



M. J. Nunna & Partners LLP
Trial Attorneys & Transaction Advisors

**ATTORNEY GENERAL OF KANO
STATE**

v

**ATTORNEY GENERAL OF THE
FEDERATION**
(SC/CV/200/2023)

ATTORNEY GENERAL OF KANO STATE V ATTORNEY GENERAL OF THE FEDERATION. (SC/CV/200/2023)

We are pleased to have been part of the consortium engaged to represent Kano state government, as plaintiff in suit no: SC/CV/200/2023 between Attorney General of kano state v Attorney General of the Federation which was consolidated with Suit No: SC/CV/200/2023 between Attorney General of Kogi State v Attorney General of the Federation.

Summary of the Claim

The plaintiff challenged the unilateral decision of the President in connivance with the Governor of the Central Bank of Nigeria to make the Naira redesign policies limiting bank withdrawals and redesigning the N200, N500 and N1000 notes.

The plaintiff alleged that the policies were unilaterally made without due consultation and due notice, contravening Paragraph 19 of the third schedule and Section 148(2) of the Constitution of the Federal Republic of Nigeria, 1999 (As amended), which mandates consultation with the Federal Executive Council(FEC) and the National Economic Council(NEC) and Section 20 (3) of the Central Bank of Nigeria Act.

Brief Summary of Proceedings

At the commencement of the suit the Court on the 8th of February 2023 granted an Interim order directing that the old N200 , N500 and N100 notes be recognized as legal tender pending the determination of the suit.

The President subsequently on the 16th day of February 2023 vide a press release directed that only N200 notes remain legal tender till the 10th of April 2023 in contravention of the Court order.

The Defendants/Respondents filed several preliminary objections to the suit to wit:

1. The suit cannot invoke the original jurisdiction of the Supreme Court not being a suit between the state and the federation but between states and the president of the Federal Republic of Nigeria.

2. The suit borders on complaints against the Central Bank of Nigeria, an agency of the federal government hence, falling within the exclusive justification of the Federal High Court and same cannot invoke the original jurisdiction of the Supreme Court.

3. That the Central Bank of Nigeria is a necessary party for the effective determination of the suit.

The Supreme Court heard the preliminary objections and the arguments on the merit on the 22nd February, 2023 and adjourned to the 3rd of March 2023 for judgment.

Judgment of the Supreme Court

In a unanimous decision delivered by Agim JSC, the Supreme Court dismissed the preliminary objections holding that the Supreme Court possesses original jurisdiction to determine the suit on the merit, being a dispute between the states and the president, acting on behalf of the federation albeit unilaterally and without due consultation with the FEC and the NEC.

The Court further held that the suit challenged the unilateral directive of the President and not the act of the central bank of Nigeria. More so, the Supreme Court found that a disclosed principal can be sued without the agent.

The Supreme Court in finding that the suit had merit and granting the reliefs of the plaintiff found that the President was duty bound to consult with the FEC and the NEC on such a policy which involved National security. Furthermore, the policy was devoid of due notice to Nigerians.

The court held that the policy was impracticable and has occasioned hardship on Nigerians. The Court referred to the international best practices on implementation of such policies to the effect that the new and old currencies usually co-exist for at least a year. Citing the failure of a 6 months implementation period of currency redesign in India as a case study.

The court ordered that the old 200 naira note, 500 naira note and 1000 naira note should be used concurrently with the new notes till the 31st of December 2023.

Conclusion

This decision re-affirms the Supreme Court's status as the last hope of the common man as the decision has aided the alleviation of the sufferings of many Nigerians who were deprived of basic means of livelihood as a result of the premature policies.

The decision also preserves Nigerian democracy to the extent that certain policies which have nation wide applicability ought to be cleared with the FEC and/or the NEC.

M.J Numa & Partners LLP

Trial Attorneys & Transaction Advisors.

🏠 Triple A Villa, 495 Adegboyega Atanda Street,
Mabushi, Abuja.

☎ +2347033740393

✉ mj.numa@mjnuma.com

🌐 www.mjnuma.com



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