

IN THE HIGH COURT OF LAGOS STATE  
IN THE IKEJA JUDICIAL DIVISION  
HOLDEN AT COURT 39, GENERAL CIVIL DIVISON  
TODAY THE 15<sup>TH</sup> DAY OF NOVEMBER, 2024  
BEFORE HONOURABLE JUSTICE D.T. OLATOKUN

SUIT NO: ID/5719MJR/2024

BETWEEN:

SPORTY INTERNET LIMITED

.....

CLAIMANT

AND

1. OBINNA GEORGE UNEGBU

2. UCHENNA OFURUM

3. IFENNA MONEKE

.....

RESPONDENTS

4. BUSOLA OLAMIDE AINA

5. ADEDAMOLA OLUWASEUN OKUNOLA

Certified True Copy

JUDGMENT

The Claimant's Originating Summons is dated and was filed on 1<sup>st</sup> July, 2024 seeking for the determination of the following questions:

1. Whether having regards to the provisions of Section 7 of the National Lottery Act 2005, the National Lottery Regulatory Commission is statutorily empowered to regulate the operation and business of the national lottery and sports betting in Nigeria, including the protection of the interests of sport betting winnings, sport betting licenses, sport betting players and sport betting stakeholders within the betting ecosystem in Nigeria?
2. Whether having regards to the provisions of Section 7 of the National Lottery Act, 2005, section 18 of the National Lottery Regulation, 2007 and the National Lottery Regulatory Commission's Gaming Guidelines and Policies, the claimant is statutorily obligated to immediately report any material fact that gives rise to any prima facie suspicion of fraud or irregularity to the National Lottery Regulatory Commission for the promotion of transparency, propriety and integrity of the operation and business of the national lottery including sports betting, sports betting winnings, sport betting licenses, sport betting players and sport betting stakeholders within the sport betting ecosystem in Nigeria?
3. Whether upon the construction and interpretation of the provisions of sections 6(a)(b)&(h) and 7 of the Economic and Financial Crimes Commission (Establishment) Act, 2004, the Economic and Financial Crimes Commission is statutorily empowered to cause an investigation to be conducted as to whether any person, corporate commission, body or organization has committed any offence relating to economic and financial crimes including but not limited to cyber-crimes, bot-technology crimes, internet fraud, whether or not same is relating to, connected with or touching on the operation and business of the national lottery including sports betting, sports betting winnings, sport betting licenses, sport betting players and sport betting stakeholders within the sport betting ecosystem in Nigeria?



Certified True Copy

4. Whether having regards to the provisions of Section 7 of the National Lottery Act 2005, the National Lottery Regulatory Commission is statutorily empowered to regulate the operation and business of the national lottery and sports betting in Nigeria, including the protection of the interests of sport betting winnings, sport betting licenses, sport betting players and sport betting stakeholders within Whether in view of the provisions of section 7 of the National Lottery Act, 2005, section 18 of the National Lottery Regulation, 2007 and the National Lottery Regulatory Commission's Gaming Guidelines and Policies, sections 6(a)(b)&(h) and 7 of the Economic and Financial Crimes Commission (Establishment) Act, 2004 and section 197 of the Criminal Code Act, the defendants are not duty bound to await the outcome of investigation activities of the officers of the Economic and Financial Crimes Commission and the National Lottery Regulatory Commission where complaints have been lodged and investigation on-going?

The 5<sup>th</sup> question is a repetition of the 4<sup>th</sup> and as such will not be reproduced.

The Claimant prays for the following reliefs:

1. A Declaration that by virtue of the provisions of Section 7 of the National Lottery Act, 2005, Section 18 of the National Lottery Regulation, 2007 and the National Lottery Regulatory Commission's Gaming Guidelines and Policies, the Claimant is statutorily obligated to immediately report any material fact that gives rise to any prima facie suspicion of fraud or irregularity to the National Lottery Regulatory Commission for the promotion of transparency, propriety and integrity of the operation and business of the national lottery including sports betting, sport betting winnings, sport betting licenses, sport betting players, within sport betting ecosystem in Nigeria.
2. A declaration that upon the construction and interpretation of the provisions of Sections 6(a)(b) & (h) and 7 of the Economic and Financial Crimes Commission (Establishment) Act, 2007, the Economic and Financial Crimes Commission is statutorily empowered to cause an investigation to be conducted as to whether any person, corporate commission body or organization has committed any offence relating to economic and financial crimes including but not limited to cyber-crimes, bot-technology crimes, internet fraud, whether or not same is relating to, connected with or touching on the operation and business of the national lottery including sports betting, sport betting winnings, sport betting licenses, sport betting players and sport betting stakeholders in Nigeria.
3. An order of perpetual injunction restraining the defendants whether by themselves, servants, agents, assigns, privies or otherwise howsoever described in relation to the defendants from peddling and or continuing to peddle, publish and or procure the publishing, broadcast or continuing to broadcast, circulate or continuing to circulate any negative narratives, writeups and or any adverse publicity on any and all social media platforms (Facebook, Instagram, Tiktok, WhatsApp, X – Formerly known as Twitter, etc) and or any online media platforms, blogs, newspapers in any manner howsoever in so far as it relates to the allegation of restrictions placed on the Defendants' users accounts with the

claimant as a result of a potential cyber-crime offence currently being investigated by the Economic and Financial Crimes Commission and the National Lottery Regulatory Commission till the conclusion of investigation.

4. An order of perpetual injunction restraining the defendants whether by themselves, officers or agent, servant, privies or assigns or otherwise howsoever described in relation to the defendants from publishing or issuing any press release alleging, or portraying to any third party, individual or entity, (either orally, in writing or by conduct) that the claimant is fraudulent, engages or carries on fraudulent, suspicious or illegal businesses in so far as it relates to the allegation of restriction placed on the defendants' users accounts with the claimant owing to a potential cybercrime offence being investigated by the Economic and Financial Crimes Commission and the National Lottery Regulatory Commission.
5. An order directing both the claimant and the defendants to await the outcome of the ongoing investigation and be bound by the outcome and any recommendation as may be recommended by the Economic and Financial Crimes Commission and the National Regulatory Commission.

The claimant filed an Affidavit in support of the Originating Summons deposed to by Beulah Akingbelu on 1<sup>st</sup> July, 2024 as well as a Written Address dated and filed on 1<sup>st</sup> July, 2024. The Claimant also filed a Further Affidavit deposed to on 28<sup>th</sup> August 2024 by one Pelumi Oyebola.

The Defendants' response is a 42-paragraph Counter Affidavit deposed to by Busola Olamide Aina on 5<sup>th</sup> August, 2024 and a Written Address dated and filed on 5<sup>th</sup> August, 2024.

#### FACTS.

The claimant is a regulated and licensed online sports betting operator in Nigeria and the defendants are individuals who operate users accounts on the claimant's gaming platform and who are sued for themselves and as representatives of 42 sporty bet users. Facts that can be gleaned from the claimant's Affidavits are that in April 2024, the claimant discovered a set of suspicious transactions on its gaming platform and a violation of the claimant's terms and conditions which involved the defendants. The 42 users accounts although have positive account balances were flagged and verified as being abusively operated and manipulated by an international cybercrime syndicate using bot technology. Their accounts were temporarily suspended/restricted by the claimant who notified the Director General of the National Lottery Regulatory Commission and lodged a petition with the Chairman of the Economic and Financial Crimes Commission.

The defendants did not honour the invitation of the EFCC but rather resorted to the use of sponsored articles and promotion of false and distorted narratives on social media to injure and malign the image of the claimant. These acts of the defendants have placed the claimant in a precarious situation with its partners, financiers and investors all around the globe and are calculated to cause pecuniary damage to the claimant's goodwill and business.

Despite the ongoing investigation by NLRC and EFCC, the defendants are still engaging in several negative publications to pervert and prejudice the said investigations.

The defendants on the other hand averred as follows: The claimant restricted the accounts of the defendants when demand was made to access funds in the accounts. The defendants through their solicitors wrote a petition to the Director General of the NLRC and the Chairman of the EFCC. These petitions were written before the petition of the claimant to both bodies which shows that the claimant's petition is an afterthought. The claimant made several publications in May 2024 in newspapers, television and other news media alleging that the defendants committed cyber-crime. Contrary to the claimant's allegation, the alleged publications of the defendants were not sponsored by them but by journalists who reached out to the defendants' solicitors in view of the allegation of crime against them in order to obtain a balanced position on the matter. Upon the grant of the pre-emptive orders, the claimant caused the said orders to be published online. The defendants' solicitors also wrote to the National Data Protection Commission and the Federal Competition and Consumer Protection Commission.

#### SUBMISSIONS OF COUNSEL

Five issues were raised in the claimant's Written Address for determination by this Court. These issues are the same as the questions posed for determination by this court listed above.

In arguing all the issues as one, learned silk for the claimant submitted that the bedrock of the claim of the claimant is the construction of Section 7 of the National Lottery Act, 2005, Section 18 of the National Lottery Regulation, 2007 and the National Lottery Regulatory Commission's Gaming Guidelines and Policies, sections 6(a), (b) & (h) and 7 of the Economic and Financial Crimes Commission (Establishment) Act, 2004 and section 197 of the Criminal Code Act. Citing many authorities, he submitted that the role of the Court is to identify the intention of the drafters of the statutes and give the wordings of the law its direct and ordinary meaning unless it would lead to absurdity and inconsistency with the provisions of the statute as a whole.

Learned silk submitted that having reported to the relevant authorities, the defendant did not await the outcome of the investigations but have resorted to using the social media to injure and malign the image of the claimant. He referred to Section 197 Criminal Code Act and submitted that it is unlawful for the defendants to engage in any action that will have the effect of disrupting, interrupting or perverting the investigation of the NLRC and EFCC.

It was submitted that accordingly, the claimant is entitled to declaratory orders of this court restraining the defendants from the negative publicity and smear media campaign of calumny of the defendants over an issue that is still being investigated by relevant statutory agencies.

In the written address filed for the defendants two issues were raised for determination by this Court:

1. Whether the Honourable court can grant orders for perpetual injunction in an allegation of defamation on affidavit evidence?

2. Whether the exercise of right of freedom of expression by the defendants is capable of interfering with the allegation being investigated by the Economic and Financial Crimes Commission.

On issue one, learned counsel relied on the cases of *Matino (Nig.) Ltd. V Viewpoint (Nig.) Ltd & Ors (2021) LPELR -56262 (CA)* and *Alade V. Sofolarin & Ors (2015) LPELR-25008(CA)* and submitted that an order of perpetual injunction is always tied to an established right and is often granted after the full trial of the case on the merits. It was further submitted that the claimant is using this instant originating summons to obtain orders for defamation without a full trial and that the entire gamut of the affidavit of the claimant does not support its reliefs as it points to nothing but defamation. Learned Counsel referred to Exhibit O of the Claimant's Affidavit and submitted that the Claimant knows and clearly demonstrates its intention by the reliefs listed therein. It was submitted that evidence must be led to prove defamation in a full trial and not by affidavit evidence.

He also referred to Exhibit H and submitted that the Claimant is approbating and reprobating and that it deliberately concealed Exhibit H – a material fact, with the intention of misleading the Court. He referred to the case of *Ajuwon & Ors V. Governor of Oyo State & Ors (2021) LPELR-55334(SC)* and argued that the claimant lacks consistency in the presentation of its case and as such is undeserving of the reliefs sought.

On issue 2, he posited that the ploy of the claimant is to lure this Court to restrain the defendants' right to freedom of expression as guaranteed under section 39(1) of the 1999 Constitution of the Federal Republic of Nigeria. He cited quite a number of authorities and submitted that the claimant has failed to show how the interviews of the solicitors to the Defendants and interviews of other people by journalists can amount to interference of investigations of the EFCC and NLRC.

It was argued that a party to a suit cannot complain or seek orders on behalf of a non-party and that the claimant cannot "cry" on behalf of the EFCC and the NLRC. He relied on the case of *Ayoade V. Spring Bank Plc & Anor (2013) (LPELR-20763(CA))*.

He urged the court to consider where the balance of convenience lies as the defendants will suffer more inconvenience if an order of perpetual injunction is made against them in this case.

The claimant filed a Reply on Points of Law in response to the issues raised by the Defendants in their written address

On whether an order of perpetual injunction is always tied to an established right and is often granted after the full trial of the case on the merits, it was contended that a full trial of the case on the merits also includes the hearing of substantive applications in matters where trial is conducted by affidavit evidence.

On whether this action is defamatory in nature, it was submitted that this action merely seeks to restrain the defendant from commenting or publishing negative information on a matter which is the subject of investigation by the EFCC and which has the effect of negatively affecting the claimant's goodwill and reputation.

On whether this action is a ploy to restrict defendants' constitutional right of freedom of expression, it was argued that the right to freedom of speech is not absolute. The case of *Aviomoh V COP & Anor (2014) LPELR – 23039* was referred to in arguing that the defendants' right of expression is limited and must defer to the right of the claimant as a brand name with goodwill and reputation to protect.

On whether Exhibit H amounts to appropriating and reprobating, it was submitted that Exhibit H is merely a news report of the public statement of the Claimant that the defendants' betting activities are subject to the investigation of NLRC and EFCC. It was further submitted that the pre-emptive orders of this court purportedly published in Exhibit I are public documents ~~accessible~~ to any member of the public and are not negative nor adverse to the individual persons of the defendants. It was submitted that Exhibit A does not just contain the interviews of the defendants' solicitors but also includes negatives commentaries about the business practices of the claimant

On whether the claimant is seeking orders on behalf of a non-party, it was posited that the reliefs sought are primarily against the defendants not against any non-party and that the instant suit is for the protection of the integrity of the investigation of the NLRC and the EFCC. It was submitted that the defendants by their averment implicitly admitted their interference with the investigative power of the NLRC and the EFCC.

## RESOLUTION

Having considered all the processes filed by both parties and the argument of Learned Silk and Learned Counsel for the Defendant, it is crystal clear that questions 1 – 3 raised by the claimant for determination in this suit are not in contention and the learned silk's submission on those questions represents the position of the law.

The real issues in contention between the parties in this suit and which is apt for determination by this Court are the following:

- 1) *Whether the Claimant's claim in this suit is an action for defamation?*
- 2) *Whether this suit will amount to a restriction of the freedom of expression of the defendant?*
- 3) *Whether the claimants are entitled to an order of perpetual injunction against the defendants?*
- 4) *Whether the Court should direct the parties to await the investigation of the EFCC and NLRC and whether the Court can order that they should be bound by the outcome of the investigation and any recommendation made thereof?*

## ISSUE ONE

The Defendant argued that the Claimant's grouse is in respect of supposed libelous publication and that the Claimant is surreptitiously using this action to obtain orders for defamation without a full trial. It was also argued that the inference of defamation on affidavit evidence will amount to nothing but speculation. The Defendants referred to paragraphs 13-19 of the affidavit in support of this application. A summary of facts therein is that the Defendants falsely and maliciously wrote, published and sponsored false and distorted narratives on social media to injure and malign the Defendants. It

Certified True Copy

Certified True Copy

was also averred by the Claimant that the said publication is likely in the ordinary course of business to be read by his clients, customers, investors and will cause pecuniary damage to the Applicant's goodwill and business. The Claimant in their Reply on Point of Law submitted that this suit does not seek to imply that the actions of the Defendants are conclusively defamatory but rather seek to refrain the Defendants from further commenting or publishing negative information on a matter that is subject to investigation.

How does the Court determine a cause of action?

In the case of *Emeka v Chuba-Ikpeazu & Ors (2017) LPELR-41920 (SC)*, the Court Per Ogunbiyi JSC held thus:

*"The law is well established that it is the plaintiffs' case that determines a cause of action filed in Court. In order to ascertain a cause of action, the immediate materials a Court should look at are the Writ of Summons, and the averment in the Statement of claim. In an action commenced by originating summons as it is in this case at hand, the processes to be examined are the reliefs sought and the affidavit in support of the originating summons."*

Though the Claimant in paragraphs 9-13 averred to facts that can be related to a defamation suit, it is clear from the reliefs sought and from other facts averred by the Claimant that this suit is mainly in respect of alleged comments and publications of the Defendants which the Claimant alleged is inimical to their business.

Issue 1 is resolved in favour of the Claimant.

## ISSUE TWO

It was submitted for the Defendants that the Claimant by this action seeks the Court to restrain their right of freedom of expression which is guaranteed by Section 39 of the Constitution of the Federal Republic of Nigeria. The Claimant on the other hand submitted that by the combined effect of Sections 39(1) and 45(1) of the constitution, the right of freedom of expression is not absolute and without limit.

It is indeed the law that every citizen of Nigeria has a fundamental right to freedom of expression as guaranteed under Section 39 of the Constitution of the Federal Republic of Nigeria. Section 39 provides as follows:

(1) "Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference."

The court elucidated on the issue of freedom of expression in the case of *Suleiman Shaibu & Ors V. Desmond Utomwen & Ors (2022) LPELR-58237(CA)* per Biobele Abraham Georgewill, J.C.A. wherein he stated as follows:

*"My Lords, the right to freedom of expression and the press, as recognized and guaranteed by law, is geared towards the safeguarding of the right of the citizen to impart and receive ideas and information as permitted by law. It therefore, exists to protect the right to seek and receive information for the purpose of disseminating such information and ideas as well as the right to freely express opinions orally or through publications. The real essence of this right therefore, is to guarantee to each citizen the*

*right within the purview of the law to express himself freely without unjustifiable interference”.*

It is however trite that fundamental rights are not absolute and the courts have held that the freedom of expression is certainly not without reins. In *Omoyele Sowore V. Federal Republic of Nigeria (2022) LPELR-57439 (CA)* cited in the Claimant’s address), the Court stated that “such right to freedom of expression is not absolute or without limit”. The great jurist, Justice Oliver Wendell Holmes also said that “*The right to swing my fist ends where the other man’s nose begins*”. This simply means that a citizen in exercising its constitutionally guaranteed fundamental rights must not cause harm or violate the rights of another.

It is not in issue that the claimant is a well-known business with international presence, and in business, reputation matters. It has the right to have its reputation and goodwill protected against any injury to its reputation that can lead to loss of its goodwill. So, while the defendants are entitled to their freedom of expression, the claimant is entitled to protect its reputation in the event where damage might be done to it. Therefore, the right of the Defendants to freedom of expression ends where the right of the Claimant to protect its business interests and reputation begins.

The Defendants averred in paragraph 26 of the Counter Affidavit that the alleged publications were not sponsored by the Defendants but were interviews by journalists who reached out to their solicitors in view of allegation of crime against them to obtain a balanced position on the matter. This Court is of the firm view that Exhibit A4 of the Claimant contains extensive statement of the counsel of the Defendant - Kunle Bamidele, of the alleged action of the Claimant which goes beyond an interview.

The Defendants also averred in paragraphs 27 and 31 of their Counter Affidavit that the Claimant in bad faith made publications alleging that the Defendants committed cybercrime and that upon the grant of the pre-emptive orders granted in this suit, the claimant caused the pre-emptive orders of court in the matter to be published. In response, the Claimant in paragraph 3(p) averred that the alleged publications were not caused to be published by the Claimant and is merely a news report of the public statement of the Claimant that the Defendants’ betting activities and patterns are the subject of investigation by the EFCC and the NLRC. To my mind Exhibit H is more than a news report as it contains an allegation of fraud against the Defendants.

In respect of the allegation that the claimant caused the pre-emptive orders of court made by the Court in this suit to be published, while court records are indeed public documents that the public has ~~access to such~~ access is available when a person applies for copies of the process of court. The publication of the Claimant of the pre-emptive orders of Court smirks of bad faith on ~~the part~~ of the Claimant. The claimant claims that the publications allegedly sponsored or authored by the defendants can interfere with ongoing investigation, yet it went ahead to publish orders of court in a matter that has to do with the said ongoing investigation of statutory bodies. The law is that he who comes to equity must come with clean hands. See *Adejumo V. Ayantegbe (1989) 3 NWLR (PT. 110) 417 @ 422-423 Ratio 11*.

The law is that it is the duty of a court to balance the rights of parties because justice is for all parties in a suit. See *Resident Ofioguma & Anor V. Fredricck Erhire Ijuje & Anor (2022) LPELR-58394(CA)*.

While the court finds that the defendants' freedom of expression is not without limit, it equally finds that the claimant has failed to establish that it has acted in good faith in its own publication.

### ISSUE THREE

Reliefs 3 and 4 of the Claimant are for perpetual injunction restraining the defendants from peddling, publishing, procuring, broadcasting or circulating any negative narratives on social media platforms in respect of the allegation of restrictions placed on the Defendants' users accounts with the claimant or portraying to any third party, individual or entity that the claimant is fraudulent, engages or carries on fraudulent, suspicious or illegal businesses.

While the Claimant's argument is that an order of perpetual injunction is always tied to an established right and is often granted after the full trial of the case on the merits, the Defendants contend that a full trial of the case on the merits also includes the hearing of substantive applications in matters where trial is conducted by affidavit evidence.

An injunction is a court order prohibiting someone doing some specified act or commanding someone to undo some wrong or injury. See *Adenuga V. Odumeru (2001) 2 NWLR (PT. 696) 184*.

In the case of *Alade v. Sofolarin & Ors (2015) LPELR-25008(CA)*, the Court Per Agube J.C.A cited the case of *Rector Kwara Poly V. Adefila (2007) 15 NWLR (Pt 1056) 42* in defining a perpetual injunction thus: "A perpetual injunction has been defined as a post-trial relief usually granted after a full trial of a case in the merit and it is usually directed at the final settlement and enforcement of the rights of the parties, which were in dispute."

A perpetual injunction is therefore a relief usually granted after trial and is based on a final determination of the rights of the parties. See *Gbo Fishing V. Coker (1990) 7 NWLR (PT.162) 265*. The court in *Kaan International Development Limited V. Little Acorns Turnkey Projects Limited & Anor (2018) LPELR-45291(CA)* elucidated on when a party will be entitled to an order of perpetual injunction and stated as follows, "Perpetual injunction is not granted just for the asking, it is granted based on the determination of the rights of the parties, with the objective solely of preventing permanent infringement of those right."

Two questions arise for determination following the above decisions of the Court.

The first is whether the affidavit evidence of the parties in this suit can be deemed to be a full trial as postulated by the Claimant in this case.

The second is whether the grant of a perpetual injunction will finally settle the dispute between the parties.

In respect of the first question, the court Per Lewis, J.S.C in the case of *Bornu Holding Company Ltd v. Bogoco (1971) LPELR-793(SC)* defines a trial as follows:

"A trial is the public demonstration and testing before a court of the cases of the contending parties. The demonstration is by assertion and evidence, and the testing is by cross-examination and argument. The function of a court is to decide between the parties on the basis of what has been so demonstrated and tested."

In the second edition of the book ~~Judicial~~ Dictionary by B.P. Ishaku, trial is defined as follows "A trial is a public demonstration and testing before a court of the cases of the contending parties. The demonstration is by assertion and evidence and the testing is by cross-examination and argument."

To my mind while the Court can determine the rights of the parties by affidavit evidence in an Originating Summons, this will not amount to a full trial where the oral evidence of the parties can be tested by cross examination.

In respect of the second question, it is clear that the grant of a perpetual injunction in this suit will not finally settle the dispute between the parties as it will amount to making a pronouncement on the real issue between the parties. The real dispute between the parties in this action is an ongoing dispute of alleged fraudulent activities which both parties agreed is the subject of investigation by the EFCC and the NLRC and which is not within the purview of this action as presently constituted.

This court therefore cannot grant an order of perpetual injunction as to do so will amount to a final determination of the real dispute between the parties in respect of which investigation is yet to be concluded.

It will also not be justice for the court to grant an order of perpetual injunction against the defendants as to do so may have the effect of sentencing them to a lifetime of silence in violation of their fundamental right of expression. It is trite that justice is not for the claimant alone but for all the parties. See *Douglas Jack Agu & Anor V. Ericmany Limited & Anor (2024) LPELR-61962 (CA)*.

The Court therefore holds that the claimant is not entitled to reliefs 3 and 4 in their Originating Summons.

#### ISSUE FOUR

The contention of Learned Counsel for the defendant is that a party to a suit cannot complain or seek orders on behalf of a non-party, while Learned Silk for the claimant contends that the reliefs sought are primarily against the defendants and that the instant suit is for the protection of the integrity of the investigation of the NLRC and the EFCC.

The Claimant in essence is seeking an order of the Court that the parties be compelled to wait for the conclusion of the investigation of the EFCC and the NLRC but it is unable to give a timeline of how long the said investigation will take. The EFCC and NLRC are not parties before the court and as such the court cannot order them to carry out and conclude their investigation within a given time frame. See the case of *Total E & P Nigeria Limited V. Mr. Tari Imoladei & ORS (2012) LPELR-14256(CA)* where it was held that "a Court has no power to make an order against the interest of persons who were not parties before it, as such order is not in law binding on such parties."

The court also cannot impose a timeline on the EFCC and the NLR in the course of their duties of investigation as the court must not make an order in vain. In *Egypt Airline V.*

Certified True Copy

Certified True Copy

Adamou Balla Abdoulaye (2017) LPELR-43331(CA) the Court held that "In making an order, a Court must act with utmost circumspection. It must look at all the angles and ensure that its order is as much as possible, foolproof and is not rendered impotent or inefficacious." Also, in the case of Andrew Osagie Ize-Iyamu V. Action Democratic Party & Ors (2021) LPELR-54292(CA), the court held that "The Court does not act or make an order in vain and it is the duty of the Court to ensure that it does not make an order in vain."

In respect of the relief that the parties be bound by the decision of the EFCC and NLRC, it is trite that only judicial decisions are binding on parties. In the case of Rita Iyeghe V. Ahmadu Bello University, Zaria (2015) LPELR-40874(CA) it was held as follows: "The law is that, generally, a body exercising powers which are of merely advisory, deliberative or investigative nature or character or whose deliberations do not have legal effect until confirmed by another body or which is involved only in making a preliminary decision which is subject to approval by the appointing authority will not be held to be acting in a judicial capacity and it is at best an administrative panel."

In this case, even if the investigation of the EFCC and NLRC find the defendants culpable of any wrong doing, a court is still the only competent body capable of declaring the defendants guilty of wrong doing, if any. This is because the law is that a suspect is presumed innocent until proven guilty. See Muhammed Maikudi V. The State (2022) LPELR-57399(CA). It will amount to injustice to order any of the parties to be bound by the decision of an investigative body without giving them the opportunity for recourse to a judicial authority. To do so will amount to a violation of their right to fair hearing. See Jima Properties Limited V. Starucci Interiors Limited & Anor (2022) LPELR-59078(CA)

This court can therefore not grant the 5<sup>th</sup> relief sought by the Claimant in its Originating Summons.

As stated above, questions 1 – 3 raised by the Claimant for determination in this suit are not in contention and the Learned Silk's submission on those questions represent the position of the law. Therefore reliefs 1 and 2 sought in respect of those questions are superfluous.

The claimant failed to prove that it is entitled to any of the reliefs sought in this suit. This suit is therefore hereby dismissed in its entirety.

HON. JUSTICE D. T. OLATOKUN

15<sup>th</sup> November 2024

Certified True Copy

COURT OF LAGOS STATE

HIGH COURT

STATE



29-11-2024

APPEARANCE:

Dr. Kemi Pinheiro SAN with Bolu Agbaje Akadri,

Emeka Ekweozor & Oyindamola Olowu

Kunle Bamidele

Sign: \_\_\_\_\_ Date: \_\_\_\_\_

ASH OFFICE, IKEJA

For the Claimant

For the Defendants.

Davies Oluokemi  
COMMISSIONER FOR OATHS  
HIGH COURT, IKEJA