

**IN THE CUSTOMARY COURT OF APPEAL
IN THE FEDERAL CAPITAL TERRITORY
HOLDEN AT UTAKO DISTRICT, ABUJA**

CORM:

- 1. HON. JUSTICE STANLEY ADEKUNLE LAWAL -PRESIDING
JUDGE**
- 2. HON. JUSTICE YUNUSA IDRIS KUTGI - JUDGE**
- 3. HON. JUSTICE UNWANA SAM UBOM - JUDGE**
- 4. HON. JUSTICE MUHAMMAD BOYI MARAFA - JUDGE**

**THIS 23RD DAY OF JUNE, 2026
APPEAL NO. FCT/CCA/CVA/16/2024
SUIT NO. FCT/JD/CV/GWA/14/2024**

BETWEEN:

- 1. DR. ISREAL OROKPO - APPELLANT/CROSS APPELLANT**

AND

**MRS. ROSEMARY ISREAL OROKPO - RESPONDENT/CROSS
APPELLANT**

JUDGMENT

(DELIVERED BY HON. JUSTICE S. ADEKUNLE LAWAL)

This is an appeal against the judgment of the Customary Court of Fct, sitting at Gwagwalada delivered on the 16th day of May, 2024. The appellant was the petitioner at the said lower court wherein he sought for the following relief wit;

- (1) The dissolution of the marriage between the petitioner and the Respondent
- (2) Custody of the six children of the marriage ; and
- (3) ANY ORDER OR FUTHER ORDER (5) this court may deem just and desireable in this petition.

After conclusion of the trial, the learned trial judges delivered judgement. Dissatisfied with the part of the judgment the Petitioner/Appellant appealed to this court on the 13th day of June, 2024. The grounds of appeal, particulars of errors and reliefs sought read thus;

1. PART OF THE JUDGMENT OF THE LOWER COURT COMPLAINED OF

The ORDERS awarding the sum of N1,000,000 (One Million Naira Only, a monthly upkeep of the sum of N25,000 (Twenty-Five Thousand Naira) Only, and granting custody of Sharon Isreal, to the Respondent.

2. GROUNDS OF APPEAL

Ground One

The learned trial Judges erred in law in granting the reliefs not specifically claimed by the Respondent, or not supported by the evidence before the lower Court.

Particulars of Error

1. The award of the sum of **N1,000,000.00 (One Million Naira) Only**. To the Respondent by the lower Court, is unwarranted undeserved and without legal justification.
2. The award of a monthly upkeep of **N25,000.00 (Twenty-Five Thousand Naira) Only**, to the Respondent by the lower Court, is unwarranted, undeserved and without legal justification.

The award of custody of **Sharon Isreal** to the Respondent by the lower Court is unwarranted, undeserved and without legal justification.

Ground Two

The part of the Judgement complained of is against the weight of the evidence before the lower Court.

Further grounds may be filed on receipt of the Record of Appeal.

RELIEFS SOUGHT FROM THE CUSTOMARY COURT OF APPEAL OF THE FCT

1. **AN ORDER** setting aside the **ORDER** of the lower Court awarding the sum of **N1,000,000.00 (One Million Naira) Only**, to the Respondent.

2. **AN ORDER** setting aside the ORDER of the lower Court awarding a monthly upkeep of the sum of **N25,000.00 (Twenty-Five Thousand Naira) Only**, to the Respondent.
3. **AN ORDER** setting aside the **ORDER** of the lower Court awarding custody of **Sharon Isreal** to the Respondent.

The appellant by the order of the court made on the 13th day of March, 2025 file the appellant's brief of argument and formulated two issues for determination as follows:

Issue One (Formulated from the Ground One Appeal):

Whether the lower Court was right when, despite the palpable failure of the Respondent, who was heavily represented by a Counsel from the beginning to the end of the divorce proceedings, to file a Counter-claim or Defence or Cross-Petition or an Answer, it made **ORDERS** awarding to her custody of **Sharon Isreal**, and the sums of **N25,000.00 (Twenty-Five Thousand Naira) monthly and N1,000,000.00 (One Million Naira)** for maintenance and accommodation, respectively, which were substantive and pecuniary ones not specifically sought by the Respondent?

Issue Two (Formulated from the Ground Two of Appeal):

Whether the Part of the Judgement complained of is against the weight of the evidence before the lower Court?

The respondent by the order of the court made on the 13th day of November, 2025 filed the respondent/cross appellant's brief of argument formulated two issues for determination as follows:

1. **WHETHER THE TRIAL COURT WAS RIGHT WHEN IT MADE THE ORDERS AWARDING THE CUSTODY OF SHARON ISREAL AND THE SUM OF N25,000.00(TWENTY-FIVE THOUSAND NAIRA) MONTHLY AND N1,000,000.00 (ONE MILLION NAIRA) FOR UPKEEP, ACCOMMODATION AND SETTLEMENT TO THE RESPONDENT?**

DISTILLED FROM GROUND 1 OF THE NOTICE OF APPEAL

2. **WHETHER THE TRIAL COURT PROPERLY EVALUTED EVIDENCE ON THE BALANCE OF PROBABILITY AND PREPONDERANCE OF EVIDENCE IN REACHING THE PART OF THE FINAL DECISION IN FAVOR OF THE RESPONDENTS?**

DISTILLED FROM GROUNDS 1 OF THE NOTICE OF APPEAL.

On the 21st day of May, 2026 the appellant and the respondent adopted their briefs of argument.

It is the duty of an appeal court after a diligent examination of the grounds of appeal, record of proceedings and issues formulated by both sides in an appeal to adopt or frame issue that would be decisive in determining the real grievance or grievances in the appeal and not waste time on peripheral issues. **See Supreme Court decision in PDP V Sheriff (2017) 15 NWLR Pt. 1588, 219 (2) Plateau State Health Service Management Board & Anor V Inspector FitokaGoshure(2012) Vol. 12 MJSC, 33 (3) Governor of Ekiti State V Olobunmo (2017) 3 NWLR Pt. 1551, 1.**

Upon careful perusal of the grounds of the appeal, record of proceedings and the issues formulated by the appellant and the respondent in their briefs of argument and the arguments canvassed by both parties the more concise and appropriate issue for determination is;

"Whether the lower court was right to entertain and adjudicate upon the suit."

In the course of the proceedings the respondent when asked how they got married. She said we got married under the native law and custom and subsequently we celebrated in church solemnization on the 1st and 2nd of September, 2000 at St. Mary Catholic Church Samaru Zaria, Kaduna State. She also said that they were issued with marriage

certificate but is in the custody of the petitioner/appellant. The respondent's counsel on the 18th day of April, 2024 told the court that they have the marriage certificate issued to the parties by the Catholic Church St. Mary, Samaru Zaria, Kaduna State. In the judgment of the lower court the judges said that the issue in controversy between the parties is that the respondent claims that the marriage was subsequently solemnized in the Catholic Church where a Marriage Certificate was issued to the couples. But that the Petitioner disagrees and that the Church Priest only did a Church Blessing for them and nothing more. And the lower court said that a thorough scrutiny of the Marriage Certificate tendered by the respondent before the court shows as in Exhibit "A" is bereft of Marriage Certificate under the Act. And that the court believe that the parties had a customary ceremony blessed in the Catholic Church at Samaru, Zaria, Kaduna State.

To determine whether the lower court possessed the requisite jurisdiction to entertain and determine the suit, recourse must be made to the law that created the court, since the jurisdiction of a court is conferred and defined by its enabling law.

The Federal Capital Territory Customary Court Act, 2007 Section 14 (2) provides thus:

"A Customary Court shall have and exercise jurisdiction over causes and matters set out in the Schedule to this Act."

Items 1 and 2 of Part 1 of the Schedule afore-mentioned reads as follows:

"Matrimonial causes and matter between persons married under customary laws or arising from or connected with a union contracted under customary law other than those arising from or connected with a Christian Marriage or marriage under Islamic Law as defined in Section 1 of the Criminal Code Act."

For a court to have jurisdiction to hear and determine a matter the subject matter of the case must be within the jurisdiction of the court as stated in the statute and there is no feature in the case which prevents the court from exercising its jurisdiction. **See Coca-Cola (Nig.) Ltd &Ors V Mrs. TitilayoAkinsanya (2017) 17 NWLR Pt. 1593, 74 (2) Plateau State V A.G. Federation (2006) 3 NWLR Pt. 967, 346 at 430.**

By virtue of Section 14(2) of the Fct Customary Court Act, 2007 as earlier on quoted in this judgment, the lower court jurisdiction is limited to Matrimonial Causes and Matters between persons married

under customary law or arising from or connected with a union contracted under customary law. The lower court is expressly prohibited by the Act from exercising jurisdiction over Matrimonial Causes and Matters contracted or arising from or connected with a Christian or under Islamic law.

Jurisdiction is the right in the court to hear and determine the dispute between the parties. It is the power or authority of a court of law or tribunal to go into a matter and deliver a binding judgment. The issue of jurisdiction is so fundamental that a court may raise it *suomotu* (on its own motion) at any stage of the proceedings even where the parties have not raised it. More so where the issue concerns the court's jurisdiction. See the Supreme Court decision in **Alhaji Mohammed GanaGaba V Alhaji Mustapha Tsoida (2020) 5 NWLR Pt. 1716, 1 at page 30 Paras C-D** where it held that a court can *suomotu* raise the issue of its own jurisdiction, and resolve it without necessarily hearing the parties on it. **See also Effiom V C.R.S.I.E.C (2010) 14 NWLR Pt. 1213, 106.**

The court need not invite parties to address it when the court raised an issue *suomotu* when or where the issue is one that ought to be judicially noticed by the court. See **Omokuwajo V FRN (2013) LPELR-20184 (SC)**. The fact that the parties did not make it an issue did not

give the lower court the power to proceed to hear and determine the case when there was an evidence as to the celebration of their marriage at St. Mary Catholic Church, Kaduna State.

The court can do so on its own initiative, even though the parties had consented to the irregularity. See the decision of the Supreme Court in **Olutola V Unilorin (2004) 18 NWLR Pt. 905, 416 at 459**. Parties cannot by connivance, acquiescence or collusion confer jurisdiction on a court. As a matter of law, lack of jurisdiction cannot be waived by one or both parties. Parties cannot vest jurisdiction in a court where there is none.

The court is not allowed or in a position to stray out to verify the authenticity of the claim by calling for evidence. Once it is manifest from the pleadings and testimonies/evidence of the parties that a court has no jurisdiction over the subject matter, the court is divested of jurisdiction to entertain it. **See Orji & Anor V Ugochukwu & Ors (2009) LPERL - 4798 (CA)**. It is not within the power or jurisdiction of the lower court to consider and or determine whether or not the Marriage Certificate issued by St. Mary Catholic Church, Samaru, Zaria, Kaduna State is valid or invalid. A court without jurisdiction cannot go into the merit of a case. It is only the court that has the

requisite jurisdiction to entertain the subject matter and or claim of plaintiff that can consider the merit of the case.

From the testimonies/evidence adduced during the trial and available facts at the lower court with all intents and purposes it is a marriage arising from or connected with a Christian Marriage. The parties intended to celebrate and or have a Christian Marriage. The lower court by its Act has no jurisdiction to entertain the Causes and Matters arising from or connected with a Christian Marriage. At that point, the lower court ought to have stopped the proceedings and decline jurisdiction. The lower court has no jurisdiction to entertain the suit. Proceedings of a court without jurisdiction are a nullity, however how well conducted and decided. See **Olutola V Unilorin (2004) 18 NWLR Pt. 905, 416 at 459.**

Consequently, the proceedings and the judgment entered and delivered by the lower court amounts to a nullity.

Therefore, the judgment of the lower court delivered on the 16th day of May, 2024 is hereby set aside and suit No. **FCT/JD/CV/GWA/14/2024** filed at the lower court is hereby struck out for lack of jurisdiction.

Having found that the judgment was delivered without jurisdiction, it becomes unnecessary and futile to examine the merits of the appeal

and the cross-appeal founded thereon. Consequently, the appeal filed on the 13th day of June, 2024 with the Appeal No. **FCT/CCA/CVA/16/2024** and the cross-appeal with the Appeal No. **FCT/CCA/CCA/10/2025** are hereby struck out.

I make no order as to cost.

SGD
HON. JUSTICE S. ADEKUNLE LAWAL
JCCA

I have read the draft of the judgment just delivered by my learned brother, **Lawal HPCCA**; I agree with his Lordship's reasoning and the conclusion reached in the judgment. It is well settled that a Court has the power to raise an issue of jurisdiction *suomotu*. Thus, where a fundamental issue affects the Court's jurisdiction, the Court can raise it *suomotu*. **See Onwuzulike v. State (2020) 10 NWLR (Pt.1731) 91 (SC); GABA v. Tsoida (2020) 5 NWLR (Pt.1716) 1 (SC).**

The trial court ought to have taken cognisance of the fact that the Appellant and the Respondent contracted a Christian marriage, when on 24th March, 2024, during examination in chief, DW1 (the Respondent) was asked how she and the Appellant got married, she stated that after they married under native law and custom, they proceeded to

celebrate the church solemnisation on the 1st and 2nd September 2000 at St. Mary Catholic Church, Samaru, Zaria, Kaduna state. In fact, still during the examination in chief, the Respondent reiterated that they had been issued a marriage certificate that was in the Appellant's custody. It is not possible that the trial court missed this fact during the examination in chief of the Respondent, because on page 70 of the record of appeal, particularly paragraph 3, which contained the judgment of the lower court, the trial judge noted that Exhibit A, which is the marriage certificate issued by St. Mary Catholic Church, Samaru, Zaria, Kaduna state, is "bereft of marriage certificate under the Act".

I must state that the trial court failed to appreciate the meaning of Christian marriage as defined in Section 14(2) of Schedule 1 to the FCT - Customary Court Act, 2007 and should not have gone into the matter when it was made manifest that it did not have jurisdiction to hear the suit.

Consequently, I also agree with the conclusion of His Lordship in the lead judgment that the appeals filed on the 13th June, 2024 with Appeal No. FCT/CCA/CVA/16/2024 and the cross-appeal with the Appeal No. FCT/CCA/CVA/10/2025 are hereby struck out for lack of jurisdiction, and the judgment of the lower court delivered on the 24th

May, 2024 is hereby set aside. I also abide by the order regarding cost in the lead judgment.

SGD
HON. JUSTICE YUNUSA IDRIS KUTIGI
JCCA

I had the privilege of reading the draft Judgment delivered by my Noble Lord, My Lord the Hon. President presiding **HON. JUSTICE STANLEY ADEKUNLE LAWAL (PJCCA)**. I agree with My Lord's findings and conclusions in this Appeal.

Before delving into the determination of any case, the Court should first inquire of itself whether it has the requisite jurisdiction to hear and determine the Suit. This should be done whether or not the issue of jurisdiction is raised by any party, as a matter heard without / outside of a Court's jurisdiction amounts to nothing but an academic exercise. See the case of **ORUBU V. N.E.C. (1988) 5 NWLR (Pt. 94) 323**.

In the instant case, the Trial Court had no jurisdiction to hear and determine Suits bothering on Christian Marriages, as such matters are outside the jurisdictional purview of the Trial Court. **See Section 14(2) of the Customary Court Act 2007**.

It is on this point, and on all reasoning provided in the lead judgment, that I also set aside the Judgment of the Lower Court, and I so HOLD.

SGD
HON. JUSTICE UNWANA SAM UBOM
(JCCA)

I have the privilege and the opportunity to read in advance the Judgment just delivered by my Lord **Hon. JUSTICE STANLEY ADEKUNLE LAWAL (JCCA)** thoroughly and I entirely agree with the finding and the conclusion reached. The facts and issues have extensively been dealt with in the lead Judgment.

I wish to add that, Jurisdiction defines the power of Courts to inquire into facts, apply the law, make decisions and declare judgment. It is the legal right by which Judges exercise their authority. See the case of **YAKUBU TELLA & ANOR v. MR. ENOCK B. DANIEL (2013) LPELR-22620(CA)**

Jurisdiction is the live wire of a case, and a Court must have jurisdiction to entertain a case, otherwise its proceedings on it, would be null and void and a complete waste of time. That is the reason why it is imperative to determine an objection to jurisdiction where raised, at the onset." see **CHRISTOPHER IFEANYI OPUTA v. IFEANYI GEORGINA UMUNNAKWE (2018) LPELR-46762(CA)**.

In the instant case, consequently, the proceedings and the judgment entered and delivered by the lower court amount to nullity. Therefore, the judgment of the lower court delivered on the 16th day of May, 2024 is hereby set aside and **suit No. FCT/JD/CV/GWA/14/2024** filed at the lower court is hereby struck out for lack of jurisdiction.

However, in respect of this case at hand, I therefore concur with the lead Judgment, delivered by **My Lord** and adopt the same as mine that the appeal filed on the 13th day of June, 2024 with the Appeal No. **FCT/CCA/CVA/16/2024** and the cross-appeal with the Appeal No. **FCT/CCA/CVA/10/2025** are hereby struck out.

SGD
HON. JUSTICE MOHAMMED BOYI MARAFA
(JCCA)