

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

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

**SUIT NO: FCT/HC/CV/60/2025
MOTION NO: FCT/HC/M/7269/2025
DELIVERED ON THE 16/10/2025**

BETWEEN:

1. WASHGATE APPLE SHOP LIMITED }CLAIMANTS/RESPONDENTS
2. WASHINGTON AGBONS UWMENI }

AND

1. PAPARAZZI SUPERSTORES }DEFENDANTS/RESPONDENTS
2. MR. AYoola MICHEAL }

AND

REALTY METRO SHELTERS LTD.....APPLICANT/PARTY SEEKING TO BE JOINED

RULING

The defendants by way of motion on notice dated the 23rd day of May, 2025 and filed on the 26th day of May 2025 seeks for the following reliefs.

1. *An Order of the Honourable court joining REALITY METRO SHELTERS LTD as a defendant in this suit.*
2. *AN ORDER of the Honourable court allowing the party sought to be joined to file its processes in the suit.*
3. *And FOR SUCH FURTHER or other orders as this Honourable court may deem fit to make in the circumstances.*

The grounds upon which the application is made are:

- 1. That the applicant/party sought to be joined (REALITY METRO SHELTERS LTD) is the landlord of the subject property known as shop No. A, Zircon Mall, Plot 118, Aminu Kano Crescent, Wuse II, Abuja wherein the Claimants have held on possession of after the expiration of their tenancy.**
- 2. That by the authority donated to the defendants by the Applicant, the defendants were the property managers of the applicant in respect of the said property known as shop No. A1 Zircon Mall, plot 118, Aminu Kano, Crescent, Wuse 2, Abuja.**
- 3. That the reliefs sought by the Claimant directly affect the proprietary rights of the landlord.**
- 4. That the current defendants (property manager) no longer work for the applicant hence cannot adequately represent or bind the applicant without risk of future litigation.**
- 5. That the Rules of the Honourable court allows for the joinder of a necessary party.**
- 6. That failure to join the Applicants(landlord) may render any decision reached in this matter unenforceable and may lead to a multiplicity of suits.**

The motion on notice is supported by a 13-paragraph affidavit deposed to by Dr. Becky Olubukola, the Managing Director of the Applicant/party sought to be joined. It is also accompanied with an exhibit described as a copy of the tenancy executed with the 1st Claimant and the defendants on behalf of the Applicant. The learned counsel for the Applicants I. E. Uzuegbu Esq in the written address in support of the application formulated a lone issue for determination by this Honourable court, to wit:

"Whether the Applicants has made out a good case for the grant of an order joining it as a defendant in this suit".

In arguing the sole issue, learned counsel for the Applicants submitted that certain factors must be considered by a court invited to allow a party to be joined in a suit. He submitted that these factors have been spelt out in the case of **IGE V. FARINDE (1994) 7 - 8 SCNJ pg 284 at pgs 299 - 302** to include the following factors:

- a. That the presence of the person sought to be joined will effectively and completely adjudicate upon and settle all the controversies in the case.***
- b. The aim is to put an end to litigation and not to have parallel proceedings in which the same issue was raised leading to different and inconsistent results.***
- c. That the party to be joined will be bound by the result of the litigation.***

The learned counsel also referred to the cases of **AWONIYI V. REGISTERED TRUSTEES OF AMORC (2002) 10 NWLR (pt. 676) pg 522 at pg 533** and **ONIBODO V. ABODULAY (1991) 2 NWLR (Pt. 172) pg 230 at pg 251** where TOBI J.C.A (as he then was) said:

"By the rules of court, either the parties or the court can suomotu raise the issue of non - joinder with a view of joining the necessary party. It is not therefore the exclusive responsibility of the parties".

The learned counsel therefore urged this Honourable court to consider the content of paragraphs 7 - 15 of the supporting affidavit as sufficient enough to grant their application and joined **REALITY METRO SHELTERS LTD** as a co - defendant in this suit.

In response to the motion the Claimant filed a counter affidavit of 13 paragraphs deposed to by WASHINGTON AGBONS UMWENI, the Managing Director to the 1st Claimant in this suit. The counter affidavit is also supported by Exhibit A - G respectively. These exhibits are described as Exhibit A, a proof of payment of the initial rent by the Claimant, Exhibit B, a copy of the letter by the Claimant dated the 24/03/25 requesting the applicant to prove to him authority to act with respect to the property, Exhibit C is a Certified true copy of the corporate Affairs Commission status report of the Defendant, Exhibit D is the proof of payment made by the Claimant on the 28/02/25 for the rental year commencing from October, 22nd, 2024 to October 22nd, 2025, Exhibit E and F are letters from Messrs E. H. Edeh & Co and the Claimant's solicitors response dated 24/03/2025 and Exhibit G, a copy of the Applicant's letter dated the 08/04/2025 acknowledging the renewal of the Claimant's rent respectively.

The deponent specifically states in paragraph 12 of the affidavit in opposition to this application that:

"I approached this Honourable court to protect my rights as a tenant, which the defendants are threatening to breach without recourse to due process of the Law".

The counter affidavit is also accompanied with a written address wherein the learned counsel for the Claimants, Ikechukwu P. Nwakanma Esq formulated a lone issue for determination by this Honourable court, to wit:

"Whether the affidavit evidence before this Honourable court, the applicant here in has established sufficient interest to be joined in this matter".

In arguing the above issue, the learned counsel referred this Honourable court to the case of **AMCON V. SURU WORLD WIDE VENTURES (NIG) LTD & ORS (2024) LPELR- 62162 (SC)** where the relevant question to be considered before joining an applicant as a party are spelt out therein. He also referred to the following cases, namely, **GREEN V. GREEN (1987) 3 NWLR (PT. 1545) PG 112**, **ADEFARATU V. ADEREMI (2006) ALL FWLR (PT. 303) PG 244 AT PG 262**, **OGUNMOKUN V. MILITARY ADMINISTRATOR OF OSUN STATE (1999) 3 NWLR (PT. 594) PG 261** respectively to the effect that for a person to be joined in an action he must have a legal or equitable interest in the subject matter and that his presence is necessary for the effectual and complete adjudication of the matter, the learned counsel submitted that the joinder of the party sought to be joined, who was not party to the tenancy agreement would only muddle the proceedings and frustrate the real issues and urged this Honourable court to dismiss the application.

In a reply affidavit in response to the counter affidavit, the Defendant/Applicant filed a 16 paragraph further affidavit supported by a reply on points of law. The Applicants further affidavit shows particularly in paragraphs 3, 5, 10, 12, 13, and 15 the necessity to join the party sought to be joined who is the landlord of the said property while the defendants are only property managers as shown in Exhibit A, the power of Attorneys donated to the defendants by the party sought to be joined. In furtherance by the Applicant, a further affidavit in support of applicant's motion **M/7269/25** was equally filed on the 30/05/25 so as to display a copy of the Power of Attorney donated by the party sought to be joined to the defendant dated the 9th day of September, 2022 for a period of one year from the date it was made, that is 9th September, 2022. The learned counsel for the Applicant therefore urged this Honourable court to grant this application.

In considering the various processes placed before this Honourable court alongside the respective Exhibits as well as the brilliant submissions of the learned counsel for the parties it will be in the interest of justice to adopt a lone issue for determination, which is:

"Whether the Applicants have made out a case for the grant of the reliefs sought

The Exhibits before this court are instructive to a just determination of this application particularly the Tenancy Agreement and the Power of Attorney.

It is trite law that an action which is not properly constituted cannot grant jurisdiction to the court. Proper parties must be before the court in order to endow the court with jurisdiction otherwise the court would lack jurisdiction to hear the suit. Invariably, the term compulsory or necessary joinder of a party means the joinder of a party if either of the following is true:

- (a) In the party's absence those already involved in the law suit cannot receive complete relief or***
- (b) the absent party claims an interest in the subject matter of an action so that the party's absence might either impair the protection of that interest or leave some other party subject to multiple or inconsistent obligations.***

See **NATIONAL ASSEMBLY V. ACCORD (2021) 18 NWLR (PT. 1808) PG 219, AMUDA V. AJOBO (1995) 7 NWLR (PT. 406) PG 170, FALEKE V. INEC (2016) 18 NWLR (PT. 1543) PG 61 AND NDAKENE V. ADAMU (2023) 9 NWLR (PT. 1889) PG 389 AT PG 407** respectively.

Thus, in an application of this nature, the court should be concerned only with whether a prima facie case for joinder has been established and

must not prematurely wade into the merits of the case. The joinder of parties whether as plaintiffs or defendants is subject to two conditions, namely:

- (a) The right to relief must in each case be in respect or arise out of the same transaction or series of transactions.
- (b) There must be some common question of law or fact and common demand.

However, where the facts contained in the pleadings of the parties to an action are such that the matter can conveniently and effectually be adjudicated upon without the joinder of a third party or a person who may be interested in the matter, non - joinder or failure to join other person will not vitiate the matter and the jurisdiction of the court cannot in such a situation be affected. The question at this stage is whether or not sufficient grounds have been placed before this court to the effect that without joining the party sought to be joined, the suit cannot be effectively and effectually determined by this court.

The Claimants/Respondents contend that the applicant has not shown any privity of contract, possession or prior dealings with the Claimant to warrant joinder. He is asked to show legal interest, in the res. They also contended that the applicant was never introduced to them as landlord or agent of the property manager. They further contended that the said Power of Attorney Exhibit A is speculative and there is no evidence to show that the said Power of Attorney was revoked. In all, they admitted that a 3rd party can be joined if he is a necessary party. They referred to the case of **OGUNMOKUN V. MILITARY ADMINISTRATOR OF OSUN STATE** (supra) where it was held that:

"A party should only be joined if his presence is necessary for the effective and effectual adjudication of the matter".

On the other hand, the Applicants have placed before this Honourable court Exhibit A, a Power of Attorney between REALITY METRO SHELTERS LTD (DONOR) AND MR. MICHAEL AYOOLA (PAPARAZZI SUPERSTORES) dated the 9th day of September, 2022 to last for one year.

This implies that the Defendants by the Power of Attorney donated to them was acting on behalf of the party who is sought to be joined as a party in this suit. The Defendants were acting on his behalf as property managers.

Furthermore, the Tenancy Agreement dated the 12th day of October, 2022 clearly referred to the Defendants as "property manager" and not "landlord" while referring to the Claimant as "the Tenant". However, by paragraph 2(a) of the said Tenancy Agreement the Applicant exhibited the fact that another entity exists as "the landlord" when it was stated in the said paragraph as follows:

2(a): "The premise is leased for commercial purpose only for a period of 2 years and a Tenant shall not change the use of the premises, not to assign, sublet or part with possessions of the demised premises or any part thereof without the prior written consent of the property manager. The granting or withholding of consent shall be in the discretion of the property manager exercise in the best interest of both the Landlord and Tenant".

This clearly shows that from the onset the property manager acknowledged and exhibited the existence of a "Landlord" who is distinct from him. This is also a document duly signed by both the Claimant and the Defendants. Similarly, by the combined effect of paragraphs 3, 7, 12 and 13 of the Reply Affidavit in Response to counter affidavit dated the 1st day of July, 2025 together with the content of Exhibit A, the Power of Attorney, there is no contrary evidence to show

that the Defendants are still working for the party who is sought to be joined. The said Power of Attorney clearly stated that it was for one year starting from the 9th September, 2022.

It will equally be necessary to refer to the content of Exhibit G titled "RE: RESPONSE TO URGENT NOTICE TO VACATE PREMISES AT ZIRCON MALL dated the 8th April, 2025 wherein the Claimants were duly informed of the party seeking to be joined as a party in this suit as the new owners of the property in question.

In addition, paragraph 12 of the Reply affidavit in Response to counter affidavit was never controverted by any further affidavit which alleges that the Defendants who were agents of the party seeking to be joined currently have no business with the property in issue as they no longer work for the applicant, REALITY METRO SHELTERS LTD, who is the landlord of the property in issue hence necessitating the joining of the party in this suit.

As earlier observed in this ruling this court is not presently invited to determine the substantive issue before it as could be seen from the content of the counter affidavit of the Claimant particularly paragraphs 5,6,7,8,9, and 10 respectively.

Infact, in paragraph 12 of the counter affidavit the Claimant states as follows:

"I approached this Honourable court to protect my rights as a tenant, which the defendants are threatening to breach without recourse to due process of the law".

This cannot be achieved with the landlord not been a party in the circumstance of this case. In view of the foregoing analysis and judicial authorities this Honourable court is convinced that the party sought to be joined in this suit, REALITY METRO SHELTERS LTD is a necessary

party to this suit without whom the suit cannot be effectively and conclusively determined. It can therefore be said that the applicant has made out a good case for the grant of an order joining REALITY METRO SHELTERS LTD as a Defendant in this suit and it is accordingly granted. It is hereby ordered that REALITY METRO SHELTERS LTD be joined as Defendant in this suit. It is further ordered that the party so joined be served with all processes after necessary amendments in line with Order 13 rule 20 of the Rules of this court, 2025.

SIGNED:
HON. JUDGE
16/10/2025.

APPEARANCE:

Patience Igbita, Esq, for party seeking to be joined