

**IN THE COURT OF APPEAL
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA**

APPEAL NO: _____
SUIT No.: FHC/ABJ/CS/1426/2022

BETWEEN:

1. MR. JOHN AIKPOKPO-MARTINS
2. MR. DEBO ADEYEMO KAZEEM
3. MR. OMBO VICTOR FRANK-BRIGGS
4. MS. UCHEMA NWADIALO
5. MRS. MERCY IJATO AGADA
6. MR. RAPHAEL NNAMDI ANAGOR
7. MR. OLUKUNLE EDUN
8. MR. RAPULUCHUKWU NDUKA
9. MR. FERDINAND NAZA



APPELLANTS

AND

1. MRS. JOYCE ODUAH
2. THE INCORPORATED TRUSTEES OF THE
NIGERIAN BAR ASSOCIATION
3. MR. OLUMIDE AKPATA
4. INSPECTOR GENERAL OF POLICE



RESPONDENTS



NOTICE OF APPEAL

190698695850

TAKE NOTICE that the Appellants, being dissatisfied with the Ruling of the Federal High Court, Abuja Judicial Division, delivered by Honourable Justice A. R. Mohammed on the 23rd of August 2022, particularly the part set out in paragraph 2 hereof, hereby appeal to the Court of Appeal on the grounds set out in paragraph 3 and shall at the hearing of the Appeal seek reliefs set out in paragraph 4 hereof.

TAKE FURTHER NOTICE that the names and addresses of the persons directly affected by the Appeal are those as set out in paragraph 5, below.

1. PART OF THE RULING COMPLAINED AGAINST

The whole decision.

2. GROUNDS OF APPEAL

GROUND ONE

The learned trial Judge erred in law and truncated the Appellants' Constitutional Right to Fair Hearing when His Lordship conducted the proceedings of the Lower Court in the subject Suit No. **FHC/ABJ/CS/1426/2022** on the 23rd August 2022 and delivered a Ruling thereon on the same 23rd August 2022 in the absence of the Appellants nor a Counsel of their choice, without first ensuring prior service of the originating processes and all other processes filed by the Plaintiff in the said Suit No. **FHC/ABJ/CS/1426/2022** (now 1st Respondent) on the Appellants herein (then as 3rd to 11th Defendants at the Lower Court), and without any hearing notice issued nor served on the Appellants prior to the said proceedings of the 23rd August 2022, thereby occasioning a grave miscarriage of justice on the Appellants.

Particulars of Error:

- i. Fair hearing is a fundamental right and an essential part of the adjudication process.
- ii. The originating processes in this suit were not served on the Appellants, and the Appellants were neither in court nor represented in court when the Order was made by the trial Court.
- iii. The Appellants were not aware that the suit had been commenced at the trial court and therefore had no knowledge of any extant Motion nor the oral application made by counsel to the 1st Respondent.
- iv. The Appellants only became aware of the Ruling of the Court in the social media platforms on the 23rd August 2022.
- v. The failure of the 1st Respondent to serve the Appellants with the originating processes is a gross and flagrant breach of the right to fair hearing and has occasioned a grave miscarriage of justice against the Appellants.
- vi. The Appellants are also entitled to be issued a hearing notice of the date of the decision of the Court as this is a constitutive part of the hearing of the action.
- vii. The Lower Court's failure to serve the Appellants (then as 3rd to 11th Defendants) Hearing Notice prior to the said proceedings of 23rd August 2022 is a gross and flagrant breach of rights to fair hearing of the Appellants and, consequently has occasioned a grave miscarriage of justice against the Appellants.

GROUND TWO

The Learned Trial Judge of the Lower Court erred in law when he assumed jurisdiction over the instant Suit No. **FHC/ABJ/CS/1426/2022** and delivered the Ruling and made the Order of the 23rd August 2022, being a matter relating to the domestic affairs of the Nigerian Bar Association, without the Plaintiff/1st Respondent first exhausting the internal dispute resolution mechanisms stipulated in the **Constitution of the Nigerian Bar Association 2015 (as amended in 2021)**.

Particulars of Error:

- i. The 1st Respondent's complaint in the Originating Summons bothers on matters relating to domestic disputes in the Nigeria Bar Association.
- ii. The courts in our judicial system are restrained in relation to domestic matters of associations and such matters can only be resolved by a majority decision of its members.
- iii. The Federal High Court does not have jurisdiction to determine issues arising out of domestic matters in an association.
- iv. The grouse of the 1st Respondent is within the domestic affairs of the Nigerian Bar Association and accordingly outside the jurisdiction of the Federal High Court.
- v. The 1st Respondent's Originating Processes do not show that the 1st Respondent exhausted the internal remedies of the Association before commencing the action.
- vi. The 1st Respondent had predicated her case on the issue of suspension as General-Secretary of the Nigeria Bar Association which is a domestic issue and can only be settled by the Association.
- vii. The Trial Court's assumption of jurisdiction on the subject matter of the dispute is wrong in law and same had occasioned a grave miscarriage of justice on the Appellants.

GROUND THREE

The learned Trial Judge of the Lower Court erred in law in granting an oral application by ipse dixit submission of counsel without any materials placed before the Court with regards to the grant of mandatory injunction.

Particulars of Error:

- i. The 1st Respondent's (as Plaintiff at the Lower Court) counsel had raised an issue orally before the Court without placing any materials before the court to substantiate his claims.

- ii. There were no materials before the Trial Court to grant the order for mandatory injunction, as the 3rd to 11th Defendants had not been served.
- iii. It is incongruous in law for the trial court to grant the order of mandatory injunction while other parties are yet to be served in the case.
- iv. The submission of counsel cannot take the place of evidence.
- v. The issue of suspension or ratification thereto of the 1st Respondent are not within the issues the trial Court can take judicial notice of.
- vi. The decision of the trial court was based on conjectures, speculations and assumptions which is wrong in law.

GROUND FOUR

The learned Trial Judge of the Lower Court erred in law when he asserted jurisdiction over the Appellants herein (then as 3rd to 11th Defendants) in Suit No. **FHC/ABJ/CS/1426/2022** wherein the Court conducted the proceedings of the 23rd August 2022 and delivered a Ruling thereon that affects the legal rights of the Appellants as members of the Nigerian Bar Association and as members of both the National Executive Committee and National Executive Council of the Nigerian Bar Association, whereas the Appellants had not been served with any originating processes and other processes filed by the 1st Respondent (then as Plaintiff) at the Lower Court or any Hearing Notice or notice of the pendency of the Suit No. **FHC/ABJ/CS/1426/2022** at the Lower Court, prior to the Ruling delivered by the Lower Court on the 23rd August 2022 of the granting an oral application by ipse dixit submission of counsel without any materials placed before the Court with regards to the grant of mandatory injunction.

Particulars of Error:

1. Service of originating processes and any other processes on a party to suit is fundamental to the jurisdiction of the Court.
2. As at the time of the proceedings of the Lower Court in the Suit No. **FHC/ABJ/CS/1426/2022**, learned Trial Judge of the Lower Court knew that the Appellants (as 3rd to 11th Defendants at the Lower Court) had not been served with any originating processes and any other processes or any Hearing Notice of the pendency of the Suit, as he (the learned Trial Judge) had on the same date and during the same Court proceedings in the same Suit No. **FHC/ABJ/CS/1426/2022** granted leave to the Plaintiff/1st Respondent to serve the originating processes and other processes on the Appellants (as 3rd to 11th Defendants) by substituted means, sequel to an Ex Parte application of the Plaintiff/1st Respondent's Counsel.

3. Failure to serve originating processes and any other processes or any Hearing Notice of the pendency of the Suit No. **FHC/ABJ/CS/1426/2022** is fatal to the Suit and renders the entire proceedings pertaining to the 1st Respondents' Counsel's oral application for Mandatory Injunction and the Ruling of the Lower Court thereon on the 23rd August 2022 a nullity ab initio.

3. RELIEFS SOUGHT FROM THE COURT OF APPEAL

- a) **AN ORDER** allowing this appeal.
- b) **AN ORDER** nullifying and setting aside the entire Ruling delivered by Honourable Justice A. R. Mohammed of the Federal High Court (Abuja Judicial Division) on 23rd August 2022.

4. NAMES AND ADDRESSES OF PERSONS DIRECTLY AFFECTED BY THIS APPEAL

THE APPELLANTS:

THE 1ST APPELLANT

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THE 4TH APPELLANT

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THE 5TH APPELLANT

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THE 6TH APPELLANT

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THE 9TH APPELLANT

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THE RESPONDENTS:

THE 1ST RESPONDENT

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OR

C/O HER SOLICITORS
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THE 3RD RESPONDENT

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THE 4TH RESPONDENT

INSPECTOR GENERAL OF POLICE
NIGERIAN POLICE FORCE HEADQUARTERS,
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Dated this 24th day of August 2022



- ✓ **Chief Yusuf Asamah Kadiri, SAN, FCI Arb(UK)**
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FOR SERVICE ON:

The Respondents

THE 1ST RESPONDENT

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