

IN THE COURT OF APPEAL
HOLDEN AT ABUJA

APPEAL NO:
SUIT NO: FHC/ABJ/CS/1426/2022

BETWEEN

1. THE INCORPORATED TRUSTEES OF THE
NIGERIAN BAR ASSOCIATION
2. MR. OLUMIDE AKPATA

APPELLANTS

AND

MRS. JOYCE ODUAH
MR. JOHN AIKPOKPO-MARTINS
DEBO ADEYEMO KAZEEM
OMBO VICTOR FRANK-BRIGGS
UCHENNA NWADIALO
MERCY IJATO AGADA
RAPHAEL NNAMDI ANAGOR
OLUKUNLE EDUN
RAPULUCHUKWU NDUKA
FERDINAND NAZA
INSPECTOR GENERAL OF POLICE (IGP)

RESPONDENTS

NOTICE OF APPEAL

TAKE NOTICE that the Appellants being dissatisfied with an aspect of the ruling of the Federal High Court, Abuja Division, Coram: Hon. Justice A. R. Mohammed (the "Court below") delivered on 23 August 2022, doth hereby appeal to the Court of appeal upon the ground set out in paragraph 3 and will at the hearing of the appeal seek the reliefs set out in paragraph 4 of this Notice of Appeal.

AND the Appellants further state that the names and addresses of the persons directly affected by this Appeal are those set out in paragraph 5.

2. PART OF THE DECISION COMPLAINED AGAINST

That part of the ruling where the Court below granted an order of mandatory injunction reversing the ratification of the suspension of the 1st Respondent by Nigerian Bar Association – National Executive Council (the "NBA-NEC") on 21 August 2022 stating that the act of ratification altered the subject matter of the proceedings pending before it.



3. GROUND(S) OF APPEAL

GROUND 1

The Court below erred in law when it held that the approval of the suspension of the 1st Respondent by the Nigerian Bar Association – National Executive Council on 21 August 2022 altered the subject matter of the proceedings before it. (Please delete the misapplied the law and comments above)

PARTICULARS OF ERROR

- (i) The 1st Respondent's argument before the Court below was that the 1st and 2nd Defendants/Appellants ("Appellants") altered the subject matter of the proceedings before the Court below and foisted a fait accompli on the Court below when an organ of the 1st Defendant – the NBA-National Executive Council ratified the suspension of the 1st Respondent by the National Executive Committee on 21 August 2022.
- (ii) The 1st Respondent further argued that the ratification by the NBA-NEC on 21 August 2022 amounts to overthrowing the jurisdiction of the Court below to continue to adjudicate upon the proceedings pending before it.
- (iii) The subject matter of the suit has not been altered by the ratification of 21 August 2022 notwithstanding the mischaracterizations of the 1st Respondent's Counsel.
- (iv) The ratification/approval of the 1st Respondent's suspension by the NBA-NEC does not alter the subject matter of the suit which is the suspension of the 1st Respondent by the Nigerian Bar Association National Executive Committee given that the 1st Respondent had already been effectively suspended by the National Executive Committee since 15 August 2022, and that the ratification by the NBA-NEC is simply an approval in principle.
- (v) The ratification does not oust the jurisdiction of the Court below over the proceedings.
- (vi) The question of the validity of the suspension is the subject of the substantive suit which is yet to be heard. As a result, the court below is capable of completely setting aside the suspension if it finds merit in the Originating Summons.
- (vii) The Court below concluded that the ratification of the suspension by NBA-NEC on 21 August 2022 altered the subject matter of the proceedings and impugned its jurisdiction to adjudicate over the suit – a finding which is wrong.
- (viii) Ratification simply means approval or confirmation.

- (ix) The holding of the Court below failed to take into account the reliefs sought in the Originating Summons filed by the 1st Respondent on 18 August 2022 to determine the subject matter of the proceedings. In **Anekwe & Anor. v. Nweke** [2014] LPELR-22697 (SC) the Supreme Court observed to wit: *“it is pertinent and also elementary to state that a subject matter of a claim before a Court is determined on the plaintiff’s claim per the pleadings filed.”*

GROUND 2

The court below erred in law in granting the order of mandatory injunction when the conditions for the grant of an order of mandatory injunction had not been met by the 1st Respondent.

PARTICULARS OF ERROR

- i. The power of the Court to grant a mandatory injunction must like in every injunction, be exercised with the greatest possible care. Some of the circumstances in which mandatory injunction may be granted are: 1. Where the injury done to the plaintiff cannot be estimated and sufficiently compensated for by damages. 2. Where the injury to the plaintiff is so serious and material that the restoration of things to their former condition is the only method whereby justice can be adequately done. 3. Where the injury complained of is in breach of an express agreement: **Abubakar & Ors. V. Jos Metropolitan Development Board & Anor. (1997) LPELR – 5301 (CA)**.
- ii. In the instant case, the 1st Respondent did not adduce and/or satisfy any of the conditions for grant of mandatory injunction.

4. RELIEFS SOUGHT FROM THE SUPREME COURT

1. **AN ORDER** allowing this Appeal and setting aside that part of the ruling of the Court below where the Court below granted an order of mandatory injunction reversing the ratification of the suspension of the 1st Respondent by NBA-NEC on 21 August 2022 stating that the ratification altered the subject matter of the proceedings pending before it.
2. Cost of these proceedings in favour of the Appellants.

5. PERSONS DIRECTLY AFFECTED BY THE APPEAL

1. **The Appellants**
The Incorporated Trustees of the Nigerian Bar Association
Mr. Olumide Akpata
C/o their counsel
SOLOMON UMOH, SAN
EMMANUEL EKONG

SOLOMON UMOH SAN & CO.

No. 4, Ejura close

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AND

GODWIN OMOAKA, SAN

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Victoria Island Annexe, Lagos

AND

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Maitama, Abuja

08037235285, 08036084166

2. The 1st Respondent

c/o Her Counsel

Murtala Abdul-Rasheed, SAN

Ayotunde Ogunleye, Esq.

Utibeabasi J. Atan, Esq.

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3. 3rd – 11th Respondents

NBA National Secretariat, Abuja

Plot 1101, Mohammadu Buhari Way

Central Business District,

FCT – Abuja

4. 12th Respondent

Nigerian Police Force Headquarters

Lious Edet House, Shehu Shagari Way

Area 11, Garki

FCT – Abuja

DATED THIS 24 DAY OF AUGUST 2022



GODWIN OMOAKA, SAN, FCI Arb [signed]
MUNACHISO MICHAEL, ESQ.
FRANCIS JARIGO, ESQ.
NABILA GADUYA ESQ.
KECHIKAMMA OMEHIA, ESQ.
TEMPLARS (BARRISTERS & SOLICITORS)
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AND

SOLOMON UMOH, SAN
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For service on:

1. **The 1st Respondent**
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2. **3rd – 11th Respondents**
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Plot 1101, Mohammadu Buhari Way

Central Business District,
FCT – Abuja

3. **12th Respondent**
Nigerian Police Force Headquarters
Lious Edet House, Shehu Shagari Way
Area 11, Garki
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