3rd Respondent defaulted.

The 1st and 2nd Applicants were by letters dated 1st July 2024; 19th December 2024; and 27th February 2025 invited by the police for investigation of a case of criminal conspiracy, cheating and obtaining a Toyota Land Cruiser Jeep, on the one hand; criminal conspiracy, criminal breach of trust, money laundering, forging and uttering negotiable instrument, on another; and criminal conspiracy, conversion and theft, on yet another respectively.

Apart from the above facts which I find and hold as established, the Applicants have not established any allegation of arrest and detention or the basis for declaration that they were arrested and detained by the Respondents.

The Applicants have averred that they were being threatened with arbitrary and unlawful arrest and detention by the Respondents. Of course, the law protects not only the breach but also threat of breach of fundamental rights, but the threat must not be in the imagination of the Applicant, as in this case without a thread of evidence. See the case of **BONIFACE EZEADUKWA v. PETER MADUKA (1997) 8 NWLR Pt.518, 635 at p.661 B**, where the Court of Appeal held that for an Applicant to succeed that his right is likely to be infringed *“he must be sure that there are enough acts on the part of the Respondent aimed essentially and unequivocally towards the contravention of his rights. A mere speculative conduct on the part of the Respondent without more, cannot ground an action under the third limb.”*

Declaration of the rights of an Applicant under the fundamental rights procedure is not made in vacuo. Rights under chapter 4 of the 1999 Constitution enure to every person within the space of the jurisdiction of its territorial coverage. However, what entitles an Applicant to a declaration is when the corresponding duties of the rights accruing to the Applicant crystalizes in the Respondent’s breach of those duties.

Put another way, declaratory reliefs are discretionary, and a party needs to establish his entitlement to them in relation to the acts, conduct or omission of another which infringe on the rights requiring declaration and protection. It is not enough, without this nexus, for an Applicant to apply to the court for a general declaratory statement of the availability of these rights to him without establishing the actual accrual of these rights. I have looked at the Applicants’ affidavits and grounds in support of their application and have not seen how they have been able to establish this general statement.

Secondly, the Applicants' evidence in prove of the main reliefs have been stated above. The Applicants have failed to establish that they were arrested or detained by the Respondents. If any of these had been proved, their fundamental rights would have been breached if there were no extenuating evidence in rebuttal. It would be a dangerous proposition for the Court to declare that the Applicants' rights were breached on the evidence of invitation by the police particularly where the Applicants have not also proved that the invitation was not on a reasonable suspicion of the commission of a crime, or that even if this were so, that it was abused in such a way that the same would nevertheless constitute a breach of their rights.

In the circumstances, both issues raised by the Applicants are resolved against them as being unsubstantiated and not established.

For these reasons, the Applicants' application and the reliefs therein are hereby refused and dismissed.

HON. JUSTICE O. O. BAMODU, mni
(Presiding Judge)