

IN THE HIGH COURT OF LAGOS STATE

IN THE LAGOS JUDICIAL DIVISION

HOLDEN AT COURT 58 GENERAL CIVIL

BEFORE HON. JUSTICE OLALEKAN A. ORESANYA (MR.)

TODAY, THURSDAY, THE 18TH DAY OF SEPTEMBER, 2025

SUIT NO.: LD/18590MFHR/2024

BETWEEN

REBECCA TEMITOPE BONJE

APPLICANT

AND

GUARANTY TRUST BANK PLC

RESPONDENT

JUDGMENT

The Applicant initiated this suit vide an Originating Motion dated 4th November, 2024 and brought pursuant to Section 37 of the 1999 Constitution of the Federal Republic of Nigeria (as amended); Section 24 (1), 31 (1) (c), 40 and 65 of the Nigerian Data Protection Act 2023; Order 1 Rules 1 & 2 of the Fundamental Rights (Enforcement Procedure) Rules 2009; and under the inherent jurisdiction of this Honorable Court praying the following:

- a. A **DECLARATION** that the Respondent's alteration, distortion and/or deletion of the Applicant's financial transaction from her statement of account is misleading, inaccurate and violated the provision of Section 24 (1) (e) of the Nigeria Data Protection Act 2023.
- b. A **DECLARATION** that the Respondent's issuance of two conflicting statements of account to the Applicant is unfair, non-transparent and

violated the provision of Section 24 (1) (e) of the Nigeria Data Protection Act 2023.

- c. A DECLARATION that the Respondent's refusal to rectify the discrepancies in the Applicant's statement of account constitutes a violation of her right to the correction of her personal data guaranteed by Section 34 (1) (c) of the Nigeria Data Protection Act 2023.
- d. A DECLARATION that the Respondent's deletion of transaction entries from the Applicant's statement of account constitutes a personal data breach under Section 65 of the Nigeria Data Protection Act 2023.
- e. General damages in the sum of N500, 000, 000 (Five Hundred Million Naira).

In support of the motion, the Applicant filed a 19-paragraphs affidavit dated 29th November, 2024 deposed to by the Applicant, Temitope Rebecca Bonje, with nine exhibits attached and marked Exhibits 1-9; the Applicant also filed a statement which is deemed incorporated into this Judgment. The Applicant's Counsel also filed a written address which he adopted as his argument in support of the motion and raised five issues for the determination of the Court being:

- i. *"Whether or not the Respondent's alteration, distortion and/or deletion of the Applicant's financial transaction from her statement of account constitutes an interference with the Applicant's right to privacy guaranteed by Section 37 of the 1999 Constitution of the Federal Republic of Nigeria (as amended)?"*
- ii. *"Whether or not the Respondent's alteration, distortion and/or deletion of the Applicant's statement of account is misleading, inaccurate and violated the provision of Section 24 (1) (e) of the Nigeria Data Protection Act 2023?"*

- iii. "Whether or not the Respondent's issuance of two conflicting statements of account is unfair, non-transparent and violates the provision of Section 24 (1) (a) of the Nigeria Data Protection Act 2023?"
- iv. "Whether or not the Respondent's refusal to rectify the discrepancies in the Applicant's statement of account constitutes a violation of her right to the correction of her personal data guaranteed by Section 34 (1) (c) of the Nigeria Data Protection Act 2023?"
- v. "Whether or not the Respondent's deletion of transaction entries from the Applicant's statement of account constitutes a personal data breach defined under Section 65 of the Nigeria Data Protection Act 2023?"

Counsel argued that issue (i) borders on financial privacy and is provided in Section 37 of the 1999 Constitution of the Federal Republic of Nigeria (as amended), however, there exists a dearth of authorities on financial privacy in Nigeria, the Central Bank of Nigeria recognizes the relationship between accurate financial statements and customers' privacy provided in paragraph 5.4 of the Central Bank of Nigeria Consumer Protection Regulations and it speaks to financial privacy from the regulator's perspective, mandating banks to protect consumers' privacy by ensuring the confidentiality of their financial data and keeping same accurate and updated – MEDICAL DENTAL PRACTITIONERS DISCIPLINARY TRIBUNAL V DR. JOHN OKONKWO [2001] 7 NWLR (Pt. 711) 206 wherein the Supreme Court held thus:

'The right to privacy implies a right to protect one's thought, conscience or religious belief and practice from coercive and unjustified intrusion; and one's body from unauthorized invasion The sum total of the rights or privacy ... which an individual has, put in a nutshell, is that an individual should be left alone to choose a course for his life, unless a clear and compelling overriding state interest justifies the contrary.'

The Applicant's ability to make informed financial decisions is a fundamental aspect of her privacy rights, hence the incorrect entries misrepresented her financial status, leading the third party to make decisions based on faulty information and terminate the Applicant's financial transactions, which not only affected the Applicant's immediate financial transactions but also impacted her long term financial planning and autonomy; the loss of critical entries resulted in the loss of a significant property transaction which is a substantial infringement of the Applicant's privacy and right to make personal decisions.

In arguing issue (ii), Counsel submitted that in data protection, a person's bank statement constitutes his personal data since such information relates to or identifies that person and his transactions – Section 65 Nigeria Data Protection Act 2023:

'any information relating to an individual who can be identified or is identifiable, directly or indirectly, by reference to an identifier such as a name, an identification number, location data, an online identifier or one or more factors specific to the physical, physiological, genetic, psychological, cultural, social or economic identity of that individual.'

A person's bank statement constitutes his/her economic identity and status.

Counsel argued issue (iii) in that Section 24 (1) (a) of the Nigeria Data

Protection Act 2023 encapsulates the principle of fairness and provides that personal data should not be processed in a manner that prejudices the data subject, in this case, the Applicant. The nucleus of fairness is that data subjects must be fully aware of the processing activities and the complete circumstances surrounding them, mandating that personal data be processed in a manner consistent with the reasonable expectations of the data subject.

issue (iv) is argued by Counsel in submitting that Section 34 (1) (c) of the Nigeria Data Protection Act 2023 provides that a data subject has the right to obtain the correction, or if correction is not feasible or suitable, deletion of the data subject's personal data that is inaccurate, out of date, incomplete, or misleading from a data controller, without constraint or unreasonable delay, which the Applicant requested specifically from the Respondent in the statement of account but was refused. This constitutes a violation of the Applicant's right as a data subject under the Nigeria Data Protection Act 2023 and such refusal occasioned huge losses to the Applicant – **MR. TORSTEN LEANDER V SWEDEN** (Application no. 9248/81) where the European Court of Human Rights ruled thus:

'It is uncontested that the secret police-register contained information relating to Mr. Leander's private life. Both the storing and the release of such information, which were coupled with a refusal to allow Mr. Leander an opportunity to refute it, amounted to an interference with his right to respect for private life as guaranteed by Article 8.'

Counsel argued issue (v) in that data protection laws serve as a safeguard for individual privacy, akin to environmental protection laws which preserve natural resources and a data breach can be likened to pollution, an infringement that contaminated the integrity of personal information, a personal data breach disrupts the delicate balance of ecosystems, a personal data breach comprises the confidentiality and integrity of sensitive information, leading to harmful consequences for individual and undermining the very principles that data protection laws strive to uphold.

Section 65 of the Nigeria Data Protection Act 2023 defines a personal data breach as a breach of security of a data controller or data processor leading to

or likely to lead to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to personal data transmitted, stored or otherwise processed.

In response, the Respondent filed a 25-paragraphs counter affidavit dated 7th April, 2025 deposed to by Sodiq Jimoh, an Accounting Officer in the Respondent's office, four exhibits attached and marked Exhibits 1-4. The Respondent's Counsel also filed a written address which he adopted as his argument in opposing the Applicant's motion and raised a sole issue for the determination of the Court being:

"Considering the averments in the Originating Motion and the affidavit in support, whether the Applicant is entitled to the reliefs sought?"

Counsel argued that the principal relief and all other reliefs sought by the Applicant have nothing to do with the enforcement of fundamental human rights and for which the law is settled that once a claim or the principal relief in an action for the enforcement of fundamental human rights merely seeks the redress of a grievance that is not a claim for the enforcement of fundamental right, such a claim would not qualify to be initiated and litigated under the Fundamental Rights (Enforcement Procedure) Rules 2009; when the main or principal relief or redress cannot be raised or enforced under the Fundamental Rights (Enforcement Procedure) Rules 2009, it is immaterial that in the course of committing the cause of action for the main complaint, some ancillary or peripheral breaches of fundamental rights were committed – EMEKA V OKOROAFOR & ORS. [2017] LPELR-41738 (SC); TUKUR V GOVT. OF TARABA STATE [1997] 6 NWLR (Pt. 510) 549; UNIVERSITY OF ILORIN & ANOR. V OLUWADARE [2006] 6:7 SC 154; JACK V UNIVERSITY OF AGRICULTURE, MAKURDI [2004] 1 SC (Pt. 2) 100.

Counsel further argued that the law is settled that in resolving whether an action discloses any reasonable cause of action or not, the Court must confine itself to the averments in the statement of claim – **CHEVRON (NIG.) LTD. V L. D. (Pt. 1059) 168 at 172** where the Supreme Court held thus:

'A decision on whether or not a plaintiff has reasonable cause of action can only be made after the examination of the facts pleaded in the statement of claim. It has nothing to do with the nature of the defence which the defendant may have to the plaintiff's claim. The Court must therefore confine itself only to the averments in the statement of claim in its assessment of whether or not the plaintiff has a reasonable cause of action.'

The Applicant's Counsel filed a reply on points of law on the ground of the Respondent's refusal/failure to attach documentary evidence to support his depositions and that the instant case is one that borders on fundamental rights fought on affidavit evidence and the Court would have to evaluate the documents submitted by both parties – **JAIYESIMI V DARLINGTON [2022] 9 NWLR (Pt. 1835) 335** wherein the Court held thus:

'In an action for enforcement of fundamental rights, the affidavits sworn to and documents attached to them constitute evidence as against the calling of oral witnesses and tendering documents in a suit commenced by writ of summons.'

Counsel further submitted that the Respondent did not address any of the issues raised by the Applicant in the originating motion and avoided them and refused to attach any documentary evidence, which deemed the avoidance as admission – **UGBOAJA V AKINTOYE SOWEMIMO [2008] 16 NWLR (Pt. 1113) 278** where the Supreme Court held thus:

'It is settled law that where a party fails or neglects to react to an issue in contention between the parties, the party in default is deemed to have conceded the point/issue to his opponent.'

The Respondent also filed a Notice of Preliminary Objection dated 4th April, 2025 seeking an order dismissing the Applicant's suit for constituting an unpardonable, monumental, irredeemable and hopeless abuse of Court process. The objection is predicated on six grounds and supported by a 7-paragraphs affidavit deposed to by Sodiq Jimoh, an Accounting Officer in the employment of the Respondent/Applicant. The Respondent/Applicant's Counsel also filed a written address which the learned Counsel adopted as his argument and submission in support of the Respondent/Applicant's Notice of Preliminary Objection.

In opposing the objection, the Applicant/Respondent filed a 5-paragraphs counter-affidavit deposed to by David Giwa, an Associate trainee in the Applicant's Counsel's law firm. Learned Counsel to the Respondent also filed a written address which he adopted as his argument in opposition to the Notice of Preliminary Objection.

The Respondent/Applicant's Counsel filed a Reply on points of law in response to the Applicant's counter affidavit.

This Court will determine first the Notice of Preliminary Objection filed by the Respondent/Applicant. I have examined carefully the affidavit evidence placed before this Court by the parties in support of their respective positions. I have equally given a calm and thorough consideration to the submissions of Learned Counsels to both parties, all which already form part of the records of this Honorable Court and are properly deemed incorporated to this Ruling.

The Court will adopt the issue for determination formulated by the

Respondent/Applicant which is *"considering the grounds of this application vis-à-vis the originating process in this suit, whether the Honorable Court ought not to dismiss the extant suit for jurisdictional incompetence?"*

It is trite that a single transaction whether civil or criminal, can lead to a multiple causes of action. A single civil transaction may give rise to a cause of action for breach of contract, it could be a tort or breach of privacy and so on. It is always within the right of an aggrieved or injured party to pursue any or all of the causes of action open to him. It is not for a Defendant/Respondent to suggest a cause of action to be pursued by an aggrieved party.

It is settled law that in determining whether a Claimant's action discloses a reasonable cause of action, the Court will necessarily restrict itself to the statement of claim or the affidavit in support of an originating summons. It is sufficient for a Court to hold that a cause of action is reasonable once the statement of claim in a case discloses some cause of action or some question fit to be decided by a Judge, the facts that the case is weak and not likely to succeed is no ground for striking it out – **THOMAS V OLUFOSOYE [1986] 1 NWLR Part 18 Page 669 at 682 paras. G-H.**

The instant claim is premised on an alleged breach of data rights of the Applicant by the Respondent. It seems in my well considered view to be merely incidental that the person in custody of the data in the instant case is a Bank and the owner of the data is a Bank's customer. To my mind, the principal claim is therefore a breach of data rights which is corollary of Section 37 of the Constitution, as such the grounds upon which the Respondent's objection are predicated are not arguable and are accordingly discountenanced. The objection is refused and overruled and the application accordingly struck out. This Court therefore has the requisite jurisdiction in respect of this claim.

The Applicant in the affidavit in support of her Originating Motion averred that she is a customer of the Respondent with account number [REDACTED] and that she entered into a transaction for the purchase of a landed property with a third party in consequence of which she initiated a transfer of the payment of part of the purchase price in the sum of N5, 600, 000 (Five Million, Six Hundred Thousand Naira) on 26th May, 2023 using the Respondent's Mobile Banking platform to a Stanbic IBTC account number [REDACTED] belonging to Haven Global Resources Limited, who stated that the money was not received.

The Applicant approached the Respondent for explanation and the Applicant received a statement of account for the month of May 2023 sent through an automated email address – statement@gtbank.com, reflecting the payment.

The Applicant averred further that three months after, the said payment was not received by the third party, the contract was terminated and she lost her investment and acquisition of the property and upon a letter from the Applicant's Solicitors to the Respondent, a statement purporting to be the Applicant's statement of account was sent by Jimoh Sodiq, an employee of the Respondent with the email address sodiq.jimoh@gtbank.com.

The Applicant stated that upon receiving the second statement of account, she compared it with the first statement of account and found that the transactions for 8th May, 2023 were missing in the first statement, as well as the transaction for 26th and 28th May, 2023 which suggests that the statement issued to her by the Respondent is inaccurate, altered, incomplete and misleading and that the Respondent's alteration, distortion and/or deletion of the financial transactions of the Applicant violated the Applicant's right to privacy directly or indirectly hindering the Applicant's personal decisions and choice to buy a property, interfered with the Applicant's financial decisions

and status and disrupted the Applicant's personal decision on hold and when to use her finances. The Applicant averred that her personal data by the Respondent and that she has suffered reputational loss, anxiety over further misuse of her sensitive information, disruption of personal and professional plans causing significant emotional distress and loss of property now worth N200, 000, 000 (Two Hundred Million Naira) by the termination of the property transaction due to the deleted transaction by the Respondent.

- The Respondent in its counter affidavit dated 7th April, 2025 averred that from its record, the Applicant's opening balance on 26th May, 2023 was N2, 696. 22 (Two Thousand, Six Hundred and Ninety-Six Naira and Twenty-Two Kobo) with no noted inflow into the account, thus the Applicant could not have had sufficient funds to consummate the alleged transfer of N5, 600, 000 (Five Million, Six Hundred Thousand Naira) on 26th May, 2023 to Haven Global Services Limited or any other beneficiary for that matter and that internal investigation made by the Respondent revealed that the Applicant received a sum of N3, 400, 000 (Three Million, Four Hundred Thousand Naira) on 9th November, 2023 from a GT Bank customer (Olarinu Ayokunle Inioluwa – 249/299966) and an interbank transfer of N2, 233, 589. 64 (Two Million, Two Hundred and Thirty-Three Thousand, Five Hundred and Eighty-Nine Naira and Sixty-Four Kobo) on 10th November, 2023 and that the Applicant subsequently transferred a sum of N5, 600, 000 (Five Million, Six Hundred Thousand Naira) on 10th November, 2023 to Haven Global Resources Limited
- as opposed to the transfer being made on 26th May, 2023 as alleged by the Applicant.

The Respondent further averred that its IT Audit Team were engaged to conduct further reviews and feedback that there was no record of the transfer of N5, 600, 000 (Five Million, Six Hundred Thousand Naira) on 26th May, 2023

on the Applicant's GT World log and a review of an old GT World transaction receipt which was also attached to the Applicant's Solicitor's letter with respect to the alleged transfer of N5, 600, 000 (Five Million, Six Hundred Thousand Naira) revealed that the stated reference captured a wrong account number (204/253987) as against the Applicant's account number (208/953987) and that no discrepancies exist in the authentic bank records and the discrepancies alleged in the Applicant's documents arise from manipulated or falsified data and that the Respondent is not in breach of the personal data right of the Applicant and is not liable for any reputation loss, loss of property, anxiety or emotional distress allegedly suffered by the Applicant.

The issue for determination by this Honorable Court is '*whether based on the averments in the originating motion and affidavit in support, the Applicant is entitled to the reliefs sought.*' The Applicant is seeking declarative reliefs and damages for the alleged violation of her personal data right under the Data Protection Act 2023 which the Applicant alleged is a violation of her fundamental right to privacy as guaranteed by the provision of Section 37 of the 1999 Constitution of the Federal Republic of Nigeria (as amended). The Applicant placed reliance on the provisions of Section 24 (1), 31 (1) (c), 40 and 65 of the Nigeria Data Protection Act 2023 and Order 1 Rules 1-2 of the Fundamental Rights (Enforcement Procedure) Rules 2009.

The Respondent contends that this suit is about the breach of the banker's duty to its customer and this sounds in negligence falling outside of the purview of fundamental rights. It is now settled that the right to privacy of data is a data protection right which is subsumed in the right to privacy guaranteed under Section 37 of the Constitution – **INCORPORATED TRUSTEES OF DIGITAL LAWYERS INITIATIVE & ORS. V NIMC [2021] LPELR-55623 (CA).**

I have no difficulty in holding that the personal data protection as provided in the Nigeria Data Protection Act 2023 generally falls under the fundamental right to privacy which is guaranteed under Section 37 of the 1999 Constitution of the Federal Republic of Nigeria (as amended). I must state that the question of infringement of fundamental right is largely a question of fact and does not really depend on the dexterous submissions of Counsels on the law. It is the facts as deposed in the supporting affidavit that is examined, analyzed and evaluated to determine whether the fundamental right of an individual has been breached or dealt with in any manner that is inconsistent with the provisions of the fundamental rights of an individual.

From the facts and materials placed before this Court by the parties in their respective affidavit, can it be said that the Respondent is in breach of the personal data rights of the Applicant subsumed under the right to privacy? The Respondent in its counter affidavit to the facts deposed to by the Applicant denied any breach of the personal data right of the Applicant. The Respondent, specifically in paragraphs 6, 7, 8, 9, 10, 13, 14, 16 and 17 of its counter affidavit denied the averments in the affidavit of the Applicant. The Respondent did not support its averment with any documentary evidence so as to dislodge and controvert the averments in the Applicant's affidavit which were supported with documentary evidence placed before the Court. The law is trite that a Defendant who does not give evidence in support of his pleadings or in challenge of the evidence of the Claimant is deemed to have accepted the evidence adduced by the Claimant notwithstanding his general traverse or denial. The Court will only act on a written deposition of a party which constitute his evidence if it is found to be credible and reliable upon proper evaluation.

I must add that this Court will not allow the affidavit evidence of the Applicant supported with documentary evidence to be varied or rebutted by the Respondent by a general traverse or denial without a corresponding documentary evidence to controvert the Applicant's evidence in breach of the parole evidence rule. The Court cannot indulge in speculations on issues brought before it. Cases, be it civil or criminal are decided on hard facts supported by credible evidence and not on sentiments, emotions or other irrelevant considerations. To my mind, the Respondent has not frontally deny the breach of the personal data rights of the Applicant subsumed under the right to privacy under Section 37 of the 1999 Constitution of the Federal Republic of Nigeria (as amended).

The Applicant's case accordingly succeeds and I hereby award the sum of N5, 000, 000 (Five Million Naira) as damages in favor of the Applicant and the sum of N500, 000 (Five Hundred Thousand Naira) as this cost of this action. Reliefs 2, 3, 4, and 5 of the Applicant's Originating Summons are hereby granted accordingly.

THIS IS THE JUDGMENT OF THE COURT.

HON JUSTICE
OLALEKAN A. ORESANYA
LAGOS STATE HIGH COURT


HON. JUSTICE O. A. ORESANYA (MR.)

18TH SEPTEMBER, 2025

Appearance:

Olumide Babalola with A. I. Offiong for the Applicant.

Wonuola Ademuson for the Defendant.

Fashola Fairat
COMMISSIONER FOR OATHS 14
HIGH COURT IKEJA



COURT OF LAGOS
HIGH COURT

Sign:  Date: 06/10
CASH OFFICE, IKEJA

CC N2,800