

IN THE HIGH COURT OF JUSTICE
OF EDO STATE OF NIGERIA
IN THE BENIN JUDICIAL DIVISION
HOLDEN AT BENIN CITY
BEFORE HIS LORDSHIP, HON. JUSTICE P.A. AKHIHIERO
ON TUESDAY THE 6TH DAY OF OCTOBER, 2026.

BETWEEN:

SUIT NO. B/299/2009

1. AUSTIN LAZ & CO. LIMITED

2. DR. AUSTIN ASIMONYE CLAIMANTS/RESPONDENTS
AND

1. GUARANTY TRUST BANK PLC.....1ST DEFENDANT/APPLICANT

2. ASSET MANAGEMENT CORPORATION

OF NIGERIA 2ND DEFENDANT

RULING

This is a Ruling on a Motion on Notice dated the 31st day of March, 2026 and filed on the 2nd day of April, 2026, brought pursuant to ***Order 40 Rules 1 and 2 of the Edo State High Court (Civil Procedure) Rules, Section 251(1)(p) and (r) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), and Sections 34(1)(a) and (b), 34(2) and (3) and 53 of the Asset Management Corporation of Nigeria Act, 2010*** and under the inherent jurisdiction of this Honourable Court, praying for the following Orders:

(i) AN ORDER of this Honourable Court striking out the Claimants/Respondents' suit for want of jurisdiction.

(ii) AN ORDER of this Honourable Court dismissing the Claimants/Respondents' suit for being an abuse of the process of court.

(iii) AND for such other order and other orders this Honourable Court may deem fit to make in the circumstances of this suit.

By the Motion on Notice, the 1st Defendant/Applicant is challenging the competence of this suit on the following grounds:

(1) By virtue of Section 251(1)(P) and (R) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) it is the Federal High Court that has exclusive Jurisdiction to adjudicate over cases where the administrative action or decision of Federal Government Agency is challenged or where its control and management is in issue.

(2) By virtue of Section 53 of the AMCON Act, 2010, the Federal High Court is seised with the exclusive jurisdiction to hear and determine matters relating to debt recovery under the category Section 53(1) a – c of the Act.

(3) The Federal High court is the Court vested with the exclusive jurisdiction to entertain and adjudicate over all the claims of the Claimants in this suit and not the Edo state High Court.

(4) The Claimants/Respondents have no claim against the 1st Defendant, the 2nd Defendant having taken over the assets and liabilities on account of the Claimant from the 1st Defendant as eligible Bank asset by virtue of AMCON ACT, Sections 34(1)(a), Cii, Section 34(2) of the Asset Management Corporation of Nigeria (Amendment Act, 2021) which makes the 2nd Defendant liable for actions of purchase of eligible asset.

(5) This Honourable Court lacks the competence to entertain the Claimant's suit as it is presently constituted.

The Motion on Notice is supported by an affidavit of fifteen paragraphs (with a paragraph 12a) deposed to by one Ruth Osaghae, a Relationship Manager of the 1st Defendant/Applicant, together with a Written Address of counsel. A letter of the 2nd Defendant dated the 13th day of September, 2012 is attached to the affidavit as Exhibit "A".

Upon receipt of the Motion on Notice, the learned counsel for the Claimants/Respondents filed a Counter-Affidavit of twenty-two paragraphs deposed to by one Obiageli Asimonye, together with a Written Address of counsel. Two documents are attached to the Counter-Affidavit as Exhibits EKO1 and EKO2. Thereafter, the 1st Defendant/Applicant filed a Further Affidavit of thirteen paragraphs and a Reply on Points of Law dated the 29th day of April, 2026.

From the facts contained in the supporting affidavit, the 1st Defendant/Applicant's complaint is that the subject matter of this suit is centred on the loan facilities granted to the 1st Claimant by the 1st Defendant/Applicant which have since been acquired by the 2nd Defendant, the Asset Management Corporation of Nigeria (AMCON), as eligible bank assets.

According to the deponent, the 2nd Defendant is indisputably a Federal Government Agency, and its decision to acquire the 1st Claimant's loans of the 8th day of February, 2008 and the 9th day of February, 2009 was an administrative decision/action of a Federal Government Agency, in that the 2nd Defendant reviewed the loan documents, decided that the loans qualified as eligible bank assets, and in the exercise of its control and management of such assets, decided to acquire them.

The deponent further averred that the 2nd Defendant purchased the 1st Claimant's non-performing loan from the 1st Defendant on the 6th day of April, 2011 in good faith, as a bona fide purchaser for value without notice of the pendency of this suit, but was subsequently joined to this suit by an order of this Court. She alleged that by its letter of the 13th day of September, 2012 (Exhibit "A"), pleaded in paragraph 22 of the Claimants' 3rd Further Amended Statement of Claim, the 2nd Defendant notified the 1st Claimant that its non-performing loans in the total sum of N55,199,640.42 had been taken over by the Corporation and demanded payment. She further averred that by paragraphs 21 and 22 of the 3rd Further Amended Statement of Claim, the Claimants are aware that the loan has been acquired by the 2nd Defendant, and that the take-over was a management/administrative action or decision in line with the AMCON Act, 2010.

Finally, upon information from counsel, she averred that it is the Federal High Court that has exclusive jurisdiction over the claims of the Claimants, that this Court lacks the competence to entertain the suit as presently constituted, and that the suit is an abuse of the process of court.

In opposition to the application, the Claimants/Respondents filed a Counter-Affidavit of twenty-two paragraphs. From the facts disclosed in their Counter-Affidavit, the Claimants/Respondents succinctly asserted that while the 2nd Defendant is a Federal Government Agency, the subject matter of this suit is not solely centred on the loan facility or its purported acquisition by the 2nd Defendant; rather, the genesis of the suit is the breach of the contractual

relationship between the Claimants and the 1st Defendant/Applicant, which breach occurred before the 2nd Defendant was joined to the action. They averred that the dispute is not one questioning an administrative action of an agency of the Federal Government, but a dispute arising from a customer and banker relationship, and that their claims against the 1st Defendant/Applicant are primarily for breach of contract, wrongful debits and failure to allow drawdowns on facilities.

They further averred that the 2nd Defendant was joined to this action only because of its purported acquisition of the loans during the pendency of this suit; that the 2nd Defendant was not an innocent purchaser, since the 1st Defendant/Applicant had been a party to this action since 2009; and that the 1st Claimant's loans were not non-performing loans or bad debts. They also averred that the 1st Defendant/Applicant had, by an earlier motion dated the 16th day of October, 2018 (Exhibit EKO1), challenged the jurisdiction of this Court, and that on the 16th day of March, 2023, the Court of Appeal, in ***Appeal No. CA/B/263/2019: Austin Laz & Co. Limited & Anor v. Guaranty Trust Bank Plc & Anor (Exhibit EKO2), reported as Austin Laz & Co. Ltd & Anor v. GTB Plc & Anor (2023) LPELR-60082(CA)***, held that the dispute in this matter arose from a banker and customer relationship and therefore falls within the jurisdiction of this Court. Upon information from counsel, the deponent averred that the present application is a blatant abuse of court process, the Court of Appeal having decided the subject matter jurisdiction of this Court in this suit.

In the Further Affidavit, the 1st Defendant/Applicant averred, upon information from counsel, that the acquisition of the Claimants' loan by the 2nd Defendant, the joinder of the 2nd Defendant by the Claimants' own application, and the Claimants' specific reliefs against the 2nd Defendant in paragraph 24 of the 3rd Further Amended Statement of Claim changed the character of this suit from a mere breach of contract between the Claimants and the 1st Defendant. The deponent averred that the earlier Preliminary Objection dated the 16th day of October, 2018 (Exhibit EKO1) was predicated on the "All Assets Debenture" being a matter governed by ***Sections 166 to 207 of the Companies and Allied Matters Act and Section 251(1)(e) of the Constitution***, that the decision of the Court of Appeal in Exhibit EKO2 was confined to those grounds, and that the present application raises new and distinct jurisdictional grounds which were neither raised nor determined previously.

In his written address in support of the application, the learned counsel for the 1st Defendant/Applicant, **Uyioghosa Egbon Esq.**, formulated two issues for determination as follows:

i. Whether the case of the Claimants as presently constituted is not within the exclusive jurisdiction of the Federal High Court.

ii. Whether the Claimants/Respondents' case does not constitute an abuse of the process of this Honourable Court.

Opening his arguments on the first issue, the learned counsel submitted that the jurisdiction of the Court is determined by the issues submitted to the Court by the Claimants, and that the endorsed claim is centred on the loan facility granted to the Claimants by the 1st Defendant/Applicant, which has since been acquired by the 2nd Defendant (AMCON, a Federal Government Agency) as an eligible bank asset. He submitted that this is not a mere breach of contract which the Edo State High Court has jurisdiction to hear and determine. He submitted that by virtue of **Section 251(1)(p) of the Constitution, the Federal High Court** has exclusive jurisdiction where a Federal Government Agency, in the exercise of its administration, management and control, took an action by acquiring a non-performing loan. He relied on the cases of: **N.P.A. v. Aminu Ibrahim & Co. (2018) 12 NWLR (Pt.1632) 62 at 83, 91, 92-93; Adegbite v. Amosu (2016) 15 NWLR (Pt.1536) 405 at 427; P.D.P. v. C.P.C. (2011) 17 NWLR (Pt.1277) 485 at 511; and A.G. Ondo State v. A.G. Federation (2002) 9 NWLR (Pt.772) 222.**

The learned counsel further submitted that by the joinder of the 2nd Defendant at the instance of the Claimants, this Court automatically ceased to have jurisdiction over the matter, and that the only option open to the Claimants is to discontinue the suit and file it in the appropriate court. He reproduced **Section 251(1)(a), (p) and (r) of the Constitution** and submitted that the Claimants' reliefs (l) and (m) in paragraph 24 of the 3rd Further Amended Statement of Claim, which seek to set aside the assignment of the facilities to the 2nd Defendant and to restrain the 2nd Defendant from recovering the debt, challenge the validity of an administrative action of a Federal Government Agency and seek declarations and injunctions against it. He relied on the case of **NEPA v. Edeghero (2002) 18 NWLR (Pt.798) 79**, where, according to him, the Supreme Court held that in determining whether an action falls within **Section 251(1)(r)**, the Court must resolve three sub-questions, namely: whether the claim relates to the validity of any executive or administrative action or decision; whether either

of the parties is the Federal Government or any of its agencies; and the nature of the reliefs. He also relied on the case of *P.D.P. v. Sylva* (2012) LPELR-7814(SC).

Counsel further submitted that by virtue of *Sections 251(1)(s) and 252(2) of the Constitution*, the National Assembly conferred additional jurisdiction on the Federal High Court through the *AMCON Act*, and that *Section 53 of the Act* donated to the Federal High Court jurisdiction over matters relating to debt recovery. He reproduced *Sections 4, 5 and 53(1) to (4) of the Act* and relied on the case of *University of Calabar v. Asset Management Corporation of Nigeria & Ors.* (2019) LPELR-47309(CA) and *Monidab Mercantile Company Ltd & Anor v. Asset Management Corporation of Nigeria* (2020) LCN/4163(CA).

He further submitted that recoveries from eligible bank assets constitute part of the revenue of the Federal Government within the meaning of *Sections 251(1)(a) and 162(10) of the Constitution*, relying on the case of *Ansaldo (Nig.) Ltd v. National Provident Fund Management Board* (1986) 4 NWLR (Pt.38) 761. He referred to *Katto v. C.B.N.* (1991) 11-12 SC 176 and *Madukolu v. Nkemdilim* (1962) 2 SCNLR 341 on the fundamental nature of jurisdiction, and submitted that the Court has a duty only to expound its jurisdiction and not to expand it, relying on the cases of *UNICAL v. Ugochukwu (No.1)* (2007) 17 NWLR (Pt.1063) 225 at 246; *African Press of Nigeria v. F.R.N.* (1985) 2 NWLR (Pt.6) 137; and *Inah v. Ukong* (2002) 9 NWLR (Pt.773) 563.

On the second issue, the learned counsel submitted that the suit, as against the 1st Defendant/Applicant, constitutes an abuse of the process of court because, by virtue of Exhibit "A", the 2nd Defendant has taken over the assets and liabilities on the account of the Claimants from the 1st Defendant, so that maintaining the suit against the 1st Defendant after the take-over is an abuse. He relied on the cases of *Saraki v. Kotoye* (1992) 9 NWLR (Pt.264) 156 at 188-189; *Bukoye v. Adeyemo* (2017) NWLR (Pt.1546) 175 at 192; and *Ladoja v. Ajimobi* (2016) 10 NWLR (Pt.1519) 88 at 156. He submitted that by *Sections 34(1)(a) and (b), 34(2) and (3) of the AMCON Act*, the 2nd Defendant exclusively becomes liable upon the acquisition of an eligible bank asset, and that the appropriate order where the process of the Court is abused is one of dismissal, relying on the cases of *Lokpobiri v. Ogola* (2016) 3 NWLR (Pt.1499) 328 at 388; *Arubo v. Aiyeleru* (1993) 3 NWLR (Pt.280) 126; and *Okafor v. A.G. Anambra State*

(1991) 6 NWLR (Pt.200) 659. He urged the Court to strike out or dismiss the suit for want of jurisdiction or for being an abuse of the process of court.

In opposition to the application, in his written address, the learned counsel for the Claimants/Respondents, **Eric K. Omare Esq.**, formulated two issues for determination as follows:

i. Whether this Honourable Court lacks the requisite jurisdiction to entertain the claimants/respondents' suit as presently constituted.

ii. Whether the 1st Defendant's challenge to the subject matter jurisdiction of this Honourable Court is not an abuse of Court process having regard to the judgment of the Court of Appeal in Appeal No. CA/B/263/2019: AUSTIN LAZ & CO. LIMITED & ANOR v. GUARANTY TRUST BANK PLC & ANOR arising from this suit?

ISSUE ONE:

Arguing the first issue, the learned counsel submitted that the jurisdiction of a court is determined by the Claimants' Statement of Claim, relying on the cases of **Tukur v. Government of Gongola State (1989) 4 NWLR (Pt.117) 517** and **Adelekan v. Ecu-Line N.V. (2006) 12 NWLR (Pt.993) 33**. He submitted that a careful perusal of the 3rd Further Amended Statement of Claim reveals that the primary cause of action is rooted in the contractual relationship between the Claimants and the 1st Defendant, and that the reliefs, which he reproduced, largely pertain to breaches of banking contracts, wrongful debits and claims for damages arising from the actions of the 1st Defendant/Applicant, which are matters within the general civil jurisdiction of the State High Court under **Section 272(1) of the Constitution**. He relied on the case of **Edison Automotive Industries v. NERFUND (2022) 4 NWLR (Pt.1821) 419 at 444-445, per Jauro, JSC**, where it was held that it is the High Court of a State and not the Federal High Court that has jurisdiction to entertain actions predicated on breach of a simple contract, even where an agency of the Federal Government is a party.

He submitted that the exclusive jurisdiction under **Section 251(1)(p) and (r)** applies where the primary challenge in the suit is to the administrative action or decision of the Federal Government or its agency, and that the joinder of the 2nd Defendant does not transform the entire suit into one challenging its

administrative action. He submitted that the cases of *N.P.A. v. Aminu Ibrahim & Co. (supra)* and *Adegbite v. Amosu (supra)* are distinguishable, since the core disputes therein directly challenged the administrative or management actions of federal agencies, while the reliefs against the 2nd Defendant in this suit are consequential to the primary claims against the 1st Defendant. He relied on the case of *Olayemi & Ors v. Federal Housing Authority (2022) LPELR-57579(SC)*, where the Supreme Court held that the principal claims must be against the Agency of the Federal Government before the Federal High Court can assume jurisdiction, and that the fact that an action is against the Federal Government or its agencies does not ipso facto bring the case within the jurisdiction of the Federal High Court. He also referred to the case of *Ohakim v. Agbaso (2010) 19 NWLR (Pt.1226) 172 at 236-237* and *Rahman Brothers v. N.P.A. (2019) LPELR-46415(SC)*.

The learned counsel further submitted that *Section 53 of the AMCON Act* is designed to facilitate the statutory functions of the 2nd Defendant in recovering eligible bank assets and does not divest State High Courts of their constitutional jurisdiction over pre-existing contractual disputes between a bank and its customer; and that the argument on the revenue of the Federal Government under *Section 251(1)(a)* is tenuous. On the question of abuse of process raised by the 1st Defendant/Applicant, he submitted that the Claimants have a subsisting cause of action against the 1st Defendant for breach of contract and other wrongs committed before the acquisition, relying on the case of *Austin Laz Thermoplastic Industries Ltd & Anor v. G.T.B. Plc (2025) 15 NWLR (Pt.2008) 258*. He further submitted that the purported acquisition during the pendency of this suit is caught by the doctrine of *lis pendens*, relying on the case of *Olori Motor Company Ltd & Ors v. Union Bank of Nigeria Plc (2006) LPELR-2589(SC)*.

ISSUE TWO:

On the second issue, the learned counsel submitted that the present application is an abuse of court process, the subject matter jurisdiction of this Court having been resolved by the Court of Appeal in the case of *Austin Laz & Co. Ltd & Anor v. GTB Plc & Anor (2023) LPELR-60082(CA)*. He referred to the passage at pages 21 to 23 of the judgment, *per Awotoye, JCA*, where the Court of Appeal held, inter alia, that the claims of the Claimants arose from the loan facility granted to them, and that the dispute is one between a bank and its

customer which falls within the concurrent jurisdiction of the Federal High Court and the State High Court.

He submitted that the 2nd Defendant was a party at all material times, including in the earlier application and appeal, and that the 1st Defendant/Applicant ought to have raised all its objections to jurisdiction in a single swoop. He relied on the cases of *Saraki v. Kotoye (supra)*; *Oko v. State (2017) 17 NWLR (Pt.1593) 24 at 63-65*; and *Okadigbo & Ors v. Anyaegbunam & Ors (2023) LPELR-61773(SC)*. He observed that this suit was instituted in 2009 and has not proceeded to trial because of applications such as the present one, and urged the Court to dismiss the application with substantial costs.

As earlier stated, upon receipt of the Counter-Affidavit, the 1st Defendant/Applicant filed a Reply on Points of Law. In the Reply, the learned counsel submitted that once a Federal agency is sued and reliefs are sought against it, only the Federal High Court has jurisdiction, relying on the case of *NEPA v. Edegbero (supra)*; that the joinder of the 2nd Defendant is not cosmetic but substantive; and that the Claimants cannot approbate and reprobate. He submitted that jurisdiction is determined by the current state of the pleadings and not by the origin of the cause of action, relying on the cases of *A.S.E.S.A. v. Ekwenem (2009) 13 NWLR (Pt.1158) 410 at 435-436*; *Salami v. Oke (1987) 4 NWLR (Pt.63) 1 at 9 and 12*; and *Agbaisi v. Ebikorefe (1997) 4 NWLR (Pt.502) 630 at 647-649*.

He submitted that once the debt was acquired by AMCON, the transaction ceased to be an ordinary banker and customer relationship and relied on the cases of *Zamfara State Govt & Anor v. Unity Bank & Anor (2016) LPELR-41813(CA)*; *11 Plc v. Miland Industries Ltd & Ors (Appeal No. SC/CV/374/2023)*; and *G.S. & L. Ltd v. AMCON (2023) 15 NWLR (Pt.1907) 345 at 384*.

He further submitted that by *Section 53 of the AMCON Act*, it is the Federal High Court that is vested with exclusive jurisdiction to determine whether the loan was lawfully acquired.

On the second issue raised by the Claimants/Respondents, the learned counsel submitted that there is a difference between the re-litigation of the same issue and the raising of a fresh jurisdictional issue on new grounds, and that only the former is prohibited. He relied on the case of *Adesokan v. Adetunji (1994) 5*

NWLR (Pt.346) 540 at 561-562. He submitted that the earlier objection was predicated on ***Section 251(1)(e) of the Constitution and the Companies and Allied Matters Act***, while the present application is predicated on ***Section 251(1)(p) and (r) of the Constitution and Sections 34 and 53 of the AMCON Act***; that issue estoppel does not apply where the issues are not the same, relying on the case of ***Dasuki v. F.R.N. (2018) 10 NWLR (Pt.1627) 320***; and that the Court has a duty to consider every jurisdictional issue raised before it, relying on the cases of ***Petrojessica Enterprises Ltd v. Leventis Technical Co. Ltd (1992) 5 NWLR (Pt.244) 675*** and ***Ehuwa v. O.S.I.E.C. (2006) 18 NWLR (Pt.1012) 544***.

Finally, he urged the Court to hold that the application is competent and to determine it on its merits.

Upon a careful consideration of all the processes filed in this application, together with the arguments of the learned counsel for the parties, I am of the view that the issues for determination, adopting the issues formulated by both counsel with slight modifications, are as follows:

- a) Whether, having regard to the decision of the Court of Appeal in Appeal No. CA/B/263/2019, this application is an abuse of the process of the Court;***
- b) Whether, having regard to the claims of the Claimants as endorsed in their 3rd Further Amended Statement of Claim, this Honourable Court has jurisdiction to entertain this suit; and***
- c) Whether the Claimants' suit, as against the 1st Defendant/Applicant, is an abuse of the process of the Court.***

I will now proceed to resolve the issues seriatim.

ISSUE A:

Whether, having regard to the decision of the Court of Appeal in Appeal No. CA/B/263/2019, this application is an abuse of the process of the Court.

It is an elementary principle of law that the issue of jurisdiction can be raised at any stage of the proceedings. It can even be raised by the Court suo motu. See: ***SLB Consortium Ltd. vs. NNPC (2011) 9 NWLR (Pt.1252) 317 at 335***. It

follows that a party who has raised an objection to the jurisdiction of the Court on one ground is not, by that fact alone, precluded from raising a fresh objection on a different ground at a later stage of the proceedings.

I have carefully examined the grounds of the earlier objection of the 1st Defendant/Applicant dated the 16th day of October, 2018 (Exhibit EKO1), as reproduced in paragraph 9 of the Further Affidavit. The crux of that objection was that the "All Assets Debenture" referred to in the Claimants' pleadings was governed by the Companies and Allied Matters Act, so that the suit was within the exclusive jurisdiction of the Federal High Court under ***Section 251(1)(e) of the Constitution***. The present application, on the other hand, is predicated on ***Section 251(1)(p) and (r) of the Constitution and Sections 34 and 53 of the AMCON Act***. I am therefore of the view that the grounds of the two applications are not the same, and the present application cannot be said to be a mere repetition of the earlier one.

I must however observe that the 2nd Defendant was joined in this suit on the 16th day of October, 2012, long before the earlier objection of 2018 was filed. The facts upon which the present application is founded, namely, the acquisition of the loans by the 2nd Defendant and the reliefs sought against it, were therefore available to the 1st Defendant/Applicant when it brought its earlier objection. The practice of raising objections to jurisdiction in instalments in a suit that was instituted as far back as 2009 is not one to be encouraged, and it has undoubtedly contributed to the delay in the trial of this suit. See the observations of the Supreme Court in the case of ***Oko v. State (2017) 17 NWLR (Pt.1593) 24 at 63-65***, cited by the learned counsel for the Claimants/Respondents. Nevertheless, since the issue of jurisdiction is so fundamental that it may be raised at any stage, I am not prepared to shut out the 1st Defendant/Applicant on the ground of abuse of process. I will rather determine the application on its merits.

For the avoidance of doubt, this finding does not detract from the binding effect of the decision of the Court of Appeal in Appeal No. CA/B/263/2019 on this Court in respect of what it actually decided. I shall return to this point in the course of resolving the second issue. ***Accordingly, the first issue is resolved in favour of the 1st Defendant/Applicant, and I hold that the application is not an abuse of the process of the Court.***

ISSUE B:

Whether, having regard to the claims of the Claimants as endorsed in their 3rd Further Amended Statement of Claim, this Honourable Court has jurisdiction to entertain this suit.

Essentially, the issue of jurisdiction is fundamental and pivotal to any proceedings. It has been described as the life blood of any adjudication. It is the fiat, the stamp of authority to adjudicate. See: *Katto vs. C.B.N. (1991) 11-12 S.C. 176.*

A Court can claim to have jurisdiction in respect of a matter if:

- 1. It is properly constituted as regards members and qualifications of the members of the Bench and no member is disqualified for one reason or another;***
- 2. The subject matter of the case is within its jurisdiction and there is no feature of the case which prevents the Court from exercising its jurisdiction; and***
- 3. The case comes up before the Court initiated by due process of law and upon fulfillment of any condition precedent to the exercise of the jurisdiction.***

In support of the foregoing, see the following decisions on the point: *Madukolu vs. Nkemdilim (1962) 1 All NLR 587; Dangana & Anor vs. Usman & 4 Ors (2012) 2 S.C. (Pt. III) 103; and Western Steel Works Ltd vs. Iron & Steel Workers Union (1986) 3 NWLR (Pt. 30) 617 at 628.*

In determining the issue of jurisdiction, it is the Claimant's originating processes that are to be considered. See: *Okorochoa vs. UBA Plc. (2011) 1 NWLR (Pt.1228) 348 at 373; and A.G. Federation vs. A.G. Abia (2001) 11 NWLR (Pt.725) 689 at 740. See also Adelekan v. Ecu-Line N.V. (2006) 12 NWLR (Pt.993) 33*, cited by the learned counsel for the Claimants/Respondents. I agree with the learned counsel for the 1st Defendant/Applicant that, the pleadings having been amended, it is the 3rd Further Amended Statement of Claim, being the current state of the pleadings, that defines the claims before the Court for this purpose.

The gravamen of the challenge in this application is that the 2nd Defendant, a Federal Government Agency, acquired the 1st Claimant's loans from the 1st Defendant/Applicant as eligible bank assets, and that, the Claimants having sought reliefs against the 2nd Defendant, the suit has become one within the exclusive jurisdiction of the Federal High Court by virtue of ***Section 251(1)(p) and (r) of the Constitution and Section 53 of the AMCON Act.***

The Claimants' claims as enshrined in paragraph 24 of the 3rd Further Amended Statement of Claim, as reproduced by both learned counsel in their written addresses, are as follows:

a. A declaration that having granted and approved the import finance facility and overdraft line to the 1st Claimant and having deducted the sum of N2,200,000.00 as charges for the facilities, the 1st Defendant cannot stop the 1st Plaintiff from drawing down on the account.

b. A declaration that the Defendant cannot continue to hold on the All Assets Debenture over the present/future and floating assets of the 1st Plaintiff valued at 429m as at November, 2006 and the personal guarantee of the 2nd Claimant as it has refused to allow the 1st Claimant to draw down on the account.

c. An order of perpetual injunction restraining the 1st Defendant from filing and/or registering with the Cooperation Affairs Commission, Abuja, the All Assets Debenture over the present/future fixed and floating assets of the 1st Claimant valued at N429,000,000.00 as at November, 2006.

d. An order setting aside the Offer of Banking Facilities Letter dated 9th February, 2009.

e. An order of this Honourable Court setting aside and/or nullifying the All Assets Debenture over the present/future fixed and floating assets of the 1st Claimant valued at N429m as at November, 2006.

f. An order of this Honourable Court setting aside and/or nullifying the personal guarantee entered into by 2nd Claimant to secure the facilities.

g. An order of this Honourable Court stopping further interest charges on the 1st Claimant's account over the Import Finance facility and Overdraft Line.

h. An order of this Honourable Court directing the reversal of the sum of N1,043,753.16k wrongly debited to the 1st Claimant's Account without any justifiable reason.

i. Interest at the rate of 20% per annum on the sum of N1,043,753.16k from March, 2009 till Judgment and 20% per annum on the said of N1,043,753.16k from Judgment until the entire sum is liquidated.

j. An order of this Honourable Court directing the reversal of the sum of N2,200,000.00 and interest charges from February, 2009, which was wrongly debited to the 1st Claimant's account, the 1st Defendant having refused to allow the 1st Claimant to operate the account.

k. An order of this Honourable Court directing the 1st Defendant to return the 1st Claimant's Deeds of relapse in its possession to the 1st Claimant.

l. An order of this Honourable Court setting aside the assignment of the import finance and overdraft facilities of N110,000,000.00 (One Hundred and Ten Million Naira) by the 1st Defendant to the 2nd Defendant during the pendency of this action.

m. An order of perpetual injunction restraining the 2nd Defendant from taking any step or measure to recover the sum of N55,199,640.42k from the Claimants.

n. Against the 1st Defendant, the sum of N538,495,716.00 as special damages being loss of profit suffered by the 1st Claimant from February, 2009 to August, 2014, that is a period of 5 years and 6 months at a monthly and yearly rate of N8,159,026.00 and N97,908,312.00 respectively.

o. Against the 1st Defendant, the monthly profit of N8,159,026.00 from September, 2014 till Judgment and the monthly profit of 8,159,026.00 from Judgment until the entire sum is liquidated.

p. Interest at a rate of 20% per annum on the sum of N8,159,026.00 from February, 2009 till Judgment and 20% per annum on the said sum of N8,159,026.00 from Judgment until the entire sum is liquidated.

q. An order mandating the 1st Defendants to pay to the 1st Claimant the sum of N250,000,000.00 (Two Hundred and Fifty Thousand Naira) as punitive/aggravated damages.

r. The sum of N500,000,000.00 being general damages suffered by the 1st Claimant when 1st Defendant flagged and/or blocked its account and hereby caused the 1st Claimant loss of business and profit and for failure to issue letter of credit to the 1st Claimant to enable import Aluminum coils.

The relevant provisions of *Section 251(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended)* relied upon by the 1st Defendant/Applicant provide as follows:

"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 suing or being sued on behalf of the said Government is a party;

...

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

...

(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

(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:

Provided that nothing in the provisions of paragraphs (p), (q) and (r) 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."

On the other hand, **Section 272(1) of the same Constitution** confers on the High Court of a State jurisdiction, subject to the provisions of **Section 251** and other provisions of the Constitution, to hear and determine any civil proceedings in which the existence or extent of a legal right, power, duty, liability, privilege, interest, obligation or claim is in issue.

On the construction of statutory provisions which purport to oust the jurisdiction of a court, it is settled law and practice that the Courts jealously guard their jurisdiction. Any statute ousting the jurisdiction of a court is to be construed very strictly to ensure that the jurisdiction is not withdrawn without very clear words to that effect. See the cases of: **A.G. of Lagos State vs. Dosunmu & Ors (1989) 3 NWLR (Pt.111) 552; and Ajayi vs. Mil. Adm. Ondo State (1997) 5 NWLR (Pt.504) 237 at 276.**

It is also settled that the mere fact that the Federal Government or any of its agencies is a party to a suit does not, without more, bring the suit within the exclusive jurisdiction of the Federal High Court. In the case of **Olayemi & Ors v. Federal Housing Authority (2022) LPELR-57579(SC)**, cited by the learned counsel for the Claimants/Respondents, the Supreme Court held as follows:

"There is no doubt that Section 251 of the 1999 Constitution as amended, vests jurisdiction on the Federal High Court to determine cases where the agency of the Federal Government is made a party to the suit. However, the principal claims must be against such an Agency of the Federal Government, before the Federal High Court can assume jurisdiction. That in my view means that the Court has a duty to ascertain that it is the principal reliefs in the matter that is against the Federal Government or any of its agencies and not the ancillary reliefs.

This, therefore, means that each case must be considered upon its peculiar facts and circumstances to determine whether a relief thereof is principal or ancillary. This Court has, in a multiplicity of its decisions, held that the fact that an action is against the Federal Government or its Agencies, does not ipso facto bring the case within the jurisdiction of the Federal High Court. The subject matter of the action must fall squarely within the jurisdiction of the Federal High Court before that Court can assume jurisdiction."

The principle that it is the principal claim, and not the ancillary claims, that determines the jurisdiction of the Court is an old one. See the case of ***Tukur v. Government of Gongola State (1989) 4 NWLR (Pt.117) 517***. Applying the foregoing principles, it is incumbent on me to examine the claims of the Claimants to determine what they are principally about.

Upon a careful study of the reliefs reproduced above, it is clear to me that, out of the eighteen reliefs claimed by the Claimants, sixteen of them, that is, reliefs (a) to (k) and (n) to (r), are directed against the 1st Defendant/Applicant alone. They relate to the import finance facility and overdraft line granted to the 1st Claimant by the 1st Defendant/Applicant, the alleged refusal of the 1st Defendant/Applicant to allow the 1st Claimant to draw down on the facilities, the All Assets Debenture and the personal guarantee furnished to secure the facilities, the alleged wrongful debits to the 1st Claimant's account, the return of the 1st Claimant's title documents, and damages for loss of profit and for the flagging or blocking of the 1st Claimant's account. These are, in my view, claims arising from the relationship of banker and customer between the 1st Claimant and the 1st Defendant/Applicant, all of which arose before the 2nd Defendant came into the picture.

Only two of the reliefs, namely reliefs (l) and (m), are directed at the 2nd Defendant. Relief (l) seeks to set aside the assignment of the facilities by the 1st Defendant to the 2nd Defendant "during the pendency of this action", while relief (m) seeks to restrain the 2nd Defendant from taking steps to recover the sum of N55,199,640.42k from the Claimants. The premise of both reliefs, as I understand the Claimants' case, is that the facilities in question were the very subject matter of this pending suit when they were assigned, and that the Claimants dispute any indebtedness under them. In other words, reliefs (l) and

(m) are consequential upon, and depend for their success on, the success of the principal claims against the 1st Defendant/Applicant. If the Claimants fail to establish their principal claims against the 1st Defendant/Applicant, reliefs (l) and (m) will fall with them. I am therefore of the view that reliefs (l) and (m) are ancillary reliefs, and that the principal claims in this suit are not against the 2nd Defendant but against the 1st Defendant/Applicant.

The 1st Defendant/Applicant relied heavily on the case of *N.P.A. v. Aminu Ibrahim & Co. (supra)* and *Adegbite v. Amosu (supra)*. Upon a careful study of the facts of those cases, I wish to observe that in *N.P.A. v. Aminu Ibrahim & Co.*, the claim of the Respondents arose directly from a decision of the Appellant, a Federal Government Agency, to reconcile the position of concessions it had granted, and the Supreme Court found that what was at play was an administrative act of a Federal Government Agency; while in the case of *Adegbite v. Amosu*, the land in dispute had been acquired by the Federal Government, which was therefore directly involved. In both cases, the principal subject matter of the suit was the act of the Federal Government or its agency.

In the present suit, the principal subject matter is the banking relationship between the 1st Claimant and the 1st Defendant/Applicant, a private commercial bank. The two cases are therefore distinguishable.

I have also considered the decision in *NEPA v. Edeghero (supra)*. Applying the three sub-questions which, according to the learned counsel for the 1st Defendant/Applicant, were laid down in that case, I am of the view that the claims in this suit, taken as a whole, do not relate to the validity of an executive or administrative action or decision of the Federal Government or any of its agencies; the principal party against whom the claims are made is not an agency of the Federal Government; and the principal reliefs are for declarations, orders and damages against a private bank.

In my view, the mere fact that the Claimants have, by way of ancillary relief, sought an injunction against the 2nd Defendant does not convert a banker and customer dispute into a challenge to the administration, management or control of a Federal Government Agency within the meaning of *Section 251(1)(p) and (r)*. Furthermore, by the *proviso to Section 251(1)* reproduced above, nothing in *paragraphs (p), (q) and (r)* 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.

At this juncture, I must advert to the decision of the Court of Appeal in this very suit, in *Appeal No. CA/B/263/2019: Austin Laz & Co. Limited & Anor v. Guaranty Trust Bank Plc & Anor (Exhibit EKO2)*. In that decision, the Court of Appeal, per Awotoye, JCA, held, inter alia, as follows:

"It seems clear to me that the claims of the claimant arose from the loan facility granted the claimants and not by any stretch of imagination from the operation of the Companies and Allied Matters... I am persuaded that the process of obtaining a loan and depositing of debentures to guarantee such loan is the routine business of the Company and not the regulating running, management or control of the company... The claims of the claimant rather fall within the provision of Section 251 (d) of the 1999 Constitution. It is a banker/customer between an individual bank and its customer which falls within the concurrent jurisdiction of both the Federal High Court and the State High Court..."

I agree with the learned counsel for the 1st Defendant/Applicant that the Court of Appeal was there considering the grounds of the earlier objection under *Section 251(1)(e) of the Constitution*, and not the grounds now raised under *Section 251(1)(p) and (r)*. However, in the course of resolving that objection, the Court of Appeal necessarily characterised the claims of the Claimants in this suit, and it held that they arose from the loan facility granted to the Claimants and that the dispute is one between a bank and its customer. That characterisation of the very claims now before me is binding on this Court. The 1st Defendant/Applicant itself relied on *Adesokan v. Adetunji (1994) 5 NWLR (Pt.346) 540 at 561-562* for the binding force of the doctrine of *stare decisis* on all lower courts in the hierarchy of courts. I am bound by the decision of the Court of Appeal in this suit, and I cannot now hold that the same claims, which the Court of Appeal found to arise from a banker and customer relationship, arise from the administration, management or control of a Federal Government Agency.

The learned counsel for the 1st Defendant/Applicant also contended that the claims relate to the revenue of the Federal Government within the meaning of

Section 251(1)(a) of the Constitution. I must observe that this contention is not one of the grounds of the application. In any event, **Section 251(1)(a)** applies to civil causes and matters relating to the revenue of the Government of the Federation *"in which the said Government or any organ thereof or a person suing or being sued on behalf of the said Government is a party"*. The principal claims in this suit are for damages and other reliefs against a private bank arising from a banking relationship. They do not relate to the revenue of the Government of the Federation. The submission is therefore misconceived.

I now turn to the contention that **Section 53 of the AMCON Act** confers exclusive jurisdiction on the Federal High Court. **Section 53(1) of the Act**, as reproduced by the learned counsel for the 1st Defendant/Applicant, provides as follows:

"53. (1) The respective heads of Court shall designate, in their respective jurisdictions, one or more courts exclusively, for hearing and determining civil causes or matters-

(a) connected with or pertaining to the acquisition, or realization of eligible bank assets and any collateral or security by which such eligible bank asset is secured in which the Corporation or a receiver appointed by the Corporation or the eligible financial institution from which the Corporation acquired the eligible bank asset is a party;

(b) relating to debt owed or alleged to be owed to the corporation by reason of the Corporation's acquisition of an eligible bank asset; or

(c) connected with or the pertaining to the exercise or intended exercise of power by the Corporation under this act to recover debt owed to the Corporation or otherwise realize an eligible bank asset or take enforcement or realization action in relation to any asset or property by which such eligible asset is secured."

By **Section 61 of the Act**, *"court"* means the Federal High Court. Upon a careful reading of **Section 53(1)**, I am of the view that the provision is essentially administrative in nature. It directs the heads of court to designate one

or more courts to hear the categories of matters specified therein exclusively, for the purpose of expediting such matters. It does not, in express terms, provide that the matters specified therein shall be heard by the Federal High Court to the exclusion of the High Court of a State. By **Section 251(1)(s) of the Constitution**, the additional jurisdiction which the National Assembly may confer on the Federal High Court may be "**to the exclusion of any other court or not**". In the absence of clear words excluding the jurisdiction of the State High Court, and bearing in mind the principle that a provision which purports to oust the jurisdiction of a court must be construed strictly, I am unable to interpret **Section 53 of the AMCON Act** as having divested this Court of its constitutional jurisdiction over a pre-existing banker and customer dispute between the Claimants and the 1st Defendant/Applicant.

I have also examined the case of **University of Calabar v. Asset Management Corporation of Nigeria & Ors. (supra)**, relied upon by the 1st Defendant/Applicant. In that case, the suit was before the Federal High Court, and the question was whether that Court had jurisdiction over a contractual dispute in which the Asset Management Corporation of Nigeria was involved. The question whether the jurisdiction of a State High Court over a dispute between a bank and its customer had been ousted by **Section 53 of the AMCON Act** did not arise for determination. The case is therefore not an authority for the proposition canvassed by the learned counsel.

Even if **Section 53(1)(a) to (c)** were to be read as conferring exclusive jurisdiction, the principal claims of the Claimants against the 1st Defendant/Applicant are not civil causes or matters "connected with or pertaining to the acquisition, or realization of eligible bank assets", nor do they relate to a debt owed to the Corporation or to the exercise of the Corporation's powers to recover debts. They relate to the conduct of the 1st Defendant/Applicant as the 1st Claimant's banker, before the facilities were acquired by the 2nd Defendant.

For completeness, I take judicial notice of the record of this Court in this suit, as I am entitled to do by virtue of Section 122(1) and (2)(m) of the Evidence Act, 2011. See also: *Agbaisi v. Ebikorefe* (1997) 4 NWLR (Pt.502) 630. By a Ruling of this Court delivered on the 24th day of March, 2025 upon the Notice of Preliminary Objection of the 2nd Defendant dated the 23rd day of July, 2024, this Court held that the suit was incompetent as against the 2nd Defendant for want

of service of the pre-action notice required by Section 43(2) of the AMCON Act, and the name of the 2nd Defendant was struck out from this suit. In that Ruling, this Court found it unnecessary to consider the second arm of the 2nd Defendant's objection, which was on whether this Court could entertain the suit against the 2nd Defendant as a Federal Government Agency.

Sequel to the foregoing, I hold that the principal claims of the Claimants arise from a banker and customer relationship with the 1st Defendant/Applicant; that they do not fall within *Section 251(1)(a), (p) or (r) of the Constitution*; that *Section 53 of the AMCON Act* does not oust the jurisdiction of this Court over them; and that this Court has jurisdiction to entertain this suit. The second issue is resolved in favour of the Claimants/Respondents.

I must also observe that in paragraph 3.07 of his written address, the learned counsel for the 1st Defendant/Applicant urged the Court to strike out this suit for failure to serve a pre-action notice on the 2nd Defendant. That is not one of the grounds of this application, and in any event, the question of pre-action notice to the 2nd Defendant was determined by this Court in its Ruling of the 24th day of March, 2025. I will say no more on it.

ISSUE C:

Whether the Claimants' suit, as against the 1st Defendant/Applicant, is an abuse of the process of the Court.

The contention of the 1st Defendant/Applicant under this issue is that the 2nd Defendant having acquired the 1st Claimant's loans and having, by virtue of *Section 34 of the AMCON Act*, taken over the assets and liabilities on the account, the Claimants have no claim against the 1st Defendant/Applicant, so that the maintenance of this suit against it is an abuse of the process of court.

The concept of abuse of judicial process was explained by the Supreme Court in the case of *Saraki v. Kotoye (1992) 9 NWLR (Pt.264) 156 at 188-189, per Karibi-Whyte, JSC*, relied upon by both learned counsel. The common feature of an abuse of process is the improper use of the judicial process by a party in litigation to interfere with the due administration of justice, as in the institution of a multiplicity of actions on the same subject matter against the same opponent on the same issues, or the institution of different actions between the same parties simultaneously in different courts. The abuse lies in the

multiplicity and manner of the exercise of the right, rather than the exercise of the right per se.

The 1st Defendant/Applicant has not alleged that the Claimants have instituted any other action on the same subject matter, or that they have used the process of the Court in any of the ways recognised in *Saraki v. Kotoye* (supra). What the 1st Defendant/Applicant contends is that, by reason of the statutory effect of the acquisition, the Claimants have no claim against it. That, in my view, is a matter of defence. ***Section 34(1) of the AMCON Act*** provides, *inter alia*, that where the Corporation acquires an eligible bank asset, the asset becomes vested in the Corporation, and the Corporation shall exercise all the rights and powers and become subject to all the obligations of the eligible financial institution "in relation to the bank asset", and the eligible financial institution shall cease to have those rights and obligations.

Whether the liability, if any, of the 1st Defendant/Applicant for its alleged breaches of contract and wrongful debits, which the Claimants allege occurred before the acquisition, is an "obligation in relation to the bank asset" which passed to the 2nd Defendant is a question which goes to the merits of the case. It raises issues of law and fact that can only be resolved at the trial upon the evidence. I cannot consider the defences of the 1st Defendant/Applicant at this stage.

When considering an application of this nature, it is irrelevant to consider the weakness of the Claimants' claims. What is always important is to examine the averments in the pleadings and see if they raise some questions fit to be decided by a Judge. See: *Ogunsanya v. Dada* (1992) 4 SCNJ 162 at 169; *Yusuf v. Akindipe* (2000) 8 NWLR (Pt. 669) 376. The Claimants have pleaded facts culminating in their reliefs against the 1st Defendant/Applicant. Clearly at this stage, the Claimants have a cause of action against the 1st Defendant/Applicant, and the institution and maintenance of this suit against it is a legitimate exercise of their right of access to the Court. It is not an abuse of the process of the Court.

Accordingly, the third issue is resolved in favour of the Claimants/Respondents.

In the final analysis, having resolved the second and third issues in favour of the Claimants/Respondents, I hold that this Court has jurisdiction to entertain this suit, and that the suit is not an abuse of the process of the Court. This

application lacks merit and it is accordingly dismissed with N100,000.00 (One Hundred Thousand Naira) costs in favour of the Claimants/Respondents.

P.A. AKHIHIERO

JUDGE

06/10/2026

COUNSEL:

M.I. Okoye Esq.....Claimants/Respondents.

U. Egbon Esq..... 1st Defendant/Applicant.