

UGBAH & ORS V. UGBAH

(2025) LPELR-81732(SC)

**MRS. VERONICA NNEKA UGBAH &
ORS v. MR. PATRICK IWEBUNOR
UGBAH**



In The Supreme Court Of Nigeria

On Friday, the 4th day of July, 2025

Suit No: SC.334/2008

Before Their Lordship

JOHN INYANG OKORO	Justice of the Supreme Court
TIJJANI ABUBAKAR	Justice of the Supreme Court
HABEEB ADEWALE OLUMUYIWA ABIRU	Justice of the Supreme Court
JAMILU YAMMAMA TUKUR	Justice of the Supreme Court
MOHAMMED BABA IDRIS	Justice of the Supreme Court

Between

1. MRS. VERONICA NNEKA UGBAH
 2. CHUHWUEMEHA GREGORY PATRICK
(Infant, suing by his Guardian/next friend, Mrs. Veronica Nneka Ugbah)
 3. IFECHUKWUDE BRENDA PATRICK
(Infant, suing by her Guardian/next friend, Mrs. Veronica Nneka Ugbah)
- APPELLANT(S)

And

MR. PATRICK IWEBUNOR UGBAH RESPONDENT(S)

SUMMARY OF JUDGMENT

INTRODUCTION:

This appeal borders on Matrimonial Causes.

FACTS:

The Appellants were the claimants in the action taken out in the High Court of Lagos State against the Respondent, as defendant, and they commenced the action by a Writ of Summons and Statement of Claim filed on the 9th of June, 2006 pursuant to the Civil Procedure Rules of the High Court of Lagos State seeking sums of money for maintenance of wife and for education and welfare of children.

The averments in the statement of claim revealed that the first Appellant and the Respondent were married and that they married under the Igbo Native Law and Custom on the 26th of December, 2000 and subsequently at St Dominic Catholic Church, Yaba, Lagos State on the 12th of May 2001 were issued with a marriage certificate. The averments revealed that the second and third Appellants were the children of the marriage and the second Appellant was born on the 15th of May, 2001 while the third Appellant was born on the 9th of September, 2002. The averments contained allegations on intolerable behavior exhibited by the Respondent towards the first Appellant, including physical and emotional abuse, the attempts made by members of the Respondent's family to resolve complaints of the first Appellant against the actions of the Respondent. The averments asserted that the Respondent sent the first Appellant and the two

children of the marriage the second and third Appellants, out of the matrimonial home on the 19th of September, 2002 with an undertaking to constantly send them money for their welfare and maintenance.

The averments in the statement of claim revealed that the Respondent failed to send the Appellants money for their welfare and maintenance as promised and that the first Appellant made reports of this fact to the family of the Respondent, the employers of the Respondent, Lagos University Teaching Hospital, the Lagos State Child Development and Welfare Agency, the Lagos Office of the Public Defender, to the Parish Priest of St Dominic's Catholic Church, to the Catholic Marriage Tribunal and to the Lagos State Chapter of the International Federation of Women Lawyers (FIDA). The averments asserted that the Respondent rebuffed all the attempts by these persons and agencies to resolve the matter and that the first Appellant had single-handedly been catering for the welfare and maintenance of herself and of the second and third Appellants and that it became burdensome for her to continue to do same due to the fact that she lost her job and at which point her mother took over catering for the welfare of the second and third Appellants. It was by reason of these averments that the Appellants commenced the action against the Respondent.

Upon being served with the Court processes, Counsel to the Respondent filed a notice of preliminary objection challenging the jurisdiction of the High Court to hear the matter as constituted by

the Appellants on the ground that it was not commenced by due process and was thus not properly before the Court. The notice of preliminary objection contended that since the claims of the Appellants were for maintenance and welfare on the grounds of a marital relationship and paternal obligation, the action could only be commenced under the Matrimonial Causes Act and not by a writ of summons and statement of claim taken out under the Civil Procedure Rules of High Court of Lagos State. The High Court heard the preliminary objection on the merits and it ruled dismissing same.

The Respondent was dissatisfied with the ruling of the High Court and he caused his Counsel to file an appeal against it to the Court of Appeal sitting in Lagos by a notice of appeal dated the 9th of October, 2006.

The Court of Appeal concluded that the action of the Appellants was not commenced by due process and that the High Court thus possessed no jurisdiction to entertain the action and it struck out the case as filed in the High Court.

The Appellants were dissatisfied with the judgment of the Court of Appeal and they caused their Counsel to file a notice of appeal dated the 28th of July, 2008 and containing six grounds of appeal against it.

ISSUES:

The Court in the determination of the appeal sought to determine the following question:

1. Whether indeed, during the subsistence of a marriage, a wife and the children of the marriage