1. LT. COL. ABDULLAHI DAN ASABE

2. SHEHU SAGAGI

V.

ALHAJI IBRAHIM BABALE

IN THE SUPREME COURT OF NIGERIA

HOLDEN AT ABUJA

SC/CV/502/2014

MOHAMMED LAWAL GARBA

ADAMU IAURO

MOORE ASEIMO ABkAHAMADUMEIN

OBANDE FESTUS OGBUINYA

ABUBAKAR SADIQ UMAR

FRIDAY 4TH JULY, 2025

Jurisdiction: Fundamental nature thereof - whether will be treated and resolved before other issues
Jurisdiction: Fundamental nature thereof - how raised - whether can be raised for the first time on appeal without leave of court.
Jurisdiction: Signing of an originating process by a law firm - where a law firm signs an originating process - whether the trial court lacks jurisdiction because such a process is incompetent
Legal Practitioners: Signing of an originating process - where a law firm signs an originating process - whether such a process is invalid - the principle in Emmanuel Okafor vs. Augustine Nweke (2007) 3 SC (Pt. 11) 55
Legal Practitioners: Signing of an originating process - where a law firm signs a writ of summons - whether such a process is incompetent – sec..2(1) of Legal Practitioners Act considered

Legislation: Rules of Court - whether cannot take precedence before the clear provisions of Legal Practitioners Act - the principle in SLB Consortium Limited vs. Nigeria National Petroleum Corporation (supra)
Legal Practitioners: Signing of originating process - where an originating process is signed by a non juristic person - whether court lacks jurisdiction - the principle in Gabriel Madukolu & Ors. Vs. Johnson Nkemdilim (1962) NSCC 374 at 379-380

Issues:

1. **Whether the lower court rightly affirm(sic) the award of title to the land in dispute to the Respondent in the circumstances of the pleading and evidence adduced? Grounds iii,iv,v,vi,vii,viii,ix,xiii and xiv**
2. **Whether the lower court was right in affirming the trial court position that the 4th defendant at the trial (Arch Emeka Maduka)'s(sic) rightfully sold the property in issue to the Respondent, notwithstanding that the consent to assign was not given to him but Hamareng Nig. Ltd.**
3. **Whether the lower court rightly struck out grounds 4, 5, & 6 of the Amended Notice of Appeal and refused to consider the trial court's failure to allow amendment of the appellant (1st & 2nd defendant at trial court) statement of defence and counter-dairn? (Grounds i and ii**
4. **Whether the suit leading to this appeal is not fatally and incurably incompetent when the writ of summons originating the suit was signed by Ibrahim Babale & Co. Ground xvi & xvii"**

Facts:

The Plaintiff/ Respondent sued the Defendants/Appellants at the High Court of Kano State, claiming a declaratory and injunctive reliefs in respect of a piece or parcel of land situate and lying along Malam Bakatsine Road Nassarawa Quarters, Kano covered by Kano State certificate of occupancy No. LKN/RES/95/2422. The Defendants/Appellants filed a joint statement of defence and counterclaim.

At the close of hearing, the trial court delivered judgment in favor of the Plaintiff/ Respondent.

Dissatisfied, the Defendants/Appellants unsuccessfully appealed to the Court of Appeal Kaduna Division, hence this further appeal to the Supreme Court.

Held (unanimously allowing the appeal)-

1. *On fundamental nature of jurisdiction –*
   The law is that the issue of jurisdiction is pivotal to adjudication and it can be raised at any stage of a litigation process. Its significance cannot be overemphasized, because where a court proceeds to exercise jurisdiction, when it lacks same, no matter how well conducted the proceedings might be, and no matter how sound the reasoning and decisions of the court may appear to be, they are legally null and void. See Attorney-General for Trinidad **& Tobago (1893) AC 518; Timitirni v**. **Amabebe (1953) 4 WACA 374** and Ekulo Farms Ltd. **&** Anon V. Union Bank of Nigeria PLC **(2006) 6 SCM 78**.

   And once raised, the issue of jurisdiction should be considered and resolved by the court before proceeding with other matters. See **Omonofewo Francis Onoita v**. **Texaco Nigeria PLC (2024) 18 NWLR (Pt**. **1969) 171**.

2. *On whether issue of jurisdiction can be raised without leave of court –*

   It is a settled principle of law that the issue of jurisdiction can be raised for the first time on appeal and it cannot be frustrated even if it was not raised in a trial court or at an appropriate time. See the case of Western Steel Works Limited **&** Anor. v. Iron and **Steel Workers Union & Anon (1986) 3 NWLR (Pt**.**30) 617**.

   It must be emphasized that an issue of jurisdiction can be raised with or without leave of court. See **Benson Obiakor v**. The State (2002) 10 NWLR {Pt. 776}-612; Isaac Gaji v. Emmanuel Paye

(2003) **8** NWLR (Pt. 822) 583 and University of Ilorin v. Rasheedat Adesina (2014) 10 NWLR (Pt. 1414) 159.

In direct answer to the respondent's contention that the issue of jurisdiction raised by the appellants is not covered by their grounds of appeal, the law has long been settled that the issue of jurisdiction can be raised at any time and in any manner by the parties or even *suo motu* by the court. See, for example, the cases of **Isaac Obiuweubi v. Central Bank of Nigeria (2011) 7 NWLR (Pt. 1247) 465** and **Senator Christiana N. D. Anyanwu v. Hon. Independent C. Ogunewe & 2 Ors. (2014) 8 NWLR (Pt.** 1410) 337.

It should be noted that jurisdiction cannot be conferred on a court by the acquiescence or consent of the parties. See **Mrs. Alero Jadesimi v. Adolo Okotie-Eboh (1986) 1 NWLR (Pt. 16) 264; Mr. Oladiti Adesola v. Alhaji Raimi Abidoye (1999) 14 NWLR (Pt. 637) 28; Hon. Sani Sha'Aban & Anon v. Alhaji** Namadi Sambo & Ors. (2010) 19 NWLR (Pt. 1226) 353 and Isaac Obiuweubi v. Central Bank of Nigeria (2011) 7 NWLR (Pt. 1247) 465 .

3. *On when a law firm signs a writ of summons –*

Now the live question is whether the respondent's suit was competent before the trial court, in view of the fact that the writ of summons was

signed by a law firm? This question has been answered by this court in many of its decisions and the issue has been settled that a law firm, such as “Ibrahim Babale & Co", not being a legal practitioner registered under the Legal Practitioners Act, 1990 (as amended), cannot by itself practise in a court of law, for it is merely a business name. A law firm is not a legal practitioner enrolled and registered as a Solicitor and Barrister of the Supreme Court of Nigeria. This was clearly stated in the case of SLB Consortium Limited v. Nigerian **National Petroleum Corporation (2011) 9 NWLR (Pt. 1252) 317 at 330**, per **Onnoghen**, **JSC** (as he then was, later CJN), where the court stated that:

“Section 2 (1) of the Legal Practitioners Act clearly states that ... a person shall be entitled to practise as a barrister and solicitor if, and only if, his name is on the roll.”

4. *On whether a law firm cannot validly sign an originating process-*

Even before the above decision, this court held in the case of Emmanuel Okafor v. Augustine Nweke (2007) 3 SC (Pt. I1) 55 that a law firm cannot sign an originating process, such as a writ of summon or an originating summons. At pages 62 – 63, of the said case, this court pronounced thus:

"There is no doubt whatsoever that the motion paper giving rise to the objection as well as the proposed Notice of Cross Appeal and appellants' Brief in support of the said motion were all signed: J. H. C. Okolo, SAN & Co. Learned senior counsel for the appellants does not dispute this but stated that since there is a signature on top of J. H. C. Okolo, SAN & Co, it is necessary to call evidence to establish the identity of the person who signed the documents for which counsel relied on Izuogu v. Ernuwa supra and Banjo v. Eternal Sacred Orders of Cherubim & Seranhim also supra. However Section 2(1) of the Legal Practitioners Act, Cap. 207 of the Laws of the Federation of Nigeria, 1990 provides thus:-

> **"Subject to the provisions of this Act, a person shall be entitled to practice as a barrister and solicitor if, and only if, his name is on the roll."**

From the above provision, it is clear that the person who is entitled to practice as a legal practitioner must have had his name on the roll. It does not say that his signature must be on the roll but his name.

Section 24 of the Legal Practitioners Act defines a "Legal practitioner" to be:

"a person entitled in accordance with the provisions of this Act to practice as a barrister or as a barrister and solicitor, either generally or for the purpose of any particular office or proceeding."

The combined effect of the above provisions is that for a person to be qualified to practice as a legal practitioner, he must have his name on the roll otherwise he cannot engage in any form of legal practice in Nigeria. The question that follows is whether J. H. C. Okolo, SAN & Co is a legal practitioner recognized by the law?

From the submissions of both counsel, it is very clear that the answer to that question is in the negative. In other words, both senior counsel agree that J. H. C. Okolo, SAN & Co is not a legal practitioner and

therefore cannot practice as such by say, filing processes in the courts of this country."

See also the case of Prof. Vincent Nnamdi Okwuosa v. Prof. N. E Gomwalk & Ors. (2017) 9 NWLR (Pt. 1570) 259.

5. *On whether rules of court cannot override clear provisions of Legal Practitioners Act –*

The learned counsel for the respondent, as set out earlier in this judgment, argued passionately that by Order 5 rule 12(1) of the Kano State High Court (Civil Procedure) Edict/Law, 1988 a writ of summons can be signed by a legal practitioner or a law firm. I think that this is obviously erroneous, because what the rule provides is that the writ should endorsed "with the plaintiff's address and the legal practitioner's name **or firm"**. With due respect, the rule does not provide that a writ of summons should be signed by the legal practitioner's firm. However, assuming without conceding that the rule provides that a writ of summons can be signed by a law firm, this court had since held that such rule of court cannot override or supersede the clear and unambiguous provisions of the Legal PractitIoners Act. See **SLB Consortium Limited v. Nigerian National Petroleum Corporation (supra) at 337 - 338**, per **Rhodes-Vivour, JSC;** where the court stated the law as follows:

"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."

(Underlining supplied by me for the sake of emphasis).

6. *On when an originating process is signed by a law firm –*

The summary of my opinion is that where an originating process, such as a writ of summons, an originating summons, an originating motion or an originating petition, is signed in the name of a law firm, the entire action, cause, matter or suit is incompetent and the court has no jurisdiction to entertain it. See the case of **Ministry of Works & Transport**, **Adamawa State v. Alhaji Isiyaku Yakubu (2013) 6 NWLR (Pt. 1351) 481 at 496**, where the court held as follows:

"My Lords, I would have ended this judgment here, but for the submission of the respondent counsel that the said originating process was amended and as such it does not form basis upon which the case was tried and deterrnined. The questions that easily come to mind are that can an incompetent originating process or processes be amended, or can the incompetence of the process be cured by the amendment? No doubt, the learned counsel of lhe respondents pretends not to appreciate the fundamental nature of an originating process? The fatal effect of the signing of an originating process by a law firm is that the entire suit was incompetent ab *in itio*. It was dead at the point of filing. This highlights the painful realities that confronts a litigant when counsel fails to sign processes as stipulated by law. The originating process, as in this case, is fundamentally defective and incompetent. It is inchoate, legally non-existent and can therefore not be cured by way of an amendment. See: N. N. B. Plc. v. Denclag Ltd. (2005) 4 NWLR (Pt. 916) 549."

See also the case of Chukwudi Nnalimo & Ors. v. Sunday Elodumuo & Ors (2018) 8 NWLR (Pt. 1622) 549.

Without more, this issue is resolved in favour of the appellants and against the respondent.

7. *On when an originating process is signed by a non-juristic person* –

The conclusion of the matter is that the trial court had no jurisdiction to entertain the respondent's suit, for it was fundamentally defective and incompetent. It was not initiated by due process of law, for it was signed by a non-juristic person and which is unknown to the prevailing Legal Practitioners Act. In the *locus classicus* case of Gabriel Madukolu **&** Ors. v. Johnson Nkemdilim (1962) **NSCC** 374 at 379 – 380, this court elaborately stated the law on the jurisdictional competence of a court and the effects as follows:

"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 the 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."

Without more, this appeal is hereby allowed, because the trial court lacked the jurisdiction to entertain the respondent's action or suit. The respondent's Su it No: **K/430/2000** between : **ALHAJI IBRAHIM BABALE v**. **LT. COL**. **ABDULLAHI DAN ASABE & 3 ORS**. is hereby struck out for want of jurisdiction.

The parties are ordered to bear their respective costs.

History of the case:

Supreme Court:

Names of Justices who sat on the appeal: **MOHAMMED LAWAL GARBA, ADAMU JAURO, MOORE ASEIMO ABkAHAMADUMEIN, OBANDE FESTUS OGBUINYA, ABUBAKAR SADIQ UMAR.**

Appeal NO. SC/CV/502/2014

Date of Judgment: Friday, 4th July 2025

Names of Counsels: Nureini Jimoh (SAN) with Ibrahim G. Inuwa, Esq. for the Appellants and Okechukwu Nwaeze, Esq. with Joseph E. Chukwuemeka, Esq. for the Respondent.

ASEIMO, JSC (Delivering the judgment): The respondent was the plaintiff in Suit No: K/430/2000 which he instituted in the High Court of Kano State, hoEden at Kano. The appellants were the I[st] and 2[nd] defendants in the trial court, while the Commissioner of Police, Kano State and Arc. Emeka Maduka were the 3'[d] and 4[th] defendants, respectively.

The suit was commenced by way of a writ of summons wherein

were endorsed the following reliefs:

"The Plaintiff's claim is for:

1. **A** declaration that the Plaintiff is the legal and lawful owner of that piece of property and appurtenances situate and lying along Malam Bakatsine Road **Nassarawa Quarters**, **Kano covered by Kano State Certificate of Occupancy No**. **LKN/RES/95/2422**.
2. **An order of perpetual injunction restraining the Defendants whether acting by themselves or their** servants, agents assigns or whatsoever called from **trespassing**, **continuing to trespass**, **entering**, **taking** possession or erecting any structure on the property and appurtenances covered by the Kano State **Government Certificate of Occupancy No**. **LI(N/RES/95/2422**.
3. **A declaration that the 1[st] Defendant is a trespasser to** the said piece of land covered by Certificate of **Occupancy No**. **LKN/RES/95/2422 and situate along Bakatsine Road**, **Nassarawa G**.**R**.**A**., **Kano**, **Kano State**.
4. **General damages in the sum of N5million against the Defendant jointly and severally for the trespass of the 1[st] Defendant (with the help and connivan(sic) of the 3[rd] Defendant) into the property and appurtenances**

covered by Certificate of Occupancy No. LKN/RES/95/2422 belonging to the plaintiff.

5. Cost of filing this suit,"

The respondent also filed a statement of claim, in which the above reliefs were repeated in paragraph 16 thereof.

The respondent's suit was contested by the appellants, who filed a joint statement of defence and counterclaim, which was later amended.

On the 21st day of December, 2024 the trial court, per **Hon Justice Saka Yusuf,** delivered a reserved judgment in favour of the respondent, Being dissatisfied with the judgment of the trial court, the appellants filed an appeal in the Court of Appeal, which was identified as Appeal No: CA/K/62/2997. On the 10th day of December,2013 the said appeal was unanimously dismissed by the Court of Appeal, holden at Kaduna, (Coram: Orji-**Abadua**, **JCA** (now of blessed memory); **Mbaba**, **JCA** and **Abiru**, **JCA** (now JSC). The appellants were still not satisfied and they lodged an appeal to this court.

In the appellants' brief, settled by **Nureini Jimoh**, **Esq;** four issues were formulated for determination as follows:

1. Whether the lower court rightly affirm(sic) the award of title to the land in dispute to the Respondent in the circumstances of the pleading and evidence adduced? Grounds iii,iv,v,vi,vii,viii,ix,xiii and xiv
2. Whether the lower court was right in affirming the trial **court position that the 4th defendant at the trial (Arch** Emeka

Maduka)'s(sic) rightfully sold the property in issue to the Respondent, notwithstanding that the consent to assign was not given to him but Hamareng Nig. Ltd.

3. Whether the lower court rightly struck out grounds 4, 5, & **6 of the Amended Notice of Appeal and refused to consider** the trial court's failure to allow amendment of the appellant (1st & 2nd defendant at trial court) statement of **defence and counter-dairn? (Grounds i and ii**
4. Whether the suit leading to this appeal is not fatally and incurably incornpetent when the writ of summons **originating the suit was signed by Ibrahim Babale & Co**. **Ground xvi & xvii"**

On behalf of the respondent, **Okechukwu Nwaeze**, **Esq;** learned counsel who settled the respondent's brief, framed four issues for determination thus:

" 1 Whether giving the entire evidence and submissions before the lower court, the lower court was right to have affirmed the judgment of the trial court and delivered its judgment in favour of the respondent. (distilled from grounds 3, 4, 5, 6, 7, 8, 9, 13 and 14 of the appellants notice and grounds of appeal)

2. whether the lower court was right in affirming the trial court position 'that the 4th defendant at the trial (Arch Emeka Maduka) rightfully sold the property in issue to the respondent, notwithstanding that the consent to assign was not given to him but Hamareng Nig. Ltd.

3. whether the court below was not right when it struck out grounds 4, 5 and 6 of the appellant's amended Notice of appeal emanating from the interlocutory ruling

of the trial court delivered on 27th October, 2003 on grounds of being incompetent (distilled from ground 1 and 2 of the appellants Notice and grounds of appeal)

4. whether the appellants issue No 4 based on the competency of the respondent's writ of summons dated 3rd July, 2000 signed by Ibrahim Babale & Co. can be raised on non-existing grounds 16 and 17 and can be argued before this Honourable Court for the first time."

From the issues identified by the contending parties, both the appellants and the respondent have by their fourth issue, respectively, raised the issue of jurisdiction. The law is that the issue of jurisdiction is pivotal to adjudication and it can be raised at any stage of a litigation process. Its significance cannot be overemphasized, because where a court proceeds to exercise jurisdiction, when it lacks same, no matter how well conducted the proceedings might be, and no matter how sound the reasoning and decisions of the court may appear to be, they are legally null and void. See Attorney-General for Trinidad **& Tobago (1893) AC 518; Timitirni v**. **Amabebe (1953) 4 WACA 374** and Ekulo Farms Ltd. **&** Anon V. Union Bank of Nigeria PLC **(2006) 6 SCM 78**.

And once raised, the issue of jurisdiction should be considered and resolved by the court before proceeding with other matters. See **Omonofewo Francis Onoita v. Texaco Nigeria PLC (2024) 18 NWLR (Pt. 1969) 171**.

The issue of jurisdiction raised by both parties will be treated and resolved first. And the issue is:

> **Whether or not the respondent's writ of summons** signed **by** "Ibrahim Babale **&** Co" is competent.

The learned counsel for the appellants cited and relied on several sections of the Legal Practitioners Act, 2004 and some decided cases in urging the court to resolve this issue in favour of the appellants, because the writ of summons was signed by a law firm and is incurably incompetent.

In response, the learned counsel for the respondent contended that the issue of jurisdiction, raised by the appellants does not arise from any of the appellants' grounds of appeal, especially grounds frorn the non-existing grounds 13 and 14, and should be struck out for being incompetent.

Counsel also argued that an issue not arising from a ground of appeal is incompetent and liable to be struck out. To buttress this argument, counsel cited and relied on the case of **African Petroleum Ltd. v. Owodunni (1991) 8 NWLR (Pt. 210) 391 at 423**.

Relying on the cases of Olonade v. Sowerrlimo (2014) 14 **NWLR (Pt. 1428) 472 at 491; Onofowokan v. Wema Bank Plc (2011)12 NWLR (Pt. 1260) 24 at 39** and **M. B. N. Plc v. Nwobodo** (2005) 14 **NWLR (Pt.** 945) 379 at 387-388, the learned counsel submitted that a ground of appeal must be against the *ratio decidendi of a case.*

In urging the court to resolve this issue in favour of the respondent, lea rned counsel finally submitted as follows:

> "It is immaterial who signed the writ of summons. In addition, the Kano State High Court (Civil Procedure) Edict, 1988 did not provide for the mandatory signing of the writ of summons by a legal practitioner. We refer the court to order 5 Rule 12 (1) of the Kano State High Court (civil procedure) Edict, 1988 which provides thus:
>
> "12 (1) Where a plaintiff sues by a legal **practitioner, the writ shall be** endorsed with the plaintiff's address and the legal practitioner's name or firm and a business address of his within the jurisdiction and also if the legal practitioner is the agent of **another, the name of firm and business address of his principal**."

It is a settled principle of law that the issue of jurisdiction can be raised for the first time on appeal and it cannot be frustrated even if it was not raised in a trial court or at an appropriate time.

See the case of Western Steel Works Limited **&** Anor. v. Iron and **Steel Workers Union & Anon (1986) 3 NWLR (Pt.30) 617**.

It must be emphasized that an issue of jurisdiction can be raised with or without leave of court. See **Benson Obiakor v**. The State (2002) 10 NWLR {Pt. 776}-612; Isaac Gaji v. Emmanuel Paye (2003) **8** NWLR (Pt. 822) 583 and University of Ilorin v. Rasheedat Adesina (2014) 10 NWLR (Pt. 1414) 159.

In direct answer to the respondent's contention that the issue of jurisdiction raised by the appellants is not covered by their grounds of appeal, the law has long been settled that the issue of jurisdiction can be raised at any time and in any manner by the parties or even *suo motu* by the court. See, for example, the cases of **Isaac Obiuweubi v**. **Central Bank of Nigeria (2011) 7 NWLR (Pt**. **1247) 465** and **Senator Christiana N**. **D**. **Anyanwu v**. **Hon**. **Independent C**. **Ogunewe & 2 Ors**. **(2014) 8 NWLR (Pt**. 1410) 337.

It should be noted that jurisdiction cannot be conferred on a court by the acquiescence or consent of the parties. See **Mrs**. **Alero Jadesimi v**. **Adolo Okotie-Eboh (1986) 1 NWLR (Pt**. **16) 264; Mr. Oladiti Adesola v**. **Alhaji Raimi Abidoye (1999) 14 NWLR (Pt**. **637) 28; Hon**. **Sani Sha'Aban & Anon v**. **Alhaji** Namadi Sambo & Ors. (2010) 19 NWLR (Pt. 1226) 353 and Isaac Obiuweubi v. Central Bank of Nigeria (2011) 7 NWLR (Pt. 1247) 465 .

Now the live question is whether the respondent's suit was competent before the trial court, in view of the fact that the writ of summons was signed by a law firm? This question has been answered by this court in many of its decisions and the issue has been settled that a law firm, such as "Ibrahim Babale & Co", not being a legal practitioner registered under the Legal Practitioners Act, 1990 (as amended), cannot by itself practise in a court of law, for it is merely a business name. A law firm is not a legal practitioner enrolled and registered as a Solicitor and Barrister of the Supreme Court of Nigeria. This was clearly stated in the case of SLB Consortium Limited v. Nigerian **National Petroleum Corporation (2011) 9 NWLR (Pt. 1252) 317 at 330**, per **Onnoghen**, **JSC** (as he then was, later CJN), where the court stated that:

> **"Section 2 (1) of the Legal Practitioners Act clearly states that ... a person shall be entitled to practise as a barrister and solicitor if, and only if, his name is on the roll."**

Even before the above decision, this court held in the case Emmanuel Okafor v. Augustine Nweke (2007) 3 SC (Pt. I1) 55 that a law firm cannot sign an originating process, such as a writ of summon or an originating summons. At pages 62 – 63, of the said case, this court pronounced thus:

"There is no doubt whatsoever that the motion paper giving rise to the objection as well as the **proposed Notice of Cross Appeal and appellants' Brief in support of the said motion were all signed**: **J**. **H**. **C**. **Okolo**, **SAN & Co**. **Learned senior** counsel for the appellants does not dispute this but stated that since there is a signature on top of J. H. C. Okolo, **SAN &** Co, it is necessary to call **evidence to establish the identity of the person who signed the documents for which counsel relied on Izuogu v. Ernuwa supra and Banjo v. Eternal Sacred Orders of Cherubim & Seranhim** also supra.

However Section 2(1) of the Legal Practitioners Act, **Cap**. **207 of the Laws of the Federation of Nigeria**, **1990 provides thus**:-

"Subject to the provisions of this Act, **a** person shall be entitled to practice as a barrister and solicitor if, and only if, his name is on the roll."

From the above provision, it is clear that the person who is entitled to j;ractice as a legal practitioner must have had his name on the roll. It does not say that his signature must be on the roll but his name.

Section 24 of the Legal Practitioners Act defines a "Legal practitioner" to be:

"a person entitled in accordance with the **provisions of this Act to practice as a barrister or as a barrister and solicitor,** either generally or for the purpose of any **particular office or proceeding**."

> **The combined effect of the above provisions is** that for a person to be qualified to practice as a **legal practitioner, he must have his name on the roll otherwise he cannot engage in any form of** legal practice in Nigeria. The question that follows is whether J. H. C. Okolo, SAN & Co is a **legal practitioner recognized by the law?**
>
> From the submissions of both counsel, it is very **clear that the answer to that question is in the negative**. **In other words**, **both senior counsel** agree that J. H. C. Okolo, SAN & Co is not a legal **practitioner and therefore cannot practice as** such by say, filing processes in the courts of this country."

See also the case of **Prof**. Vincent Nnamdi Okwuosa v. Prof. **N**. E Gomwalk **&** Ors. (2017) 9 NWLR (Pt. 1570) 259.

The learned counsel for the respondent, as set out earlier in this judgment, argued passionately that by Order 5 rule 12(1) of the Kano State High Court (Civil Procedure) Edict/Law, 1988 a writ of summons can be signed by a legal practitioner or a law firm. I think that this is obviously erroneous, because what the rule provides is that the writ should endorsed "with the plaintiff's address and the legal practitioner's name **or firm"**. With due respect, the rule does not provide that a writ of summons should be signed by the legal practitioner's firm. However, assuming without conceding that the rule provides that a writ of summons can be signed by a law firm, this court had since held that such rule of court cannot override or supersede the clear and unambiguous provisions of the Legal Practitloners Act. See **SLB Consortium Limited v**. **Nigerian National Petroleum Corporation**

(supra) at 337 - 338, per **Rhodes-Vivour, JSC;** where the court stated the law as follows:

> "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+eTnedy 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**."
>
> (Underlining supplied by me for the sake of emphasis).

The summary of my opinion is that where an originating process, such as a writ of summons, an originating summons, an originating motion or an originating petition, is signed in the name of a law firm, the entire action, cause, matter or suit is incompetent and the court has no jurisdiction to entertain it. See the case of **Ministry of Works & Transport**, **Adamawa State v. Alhaji Isiyaku Yakubu (2013) 6 NWLR (Pt. 1351) 481 at 496**, where the court held as follows:

> "My Lords, I would have ended this judgment here, but for the submission of the respondent counsel that the said originating process was amended and as such it does not form basis upon which the case was tried and deterrnined. The questions that easily come to mind are that can an incompetent originating process or processes be amended, or can the incompetence of the process be cured by the amendment? No doubt, the learned counsel of lhe respondents pretends not to appreciate the fundamental nature of an originating process? The fatal effect of the signing of an originating process by a law firm is **that the entire suit was incompetent ab *in itio***. **It was dead at the point of filing**. **This highlights the painful realities that confronts a litigant when counsel fails to sign processes as stipulated by law**. **The originating process**, **as in this case**, **is fundamentally defective and incompetent**. **It is** inchoate, legally non-existent and can therefore **not be cured by way of an amendment**. **See**: **N. N. B. Plc. v. Denclag Ltd. (2005) 4 NWLR (Pt. 916) 549**."

See also the case of **Chukwudi Nnalimo & Ors. v. Sunday Elodumuo & Ors (2018) 8 NWLR (Pt. 1622) 549**.

Without more, this issue is resolved in favour of the appellants and against the respondent.

The conclusion of the matter is that the trial court had no jurisdiction to entertain the respondent's suit, for it was fundamentally defective and incompetent. It was not initiated by due process of law, for it was signed by

a non-juristic person and which is unknown to the prevailing Legal Practitioners Act. In the *locus classicus* case of Gabriel Madukolu **&** Ors. v. Johnson Nkemdilim (1962) **NSCC** 374 at 379 – 380, this court elaborately stated the law on the jurisdictional competence of a court and the effects as follows:

> **"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 the 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."**

Without more, this appeal is hereby allowed, because the trial court

lacked the jurisdiction to entertain the respondent's action or suit.

The respondent's Su it No: **K/430/2000** between : **ALHAJI IBRAHIM BABALE v**. **LT. COL**. **ABDULLAHI DAN ASABE & 3 ORS**. is hereby struck out for want of jurisdiction.

The parties are ordered to bear their respective costs.

ABUBAKAR, JSC: I have had a preview of the reasons advanced by my learned brother Adumein, JSC for his judgment. I agree with him. I adopt his reasons as mine.

It is now common-place, indeed a well beaten legal track, that jurisdiction is the legal right by which courts exercise their authority. It is the power and authority to hear and determine jtidicial proceedings. A court with jurisdiction builds on a solid foundation because jurisdiction is the bedrock on which court proceedings are based. The objection to jurisdiction goes to the root of the matter. But when a court lacks jurisdiction and continue to hear and determine, it builds on quicksand and all proceedings and steps based on it will not stand.

For the above reasons and fuller reasons in the lead judgrnent of my learned brother, that the trial court had no jurisdiction to determine

respondent's suit because it is fundamentally defective and incompetent as it was not initiated by due process of law because it was signed by a non-juristic person.

I too allowed the appeal. I abide by the consequential orders made therein.

GARBA JSC: The Lead Judgment written by my Learned Brother, M. A. A. Adumein, JSC in this appeal, has once again, restated and elaborated on the now elementary position of the law firmly established that a court process, of any kind, but originating process in particular, signed in the name of a Law Firm, is incurably hnd fatally defective, invalid and incompetent for the purposes of judicial proceedings of a court of law. Sufficient judicial authorities and pronouncements by this court on the position that have been referred to and set out in the Lead Judgment have put it beyond further viable and maintainable arguments.

Once a trial court or the court below lacks the requisite jurisdiction to adjudicate over a matter or case, the malaise will contagiously deprive this court of the sarne jurisdiction to adjudicate over an appeal from a decision arising therefrom, on the merit. Ehuwa v. Ondo State I.E.C. (2006) 11 – 12 SC, 102 (2006) LPELR – 1056 (SC),

Tsokwa Motors Ltd. v. UBA, Plc (2008) 2 NWLR (1071) 347 at 377, Oni v. Cadbury Nig. Plc (2016) LPELR -26061 (SC), Nwachukwu v. Nwachukwu (2018) 17 NWLR (pt. 1648) 357 at 365, Nwoko v. Nwaoboshi (2020) 13 NWLR (pt. 1742) 395 at 400, Ebebi v. Ozobo (2022) 1 NWLR (pt. 1812) 463.

In the above premises and for the-other reasons in the Lead Judgment, I allow the appeal-and strike out the originating writ ofsuilmons filed at the trial court for being incompetent to deprive that court of the jurisdiction to adjudicate over the suit.

JAURO, JSC: My learned brother, Moore Aseimo Abraham Adumein, JSC obliged me with a draft of the lead judgment which he has just delivered in which the instant appeal was allowed.

I agree with the analysis and resolution of the jurisdictional issue raised and the conclusion reached, that the appeal deserves to be allowed . The appeal is allowed by me too and I also strike out the Respondent's suit before the trial court for want of jurisdiction.

I subscribe to the order made for the parties to bear their respective costs.

OBANDE, JSC: I had, in advance, a thorough preview of the leading judgment deliveered by my learned brother: Moore Aseimo Abraham Adumein, JSC. I concur fully with the judiicial reasoning and conclusion therein.

It is now an elementary law, premised on the ex *cathedra* and cracuiar decisions of this court, that a writ of summons, an originating process signed by a law firm, which is a non-legal practitioneer par excellence, is plagued by an indelible incompetence which

impinges on the jurisdiciton of the court to emtertain such an action. The Respoondenet suit, which midwifed this appeal, was enveloped in the thick fog of this inelastic principle of law since it was signed by a legal firm, Ibrahim Babale & Co. The dismissal consequence was that the trial court waas not clothed with the requisite jurisdiction to attend to the suit *ab initio.* Indubitably, the lower court was not showered with the vires to entertain the appeal that germinated from that incompetent suit.

it is for this brief addendum, added to the legal expositions marshalled in the leading judgment, that I, too, aliow the appeal and visit a deserved order of striking out on the respondent's suit. I abide by the consequential order on costs.

Appeal allowed.