

SUPREME COURT OF NIGERIA
14TH JANUARY, 2011. SC. 237/2005
CORAM:- A. M. MUKHTAR, F. F. TABAI, I. T. MUHAMMAD,
M. S. MUNTAKA-COOMASSIE, S. GALADIMA, JJSC

1. PRINCE ABDUL RASHEED
ADESUPO ADETONA APPELLANTS
2. TOKI DABUR PRODUCTIONS
LTD. (IN RECEIVERSHIP)
3. EKO INTERNATIONAL BANK PLC.
AND
IGELE GENERAL ENTERPRISES LTD. RESPONDENT

COURTS - Jurisdiction - How determined - In ascertaining whether or not it has jurisdiction - A court must carefully examine the writ of summons and the statement of claim (H1)

ACTIONS - Torts - Jurisdiction - Where an action is founded in tort - As in the instant case - A State High Court has jurisdiction - By virtue of s. 272 of the 1999 Constitution (H2)

COMPANY LAW - Receiver/Manager - Limit of powers - Though he takes over the company's property as in this case - He cannot detain other persons' property - In exercise of his powers (H3)

COMPANY LAW - Receiver/Manager - Courts' jurisdiction - The mere involvement of a receiver/manager - Does not confer automatic jurisdiction on Federal High Court - It depends on the nature of the action (H4)

FACTS

The plaintiff/respondent sued the defendants/appellants before the High Court of Lagos State claiming damages for the wrongs of detainment, unlawful interference with business and trespass. It is not in dispute that respondent was a tenant in the premises known as No. 27A Fatao Atere Way, Matori Mushin, Lagos and that the premises belonged to 2nd appellant. This was the position prior to the

appointment of 1st appellant as receiver/manager of 2nd appellant, and was made known to him upon his assumption of office as the receiver/manager. Yet, in exercise of his functions as such, 1st appellant had taken over the entire premises, including the portion occupied by the respondent and locked same up, detaining respondent's goods in the warehouse as well as preventing respondent from carrying on its business for a period of over four (4) months.

Upon being served with the originating processes, appellants raised a preliminary objection challenging the jurisdiction of the State High Court, on the ground that the suit arose from the exercise of powers and duties of a receiver/manager and as such falls within the operations of the Companies and Allied Matters Act, over which the Federal High Court had exclusive jurisdiction. Upon hearing the objection, the trial court overruled same and held that it had jurisdiction. Aggrieved, appellants appealed to Court of Appeal which appeal was dismissed. Still dissatisfied, they have come on a further and final appeal to the Supreme Court.

ISSUE FOR DETERMINATION

“Whether the Court of Appeal was right in its decision that the High Court of Lagos State has jurisdiction to entertain the suit instituted by the Respondent.

HELD (Unanimously dismissing the appeal per **GALADIMA JSC**) **COURTS - Jurisdiction - How determined**

1. In their arguments on the sole issue, both learned counsel for the parties correctly stated the often stated principle of law in determining whether or not a court has jurisdiction to entertain the subject matter of a suit. That is, that the writ of summons and the statement of claim must be carefully examined. (p. 27 E)

ACTIONS - Torts - Jurisdiction

2. It seems quite clear to me that after careful reading of the above paragraphs of the Respondent's (as plaintiff) averments, the gravamen of the Respondent's contention at the trial court can be summarized as follows:

(i) That the plaintiff is a tenant in premises No. 27A Fatai Atere Way, Matori Mushin, Lagos, prior to the appointment of the 1st Appellant as Receiver/Manager of the 2nd Appellant. This status was

known to the 1st Appellant herein upon his assumption of office as the Receiver/Manager.

(ii) The Respondent's contention is that it is a different and separate entity from the 2nd Appellants over which the 1st appellant was appointed as Receiver/Manager.

(iii) The 1st Appellant had in the exercise of his functions detained the Respondent's goods in the warehouse and also prevented it from carrying on its legitimate business and it thereby sustained losses for which it is asking by its reliefs to be compensated in the sum of N20,000,000.00 (Twenty Million naira).

(iv) That the Respondent's action is one of tort for detainue, unlawful interference with business and trespass which a State High Court has jurisdiction by virtue of section 272 of the 1999 Constitution. (p. 31 B)

COMPANY LAW - Receiver/Manager - Limit of powers

3. Learned counsel has argued that section 393 (1) of the Companies and Allied Matters Act Cap. C 20, Laws of the Federation of Nigeria 2004, confers on the 1st Appellant powers to take possession of and protect the property at No. 27A FATAI ATERE WAY, MATORI MUSHIN, LAGOS which forms part of the assets of the 2nd Appellant over which the 1st Appellant was appointed a Receiver/Manager.

I am to some extent, in agreement with this proposition. However, with due respect the learned counsel has failed to understand the mandate and powers of the Receiver/Manager in the circumstance. The provision of CAMA referred to does not empower the Receiver/Manager to arbitrarily lock up the premises of other persons or detain their properties in the purported exercise of his power. (p. 31 G)

COMPANY LAW - Receiver/Manager - Courts' jurisdiction

4. The Respondent seems to be suggesting that the Federal High Court shall have jurisdiction to entertain any matter involving a Receiver/Manager or that the mere mention of his name in a claim makes it a proper one for the Federal High Court to have jurisdiction to entertain. The position of the law is admirably captured and enhanced in the case of 7UP BOTTLING CO. LIMITED & ORS. v. ABIOLA and SONS LIMITED (Supra), where the acts and conduct

complained of are that of a Receiver/Manager. It was similarly argued on behalf of the Appellants in that case that because it was a Receiver/Manager who sold the Respondent's properties, it was a matter which bordered on the operation of the Companies and Allied Matters Act and falls within the exclusive jurisdiction of the Federal High Court. This court per ONU JSC discountenanced this argument and held that since there was an extant injunction restraining the Receiver/Manager from selling the Respondent's properties, the sale of those properties amounted to conversion, which is an action in tort over which the Kwara State High Court has jurisdiction. (p. 32B)

NOTABLE POINTS OF INTEREST **MUHAMMAD JSC**

1. Jurisdiction of courts has three dimensions

The matter of jurisdiction in our courts, is generally, approached from three dimensions: territorial, subject matter and jurisdiction on persons. On territorial jurisdiction, the Federal High Court enjoys nationwide jurisdiction whereas a State High Court is confined to the territory of the State and that of the Federal Capital Territory to the Federal Capital Territory. On subject matter jurisdiction, the High Court of a State, by the provision of section 236 of the Constitution of the Federal Republic of Nigeria, 1999, enjoys unlimited jurisdiction. The Federal High Court has limited jurisdiction or jurisdiction on some enumerated subject matters. A State High Court has jurisdiction mostly over natural persons. Federal High Court has jurisdiction over both natural and artificial persons. (p. 38 D)

2. Fundamental rights - Concurrent Jurisdiction

There are areas where both the Federal High Court and High Court of a State enjoy concurrent jurisdiction. Example of such is the enforcement of Fundamental Human Rights conferred in chapter iv of the Constitution. Section 46 of the Constitution provides:

1) "Any person who alleges that any of the provisions of this chapter has been, is being or likely to be contravened in any State in relation to him may apply to a High Court in that State for redress.

2) Subject to the provisions of this Constitution, a High Court shall have original jurisdiction to hear and determine any application made to it in pursuance of the provisions of this section and may

make such order, issue such writs and give such directions, as it may consider appropriate for the purpose of enforcing or securing the enforcement within that State of any right to which the person who makes the application may be entitled under this chapter.

3) The Chief Justice of Nigeria may make rules with respect to the practice and procedure of a High Court for the purposes of this section." **B**

Although, unlike the 1979 Constitution, section 318 (1) of the present Constitution does not define "High Court", there is no doubt that the term carries the same meaning as given by section 277 (1) of the 1979 Constitution to mean Federal High Court or the High Court of a State. (p. 38 G) **C**

3. Fundamental right - jurisdiction depends on the context of breach

It has to however be noted that the exercise of this jurisdiction by the Federal High Court, is where the fundamental right threatened or breached falls within the enumerated matters on which that court has jurisdiction. Thus, fundamental rights arising from matters outside its jurisdiction cannot be enforced by the Federal High Court. Equally, a High Court of a State shall lack jurisdiction to entertain matters of fundamental rights, although brought pursuant to section 46 (2) of the Constitution, where the alleged breach of such matters arose from a transaction or subject matter which fall within the executive (*sic exclusive*) jurisdiction of the Federal High Court as provided by section 251 of the Constitution. (p. 39 E) **D**
E
F

REPRESENTATION

Olatunde Adejuyigbe Esq., with Sunday Aroh Esq., and Deborah Enadeghe Esq., for the Appellants. **G**
Olanrewaju A. Osinaike Esq., with Abayomi Begbaji Esq., and Abiola Osho Esq., for the Respondent

CASES REFERRED TO

OPITI v. OGBEIWI (1992)4 NWLR (pt. 234) 184 at 195 **H**
OREMO II v. ADEKANYE (2004) 13 NWLR (pt. 891) 572
TRADE BANK PLC. v. BENILUX LIMITED (2003), 9 NWLR (pt. 825) 416
MUSTAPHA v. GOVERNOR OF LAGOS STATE (1987) 2 NWLR

(pt. 58) 539

WEMA BANK PLC. v. CHRISROCK LAB. IND. LTD. (2002) 8 NWLR

(pt. 770) p. 614

WEMA BANK PLC. v. CHRIS ROCK LAB. IND. LTD. (2002) 8 NWLR

(pt. 770) 614 at 630-631

B

STATUTES REFERRED TO

Constitution of the Federal Republic of Nigeria, 1999, s. 251

Companies and Allied Matters Act, Cap. C 20, L.F.N. 2004, s. 393.

C

LEAD JUDGMENT BY GALADIMA JSC

This is an appeal against the decision of the Court of Appeal, Lagos Division delivered on the 10th March, 2005, whereby the court dismissed the appeal lodged by the Appellants against the ruling of the High Court of Lagos State, which dismissed Appellants preliminary objection dated 16th October, 2010, filed by the Appellants in which they sought to strike out the Respondents' suit on the ground that the suit arose from the exercise of powers and duties of a Receiver/Manager and therefore falls within the operations of the Companies and Allied Matters Act, over which the Federal High Court has exclusive jurisdiction by virtue of the provision of section 251 (1) (e) of the 1999 Constitution of the Federal Republic of Nigeria.

I shall briefly recount the events which culminated in the suit of the Respondent at the trial court for N20 million general and/or exemplary damages against the Appellants jointly and severally. Sometime in June, 2000, the 1st Appellant took over the management of the 2nd Appellant following his appointment as Receiver/Manager of the 2nd Appellant by the 3rd Appellant. On 7th December, 2000, (six months after the takeover), the 1st Appellant in the purported exercise of his duties broke into and locked up the premises at 27A Fatai Atere Way, Matori Mushin, Lagos, which premises also housed the Respondents office and warehouse.

The Respondent has averred that the 1st Appellant refused it access to its office and warehouse in which its chemicals and other properties worth millions of naira were kept until 6th April, 2001, in spite of efforts by the Respondent to convince him to open up the premises. By a notice of preliminary objection dated 16th October, 2001, the appellants challenged the jurisdiction of the trial court to

hear and determine the suit on the ground that the Federal High Court is the court vested with jurisdiction in respect of the subject matter of the suit. In his ruling, Oshodi J. overruled the objection and held that the court has jurisdiction to entertain the suit and dismissed the preliminary objection. The appellants by a notice of appeal dated 21st May, 2002, lodged an Appeal against the ruling of the trial court. In accordance with the Court of Appeal Rules, the parties filed and exchanged briefs of argument and the appeal was heard on 2nd February, 2005. The lower court in its Judgment delivered on 10th March, 2005, dismissed the appeal and upheld the decision of the trial court assuming jurisdiction to entertain action instituted by the Respondent.

Being dissatisfied with this decision the appellants further appealed to this court by a notice of appeal dated 23rd day of March, 2005.

The Appellants' sole issue raised for determination of the appeal reads thus:

"Whether the Court of Appeal was right in its decision that the High Court of Lagos State has jurisdiction to entertain the suit instituted by the Respondent. (Grounds 1 and 2 of the notice of appeal)."

In the Respondent's brief, the sole issue he identified in this appeal is:

"Whether from the Respondent claim and the circumstances of this case, the Court of Appeal was right in holding that the High Court of Lagos State has jurisdiction to entertain the Respondent suit."

This appeal came up for hearing on 18th October, 2010, wherein the appellants' counsel Olatunde Adejuyigbe Esq. adopted and relied, on the Appellants' brief of argument. He made no further amplification on the sole issue presented for determination of the appeal. However, he did not hesitate in urging this court to allow the appeal. Similarly, learned counsel for the Respondent Olanrewaju Osinaike Esq., having adopted the Respondent's brief and relied on the same, cursorily urged this court to dismiss Appellants' appeal in its entirety and uphold the decision of the lower court directing that the High Court of Lagos State should proceed with the trial of the suit.

Learned counsel for the Appellants in the brief he settled for the Appellants submitted that it is trite law that in considering whether or not a court has jurisdiction to entertain the subject matter of a suit the writ of summons and statement of claim must be perused carefully in order to determine which court is vested with jurisdiction over the subject matter of the suit. In support of this submission, he cited: ADEYEMI v. OPEYORI (1976) 9-16 SC 31, OREMO II v. ADEKANYE (2004) 13 NWLR (pt. 891) 572. It is therefore urged that the writ of summons and statement of claim filed by the Respondent at the trial court must be examined by this court in determination of this appeal. Particular reference was made to paragraphs 5, 6, 7, 8, 9 and 10 of the Appellants' Statement of Claim which were reproduced in the brief of argument. Referring further to s. 393 of the Companies and Allied Matters Act. Cap. C 20 LFN 2004, learned counsel submitted that it confers on the 1st Appellant, being a person appointed as Receiver of the property of the 2nd Appellant, the power to take possession of and protect the property. That the court is not concerned at this stage with the propriety or otherwise of the powers exercised by the 1st Appellant over the whole premises aforesaid.

Learned counsel further submitted that whereas the grouse of the Respondent, as ventilated in the statement of claim, is clearly about the acts and conduct of the 1st Appellant in locking up the whole premises of the 2nd Appellant in the exercise of his powers under section 393 (1) of the Companies and Allied Matter Act. (Supra) It is submitted that only the Federal High Court that can exercise jurisdiction over the subject-matter of the suit.

Reliance was placed on the cases of FAGBOLA v. KCCIMA (2006)1 6 NWLR (pt. 977) 433 at 450-451; MAKERI SMELTING CO. LTD. v. ACCESS BANK (NIG) PLC. (2002) 7 NWLR (pt. 766) 447, and WEMA BANK PLC. v. CHRIS ROCK LAB. IND. LTD. (2002)8 NWLR (pt. 770) 614 at 630-631.

In the light of the above submission learned counsel has urged this court to resolve the sole issue for determination in the negative in favour of the Appellants.

Learned counsel for the Respondent in the brief he prepared, agreeing with the Appellants, stated though, repeatedly, that in determining whether or not a court has jurisdiction to entertain the subject matter of a suit, the writ of summons and the statement of

claim must be carefully examined so as to see the reliefs claimed. Reliance was placed on the cases of MUSTAPHA v. GOVERNOR OF LAGOS STATE (1987) 2 NWLR (pt. 58) 539, 568; TUKUR v. GOVERNMENT OF GONGOLA STATE (1989) 4 NWLR (pt. 117) 517, 549 and ONUORAH v. KPPC (2005) 6 NWLR (pt. 921) 393. Learned counsel further supported his submission with paragraphs 5 - 25 of the Respondent's statement of claim at the trial court. It is therefore the contention of the Respondent at the trial court that it has been a tenant in the premises of the 2nd Appellant prior to the appointment of the 1st Respondent as Receiver/Manager of the 2nd Appellant. That the Respondent is contending that it is a different and separate entity from the 2nd Appellant. Learned counsel cited the case of 7UP BOTTLING CO. LTD. and Ors. v ABIOLA and SONS LIMITED (2001) 13 NWLR (pt. 730) 469 and contended that the Respondent was not under receivership. He also cited and relied on TRADE BANK PLC. v. BENILUX NIGERIA LIMITED (2003) 9 NWLR (Pt. 825) 416. He however, meticulously considered and distinguished other cases cited in support of the submissions of the learned counsel for the appellants. I shall however consider these authorities more closely in the course of my consideration of the sole issue presented for determination.

In their arguments on the sole issue, both learned counsel for the parties correctly stated the often stated principle of law in determining whether or not a court has jurisdiction to entertain the subject matter of a suit. That is, that the writ of summons and the statement of claim must be carefully examined. See OPITI v. OGBEIWI (1992) 4 NWLR (pt. 234) 184 at 195; ADEYEMI v. OPEYORI (1976) 9-10 SC. 31 at 49. It is well settled that where there is no jurisdiction to hear and determine a cause or matter, everything done in such want of jurisdiction is a nullity. See MUSTAPHA v. GOVERNOR OF LAGOS STATE (1987) 2 NWLR (pt. 58)

The salient facts of this appeal are not in dispute. It is common ground that the Appellants and the Respondent relied on the Respondent's Writ of Summons and Statement of Claim, for this proposition of law. Whilst the learned counsel relied on the averments in paragraphs 5, 6, 7, 8, 9, and 10 of the Statement of Claim as germane to the determination of the appeal, the learned counsel

for the Respondent reproduced paragraphs 5 - 10, 12 -23 and 25 and relied on the averments, I have thought it necessary to reproduce the said paragraphs where it was averred as follows:

B “5. On the 7th day of December, 2000, after the plaintiff and her staff have closed for the day’s work, the 1st defendant with the aid of some law enforcement agents and private security men broke into and forcefully took over the plaintiffs office and warehouse premises at no. 27A Fatai Atere Way, Matori, Mushin Lagos and locked up the whole premises on behalf of the 3rd defendant.

C 6. On the 8th day of December, 2000, when the Managing Director and other staff of the plaintiff got to the said premises to resume work for the day, they met the whole premises locked up with private security men stationed there by the 1st defendant guarding the premises thereby denying the plaintiff and her staff access D into their rented office and warehouse.

E 7. The plaintiff made several efforts to convince the 1st defendant and even his solicitors to allow them access to their office and warehouse but all to no avail. Some of these efforts includes personal visit of the plaintiff Managing Director to the 1st defendants and even F his solicitors’ office where he showed them the plaintiffs Importation-documents to convince them of ownership of the chemicals but they were adamant and refused to open the premises for him except the 2nd defendant or her chairman pays all the money they owe the 3rd defendant.

G 8. The plaintiff averts that the 1st defendant is aware of the fact that the plaintiff is a tenant in the said premises through his and or his staffs interaction with the plaintiff and her staff/directors since June, 2000, when he first took over the running of the affairs of the 2nd defendant as a receiver/manager appointed by the 3rd defendant.

H 9. The plaintiff avers that on the 8th day of December, 2000, Chief Oluyombo Akoni, the chairman of the 2nd defendant wrote to the 1st defendant confirming the fact that the plaintiffs is a tenant in the said premises and should be allowed access to their office and warehouse but the 1st defendant still refused to allow the plaintiff to have access to the said premises.....

10. On the 11 day of December, 2000, the plaintiffs solicitors, Messrs Olu Arotiba & Company wrote a letter to the 1st defendant which was copied to the 3rd defendant to reopen the said premises

and allow the plaintiff have access to their office and warehouse in order to carry out their legitimate business but the 1st defendant still refused to do so.

12. The plaintiff avers that this action of the defendants totally paralysed her business since the month of December and January is a peak period of chemical business. B

13. The plaintiff avers that as at the time of the defendants' action aforesaid, the plaintiff have chemicals worth over N30,000,000.00k (Thirty million naira) in her warehouse in the premises which they did not allow her to sell to her customer all over Nigeria many of whom had earlier deposited large sums of money for the chemicals but their money had to be refunded by the plaintiff..... C

14. The plaintiff further avers that apart from the chemicals in the said warehouse, the plaintiff also has a container load of chemicals on a trailer truck that came into the premise shortly before the close of work on Thursday 7th December, 2000 and was to be off-loaded on Friday 8th December, 2000 when the plaintiffs staff got to the premises only to discover that it has been locked up by the defendants. D E

15. All these chemicals were imported by the plaintiff with the aid of loans from WEMA SECURITIES AND FINANCE PLC. to the tune of N20, 000,000 (Twenty million naira) at 30% interest per annum and other charges with the aim of making profit during the December/January peak period of chemical business and then pay back, but the plaintiff could not honour her obligations to the company. F

16. Moreover, before the action of the defendants aforesaid, the plaintiff had concluded arrangements for the importation of another container load of chemicals from Messrs THOSCO, GMBH, Germany containing 500 drums of petroleum Jelly and Vitamin C, Sodium Citrate plus other assorted chemicals worth U. S. \$70,815.00 and U. S \$49,177.50 respectively and which was to be partly financed by a 90 days loan facility at 30% interest per annum by Emi capital resources limited and the plaintiff in the ratio of N5, 796,250.00 to N2,000,000.00. This container was to be shipped on 15/12/2000 and due to arrive in Lagos on 31/12/2000 but the transaction had to be cancelled by the plaintiff as a result of the defendants' action which H

paralysed his business and thereby did not allow her to raise the funds through the sale of his chemicals and unavailability of his warehouse to store the chemicals.

17. The plaintiff had to pay a penalty in the sum of U. S \$12,000.00 (Twelve thousand U. S. dollars) to Messrs THOSCO GMBH, Germany for the cancellation....

18. The plaintiff avers that as a result of the defendants' action aforesaid, her major business financiers, Wema Securities and Finance Plc. stopped further credit exposures and other financial aids to the plaintiff and this has adversely affected her business.

19. The plaintiff further avers that the marriage ceremony of the plaintiffs secretary was also affected by the defendants' action aforesaid as all the 110 dozens plastic gift items kept in her office for safekeeping could not be used for the ceremony which came up on 16th December, 2000. The plaintiff had to buy and print on a new set of plastics for the ceremony at a higher cost...

20. The plaintiff as a result of the defendants' action had to divert another container load of chemicals that arrived her office and warehouse on the 9th day of December, 2000, to a hurriedly rented warehouse at a rent of N20,000.00 per month

21. The plaintiff avers that apart from all these monumental monetary loss suffered by the plaintiff and her staff as a result of the defendants action, they also suffered a lot of embarrassment, harassment and emotional torture as they stayed in the open sun in front of the premises everyday to inform their customers who came from all over Nigeria of the situation of things some of whom call them "four-one-nine" and all sorts of unprintable names for her failure to deliver their chemicals to them.

22. The plaintiff avers that when the defendants eventually allowed the plaintiff to have access to her said office and warehouse on the 6th day of April, 2001, two tons of the Aluminum hydroxide gel chemicals in her warehouse have expired.....

23. The plaintiff further avers that as a result of the defendants action, the plaintiff had to rent a new office and warehouse at a higher costs than what she normally pays for her office/warehouse premises, which the defendants blatantly refused to allow the plaintiff to continue to use....

25. Whereof the plaintiff claims from the defendants jointly

and or severally the sum of N20,000,000.00 (Twenty million naira only) being special, general and or exemplary damages suffered by the plaintiff as a result of the action of the defendants in taking over and locking up the plaintiffs office and warehouse premises at No. 27A Fatai Atere Way, Matori Mushin Lagos.

It seems quite clear to me that after careful reading of the above paragraphs of the Respondent's (as plaintiff) averments, the gravamen of the Respondent's contention at the trial court can be summarized as follows:

(i) That the plaintiff is a tenant in premises No. 27A Fatai Atere Way, Matori Mushin, Lagos, prior to the appointment of the 1st Appellant as Receiver/Manager of the 2nd Appellant. This status was known to the 1st Appellant herein upon his assumption of office as the Receiver/Manager.

(ii) The Respondent's contention is that it is a different and separate entity from the 2nd Appellants over which the 1st appellant was appointed as Receiver/Manager.

(iii) The 1st Appellant had in the exercise of his functions detained the Respondent's goods in the warehouse and also prevented it from carrying on its legitimate business and it thereby sustained losses for which it is asking by its reliefs to be compensated in the sum of N20,000,000.00 (Twenty Million naira).

(iv) That the Respondent's action is one of tort for detinue, unlawful interference with business and trespass which a State High Court has jurisdiction by virtue of section 272 of the 1999 Constitution.

Emboldened by his position in defence of the 1st Appellants' action, **Learned counsel has argued that section 393 (1) of the Companies and Allied Matters Act Cap. C 20, Laws of the Federation of Nigeria 2004, confers on the 1st Appellant powers to take possession of and protect the property at No. 27A FATAI ATERE WAY, MATORI MUSHIN, LAGOS which forms part of the assets of the 2nd Appellant over which the 1st Appellant was appointed a Receiver/Manager.**

I am to some extent, in agreement with this proposition. However, with due respect the learned counsel has failed to understand the mandate and powers of the Receiver/Manager

in the circumstance. The provision of CAMA referred to does not empower the Receiver/Manager to arbitrarily lock up the premises of other persons or detain their properties in the purported exercise of his power. The Appellants further argued that because the conduct complained of in the Statement of Claim is attributable to the Receiver/Manager, the Federal High Court must necessarily have jurisdiction. This argument to me is preposterous, it does not hold. This negates the capacity of the High Court to entertain a matter that is clearly within its jurisdiction. ***The Respondent seems to be suggesting that the Federal High Court shall have jurisdiction to entertain any matter involving a Receiver/Manager or that the mere mention of his name in a claim makes it a proper one for the Federal High Court to have jurisdiction to entertain. The position of the law is admirably captured and enhanced in the case of 7UP BOTTLING CO. LIMITED & ORS. v. ABIOLA and SONS LIMITED (Supra), where the acts and conduct complained of are that of a Receiver/Manager. It was similarly argued on behalf of the Appellants in that case that because it was a Receiver/Manager who sold the Respondent's properties, it was a matter which bordered on the operation of the Companies and Allied Matters Act and falls within the exclusive jurisdiction of the Federal High Court. This court per ONU JSC discountenanced this argument and held that since there was an extant injunction restraining the Receiver/Manager from selling the Respondent's properties, the sale of those properties amounted to conversion, which is an action in tort over which the Kwara State High Court has jurisdiction.***

Learned counsel for the Respondent made a point in his brief that the position of the Receiver/Manager in the 7UP case (Supra) when compared with the instant case, is quite stronger than that of the 1st Appellant herein because the Receiver/Manager in the said 7UP case was actually appointed in respect of the assets of the Respondent which he sold wrongly. In the case at hand the 1st Appellant though appointed a Receiver of the 2nd Appellant but not in respect of the Respondent's office which he locked up and its goods in the ware house which he detained in the purported exercise of his functions. In other words the Respondent is a different and separate en-

tity from the 2nd Appellant over which the 1st Appellant was appointed a Receiver/Manager. Also in *TRADE BANK PLC. v. BENILUX LIMITED* (2003) 9 NWLR (pt. 825) 416, this court in considering the exclusive jurisdiction of the Federal High Court in matters provided under the section 230 (1) (d) of the Constitution (Suspension and Modification) Decree No. 107 of 1993, held that although there is no relationship of customer and banker between the respondent and the appellant which fact would ordinarily have conferred jurisdiction on the High Court, the respondent's case therein, was simply a tort of conversion and therefore actionable in the High Court of a state.

Therefore in the light of the foregoing, I hold contrary view to the position taken by the appellants' counsel in his submission that the court below *"fell into grave error when it held that the claim is not related to or arose from performance of the duties and powers of the 1st Appellant as Receiver/Manager of the 2nd Appellant"*. It is my respectful view that the paragraphs of the Statement of Claim, as set out above, support the decision of the lower court since the Respondent case is that it is merely a tenant and therefore a different and separate entity from the 2nd Appellant which is in receivership.

I am not unmindful of the reliance placed on the decision of the lower court by the learned counsel for the appellants. He has only picked up a portion of that judgment, and not the entire ratio upon which the matter was decided. The court below merely reiterated the matters upon which the Federal High Court has jurisdiction under section 251 (1) (e) of the 1999 constitution.

The Appellants in their brief further placed reliance on the decision of the Court of Appeal in *MAKERI SMELTING CO. LTD. v. ACCESS BANK Plc.* (Supra), where the Court of Appeal rightly held that the Federal High Court had jurisdiction to entertain the suit instituted by the Respondents, therein. The originating summons in this case raises the issue of duties, powers and liabilities of Receiver/Manager which is a matter arising from section 393 (1) (2) of the 1999 Constitution (*sic CAMA*), the Federal High Court has, to the exclusion of any other court, Jurisdiction to hear and determine civil causes and arising from the operations of the Companies and Allied Matters Act or any other enactment regulating the operation of the Companies and Allied Matters Act of any enactment regulating the operation of Companies incorporated under the Act.

What makes the instant case radically different from Makeri's case is that the Receiver/Manager in that case was not sued by a third party for conversion or detinue nor did he violate the rights of a third party in the exercise of his functions.

The case of WEMA BANK PLC. v. CHRISROCK LAB. IND. LTD. (2002) 8 NWLR (pt. 770) 614 was also cited to further support the Appellant's contentions. I have carefully read the case. It does not help the appellants' case. It is however clear from the facts of that case that the grudge which the Plaintiff/Respondent had was against the Receiver/Manger to the effect that, he had not performed the functions given to him bona fide. Again, I have observed that as canvassed in MAKERI case (Supra), the claim of the Plaintiffs/Respondents in the WEMA case (Supra) is radically different from the case at hand. In the latter case the Plaintiffs/Respondents are challenging the exercise of powers by the Receiver/Manager and at the same time challenging the validity of the mortgage debenture. Whereas in the instant case the Respondent, a third party, at the trial court is asking for damages in tort for detinue and disruption of its business.

In the light of the foregoing the appeal is dismissed for lacking in merit. The decision of the court below is affirmed. Consequently, the matter is remitted to the High Court of Lagos State for expeditious trial. I make no order as to costs.

F —————

MUKHTAR JSC

The respondent as a plaintiff in the High Court of Lagos State claimed various damages, (both special and general) against the appellants jointly and severally, and for the purpose of the germane discussion in this appeal, I will reproduce the salient averments in the statement of claim here below; They are:-

" 8. The plaintiff avers that the 1st defendant is aware of the fact that the plaintiff is 'a tenant in the said premises through his and or his staffs interaction with the plaintiff and her staff/directors since June 2000, when he first took over the running of the affairs of the 2nd defendant as a receiver/manager appointed by the 3^d defendant.

9. The plaintiff avers that on the 8^h day of December 2000, Chief Oluyombo Akoni, the Chairman of the 2nd defendant wrote to

the 1st defendant confirming the fact that the plaintiff is a tenant in the said premises and should be allowed access to their office and warehouse but the 1st defendant refused to allow the plaintiff to have access to the said premises.

10. On the 11th day of December 2000, the plaintiffs solicitors, Messrs Olu Arotiba and Company wrote a letter to the 1st defendant which was copied to the said premises and allow the plaintiff have access to their office and warehouse in order to carry out their legitimate business but the 1st defendant still refused to do so.”

The defendants filed a notice of preliminary objection, objecting to the jurisdiction of the High Court to hear and determine the matter. The notice of preliminary objection has in its body the following:-

“ TAKE FURTHER NOTICE that the grounds upon which the Preliminary Objection is made are as contained in the schedule hereto and the Defendants/Applicants will rely on all processes previously filed by the Plaintiff in this suit particularly the Writ of Summons and the Statement of Claim dated the 14th day of May, 2001.

SCHEDULE

(i) The defendants are sued by the Plaintiff as per its Statement of Claim in the course of the 1st Defendant’s performance of his duties as Receiver/Manager of the 2nd Defendant.

(ii) The Plaintiffs claim against the Defendants arose from the operation of the Companies and Allied Matters Act, particularly section 393 on schedule 11 thereof.

(iii) By virtue of section 251 (1) (e) of the 1999 constitution of the Federal Republic of Nigeria, it is only the Federal High Court that is vested with the exclusive jurisdiction to hear and determine any matter arising from the operation of the Companies and Allied Matters Act 1990.”

In a counter-affidavit to the notice of preliminary objection, the plaintiffs managing director deposed to the following facts:-

“2. That I have read the notice of preliminary objection dated 16/10/2001, filed by the defendants in this case and the facts stated therein are not true.

3. That the 2nd defendant this suit is the landlord of the plaintiff in respect of an office space and a warehouse at No. 27A Fatai Atere Way, Matori, Mushin, Lagos since April, 1995 and the Plaintiff also

pays her rent regularly and as at when due. The recent rent receipts of the plaintiff is hereby attached and marked Exhibits 'A' and 'A2' respectively.

4. That the fact that the plaintiff in this case is a tenant of the 2nd defendant was confirmed by a letter written by the chairman of the 2nd defendant to the 1st defendant dated 8/12/2001. The said letter is hereby attached and marked Exhibit "b".

5. That in spite of the letter referred to in paragraph 4 above, the 1st defendant still illegally and maliciously continued to detain the plaintiff's goods and properties till the 6th day of April, 2001.

6. That the claim of the plaintiff in this case as can be seen from the writ of summons and the statement of claim is for damages occasioned by trespass to, conversion and detention of the plaintiffs goods and properties in their office and warehouse premises at No. 27A Fatai Atere Way, Matori Mushin, by the defendants who are their landlord.

7. That I was informed by Olu Arotiba Esq., of counsel, and I verily believed him that the action of the defendants which gave rise to this case amounts to trespass, conversion and detinue which are torts.

8. That I was informed by Olu Arotiba Esq., of counsel and I verily believed him that any power or duty that the 1st defendant have as a receiver/manager of the 2nd defendant can only be exercised over the properties, goods and assets of the 2nd defendant and not those of the plaintiff.

9. That I am convinced that this honourable court have jurisdiction over this case."

The learned trial judge decided that his court has jurisdiction to entertain the case and conclude thus:-

"The Respondent's claims as per its statement of claim is a mixture of landlord and tenant and tort. This court has jurisdiction to entertain same. From the principles of law enunciated in *7UP BOTTLING CO. & ORS., v. ABIOLA & SONS (SUPRA)*, this court finds no merit in the Applicants' application. The Preliminary Objection dated 10th October, 2001, is hereby dismissed."

Dissatisfied with the decision, the defendants appealed to the Court of Appeal which affirmed the ruling of the learned trial judge thus:-

“Accordingly, the ruling of the lower court assuming jurisdiction to entertain and determine the subject of the Respondent’s claim in suit No. ID/1181/01 is hereby affirmed.”

The defendant has again appealed to this court on two grounds of appeal from which the learned counsel distilled a sole issue for determination which reads:-

“whether the Court of Appeal was right in its decision that the High Court of Lagos State has jurisdiction to entertain the suit instituted by the Respondent.”

The issue of jurisdiction is fundamental and the law is trite that it can be raised by a party at any stage of courts proceedings, even at the level of the Supreme Court. See Francis Durwode v. State 2000 15 NWLR part 691 page 467, Otukpo v. John 2000 8 NWLR part 669 page 507.

It is however ideal that it be raised at the earliest stage of proceedings to avoid unnecessary waste of time, which the defendant has done in the instant case. When the issue of jurisdiction is raised at the stage it was raised in this case, the court must carefully peruse the writ of summons and the statement of claim, to consider whether it has jurisdiction to entertain and determine the matter. See Adeyemi v. Opeyori 1976 - 10 SC 31, and Aremo II v. Adekaiye 2004 13 NWLR part 891 page 572. I have already reproduced the averments in the statement of claim, which I consider to be relevant to this appeal, in the earlier part of this judgment. The writ of summons contains the following claim:-

“The plaintiffs claim against the defendants jointly and or severally is for the sum of N20,000,000.00 (Twenty Million Naira only) being special, general and exemplary damages suffered by the plaintiff as a result of the action of the defendants in taking over and locking up the plaintiffs office and warehouse premises at No. 27A, Fatai Atere Way, Matori, Mushin.”

Quite clearly, a careful study of the above averments in the statement of claim and the writ of summons reveal that it is not a matter arising from the operation of the Companies and Allied Matters Act Cap. 20 Laws of the Federation of Nigeria 2004, but the claim was based on an action that arose as a result of the relationship of the 2nd appellant and his landlord. The court below is therefore right to affirm that the High Court of Lagos State had jurisdiction to

hear the case.

I have carefully read the lead judgment delivered by my learned brother, Galadima JSC, and I am in full agreement with him that this appeal is completely devoid of any merit, and should be dismissed. I also dismiss it. I abide by all the consequential orders made in the
B lead judgment.

MUHAMMAD JSC

C My learned brother, Galadima, JSC, permitted me to read in draft, the judgment just delivered by him. I am in agreement with my learned brother in his reasoning and conclusions. By way of a rider, I would want to add that my observation for quite some time now, has shown that the issue of which court has jurisdiction over certain mat-
D ters, between the Federal High Court and a State High Court, generates anxiety among lawyers. Let me say, from the outset, that the two courts are both superior courts of record. Each is a creature of the Constitution. The matter of jurisdiction in our courts, is generally, approached from three dimensions: territorial, subject matter and
E jurisdiction on persons. On territorial jurisdiction, the Federal High Court enjoys nationwide jurisdiction whereas a State High Court is confined to the territory of the state and that of the Federal Capital Territory to the Federal Capital Territory. On subject matter jurisdic-
F tion, the High Court of a state, by the provision of section 236 of the Constitution of the Federal Republic of Nigeria, 1999, enjoys unlim- ited jurisdiction. The Federal High Court has limited jurisdiction or jurisdiction on some enumerated subject matters. A State High Court has jurisdiction mostly over natural persons. Federal High Court has
G jurisdiction over both natural and artificial persons. There are areas where both the Federal High Court and High Court of a state enjoys concurrent jurisdiction. Example of such is the enforcement of Fun- damental Human Rights conferred in chapter iv of the Constitution. Section 46 of the Constitution provides:

H 1) “Any person who alleges that any of the provisions of this chapter has been, is being or likely to be contravened in any state in relation to him may apply to a High Court in that State for redress.

2) Subject to the provisions of this Constitution, a High Court shall have original jurisdiction to hear and determine any application

made to it in pursuance of the provisions of this section and may make such order, issue such writs and give such directions, as it may consider appropriate for the purpose of enforcing or securing the enforcement within that state of any right to which the person who makes the application may be entitled under this chapter.

3) The Chief Justice of Nigeria may make rules with respect to the practice and procedure of a High Court for the purposes of this section."

Although, unlike the 1979 Constitution, section 318 (1) of the present Constitution does not define "High Court", there is no doubt that the term carries the same meaning as given by section 277 (1) of the 1979 Constitution to mean Federal High Court or the High Court of a state. Therefore, it is my understanding that where a person's fundamental right is breached, being breached or about to be breached, that person may apply under section 46 (1) to the Judicial division of the Federal High Court in the State or the High Court of the State or that of the Federal Capital Territory in which the breach occurred or is occurring or about to occur. This is irrespective of whether the right involved comes within the legislative competence of the federation or the state or the Federal Capital Territory. See the case of Minister of Internal Affairs v. Shugaba (1982) 3 NCLR 915. It has to however be noted that the exercise of this jurisdiction by the Federal High Court, is where the fundamental right threatened or breached falls within the enumerated matters on which that court has jurisdiction. Thus, fundamental rights arising from matters outside its jurisdiction cannot be enforced by the Federal High Court. See: Tukur v. Government of Gongola State (1989) 3 NSCC 225. Equally, a High Court of a state shall lack jurisdiction to entertain matters of fundamental rights, although brought pursuant to section 46 (2) of the Constitution where the alleged breach of such matters arose from a transaction or subject matter which fall within the (*sic, exclusive*) executive jurisdiction of the Federal High Court as provided by section 251 of the Constitution.

Further, section 295 of the Constitution provides:

1) "Where any question as to the interpretation or application of this Constitution arises in any proceedings in any court of law in any part of Nigeria (other than in the Supreme Court, the Court of Appeal, the Federal High Court or a High Court) and the court is of

the opinion that the question involves a substantial question of law, the court may, and shall if any of the parties to the proceedings so requests, refer the question to the Federal High Court or a High Court having jurisdiction in that part of Nigeria and the Federal High Court or the High Court shall:

- B a) *If it is of opinion that the question does not involve a substantial question of law, refer the question to the Court of Appeal; or*
- b) *If it is of opinion that the question does not involve a substantial question of law, remit the question to the court that made the reference to be disposed of in accordance with such directions as the*
- C *Federal High Court or the High Court may think fit to give.*

2) *Where any question as to the interpretation or application of this Constitution arises in any proceedings in the Federal High Court or a High Court, and the court is of opinion that the question*
D *involves a substantial question of law, the court may, and shall if any party to the proceedings so requests, refer the question to the Court of Appeal; and where any question is referred in pursuance of this subsection, the court shall give its decision upon the question and the*
E *court in which the question arose shall dispose of the case in accordance with that decision."*

This section confers a special jurisdiction on both the Federal and State (including FCT) High Courts in relation to the interpretation or application of the Constitution which involves a substantial point of law.

F The exclusive jurisdiction of the Federal High Court is provided by section 251(1) of the Constitution as follows:

G *"251. (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, the Federal High Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters*

a) *relating to the revenue of the Government of the Federation in which the said Government or any organ thereof or a person*
H *suing or being sued on behalf of the said Government is a party;*

b) *connected with or pertaining to the taxation of companies and other bodies established or carrying on business in Nigeria and all other persons subject to Federal taxation.*

c) *connected with or pertaining to customs and excise duties*

and export duties, including any claim by or against the Nigeria Custom Service or any member or officer thereof, arising from the performance of any duty imposed under any regulation relating to customs and excise duties and export duties;

d) connected with or pertaining to banking, banks, other financial institutions, including any action between one bank and another, any action by or against the Central Bank of Nigeria arising from banking, foreign exchange, coinage, legal tender, bills of exchange, letters of credit, promissory notes and other fiscal measures; 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;

e) arising from the operation of the Companies and Allied Matters Act or any other enactment replacing that Act or regulating the operation of companies incorporated under the Companies and Allied Matters Act;

f) any federal enactment relating to copyright, patent, designs, trade marks and passing-off, industrial designs and merchandise marks, business names, commercial and industrial monopolies, combines and trusts, standards of goods and commodities and industrial standards;

g) any admiralty jurisdiction, including shipping and navigation on the River Niger or River Benue and their affluents and on such other Inland waterway as may be designated by any enactment to be an international waterway, all Federal ports, (including the constitution and powers of the port, authorities for Federal ports) and carriage by sea;

h) diplomatic, consular and trade representation;

i) citizenship, naturalization and aliens, deportation of persons who are not citizens of Nigeria, extradition, immigration into and emigration from Nigeria, passports and visas;

j) bankruptcy and insolvency;

k) aviation and safety of aircraft;

l) arms, ammunition and explosives;

m) drugs and poisons;

n) mines and minerals (including oil fields, oil mining, geological surveys and natural gas).

o) Weights and measures;

p) *The administration or the management and control of the Federal Government or any of its agencies;*

q) *Subject to the provisions of this Constitution, the operation and interpretation of this Constitution in so far as it affects the Federal Government or any of its agencies;*

B r) *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; and*

C s) *Such other jurisdiction civil or criminal and whether to the exclusion of any other court or not as may be conferred upon it by an Act of the National Assembly."*

Thus, looking at the above provisions, and in a nutshell, it is the Federal High Court alone that has jurisdiction on:

i. matters relating to Federal Government revenue, i.e. money
D or moneys worth coming to the purse of the Federal Government. See: *Mokelu v. Federal Commissioner for Works & Housing* (1976) 3 SC 35; *Ansaldo v. NPFMB* (1991) 2 NWLR (Pt. 174) 392 at pp. 403-404;

ii. matters relating to Banking, Foreign Exchange, Currency or
E other Fiscal measures including such pieces of legislation, orders and regulations of the Federal Government as related to Banking such as the Central Bank Act and ancillary enactments. So, where any dispute relates to breach of or non-compliance with certain formalities required by law for the lawful operation of banking business, the
F matter falls within the jurisdiction of the Federal High Court. See: *Merchants Bank Ltd. v. Federal Minister of Finance* (1961) All NLR 598. II, is to be noted as well, where what is involved is only a dispute between a bank and its customer in the ordinary cause of banking
G business, like an action by a bank to recover overdrafts granted to the customer, the Federal High Court has no jurisdiction. It is the State High Court that has jurisdiction in such a case. See: *Jammal Steel Structures Ltd. v. African Continental Bank Ltd.* (1973) 1 All NLR (Pt. 11) 208; *Bronik Motors Ltd. & Anor. v. Wema Bank Ltd.*
H (1983) 1 SCLR 296; *FMBN v. NDIC* (1999) 2 SCNJ 57 at 82.

iii. Matters relating to management and administration of a company under the Companies and Allied Matters Act fall within the exclusive jurisdiction of the Federal High Court. See: *Sken Consult (Nig.) Ltd. & Anor v. Godwin Sekondy Ukey* (1981) 1 SC 6; *Omisade*

v. Akande (1987) 2 NWLR (Pt. 55) 158. Equally, where the suit involves only the interpretation and/or application of the Memorandum and Articles of Association of the Company, it falls within the jurisdiction of the Federal High Court, section 251 (1) (e) of the Constitution.

iv. Matters relating to the Federal Government and its Agencies. Thus, where public officers, institutions of the government are sued in their official capacities, the matter falls within the exclusive jurisdiction of the Federal High Court. See:

v. Admiralty matters: this jurisdiction of the Federal High Court extends to the determination of claims arising out of Marine Insurance Policy which is to the exclusion of the jurisdiction of a State High Court. The jurisdictional scope of the Federal High Court on such matters is fully set out by the Admiralty Jurisdiction Act, 1991, No. 59, sections 1 to 4 thereof.

vi. The Federal High Court has jurisdiction in bankruptcy matters whether civil or criminal.

vii. The Federal High Court, like a High Court of a state or of the Federal Capital Territory has appellate jurisdiction conferred by section 27 of the Federal High Court Act. It can hear and determine appeals from:

1) the decisions of Appeal Commissioners established under the Companies Income Tax Act, 1961 and the Personal Income Tax Act, 1968 in so far as applicable as federal laws;

2) decisions of the Board of Customs and Excise established under Customs and Excise Management Act, 1958

3) decisions of Magistrates Courts in respect of civil or criminal cases or matters transferred to such courts pursuant to the Federal High Court Act;

4) decisions of any other body established by or under any other Federal enactment or law in respect of matters concerning which jurisdiction is conferred upon that court by the Act.

(viii). Being a superior court of record, the Federal High Court exercises supervisory jurisdiction by way of judicial review of the acts and omissions of persons or bodies administering the statutes on matters over which it has jurisdiction under the Federal High Court Act, any other enactment or the Constitution. It can thus, by means of prerogative orders, check a wrongful act of the Corporate Affairs

Commission in the discharge of that Commission's duties under the CAMA 1990.

My Lords, I find it pertinent to dwell so comprehensively on the jurisdiction of the Federal High Court in particular because of the apparent misunderstanding or confusion some legal practitioners find themselves in, when it comes to which court has jurisdiction on some matters which are grey in nature.

In the present appeal, the facts deposed to in the affidavit show that the 3rd defendant appointed the 1st defendant as the Receiver/Manager of the 2nd defendant through a Deed of Appointment dated the 11th day of May, 2000. The deed was registered with the Corporate Affairs Commission. The 1st defendant in exercise of the powers conferred on, him by the Deed of Appointment applied to the Federal High Court for certain reliefs. The Federal High Court granted some of the reliefs on 16/6/2000. The 1st defendant, allegedly, in pursuance of the orders of the Federal High Court and the powers contained in his Deed of Appointment and the provisions of the Companies and Allied Matters Act, took possession of the 2nd defendant on 22/6/2000 wherein the plaintiff's office and warehouse premises at No. 27A, Fatai Atare Way, Matori, Mushin, Lagos, were taken over and locked up by the 1st defendant. That is the genesis of the case. The plaintiff went to the State High Court in Lagos with his claim of N20,000,000.00 being special, general and exemplary damages suffered by the plaintiff as a result of the action of the defendants. The defendants filed and moved their preliminary objection that the state High Court had no jurisdiction on the matter, on the ground that the plaintiff's claim arose from the operation of the Companies and Allied Matters Act, particularly section 393, schedule 11 thereof and that by virtue of section 251(1) of the 1999 Constitution, it is only the Federal High Court that is vested with the exclusive jurisdiction to hear and determine any matter arising from the operation of the Companies and Allied Matters Act, 1990. The learned trial High Court Judge in his considered ruling of 8/5/2002, dismissed the preliminary objection and assumed jurisdiction. An appeal to the Court of Appeal was unsuccessful as that court affirmed the trial court's ruling in which it assumed jurisdiction to entertain the matter.

This is now the subject before us.

Apart from the fact that the appeal is filed against concurrent

decisions of the two lower courts, which are rarely disturbed, the law still remains valid on jurisdiction that it is the claim of the plaintiff that determines the jurisdiction of a court, see: *Shell B. P. Ltd. v. Onasanya* (1979) NSSC 334. In his statement of claim the plaintiff was claiming before the trial court damages for the tortious acts of the 1st defendant. The plaintiff alleged a landlord and tenant relationship especially with the 2nd defendant. The trial court made finding that the claims of the plaintiff as per its statement of claim is a mixture of landlord and tenant and tort. The trial court said it had jurisdiction to entertain same. It relied on the case of *7up Bottling Co. & Ors. v. Abiola & Sons* (2001) 8 SCM page 1. The court below also made a finding as follows:

“Once again the above situation has demonstrated that the subject matter of respondent’s suit in court below did not arise from the operation of CAMA so also to confer exclusive jurisdiction on the Federal High Court under provisions of section 251 (1) (e) of the 1999 Constitution, Federal Republic of Nigeria. I so find.”

Therefore, from all intents and purposes, the processes taken before the Lagos State High Court were properly initiated as they relate to matters of landlord and tenant and claim of damages in tort. I find it difficult to disagree with the two courts below.

For these and the fuller reasons given by my learned brother, Galadima, JSC, I too find no merit in this appeal. Same is equally dismissed by me. I abide by the orders made in the leading judgment including order as to costs.

MUNTAKA-COOMASSIE JSC

I have had the advantage of reading in draft the judgment delivered by my learned brother, Galadima JSC. I entirely agree with him that the appeal is devoid of merit and same is hereby dismissed. I abide by the orders contained in the lead judgment. I too, make no order as to costs.

Appeal dismissed.

H