IN THE COURT OF APPEAL
KADUNA JUDICIAL DIVISION
HOLDEN AT KADUNA
ON FRIDAY THE 2ND DAY OF AUGUST, 2019
BEFORE THEIR LORDSHIPS

HUSSEIN MUKHTAR	**JUSTICE, COURT OF APPEAL**
OBIENTONBARA DANIEL-KALIO	**JUSTICE, COURT OF APPEAL**
JAMES GAMBO ABUNDAGA	**JUSTICE, COURT OF APPEAL**

CA/K/628/C/2018

BETWEEN

1. ABDULRASHEED MAINA---------- ----------APPELLANT

AND

1. ECONOMIC AND FINANCIAL CRIME COMMISSION (EFCC)
2. HONOURABLE ATTORNEY GENERAL OF THE FEDERATION
3. THE SENATE PRESIDENT
4. THE SPEAKER HOUSE OF REPRESENTATIVE OF NIGERIA

-------- -RESPONDENTS

JUDGMENT
(DELIVERED BY JAMES GAMBO ABUNDAGA, JCA)

This is an appeal against the judgment of the Federal High Court, sitting in Kaduna, delivered by Hon. Justice S. M. Shuaibu on 28th March, 2018 in suit No. FHC/KD/CS/112/2017.

On 14th November, 2017, the Appellant (plaintiff) caused an originating summons to be issued against the defendants upon the following questions:

1. Whether by virtue of section 4 of the Constitution of the Federal Republic of Nigeria 1999 as amended, any other person or organ of Federal Government apart from the National Assembly can repeal, enact or re-enact laws to regulate the affairs or running of any Federal Government agency.

2. Whether by virtue of section 315 of the Constitution of the Federal Republic of Nigeria 1999, the President of the Federal Republic of Nigeria is only employed to modify an existing Act of the National Assembly but not to repeal, amend or re-enact an Act.

3. Whether the Act of the then President Olusegun Obasanjo GCFR in 2004 repealing, the Economic and Financial Crime Commission (establishment), Act 2002 and re-enacting another law referred to as Economic and Financial Crimes Commission (establishment etc) Act 2004 does not continue an Act of usurping the powers of the National Assembly thereby making the 2002 Act Null and Void.

4. Whether the 1st Respondent can lawfully declare the plaintiff a wanted person as well as directing security agencies to arrest him by invoking the provision of Economic and Financial Crime Commission (establishment) Act 2004.

5. Whether Economic and Financial Crime Commission Act 2002 falls within the express meaning of "An existing Act or Law" contemplated by 315 (4) (b) 1999 Constitution of the Federal Republic of Nigeria?

Upon the resolution of the question, the plaintiff/appellant asked of the said lower court the following reliefs:

1. **A DECLARATION** that it is only the National Assembly of Nigeria that is empowered to enact, repeal or re-enact any Federal legislation.

2. **A DECLARATION** that the President of the Federal Republic of Nigeria can only modify an already existing Federal Legislation/Act so as to bring it within the purview of the constitution but not to repeal, amend or re-enact new laws/Act.

3. **A DECLARATION** that the act of the president to repeal the Economic and Financial Crime Commission (establishment etc), Act 2002 and re-enacting/amending same under the name of Economic and Financial Crime commission (establishment), Act 2004 amount to usurping the powers of the National Assembly and therefore inconsistent with the provision of the constitution of the Federal Republic of Nigeria 1999 thereby making such an Act null and void.

4. **A DECLARATION** that the 1st respondent cannot lawfully invoke the provisions of Economic and Financial Crimes Commission (establishment), Act 2004 to declare the Plaintiff wanted and direct his arrest by security agencies in Nigeria.

5. **AN ORDER** setting aside any warrant of arrest initiated by the 1st Respondent or any government agencies against the Appellant.

6. **AN ORDER** declaring all the actions of the 1st Defendant made in reliance with the Economic and Financial Crimes Commission (establishment), Act 2004 from 2004 to date, as unconstitutional and therefore null and void.

7. **AN ORDER** declaring the present composition of the 1st defendant (EFCC) as unconstitutional and therefore null and void.

8. **AN ORDER** of perpetual injunction restraining the defendants either by themselves, their privies, agents, officers or by whatever name called from taking any further steps against the herein plaintiff in relation to his constitutional rights through the instrumentality of Economic and Financial Crimes Commission (establishment), Act 2004.

9. **AND FOR SUCH FURTHER ORDER(S)** as this court may deem fit to make in the circumstances.

The Originating Summons is supported with an affidavit of 7 paragraphs deposed to by Mubarak Iliyasu, litigation secretary in the law firm of the appellant's solicitors, Mamman Nasir & Co. The Originating summons is accompanied with written address of appellant's counsel.

In opposition to the Originating Summons, the 1st defendant filed a counter affidavit of 7 paragraphs. The Counter affidavit was deposed to by

Yusuf Musa, a litigation officer in the legal department of the 1st defendant. Annexed to the counter affidavit is a gazetted copy of the Economic and Financial Crimes Commission (Establishment) Act, 2004, marked as Exhibit EFCC1A. The Counter affidavit is accompanied with written address of the 1st defendant's counsel. On 15th December, 2017, the 1st defendant causeld to be filed on its behalf, a further counter affidavit in opposition to the appellant's originating summons. The further counter affidavit which has 6 paragraphs, was deposed to by Jennifer Igoerechinma, also a litigation Secretary in the 1st defendant's office. It has attached to it an exhibit marked as EFCC1, which the deponent explained in the said further counter-affidavit is the correct copy of what was earlier exhibited in the counter affidavit of Yusuf Musa as Exhibit EFCC1A.

The 2nd defendant filed in opposition to the Originating Summons a counter affidavit of 6 paragraphs on 13th December, 2017. It was deposed to by Lawrence Ilop a Litigation officer, Civil litigation department of Federal Ministry of Justice, Abuja. The counter affidavit is accompanied with a written address of 2nd defendant's counsel. The 2nd defendant's counter affidavit and written address in support thereof were filed on 13th December, 2017. The 2nd defendant on the same date filed a notice of Preliminary Objection, in support of which is an affidavit of 4 paragraphs deposed to by Lawrence Ilop supra. There is also in support a written address of 2nd defendant's counsel. Also filed in support of the notice preliminary objection of the 2nd defendant is a further affidavit of 4 paragraphs deposed to by Friday Atu, a litigation officer in the chambers of the 2nd defendant. Annexed to this further affidavit which was deposed to

on 13th December, 2017 is the process in suit No. FHC/ABJ/CS/1100/2017 between Abdulrasheed Maina v. Attorney General of the Federation & 4 Ors, marked as Exhibit ***"AGF1".***

In opposition to the notice of Preliminary Objection, the plaintiff/appellant filed a counter affidavit of 12 paragraphs on 18th December, 2017. Attached to it is one Annexure and a written address of plaintiff's counsel. The 2nd defendant reacted to the plaintiff's counter affidavit to the notice of Preliminary Objection by filing a further and better affidavit in support of the Notice of Preliminary Objection. It has 6 paragraphs and was sworn to by Elizabeth Bello a Civil Servant of Civil litigation Department Federal Ministry of Justice Abuja on 29th January, 2018. Accompanying the further and better affidavit is a written address, being a reply on points of law to the plaintiff's counter affidavit to the 2nd defendant's Preliminary Objection.

On 19th December, 2017 the plaintiff caused to be filed on his behalf a further and better affidavit in support of the Originating Summons. The further and better affidavit, which was sworn to by Mubarak Iliyasu contains 6 paragraphs. Attached to it are (i) Exhibit 1, being Rules of the House of Representatives 2003, and (ii) Exhibit 2, being Rules of Parliament. The 1st and 2nd defendants reacted to the plaintiffs further and better affidavit in support of the Originating Summons by filing a further counter affidavit on 5th December, 2018. The further counter affidavit which contains 5 paragraphs was sworn to by Jennifer Igberechinma supra. Attached to the 1st and 2nd defendants' further counter affidavit are Exhibits EFCC2 and EFCC3. Exhibit EFCC2 is a certified True Copy of the Rules of

the 5th Assembly while Exhibit EFCC3 is a Certified True Copy of a letter from the clerk of the House of Representatives.

In further reply to the plaintiff's further affidavit in support of the plaintiff's Originating Summons deposed to on 19th December, 2017, the 1st defendant filed a reply in the form of a further counter affidavit of 15 paragraphs sworn to by Babangida Hamman on 15th December, 2018. On 29th January, 2018, the 2nd defendant's counsel filed a reply on points of law to the plaintiff's counter affidavit to the 2nd defendant's Preliminary Objection.

At the hearing of the objection and Originating Summons on 8th February, 2018, the 1st Respondent's reply to the further and better affidavit by the plaintiff, which was deposed to by Babangida Hamman on 15th January, 2019 was struck out at the instance of the 1st defendant.

Thereafter, the 2nd defendant's counsel moved his Notice of Preliminary Objection, which the 1st defendant's counsel conceded to, but opposed to by the plaintiff's counsel. Both the 2nd defendant's and the plaintiff's counsel adopted their respective processes in respect of the Notice of Preliminary Objection. The plaintiff's counsel thereafter adopted the processes filed by the plaintiff in respect of the Originating Summons and prayed the court to grant the reliefs sought in the Originating Summons. The 1st and 2nd defendants' counsel respectively adopted their processes filed in opposition to the Originating Summons and urged the court to dismiss same. The court adjourned for ruling on the 2nd defendant's notice of preliminary objection as well as the judgment on the originating summons.

The learned trial judge in his ruling on the Notice of Preliminary dismissed the plaintiff's suit for being an abuse of court process. However, he proceeded to consider the Originating Summons on its merit, and dismissed same. Displeased with the ruling and the judgment, the plaintiff who was already out of time to express his displeasure by appealing against it, sought the order of extension of time to file his appeal out of time from this court. This was granted on 3rd December, 2018 with 14 days given to him within which to file the Notice. The Notice of appeal was accordingly filed on 11th December, 2018. Three grounds of appeal are contained in the Notice of appeal. For ease of reference, the three grounds of appeal with their particulars are hereunder reproduced:

GROUND ONE

The learned trial judge of Federal High Court sitting in Kaduna Judicial Division, Kaduna erred in law when he held that the challenge to the competence of the proceedings by the plaintiff on ground of abuse of judicial process has merit.

PARTICULARS

1. The learned Trial judge relied on the averment in the 1st respondent's counter affidavit in support of his preliminary objection on the grounds that plaintiff's suit amount to abuse of court processes.

2. The learned Justices were in error when they held that the Circumstantial Evidence against the Appellant was convincing enough to corroborate the content of the confessional statement in proving of the guilt of the Appellant.

GROUND TWO

The learned trial judge erred in law when he dismissed the plaintiff suit as against striking out for lack of jurisdiction. (Sic)

PARTICULARS

1. That the learned trial judge who resolved that he does not have jurisdiction to entertain the plaintiff suit and (sic) ground of abuse of court processes dismissed the plaintiff's suit in its entirety.

GROUND THREE

That learned trial judge erred in law when he relied on sections 131(1), 132 and 134 of the evidence act 2011 in placing the burden of prove entirely on the plaintiff to succeed in his suit.

PARTICULARS

1. That the learned trial judge in dismissing the plaintiff suit resolved that for the plaintiff to succeed in his case he has to prove that the Economic and Financial Crime Commission (establishment) Act 2004 was not an enacted by the National Assembly.

The record of appeal was compiled and transmitted on 14th December, 2018. The Appellant's brief of argument, settled by **Mohammed N. Katu, Esq**, was filed on 27th December, 2018. The 1st Respondent's brief of argument, settled by **Chile Okoroma, Esq**, was filed on 6th February, 2019.The 1st Respondent filed a Notice of Preliminary Objection to the hearing of the appeal. The Notice of Preliminary is predicated on two grounds, which are:

(1). There is no indication as to the actual person who signed the Notice of Appeal.

(2). The signature on the Notice of Appeal is not traceable to any of the persons whose names appeared as counsel to the Appellant.

The Notice of Preliminary Objection is also supported by an affidavit of 6 paragraphs deposed to by **M. E. Eimonye,** a legal Practitioner in the legal and prosecution department of the 1st Respondent. Annexed to the affidavit is Exhibit ***"ME1"*** which is the Notice of Appeal. Arguments in support of the Notice of Preliminary Objection is incorporated into the 1st Respondent's brief of argument supra.

In opposition to the Notice of Preliminary Objection, the appellant filed his reply brief of argument, settled by his counsel on 28th February, 2019, wherein his arguments in opposition to the Notice of Preliminary Objection are contained.

The 2nd Respondent's brief of argument, settled by **T. A. Gazali** was filed on 19th March, 2019, and deemed filed on 9th May, 2019. The 3rd Respondent's brief of argument, settled by **Dr. Garba Tetangi,SAN**, was filed on 9th May, 2019.

The Notice of Preliminary Objection seeks to snuff out life out of the Appellant's Appeal. It is therefore instructive to deal with it first, since its success will render otiose the hearing of the substantive appeal.

In his submissions in support of the 1st Respondent's notice of preliminary objection, learned counsel relied on sections 2(1) and section 24 of the Legal Practitioners Act, and submitted that the purpose of the said sections is to ensure that only a Legal Practitioner whose name is on the roll of the Supreme Court signs court process/legal process. After citing

many authorities, learned counsel submitted that the Notice of Appeal in the instant Appeal has a signature which is not traceable to any of the counsel named because none of the names indicated in the Notice of Appeal is ticked. That the Notice of Appeal therefore suffers from an incurable defect, which renders it invalid.

For the appellant, it was submitted that the authorities cited by the 1st respondent's counsel are not relevant in that the Notice of Appeal herein was not signed by a Law Firm but an unidentifiable legal practitioner. It was submitted that the name **Mohammed Katu, Esq**, is directly beneath the signature on the Notice of Appeal indicating that the Notice of Appeal was signed by him, as against the 1st Respondent's assertion that the law firm, Mamman Nasir & Co signed it.

The Legal Practitioners Act, LFN, 2004, with particular reference to sections 2(1) and 24, thereof, was intended to cure a mischief; that of preventing fake lawyers parading themselves all over the place. It was however, not a complete success, as despite its promulgation the practice it sought to check persisted with devastating indignation to the practice of law in Nigeria. Concerned about this the use of seal was introduced vide the Rules of Professional conduct for Legal Practitioners 2007 to save the situation. Rule 10(1) of the Rules of Professional Conduct makes it mandatory for legal documents, including Notice of Appeal and all other processes filed in court to have affixed to them the seal of the Legal Practitioner who prepared them. That provision does not only help (and in fact has not only helped) to check the malaise of fake lawyers but has helped in identifying who among several lawyers whose names appear on a

court process prepared or settled same, since two counsel cannot sign a court process. In this appeal, in compliance with Rule 10(1) of the Rules of Professional Conduct the seal of the counsel who filed the Notice of appeal is affixed beside the names of several counsel in the law firm of Mamman Nasir & Co, Appellant's counsel. The first name in the list of counsel is the name of Mohammed Katu, Esq, above which is a signature. The name on the seal is Mohammed K. Ndanusa. Even without any name being ticked, is it not obvious that the Notice of Appeal was signed by Mohammed Katu? I want to state without equivocation that where there is a seal on a court process, it is otiose to tick the name of counsel whose name is in the seal as the signatory on the document or process. Therefore the contention of the 1st respondent's counsel that the signature on the Notice Appeal is not traceable to any of the persons whose names appeared as counsel to the Appellant lacks substance. I have read the authorities cited by the 1st Respondent's counsel. I must say that while they are good authorities for the Principle and rationale behind the Legal Practitioners Act, they do not fit into the situation in this appeal. I refer specifically to the case of **Guaranty Trust Bank Plc v. Innoson (Nig) Ltd (2017) LPELR-42368 (SC)**, and the case of **Allu & Anor. v. Gyunka & Ors (2015) LPELR-40478 (CA)**. The two cases are clearly not applicable in this appeal. Therefore the Respondent's Notice of Preliminary is without substance, and is hereby dismissed.

In his brief of argument, the Appellant formulated three issues for determination. The issues are:

"1. *Whether considering the different nature of Suit No. FHC/KD/CS/112/2017 and Suit No. FHC/ABJ/CS/1100/2017 upon which the Respondent filed a Preliminary Objection challenging the jurisdiction of the lower court on ground of abuse of court process, the lower court was right in holding that the plaintiff's Suit in suit No. FHC/KD/CS/112/2017 amounts to abuse of Court process? (From Ground One)*

2. *Whether having upheld the Preliminary Objection filed by the Respondent and holding that he lacks jurisdiction to entertain the Plaintiff's suit on ground of abuse of court process, the learned trial judge was right in dismissing the Plaintiff's suit as against striking out same? (From Ground Two).*

3. *Whether considering the nature of the Plaintiff's suit at the lower court vis-à-vis the procedure for repealing and enacting an Act and the clear affidavit evidence together with the annexures attached in the affidavits in support of the Plaintiff's Originating Summons, the learned trial judge was right in holding that the burden of proving that the procedure for enacting the 2004 EFCC Act rest on the plaintiff? (From Ground three)."*

Arguing issue one, it was submitted that the following pre-conditions must not only be present but must co-exist before a suit can be said to constitute abuse of court process:

(a) A multiplicity of suits.

(b) Between the same parties

(c) On the same subject matter

(d) On the same issues.

Reliance was placed for this submission on the case of **Umeh & anor v. Iwu & Ors. (2008) LPELR-3363 @ Page 22 Paras B-C**. It was further submitted that the mutual inclusion of the conditions supra are lacking in both suit No. FHC/KD/112/2017 and Suit No. FHC/ABJ/CS/1100/2017. Also relied on by counsel to the Appellant in his submission is that where same parties feature and in the same subject but with different issues, there is no abuse of court process. Counsel relied on the case of **Awofeso v. Oyenuga (1996) 7 NWLR (Pt. 460) 360 @ 367**.Counsel urged us to therefore resolve this issue in favour of the Appellant.

On issue 2, it was submitted for the appellant that even if it is conceded (though he did not concede) that the plaintiff's suit at the lower court constituted an abuse of court process, what the court should have done was to strike it out and not to dismiss it. Counsel relied on the following cases: **Ikpekpe v. Warri Refinery & Petrochemical Co. Ltd & Anor (2018) LPERL-24347 (SC) PP. 25-26 Paras E-A; Inakoju & Ors. v. Adeleke & Ors (2007) LPELR-1510 (SC) PP. 33-34, Paras A)** and **PDP v. Senator Amodu Sherif (2017) LPELR-42736 (PP 33-34), Paras A-E)**.

On issue three, it was submitted for the Appellant on the authority of **Itauma v. Akpe-Ime (2000) LPELR-1557 (SC) (P. 10 Paras D-E)** that:

> ***"... in civil cases, the burden of proof is not static, while the burden of proof initially lies on the plaintiff, the proof of rebuttal of the issues which arise in the course of proceedings may shift from the plaintiff to the defendant and vice-versa."***

It is therefore the Appellant's contention that he placed enough material evidence before the lower court to show that due process of law was not followed before the EFCC Act of 2002 was repealed by the then president of the Federal Republic of Nigeria. On this issue, cases cited and relied on by counsel include, **A. G. Federation v. A. G. Abia State (2002) 6 NWLR (Pt. 764) 542, P. 660 Paras C-D,A. G Bendel State v. A. G. Federation & Ors (1981) 605 (SC), (P. 22 Paras B-E)** and **Nduul v. Wayo & Ors (2018) LPELR-45151 (SC) Paras A-B.**

It was submitted that the Lower Court was wrong in holding that it was the plaintiff that failed to prove that EFCC Act, 2004 did not follow laid down procedure as the 3rd and 4th defendants failed to produce before the court any proceedings of the National Assembly between 2003 and 2007 to show that the EFCC Act was actually debated upon and assented to by President of the Federal Republic of Nigeria. We are urged to resolve issue three in favour of the Appellant and to, in sum allow the Appeal.

The 1st Respondent also formulated three issues for determination. The issues are:

"1. ***Whether the trial court was right when it upheld the Preliminary Objection of the 2nd respondent and held that the Appellant's suit was an abuse of judicial process. (Distilled from Ground One of the Notice of Appeal).***

2. ***Whether the trial court was right when it dismissed the Appellant's suit instead of striking it out. (Distilled from Ground Two of the Notice of Appeal).***

3. ***Whether the trial court was right when it held that the onus or burden of proving that the Economic and Financial Crimes Commission (Establishment) Act, 2004 was not passed by the National Assembly of Nigeria rested on the Appellant. (Distilled from Ground Three of the Notice of Appeal)."***

In his argument in issue one, it was submitted by the 1st Respondent's counsel that the contention of the appellant that suit No. FHC/KD/CS/112/2017 was premised upon the provisions of the 1999 Constitution vis-à-vis the validity of the EFCC (Establishment) Act, 2004 which makes it to be at variance with Exhibit AGF1 (that is the suit in Abuja) is unmeritorious because the challenge to the validity of the EFCC Act is in relation to the competence and legitimacy of the 1st Respondent to procure and execute a warrant of arrest against the Appellant. It was further submitted that all the elements highlighted in the case of **Umeh v. Iwu (supra)** that must co-exist for an abuse of court process to be constituted are present in the instant case. Other cases relied on for abuse of process concept include **Arubo v. Aiyeleri (1993) 3 NWLR (Pt. 280) 126, Ashey Agwasim & Anor v. David Ojichie & Anor (2004) 10**

NWLR (Pt. 882) 612 @ 622 F-H. Counsel urged us to resolve this issue in favour of the 1st Respondent.

On issue two, it was submitted that the decision of the trial judge to dismiss the plaintiff's suit having found that it constituted abuse of court process depriving him of jurisdiction was consistent with the settled position of the law. Counsel relied on the following cases: **Senate President v. Nzeribe (2004) 9 NWLR (Pt. 878) 251 @ 272, Paras C-E, Inakoju v. Adeleke (2007) 4 NWLR (Pt. 1025) 427 @ 622-623 Paras A-G, Dapialong & 5 Ors. v. Dariye & Anor (2007) 4 SC (Pt. iii) 118 @ 168, Lines 25-35**.

He pointed out that were it a case of taking evidence, the trial judge could have rightly struck out the case and stop at that. However, since he had proceeded to determine the merit of the case be rightly dismissed it, so that even if the Appeal Court finds that there was no abuse of court process there would be no need to send the case back for trial on the merit.

Counsel however submitted that even if the lower court was wrong, if the Court of Appeal finds that there was indeed an abuse of court process the striking out which the trial court did would amount to the same dismissal order. We were referred to the case of **Obasi Brothers Merchant Co Ltd v. Merchant Bank of Africa Securities Ltd (2005) ALL FWLR (Pt. 261) 216 @ 232**.

Arguing issue three it was submitted for the 1st Respondent that it is settled principle of law that he who asserts must prove in order to be

entitled to judgment. On this submission counsel relied on S. 131(1), 132, and 133 of the Evidence Act. Also relied on is the case of **Olowu v. Olowu (1985) 3 NWLR (Pt. 13) 372, Orji v. PDP (2009) 14 NWLR (Pt. 1161) 310**. It was further submitted that apart from bare assertions, the appellant did not adduce any modicum or scintilla of evidence to prove his case. That has rightly found by the trial court Exhibit 1A (the EFCC Act) itself did not support the Appellant's case. He referred the court to the marginal note which states that it was enacted by the National Assembly. On the whole it is the contention of the 1st Respondent that the Appellant's suit was rightly dismissed.

The 2nd Respondent adopted the issues formulated by the Appellant in his opposition to the appeal. On the first issue, he submitted that the trial Judge was right in holding that the Plaintiff's suit before him constituted an abuse of court process. He relied on the case of **Allanah v. Kpolokwu (2016) 6 NWLR (Pt. 1507) 1**. Placing the suit decided by the lower court and Suit No. FHC/ABJ/CS/1100/2017 filed at the Federal High Court Abuja, Counsel submitted that the Central claim in both is the nullification or voiding of the arrest warrant, and to stop the appellant's arrest. It was further submitted that the challenge to the validity of the EFCC Act can as well be taken in the first suit, that is Suit No. FHC/ABJ/CS/1100/2017 in Abuja, which would have obviated the need for the filing of the second suit before the lower court. It was contended that the lower court ought to have dismissed the matter instead of merely striking out having found that it constituted an abuse of court process. On this he placed reliance on the case of **A. G. Kwara v. Lawal (2018) 3**

NWLR (Pt. 1606) 266. Further submitted is that it is not every mistake made by the trial court can entitle an appellant to succeed on appeal. What can entitle an appellant to succeed must be an error that is substantial and resulting in injustice. Reliance is placed on the case of **Omorede Darlington v. FRN (2018) 11 NWLR (Pt. 1629) 157**. Also referred to and relied on is the case of **Nigerian Institute of International Affairs v. Mrs. T. O. Anyafalu (2007) 2 NWLR (Pt. 1018) 247**. We were urged to hold that the dismissal of the suit on its merit was right.

On issue two, it was contended that the preliminary objection and the substantive matter were taken together based on Order 29 of the Federal High Court (Civil Procedure) Rules, 2009, and therefore the proper order to make in finding that the suit constituted abuse of court process was one of dismissal. In any case, it was further submitted, the Appellant has not suffered any miscarriage of justice by both the striking out based on the notice of Preliminary Objection and dismissal based on the merit of the case.

The argument of the 2nd Respondent on issue three is that for the Appellant to have discharged the burden of proof statutorily placed on him, he must establish either of the following:-

(i) That the EFCC Act is not the creation of the President by virtue of S. 315 of the Constitution, or

(ii) That the National Assembly did not pass it into law.

That the appellant however failed to prove either of the two. That what was required of him on the average is minutes of proceedings of

National Assembly at least for the period the law was passed which would have been the only evidence to rebut the dates the Act was stated to have been passed as stated therein, or documents showing that the former President Obasanjo brought into force the Act pursuant to section 315 of the Constitution. In his submission, counsel relied on section 106 of the Evidence Act which provides a guide as to how official documents such as Acts of the National Assembly, Laws of the House of Assembly etc may be proved. Counsel also referred to and relied on section 122 of the Evidence Act which has listed out facts which need not be proved and submitted that in line with those provisions the 1st Respondent exhibited an official gazette of the Federal Republic of Nigeria which published the EFCC Act 2004. Counsel referred this court to page 482 of the record of appeal. He also referred to a letter from the clerk of the House of Representatives which established that the deponent who deposed on behalf of the Appellant has no direct link with law making process. Reference was made to page 401 of the record. Counsel submitted that this evidence remains unassailable. On the whole we are urged to dismiss the appeal.

Two issues were distilled for determination in the 3rd Respondent's brief of argument. The issues are:

> "***(1) Whether the learned trial judge was right in holding that the appellant's case was an abuse of Court process and dismissing the action having considered the case on its merit (Grounds 1 and 2).***
>
> ***(2) Whether the trial judge erred when he relied on sections 131(1), 132 and 134 of the Evidence Act, 2011 to place the***

burden of proof on the Appellant (Ground 3)."

Arguing issue one, it was submitted for the 3rd Respondent that the action of the Appellant in filing two cases with the same parties, same subject matter and same issue was an abuse of court process. Counsel placed reliance on the case of **Umeh & Anor v. Iwu & Ors (2008) LPELR-3363, P. 22 Paras B-C** and the case of **TSA Ind. Ltd v. FBN Plc (No. 1) (2012) 4 NWLR (Pt. 1320) 326, 344 Para B-H (SC).** Also relied on for what amounts to abuse of Judicial Process is the case of **Adeniyi v. FRN (2012) 1 NWLR (Pt. 1281) 284**. Having outlined the circumstances that will amount to abuse of judicial process, it was submitted that the appellant's suit at the lower court encapsulated all of those circumstances. Counsel went further to submit that the intention of the Appellant in filing both cases simultaneously was to frustrate the 1st Respondent from arresting him since he had been declared a wanted man. A number of several other cases were cited to support the position that when a court comes to the conclusion that its process has been abused, the appropriate order to make is that of dismissal. Counsel submitted that a striking out will avail the filing of another suit which in itself will amount to a further abuse. Cases relied on by counsel on this submission are **TSA Ind. V. FBN Plc (No. 1) (supra) P. 34 Para C, Arubo v. Aiyeleru (1993) 3 NWLR (Pt. 280) 126 and Ilode v. Yusuf (2001) 4 NWLR (Pt. 703) 392.**

It was further submitted that acting under Order 29 Rule 1 of the Federal High Court (Civil Procedure) Rules, 2009 both the Preliminary

Objection and the substantive suit were consolidated by the lower court. That assuming but not conceding that the proper order for the court to make after sustaining the objection was striking out, the case was considered on merit. He submitted further that a party who has not proved his case is liable to have it dismissed as a matter of course. On issue two it is the contention of the 3rd Respondent that the burden of proof in all civil cases is on the plaintiff, and on the party who will fail if no evidence at all or no more evidence is given on either side. It was further submitted that the plaintiff should rely on the strength of his case rather than on the weakness of the defendant's case. Cases relied on by counsel include **Akande v. Adisa (2012) 15 NWLR (Pt. 1324) 538 (SC), Ayorinde v. Sogunro (2012) 11 NWLR (Pt. 1312) 460 (SC)**. He submitted that the appellant's claim that the former President Olusegun Obasanjo single handedly repealed the EFCC Act 2002 and enacted the 2004 Act is a fundamental allegation and the burden of proof lies on the plaintiff. Counsel aligned himself with the invocation of S. 168 (1) of the Evidence Act by the lower court and that the presumption of regularity casts back to the plaintiff the burden to rebut the said presumption but he failed to do so, leaving the trial judge no option other than to dismiss his claim. We were therefore urged to resolve the issue in favour of the Respondents.

In my respectful and humble view the issues formulated and argued by the Appellant and the whole set of Respondents can be condensed into two issues which are comprehensive to accommodate all the material points in this appeal. The issues are as hereunder formulated by this court:

(1) ***Whether the trial judge was right in holding that the plaintiff's suit constituted an abuse of court process; and if he was, what was the appropriate order to make.***

(2) ***Whether the trial judge rightly placed the burden of proof on the plaintiff, and rightly came to the decision that he did not discharge that burden and dismissed his claims.***

RESOLUTION OF THE ISSUES

1SSUE ONE

Whether the trial judge was right in holding that the plaintiff's suit constituted an abuse of court process; and if he was, what was the appropriate order to make.

It is in my view instructive to commence the consideration of this view from a clear understanding of the concept of abuse of judicial or court process. It is settled that the employment of judicial process is only regarded as an abuse when a party improperly uses the judicial process to the irritation and annoyance of his opponent. See **Nwosu v. PDP & Ors (2018) LPELR-44386 (SC).**

In the case of **Ladoja v. Ajimobi (2016) LPELR-40658 (SC)**, abuse of court/judicial process was thus defined:

> ***"What do we mean by abuse of process of court? In the case of Saraki v. Kotoye (1992) 9 NWLR (Pt. 264) 156, this court stated that the concept of abuse of judicial process is imprecise and that it involves circumstances***

and situations of infinite variety and conditions, that a common feature of the concept is the improper use of the judicial process by a party in litigation to interfere with the administration of justice."
At page 188 of the report Karibi Whyte, JSC stated the position as follows:-

"It is recognized that the abuse of the process may lie in both proper or improper use of the judicial process in litigation. But the employment of judicial process is only regarded generally as an abuse of the judicial process when a party improperly uses the issue of the judicial process to the irritation and annoyance of his opponent, and the efficient and effective administration of justice."Per Onnoghen, JSC (PP. 67-68, Paras D-B).

In the case of Elizabeth Mabamije v. Hans Wolfgang Otto (2016) LPELR-26058 (SC) it was held:

"It becomes clear that filing this suit on the same facts, in which the Appellant asks for the same reliefs as in Suit No. W161/2000 amounts to an abuse of process. It amounts to an abuse of process when a party improperly uses the judicial process to the annoyance of the other party. Proceedings that are not bonafide, that are frivolous, vexatious, or oppressive. See Saraki v. Kotoye (1992) 9 NWLR (Pt. 264) P. 156, Amaefule v. State (1988) 2 NWLR (Pt. 75) P. 156, Agwasim v. Ojichie (2004) 10 NWLR (Pt. 882) P. 613. My lords, instituting multiplicity of actions on the same subject matter against the same opponent on the same issue would

amount to an abuse of process. Suit No. W161/2000 and this suit are on the same subject matter against the same Respondent and this suit are on the same subject matter against the same Respondent on the same issue. Filing this suit amounts to an abuse of process as the Appellant discontinued, Suit No. W161/2000 because she was satisfied with the furnishing of her house by the Respondent." Per Rhodes-Vivour, JSC (P. 19 Paras A-E).

As can be seen from the cases what makes a case an abuse of Court Process is not precise. The features are many. However, certain factors have been accepted by the court to constitute an abuse of court process. The most common features include:

(a) Filing of multiplicity of actions on the same subject-matter against the same opponents on the same issues or numerous actions on the same subject matter between the same parties even when there is in existence a right to commence the action.

(b) Instituting different actions between the same parties simultaneously in different courts even though on different grounds.

(c) Where two or more similar processes are used in respect of exercise of the same right, for instance, a cross appeal and a respondent's notice.

(d) Where two actions are instituted in court, the second one asking for relief which may be obtained in the first, the second action is, Prima

facie vexatious and an abuse of court process. See **Allanah v. Kpolokwu (2016) 6 NWLR (Pt. 1507) SC 1 @ Pages 27-28 Paras G-C. See also Okorocha v. PDP (2014) 7 NWLR (Pt. 1406) 213 ; Saraki v. Kotoye (1992) 9 NWLR (Pt. 264) 156.**

I have examined the Originating Summons filed at the Federal High Court Abuja in Suit No. FHC/ABJ/CS/1100/2017 between:

Abdulraheem Maina

And

1. Attorney General of the Federation.
2. Economic and Financial Crimes Commission.
3. Inspector General of Police.
4. Commissioner of Police (Interpol).
5. Nigeria Immigration Service.

I have also read the affidavit in support of the Originating Summons.In terms of parties to the two suits that is Suit No. FHC/ABJ/CS/1100/2017 and the suit before the lower court which is on appeal before us, there are only two or three parties that have not featured in both of them. The Inspector General of Police (Interpol) and Nigeria Immigration service are not parties in the suit that is before us on appeal. On the other hand, The Senate President and The Speaker of the House of Representatives who are 3rd and 4th defendants respectively are not parties in Suit No. FHC/ABJ/CS/1100/2017. However, one relief is central and common in the two suits, and that is, the one that pertains to the arrest of the plaintiff. In Suit No. FHC/ABJ/CS/1100/2017, the reliefs therein are as follows:

(1) A declaration that the purported warrant of arrest against the plaintiff issued by the FCT Magistrate court at the instance of the defendants constitutes a brazen desecration of due process of law, unconstitutional, illegal and therefore null and void.

(2) A declaration that the purported warrant of arrest against the plaintiff issued against the plaintiff issued without jurisdiction by the FCT Magistrate at the instance of the defendants is an infringement of plaintiff's fundamental rights to personal liberty and freedom of movement eminently guaranteed under sections 35 and 41 of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

(3) An order of court setting aside, nullifying, and/or voiding the purported warrant of arrest issued by the FCT Magistrate without jurisdiction.

(4) An order of court setting aside all steps taken by the defendants in the procurement of the illegal warrant of arrest and execution of same.

(5) An order of court restraining the defendants from giving effect to purported warrant of arrest issued by FCT Magistrate Court or in any way executing same against the plaintiff or howsoever interfering with the liberty of the plaintiff save by due process of law.

In suit No. FHC/CS/112/2017, which is before us on appeal the reliefs that are in relation to the arrest/warrant of arrest of the plaintiff are reliefs Nos. 4, 5, and 8. For ease of reference, they are as follows:

> "***4. A declaration that the 1st Respondent cannot lawfully invoke the provisions of Economic and Financial Crimes Commission (Establishment) Act, 2004 to declare the plaintiff wanted and direct his arrest by security agencies in Nigeria.***
>
> ***5. An order setting aside any warrant of arrest initiated by the 1st Respondent or any Government agencies against the Applicant.***
>
> ***8. An order of perpetual injunction restraining the defendants either by themselves, their privies, agents, officers or whatever name called from taking any further steps against the herein plaintiff in relation to his constitutional rights through the instrumentality of Economic and Financial Crimes Commission (Establishment) Act, 2004."***

Now, the 3rd and 4th defendant's in suit No. FHC/KD/CS/112/2017 before us were not parties in suit No. FHC/ABJ/CS/1100/2017. This may invoke the temptation to hold that the parties in the two suits are not the same and that the reliefs as pertains the two defendants are being made for the first time since they were not sued in the earlier suit. I need to point out this very clearly; the 1st and 2nd defendants were parties in that

suit. It is therefore irritating, vexatious and annoying that having been sued in respect of the arrest of the plaintiff in suit No. FHC/ABJ/CS/1100/2017, they should again be brought to Kaduna and be sued in Suit No. FHC/KD/CS/112/2017 in respect of same arrest. Now it might be suggested that the suit on appeal cannot constitute abuse of court process because the 3rd and 4th defendants were not parties in Suit No. FHC/ABJ/CS/1100/2017, and that the relief pertaining to the enactment of the Economic and Financial Crimes Commission (Establishment) Act, 2004 were not asked for in that suit. The point must not be missed that the essence of concept of abuse of judicial or court process lies in the proper or improper use of court or judicial process in order to harass, irritate and annoy the adversary with the consequence of interference with the administration of justice. One of the key instances of abuse of court process is where two actions are instituted in court, the second one asking for relief which may however be obtained in the first, the second action is prima facie vexatious and an abuse of court process. The plaintiff cannot pull a wool over the eyes of the court. It is manifest that intention of the plaintiff making the 3rd and 4th defendants parties and to ask for nullification of the Economic and Financial Crimes Commission (Establishment) Act, 2004 on which basis the plaintiff is sought to be arrested is to knock off the substratum upon which the intended arrest of the plaintiff rests. If it were otherwise, since he is already challenging the warrant of arrest issued against him in the suit at Abuja, why is he asking for the same reliefs in the suit at Kaduna again? The whole idea, I think is to cause confusion, and frustrate the execution of the warrant of arrest.

This is where I think again, the plaintiff is interfering with due administration of justice through the improper use of judicial process. The concept of judicial process frowns at the practice of a party splitting into piece meal cause or causes of action that can be maintained in one suit and litigating them all over the place to send his opponent running all over to defend those suits.

In the instant appeal, the plaintiff/appellant could have appropriately joined the reliefs pertaining to the nullification of the Economic and Financial Crimes Commission (Establishment) Act, 2004 which he seeks in this court in Suit No. FHC/ABJ/CS/1100/2017. All he needed to do is to join the 3rd and 4th defendants in suit No. FHC/KD/CS/112/2017 in that suit. As it is, it is not within this court's competence to sever in this suit, the 3rd and 4th defendants who were not parties in Suit No FHC/ABJ/CS/1100/2017 and the reliefs sought against them, and hold that since they are not parties therein the plaintiff can escape the hammer of abuse of court process which this court must undoubtedly find in the suit at the lower court as it relates to the 1st and 2nd defendants.

The synopsis of all I have been saying is that the plaintiff's suit constitutes abuse of court process. Therefore the lower court was not in error in so holding.

The appellant is also piqued with what he submitted is the dismissal of the suit having found that it constitutes an abuse of court process. In his submission, the trial Judge ought to have only struck it out. He has not elaborated on why he prefers an order of striking out. A distinction must be drawn between lack of jurisdiction based on abuse of court process and

lack of jurisdiction either when a condition precedent for the commencement of the action is not fulfilled, lack of territorial jurisdiction, or subject matter jurisdiction or qualification of the judge. In the first instance, once a court finds that a suit constitutes an abuse of court process, whether it makes an order of striking out or dismissal, the effect is the same. The plaintiff can never relitigate that same suit again. Its right lies only on appeal. In the second category of want of jurisdiction, the party can still go to the appropriate court to institute the action, or where the court declines jurisdiction on the ground that a pre-condition for the commencement of the action had not been fulfilled the plaintiff could subsequently fulfill that precondition and go to commence his action.

In my view, where a court finds that it's a process has been abused, the most appropriate order to make is one of dismissal. I have the blessing of the Supreme Court in this view. In the case of **A. G. Kwara State & 1 Or. v. Alh. (Hon) Ishola Lawal & Ors (2018) 3 NWLR (Pt. 1606) 266 (SC)**, it was held:

> ***"The law is that where two actions of similar or same nature are between the same parties and on the same subject matter seeking the same result are being prosecuted simultaneously or concurrently before the same court or different courts, the later action is an abuse of court process... The consequence of the later action being an abuse of the former is that the later action stands to be dismissed." Per Eko, JSC (P. 285, Paras A-C).***

The lower court concluded on the issue of abuse of court process by reference to the case of **N. V. Scheep v. M.V.S. Araz (2000) 15 NWLR (Pt. 691) P. 622** where, the Supreme Court Per, Ogundere, JSC said:

> ***"Where an abuse of the process of the court is established, the peremtory order is the striking out of the suit. No reason is required. That alone is sufficient."***

I had in the course of this judgment said that where an abuse of court process is established, whether an order of striking out or dismissal is made, the effect is the same. I have taken my view that I prefer an order of dismissal, which is what I hereby make against the Appellant in this appeal.

The appellant went on to also question the action of the lower court in proceeding to consider the merit of the case and dismissing same after holding that the case constituted an abuse of court process. That argument completely lacks substance. What the lower court did was the right thing to do, in line with the direction of the Apex Court, in the case of **Arewa Paper Converters Ltd v. N.D.I.C (Nigeria Universal Bank Ltd) (2006) LPELR-548 (SC)**, where the court stated:

> ***"Normally, where the court of law lacks jurisdiction to hear a matter and comes to that decision, the court has nothing to do with the merits of the matter because the exercise will be in futility. However, courts below the Supreme Court will not be wrong to take the merits of the matter in the alterative. This exercise is useful and becomes very handy in the event that the***

court wrongly ruled that it had no jurisdiction when it had. This helps in no little way in saving litigation period. Instead of sending the case back to the court to hear the matter because it has jurisdiction, a decision in the alternative will stop such a procedure.*"Per Mohammed, JSc 9P. 32, Paras C-E).*

This finally brings to end my consideration of issue one which I hereby resolve in favour of the Respondents and against the Appellant.

ISSUE TWO

Whether the trial judge rightly placed the burden of proof on the plaintiff, and rightly came to the decision that he did not discharge that burden and dismissed his claims.

In civil cases, the burden of proof lies on the person who wants the court to believe in the existence of the facts he asserts for his claim before the court. See **Section 131 of the Evidence Act**. The burden must necessarily be on him because it is he that will fail if no evidence is adduced on either side. Therefore the plaintiff in any civil proceeding bears the first burden. See **Section 132 of the Evidence Act**. The burden on the plaintiff never shifts until he adduces evidence which ought to reasonably satisfy the court as to the proof of the fact he is called upon to establish. Once that is done, the onus shifts to the other party to rebut, and when he too had rebutted, the onus would shift to the other party who started again. This is the import of **section133 of the Evidence Act, 2011**. This burden is discharged on the balance of probabilities. See **Section 134 of the Evidence Act, 2011**. See **Obawole & Anor v.**

Williams & Anor (1996) LPELR-2158 (SC); Nsefik (since Dead) & Ors v. Muna & Os (2013) 21862 (SC).

What the plaintiff is challenging is not just the process of enactment of the Economic and Financial Crimes Commission (Establishment) Act, 2004. Not at all, his contention is that it was not at all subjected to legislative process. That it was never at all tabled before the National Assembly. The allegation is very serious. The burden on him to prove this is serious, and if he discharges that burden, it will then shift to the defendants too will no doubt have a serious duty rebutting that. But like I said the plaintiff bears the first burden. We are talking about evidence, not before a native, Area or Customary Court which is not bound by the Evidence Act 2011. But before a Superior Court which must observe and apply the provisions of the Evidence Act. There is no doubt that the Economic and Financial Crimes Commission (Establishment), Act 2004 is an official document of the Federal Republic of Nigeria. Even if the plaintiff is challenging its due enactment, on its face it shows that it is an official document.

This matter was commenced by Originating summons. Therefore the affidavit and counter affidavit, further affidavit, further and better affidavit, and further counter affidavits sworn to by the various deponents represent the pleadings of the parties. Issues were therefore sufficiently joined on the pleadings. It is evident that in answer to the plaintiff's claim the defendants have averred to facts establishing that the Economic and Financial Crimes Commission (Establishment) Act, 2004 was passed by the National Assembly and assented to by the President. They attached the

schedule and the Gazette. In response to the averment by one Mubarak Iliyasu based on the information supplied to him by one Hon. Ngozika Ihuoma who he averred was appointed Secretary to the Commission, that the EFCC Act, 2004 did not go through parliamentary debate, the defendants exhibited a letter from the clerk of the house of Representatives to show that the said Ngozika was a mere legislative aide to an Honourable Member by name Hon Independence Ogunewe, whose duties did not extend to monitoring Committees of both houses of National Assembly or knowing what transpired in the proceedings. They also attached the procedures for passing the laws under the two Rules of the House of Representatives (that is, the Rules applicable in the 5th Assembly in 2004 when the Act was passed and the old rules which the plaintiff lays claim to. It was also averred on behalf of the 2nd defendant that the EFCC Act, 2004 was among the laws of the Federation that were validated on 25th May, 2007. To all these averments no satisfactory replies came from the plaintiff.

Now, **section 148(a) of the Evidence Act, 2011** provides that the court shall presume the genuiness of every document purporting to be an official Gazette of Nigeria or a state. By this provision, Exhibit EFCC1 annexed to the 1st defendants counter affidavit is presumed to be a genuine copy of the Act.The certification page of the Schedule to the EFCC Act, 2004 shows the President's assent below the certification of the clerk of House of Representatives. Exhibit 1A attached to the counter affidavit of the 1st defendant, sworn to by Yusuf Musa, is a genuine copy of the

Gazetted copy of the EFCC Act, 2004. The Gazetted Copy shows the certification by the clerk and his signature which reads:

> ***"I certify that this bill has been carefully prepared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act, Cap 4, Laws of the Federation of Nigeria, 1990."***

Under it reads: "I ASSENT" and the name and signature of Chief Olusegun Obasanjo dated 4th day of June, 2004. **Section 168(1) of the Evidence Act, 2011** provides that where any judicial or official act is shown to have been done in a manner substantially regular, it is presumed that formal requisites for its validity were complied with. By this provision the Economic and Financial Crimes Commission (Establishment) Act, 2004 is presumed to have been validly passed into law by the National Assembly before it was assented to by the former President, Chief Olusegun Obasanjo. The burden is therefore on the plaintiff who asserts that it was never at all legislated or debated on the floor of the National Assembly to prove his assertion.

In my view there is no better way to discharge that burden than producing the proceedings of the two Houses for the period when the EFCC Act, 2004 passed into law and assented to by the President, and to show that nowhere is it shown on the said proceedings that the Act was debated and passed. That the plaintiff failed to do. In the Appellants' submission, he rather faulted the Respondents of failing to produce and exhibit the proceedings. How very wrong the Appellant is. If the Appellant had

properly adverted his mind to the relevant provisions of the Evidence Act, it would have occurred to him that the Economic and Financial Crimes Commission (Establishment) Act is one of those facts of which the court must take judicial notice of.Section 122 provides in part:

> ***"122(1) No fact of which the court must take judicial notice under this section need be proved.***
>
> ***(2) The Court shall take judicial notice of the following facts:***
>
> ***(a) All laws or enactments and any subsidiary legislation made under them having the force of law now or previously in force, in any part of Nigeria;***
>
> ***(b) All public Acts or Laws passed by the National Assembly, as the case may be, and all subsidiary legislation made under them and all Local and Personal Acts or Laws directed by the National or a State House of Assembly to be judicially noticed;***
>
> ***(c) The course of proceedings of the National Assembly and the Houses of Assembly of the States of Nigeria..."***

The court taking judicial notice of the laws including the Economic and Financial Crimes Commission (Establishment) Act, 2004 placed on the plaintiff/Appellant a heavier burden to prove that the Act was not legislated and passed into law by the National Assembly. The Appellant I must say

woefully failed to discharge that burden, and the lower court rightly so found and dismissed his claims.

It is therefore with ease and complete satisfaction that I resolve issue two also in favour of the Respondent's and against the Appellant. The appeal is therefore totally lacking in Merit and is hereby dismissed.

In consequence the judgment of the lower court is affirmed. The 1st, 2nd and 3rd Respondents are entitled to costs which I hereby assess at ₦100,000.00 each in their favour.

JAMES GAMBO ABUNDAGA
JUSTICE, COURT OF APPEAL.

COUNSEL

Mohammed N. Katu, Esq.,	-	For the Appellant.
Chile Okoroma, Esq.,	-	For the 1st Respondent.
T. A Gazali, Esq.,	-	For the 2nd Respondent.
Dr. Garba Tetengi, SAN	-	For the 3rd Respondent.

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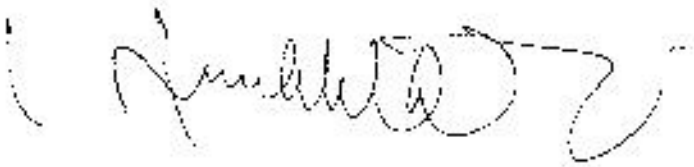
HUSSEIN MUKHTAR, JCA

I was honoured with a preview of the Judgment of my learned brother **James Gambo Abundaga, JCA**. For the well articulated reasons stated therein, I agree that the appeal is lacking in merit and should therefore be dismissed.

I abide by the orders made in the judgment .



DR. HUSSEIN MUKHTAR
JUSTICE, COURT OF APPEAL

CA/K/628/C/2018

JUDGMENT

(DELIVERED BY OBIETONBARA DANIEL – KALIO, JCA)

I have read the judgment of my learned brother **JAMES GAMBO ABUNDAGA, JCA.** I agree.

OBIETONBARA DANIEL-KALIO

JUSTICE, COURT OF APPEAL