

Territorial Jurisdiction of Court in Debt Recovery Claims – What Determines

In the Supreme Court of Nigeria
Holden at Abuja
On Friday, the 20th day of June 2025

Before Their Lordships

Ibrahim Muhammed Musa Saulawa
Emmanuel Akomaye Agim
Stephen Jonah Adah
Jamilu Yammama Tukur
Muhammad Baba Idris
Justices, Supreme Court

SC.100/2010

BETWEEN

**NIGERIAN AGRICULTURAL CREDIT
& RURAL DEVELOPMENT BANK LTD**

APPELLANT

AND

CHIEF AUSTINE IWUHOA

RESPONDENT

(Lead judgement delivered by Honourable Stephen Jonah Adah, JSC)

Facts

The appeal involves a landlord-tenant relationship concerning a property described as a Block of Flats located at No. 114/116 Uwalaka Street, Umuahia, Abia State. The landlord (the “Respondent”) leased two of these flats to a tenant (the “Appellant”). In February 2004, the Appellant allegedly vacated the premises abruptly. This departure was carried out without the prior knowledge of, or formal notice to, the Respondent, his solicitor, or the property caretaker. Upon regaining possession and conducting an inspection, the Respondent discovered that the flats had been significantly degraded. To restore the property to a livable state, the Respondent undertook extensive and costly repairs and renovations. Following the completion of the repairs, the Respondent demanded a refund of the renovation costs and payment of

outstanding rents. When these demands were not met, the Respondent initiated an action *via* a Writ of Summons at the High Court of Rivers State.

The Appellant responded by filing a Motion on Notice, raising a preliminary objection to the suit. The core of the objection was that the High Court of Rivers State lacked the territorial jurisdiction to entertain the matter, as the property in question was situated in Umuahia, Abia State. The trial court upheld the objection. The court held that it indeed lacked the territorial jurisdiction to hear a case involving property situated in another state, and that the determination of the claim would require visit to *locus in quo* in Abia State, which is outside the territorial jurisdiction of the High Court of Rivers State. The court, thereby, struck out the suit.

Aggrieved by the decision, the Respondent appealed to the Court of Appeal. The appellate court disagreed with the reasoning of the trial court, and resolved all legal issues in favour of the Respondent by holding that since the Appellant does business or resides in Port Harcourt, the High Court of Rivers State is clothed with jurisdiction to determine the case. The court thereby set aside the decision of the trial court and remitted the case to the Chief Judge of Rivers State for re-assignment to a different judge for an expeditious hearing.

Dissatisfied, the Appellant filed an appeal to the Supreme Court. The Respondent raised a preliminary objection to the competence of the appeal and the jurisdiction of the Supreme Court to entertain the appeal. The ground of the objection relates to service of the Notice and Grounds of Appeal to the Supreme Court, which was served C/o the counsel who represented the Respondent at the lower court, rather than service of the process on the Respondent at his address as stated on its Notice of Appeal at the Court of Appeal.

Issues for Determination:

The Appellant raised four issues for determination in its brief, thus:

- i. **WHETHER** the Court of Appeal was right in holding that the High Court of Rivers State sitting in Port Harcourt has jurisdiction to entertain this suit which subject matter is in respect of an immovable property (i.e. building) transacted in Umuahia, Abia State, with the said immovable property lying, being and situate in a foreign jurisdiction at No. 114/116 Uwalaka Street, Umuahia, Abia State and in which the Defendant resides or has its

registered office at Yakubu Gowon Way, Kaduna, Kaduna State and a principal place of business also at Umuahia, Abia State.

- ii. **WHETHER** by Order 10 Rule 1 of the High Court of Rivers State (Civil Procedure) Rules or any other rule of the High Court of Rivers State, the High Court of Rivers State has jurisdiction to adjudicate over a suit where the subject matter is on interest relating to injuries to land/building and/or immovable property lying, being and situate at No. 114/116 Uwalaka Street, Umuahia, Abia State.
- iii. **WHETHER** Rivers State is the place of residence of the Appellant as to clothe the High Court of Rivers State with the requisite jurisdiction to entertain the suit relating to a subject matter which is interest in land (immovable property) lying, being and situate at No. 114/116 Uwalaka Street, Umuahia, Abia State.
- iv. **WHETHER** an objection based on territorial or geographical jurisdiction of a court is a mere irregularity which must be taken as a preliminary point before taking any step in a Suit.

Arguments

Regarding the Preliminary Objection, the Respondent argued that the Notice of Appeal to the Supreme Court is an originating process and the Appellant has an irreversible obligation to ensure service of same on the Respondent personally. He submitted that he never changed his address for service from that with which he filed his appeal at the Court of Appeal and that he did not engage the counsel on whom the Notice of Appeal was served by the Appellant, as the Appellant cannot impose a counsel on him. He relied on the authority of **COMPTROLLER, N.P.S. v ADEKANYE (NO. 2.) (2002) FWLR (PT. 120) 1650 @ 1668**, to urge the court to strike out the appeal for being incompetent. Countering the submission of the Respondent, the Appellant argued that since the Respondent feigned ignorance about the existence of this appeal and submitted that he did not engage a lawyer to defend/represent him, it follows that the counsel could not have validly filed the present objection and

Respondent's brief on behalf of the Respondent. That counsel who purports to file the objection is a meddlesome interloper as he has no business with the appeal – Section 233(5) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), and Order 2 rule 9(1) of the Supreme Court Rules. Further, that the solicitor for the Respondent on whom the Notice of Appeal was served is the same person whose chamber's address was given for service by the Respondent at the lower court. And that the solicitor is more than a mere solicitor to the Respondent as he is an agent of the Respondent in relation to the property in dispute. He manages the property on behalf of the Respondent; thus, he cannot deny the agency relationship between them. He relied on the decision in **BAYERO v MAINSARA & SONS LTD (2007) ALL FWLR (PT. 359) 12859**, among others.

Arguing the main appeal, the Appellant submitted that jurisdiction is determined by reference to the Respondent's Writ of Summons and Statement of Claim. He contended that the property in dispute is situated in Umuahia, Abia State and all transactions between the parties, including tax payments and renovations, occurred there. Accordingly, he argued that the High Court of Rivers State lacked jurisdiction to entertain the suit. Reacting to the submission, the Respondent submitted that the Court of Appeal was right in holding that the trial court has the requisite jurisdiction to entertain this suit. He noted that the Respondent's claim before the court is a mere contractual relationship between a landlord and tenant as same has nothing to do with substantive interest in the subject property. He argued further that the Respondent was right to have instituted his action at Port Harcourt, as the Appellant carries on business in Port Harcourt, relying on the cases of **IBATOR v BARAKURO (2007) ALL FWLR (PT. 371) 1669 APP. 1684-1685, PARAS. F-F; FIRST BANK NIG. PLC v ABRAHAM (2009) FWLR (PT. 461) 863 AT 886**.

Decision/Rationale of the Court

Before delving into the determination of the appeal, the Supreme Court addressed the grounds of the Preliminary Objection which challenged the competence of the appeal and its jurisdiction to determine same because the Respondent was not served personally at his address. Their Lordships described the objection as technicality carried further than reasonableness. The

apex court held that *the essence of service of process on a party is to put the party on notice or keep him informed formally to enable him activate his right of fair hearing and present his own side of the story. If a party has a counsel and his counsel is served with all the processes and the counsel accept service of the processes on his behalf, he cannot turn around as in the instant case to contest the issue of service of the processes - SALEH v ABAH (2017) 12 NWLR (PT. 1578) 100.* The court, accordingly, dismissed the Preliminary Objection.

In deciding the gravamen of the appeal, which is the jurisdictional competence of the trial court to entertain the Respondent's claims, the Supreme Court emphasized the significance of the issue of jurisdiction in adjudication. The Court restated the settled principle of law that *when a matter is filed before the court, the court must ensure it has jurisdiction to entertain the matter before he deploys his authority to sit over the matter.* Examining the Respondent's Writ of Summons and Statement of Claim from the record of appeal, the Court agreed with the Respondent that the claim is not related to title to land but clearly recovery of outstanding debt of rent of a property. The Court relied on **A.G ADAMAWA STATE & ORS. v A.G. FEDERATION (2014) LPELR-23221 (SC)** to buttress its finding that what is being claimed in this case is nothing but a debt. *An unpaid rent is a liability which can be reclaimed through a legal action such as this. Since it is not landed property itself that is being claimed or disputed, matters of civil debt as it is in this case can be heard by the court sitting in a place where the Respondent or Defendant resides within the territory of Nigeria.*

The Supreme Court, thereby, resolved all the issues raised in favour of the Respondent and upheld the decision of the Court of Appeal.

Appeal Dismissed.

Representation

L.J.N. Saronwiyo, Esq. for the Appellant.

C.C. Nwaodu, Esq. for the Respondent.

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