

**IN THE SUPREME COURT OF NIGERIA**  
**HOLDEN AT ABUJA**

**ON FRIDAY THE 6<sup>TH</sup> DAY OF MARCH, 2026**  
**BEFORE THEIR LORDSHIPS: -**

<b><u>IBRAHIM MOHAMMED MUSA SAULAWA</u></b>	<b><u>JUSTICE, SUPREME COURT</u></b>
<b><u>EMMANUEL AKOMOAYE AGIM</u></b>	<b><u>JUSTICE, SUPREME COURT</u></b>
<b><u>CHIDIEBERE NWAOMA UWA</u></b>	<b><u>JUSTICE, SUPREME COURT</u></b>
<b><u>MOORE ASEIMO A. ADUMEIN</u></b>	<b><u>JUSTICE, SUPREME COURT</u></b>
<b><u>OBANDE FESTUS OGBUINYA</u></b>	<b><u>JUSTICE, SUPREME COURT</u></b>
	<b><u>SC/CV/644/2021</u></b>

**BETWEEN:**

**1. CHIEF (WARI ALABO) PROF. JASPER F. JUMBO (JP)**

**2. WARISENIBO SINCLAIR JUMBO OF ABALAMA**

*(For themselves, the Jumbo Major House Chiefs and Elders Council, the Principal Members, the Jumbo Community, Village Heads, the Jumbo Community Youths Council and the entire Mass of the Jumbo Major House of Grand Bonny Kingdom)*

**APPELLANTS**

**VS.**

**1. WARIALABO GEORGE H. JUMBO**

**2. WARIALABO (BARR.) VICTOR IBIGONI HUMBO**

**3. WARIALABO WARI OGOLOGO JUMBO**

**4. WARI OPUSENIBO CLIFFORD WILIAM JUMBO**

**5. AMA-SENIBO ERIC GENTLE JUMBO**

- 6. LAWRENCE P. N. JUMBO**  
**7. DANIEL JUMBO**  
**8. IDANYE JUMBO**  
**9. TAMUNOTONYE DANGOGO JUMBO**  
**10. HENRY B. JUMBO**

**1<sup>ST</sup> SET  
RESPONDENTS**

*(For themselves, the Jumbo Major House Chiefs and Elders Council, the Principal Members, the Jumbo Community, Village Heads, the Jumbo Community Youths Council and the entire Mass of the Jumbo Major House of Grand Bonny Kingdom)*

**VS.**

- 11. CHIEF HORACE F. H. JUMBO**

**2<sup>ND</sup> SET OF**

- 12. PROMISE APIAFI**

**RESPONDENTS**

- 13. SHELL PETROLEUM DEVELOPMENT  
COMPANY**

**3<sup>RD</sup> SET OF  
RESPONDENTS**

**JUDGMENT**

**(DELIVERED BY OBANDE FESTUS OGBUINYA, JSC)**

This appeal quarrels with the rightness of the decision of the Court of Appeal, Port Harcourt Division (hereunder labelled as “the lower court”), *coram judice*: O. A. Adefope-Okojie, Y. B. Nimpar and M. B. Idris, JJCA, in Appeal No. CA/PH/166/2018, delivered on the 17<sup>th</sup> June, 2021. In its decision, the lower court set aside the judgement of the High Court of Rivers state (the trial court), in Suit No. PHC/47/2011, delivered on the 3<sup>rd</sup> July, 2017, wherein G. O. Omereji, J. granted the appellants’ claim partly.

The synopsis of the essential facts of the case, which transformed into this appeal, are disobedient to verbosity and complexity. There is in existence the Jumbo Major House of Grand Bonny Kingdom in Rivers State of Nigeria. The Jumbo Major House has 1971 Constitution and Regulations which bind the members of the House. The appellants, alongside the first set of respondents, alleged that the eleventh and twelfth respondents were mismanaging the affairs, leadership and finances of the House. They, also, alleged that they: sold the landed property of the House to its non-members, refused to carry the House's youth along in the administration and disbursement of funds, indulged in unilateral withdrawal of the House's funds, refused to call mass meeting, disregarded the stakeholders and legal trustees of the House and all contrary to the Constitution of the House. Sequel to that, the appellants, alongside the first set of respondents, beseeched the trial court, via an originating summons, filed on the 12<sup>th</sup> January, 2016, wherein they raised seven questions for determination and tabled against the second and third sets of respondents, alongside others whose names were later struck out of the appeal by the lower court, the following reliefs:

- a. **A DECLARATION that the 1<sup>st</sup> claimant is the proper person exclusively entitled to represent the jumbo Major House of Grand Bonny Kingdom on all Oil/Gas and related**

developments including financial matters, with the Shell Petroleum Development Company of Nigeria Limited and other Oil/Gas companies operating on Jumbo Major House Territory in the Bonny Local Government Area of Rivers State.

b. A DECLARATION that in view of the Power of Attorney donated by the entire stakeholders of the Jumbo Major House of Grand Bonny Kingdom to the first claimant in 1993 and the 1971 Jumbo Major House of Constitution and Regulations, the 1<sup>st</sup> defendant cannot exclusively receive monies on behalf of the Jumbo Major House of Grand Bonny Kingdom from either the Shell Petroleum Development Company of Nigeria Limited and other Oil/Gas Companies operating in Bonny and anywhere else on Oil/Gas or related development matters, without the participation and involvement of the 1<sup>st</sup> claimant.

c. A DECLARATION that upon evaluation of the evidence before this court, the 1<sup>st</sup> defendant has no right/power to connive with the 2<sup>nd</sup>, 3<sup>rd</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 17<sup>th</sup>, 18<sup>th</sup> and 20<sup>th</sup> defendants or any other strange bed fellows, except the prescribed members of the Jumbo House Board of Trustees Finance Committee, to receive monies

belonging to the Jumbo Major House or expend same on behalf of Jumbo Major House Stakeholders, without the knowledge, consent and approval of the 1<sup>st</sup> claimant, the other Finance Committee members and where relevant the Elders of the House.

c. AN ORDER that upon evaluation of the evidence before the court, the 1<sup>st</sup> defendant cannot unilaterally administer the affairs and governance of the Jumbo Major House of Grand Bonny Kingdom without the involvement, participation and approval of the 1<sup>st</sup> claimant and the representative Jumbo Major House Chiefs and Elders who appointed and installed him.

e. AN ORDER that upon proper evaluation of the 1971 Jumbo Major House of Constitution and Regulations still in force as well as other evidences before this court, the purported sale of portions of Jumbo Major House land by the 1<sup>st</sup> defendant to one Jumbos especially the 7<sup>th</sup> to 15<sup>th</sup> defendants is unconstitutional, null and void.

f. AN ORDER directing the claimants and Elders of the Jumbo Major House in their capacity as either co- Trustees and/or

**Elders of the Jumbo Major House of Grand Bonny Kingdom, with or without the 1<sup>st</sup> defendant to summon the constitutionally-prescribed Annual Mass Meeting of the Jumbo Major House stakeholders within one month of this judgment in which the finances, stewardship and sustainable development of the Jumbo Major House could be discussed, in the higher interest of mutual co-existence and national security.**

**d. A DECLARATION that in view of the 1<sup>st</sup> defendant's serial and unbridled breach of the 1971 Constitution and regulations of the Jumbo Major House of Grand Bonny Kingdom, the 1<sup>st</sup> defendant has lost the power and right to continue to rely on the said 1971 Constitution to act as Paramount Chief of the Jumbo Major House of Grand Bonny Kingdom of Rivers State.**

**h. AN ORDER compelling the 1<sup>st</sup> defendant to refund the sum of N84,000 (Eighty-Four Million Naira) only, being the estimated cost of his unilateral receipts and diverted Jumbo Major Hounds funds received from the Oil/Gas companies operating on Jumbo House land and the unconstitutional sale of Jumbo Major House land to extraneous non – Jumbos.**

- i. **THE SUM OF N10,000,000 (Ten Million Naira) only, being general damage, cost of injuries affectation to the high societal networth and stressful misrepresentation of the character and reputation of the 1<sup>st</sup> claimant and other Elders of the Jumbo Major House of Grand Bonny Kingdom of Rivers State.**

The second set of respondents, upon being served with the appellants' processes, joined issue with them by filing counter-affidavits. The trial court heard the suit. In a considered judgment, delivered on the 3<sup>rd</sup> July, 2017, documented at pages 1224 – 1259, volume 2 of the record, the trial court granted the appellants' reliefs (a) – (c) and ordered the parties to file pleadings for the hearing of the other reliefs and issues.

The eleventh and twelfth respondents were dissatisfied with the judgment. Hence, they lodged a 3-ground notice of appeal before the lower court which is reflected at pages 1271 – 1274, volume 2, of the record. The lower court heard the appeal. In a considered unanimous judgment, delivered on the 17th June, 2021, lying between pages 1367 – 1399, volume 2, of the record the lower court allowed the appeal and set aside the decision of the trial court.

The appellants were peeved by the decision. Consequently, on the 13<sup>th</sup> July, 2021, they launched a 5 - ground notice of appeal, copied at pages 1400 – 1405, volume 2, of the record, wherein they prayed this court to: “Set aside the decision of the Court of Appeal reached on the 17<sup>th</sup> of June, 2021”. Thereafter, the parties filed and exchanged their respective briefs of argument in line with the procedure governing the hearing of civil appeals in the court. The appeal was entertained on the 9<sup>th</sup> December, 2025.

During its hearing, learned counsel for the appellant’s, Collins C. Dike, Esq., adopted the appellants’ brief of argument, filed on the 11<sup>th</sup> October, 2021, and the appellants’ reply brief, filed on the 30<sup>th</sup> June, 2022, as representing his arguments for the appeal. He urged the court to allow it. Similarly, learned counsel for the eleventh and twelfth respondents, T.C. Kienabere, Esq., adopted their brief of argument, filed on the 12<sup>th</sup> January, 2022, as constituting his submissions against the appeal. He urged the court to dismiss it. Also, learned counsel for the thirteenth respondent, A. O. Ojekudo, Esq, adopted its brief of argument, filed on the 26<sup>th</sup> April, 2023 but deemed filed on the 30<sup>th</sup> April, 2025, as forming his contentions against the appeal. He urged the court to dismiss it. For the record, the first -tenth respondents filed no brief of argument.

In the appellants' brief of argument, learned counsel distilled four issues for determination, to wit:

1. **Whether the learned Justices of the Court of Appeal were right in holding that the Brief of Argument filed by the 2<sup>nd</sup> set of respondents was competent.**
2. **Whether the learned Justice (sic) of the Court of Appeal were right in holding that the learned trial Judge lacked the jurisdiction to entertain the suit on the basis that the originating summons was not specifically signed by Counsel.**
3. **Whether the learned Justice of the Court of Appeal were right in considering and relying on the 3<sup>rd</sup> Set of Respondent's Brief of Argument which Brief attacked the Judgment of the trial High Court.**
4. **Whether the learned Justices of the Court of Appeal were wrong and therefore breached the appellants' right to fair hearing, when they failed to consider the authorities cited and relied upon by the Appellants in their additional list of authorities.**

In the eleventh and twelfth respondents' brief of argument, learned counsel crafted three issues for determination, namely:

- i. **Whether the Learned Justices of the Court of Appeal were correct when their Lordships held that the failure of the appellant's counsel or the appellants to sign the appellants' originating summons robbed the trial Court of the requisite jurisdiction to hear and determine the appellant's originating summons.**
- ii. **Whether the learned trial Justices of the Court of Appeal were correct when their Lordships held that the 11<sup>th</sup> and 12<sup>th</sup> Respondents' brief of arguments as appellants at the Court of Appeal was competent.**
- iii. **Whether the consideration of the 3<sup>rd</sup> Respondent (sic) brief of argument at the Court of Appeal occasioned a miscarriage of justice.**

In the thirteenth respondent's brief of argument, learned counsel nominated four issues for determination:

- (A). **Whether the learned Justices of the Court of Appeal were right in holding that the Brief of Argument filed by the 2<sup>nd</sup> set of Respondents was competent"**
- (B) **Whether the lower court was right in determining that the trial High Court lacked**

jurisdiction to entertain this suit on the basis that the originating process which was not signed by Appellants or their counsel was incurably defective.

(C) Whether the decision of the lower court in allowing the appeal of the 11<sup>th</sup> and 12<sup>th</sup> Respondents is vitiated merely because the lower court agreed with the concession made by the 13<sup>th</sup> Respondent's counsel in its Respondent's brief of argument to the fine legal argument of the 11<sup>th</sup> and 12<sup>th</sup> Respondents' counsel.

(D) Whether the fact that the lower court did not specifically mention the judicial authorities in the cases cited and contained in the Appellants' List of Additional Authorities in the Judgment of the Court of Appeal amounted to non-consideration of those judicial authorities by the lower court and/or denied the appellants of their right to fair hearing

A comparative scrutiny of the three sets of issues shows that they are, save for semantics, identical in substance. The appellants' grouse on issue two, which is a common grudge to the parties, is determinative of the appeal. Hence, I will handle the

appeal on the basis of the appellant's issue two as a solitary issue in this appeal.

### **Arguments on the issue.**

#### **Appellants' submissions**

Learned appellants' counsel submitted that the lower court was wrong in its decision because Order 3 rule 8 (1) of the Rivers State High Court (Civil Procedure) Rule, 2010, (the trial court's Rules) never made provision for signing of originating summons by a party or legal practitioner. He explained that the express mention of one thing in a statute means the exclusion of things not so mentioned. He relied on *A. – G., Lagos State v. A. -G., Fed.* (2014) LPELR – 22701 (SC). He asserted, in the alternative, that the non-signing of the originating summons was non-compliance with the provision of the rules of court which was, at best, an irregularity. He cited *Famfa Oil Ltd. v. A. - G., Fed* (2003) LPELR – 1239 (SC).

#### **Second set of Respondents' contentions**

Learned counsel for the eleventh and twelfth respondents, T. C. Kienabere, Esq., contended that the lower court was right. He noted that order 6 rule 2(3) of the trial court's Rules provided for signing of originating summons. He observed that the failure to sign an originating process is not a question of irregularity or

technicality. He referred to ***FBN Plc. v. Maiwada*** (2013) 5 NWLR (Pt. 1348) 444; ***Braithwaite v. Sky Bank Plc.*** (2013) 5 NWLR (Pt. 1346) 1. He opined that the requirement of signing of originating process commenced by a legal practitioner is that of the Legal Practitioners Act.

Learned counsel for the thirteenth respondent, A. O. Ojekudo, Esq., argued that an unsigned court process, such as the originating process in the appeal, is a worthless, null and void and incompetent process which must be struck out. He relied on ***Buhari v. Adebayo*** (2014) 10 NWLR (Pt. 1416) 560. He added that an unsigned originating process robs the court of the jurisdiction to hear the suit. He cited ***Tanimu v. Rabiu*** (2017) LPELR – 47998 (SC); ***Williams v. Adold/stamm International (Nig) Ltd*** (2017) LPELR – 41559 (SC). He posited that sections 2 and 24 of the Legal Practitioners Act make it mandatory for parties or their counsel to sign an originating process.

### **Resolution of the issue**

The mainstay of the issue, on a clinical examination, is located within the perimeter of a narrow compass. It chastises the propriety *vel non* of the lower court's decision, which midwived this appeal, that proclaimed that the trial court was disrobed of the jurisdiction to entertain the appellants' suit on account of failure to sign the

originating process – originating summons. In other words, the hub of the appellants' nursed grievance orbits around the existence or otherwise of the jurisdiction of the court *vis-à-vis* the adjudication of their suit. It is the forceful contention of the appellants that the non-signing of the originating summons did oust the trial court of jurisdiction to hear the suit.

First and foremost, jurisdiction connotes the authority/power of a court to determine a dispute submitted to it by contending parties in any proceeding, see ***Ajamole v. Yaduat***(No. 1) (1991) 5 SCNJ 172; ***Mobil Pro. Co. Untltd. v. LASEPA*** (2002) 18 NWLR (Pt. 798)1;***Ndaeyo v. Ogunnaya***(1977) 1 IM SLR 300;***Ebhodagbe v. Okoye*** (2004) 18 NWLR (Pt. 905) 472; ***Garba v. Mohammed*** (2016) 16 NWLR (Pt. 1537) 144; ***A.-G., Kwara State v. Adeyemo*** (2017)1 NWLR (Pt. 1546) 210; ***Isah v. INEC*** (2016) 18 NWLR (Pt. 1544) 175; ***Angadi v. PDP*** (2018) 15 NWLR (Pt. 1641) 1; ***Nduul v. Wayo*** (2018) 16 NWLR (Pt. 1646) 548; ***Jega v. Ekpenyong*** (2025) 11 NWLR (Pt. 1998) 33.

The *locus classicus* on jurisdiction is ***Madukolu v. Nkemdilim*** (1962) 2 SCNLR 341/(1961) NSCC, vol. 2, 374. Therein, at page 379, this court, per Bairamian, F.J., evolved the essential ingredients of jurisdiction, *videlicet*:

**Before discussing those portions of the record, I shall make**

some observations on jurisdiction and the competence of a court. Put briefly, a court is competent when-

1. it is properly constituted as regards numbers and qualifications of members of the bench, and no member is disqualified for one reason or another; and

2. the subject matter of the case is within its jurisdiction, and there is no feature in the case which prevents the court from exercising its jurisdiction; and

3. the case comes before the court initiated by due process of law, and upon fulfilment of any condition precedent to the exercise of jurisdiction.

Any defect in competence is fatal, for the proceedings are a nullity however well conducted and decided: the defect is extrinsic to the adjudication.

These mandatory ingredients, which must co-exist in a matter in order to bestow a court with jurisdiction, have been deeply planted and assimilated into our *corpus juris* in a sea of judicial authorities, see ***Tukur v. Taraba State*** (1997) 6 SCNJ 81; ***Daro v. UBN*** (2007)

16 NWLR (Pt. 1029) 164; **Okereke v. Yar'Adua** (2008) 12 NWLR (Pt. 1100); **Saraki v. FRN** (2016) 3 NWLR (Pt. 1500) 531; **Oni v. Cadbury Nig. Plc.** (2016) 9 NWLR (Pt. 1516) 80; **Diamond Bank Ltd. v. Ugochukwu** (2016) 9 NWLR (Pt. 1517) 193; **Okpe v. Fan Milk Plc.** (2017) 2 NWLR (Pt. 1549) 282; **Bello v. Damisa**(2017) 2 NWLR (Pt. 1550) 455; **Osi v. Accord Party** (2017) 3 NWLR (Pt. 1553) 387; **Nworka v. Ononeze-Madu** (2019) 7 NWLR (Pt. 1672) 422; **Adeleke v. Oyetola** (2020) 6 NWLR (Pt. 1721) 440.

It is apropos, perforce, to consult the record the touchstone of the appeal. My port of call is at the premises of the lower court's decision which is in the heat of being ostracised from the legal district. The embattled decision colonises pages 1367 – 1399, volume 2, of the mountainous record. The relevant reasoning/finding of the lower court, which is determinative of the stubborn issue, is propagated between pages 1392 – 1393, volume 2, of the elephantine record. It is important to invite it, *ipsissima verba* of M.B. Idris, JCA (now JSC) thusly:

**I wish to state firmly that Order 3 Rule ((1) and (2) are disjunctive and can clearly not be read together but disjunctively as it is and as such, I disagree with the argument of the 1<sup>st</sup> set of respondents that both the originating summons and the**

accompanying processes are considered as the originating processes.

Instead, I align more with the argument of the 2<sup>nd</sup> set of respondent as contained in paragraph 3.1.2 of the 2<sup>nd</sup> set of Respondent's Brief of Argument to state that the fact that any of the accompanying processes was signed cannot be a cure to the incurable defect of an unsigned summons which must be signed as the rules have so provided the failure of which robs the trial court of the jurisdiction to entertain the action because an originating summons, just like a writ of summons, is an initiating process i.e. the process that gives the other party in the suit the knowledge that there is a suit against him and also gives the court the jurisdiction to entertain same. It is trite that where the language of a statute is clear, not subject to alternative interpretation, the court must give the words their ordinary meaning. See the case of *Ojokolobo v. Alamu* (1987) 3 NWLR (Pt. 61) 377.

It is clear that an originating summons must be proper before the court considering my findings above on this issue with regard to the Rules of the trial court and authorities cited as it affects the failure of the 1<sup>st</sup> set of respondents to sign

the originating summons as contained in pages 1 – 5 of the Record of Appeal. Therefore, I am of the view that the trial court was robbed of its jurisdiction to hear the appeal and in that vein, the trial court had no requisite jurisdiction to hear and determine reliefs a, b, and c or any of the reliefs contained in the originating summons which was not signed by the 1<sup>st</sup> set of Respondents or their counsel. This issue is hereby resolved in favour of the Appellants against the 1<sup>st</sup> set of Respondents.

The validity of originating processes in a proceeding, like the originating summons, writ of summons or notice of appeal, is the *sine qua non* for the competence of the proceeding that follows or that is initiated by such process. See *Madukolu v. Nkemdirim* (1964) 3 NSCC 374 at 379 – 380. An originating process is the foundation stone of any proceedings in any court and it thus affects jurisdiction of that court. No court of law can assume jurisdiction through a defective originating process. If it does, the proceeding however well conducted will amount to a nullity.

It is the forceful contention of the appellants that the lower court's reasoning, catalogued above, is an insult to the law.

Let me place on record, pronto, that the originating summons, by which the suit was commenced, is a classic exemplification of an originating/original process - a process issued at the beginning of a judicial process - its *terminus a quo* – for the purpose of ventilation of a party's nursed grievances against his adversary. It is now a settled elementary law that an originating process, *exempli gratia*, writ of summons, originating summons, petition and notice of appeal, must be signed by a legal practitioner, who prepared it, in order to infuse validity into it. A legal practitioner, in the sight of the law, is one entitled to practice as a barrister and solicitor and whose name is on the roll of legal practitioners as decreed by the provisions of sections 2 (1) and 24 of the Legal Practitioners Act, Cap. L11, Laws of the Federation of Nigeria, 2004. Even, the provisions of order 3 rule 8 (1) and order 6 rule 2 (3) of the trial court's Rules solidify this position of the law. In other words, an originating process not signed by a legal practitioner or a party, as ordained by law supra, is plagued by incompetence with the attendant liability of expunction from the legal province. The incompetence will divest the court of the jurisdiction to adjudicate over the action, which hosts it, in deserving circumstances, see ***Okafor v. Nweke*** (2007) 10 NWLR (Pt. 1043) 521; ***Oketade v.***

**Adewunmi** (2010) 8 NWLR (Pt. 1195) 63; **Const. Res. (Nig.) Ltd. v. UBA Plc.** (2011) 16 NWLR (Pt. 1274) 592; **Okonkwo v. UBA Plc.** (2011) 16 NWLR (Pt. 1274) 614; **Braithwaite v. Skye Bank** (2013) 5 NWLR (Pt. 1346) 1; **FBN Plc. v. Maiwada** (2013) 5 NWLR (Pt. 1348) 444; **Min., W & T., Adamawa State v. Yakubu** (2013) 6 NWLR (Pt. 1351) 481; **Okarika v. Samuel** (2013) 7 NWLR (Pt. 1352) 19; **Dankwambo v. Abubakar** (2016) 2 NWLR (Pt. 1495) 157; **SPDCN Ltd. v. Sam Royal Hotel (Nig.) Ltd** (2016) 8 NWLR (Pt. 1514) 318; **Tanimu v. Rabi** (2018) 4 NWLR (Pt. 1610) 505; **B.O.I. Ltd. v. Awojugbagbe Light Ind. Ltd.** (2018) 6 NWLR (Pt. 1615) 220; **Heritage Bank Ltd. v. Bentworth Finance (Nig.) Ltd.** (2018) 9 NWLR (Pt. 1625) 420; In **State v. Isijola** (2023) 7 NWLR (Pt. 1884) 417, at page 449, Garba, JSC, proclaimed incisively:

**The law remains, though, generally, that a criminal charge which is not signed by the Hon. Attorney General or an authorized officer in his department, would be fundamentally defective for the purpose or (sic) institution or initiation of criminal proceedings before the trial High Court by the community effect of the provisions of section 211(1) (a) and (2) of the**

**Constitution, and sections 185(b) and 200  
of the CPC, Niger State.**

See, also, ***State v. Amos*** (2024) 17 NWLR (Pt. 1968) 573; ***State v. Boniface*** (2024) 17 NWLR (Pt. 1967) 339. This hallowed principle of law applies, with more force, *mutatis mutandis*, to originating processes in civil matters.

*Nota bene*, this court, in ***SLB Consortium Ltd. v. NNPC*** (2011) 9 NWLR (Pt. 1252) 317, at pages 337 and 338, per Rhodes-Vivour, JSC, espoused and calibrated the judicial methodology for signing a court process in these illuminating words:

**What then is so important about the way counsel chooses to sign processes. Once it cannot be said who signed a process it is incurably bad, and rules of court that seem to provide a remedy are of no use as a rule cannot override the Law (i.e. the Legal Practitioners Act). All processes filed in court are to be signed as follows:**

**First, the signature of counsel, which may be any contraption.**

**Secondly, the name of counsel clearly written.**

**Thirdly, who counsel represents.**

**Fourthly, name and address of Legal Firm.**

In due loyalty to the commandment of the law, I have revisited the record, the linchpin of the appeal, at the residence of the originating summons which monopolises the cradle of the record, pages 1 – 14 thereof. It is an axiomatic that the originating summons, employed by the appellants to begin the suit, a quintessence of an originating process, birthed the appellants' case against the eleventh to thirteenth respondents. I have, in pacification of the law, subjected it to a microscopic examination with the finery of a toothcomb. Curiously, I am unable to locate, even with the telescopic and prying eagle-eye of this apex court, where the appellants, or their counsel, signed it in due obeisance to the injunction of the law. As a matter of fact, there is no concrete evidence of who issued the originating summons, *id est*, whether it was issued by the appellants, their counsel or the registrar of the trial court. Alas, in the face of these *lacunae*, it is not out of place to crown it with the deserved toga of a naked originating process. The domino effect comes to this. There is a total absence of any signature in the originating summons even as it is devoid of any name of its author or issuer. Indisputably, the law, as digested above, insists on the presence of the name and signature of a legal practitioner or a party, who prepared or issued it, so as to bequeath validity and viability to an originating process, see ***SLB Consortium Ltd. v. NNPC*** (supra). The net effect is obvious. The

originating summons, deployed by the appellants in besieging the trial court for redress, was not signed nor issued in the manner decreed by law.

It admits of no argument that the inelastic posture of the law, *a priori* flood of authorities, is that an unsigned document, *a fortiori* an originating process, commands no probative value as it cannot boast of its origin/source. An unsigned document creates a grave doubt as to its authenticity, credibility and integrity in law. An unsigned document deserves to be dressed with the nomenclature of a *res nullius* – thing of no one. No one stands *in loco parentis* to an unsigned document, not even an originating process. It is a paradigm of a paper tiger in adjudication. This is another fundamental blight that bedevils the appellants' unsigned originating of summons. On this score, it will amount to idolising judicial sacrilege to crown the unsigned originating summons, which mothered the entire proceedings in the trial court, with the undeserved cap of validity. *Per contra*, I, in due fidelity to the law, declare that it was/is tainted with an indelible incompetence and invalidity.

It cannot be gainsaid that an originating summons, an originating process par excellence, is the nucleus of a civil matter. It is the *fons et origo* upon all other processes and proceedings are erected on a civil action. In other words, all other processes and

proceedings owe their paternity and validity to an originating process, the originating summons herein. It follows that the originating summons here, which cries for survival, parented all the other processes filed by the feuding parties and the proceedings in the action which transfigured into the appeal. In the face of this judicial relationship, the incompetence of the originating summons, which is a contagious legal vice, pollutes, corrupts and contaminates the purity of all the other processes and proceedings, inclusive of the judgment, and *de jure* render them incompetent. The reason is plain. They are rendered orphans as they are deprived of the legal parentage to perch and claim any validity. It is a notorious principle of law that no one puts something on nothing and expects it to stand, see ***UAC v. Macfoy Co. Ltd. (1962) AC 152; Aderibigbe v. Abidoye (2009) 10 NWLR (Pt. 1150) 592.***

Indubitably, the failure to sign the originating summons constitutes a serious *coup de grace* to the inflexible ingredients of jurisdiction as invented by this court in ***Madukolu v. Nkemdilim (1961) NSCC (vol. 2) 374 at 379.*** First, it constitutes a serious feature in the appellants' case which vice drained the trial court of the requisite jurisdiction to entertain it. Second, it is an ample demonstration that the case was not initiated by due process and upon the fulfillment of any condition-precedent for the exercise of

the trial court's jurisdiction over the suit. In the legal hemisphere, a condition precedent is something that delays or postpones the vesting of a right until the happening of an event, see *Atalegbe v. Awuni* (1997) 9 NWLR (Pt. 525) 537; *Niger Care Dev. Co. Ltd v. ASWB* (2008) 9 NWLR (Pt. 1093) 493; *A. – G., Kwara State v. Adeyemo* (2017) 1 NWLR (Pt. 1546) 210; *Jumbo United Co. Ltd. v. Leadway Ass. Co. Ltd.* (2016) 15 NWLR (Pt. 1536) 439. The legally accepted route the appellants would have employed to ignite the jurisdiction of the trial court and, by an extension, that of the lower court and this court, was contingent upon their satisfaction of the twin conditions-precedent x-rayed above. Their compliance is a *conditio sine qua non* for the activation of the jurisdiction of the court. Alas, they did not act in due allegiance to the legal mandate chronicled above. In effect, the unsigned originating summons, which sired the appellants' suit against the second and third sets of respondents, is a flagrant defilement of the second and third inviolable ingredients of jurisdiction. These infractions constitute a serious erosion of the competence of the suit which journeyed, with the millipede speed of the measured court process, to this court. It is trite law, which dates from antiquity, that where a court is stripped of the jurisdiction to treat a matter, the proceedings germinating therefrom, no matter the quantum of industry, artistry, dexterity or transparency invested in

it, it will be eclipsed by the dense fog of nullity. In ***Kida v. Ogumola*** (2006) 13 NWLR (Pt. 997) 377, Musdapher, JSC (later CJN), with an air of finality, proclaimed:

...In my view, the validity of the originating process in a proceeding before a court is fundamental, as the competence of the proceeding is a condition *sine qua non* to the legitimacy of any suit. Therefore, the failure to commence proceedings with a valid originating summons goes to the root of the case and any order emanating from such proceeding is liable to be set aside as incompetent and a nullity. It clearly borders on the issue of jurisdiction and the competence of Court to adjudicate on the matter. Such issue can be raised at any time and it can never be alien to the proceedings....

Recently, in ***State v. Amos*** (2024) 17 NWLR (Pt. 1968) 573, at pages 610 – 612, Okoro, JSC, re-echoed the proclamation thusly:

In the instant case, the charge prepared by the prosecution upon which the respondent was arraigned, was not signed, thereby robbing the court of jurisdiction to adjudicate on the matter. The effect is that the case was not initiated by due process of law, thus void *ab initio*. The appellant's contention that

**the respondent's failure to raise objection timeously to the unsigned charge amount to a waiver of his right to object but a desperate attempt by a drowning man clutching on every straw available, because parties cannot by consent or otherwise donate or confer jurisdiction on a court where the court has no jurisdiction to entertain a matter. See *Mobil Producing Nigeria Unlimited v. Monokpo* (2003) 18 NWLR (Pt. 852) 346.**

**Appellant's failure to sign the charge had ruined the entire proceeding beyond remedy. Consequently, the charge being the foundation upon which the proceeding became fundamentally defective and crumbled since one cannot put something on nothing and expect it to stand. See *UAC v. Macfoy* (1962) AC 152....**

**All I have laboured to say here is that the unsigned charge upon which the respondent was tried and convicted was a worthless piece of paper which did not confer jurisdiction on the court to try him.**

In the legal firmament, nullity denotes: "Nothing; no proceeding; an act or proceeding in a case which the opposite party may treat as though it had not taken place; or which has absolutely

no legal force or effect”, see **Lasisi v. State** (2013) 12 NWLR (Pt.1367) 133 at 146, per Ngwuta JSC. Nullity bears the stigma of dismal consequences in law. If a decision or proceeding is smeared with nullity, it is void and taken as if it was never made *ab initio*, see **Okoye v. Nigeria Const. & Furniture Co. Ltd.** (1991) 6 NWLR (Pt. 199) 501; **Bello v. INEC** (2010) 8 NWLR (Pt. 1196) 342. According to the law, a null decision or proceeding does not shower any ounce of enforceable right on its beneficiary party, who is armed with it, nor does it impose any obligations on its victim party, see **Ajibola v. Ishola** (2006) 13 NWLR (Pt. 998) 628; **Oyeneyin v. Akinkugbe** (2010) 4 NWLR (Pt. 1184) 265. Hence the bounden duty of a court is to set aside a null decision because it does not exist in law, see **Oyeyemi v. Owoeye** (2017) 12 NWLR (Pt. 1580) 364. The foregoing brief legal dissection on the mandatory requirement of signing an originating process, originating summons here, with due respect, exposes the poverty of the learned appellants’ seemingly scintillating argument on the knotty issue as same is disabled by law.

Flowing from this extensive legal anatomy of the necessity to sign an originating process, conducted in due loyalty to the law, the decision of the trial court, which equipped it with pseudo-jurisdiction over the appellants’ suit, was mired in the quicksand of nullity with the caustic consequence attendant thereto. Since the trial court’s

decision was enmeshed in the intractable nest of nullity, on account of want of jurisdiction, the lower court was *firma terra* in law, buoyed by the doctrine of *ex debito justitiae*, to mow down the null decision with unbiased judicial sword of a penultimate court. In essence, the lower court's decision, sought to be impugned, was in total alignment with the tenets of the law. It is not offensive to the letters and spirit of the law as to magnet the intervention of this court by way of reprobation. On this score, all the diatribes, which the appellants rained against the immaculate decision, peter out into the den of insignificance. In the end, I have no choice than to resolve the sole issue against the appellants and in favour of the eleventh – thirteenth respondents.

Before the last verdict, let me observe, by way of a side note, that this case, like all other kindred cases, an army of them, bordering on this stubborn and recurring issue, cries for the due diligence and dexterity of a lawyer in the management and control of a matter from its cradle to berth in the temple of justice. A lawyer, who is skilled in the science of law and an acclaimed holder of “the key of knowledge”, ought not to treat any matter, or any aspect of it, with any tincture of laxity. The offspring of such a laxation may birth toxic consequences thereon. A lackadaisical attitude, in handling a matter in the court, may breed the potential risk to reverse the fate of a good case to a misfortune. At once, it drowns

the mountainous confidence the litigants usually repose in a lawyer even as they (litigants) bear the unexpected and unfriendly brunt of his ineptitude. It must be discouraged!

On the whole, having resolved the sole issue against the appellants, the destiny of the appeal is plain. It is destitute of any morsel of merit and deserves a visit of dismissal thereon. Consequently, I dismiss the appeal. Accordingly, the decision of the lower court, in Appeal No. CA/PH/166/2018, delivered on the 17<sup>th</sup> June, 2021, which set aside the decision of the trial court, in Suit No. PHC/47/2011, delivered on the 3<sup>rd</sup> July, 2017, is, hereby, affirmed. The parties shall bear the respective costs they incurred in the prosecution and defence of the ill-fated appeal.



**OBANDE FESTUS OGBUINYA,  
JUSTICE, SUPREME COURT.**

**COUNSEL:**

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T. C. Kienabere, Esq., for the eleventh and twelfth respondents

Augustine O. Ojekudo, Esq. for the thirteenth respondent

No legal representation for the first - tenth respondents

