

# Nigerian Cases

## **SC.CV/1096/2024 – EMTS LTD V. AFDIN VENTURES LTD & ORS (DELIVERED ON 6 MARCH 2026) – a non-signatory to an arbitration agreement can be bound by the arbitral decisions stemming from the arbitral proceedings.**

### **Summary of Facts**

The 1st and 2nd Respondents commenced an action before the Federal High Court, Abuja Division, for the refund of the sums of USD 13,300,910 and USD 30,030,040, which they alleged were paid during the business transaction involving the parties.

In the course of the proceedings, and pursuant to an arbitration clause contained in the governing agreements, the parties, with the concurrence of the Federal High Court, referred the matter to arbitration. A sole arbitrator was duly appointed, and arbitral proceedings ensued.

On 2 September 2021, the Arbitral Tribunal delivered a partial award on jurisdiction, wherein it affirmed its competence to entertain the dispute. Thereafter, the Tribunal proceeded to hear the substantive dispute and ultimately rendered a final arbitral award, in which it ordered the Appellant, along with some other Respondents, to refund the sums claimed by the 1st and 2nd Respondents, jointly and severally.

Dissatisfied with the outcome, the Appellant approached the Federal High Court, Lagos Division, seeking an order setting aside the arbitral award. Concurrently, the 1st and 2nd Respondents filed an application before the Federal High Court, Abuja Division, seeking recognition and enforcement of the award.

The trial court struck out the Appellant's processes and proceeded to grant the application of the 1st

and 2nd Respondents, thereby recognising and enforcing the arbitral award.

Aggrieved by that decision, the Appellant appealed to the Court of Appeal, which, after consideration of the submissions of the parties, dismissed the appeal and affirmed the decision of the trial court.

Still dissatisfied, the Appellant further appealed to the Supreme Court, challenging, in substance, the jurisdiction of the Arbitral Tribunal and the propriety of the recognition and enforcement of the arbitral award.

### **Notable Issue for Determination**

One of the notable issues for determination was: *Whether the lower Court was right in affirming the decision of the trial Court recognising the Arbitral Award against the Appellant when the entire Arbitral proceedings was a nullity for want of jurisdiction.*

### **Arguments**

Learned senior counsel for the Appellant argued that the award was said to be a nullity, and the trial Court equally lacked jurisdiction to recognise and enforce what was void *ab initio* because the arbitral proceedings, culminating in the award, were conducted without jurisdiction insofar as they purported to bind the Appellant, who was not a party to the arbitration agreement. Senior counsel submitted that the Appellant was not a signatory to either the Offer of Terms or the Custodial Agreement containing the arbitration clause and that although the Tribunal expressly

found that the Appellant was not a signatory to the relevant agreements, it nevertheless assumed jurisdiction on the basis that the Appellant was inextricably intertwined with the transaction. He argued that the reasoning of the tribunal is legally untenable and contrary to the settled doctrine of privity of contract.

Senior counsel submitted that privity remains firmly entrenched, such that a third party who is not privy to a contract cannot ordinarily be bound by its arbitration clause. He further argued that the Private Placement Memorandum expressly excluded the Appellant from the offer and disclaimed any responsibility on its part. He finally argued that the tribunal exceeded its jurisdiction when it found that the Appellant, who neither executed nor benefitted from the contract is also liable and urged the court to hold so.

Responding to the arguments, learned senior counsel for the 1<sup>st</sup> and 2<sup>nd</sup> Respondent argued that, in the circumstances of this case, the Appellant, though a non-signatory, was so intimately connected with the transaction as to qualify as a necessary party bound by the arbitral proceedings. He submitted that modern arbitration jurisprudence recognises that non-signatories may be bound where their conduct demonstrates an assumption of obligations, receipt of benefits, or where the transaction forms part of a composite structure evincing a common intention.

Learned senior counsel submitted that the Appellant's reliance on privity of contract amounts to an impermissible invitation to this Court to re-evaluate evidence and disturb factual findings conclusively settled by the Arbitral Tribunal. Counsel further argued that the Tribunal rightly

applied recognised exceptions to the doctrine of privity of contract, including incorporation by reference, agency, alter ego, estoppel, and the "group of companies" doctrine. Learned senior counsel argued that under the law governing arbitration, the term "party" extends to "any person claiming through or under" a party to the arbitration agreement and submitted further that the sums awarded were not in the nature of damages but constituted monies had and received by the Appellant under circumstances warranting restitution. He argued that this equitable doctrine is not dependent on privity of contract.

For the 3<sup>rd</sup> and 4<sup>th</sup> Respondent, learned Counsel argued that the Appellant's contention—premised on its non-participation in the Offer Terms and Custodial Agreements containing the arbitration clause—rests on an unduly restrictive understanding of the doctrine of privity of contract. He submitted that while privity remains a foundational principle of the law of contract, Counsel maintained that it is not absolute and admits of well-established exceptions, particularly within the context of arbitration

## Decision of the Court

In resolving the issue, the Supreme Court held that:

An arbitration agreement may bind persons who, though not signatories in the strict sense, derive benefits under, assume obligations arising from, or are otherwise intimately connected with the contract containing the arbitration clause.

The Supreme Court explained that the reach of an arbitration agreement is not confined to the literal signatory but may extend to persons whose rights and obligations are derivative, assumed,

or functionally inseparable from the contractual matrix. In this regard, arbitration law—both domestically and internationally—has evolved beyond rigid formalism, recognising that consent is not limited to the mere act of signature.

Furthermore, the Apex Court held that an assignee who takes on both the benefits and burdens of a contract cannot repudiate the arbitral covenant embedded in it. Similarly, in agency relationships, a principal on whose behalf a contract is executed is bound by the arbitration clause, notwithstanding that the document is signed by the agent. In the instant case, the Supreme Court found that the Appellant, having fully benefited from the transaction leading to the dispute, cannot later hide under the principles of the doctrine of privity of contract to evade liability, as arbitration cannot be rendered impotent by fragmenting corporate

participation while retaining unified economic benefit.

## Comments

*This decision reflects a pragmatic and commercially sound evolution of arbitration law. The Supreme Court moves beyond strict formalism to emphasise substance over form, recognising that modern commercial transactions often involve layered relationships that cannot be confined to the narrow concept of signatory consent.*

*By extending the reach of arbitration agreements to non-signatories who derive benefits, assume obligations, or are functionally intertwined with the contract, the Court reinforces the principle that consent may be implied from conduct and commercial reality, not merely from execution of a document. This aligns with global arbitration trends and strengthens the enforceability of arbitral clauses in complex transactions.*

## **SC/716/2016 – (DELIVERED ON 23 MAY 2025) – PHILIP KAYODE OLUSEGUN OJO V. SDV NIGERIA LIMITED & ANOR. – An Agent Cannot Charge an Agency Fee or Demand Commission for Merely Introducing a Tenant or a Buyer**

### Summary of Facts

Philip Kayode Olusegun Ojo, trading under the name and style of P. K. Ojo & Co., (the Appellant), is a professional Estate Surveyor and Valuer, who alleged that he sourced a property known as Plots 9, 10 and 11, Awodiora Industrial Estate, Kirikiri, Lagos, measuring about twenty acres, for purchase by SDV Nigeria Limited (the 1st Respondent) through its agent, Mr. Adebola Adejobi. The property was owned by SCOA Nigeria Limited (2nd Respondent). According to the Appellant, despite introducing the property

to the 1st Respondent and facilitating the negotiations leading to the transaction, the 1st Respondent eventually purchased the property from the 2nd Respondent behind him without paying his professional agency commission.

Consequently, the Appellant instituted an action at the trial court by a Writ of Summons filed on 16 October 2007, and subsequently filed an Amended Statement of Claim on 31 July 2009, wherein he claimed against the Respondents the sum of US\$1,250,000.00, or its naira equivalent of ₦161,250,000.00 calculated at the exchange

rate of ₦129.00 to one US dollar, together with interest at the rate of 21% per annum from the date of commencement of the action until the final liquidation of the judgment debt, being the amount allegedly due to him as agency commission in respect of the said property. The Appellant also claimed ₦23,620,000.00 as special damages and ₦50,000,000.00 as the cost of the action.

In a considered judgment delivered on 24 December 2013, the trial court granted the Appellant's claim in part. Dissatisfied with the decision, the 1st Respondent appealed to the Court of Appeal, which allowed the appeal and set aside the decision of the trial court. Aggrieved by the decision of the lower court, the Appellant further appealed to the Supreme Court.

### **Notable Issue for Determination**

One of the issues for determination was: *Whether in the absence of an agency relationship between the Appellant and SDV, the Appellant is entitled to professional fees as an estate surveyor and valuer and whether the Court of Appeal was right to set aside the monetary award given by the trial court.*

### **Arguments**

Learned Senior Counsel for the Appellant contended that the facts of the case clearly disclosed the existence of an agency relationship between the Appellant and the 1st Respondent. Counsel argued that the Appellant introduced the property in question to the 1st Respondent through Mr. Adebola Adejobi, a managerial officer of the 1st Respondent, who had informed the Appellant that the company was urgently in search of a property to acquire. It was further submitted that the Managing Director of the 1st Respondent subsequently carried out a

confirmatory inspection of the property, an act which, according to Learned Senior Counsel, demonstrated the Respondent's acknowledgment of the Appellant's role as an agent in the transaction. Counsel further contended that Mr. Adebola Adejobi, being a person of full legal capacity and a managerial officer of the 1st Respondent, could validly be appointed or held out as the Respondent's agent in the transaction.

Learned Senior Counsel further argued that Adejobi's authority was further confirmed by the conduct of the 1st Respondent, particularly the inspection of the property by its Managing Director, which amounted to ratification of the acts carried out by Adejobi. According to him, the consent of a principal to an agency relationship need not always be express but may be implied from the conduct of the parties and the surrounding circumstances. Counsel therefore submitted that the lower court erred in holding that the Appellant's introduction of the property was not the effective cause of its eventual purchase by the 1st Respondent. Learned Senior Counsel submitted that the lower court was wrong in holding that the Appellant could only be entitled to commission where the amount of commission payable had been expressly agreed upon by the parties. Counsel argued that since the agreement between the parties was oral, the obligation of the 1st Respondent to pay commission ought to be implied from the surrounding circumstances of the transaction.

In response, Learned Senior Counsel for the 1st Respondent argued that no agency relationship existed between the parties. Counsel maintained that there was no consensus ad idem between the Appellant and the 1st Respondent capable of

creating an agency agreement. He submitted that there was no acceptance of any offer allegedly made by the Appellant, emphasising that silence does not constitute acceptance in law. Counsel further argued that in estate agency transactions, a commission agreement constitutes a necessary precondition for a valid claim for commission, and that in the present case, no such agreement existed between the parties. He also submitted that the doctrines of agency by estoppel and agency by ratification must be established by clear and unequivocal evidence and cannot be inferred where the facts are uncertain or capable of multiple interpretations.

Finally, Learned Senior Counsel contended that the evidence before the court showed that the 1st Respondent had commenced negotiations for the purchase of the property as early as March 2006, approximately three months before the Appellant allegedly introduced the property to it. On that basis, Senior Counsel argued that the Appellant's alleged introduction could not have been the effective cause of the transaction and that no agency relationship existed between the parties to justify the payment of commission.

## Decision of the Court

In resolving the issue, the Supreme Court held that:

An estate agent is not automatically entitled to a commission simply because he introduced a buyer or tenant to a property; he must show that his introduction was the main and effective reason why the sale or lease eventually took place. The Court explained that where an estate agent, without any prior agreement, merely informs someone about a property that may interest

them, the agent cannot later demand payment of an agency fee or commission just for giving that information.

The Supreme Court held that when a person voluntarily gives another person a benefit, such as providing information or doing some work without being asked to do so, the recipient of that benefit is not legally bound to pay for it. The person receiving the benefit is free to use the information or work in any way they choose without owing any obligation to the person who provided it.

In the present case, the Supreme Court held that the Appellant was unable to establish that his alleged introduction of the property was the real and effective cause that led to the purchase of the property by the 1st Respondent, and for that reason, the Appellant was not entitled to claim any agency commission from the 1st Respondent.

## Comments

*This decision represents a timely recalibration of agency practice, particularly within Nigeria's real estate sector, where informal arrangements frequently blur legal boundaries. By insisting that commission is not earned by mere introduction, the Court underscores the principle that entitlement must be grounded in effective causation and proper authority, rather than opportunistic participation.*

*Crucially, the judgment affirms that agency relationships cannot be implied from casual or peripheral dealings. An agent must demonstrate clear engagement, authority, and a proximate nexus between their efforts and the consummated transaction. In doing so, the Court raises the evidentiary threshold for commission claims and is likely to discourage the prevalent practice of multiple, self-appointed agents advancing competing claims over the same transaction.*

## **SUIT NO: FHC/WR/CS/87/2025 – UWAIFO V. INSPECTOR-GENERAL OF POLICE & 3 ORS. (DELIVERED 17 MARCH 2026) – Every citizen has the right to snap/record a police officer on duty in public places, and no officer has the power to ask not to video them or even confiscate your phone.**

### **Summary of Fact**

The Applicant, Maxwell Nosakhare Uwaifo, instituted the action in the public interest against the Nigeria Police Force, the Police Service Commission, and the Office of the Attorney-General of the Federation, alleging repeated unlawful conduct by police officers during stop-and-search operations. He stated that on 10 May 2025, while travelling from Benin City to Warri, shortly after Sapele Roundabout, he was stopped by unidentified men who blocked the road with a Toyota Sienna vehicle. When he attempted to record the incident with his phone, one of the men, dressed in black and appearing to be a policeman, threatened to arrest him. According to him, the officers wore no name tags, gave no identification, and did not explain the reason for the stop. He further narrated a similar incident in June 2025 around Effurun Roundabout in Warri, where armed policemen in uniform also lacked visible names, badges, or force numbers, and used an unmarked Toyota Hilux without plate numbers. He claimed these encounters caused fear, emotional trauma, and psychological distress.

### **Key Issue for determination**

The principal issue before the court was *whether police officers can lawfully threaten, arrest, or intimidate citizens for recording police activities in public, and whether officers conducting stop-and-search operations must display proper identification for accountability.*

### **Argument**

The Applicant, Maxwell Nosakhare Uwaifo, argued that police officers repeatedly violated his constitutional rights by threatening and intimidating him whenever he attempted to record their activities during stop-and-search operations. He relied on Sections 34, 35, 36, and 39 of the Constitution, maintaining that recording police officers performing public duties in public spaces is part of the freedom of expression and access to information guaranteed by law. He contended that no Nigerian statute criminalizes recording public officials and that any restriction must satisfy Section 45 of the Constitution. He further argued that officers operating without visible name tags, force numbers, or proper identification violated the Nigeria Police Force Act and encouraged abuse because citizens could not identify offending officers. He submitted that the court should grant declaratory and injunctive reliefs, insisting that public interest litigation permits him to sue even beyond his personal experience

The Respondents, particularly the Office of the Attorney-General of the Federation, argued that the suit was misconceived and that police stop-and-search operations were lawfully authorized under Sections 49, 50, and 51 of the Police Act 2020. They maintained that the Inspector-General of Police has statutory authority over operational policing decisions, including patrol procedures and stop-and-search activities, and that such powers should not be interfered with by the court

unless clearly abused. Counsel also argued that the Attorney-General was not directly responsible for daily police operations and therefore should not bear liability for alleged misconduct by officers. They contended that no statutory provision expressly requires officers on duty to wear name tags in every operational circumstance, and that police officers acted within lawful powers when questioning suspicious persons on the road. The Respondents, therefore, urged the court to dismiss the action as speculative and lacking legal foundation.

### **Decision of the Court**

The court held that the Applicant's claims were largely meritorious and affirmed that citizens have a constitutional right to record police officers performing official duties in public places, provided such recording does not obstruct lawful police operations. It declared that threatening arrest or intimidating citizens for making such recordings violates the freedom of expression guaranteed under Section 39 of the Constitution. The court further held that officers of the Nigeria Police Force must be properly identifiable during stop-and-search duties through

visible names, force numbers, or other official identification, since accountability is essential in law enforcement. However, the court recognized that police officers still retain statutory authority under the Police Act to stop, question, and search persons where circumstances justify suspicion. It therefore granted the declaratory reliefs in favour of the Applicant, directed compliance with lawful identification standards, and emphasized that policing powers must always be exercised within constitutional limits and respect for citizens' rights.

### **Comments**

*This judgment strengthens constitutional accountability in policing by affirming that citizens may document law-enforcement conduct in public spaces as part of freedom of expression. It places practical limits on police discretion by emphasizing that stop-and-search powers must comply with constitutional safeguards and transparency requirements. The ruling also reinforces the duty of the Nigeria Police Force to ensure officers are identifiable during operations, which may reduce abuse and improve public trust. Its broader implication is that future police conduct and public-interest litigation in Nigeria may increasingly be measured against constitutional standards of accountability.*

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