# In The Supreme Court of Nigeria

On Friday, the 1st day of March 2002

**Before their Lordships**

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| Salihu Modibbo Alfa Belgore | ….. | Justice, Supreme Court |
| Idris Legbo Kutigi | ….. | Justice, Supreme Court |
| Anthony Ikechukwu Iguh | ….. | Justice, Supreme Court |
| Aloysius Iyorgyer Katsina-Alu | ….. | Justice, Supreme Court |
| Samson Odemwingie Uwaifo | ….. | Justice, Supreme Court |

**SC.55/1999**

**Between**

Nigeria Deposit Insurance Corporation ….. Appellant

**And**

Central Bank of Nigeria ….. Respondents
Republic Bank Limited

**Judgment of the Court**
Delivered by
Samson Odemwingie Uwaifo. JSC

The plaintiff/respondent was granted a banking licence No 000039 dated 10 June, 1988 by the first defendant. By a statutory instrument [S1.6 of 1995] dated 29th June, 1995, the first defendant with the approval of the Head of State revoked the said licence. The apparent reason for the revocation was that the plaintiff bank was in a grave financial condition which has

> "culminated in the total erosion of its capital base and the dissipation of the depositors' funds resulting in the inability of the bank to meet its obligations to its depositor and creditors, and the various actions taken by the regulatory authorities to halt further deterioration, including calls on the shareholders to recapitalise the bank, have failed."

This is undoubtedly a very strong reason to which the respondent should normally equally react without delay.

The appointment of the second defendant/appellant as the provisional liquidator of the bank was simultaneously announced. The fact of the revocation and the appointment of a provisional liquidator was published as Government Notice No 16 in Extraordinary Federal Republic of Nigeria Official Gazette No 10 Vol. 82 of 30th June, 1995. The first defendant claimed to have acted under Section 12 of the Banks and Other Financial Institutions Decree No 25 of 1991 (BOFID).

The plaintiff then instituted an action in the Federal High Court on 11th July, 1995 against the defendants seeking

(1) a declaration that the revocation as published "is capricious, illegal, null and void as same is based on a cause not cognisable under Section 23 of the Banks and Other Financial Institutions Decree 1991;

(2) a declaration that the appointment of the 2nd defendant as the provisional liquidator of the plaintiff bank is illegal and contrary to Section 38(3) of the said BOFID;

(3) an injunction restraining the defendants from giving effect to the revocation and acting pursuant to the said Section 38.

A motion on notice was filed the next day for an interlocutory injunction restraining the defendants from giving effect to the revocation by presenting a petition for winding- up and/or by selling or in any way disposing of any of the assets of the plaintiff.

The appellant responded by a notice of preliminary objection filed on 12th July, 1995 seeking to strike out the action along with the action on the grounds

(1) that the court has no jurisdiction to entertain it and

(2) that the plaintiff has no right of action.

In a ruling given on the preliminary objection on 15th August, 1995, Ukeje, J. found that the revocation was properly done under conditions envisaged by Section 12 of BOFID and that by section 49 thereof no action shall lie against the defendants. She dismissed the action.

The plaintiff appealed and the 2nd defendant cross-appealed to the Court of Appeal. The substance of the two issues formulated in respect of the appeal was

(1) whether the question of jurisdiction could have been raised to enable the court to decide on ouster of jurisdiction before the statement of claim was filed and

(2) whether on the basis of the preliminary objection an order of dismissal or striking out was proper.

In respect of the cross-appeal, the issue for determination was formulated by the cross-appellant thus:

> "Whether declaratory action is appropriate in this case, having regard to the fact that this action is for judicial review of an administrative action *id est*, revocation of the plaintiff's banking licence by the 1st defendant."

On 18th November, 1998, the Court of Appeal, Lagos Division, in a considered judgment dismissed the cross-appeal and allowed the appeal. It set aside the ruling of the trial court and ordered that case be remitted to the Federal High Court to be heard by another Judge who would have to comply with Order 31, Rule 1 of the Federal High Court (Civil Procedure) Rules.

The 2nd defendant (hereafter called the appellant) has appealed to this court and raised four issues for determination, the substance of which is as follows:

1. Whether the learned trial Judge had jurisdiction to entertain the plaintiff/respondent's action.

2. Whether the learned trial Judge was right in holding that the defendant/appellant's preliminary objection was premature and that it could not have succeeded without an affidavit in support.

3. Whether the Court of Appeal was right in holding that the learned trial Judge ought to have struck out the case for want of jurisdiction instead of dismissing it.

4. Whether the Court of Appeal was right to have dismissed the cross-appeal filed by the defendant/appellant.

This was the way the plaintiff/respondent paraphrased the four issues framed by the appellant in its brief of argument and I think it was quite adequately done.

I shall consider the issues together as far as may be necessary for a resolution of any of them, but will focus more on the issue of jurisdiction as well as the court processes upon which it was raised and the procedure adopted. At the time the notice of preliminary objection was filed and argued, it was the writ of summons and a motion on notice for an interlocutory injunction that were the court processes available. No statement of claim had been filed. The motion was supported by affidavit and relevant exhibits which included the Federal Government Gazette notice of revocation of the plaintiff/respondent's banking licence, notice to the shareholders of the revocation, a letter to the appellant from the 1st defendant to handle the liquidation of the plaintiff/respondent and a letter from the appellant to the respondent to co-operate in the liquidation process.

The affidavit itself recited the reliefs claimed as per the writ of summons and the reasons given by the 1st defendant for revoking the licence. It then deposed on the oath of Mrs. Ajibike Adetutu Odubayo, a shareholder and Chairman of the Board of Directors of the respondent bank inter alia as follows:

> "8. That I am also aware from the contents of exhibit 'A01' that the Governor of the 1st defendant claims to have exercised a statutory power of revocation of the Banking Licence of the plaintiff as conferred on him by Section 12 of the Banks and Other Financial Institutions Decree 1991.
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> 9. That I have been advised by .... counsel to the plaintiff and I verily believe him that none of the situations contained in Section 12 of the Banks and Other Financial Institutions Decree 1991 apply to the plaintiffs circumstance and the position which the 1st defendant ascribe to the plaintiff does not come within the purview of Section 12 aforesaid.
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> 10. That the officials of the 2nd defendant have now taken over the assets of the plaintiff and are now in the process of liquidating and winding up its affairs as directed by the 1st defendant.
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> 11. That the 2nd defendant is dangerously poised to commence the liquidation process of the plaintiff and has demonstrated its willingness to do so by its letter .... dated 29th June 1995 .... even before it was mandated by the 1st defendant to do so by its letter dated 30th June, 1995.

12. That I am aware from the exchange of correspondence between the plaintiff and the 1st defendant, that the financial position of the plaintiff has not deteriorated to a situation as to warrant the fatal sanction contained in Section 12 of the Banks and Other Financial Institutions Decree 1991."

At this stage it may be pointed out that the respondent sought an interlocutory injunction pending the determination of the substantive suit on the basis, in law, that there is a serious question to be tried. That question, no doubt, is that its banking licence ought not to be revoked in that it has an existing legal right, a recognisable right, to continue to retain the licence and that that right should be protected in the meantime. See *Obeya Memorial Hospital v Attorney-General for the Federation (1987) 3 NWLR (Part.60) 325; Kotoye v Central Bank of Nigeria (1989) 1 NWLR (Part 98) 419; Akapo v Rakeem-Habeeb (1992) 6 NWLR (Part 247) 266*. The claim which the respondent has sought in the substantive suit, which I paraphrased earlier on, will now be reproduced in full as follow:

"1. A declaration that the purported revocation by the Governor of the 1st defendant of the Banking Licence No 000039 dated 10th June, 1988 of the plaintiff vide the statutory instrument No 6 of 1995 published in the supplement to Official Gazette Extraordinary No 10 of Vol. 82 of 30th June, 1995 is capricious, illegal, null and void as same is based on a cause not cognisable under Section 12 of the Banks and Other Financial Institutions Decree 1991.

2. A declaration that the purported appointment by the Governor of the 1st defendant, of the 2nd defendant as the provisional liquidator of the plaintiff is illegal and contrary to the provisions of Section 38(3) of the Banks and Other Financial Institutions Decree 1991.

3. An injunction restraining the defendants from acting in any way whatsoever and howsoever in giving effect to the purported revocation and acting pursuant to the provisions of Section 38 of the Banks and Other Financial Institutions Decree 1991."

The order of interlocutory injunction sought was to get the court to exercise jurisdiction in the matter without further delay by restraining the defendants from

> "giving effect to the purported revocation of the plaintiff's Banking Licence No 000039 either by presenting a petition before this Honourable Court for an order winding-up the affairs of the plaintiff and/or by selling or in any way disposing of any of the assets of the plaintiff."

But first, it has to be plain to everyone, not least the court, that the court has jurisdiction to entertain the suit. The court must not give an order in the suit affecting the defendants until the issue of jurisdiction is settled when it has been raised. It has been contended by the respondent that the matter of jurisdiction cannot be settled until the statement of claim has been filed. The appellant did not see it that way nor did the trial court. But the Court of Appeal held that the preliminary objection was premature. It said it ought to await the filling of the statement of claim because that is when it will be clear whether the court has no jurisdiction. It did not say what should have happened in the meantime to the prayer for an interlocutory order of injunction which the respondent sought urgently upon an affidavit of urgency. Could it be that the court should have proceeded with it despite the notice of preliminary objection?

The Court of Appeal, per the leading judgment of Opene, JCA, relied on Order 31 Rule 1 of the Federal High Court (Civil Procedure) Rules which he recited as follows:

> "In all suits, written pleadings shall be ordered by the court unless the court considers in any particular suit that written pleadings are unnecessary."

The learned Justice was of the view that the said rule 1 made it imperative and compulsory for pleading to be filed by the plaintiff before any objection could be raised as to the jurisdiction of the court to entertain the suit.

With the greatest respect, that rule does not suggest that at all. What it means is that when a suit is brought in the Federal High Court, the court shall order pleadings to be filed by both parties. It is upon those pleadings that the case will be heard. But that if in any particular case, the court is of opinion that hearing can be conducted without pleadings, then there may be no need to order pleadings. A usual example is where the facts are undisputed: See *Taiwo v Akinwunmi (1975) 4 SC 143 at 172; Oloyo v Alegbe (1983) 2 SCNLR 35;* or when what is involved in a case is mere interpretation of a document or statute, and in that case the action is normally by an originating summons supported by affidavit. Or, in the unusual circumstance, where parties are able to settle the issues involved before the stage to file pleadings is reached, there will be no need to file pleadings and hearing proceeds without them: see *Noibi v Fikolati (1987) 1 NWLR (Part 52) 619.* It is my view that Order 31 Rule l has nothing directly to do with procedure in preliminary objections, particularly in regard to the jurisdiction of the court.

In the present case, although pleadings had not been ordered and no statement of claim had been filed, the appellant filed a notice of preliminary objection after the respondent's notice of motion praying for an interlocutory injunction had been filed and served.

The appellant in its notice said:

"Take Notice that counsel on behalf of the defendant intends at the hearing of this action - (or in particular the hearing of the plaintiffs motion on notice dated 12 July, 1995) - to raise a preliminary objection, *vide licet*:

that the action be struck out.

And take notice that the grounds of this objection are that:

the Honourable court is *coram non judice* in respect of this action; and

the plaintiff has no right of action."

It was in respect of this notice of preliminary objection that Opene, JCA observed inter alia as follows:

"By virtue of Order 31 rule 1 above it can be seen that it is mandatory that in all suits in the Federal High Court written pleadings shall be ordered by the trial court unless the court considers in any particular suit that written pleadings are unnecessary. No doubt, the learned trial Judge is clearly in breach of the mandatory provision of Order 31 rule 1 of the Federal High Court (Civil Procedure) Rules as she failed to order pleadings in this matter.

In the instant case, the provisions of Section 49 of the Decree is not an outright ouster of the court's jurisdiction where the court can on the face of the writ of summons decline jurisdiction. Under this Section of the law what a plaintiff needs to do is to plead and prove bad faith if the action is to be sustained.

I am therefore of the view that the preliminary objection was premature and that it could only be raised after the appellant has filed his statement of claim and that the preliminary objection can only succeed if the appellant failed to plead in his statement of claim that the Governor of Central Bank 'acted in bad faith'."

I am afraid I cannot quite agree with these observations. It is now beyond argument that the issue of jurisdiction can be raised at any stage of the proceedings even on appeal. As observed by Oputa, JSC in *Western Steel Works Ltd. v Iron & Steel Workers Union (1986) 3 NWLR (Part 30) 617; (1986) 2 NSCC (Vol. 17) 786 at 798*:

"A court has to be competent in the sense that it has jurisdiction before it can undertake to probe and decide the rights of the parties."

But it is regarded as a threshold issue and a lifeline for continuing any proceedings, objection to jurisdiction ought to be taken at the earliest opportunity if there are sufficient materials before the court to consider it and a decision reached on it before any other step in the proceedings is taken because if there is no jurisdiction, the entire proceedings are a nullity no matter how well conducted. There are far too any decisions on this: - see *Ndaeyo v Ogunnaya (1977) 1 SC 11; Chacharos v. Ekimpex Ltd. (1988) 1 NWLR (Part 68) 88; Oloba v Akereja (1988) 3 NWLR (Part 84) 508; Bakare v Attorney-General of the Federation (1990) 5 NWLR (Part 152) 516; Odofin v Agu (1992) 3 NWLR (Part 229) 350; Ajayi v Military Administrator, Ondo State (1997) 5 NWLR (Part 504) 237; Jeric (Nigeria) Ltd. v Union Bank of Nigeria Plc (2000) 15 NWLR (Part 691) 447.* It is plain from the authorities that at any stage sufficient facts or materials are available to raise the issue of jurisdiction, or that it has become apparent to any party to the action that it can be canvassed, there is no reason why there should be delay in raising it. In *Petrojessica Enterprises ltd. v Leventis Technical Co. Ltd (1992) 5 NWLR (Part 244) 675 at 693,* Belgore, JSC said inter alia:

"Jurisdiction is the very basis on which any tribunal tries a case; it is the lifeline of all trials. A trial without jurisdiction is a nullity .... This importance of jurisdiction is the reason why it can be raised at any stage of a case, be it at the trial, on appeal to Court of Appeal or to this court; *afortiori* the court can *suo motu* raise it. It is desirable that preliminary objection be raised early on issue of jurisdiction; but once it is apparent to any party that the court may not have jurisdiction it can be raised even *viva voce* as in this case. It is always in the interest of justice to raise issue of jurisdiction so as to save time and costs and to avoid a trial in futility."

It has also been said per Viscount Simon L.C. in *Westminster Bank Ltd v Edwards (1942) 1 All ER 470 at 473 inter alia* that:

"There are, of course, cases in which a court should itself take an objection of its own motion, even though the point is not raised by any of the parties before it. Again, a court not only may, but should, take objection where the absence of jurisdiction is apparent on the face of the proceedings."

To this, Lord Wright added his observation at page 474 as follows:

"Now it is clear that a court is not only entitled but bound to put an end to proceedings if at any stage and by any means it becomes manifest that they are incompetent."

To say, therefore, as did the court below and as canvassed by the plaintiff/respondent before us in its brief of argument that objection to jurisdiction should only be taken after the statement of claim has been filed is a misconception. It depends on what materials are available. It could be taken on the basis of the statement of claim: see *Izenkwe v Nnadozie (1953) 14 WACA 361 at 363; Adeyemi v Opeyori (1976) 9-10 SC 31; Kasikwu Farms Ltd. v Attorney of Bendel State (1986) 1 NWLR*

*(Part 19) 695.* It could be taken on the basis of the evidence received: see *Barclays Bank of Nigeria Ltd. v. Central Bank of Nigeria (1976) 1 All NLR 409*; or by a motion supported by affidavit giving the facts upon which reliance is placed: see *National Bank (Nigeria) Ltd. v Shoyeye (1977) 5 SC 181 at 194* per Obaseki, JSC. But certainly it could be taken on the fact of the writ of summons where appropriate: see *Attorney- General Kwara State v Olawale (1993) 1 NWLR (Part 272) 645 at 674-675* where Karibi- Whyte, JSC observed:

> "There is no doubt the issue of whether a plaintiff's action is properly within jurisdiction or indeed justifiable can be determined even on the endorsement of the writ of summons, as to the capacity in which action was being brought, or against who action is brought. It may also be determined on the subject-matter endorsed on of summons, if this is not actionable."

The tendency to equate demurrer with objection to jurisdiction could be misleading. It is a standing principle that in demurrer, the plaintiff must plead and it is upon that pleading that the defendant will contend that accepting all the facts pleaded to be true, the plaintiff has no cause of action, or, where appropriate, *no locus standi*: see *Federal Capital Development Authority v Naibi (1990) 3 NWLR (Part 138) 270; Williams v Williams (1995) 2 NWLR (Part 375) 1; Akpan v Utin (1996) 7 NWLR (Part 463) 634; Brawal Shipping (Nig.) Ltd. v F.l. Onwadike Co. Ltd. (2000) 11 NWLR (Part 678) 387.* But as already shown, the issue of jurisdiction is not a matter for demurrer proceedings. It is much more fundamental than that and does not, entirely depend as such on what a plaintiff may plead as facts to prove the reliefs he seeks. What it involves is what will enable the plaintiff to seek a hearing in court over his grievance, and get it resolved because he is able to show that the court is empowered to entertain the subject-matter. It does not always follow that he must plead first in order to raise the issue of jurisdiction.

In the present case, one of the processes before the trial court was the endorsement on the writ of summons in which the respondent sought a declaration that the revocation of its banking license by the Governor of the Central Bank of Nigeria (1st defendant) was *capricious, illegal, null and void as same is based on a cause not cognizable under Section 12 of the Banks and Other Financial institutions Decree 1991*." [Emphasis mine].

The other process was the motion on notice together with the affidavit and exhibits for interlocutory injunction to which the preliminary objection was directed. Now, Section 49 of BOFID provides an ouster clause to prevent litigation in case of such event as revocation of banking licence by the Central Bank of Nigeria (the Bank). It says:

> "49 (1) Neither the Federal Government nor the Bank nor any officer of that Government or Bank, shall be subject to any action, claim or demand by or liability to any person in respect of anything done or omitted to be done in good faith in pursuance or in execution of, or in connection with the execution or intended execution of any power conferred upon that Government, the Bank or such officer, by this Decree.
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> (2) For the purpose of this Section, the Minister or any officer duly acting on his behalf shall be deemed to be an officer of the Federal Government and the Governor, any Deputy Governor of the Bank or other employee thereof or any person holding any office therein or appointed by the Bank under subsection (2) of Section 32 of this Decree shall be deemed to be an officer of the Bank."

In order that the court may have jurisdiction to entertain the type of action now in question, the plaintiff/respondent has to show or allege bad faith in the way the revocation was done and indicate the element that constitute the bad faith. This must be done preferably at the threshold of the suit being placed before the court because the court is to presume that the act complained of was done in good faith which naturally will deprive it of jurisdiction unless bad faith is positively alleged by way of its elements. The endorsement on the writ of summons alleges that the act of revocation was 'capricious and illegal'. This is probably an allegation of bad faith but without its elements it cannot be regarded as positive. The endorsement however goes further to indicate what is regarded as the bad faith by saying that the revocation 'is based on a cause not cognizable under Section 12 of Banks and Other Financial Institutions Decree 1991'. This would appear to represent the elements of the alleged bad faith. The phrase 'not cognizable' as used by the respondent in its writ of summons simply means 'not justiciable', 'not punishable', 'not wrongful', 'not provided for',' not recognizable' under Section 12 of BOFID.

In the circumstances, what is open to a court where the suit has been brought and an interlocutory injunction is being sought is to peruse the said Section 12. By so doing it will be possible to examine the basis of the 'bad faith' from the point of view of the alleged 'capricious and illegal' manner the license was revoked and to see whether the cause of revocation does not fall within any of the provisions of that section. If it does not, then there would be reason, perhaps, to doubt the good faith of the 1st defendant in revoking the license and consequently enable the court to assume jurisdiction to entertain the suit. The section reads:

> "12. The Governor may, with the approval of the President by notice published in the Gazette, revoke any licence granted under this decree if a bank -
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> (a) ceases to carry on in Nigeria the type of banking business for which the license was issued for any continuous period of 6 months or for any period aggregating 6 months during a continuous period of 12 months;
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> (b) goes into liquidation or is wound up or otherwise dissolved;

(c) fails to fulfill or comply with any condition subject to which the license was granted;

(d) has insufficient assets to meet its liabilities;

(e) fails to comply with any obligation imposed upon it by or under this Decree or the Central Bank of Nigeria Decree 1991."

From the reasons given by the 1st defendant for revoking the plaintiff/respondent's license, Section 12(d) above appears to be the most obvious under which it acted.

In the affidavit in support of the motion for interlocutory injunction, the plaintiff/respondent recited those reasons for the revocation in paraghaph 7 thereof. For the plaintiff/respondent to show bad faith so that its action could be entertained, it would have had to indicate how capricious and illegal the revocation was. This it could have revealed in the said affidavit. In paragraph 8 and 9 (which I have produced) it said that the 1st defendant acted under Section 12 but added that that Section does not "apply to the plaintiff's circumstance and the position which the 1st defendant ascribe to the plaintiff does not come within the purview of Section 12 aforesaid. " I do not think the respondent from this has said anything toward bad faith because by looking at the reasons given by the 1st defendant and the provision of Section 12(d), what one can easily conclude is that those reasons come within that provision.

As to the "circumstance and position which the 1st defendant ascribe to the plaintiff, the respondent deposed in paragraph 12 of its affidavit of its awareness "from the exchange of correspondence between the plaintiff and the 1st defendant that the financial position of the plaintiff has not deteriorated to a situation as to warrant the fatal sanction contained in Section 12 of the Banks and Other Financial Institutions Decree 1991."Again, these are mere words. The plaintiff/respondent had every opportunity at that stage to show that its finances were such that it could not be said that it had insufficient assets to meet its liabilities. The burden was on it to show bad faith: See *Melton Meeds Ltd. v SIB* (*1995) 3 All ER 880 at 889.* It has to do this quickly by any means to show that the court had jurisdiction to hear its cause, particularly as it was then seeking a court order. That court order would be ungrantable if the court had no jurisdiction. It would have been appropriate, in my view, for the plaintiff/respondent to exhibit first, the said correspondence between it and the 1st defendant and second, its most recent audited account indicating that it was in funds or had sufficient assets, or that from correspondence it was inconceivable that the license would be revoked and that the 1st defendant thereby acted capriciously and illegally and therefore in bad faith. That would, I imagine, have conferred jurisdiction in the court.

Learned counsel for the plaintiff/respondent submitted in the respondent's brief of argument that rather than order plaintiff to file its leadings the learned trial Judge stumbled on the affidavit evidence in support of the interlocutory injunction and decided to rely on same in determining the issue of jurisdiction. In adopting that approach the trial court did not advert its mind to the case of *Orji v Zaria Industries Limited (1992) 1 NWLR (Part 216) 124* and *Tidex (Nig.) Limited v NUPENG (1998) 11 NWLR (Part 573*) *263* where it was held that the court must confine itself at the stage of interlocutory application to the issues raised before it and nothing more. I can see nothing in those two cases which suggests that the question of bad faith which would give jurisdiction to the court could not be decided on the interlocutory application and in reliance on the affidavit in support. The relevant principle decided in those cases is that courts must confine themselves in interlocutory applications to those issues necessary for their disposal without going to the merit of the substantive action. In the present case, it was necessary to ascertain whether the court had the jurisdiction to entertain the interlocutory application, although the trial court, admitted, went beyond that. However, that is not the real issue in this appeal.

Having reached the conclusion that the plaintiff/respondent failed to show that there was bad faith in the action of the 1st defendant in revoking its banking license, which bad faith would have given jurisdiction to the court, and that the trial court rightly held at the stage it did that it had no jurisdiction, it is my respectful view that the court below was in grave error to have held to the contrary. I do not find it necessary in the circumstances to go into other issues raised in this appeal other than to say that the proper order, following the lack of jurisdiction finding, is the striking out of the suit: see *Okoye v Nigerian Construction & Furniture Co. (1991) 6 NWLR (Part 199) 501; Central Bank of Nigeria v Katto (1994) 4 NWLR (Part 339) 446*. I allow the appeal and set aside the judgment of the court below together with the order for cost. I make an order striking out the suit for lack of jurisdiction in the court to entertain it. There shall be no order as to costs.

**Judgment delivered by**
Salihu Modibbo Alfa Belgore. JSC

The matter of jurisdiction is very crucial in any matter before the court that it must be addressed first by the court before proceeding further in a matter. It is clear there was no jurisdiction by the trial court which seemed to advert to this. The court below was in error to have held otherwise. I am therefore in full agreement with the judgment of my learned brother Uwaifo, JSC that the appeal has merit. I allow the appeal, set aside decision of Court of Appeal and enter a verdict of striking out the suit at trial court. ₦10,000.00 costs to the appellant.

**Judgment delivered by**
Idris Legbo Kutigi. JSC

I have had a preview of the judgment just rendered by my learned brother Uwaifo, JSC in which he meticulously dealt with all necessary and relevant issues in the appeal. I agree with his reasoning and conclusions. The appeal is allowed and the judgment of the Court of Appeal is set aside. I will also make the order striking out the suit for want of jurisdiction. I abide by the order for costs.

**Judgment delivered by**
Anthony Ikechukwu Iguh. JSC

I have had the privilege of reading in draft the judgment just delivered by my learned brother, Uwaifo, JSC and I agree that this appeal should be allowed. Accordingly, I too allow it and make the same consequential orders as are contained in the leading judgment.

**Judgment delivered by**
Aloysius Iyorgyer Katsina-Alu. JSC

I have had the privilege of reading in draft the judgment of my learned brother Uwaifo, JSC in this appeal. I agree with it and for the reasons he was given, I too allow the appeal and set aside the judgment of the Court of Appeal. The plaintiff/respondent's suit is hereby struck out.

**Counsel**

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| Dr. O. Ajayi SAN<br>*with him*<br>O. Opasanya | ….. | For the Appellant |
| O. A Falade | ….. | For the 1st Respondent |
| Nil | ….. | The 2nd Respondent Absent and Unrepresented |