

SUPREME COURT OF NIGERIA
FRIDAY 13TH DECEMBER, 2002. SC. 37/2001
CORAM:- M. L. UWAIS CJN, M. E. OGUNDARE,
S. U. ONU, A. I. KATSINA-ALU, N. TOBI, JJSC

NATIONAL ELECTRIC POWER
AUTHORITY

..... APPELLANT

AND

1. MR. B. EDEGBERO
2. MR J. O. URUE
3. MR. J. O EMORDI
4. MR. U. A. ONWUBULU
5. MR. A. O. KADIRI
6. MR. A. J. EMORERHI
7. MR. B. M. JENYO
8. MR. O. AJAYI
9. MR. M. E. CHILAKA
10. MR. T. ELEGUNMI
11. MR. B. O. ENIOLORUNDA
12. MR. U. CHUKWUOBI
13. MR. J. OFFOR
14. MR. B. OBALOKUN
15. MR. KEHINDE JIMOH
16. MR. M. OMOTOSHO

..... RESPONDENTS

JURISDICTION - Federal High Court - 1979 Constitution s.230 -
The section confers exclusive jurisdiction on the court - Since
defendant is an agency of Federal Government (H1)

FACTS

Plaintiffs/respondents were former employees of the National Electric Power Authority (NEPA) - defendant/appellant. Following an industrial action by the workers of NEPA, respondents among others, had their appointments terminated. Consequently, they instituted various actions before the High Court of Niger State, claiming declaration that appellant's purported termination of their appointments was irregular and of no effect, an order of reinstatement and an injunction restraining appellant from further harassing

them. The actions were consolidated into this action. It was the case of appellant that the Head of State, acting under the provisions of Decree 17 of 1984 had ordered the termination respondents' appointment which were no longer in the public interest.

In view of the foregoing, appellant raised a preliminary objection to the jurisdiction of the trial court to entertain the matter, the same having been ousted by the said Decree. Appellant further contended that by virtue of section 230 (1) of the 1979 Constitution, a State High Court has no jurisdiction to try matters in which the Federal Government or its agency is a party. Nevertheless, the court ruled that it had jurisdiction. At conclusion of trial, the court found against appellant and entered judgment in favour of respondents. Being dissatisfied, appellant appealed to the Court of Appeal, raising again the issue of jurisdiction. That Court upheld the decision of the trial court on the issue of jurisdiction and eventually dismissed the appeal. Appellant has brought further appeal to the Supreme Court raising yet again the issue of jurisdiction.

ISSUE FOR DETERMINATION

Whether the two Courts below were wrong on the issue of the jurisdiction of the trial Court.

HELD (Unanimously allowing the appeal per
OGUNDARE JSC)

JURISDICTION - Federal High Court

1. It is not in dispute that the Defendant - NEPA - is a Federal Government Agency, the two Courts below made a finding of fact to this effect and this has not been challenged by the Plaintiffs. It is also not disputed that the cause of action in this matter arose out of the administrative action or decision of the Defendant. The action is for a declaration and an injunction and the principal purpose of it is to nullify the decision of the Defendants terminating the appointments of the Plaintiffs and others. In the light of all these, therefore, the action on hand came squarely within the provision of Section 230(1) (s) of the 1979 Constitution. It would appear on the surface, therefore, that the action would be one within the exclusive juris-

dition of the Federal High Court. I have myself read the proviso to paragraphs (q), (r) and (s) subsection (1) of Section 230 all over again; I can find no such exception in it that would lead me to find to the contrary. A careful reading of paragraphs (q), (r) and (s) reveals that the intention of the lawmakers was to take away from the jurisdiction of the State High Court and confer same exclusively on the Federal High Court actions in which the Federal Government or any of its agencies is a party. While paragraph (s) talked of actions for declaration or injunction, the proviso extended this to actions for damages, injunction or specific performance. It did not say as the learned trial Judge, with profound respect, appear to read into it that action for damages, injunction or specific performance against the Federal Government or any of its agencies could still come before a State High Court. I am of the view that the learned trial Judge was in error in his interpretation of the purport of the proviso. (p. 3409 A)

NOTABLE POINT OF INTEREST

TOBI JSC

1. Contract of employment is a business relationship

I entirely agree with the submission of learned counsel for the respondent, Mr. R. A. Lawal-Rabana that the plaintiff's claim should be looked at alongside with the provision of Section 230(1) of the 1979 Constitution. I do not however agree with him that the claim which relates to breach of contract of employment has nothing to do with the administration or management and control of the appellant.

Administration is a large term in business and commerce. So too management. Etymologically, the words are synonymous in our context. Administration is the management or direction of the affairs of a business. Management is the art or practice of managing, especially a business. Both words have business as a common denominator. Entering into a contract of employment with an employee is a business relationship which clearly comes within Section 830(1) (q) of the 1979 Constitution as amended by Decree No. 107 of 1993.

(p. 3414 G)

REPRESENTATION

J. O. Baiyeshea with A. O. Mohammed, A. S. Oyinloye and R. S. Baiyeshea, for the Appellant

R. A. Lawal-Rabana with K. I. Adam and S. I. Ameh, for the Respondents

B

CASES REFERRED TO

Ona v. Atanda (2000) 5 NWLR (Pt. 656) 244

Ona v. Atanda (2000) 5 NWLR 244

C Egbuonu v. Borno Radio (1997) 12 SCNJ 99

The University of Abuja v. Ologe (1996) 4 NWLR (Pt.445) 706

Ona v. Atanda (2000) 5 NWLR 244

Egbuonu v. Borno Radio (1997) 12 SCNJ 99

Bronik Motors Ltd, v. Wema Bank Ltd. (1983) 1 SCNLR 296

D Dr. Okoroma v. Chief Uba (1999) 1 NWLR (Pt.587) 359

Hon. Okpala v. Prince Ezeani (1999) 4 NWLR (Pt.598) 250

Omosowan v. Chiedozie (1998) 9 NWLR (Pt.566) 477

Egbuonu v. Borno Radio (1997) 12 SCNJ 99

Ali v. Central Bank of Nigeria (1997) 4 NWLR (Pt.498) 192

E Ayeni v. University of Ilorin (2000) 2 NWLR (Pt. 644) 290

Adebileje v. NEPA (1998) 12 NWLR (Pt. 577) 219

STATUTES REFERRED TO

F Constitution (Suspension and Modification) Decree No 107 of 1993

Constitution of the Federal Republic of Nigeria 1979, ss. 230 (1) and 230

Public officers (Special Provisions) Decree No 17 of 1984

G

LEAD JUDGMENT BY OGUNDARE JSC

The main issue arising in this appeal is as to whether the High Court of Niger State had jurisdiction to hear and determine the action which was brought before it by the Plaintiffs, in view of the Constitution (Suspension and Modification) Decree 107 of 1993.

H

The Plaintiffs were former employees of the National Electric Power Authority (NEPA), the Defendant. Following an industrial action by the workers of NEPA embarked upon in August, 1994, the Plaintiffs, among others had by a letter dated 10th August, 1994, their appointments terminated. On 17th August, 1994, they insti-

tuted various actions claiming in each:

“(i) A declaration that the purported termination of the plaintiff vide a letter dated 10th August, 1994, from the services of the defendant is irregular, wrongful, null and void and of no effect whatsoever.

(i) An order reinstating the plaintiff with the defendant and the payment of plaintiff’s salaries, allowances and entitlements from the purported day of termination till reinstatement.

(iii) A perpetual Injunction restraining the defendant from harassing, intimidating and violating of the plaintiff’s right.”

All the actions were consolidated and tried together.

In her further amended Statement of Defence the defendant pleaded as hereunder:

“A. The defendant avers that the Head of State, General Sani Abacha acting under the Provisions of Decree 17 of 1984, ordered the termination of the plaintiffs’ appointment by virtue of a letter dated 8th August, 1994, signed by the Head of State and addressed to the Minister of Power & Steel. The defendant states further that it was an exercise which affected many workers of the defendant at their various stations nationwide whose continued employment with the defendant was considered by the Federal Government not to be in public interest any longer. The defendant would therefore contend at the trial of this suit that under and by virtue of the Provisions of Public Officers (Special Provisions) Decree No. 17 of 1984, this Court has no jurisdiction to hear and/or entertain this suit. The defendant pleads and shall rely on the said letter together with attached list of defendant’s workers whose appointments were terminated and those dismissed from defendant’s service. And shall ask that the case be dismissed/struck out for want of jurisdiction.

A1. The defendant is one of the parastatals under the Ministry of Power & Steel and subject to the overall control of the Minister of Power and Steel.”

The issue raised above was tried by the learned trial Judge and resolved against the Defendant. There was an appeal against that decision but the appeal appeared to have been withdrawn and as it is, however, not the subject of the present appeal, I will say no more on it.

The action on completion of pleadings went to trial. In the

course of his address to the court, learned counsel for the defence raised yet another issue of jurisdiction of the trial court. He contended that by virtue of Decree 107 of 1993 amending Section 230(1) of the 1979 Constitution, a State High Court had no jurisdiction to adjudicate in the matter before the court.

B In his judgment the learned trial Judge (Bima, J.) considered the issue of Jurisdiction raised before him and decided the issue against the defendant. He observed:

C *“In his address Mr. J. O. Baiyeshea, learned counsel for the Defendant raised an issue which also touches the jurisdiction of this court. I am also of the view that that issue be settled first before we go to the case proper since an issue of jurisdiction is so fundamental. If the court has no jurisdiction to entertain a matter, whatever the court does in the case shall be an exercise in futility. Anything done without*
D *jurisdiction is a nullity. Learned counsel stated that he rely (sic) on Decree No. 107 of 1993. By virtue of the said Decree, S.230 of 1979 Constitution was amended to exclude the jurisdiction of the State High Court in a matter of this nature. He stated that it confer (sic) exclusive jurisdiction on the Federal High Court. He submitted*
E *that since the Defendant is an agency of the Federal Government and the validity of both the executive and administrative action taken against the Plaintiffs are being questioned before this court, the proper venue should have been the Federal High Court. He therefore urged me to strike out the case.*

F *Mr. R. A. Lawal-Rabana, learned counsel for the Plaintiffs submitted that Decree No. 107 of 1993 gave exceptions to matters that can be decided by the High Court. He stated that this can be inferred from certain paragraphs of 8.230(1) of 1979 Constitution*
G *which that Decree amended. He stated that all banking and other financial matters are exclusive jurisdictions of the Federal High Court. He stated that S.220(1), (q), (r) and (s) of the said Decree is a glaring exception. It provides that where it is an individual action against the Federal Government or any of its agencies for damages, injunctions*
H *or specific performance where the action is based on any enactment, law or equity, the State High Courts have jurisdiction. I am in agreement with the learned counsel that this is an exception to other exclusive jurisdiction conferred on the Federal High Courts. The Plaintiffs in this case filed an action against an agency of the Federal*

Government, namely, N.E.P.A., seeking redress of specific performance based on law and equity. This, in my view, is an exception and confers jurisdiction on this court and I accordingly hold."

After going into merits of the case the learned Judge found against the Defendant and entered judgment in favour of the Plaintiffs. He adjudged as follows: B

"(1) The purported termination of the Plaintiffs' appointment with the defendant is hereby declared irregular, invalid, unlawful, ultra vires, null and void and of no effect whatsoever.

(2) The Defendant is hereby ordered to reinstate the Plaintiffs' appointment forthwith. In other words they shall forthwith be reinstated to their status quo ante. C

(3) The Defendant is hereby ordered to forthwith pay to the Plaintiffs all their salaries, allowances and entitlements from the purported day of termination till reinstatement. D

(4) The Defendant is hereby perpetually restraining (sic) from by harassing, intimidating or violating the Plaintiffs' rights.

And this shall be the judgment of this Court."

Being dissatisfied with the judgment of the trial court, the Defendant appealed to the Court of Appeal and there again questioned the jurisdiction of the trial Court. The Court of Appeal, (Coram: Musdapher, Bulkachuwa and Oduyemi. JJCA.), upheld the decision of the trial Judge on the issue of jurisdiction and for other reasons dismissed the appeal. Bulkachuwa, JCA., in her lead judgment with which the other Justices agreed set down the provisions of Section 230(1) of the Constitution of the Federal Republic of Nigeria, 1979 as amended by Decree 107 of 1993 and went on to say- F

"This Court has in a number of cases had occasions to look closely into the above provisions and particularly to the proviso. G

In Nigerian Deposit Insurance Corporation (Liquidator or United Commercial Bank Limited in Liquidation) v. Federal Mortgage Bank of Nigeria Limited (1997) 2 NWLR 739 at 756 (sic). The question that arose before the Court of Appeal then was whether a State High Court has jurisdiction to entertain the exclusive jurisdiction of the Federal High Court. And the Court held: H

1. That the State High Court has jurisdiction indicated in the proviso.

2. That the fact that the Federal High Court has exclusive juris-

diction in Section 230(1) (d) shall not apply to matters failing within the circumstances of the proviso and does not entirely remove jurisdiction therein from the State High Court.

3. *That the Federal High Court shall not have exclusive jurisdiction in the circumstances indicated in the proviso.*

B 4. *That both the Federal and the State High Courts have and can exercise concurrent jurisdiction in such circumstances.*

See also:

C *Ona v. Atanda (2000) 5 NWLR (Pt. 656) 244; Musa & Ors. v. Hashim (Unreported Appeal No. CA/A/39/99).*

D *The Supreme Court had also in the case of Egbuonu v. Borno Radio (1997) 12 SCNJ 99 put its stamp of approval on the finding of the Court of Appeal where the above provisions were looked into that the High Court has jurisdiction to entertain an action challenging the suspension or termination of the appointment of an employee by his employer.*

In the circumstances, the Trial Court was right to have found that it had jurisdiction to determine the matter.”

E The Defendant has now further appealed to this court contending that the two Courts below were wrong on the issue of the jurisdiction of the trial Court.

F It is the contention of the Defendant that Section 230(1) of the 1979 Constitution as amended by Decree 107 of 1993 conferred exclusive jurisdiction on the Federal High Court in any matter such as the matter on hand affecting the Federal Government or any of its agencies. It is further argued that the amendment introduced by Decree 107 of 1993 to Section 230(1) of the 1979 Constitution divested the State High Courts in Nigeria of their hitherto exclusive jurisdiction of entertaining and adjudicating over all matters relating to the administration, management and control of the Federal Government and its agencies and conferred on the Federal High Court exclusive jurisdiction in such matters. It is submitted for the Defendant that the cases United Commercial Bank Limited in liquidation v. Federal Mortgage Bank of Nigeria Ltd. (1997) 2 NWLR (Pt.490) 735 at 756; Ona v. Atanda (2000) 5 NWLR 244 and Egbuonu v. Borno Radio (1997) 12 SCNJ 99 were wrongly applied by the Court of Appeal. Reliance is placed on the following decisions of the Court of Appeal: Mohammed Mubarak Ali v. Central Bank of

Nigeria (1997) 4 NWLR (Pt.498) 192 at 202, 203 and 204 and the University of Abuja v. Ologe (1996) 4 NWLR (Pt.445) 706 at 722 in support of the contention that the State High Court has no jurisdiction in matters like the one on hand. Further reliance is also placed on the University of Agriculture, Makurdi v. Grace Eleyi Jack (2000) 11 NWLR 658. This Court is urged to hold that the trial High Court in the case on hand lacks jurisdiction to entertain and determine the actions of the Plaintiff and to, therefore, allow the appeal on that ground. B

Mr. Lawal-Rabana, learned counsel for the Plaintiffs both in the respondent's brief and oral argument before us contended that the trial High Court had jurisdiction. It is counsel's submission that by the claims of the Plaintiffs before the Court, the action falls within the proviso to Section 230(1) of the 1979 Constitution. It is argued thus: C

"It is humbly submitted that from the Respondents' Claim (i) before the High Court, it is clear that the Respondents were challenging the termination of their employment arising from a contract of service governed by condition of service or rules. Their claim therefore, relates to breach of contract of employment and nothing to do with the administration or the management and control of the Appellant. An individual challenging the termination of his employment cannot be equated with a decision affecting the administration, management and control of a Federal Agency. D

My Lords, similarly, the Respondents' claims (ii) and (iii) which deals with an order for reinstatement, payment of salaries and allowances and injunction to restrain the Appellant from violating the rights of the Respondents does not fall within the contemplation of S. 230(1) (q), (r) and (s). E

It is our humble prayer that my Lords should not expand the scope of S.230(1) (q), (r) and (s) to cover all matters affecting a Federal Agency. If the Law Makers had intended that it would have been expressly so stated without limitations. We refer to the case of Omosonwa v. Chiedozie (1998) 9 NWLR (Pt.566) 477 at 484 (D-G). F

It is humbly submitted that the canon of construction or interpretation "expressio unius est exclusio alterius should be followed in this case. H

It is submitted with respect that decisions in Mohammed Mubarak Ali v. Central Bank of Nigeria (1997) 4 NWLR (Pt.445) 706

cited by the learned Appellant's counsel did not specifically consider the claim in the two cases but deal more on the status of the parties and the general provisions of S.230 (1)(q), (r) and (s)"

It is further submitted -

B *"It is our further submission that in the earlier Court of Appeal decisions in Ali v. CBN (supra), University of Abuja v. Ologe (supra) the Court did not consider the purport and the effect of the proviso to Section 230(1) (q), (r) and (s) and relate it to the parties.*

C *It is our humble submission that the Respondents' claim at the High Court falls within the contemplation of the proviso of Section 230(1) (q), (r) and (s) which has saved the powers of the State High Court to entertain such matters. We humbly refer to the case of NDIC v. Federal Mortgage Bank of Nig. Ltd. (1997) 2 NWLR (Pt.490) 735 at 755 para. (F-H) to 756 para. (A-F).*

D *We therefore humbly pray His Lordship to affirm the decision of the Appeal Court by answering issue 1 in the negative."*

Section 230(1) of 1979 Constitution as amended by the Constitution (Suspension and Modification) Decree 107 of 1993 and in so far as it is relevant to this appeal ran thus:

E *"230- (1) Notwithstanding anything to the contrary contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly or a Decree, the Federal High Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters arising from -*
F *(q) the administration or the management and control of the Federal Government or any of its agencies;*

(r) subject to the provisions of this Constitution, the operation and interpretation of this Constitution in so far as it affects the Federal
G *Government or any of its agencies: and*

(s) any action or proceeding for a declaration or injunction affecting the validity of any executive or administrative action or decision by the Federal Government or any of its agencies:

Provided that nothing in the provisions of paragraphs (q), (r)
H *and (s) of this subsection shall prevent a person from seeking redress against the Federal Government or any of its agencies in an action for damages, injunction or specific performance where the action is based on any enactment, law or equity."*

(See now Section 251(1)(p), (q) and (r) of the Constitution of

the Federal Republic of Nigeria, 1999).

It is not in dispute that the Defendant - NEPA - is a Federal Government Agency, the two Courts below made a finding of fact to this effect and this has not been challenged by the Plaintiffs. It is also not disputed that the cause of action in this matter arose out of the administrative action or decision of the Defendant. The action is for a declaration and an injunction and the principal purpose of it is to nullify the decision of the Defendants terminating the appointments of the Plaintiffs and others. In the light of all these, therefore, the action on hand came squarely within the provision of Section 230(1) (s) of the 1979 Constitution. It would appear on the surface, therefore, that the action would be one within the exclusive jurisdiction of the Federal High Court. I have myself read the proviso to paragraphs (q), (r) and (s) subsection (1) of Section 230 all over again; I can find no such exception in it that would lead me to find to the contrary. A careful reading of paragraphs (q), (r) and (s) reveals that the intention of the lawmakers was to take away from the jurisdiction of the State High Court and confer same exclusively on the Federal High Court actions in which the Federal Government or any of its agencies is a party. While paragraph (s) talked of actions for declaration or injunction, the proviso extended this to actions for damages, injunction or specific performance. It did not say as the learned trial Judge, with profound respect, appear to read into it that action for damages, injunction or specific performance against the Federal Government or any of its agencies could still come before a State High Court. I am of the view that the learned trial Judge was in error in his interpretation of the purport of the proviso.

Their Lordships of the Court of Appeal were equally in error to affirm the decision of the learned trial Judge. They based their own conclusion on the cases of Nigerian Deposit Insurance Corporation (Liquidator of United Commercial Bank Ltd.) v. Federal Mortgage Bank of Nigeria Ltd. (1997) 2 NWLR 735 at 756; Ona v. Atanda (2000) 5 NWLR 244 and Egbuonu v. Borno Radio (1997) 12 SCNJ 99; (1997) 12 NWLR (Pt.531) 29. With profound respect to their Lordships of the Court below they wrongly applied these

cases to the matter before them. In the Federal Mortgage Bank case what came up for decision is the interpretation of the proviso to paragraph (d) of Section 230(1) of the 1979 Constitution. That paragraph reads:

(d) banking, banks, other financial institutions, including any
B action between bank and other, any action by or against the Central Bank of Nigeria arising from banking, foreign exchange, coinage, legal tender, bills of exchange, letter of credit, promissory note and other fiscal measures.

C Provided that this paragraph shall not apply to any dispute between an individual customer and his bank in respect of transactions between the individual customer and the bank.

The Court of Appeal sitting as a full Court held that by the proviso above an action between a bank acting as a customer to
D another bank and that latter bank could come before a State High Court. That decision was affirmed by this Court in Federal Mortgage Bank of Nig. v. NDIC (1999) 2 NWLR (Pt. 591) 333. That is not the issue arising in the instant case. In Ona v. Atanda (supra) the issue in that case was quite different to the issue in the present case. If anything,
E the dictum of Akintan, JCA., on the exclusive jurisdiction of the Federal High Court ought to have informed their Lordships to arrive at a conclusion in the instant action different to what they decided. Incidentally the three Justices that presided over the instant case were
F members of the full Court of the Court of Appeal that decided Ona v. Atanda (supra). Indeed if there was anything relevant in that case to the instant case, it was wrongly applied. Akintan, JCA., who read the lead judgment of the Court of Appeal in that case had this to say at pages 269-270 of the report:

G *“The point which must be made clear is that all the decisions in question are in respect of the interpretation to be given to the provisions of Sections 39 and 41 of the Land Use Act. But since it has been clearly shown above that the provisions of the Land Use Act requiring the State Governor to delimitate portions of the land in a
H State as urban as against non-urban areas are inapplicable in the Federal Capital Territory, the division of jurisdiction between the High Court and the Area Court/Customary Court in the Federal Capital Territory will therefore not arise. It follows therefore that the appropriate court having jurisdiction in land matters in the Federal Capital Territory*

is the High Court of the Federal Capital Territory by virtue of Section 236 of the 1979 Constitution since it has been shown that there is no customary right of occupancy in the Federal Capital Territory and that Section 41 of the Land Use Act is also inapplicable in the Territory: The jurisdiction of that court however, is subject to the provisions of Section 230(1) (q) and (r) of Decree No. 107 of 1993 (now Section 251 of the 1999 Constitution) whereby the Federal High Court would assume jurisdiction where the Government of the Federation or any of its agencies is a party to the action." (Underlining are mine for emphasis)

Equally if their Lordships had correctly applied the above dictum to the instant case, which dictum in my respectful view, is a correct statement of the law, they would have held that the State High Court had no jurisdiction in the instant case.

Their Lordships, per Bulkachuwa, JCA., also referred to the decision of this Court in Egbuonu v. Borno Radio. With respect to their Lordships that case too was not correctly applied in this case.

From what I have said earlier in this judgment the aim of paragraphs (q), (r) and (s) of sub-section (1) of Section 230 was to vest exclusive jurisdiction in the Federal High Court in matters in which the Federal Government or any of its agents was a party. A State High Court would no longer have jurisdiction in such matters notwithstanding the nature of the claim in the action. I agree entirely with the submission of the learned counsel for the Defendant that the two courts below were in error in holding that the State High Court had jurisdiction in this matter. There is nothing in the proviso to those paragraphs that could be said to have whittled down the objective of the law.

Consequently I find substance in this appeal which I hereby allow. I set aside the judgment of the Court of Appeal which, in turn, affirmed that of the trial High Court. I strike out all the Plaintiff's action against the Defendant instituted in the High Court of Niger State. I award to the Defendant/Appellant the costs of this appeal which I assess at N10,000.00, the costs of the appeal in the Court of Appeal which I assess at N16,000.00 and the costs in the trial High Court which I assess at N6,000.00 all in favour of the Defendant/Appellant.

UWAIS CJN

I have had the opportunity of reading in draft the judgment read by my learned brother, Ogundare, JSC. I entirely agree with the judgment.

The clear intendment of the modification to Section 830 of the 1979 Constitution, by the Constitution (Suspension and Modification) Decree No. 107 of 1993, was to confer on the Federal High Court exclusive jurisdiction in respect of the matters specified under subsection (1) (a) to (s) thereof. The proviso to the section does not whittle down the exclusive jurisdiction. It simply states as follows:

“Provided that nothing in the provisions of paragraphs (q) (r) and (s) of this subsection shall prevent a person from seeking redress against the Federal Government or any of its agencies in an action for damages, injunction or specific performance where the action is based on any enactment, law or equity.”

The proviso applies merely to the right of a person seeking redress in an action for damages, injunction or specific performance but does not extend the exclusive jurisdiction conferred on the Federal High Court to a State High Court or the Federal Capital Territory.

As a result the Court of Appeal was in error to have reversed the decision of the trial High Court. I too accordingly allow the appeal and set aside the decision of the Court below. I adopt the order contained in the judgment of my learned brother, Ogundare, JSC.

ONU JSC

I am in entire agreement with the judgment just delivered by my learned brother, Ogundare, JSC., a preview of which I had before now.

I make similar consequential orders inclusive of costs therein contained.

KATSINA-ALU JSC

I have read before now the judgment of my learned brother, Ogundare, JSC., in this appeal which he had just delivered. I agree with it and there is nothing I can usefully add.

TOBI JSC

I have read the judgment of my learned brother, Ogundare, JSC., and I agree with him. I wish to add this bit of mine.

The original Section 230 of the 1979 Constitution and Section 231 of the same Constitution, in their wordings, gave rise to some difficult interpretation as they affected the jurisdiction of the Federal High Court and the State High Court. See *Bronik Motors Ltd. v. Wema Bank Ltd.* (1983) 1 SCNLR 296; *Dr. Okoroma v. Chief Uba* (1999) 1 NWLR (Pt.587) 359; *Hon. Okpala v. Prince Ezeani* (1999) 4 NWLR (Pt.598) 250. B

The difficulty has reasonably subsided with the amendment of Section 230 by the Constitution (Suspension and Modification) Decree No. 107 of 1993. The section, as amended, relevantly provided as follows: C

“(1) Notwithstanding anything to the contrary contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly or a Decree the Federal High Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters arising from: D

(q) the administration or the management and control of the Federal Government or any of its agencies. E

(r) subject to the provisions of this Constitution in so far as it affects the Federal Government or any of its agencies;

(s) any action or proceedings for a declaration or injunction affecting the validity of any executive or administrative action or decisions by the Federal Government or any of its agencies; provided that; nothing in the provisions of paragraphs (q), (r) and (s) of this subsection shall prevent a person from seeking redress against the Federal Government or any of its agencies in an action for damages, G injunction or specific performance where the action is based on any enactment, law or equity.” F

By the above provision, which is now Section 251 of the 1999 Constitution, exclusive jurisdiction is vested in the Federal High Court in civil causes and matters arising from the administration, management and control of the Federal Government, the operation and interpretation of the Constitution as it affects the Federal Government as well as any action or proceedings for a declaration or injunction affecting the validity of any executive or administrative action H

or decisions by the Federal Government. By the provision of the subsection, the jurisdiction of the court also affects the agencies of the Federal Government.

The proviso to the subsection emphatically states that a person has the right to seek redress against the Federal Government or any of its agencies in an action for damages, injunctions specific performance, where the action is based on any enactment, law or equity. The proviso cannot be enacted where no relevant enactment, law or equity authorises an action for damages, injunction or specific performance.

In construing Section 230(1) of the 1979 Constitution as amended, two important matters arise. They are the parties in the litigation as well as the subject matter of the litigation. The court must consider both. In construing the parties, the court will have no difficulty in identifying the Federal Government but it may have some difficulty in identifying an agency of the Federal Government in certain matters. The case law and the law of agency will certainly be of help in relevant cases. In this appeal, both counsel agree that the appellant, the National Electric Power Authority is an agency of the Federal Government. They are correct. It cannot be otherwise. See *Adebileje v. NEPA* (1998) 12 NWLR (Pt.577) 219.

As I indicated above, another important area is the subject matter of the litigation. In my view, for the Federal High Court to have exclusive jurisdiction, the matter must be a civil matter arising from the administration, management and control of the Federal Government or any of its agencies. The matter must arise from the operation and interpretation of the Constitution. And finally, the matter must arise from any action or proceedings for a declaration or injunction affecting the validity of any executive or administrative action or decisions by the Federal Government, or any of its agencies. I sound prolix. It is for purposes of emphasis.

I entirely agree with the submission of learned counsel for the respondent, Mr. R. A. Lawal-Rabana that the plaintiff's claim should be looked at alongside with the provision of Section 230(1) of the 1979 Constitution. See *Omosowan v. Chiedozie* (1998) 9 NWLR (Pt.566) 477; *Triumph Assurance Ltd. v. M. M.T. Fadlallah and Sons Ltd.* (2000) 1 NWLR (Pt. 640) 294; *Alhaji Abbas v. Commissioner of Police, Kano State* (1998) 12 NWLR (Pt. 577) 308; *University of*

Ilorin Teaching Hospital v. Mrs. Akilo (2001) 4 NWLR (Pt. 703) 246. I do not however agree with him that the claim which relates to breach of contract of employment has nothing to do with the administration or management and control of the appellant.

Administration is a large term in business and commerce. So too management. Etymologically, the words are synonymous in our context. Administration is the management or direction of the affairs of a business. Management is the art or practice of managing, especially a business. Both words have business as a common denominator. Entering into a contract of employment with an employee is a business relationship which clearly comes within Section 830(1) (q) of the 1979 Constitution as amended by Decree No. 107 of 1993.

The Court of Appeal has adequately dealt with the constitutional provision in the past. I think I can take a few cases. In *University of Abuja v. Professor Ologe* (1996) 4 NWLR (Pt. 445) 706, the Court of Appeal, Jos Division, held inter alia that the provision of Section 230(1)(q), (r) and (s) of the 1979 Constitution as amended by Decree No. 107 of 1993, confers the exercise of jurisdiction on the Federal High Court to the exclusion of any other court in civil causes and matters arising from (a) the administration or the management and control of the Federal Government or any of its agencies....

In *Ayeni v. University of Ilorin* (2000) 2 NWLR (Pt. 644) 290, the Court of Appeal, Ilorin Division, held that Section 230(1) of the 1979 Constitution as amended by Decree No. 107 of 1993 divested the State High Court of jurisdiction to entertain or adjudicate on matters which touch on the administration or management and control of the Federal Government or any of its agencies and vested the same exclusively in the Federal High Court.

In *Adebileje v. NEPA* (1998) 12 NWLR (Pt. 577) 219, the Court of Appeal, Kaduna Division, held that by Section 230(1) (q) of the Constitution (Suspension and Modification) Decree No. 107 of 1993, notwithstanding anything to the contrary contained in the Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly or a Decree, the Federal High Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters arising from the administration or the management and control of the Federal Government or any of its agencies. The respondent in that case, the National Electric Power

Authority (the appellant in this appeal), being an agency of the Federal Government, the Federal High Court has exclusive jurisdiction to entertain the matter, the court held.

In *University of Agriculture, Makurdi v. Jack* (2000) 11 NWLR (Pt. 679) 658, the Court of Appeal, Jos Division, interpreted the proviso to Section 230(1). The court held that the proviso by no means confers State High Courts with any jurisdiction in matters provided for under Section 230(1). Rather, it only expands the jurisdiction of the Federal High Court where the action against the Federal Government or any of its agencies is for damages, injunction or specific performance, and in the action is founded on some enactment, law or equity. See also *Ali v. Central Bank of Nigeria* (1997) 4 NWLR (Pt.498) 192.

I have taken the trouble to examine some of the decisions of the Court of Appeal to make or score the point that the court below took a lone course which, with respect, did not justify the proper legal position. And what is more, the court, with the greatest respect, wrongly applied the cases of *United Commercial Bank Ltd, in Liquidation v. Federal Mortgage Bank of Nig. Ltd.* (1997) 2 NWLR 739 at 756; *Ona v. Atanda* (2000) 5 NWLR (Pt. 656) 244 and *Egbuonu v. Borno Radio* (1997) 12 SCNJ 99; cases which have been adequately distinguished in the lead judgment.

It is for the above reasons and the fuller reasons in the lead judgment of my learned brother, Ogundare, JSC., that I too allow the appeal. I also award costs as in the lead judgment.

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