

IN THE COURT OF APPEAL OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

APPEAL NO.....
SUIT NO: FHC/ABJ/CS/84/2023

BETWEEN:

MR. FESTUS KEYAMO, SAN

AND

1. ALHAJI ATIKU ABUBAKAR
2. CODE OF CONDUCT BUREAU
3. INDEPENDENT CORRUPT PRACTICES
(AND OTHER RELATED OFFENCES) COMMISSION
4. ECONOMIC AND FINANCIAL CRIMES COMMISSION

APPELLANT

RESPONDENTS



170848798635

NOTICE OF APPEAL

TAKE NOTICE that the Appellant being dissatisfied with the Judgment of the Federal High Court of Nigeria, holden at Abuja contained in the judgment of Honourable Justice J.K OMOTOSHO dated the 5th of June, 2023 in Suit No: FHC/ABJ/CS/84/2023, BETWEEN FESTUS KEYAMO, SAN VS. ALHAJI ATIKU ABUBAKAR & 3 ORS more particularly stated in paragraph 2, doth hereby Appeal to the Court of Appeal upon the grounds set out in paragraph 3 and will at the hearing of the Appeal seek the reliefs set out in paragraph 4.

And the Appellant further states that the names and addresses of persons directly affected by the Appeal are those set out in paragraph 5.

2. PART OF THE DECISION OF THE LOWER COURT COMPLAINED OF

The whole Judgment.

3. GROUND OF APPEAL

GROUND 1.

The learned Trial Judge erred when the Court dismissed the Appellant's suit on the ground that the 72 hours ultimatum given to the 2nd to 4th Respondents in the Appellant's Letter of 16th January, 2023 was unreasonable.

PARTICULARS OF ERROR

1. First, none of the Parties raised the issue that the time given by the Appellant was short in the circumstances of this suit.
2. The Court raised and determined the issue that the 72 hours ultimatum given to the 2nd to 4th Respondent was unreasonable *suo motu* while ruling on interlocutory applications filed by the 1st, 3rd, and 4th Respondents.
3. The Court did not give Parties the opportunity to address the Court on that issue, same not being one that is reasonably expected to arise or be determined at this interlocutory stage.
4. Again, if the learned Trial Judge had found that the 72 hours given to the 2nd to 4th Respondents in the Appellant's Letter of 16th January, 2023 was insufficient for them to conduct and conclude any investigations in the circumstances of this case, the proper order to make ought not to be an order dismissing the suit.
5. The decision of the Trial Court to dismiss the Appellant's suit merely because he gave the 2nd to 4th Respondents 72 hours ultimatum to investigate the 1st Respondent was rash and occasioned a miscarriage of justice in the circumstances of this case.

GROUND 2.

The award of cost of **₦5,000,000.00 (Five Million Naira)** in favour of the 1st Respondent; and the sum of **₦5,000,000.00 (Five Million Naira)** in favour of the 3rd Respondent by the Trial Court were not done judicially and judiciously in the circumstances of this case.

PARTICULARS OF ERROR

1. The suit instituted by the Appellant is public interest litigation as the Appellant does not have any personal benefit to derive from the success of the suit.
2. The Court cannot award punitive cost against the Appellant in the circumstances of this suit.
3. The exercise of the Court's discretion in awarding the above costs is not justifiable in the circumstances of this case.
4. On the application for cost by the 3rd Respondent, it was brought to the attention of the Court that the 3rd Respondent was represented by an in-house Counsel, and in the two processes filed by them it was shown that

they were not charged any filing fees as their documents were marked "official".

5. There was no cost whatsoever incurred by the 3rd Respondent in the circumstances of this case to justify the amount granted to them by the Court; this kind of suit also being reasonably expected in the discharge of the 3rd Respondent's statutory functions.
6. It was also argued that the Appellant was exercising his rights in law in a case which he reasonably believed to be true and in public interest, the Courts being established for such purposes.
7. Having established a prima facie case against the Respondents, the Trial Court ought not to have awarded such punitive costs against the Appellant.
8. The law is that the Trial Court must show for what items it awarded cost and how much was allowed in respect of each award, this was not done in the instant case.
9. The law is equally that the learned Trial Judge must give his reasons for awarding cost but no reason was advanced by the Court in the award of costs.
10. The costs are excessive and unjustifiable in the circumstances of this case.

GROUND 3

The learned Trial Judge erred when the Court relied on the Appellant's letter to the 2nd to 4th Respondents of 16th January, 2023, to hold that the suit of the Plaintiff is frivolous, vexatious, and an abuse of Court processes.

PARTICULARS OF ERROR

1. The Appellant's Letter of 16th January, 2023 written to the 2nd to 4th Respondents was merely attached to the Appellant's Write of Summons in line with the Rules of Court to frontload documents to be relied upon, but was not yet admitted into evidence.
2. In the Notices of Preliminary Objection filed by the 1st, 3rd, and 4th Respondent which the Court delivered ruling on 5th June, 2023, none of the Parties exhibited the said Letter even though they were served copies before the Appellant instituted the suit.
3. Granted that documents in the Court's file form part of the records which the Court is entitled to look at, but the law is also that while ruling on an interlocutory application, the Court must refrain from making an order which determines the subject-matter of the suit at the interlocutory stage.
4. The propriety or otherwise of the Appellant's Letter of 16th January, 2023 was the main issue to be determined in the substantive suit, not at this interlocutory stage.

5. The learned Trial Judge ought not to have relied on the Appellant's Letter of 16th January, 2023 to dismiss the Appellant's suit while merely ruling on Notices of Preliminary Objections filed by the 1st, 3rd, and 4th Respondents.

GROUND 4.

The Judgment is against the weight of evidence.

4. RELIEFS SOUGHT FROM THE COURT OF APPEAL.

1. **AN ORDER** setting aside the Ruling/Judgment of the Federal High Court of Nigeria, holden at Abuja contained in the judgment of Honourable Justice J.K OMOTOSHO dated the 5th of June, 2023 in Suit No: FHC/ABJ/CV/84/2023, BETWEEN FESTUS KEYAMO, SAN VS. ALHAJI ATIKU ABUBAKAR & 3 ORS.
2. **AN ORDER** reverting Suit No: FHC/ABJ/CV/84/2023, BETWEEN FESTUS KEYAMO, SAN VS. ALHAJI ATIKU ABUBAKAR & 3 ORS to the Federal High of Nigeria holden at Abuja for hearing and determination on the merits before another judge of the Federal High Court.
3. **ANY OTHER ORDER OR ORDERS** which this Court may deem fit to make in the circumstances of this Appeal.

5. PERSONS DIRECTLY AFFECTED BY THE APPEAL

1. MR. FESTUS KEYAMO, SAN. -- -C/O NO.13, NOUAKCHOTT STREET, WUSE ZONE 1, ABUJA.
2. ALHAJI ATIKU ABUBAKAR ATIKU CAMPAIGN OFFICE ADETOKUNBO ADEMOLA CRESCENT, BESIDE ACCESS BANK, WUSE II, ABUJA.
3. CODE OF CONDUCT BUREAU FEDERAL SECRETARIAT COMPLEX, ANNEX III, SHEHU SHAGARI WAY, ABUJA.
4. INDEPENDENT CORRUPT PRACTICES PLOT 802, CONSTITUTION

(AND OTHER RELATED OFFENCES)
COMMISSION

AVENUE, CENTRA AREA,
ABUJA.

5. ECONOMIC AND FINANCIAL
CRIMES COMMISSION

PLOT, 301/302,
INSTITUTIONS & RESEARCH
DISTRICT, JABI, ABUJA.

Dated This 08 Day of June 2023.

Whose address for service is No.13, Nouakchott Street, Wuse Zone 1,
Abuja.



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FOR SERVICE ON:

1. **THE 1ST RESPONDENT,**
ATIKU CAMPAIGN OFFICE
ADETOKUNBO ADEMOLA
CRESCENT, BESIDE
ACCESS BANK, WUSE II,
ABUJA.
2. **THE 2ND RESPONDENT,**
FEDERAL SECRETARIAT COMPLEX,
ANNEX III, SHEHUSHAGARI WAY,
ABUJA
3. **THE 3RD RESPONDENT,**
PLOT 802, CONSTITUTION AVENUE,
CENTRAL AREA,
ABUJA
4. **THE 4TH RESPONDENT,**
PLOT 301/302,
INSTITUTION AND RESEARCH CADASTRAL,
DISTRICT JABI,
ABUJA