

SUPREME COURT OF NIGERIA

23rd FEBRUARY, 2007 SC. 73/2006

**CORAM:- I. L. KUTIGI CJN, S. U. ONU, A. I. KATSINA-ALU,
U. A. KALGO, A. M. MUKHTAR, W. S. N. ONNOGHEN,
F. F. TABAI, JJSC**

ATTORNEY-GENERAL OF ABIA STATE PLAINTIFF
AND
ATTORNEY-GENERAL OF THE
FEDERATION & 35 ORS. DEFENDANTS

SUPREME COURT - Original jurisdiction - Dispute - Meaning - The dispute must inter alia - Be between the Federation and a State - For Supreme Court to exercise its original jurisdiction (H1)

ACTIONS - Dispute - Pleadings - Controversy between States and Federation s. 232(1) 1999 Constitution - Is not disclosed in the Statement of Claim (H2)

ACTIONS - Legal personality - Proper defendant - Where suit is not against the EFCC - Who is the proper person to be sued vide s. 2(a) & (b) EFCC Act 2004 - Preliminary objection will be sustained (H3)

FACTS

Before the Supreme Court, plaintiff filed an action against defendants based on that court's original jurisdiction to resolve dispute between the states inter se, and the Federation. But the Statement of Claim did not show that plaintiff has any dispute or controversy with any of the defendants, not even against the 1st defendant (the Federal Government). Rather all the complaints were against the EFCC (Economic and Financial Crimes Commission). Plaintiff inter alia, sought to establish that the EFCC has no power to freeze Abia State Government's account nor to investigate the financial affairs of a State Government.

Some of the defendants including the 5th defendant raised prelimi-

nary objection, contending that the Supreme Court lacks the jurisdiction to entertain the suit as presently constituted by virtue of s. 232 (1) of the 1999 Constitution. 5th defendant submitted that the EFCC is a body corporate with the capacity to sue and be sued before a proper court of law, not the Supreme Court.

HELD (Unanimously upholding the preliminary objection and striking out the suit per **ONNOGHEN JSC**)

SUPREME COURT - Original jurisdiction - Dispute

1. It is clear from the above that for the original jurisdiction of this Court to be invoked in a civil action,:

(a) the action must be between the federation and the state(s) or between states, and there must be a dispute between the federation and a state or states,

(b) the dispute must involve a question of law or fact or both, and

(c) the dispute must pertain to the existence or extent of a legal right.

It has been held by this Court vide **BELGORE, JSC** (as he then was) in *A-G of the Federation v. A-G of Abia State* (2001) 11 NWLR (pt. 725) 689 at 737, inter alia, that the term dispute as used in section 232(1) of the 1999 Constitution “....involves acts of argument, controversy, debate, claims as to rights whether in law or facts varying opinion, whether passive or violent or any disagreement that can lead to public anxiety or disquiet.....” (p. 861 C)

Controversy between States and Federation

2. Can it be said that the facts pleaded in the Statement of Claim disclose any dispute between the plaintiff and the defendants in this action within the meaning of the said section 232(1) of the 1999 Constitution? The answer is clearly in the negative. There is no single complaint against the 1st defendant as representing the Federal Government in this action neither is there any complaint against the other defendants. All the complaints are directly against the activities of the Economic and Financial Crimes Commission (EFCC) or its agents in the exercise of the functions

conferred on the organization by law. (p. 861 G)

ACTIONS - Legal personality - Proper defendant

3. The law recognizes the fact that in the exercise of such functions, as those of EFCC, the officers might breach certain individual or corporate rights which would necessitate initiation of legal action to secure redress that is why section 2(a) and (b) of the EFCC Act, 2004 clearly clothes the said Commission with legal personality thereby making it possible for it to sue or be sued where the circumstance arises. In the instant case, I hold the considered view that the plaintiff can institute an action against EFCC in the appropriate High Court for the reliefs it deems fit but not in this court as EFCC is neither, a state nor the federation nor the National Assembly. EFCC has also not been shown to have taken the actions as agents of the 1st defendant.

In the circumstance I hold that the preliminary objection has merit and should be sustained. I order accordingly. I therefore strike out this action on the ground that this Court lacks the jurisdiction to entertain same. (p. 862 A)

REPRESENTATION

Chief S. U. Akuma, (Attorney-General Abia State) for the Plaintiff with him are E. Awa-Kalu (Mrs.), Ogbugo Ukoha Esq., Akiola N. N. (Mrs.), S.S.C; U. Chukwu Esq., S.C; M.C. Karu Esq., and N. C. Okonkwo Esq. R. A. Lawal-Rabana Esq., for the 1st Defendant with him are M. U. Okoi, Esq., C.L.O. Federal Ministry of Justice; N. A. Nwachukwu (Miss), L. O. Sheeni Ibikuw Esq., C. P. Idam, Esq., Chuma Chukwudi Esq. Yakubu Gbali Esq. for Adamawa State

I. E. Ukana Esq., D.C.L. for Akwa-Ibom State

P. A. Afuba Esq., A-G Anambra State with V. O. Onwuka (Mrs.) A.C.S.C. Dele Adesina Esq. for Bauchi State with him is Bidemi Adesina Esq.

K. Wodu Esq., for Bayelsa State with him is H. P. M. Apeli D.C.L.

C. M. Chaha P.S.C. for Benue State

Prof. A. B. Kasunmu, SAN with O. A. Ojo Esq. for Delta State

Ghoyega Oyewole Esq., A-G for Ekiti State with A. O. Familoni D.C.L.

- A. N. Eluwa (Mrs.) D.C.L for Imo State
Adamu Abdullahi Esq. for Jigawa State with him is Sabi Abubakar Esq.
H. O. Afolabi Esq. for Niger State with him are S. O. Ajayi, O. A. Popoola;
O. O. Ogunmola (Mrs.)
- B Cyril Akiminsola Esq., D.C.L for Ondo State with him Deji Ogundare,
Esq. D.D.C.L.
W. A. Olajide Esq. for Osun State holding brief for N.O.O. Oke Esq.
SAN.
- C M. F. Lana Esq. A-G for Oyo State with D. A. Ogumuran; C.L.O; O. K.
Omotosho, L.O.
F. B. Lotben (Mrs.) D.C.L. for Plateau State.
E. N. Madume Esq. D.D.C for Rivers State.
Suleiman Abdulkadir Esq. for Sokoto State.
- D S. Samanja Esq., S.G for Yobe State with I. S. Kogo D.C.L.

CASES REFERRED TO

- A-G of the Federation v. A-G of Abia State (2001) 11 NWLR (pt. 725)
E 689 at 737
A-G of Ondo State v. A-G of the Federation & 19 ors (1983) All NLR 552
A-G of the Federation and A-G of Imo State (1983) 4 NCLR Vol. 4, 178
Attorney-General Of Lagos State V. Attorney-General Of The Federation
F (2004) 11-12 Sc 85 At 149-150
Governor Of Ondo State V. President Of The Federal Republic Of Nige-
ria (1985) 6 NCLR 681
Governor Of Kaduna State V. The President Of The Federal Republic Of
Nigeria (1981) 2 NCLR 786
- G Obioha V. President Of The Federal Republic Of Nigeria (1981) 2 NCLR
701
Governor Of Ogun State V. President Of The Federal Republic Of Nige-
ria (1982) 3 NCLR 538
- H President Of The Federal Republic Of Nigeria V. Governor Of Kano State
(1982) 3 NCLR 819
Attorney-General of Bendel State V. Attorney-General of the Federation
(1981) 10 Sc 1 (1982) 3 NCLR 1

STATUTES REFERRED TO

Economic and Financial Crime Commission (EFCC) (Establishment) Act 2004 ss. 7(1), 46, 40, 34(1) 2(a) & (b)

Constitution of Nigeria 1999 ss. 36(1) & (5), 232(1) B

Independent Corrupt Practices and Other Related Offences Commission (ICPC) Act 2002.

LEAD JUDGMENT BY ONNOGHEN JSC

The plaintiff claims that the agents of the Economic and Financial Crimes Commission a.k.a EFCC, had caused to be printed in February, 2006, the Statement of Account of Abia State Government's House and other State Departments without authorization or consent of the plaintiff. The plaintiff also alleges that the EFCC had received copies of State-
ments of Account of the plaintiff from the plaintiff's bankers including but not limited to Hallmark Bank, Guarantee Trust Bank and Manny Bank; that the powers to investigate and prosecute financial crimes vested in the EFCC does not extend to the management of the plaintiff's accounts and that the EFCC within the past one year had used its statutory powers in such a way as to freeze the accounts owned and operated by the Bayelsa State Government and the Plateau State Government; that the Government of Abia State does not come within the provisions of section 7(1) of the Economic and Financial Crimes Commission (EFCC) and as such its financial activities as a Government are not within the contemplation of the EFCC Act; that unless restrained the 1st Defendant's agents acting through the EFCC will take steps to freeze or render inoperative the accounts of the Abia State Government and therefore called on the court to determine the following questions:- C
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“(a) Whether official corruption including corruption by functionaries of a State in the Federation as defined in the Criminal Code Law applicable in Abia State or in the Independent Corrupt Practices and Other Related Offences Commission (ICPC) Act, 2002 comes within the purview of section 46 of the Economic and Financial Crimes Commission (EFCC) (Establishment) Act, 2004. H

(b) *Whether section 40 of the Economic and Financial Crimes Commission (EFCC) (Establishment) Act, 2004 is not unconstitutional having regard to the provisions of section 36 of the Constitution.*

B (c) *Further or in the alternative, whether section 40 of the Economic and Financial Crimes Commission (EFCC) (Establishment) Act, 2004 is not a Legislative Judgment.*

C (d) *Whether it is lawful or not for the Economic and Financial Crimes Commission (EFCC) to freeze the account of any person pursuant to its powers under section 34(1) of the EFCC Act, notwithstanding the provisions of section 36(1) and (5) of the Constitution of the Federal Republic of Nigeria, 1999,*

D (e) *Whether the powers conferred on the Economic and Financial Crimes Commission (EFCC) by section 7(1) of the Economic and Financial Crimes Commission (EFCC) Act, 2004 extends to investigations into the financial affairs of a State Government.*

E (f) *Whether the Government of Abia State is a person, corporate body or organization cognizable under section 7(1) of the Economic and Financial Crimes Commission (EFCC) Act, 2004*

F (g) *Whether the Economic and Financial Crimes Commission (EFCC) has power by virtue of section 34(1) and (2) of the Economic and Financial Crimes Commission (EFCC) Act, 2004 to freeze any account belonging to any government in the Federation (including the Abia State Government) or at all.”*

The plaintiff therefore claimed the following reliefs:-

G “(i) *A determination of the question whether section 40 of the Economic and Financial Crimes Commission (EFCC) Establishment) Act, 2004 is not a legislative judgment.*

H (ii) *A determination of the question whether the powers conferred on the Economic and Financial Crimes Commission (EFCC) by section 7(1) of the Economic and Financial Crimes Commission (EFCC) Act, 2004 extends to investigation into the financial affairs of a State Government.*

(iii) *A declaration that it is unlawful for the Economic and Financial Crimes Commission (EFCC) to freeze or render in operative the*

account or accounts of any Government of a State including the plaintiff's.

(iv) A declaration that the powers vested in the Economic and Financial Crimes Commission (EFCC) by the Economic and Financial Crimes Commission (EFCC) Act, 2004 does not extend to official corruption as defined in the Criminal Code Law applicable in Abia State B not to such kindred offences defined in the Independent Corrupt Practices and other Related Offences Commission Act, 2002 or at all.

(v) A declaration that it is illegal and unconstitutional for The Economic and Financial Crimes Commission (EFCC) to exercise any C power vested in it by the Economic and Financial Crimes Commission (EFCC) Act, 2004 to freeze the accounts of the plaintiff without recourse to the relevant provisions of section 36 of the Constitution of the Federal Republic of Nigeria, 1999 and to all rules of natural justice.

(vi) A declaration that it is unlawful and unconstitutional for the D 1st Defendant acting through the Economic and Financial Crimes Commission or any of its agencies to exercise the executive powers of the Federation in such a way as to stifle, paralyze, curtail, or in any way or manner whatsoever, to inhibit the functions of any State Government E including the plaintiffs.

(vii) An order of perpetual injunction restraining the Federal Government, its functionaries or Agencies whomsoever including the Economic and Financial Crimes Commission (EFCC) or howsoever from F executing or applying or enforcing the provisions of the Economic and Financial Crimes Commission (EFCC) Act, 2004 in the plaintiff state whether by interfering with the activities of any public officer or functionary or officer or servant of the Government of Abia State in exercise G of powers purported to be conferred by or under the provisions of the Economic and Financial Crimes Commission (EFCC) Act, 2004 or by sections 7, 34(1) or 40 of the said Act or otherwise howsoever.

(viii) An order of perpetual injunction restraining the Defendants H jointly and severally from using the Economic and Financial Crimes Commission (EFCC) or by any means whatsoever to freeze or render inoperative or inoperable any account or accounts of the plaintiff in any Bank in Nigeria."

From the questions and reliefs reproduced supra, it is without doubt that the complaints of the plaintiff are against the activities of the agents of or operations of the Economic and Financial Crimes Commission. There is no complaint against the Government of the Federal Republic of Nigeria as represented by the 1st Defendant in this action. It should be noted that the Attorneys-General of all the States of the Federation except Abia State, have been joined by the plaintiff as co-defendants in this action and that by relief (viii) supra the plaintiff seeks to restrain the said defendants jointly and severally from using the EFCC to freeze or render inoperable any account or accounts of the plaintiff. The above relief presupposes that the Economic and Financial Crimes Commission (EFCC) is under the control, management, and direction of the defendants whereas in actual fact, it is not. Throughout the Statement of Claim, there is no single complaint against the Economic and Financial Crimes Commission Act, 2004 which is the Act establishing the Economic and Financial Crimes Commission (EFCC) whose activities are being called to question in the suit. The Act establishing the said Commission is not being questioned in any manner - its constitutionality or validity is therefore not in issue in this action.

It is the contention of the 5th defendant/objector that this Court lacks the jurisdiction to entertain the action as presently constituted by virtue of the provisions of section 232(1) of the Constitution of the Federal Republic of Nigeria, 1999 (hereinafter called the 1999 Constitution) and the decision of this Court in *A-G of the Federation v. A-G of Abia State* (2001) 11 NWLR (pt. 725) 689 at 728; *A-G of Ondo State v. A-G of the Federation* & 19 ors (1983) All NLR 552; *A-G of the Federation and A-G of Imo State* (1983) 4 NCLR Vol. 4, 178. Referring to section 2(a) & (b) of the Economic and Financial Crimes Commission Act, 2004 learned counsel for the 5th defendant submitted that the Commission, A.K.A. EFCC is a body corporate with the capacity to sue and be sued in a court of law in the performance of its statutory functions and is not an agent of the 1st defendant; that any one with any complaints against the EFCC ought to sue it directly and that this court is not the proper forum for such an action and urged the court to sustain the objection, which is

raised in Limine.

The plaintiff has not reacted to the preliminary objection of the 5th defendant as argued in the brief of argument.

The provision of section 232(1) of the 1999 Constitution, which confers original jurisdiction on this Court, is very clear and unambiguous. It states as follows:-

“The Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute between the Federation and a state or between states if and in so far as that dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends.”

It is clear from the above that for the original jurisdiction of this Court to be invoked in a civil action,:

(a) the action must be between the federation and the state(s) or between states, and there must be a dispute between the federation and a state or states,

(b) the dispute must involve a question of law or fact or both, and

(c) the dispute must pertain to the existence or extent of a legal right.

It has been held by this Court vide BELGORE, JSC (as he then was) in A-G of the Federation v. A-G of Abia State (2001) 11 NWLR (pt. 725) 689 at 737, inter alia, that the term dispute as used in section 232(1) of the 1999 Constitution “....involves acts of argument, controversy, debate, claims as to rights whether in law or facts varying opinion, whether passive or violent or any disagreement that can lead to public anxiety or disquiet.....”

Can it be said that the facts pleaded in the Statement of Claim disclose any dispute between the plaintiff and the defendants in this action within the meaning of the said section 232(1) of the 1999 Constitution? The answer is clearly in the negative. There is no single complaint against the 1st defendant as representing the Federal Government in this action neither is there any complaint against the other defendants. All the complaints are directly against the

activities of the Economic and Financial Crimes Commission (EFCC) or its agents in the exercise of the functions conferred on the organization by law. The law recognizes the fact that in the exercise of such functions, as those of EFCC, the officers might breach certain individual or corporate rights which would necessitate initiation of legal action to secure redress that is why section 2(a) and (b) of the EFCC Act, 2004 clearly clothes the said Commission with legal personality thereby making it possible for it to sue or be sued where the circumstance arises. In the instant case, I hold the considered view that the plaintiff can institute an action against EFCC in the appropriate High Court for the reliefs it deems fit but not in this court as EFCC is neither, a state nor the federation nor the National Assembly. EFCC has also not been shown to have taken the actions as agents of the 1st defendant.

In the circumstance I hold that the preliminary objection has merit and should be sustained. I order accordingly. I therefore strike out this action on the ground that this Court lacks the jurisdiction to entertain same with no order as to costs.

Case struck out.

F **KUTIGI CJN**

I have had the privilege of reading in advance the judgment just delivered by my learned brother Onnoghen, JSC. I agree with his reasoning and conclusions. This Court clearly has no original jurisdiction in the matter which is a challenge to the powers or actions of the Economic and Financial Crimes Commission (E.F.C.C.), a legal entity which can sue and can be sued. The suit is accordingly struck-out with no order as to costs.

H **ONU JSC**

Having been privileged to read before now the judgment of my learned brother Onnoghen, JSC I am in complete agreement therewith that this case be and is accordingly struck out for being incompetent vide

Section 232 of the Constitution of the Federal Republic of Nigeria, 1999.

KATSINA-ALU JSC

I have read before now, in draft, the judgment delivered by my learned brother Onnoghen JSC. I entirely agree with his reasoning and conclusion. I also strike out the suit. I make no order as to costs.

KALGO JSC

I have read the judgment of my learned brother Onnoghen, JSC in this case before now, and I agree with him that based on the facts disclosed in the Statement of Claim of the plaintiff, this court would have no jurisdiction to entertain the action of the plaintiff. The action as a whole does not come within the ambit of the provisions of Section 232 (1) of the 1999 Constitution which empowers this court to have original jurisdiction only -

“..... in any dispute between the Federation and a State or between States.”

The substance of the “dispute” in this case is between the Economic And Financial Crimes Commission (EFCC) and the plaintiff (Abia State). The E. F. C. C. is an agency of the Federal Government Establishment by the E. F. C. C. Act of 2004 and under the said Act, E. F. C. C. can sue and be sued in court. But since E. F. C. C. is not a State and is not Federal Government, it cannot be sued in this court under any Act or law. Therefore the preliminary objection by the 5th defendant challenging the jurisdiction of this court in this action must in my view succeed. I so hold accordingly. I therefore agree with the leading judgment of my learned brother Onnoghen JSC that this court lacks the jurisdiction to entertain this case, and I hereby strike it out with no order as to costs.

MUKHTAR JSC

I have read in advance the lead judgment written by my learned

brother Onnoghen JSC. I am in complete agreement, that no dispute exists between the plaintiff and the defendants, that will warrant the institution of this action in this court. Section 232 (1) of the 1999 Constitution is very clear on when the original jurisdiction of the court can be invoked. In this wise I agree with the conclusion reached in the lead judgment that this court lacks jurisdiction to entertain matter. I also strike the case out with no order as to costs.

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TABAI JSC

I had, before now, the benefit of reading, in draft, the leading judgment of my learned brother Onnoghen JSC and I agree entirely with the conclusion that the suit be struck out for this Court's lack of jurisdiction.

The seven questions for which the Plaintiff seeks this Court's determination are clearly set out in the leading judgment. Also set out therein are the eight reliefs claimed by the Plaintiff. It is not necessary therefore to repeat these questions and reliefs. In paragraph 13 of what is headed as Statement of Defence and Counter-Claim filed on the 2/11/06, the 10th Defendant, Attorney-General of Delta State, also claims against the 1st Defendant the following reliefs:

(i) A declaration that the powers vested in the EFCC under section 7(1) of the EFCC Act does not extend to the powers to investigate the commission of financial crimes as defined under the Act against a State Government including the 10th Defendant.

(ii) In the alternative to prayer (i) above, a declaration that Section 7(1) of the EFCC Act is unconstitutional in fact it vests the EFCC with powers to investigate the account, of a State Government for financial crime and to freeze such account pursuant to powers vested in it under section 34 of the Act.

(iii) A declaration that section 34 of the EFCC Act which allows that body to apply to Court Ex parte for powers to freeze the account of a person (including the account of a State Government) and to obtain documents and information in respect of the said account for an notice

to the owner of the account is unconstitutional, irregular and void.

(iv) A declaration that section 40 of the EFCC Act is unconstitutional in that:-

(a) It curtails the right of an Appellant to ask that proceedings be stayed consequent upon an interlocutory appeal filed by the Appellant. B

(b) It takes away the discretionary powers vested in the court in deciding whether or not to grant or refuse stay of proceedings in interlocutory appeals.

(c) It is an incursion by the legislature into the exercise of judicial powers by the court. C

In its Statement of Defence filed on the 7/7/06 the 1st Defendant gave a Notice of Preliminary Objection to the competence of the suit. The Notice says that this Court lacks original jurisdiction to entertain the suit because:- D

1. The cause of action in this case is against a statutory body established by an Act of the National Assembly with powers to sue and be sued.

2. The proper defendant should be the Economic and Financial Crimes Commission (EFCC) and not the 1st Defendant or the 2nd - 36th Defendants. E

3. There is no claim whatsoever against the 1st Defendant or the 2nd - 36th Defendants. F

The notice concluded that the 1st Defendant shall urge this Court to strike out the suit in limine for want of jurisdiction.

Also in paragraph 3 of his Statement of Defence filed on the 27/9/06, the 5th Defendant, raised the issue of this Court's lack of original jurisdiction to hear the action as presently constituted having regard to the provisions of section 232(1) of the Constitution of the Federal Republic of Nigeria 1999. This point is extensively argued in the 5th Defendant's Brief of Argument filed on the same 27/9/06. G

And the issue of jurisdiction was again raised by the 26th Defendant. Although the 1st Defendant raised the issue of jurisdiction by its notice of preliminary objection, it did not argue it in the Brief of Argument subsequently filed. Learned counsel for the 5th Defendant, Dele Adesina H

made detailed submission on the issue. The substance of his submission is that by virtue of the provisions of section 232(1) of the 1999 Constitution, no original jurisdiction is vested in this Court to entertain the suit. For this submission, he relied on ATTORNEY-GENERAL OF THE FEDERATION v. ATTORNEY-GENERAL OF ABIA STATE & ORS (2001) 11 NWLR (Part 725) 689. It was his submission that there is no dispute or controversy between the Plaintiff and the Federal Government or any of the other defendants to entitle this Court to exercise its original jurisdiction. Section 232(1) of the 1999 Constitution is a re-enactment of section 212(1) of the 1979 Constitution and learned counsel therefore cited ATTORNEY-GENERAL OF ONDO STATE v ATTORNEY-GENERAL OF THE FEDERATION (1983) ANLR 552 and ATTORNEY-GENERAL OF THE FEDERATION v ATTORNEY-GENERAL OF IMO STATE (1983) 4 NCLR 178 where the provision was construed by this Court. It was argued that the reliefs claimed are against the EFCC established by the Economic and Financial Crimes Commission Act 2004 with powers to sue and be sued. On this issue of jurisdiction learned counsel for the 26th Defendant, L. O. Fagbemi SAN submitted in their brief as follows:- He restated certain time honoured principles of law on the issue of jurisdiction. He referred to ATTORNEY-GENERAL OF LAGOS STATE v. ATTORNEY-GENERAL OF THE FEDERATION (2004) 11-12 SC 85 at 149-150; ATTORNEY-GENERAL OF THE FEDERATION v. ATTORNEY-GENERAL OF IMO STATE (*supra*); GOVERNOR OF ONDO STATE v. PRESIDENT OF THE FEDERAL REPUBLIC OF NIGERIA (1985) 6 NCLR 681; GOVERNOR OF KADUNA STATE v. THE PRESIDENT OF THE FEDERAL REPUBLIC OF NIGERIA (1981) 2 NCLR 786; OBIOHA v. PRESIDENT OF THE FEDERAL REPUBLIC OF NIGERIA (1981) 2 NCLR 701; GOVERNOR OF OGUN STATE v. PRESIDENT OF THE FEDERAL REPUBLIC OF NIGERIA (1982) 3 NCLR 538; and PRESIDENT OF THE FEDERAL REPUBLIC OF NIGERIA v. GOVERNOR OF KANO STATE (1982) 3 NCLR 819 wherein section 212 of the 1979 Constitution and section 232 of the 1999 Constitution have been construed and applied. It was his contention that there is no dispute between the Plaintiff as a State and either the 1st Defendant or any

of the other Defendants. Learned Senior Counsel argued that the complaints in the Statement of Claim are only against the activities of the Economic and Financial Crimes Commission and cannot come within the province of section 233 (1) of the 1999 Constitution. He also urged that the suit be struck out for want of jurisdiction. B

On this issue of the jurisdiction of this Court to entertain this suit, ATTORNEY-GENERAL OF THE FEDERATION v. ATTORNEY-GENERAL OF ABIA STATE (supra) is quite apposite. After reproducing the text of section 232(1) of the 1999 Constitution, the Court (per Uwais CJN) at page 728 spoke of the provision thus: C

“It follows, therefore, that for this court to exercise its original jurisdiction in a civil case between the Federal and State(s) or between States there must be:-

- (a) a dispute between the Federation and a State or States;* D
- (b) the dispute must involve a question of law or fact or both; and*
- (c) the dispute must pertain to the existence or extent of a legal right”*

With respect to the construction given to the word “dispute” the opinion of the Court (per Belgore JSC as he then was) is quite apposite in determining the issue of this Court’s jurisdiction in this case. At page 701 he said of “dispute” thus: E

“...A dispute is a dispute whether apparent or lingering. It is remarkable that in the counter-claims to the suit some States have admitted there is a dispute. This Court in ATTORNEY-GENERAL OF BENDEL STATE v. ATTORNEY-GENERAL OF THE FEDERATION (1981) 10 SC 1 (1982) 3 NCLR 1; ATTORNEY-GENERAL OF THE FEDERATION v. ATTORNEY-GENERAL OF IMO STATE (1983) 4 NCLR 178 set out clearly what is dispute to the extent of using authoritative English dictionary. To my mind a dispute involves acts of argument, controversy, debate, claims as to rights whether in law or fact, varying opinions whether passive or violent or any disagreement that can lead to public anxiety or disquiet.” F G H

I have examined the eight relief claim and I cannot find any substantive claim against any of the Defendants. Although relief (vii) in-

cludes an injunctive relief against the 1st Defendant there is no substantive relief upon which it is predicated. I am persuaded by the arguments of counsel for the 5th and 26th Defendants that the complaints and reliefs are against only the Economic and Financial Crimes Commission and not B against any of the Defendants. It is my view that the Plaintiff and/or the 10th Defendant/Counter-claimant can obtain full redress for their grievances under a suit against the Economic and Financial Crimes Commission. In the absence of any allegations of some wrong doing and resultant reliefs against any of the Defendants no original jurisdiction is vested C in this Court to entertain the suit.

For the foregoing reasons and the fuller reasons contained in the leading judgment I also strike out the suit for want of jurisdiction. And also struck out is the 10th Defendant's counter-claim. I make no order as D to costs.

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