

IN THE COURT OF APPEAL
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA



APPEAL NO:CA/ABI/CV/53/2021
SUIT NO:FHC/ABI/CS/201/2017

BETWEEN

NIGERIAN AGIP EXPLORATION LTD.

....

APPELLANT

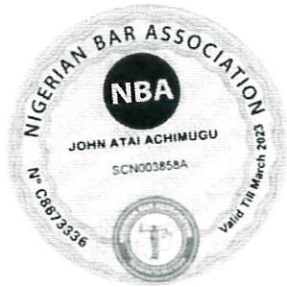
AND

1. MALABU OIL AND GAS LTD.
2. THE FEDERAL GOVERNMENT OF NIGERIA
3. THE MINISTER OF PETROLEUM RESOURCE
4. SHELL NIGERIA UTRA-DEEP LIMITED
5. SHELL NIGERIA EXPLORATION AND PRODUCTION COMPANY LTD
6. CHIEF DAN ETETE

... RESPONDENTS

1ST RESPONDENT'S BRIEF OF ARGUMENTS

SETTLED BY:



John Atai Achimugu

J. A. ACHIMUGU ESQ. ✓
OLANIKE DARE ESQ.
ACHIMUGU JOHN ACHIMUGU ESQ.
YAWURYI B. ABIRIYI ESQ.
JOEL PAUL MUSA ESQ.
(Counsel for 1st Respondent)
J. A. ACHIMUGU & CO.
c/o (Dr.) R.O ATABO SAN
R.O ATABO SAN & CO.
1ST Floor City Plaza
No. Rukuba Close
Off Muhammed Buhari Way
Garki II, Abuja.

1 | J. A. ACHIMUGU & CO.



IN THE COURT OF APPEAL
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

APPEAL NO:CA/ABJ/CV/53/2021
SUIT NO:FHC/ABJ/CS/201/2017

BETWEEN

NIGERIAN AGIP EXPLORATION LTD.

....

APPELLANT

AND

1. MALABU OIL AND GAS LTD.
2. THE FEDERAL GOVERNMENT OF NIGERIA
3. THE MINISTER OF PETROLEUM RESOURCE
4. SHELL NIGERIA UTRA-DEEP LIMITED
5. SHELL NIGERIA EXPLORATION AND PRODUCTION COMPANY LTD
6. CHIEF DAN ETETE

...

RESPONDENTS

TABLE OF CONTENTS

| S/NO. | SUBJECT MATTER | PAGES |
|-------|--------------------------|---------|
| 1. | INTRODUCTION | 3 |
| 2. | BRIEF STATEMENT OF FACTS | 3 - 4 |
| 3. | ISSUES FOR DETERMINATION | 5 |
| 4. | LEGAL ARGUMENTS | 5 - 28 |
| | A) ISSUE NO. 1 | 5 - 8 |
| | B) ISSUE NO. 2 | 8 - 22 |
| | C) ISSUE NO. 3 | 22 - 28 |
| 5. | CONCLUSION | 28 - 30 |
| 6. | LIST OF AUTHORITIES | 31 - 33 |

defendants via a writ of summons as the originating process as set out at pages 3-82 of the record of appeal.

- 2.2 The Respondent claimed reliefs as contained in paragraphs 29 (1) – (8) at pages 15-17 of the record.
- 2.3 The 1st Respondent was granted oil prospecting licence to OPL 245 on 29th April 1998. The said licence was revoked in 2001 and the 1st Respondent brought an action challenging the said revocation.
- 2.4 The suit was settled out of court leading to the re-grant of the OPL 245 to the 1st Respondent on 2nd July 2010.
- 2.5 While the 1st Respondent's licence to OPL 245 was valid and subsisting, the 2nd and 3rd Respondents surreptitiously entered into a "**BLOCK 245 RESOLUTION AGREEMENT**" dated 29th April 2011 to grant the licence to the same OPL 245 to the Appellant, the 4th and 5th Respondents'. The 1st Respondent was not a party to the said Agreement.
- 2.6 It is note worthy that despite acknowledging the valid and subsisting licence of the 1st Respondent to OPL 245 in the recitals to the said agreement, the 3rd Respondent as Minister for Petroleum Resources granted the licence to OPL 245 to the Appellant and the 5th Respondent on 11th May 2011; thus breaching their earlier contract over OPL 245 with the 1st Respondent and creating conflicts of the rights to OPL 245.
- 2.7 The breach was kept away from the knowledge of the 1st Respondent who later became aware of same and brought this suit to seek redress.
- 2.8 The Appellant filed a notice of preliminary objection to this suit which was contested by the 1st Respondent leading to the Honourable Court's ruling on 22/12/2021, which is the subject matter of this appeal.
- 2.9 **NOTE.** My Lords, the reliefs captured by the Appellant in paragraphs 9(a)-(h) at pages 5-7 of the Appellant's brief of argument are the reliefs contained in a proposed amended statement of claim which has neither been moved nor

granted. Those reliefs therefore are not the reliefs upon which the court considered and delivered its ruling appealed against.

The reliefs considered by the lower court in its ruling are in paragraph 29 (1) to (8) of the statement of claim at pages 15-16 of the record of appeal.

3. ISSUES FOR DETERMINATION.

The 1st Respondent hereby adopts the three (3) issues formulated by the Appellant as the issues for determination.

4. ARGUMENT ON ISSUES.

4.1 ISSUE NO.1

Whether the lower court failed to make a determination on the issues raised in the Appellant's preliminary objection and was therefore in breach the Appellant's right to fair hearing?

4.1.1 The Appellant's notice of preliminary objections at pages 149-153 raised three (3) issues each in the alternative.

4.1.2 My Lords, the Appellant raised three issues in its preliminary objection as follows:-

A) That the suit was statute barred pursuant to Section 2(a) of POPA; and

B) That the suit was an abuse of court process because:-

(i) It was not commenced by way of an application for judicial review.

(ii) That the persons who instituted this suit are neither Directors nor Shareholders of the 1st Respondent.

4.1.3 I refer my Lords to Grounds 1 and 4-7 of the grounds of appeal at pages 529; and 531 - 534 of the record and submit that they are complaints against the determination of the lower court on the issues contested by the Appellant

in the Preliminary Objection as to the suit being statute barred and/or an abuse of court process.

4.1.4 I humbly refer my Lords to the issues for determination formulated as issues 2 & 3 respectively and submit that they are arguments on the issues formulated from the said grounds 1 and 4 to 7 of the grounds of appeal against the court's decision.

4.1.5 **If as argued by the Appellant, the lower court denied it fair hearing by not reaching a decision or a determination on issues 2 and 3 argued from grounds 1 and 4 to 7 of the grounds of appeal, how then could the Appellant have filed grounds 1 and 4 to 7 of the grounds of appeal since there was no decision or determination of the court on those issues?**

My Lords, every ground of appeal must be a complaint against the decision of court. See the case of **INEC ANAMBRA STATE & ANOR vs. OKONKWO (2008) LPELR 4315 (CA) Per SANUSI, J.S.C (Pp. 13-14, para. B)**

"It is well settled law, that ground of appeal must challenge a decision a Court made pronouncement on or must be predicated upon what the Court decided but not on what it did not decide. See the case of Trustees, PAW Inc. vs. Trustees AACCC (supra); Akilu vs. Odutan (2000) 13 NWLR (Pt. 685) 446 at 461; Igbinovia vs. UBTH (2000) 8 NWLR (Pt.667) 53. This is even in keeping with the provisions of Section 318 (1) of the 1999 Constitution, which defines "decision".

4.1.6 It is humbly submitted that that the Appellant after filing an appeal as it did in grounds 1 and 4 to 7 of the grounds of appeal against the decision of the court, argued same as issues 2 & 3 in the Appellant's brief and then suddenly summersaulted to say that it was denied fair hearing because the court failed to determine those same issues on which it appealed and argued as issues 2 and 3.

My lords doing so, amounts to **approbating** and **reprobating** at the same time which the law deprecates and seriously abhor. A party cannot approbate and reprobate by

running with the hare and at the same time hunt the hounds as the English proverb will say.

See the cases of:-

- (i) **AJUWON & ANOR vs. GOV OF OYO STATE & ORS (2021) LPELR-55339 (SC) Per EKO JSC at PP.34-35 Para F thus:**

"Consistency is the rule of the game. A party is not allowed to approbate and reprobate on one issue: COMPTROLLER GENERAL OF CUSTOM & ORS v. GUSAU (2017) 4 SC (pt. II) 128; (2017) 18 NWLR (pt. 1598) 353 (SC)."

- (ii) **OLIYIDE & SONS LTD vs. O.A.U ILE-IFE (2018) LEPLR 43711 (SC) ."** Per OGUNBIYI ,J.S.C (Pp. 15 para. A thus:

"A litigant should not be allowed to speak at the same time or the same moment from the two sides of his mouth. He can only be allowed to speak from one side of the mouth at the same time or the same moment. He cannot make a case in his pleadings and suddenly change or reverse position to make a different case. A party cannot by his complete state of mind make an admission and later decide to change it by an amendment."

4.1.7 I most humbly urge my Lords to **hold** that to appeal against a decision on issues and then turn around to complain that the court failed to render a determination on those same issues amounts to approbating and reprobating at the same time as both are not consistent. I urge my Lords refuse the Appellant's argument the point that the court did not render a decision on the issues of the action being statute barred and abuse of court process.

4.1.8 I humbly draw my Lords attention to the indisputable fact that the defendants at the trial filed their respective notices

of preliminary objection which were all heard together and determined in a composite ruling.

4.1.9 The lower court specifically considered and reviewed the case and argument of the Appellant at **pages 519-524** of the record of appeal. The Lower Court went ahead to capture and itemize the issues in the respective preliminary objections most of which are similar at **pages 525 to 526** of the record.

4.1.10 The court having considered those issues concluded its decision at page 527 of the record in relation to the itemized issues as follows:-

“On the whole, I find that all the grounds of preliminary objection as filed by the different Defendants fail and are hereby struck out.”

4.1.11 With profound respect, I submit that there is no denial of fair hearing to the Appellant hence all the judicial decisions cited and relied upon by the Appellant on denial of fair hearing are inapplicable to this case and I urge my Lords, with respect, not to be guided thereby in reaching a determination on this appeal.

4.1.12 I humbly submit that the above quoted in paragraph 4.1.10 constitutes a **decision** on all the issues raised by all the parties in their respective preliminary objections under **Section 318** of the Constitution of the Federal Republic of Nigeria 1999 as amended. I humbly urge my Lords to so **hold** and to reject the Appellant’s argument on issue one.

4.2 **ISSUE NO. 2**

Whether the Lower Court erred when it failed to strike out the suit for being statute barred by virtue of Section 2(a) of the Public Officers Protection Act Cap.P41 LFN, 2004?

4.2.1 The Appellant’s notice of preliminary objection is at Pages 149-192 while the 1st Respondent’s counter affidavit in opposition to the said preliminary objection is at Pages 193-228 of the record of appeal.

4.2.2 The Appellant prayed for three (3) reliefs each in the alternative with the main relief being that the Lower Court lacked the jurisdiction to entertain the suit because same was statute barred by virtue of section 2(a) of the Public Officers Protection Act Cap. P41 LFN, 2004 (hereinafter referred to as "POPA").

4.2.3 I humbly refer my Lords to the originating process in this suit at Pages 3-71 of the records and in particular the reliefs claimed by the 1st Respondent in Paragraph 29(1) - (8) of the statement of claim at pages 15-17 of the records.

I humbly submit that in determining whether an action is statute barred, recourse must be made to the originating process to ascertain the nature of claim and when the cause of action arose. See the cases of:

(i) **A.G ADAMAWA STATE vs. A.G. FED (2015) AFWLR (Pt.797) 597 at 627 Paras F-H.**

(ii) **MILITARY ADMIN EKITI STATE vs. ALADEYELU (2007) AFWLR (Pt.369) 1195 at 1218-1219 Paras G-B**

4.2.4 My Lords, it is not in dispute that this suit was commenced outside the three (3) months limitation period provided for by Section 2(a) of POPA. **However**, it is very humbly submitted that the 3 months limitation period does not operate as an absolute bar which admits of no exceptions to that general rule.

A) Section 2(a) of POPA, does not offer an absolute blanket shield to public officers for the perpetuation of illegalities and injustices and therefore admits of judicially recognized circumstances when that limitation period becomes inapplicable to protect the Public Officer. See the case of:

DAUDU vs. SHELU (2019) AFWLR (Pt.998) 265 Per ADUMEIN JCA at PP.296-297 Paras A-A.

“... it is judicially settled that the protection under section 2(a) of the Public Officers Protection Law is not a blanket shield to be carried and used by public officers to blatantly indulge in illegalities and the perpetuation of injustice, whenever their ‘official’ acts are challenged in court. There are judicial checks and balances to the privilege granted by the Public Officers Protection Law, as demonstrated by decisions of the Supreme Court, some of which I will refer to *anon.*”

From the decisions of the Supreme Court, the protection granted to public officers by section 2(a) of the Public Officers Protection Act or Law is not absolute, because there are conditions for the ‘immunity’ or protection to be enjoyed by public officers. For example, for the protection to be enjoyed by any public officer, the public officer concerned must not have acted *mala fide* nor in flagrant abuse of his office, in the sense that the official act or conduct complained of has no semblance of legal justification or vindication. See *Alhaji Jibrin Bala Hassan v. Dr. Mu’azu Babangida Aliyu & 2 Ors* (2010) All FWLR (Pt.539) 1007, (2010) 17 NWLR (Pt.1223) 547 Per Onnoghen, JSC (as he was then) and *Felix Anozie v. Attorney-General of the Federal Republic of Nigeria & 4 Ors* (2008) 10 NWLR (Pt.1095) 278 at 290-291 per Bada JCA.

Also, where, from the plaintiff’s pleadings, the injury or damage complained of is continuous, the protection granted by section 2(a) of the Public Officers Protection Law will not avail a defendant. See *Attorney General of Rivers State v. Attorney-General of Bayelsa State & Anor* (2013) All AFWLR (Pt.699) 1087, (2013) 3 NWLR (Pt.1340) 123, (2012) LPELR 9336 Per GALADIMA, JSC and *Oba J. A. Aremo II v. S. F. Adekanye & 2 Ors* (2004) 13NWLR (Pt.891) 572 AT 593-594 Per EDOZIE, JSC.

In this case, the 12th, 13th and 14th respondents acted illegally by denying the 1st -11th

respondents/cross-respondents their right to be heard before the Chieftancy declaration in issue was made and registered. The 12th, 13th and 14th respondents' plea of the Public Officers Protection Law does not succeed."

B) I humbly submit and urge my Lords to **hold** that Public Officers are not protected by section 2(a) of POPA where the case involved is in respect of:-

- (i) Breach of contract;
- (ii) Where the act complained of constitutes an abuse of office or where the Public Officer acts outside the scope of his authority or without any semblance of legal justification;
- (iii) Where the act complained of constitutes an illegality or an offence.
- (iv) Where the case involves recovery of land or oil fields.
- (v) Where the act constitutes a continuous injury and in that case, time does not begin to run until after three (3) months of the cessation thereof. Section 2(a) POPA refers.

C) My Lords, for the above exceptions or circumstances in which actions against Public Officers are not limited to three months in protection of Public Officers under Section 2(a) of POPA, See the cases of:

- (i) **HASSAN vs. ALIYU & ORS (2010) LPELR 1357 (SC) Per ONNGHEN JSC (AHTW) at PP.22-24 Para F and Per ADEKEYE at PP.86-87 Para C.**
- (ii) **A.G RIVERS STATE vs. A.G. BAYELSA STATE (2013) AFWLR (Pt.699) 1087 at PP.1105 - 1106 Paras G-A; at P.1106 Para F and P.1107 Para A.**

- (iii) **OSUN STATE GOVT. vs. DANLAMI NIG. LTD (2007) LPELR 2817 (SC)**
- (iv) **CIL RISK & ASSET MANAGEMENT LTD vs. EKITI STATE (2020) LPELR 49565 Per PETER ODILI JSC at PP.57-60 Para A.**
- (v) **WEMA SECURITIES & FINANCE PLC vs. NIG. AGRICULTURAL INS. CORP. (2015) LPELR 24833 Per OYEWOLE JCA at PP.12-16 Paras F-A.**

4.2.5 I therefore urge my Lords to **hold** that Section 2(a) of POPA does not offer a complete or absolute blanket shield or protection to public officers and that there are judicially recognized exceptions to that protection as decided in the judicial authorities cited above amongst many others when actions can be commenced outside the three months limitation period.

4.2.6 My Lords, using the judicial guide in the decisions cited above, I will now address your Lordships on the fact that the instant suit is not statute barred in that it comes within the judicially recognized exceptions to the application and protection offered by section 2(a) of POPA seriatim.

4.2.7 **This action was over a breach of contract.**

4.2.8 The 1st Respondent was granted oil prospecting licence OPL 245 on 29th April 1998.

The said licence was revoked in 2001 leading to a litigation over the revocation and upon a settlement out of court, the licence OPL 245 was **re-granted** to the 1st Respondent by the 2nd Respondent in **July 2010**. See exhibit "D" to the 1st Respondent's counter affidavit at **P.206** of the record.

4.2.9 It is humbly submitted that the said re-grant of OPL 245 to the 1st Respondent in July 2010 constitutes a contract between the 1st Respondent and the 2nd Respondent in respect of the Oil fields covered by OPL 245.

The said re-grant in 2010 was never again revoked by the 2nd Respondent nor terminated by the 1st Respondent as required by law under the Petroleum Act and was therefore valid and subsisting. I urge my Lords to so hold.

4.2.10 By the said re-grant the 1st Respondent became entitled to the exclusive possession of the oil field of OPL 245 by virtue of the community provisions of section 2(3) of POPA and paragraph 5 of the 1st schedule to the Petroleum Act, 2004. I humbly urge my Lords to so hold.

4.2.11 In 2011, the 3rd Respondent in the performance of the contractual obligations of the 2nd Respondent in paragraph 1.2 of the BLOCK 245 RESOLUTION AGREEMENT (exhibit "E" to the counter affidavit of the 1st Respondent at PP.207 – 214 of the record) granted a new Licence of OPL 245 to the Appellant via a letter dated May 11, 2011 (See exhibit "F" to the counter affidavit at PP.215-216 of the records) while the earlier re-grant of the licence of OPL 245 to the 1st Respondent was still valid and subsisting.

4.2.12 It is humbly submitted that the subsequent grant of OPL 245 to the Appellant on 11th May, 2011 while the licence of the 1st Respondent was still valid and subsisting constitutes a **breach of the contract** between the 1st Respondent and the 2nd Respondent over OPL 245. I refer my Lords to the reliefs claimed by the 1st Respondent at paragraph 29 (1), (4)-(8) of the statement of claim of the 1st Respondent at PP. 15-17 of the record of appeal and submit that those reliefs were founded on the breach of contract over OPL 245.

4.2.13 I submit most humbly, that where an action such as this, is founded on the breach of contract, Section 2(a) of POPA does not apply to offer protection to a Public Officer or his co-defendants as the action is not statute barred.

See the cases of:

- (i) **OSUN STATE GOVT vs. DANLAMI NIG. LTD (2007) 9NWLR (Pt.1038) 66 or (2007) LPELR 2817 (SC).**

(ii) **WEMA SECURITIES & FINANCE PLC vs. NIG. AGRICULTURAL INS. CORP. (2015) LPELR 24833 Per OYEWOLE JCA at PP.12-16 Paras F-A.**

I humbly urge my Lords to hold that this case is over the breach of contract in respect of OPL 245 and section 2(a) of POPA does not apply to render this action statute barred in protection of the Appellant.

4.2.14 **This action was over a continuing injury.**

4.2.15 My Lords, by the grant of the licence to OPL 245 to the Appellant by the 3rd Respondent on **11th May, 2011** while the re-grant of the same OPL 245 in favour of the 1st Respondent on **2nd July, 2010** was still valid and subsisting, the 2nd Respondent created two concurrent rights of exclusive possession to OPL 245 in favour of both the 1st Respondent and the Appellant over the same Oil field of OPL 245.

I humbly urge my Lords to so **hold** having regard to the community reading of Section 2(3) of the Petroleum Act and Paragraph 5 of the 1st Schedule to the Petroleum Act Cap. P.10 LFN, 2004.

4.2.16 My Lords, exclusive possession as defined in the case of **OYENIRAN & ORS vs. EGBETOLA & ANOR (1997) LPELR 2876 (SC) Per MOHAMMED JSC at P.19 Paras D-E** means:-

"The word "exclusive" has been defined in Webster's New Twentieth Century Dictionary thus: "Excluding all others, shutting out other considerations, not shared or divided; sole; single; as an exclusive right."

4.2.17 My Lords, the law does not permit or admit of exclusive concurrent possession of the same oilfield of OPL 245 in favour of the 1st Respondent and the Appellant. See the case of **ADETONO & ANOR vs. ZENITH INTL. BANK PLC (2011) LPELR 8237 (SC) Per NGWUTA JSC at P.41 Para C-D** where it was held that:

“In view of the fact that law does not permit concurrent possession of the same piece of land by two persons who claim adversely to each other, who was in exclusive possession and, ipso facto, entitled to sue for trespass to the property in question at the material time? It is the person who was in exclusive possession, or entitled to the right of possession in respect of the property.”

I humbly so urge my Lords to hold.

4.2.18 My Lords, it is not in dispute between the parties that the 1st Respondent’s grant of OPL 245 on 2nd July 2010 precedes the grant of the same oilfield to the Appellant on 11th May 2011.

I urge my Lords to hold that the 1st Respondent who had prior right of exclusive possession since July 2010 and whose title was still valid and subsisting at the time of the grant to the Appellant of OPL 245 has better title to the oilfield of OPL 245.

4.2.19 I urge my Lords to hold that the subsequent grant of OPL 245 to the Appellant in 2011 constitutes an infraction on the exclusive possessory right of the 1st Respondent to the oilfields of OPL 245 and to further hold that the subsequent grant of the same OPL 245 to the Appellant was an act of continuing trespass since the grant to the Appellant had not been revoked at the time of instituting this action on 17th March 2017. See the cases of **CONFITRUST NIG. LTD vs. EMMAX MOTORS LTD & ORS (2016) LPELR 41428 (CA)** Per **GEORGEWILL JCA** at 38-39 Para C.

“Once exclusive possession is proved, even the slightest disturbance with it by another without a better title to the land would suffice to constitute trespass to the land. Thus where two parties, as in the instant appeal the Appellant and the 8th Respondent, claim to be in possession of land in dispute, the law ascribes possession to the party with the better title and similarly where rival titles are being relied upon by rival claimants, the party with a better title is entitled to succeed. Thus, if there be dispute as to which of two

persons is in possession, the presumption is that the person having the better title to the land is in lawful possession. See *Oyadare V. Chief Keji* (supra) @ p. 571. See also *Bennet UdeAgu V. Ozo Moses Nnadi* ((1999) 2 NWLR (Pt. 559) 131. See *Ojomo V. Olaide Ibrahim* (1999) 12 NWLR (Pt. 631) 415. See also *Solomon V. Mogaji* (1982)11 SC 1.”

Also the case of *LAWSON vs. AJIBULU* (1977) LPELR 1766 (SC) Per ADIO JSC at P.56 Para A.

“It is also the law that two persons adversely claiming against each other cannot be in possession of the same land at the same time. See *Amakor's case*, supra. If there is a dispute on the question of who out of two or more persons is in possession of a parcel of land, the person who is shown to be the owner thereof is deemed to be in possession. See: *Balogun v. Labiran* (1988) 3 NWLR (Pt. 80) 66”

I urge my Lords to hold that the 1st Respondent has better title to lawful exclusive possession to the oilfields of OPL 245.

4.2.20 The subsequent grant of OPL 245 Licence to the Appellant in 2011 was never revoked nor terminated at the time the 1st Respondent instituted this action on 17th March 2017. I urge my Lords to **hold** that the said subsequent grant of OPL 245 to the Appellants which has not been revoked constitutes a continuous act of trespass on the exclusive possessory right of the 1st Respondent to OPL 245 and that the cause of action against the Appellants did not expire by the effluxion of the three (3) months statutory limitation period **until** three (3) months after the cessation of the continuous acts of trespass aforesaid. See Section 2(a) (POPA Cap. P.41 LFN 2004) and the case of *MIMASA & ANOR vs. HENSMOR NIG. LTD* (2014) LPELR 22462 Per *IYIZOBA JCA* at P.30 Paras A-F thus:

4.2.21 My Lords, where there is a continuous act of trespass or injury such as in this case, Section 2(a) of POPA does not offer any protection to the Public Officer as to the suit

becoming statute barred until after the effluxion of three months from the cessation of the act of continuous trespass. See on this submission the cases of:

- (i) **A.G RIVERS STATE vs. A.G. BAYELSA STATE (2013) AFWLR (Pt.699) 1087 Per GALADIMA JSC at PP.1105 - 1106 Paras G-A** where the apex court held that:-

“The Act is intended as much as within the limits of the law to protect a public officer from distraction and unnecessary litigation but never intended to deprive a party capacity to ventilate his grievance on the face of stark injustice. That is why, where officers or heads of agencies of the federation or state are protected, two most important exceptions prescribed by the Act. Firstly, in cases of continuous of damage or injury, the Act permits actions to be brought on the cessation thereof outside three months.”

- (ii) **AREMO II vs. ADEKANYE (2004) ADWLR (Pt.224) 2113 at 2132** where the court stated what constitutes **“continuing damage or injury”** thus:

“Admittedly, legal principles are not always inflexible. Sometimes they admit of certain exceptions. The law of limitation of action recognizes some exceptions. Thus, where there has been a continuance of the damage, a fresh cause of action arises from time to time, as often as damage is caused: *Battishill v. Reed* (1856) 18 CB 696 at 714. For example, if the owner or mines works them and causes damage to the surface more than six years before action, and within six years of action a fresh subsidence causing damage occurs without any fresh working by the owner, an action in respect of the fresh damage is not barred as the fresh subsidence resulting in injury gives a fresh cause of action.”

I urge my Lords to **hold** that this action instituted while the continuous trespass was still on is not statute barred under Section 2(a) of POPA and is therefore not available in protection of the Appellant.

4.2.22 **This suit is against the action of the Public Officer which is an illegality or an offence.**

4.2.23 My Lords, paragraph 5 of the 1st schedule to the Petroleum Act gives the 1st Respondent exclusive possessory rights to OPL 245. The said paragraph 5 provides thus:

“5 - The holder of an oil prospecting licence shall have the exclusive rights to explore and prospect for petroleum within the area of his licence.”

4.2.24 I humbly submit that the subsequent grant of OPL 245 to the Appellant on 11th May, 2011 during the subsistence of the 1st Respondents licence OPL 245 constitutes **an interference or illegal obstruction** to the prior exclusive possessory rights of the 1st Respondent and is therefore, a **punishable offence** or an illegality pursuant to **Section 13 (1)** of the Petroleum Act which provides that:

S.13 (1) Any person who interferes with or obstructs the holder of a licence or lease granted under Section 2 of this Act (or his servants or agents) in the exercise of any rights, power or liberty conferred by the licence or lease shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦200 or to imprisonment for a period not exceeding six months, or to both.

4.2.25 I humbly submit that the act of interfering with or obstructing the prior exclusive possessory rights of the 1st Respondent to the oilfields of OPL 245 by the subsequent grant of the same OPL 245 to the Appellant in May 2011 is **an offence punishable with a fine not exceeding ₦200 or imprisonment for a period not exceeding six months or both** under Section 13(1) of the Petroleum Act Cap. P.10 LFN, 2004 and is **not** an act of public duty that is protected by Section 2(a) of POPA.

4.2.26 My Lords, it will amount to incentivizing dishonesty in service by encouraging public officers to violate public trust at the expense of national good and public morality by committing illegal acts and yet enjoy the protection of law under Section 2(a) of POPA.

A) I humbly submit that the Appellant cannot enjoy the protection of POPA over the illegal acts of the 3rd Respondent in the subsequent grant of OPL 245 to the Appellant which constitutes an interference or obstruction to the 1st Respondent's prior exclusive possessory right in violation of Section 13 (1) of POPA.

See the cases of:-

- (i) **SANI vs. PRESIDENT F.R.N & ANOR (2020) LPELR 509090 Per NWEZE JSC at PP.6-12 Para B.**
- (ii) **KWARA STATE PILGRIMS WELFARE BOARD vs. JIMOH BABA (2018) LPELR 43912 (SC) Per BAGE JSC at PP. 12-20 Paras D-E where it was pointedly held that:**

“.....It is not, and cannot be the intention of the law to compensate dishonest public officers with statutory protection that defeats the essence of probity in public service. The question is, would it have been the intention of the Public Officers Protection Law to offer a shield and protect public officers found to have violated public trust? The answer again is certainly NO. Doing otherwise would amount to incentivising dishonesty in public service by encouraging potential violators of public trust to benefit and reap the evil fruits of their dishonest behaviour at the expense of national good and public morality. This should never be allowed to happen.....No law

worth even the piece of papers on which it is printed, if it dignifies corrupt and untrustworthy public servants with statutory protection for committing offences, misconduct and infraction of public interest, good conscience and morality.”

4.2.27 See also the case of AWOLOLA vs. GOV. OF EKITI STATE Per EKO JSC at PP.47-50 Paras B-E where the apex court held that:-

“The question that readily comes to mind is whether any public officer has any public duty or authority to break the laws of the realm? No such duty or right inheres in the Public Officer to break the law. As law breaking or insubordination to the letters and spirit of the law is not a function delegated to the public officer by law, therefore a public officer who breaks the law with impunity cannot be said to be executing the law or intending to execute the law by his malfeasant act of breaking the letters and spirit of the law or statute that he is entrusted to execute. Doing an act in pursuance of a law means, in my view; doing the act in the spirit or within the intent of the law. The verb: execute is synonymous with accomplish, carry out, effect, perform, administer, enforce: Geddes & Grosset - English Thesaurus. Accordingly, if the public officer, whose duty it is to enforce the law, in order to accomplish its legislative intent, sets out deliberately to do the opposite by sheer act of malevolence or malfeasance; by his impunity he has thereby stepped himself out of the protective scope of the Public Officers (Protection) Law, or the Public Officers (Protection) Act.”

(Underling mine for emphasis)

See further the case of: U.I vs. GOVT OF KWARA STATE (2012) LPELR 14326 (CA) Per AGUBE JCA at PP.91-95 Paras E-A.

4.2.28 **This action was for the recovery of the oilfield of OPL 245.**

4.2.29 I humbly refer my Lords to reliefs claimed by the 1st Respondent in paragraphs 29(1), (4), (6), (7) and (8) at pages 16-17 of the record of appeal and submit that the said reliefs are reliefs for the recovery of the oilfields covered by OPL 245 from the Appellant and the 2nd to 5th Respondents.

4.2.30 I humbly submit that where, as in this case the suit concerns the recovery of land or oilfields, the Appellant cannot claim the protection of Section 2(a) of POPA. See the cases of:

- (i) **A.G. RIVERS STATE vs. A.G. BAYELSA STATE (2013) AFWLR (Supra) at PP.1107 Paras A-B** where the court held that:-

“Again, the plaintiff argues that the protection afforded Public Officers under the Act does not apply in cases of recovery of land. I have noted however, that the Plaintiff’s action is related to recovery of land. The claim, particularly, of Oil Wells or Fields are in issue, as well as the revenue therefrom.

In view of the foregoing and for the fact that the Plaintiff is mostly seeking for declaratory reliefs having to do with the claim of entitlement to derivative funds from the disputed Oil Fields, which have fallen due and which they complained have not been paid, the Act cannot be invoked to defeat the grant of such reliefs. ”

- (ii) **CIL RISK ASSET MANAGEMENT LTD. vs. EKITI STATE (2020) LPELR 49565 (SC) Per PETER-ODILI JSC at P.55 Para A** where the apex court held that:

“Indeed, Section 2 (a) of the Public Officers Protection Act is inapplicable to the case in hand, because the matter under discourse and review pertains to land which is an exception to the

applicability of that provision. In this regard, I place reliance on the decision of this noble Court in *Mulima v Usman* (2014) 16 NWLR (Pt.1432) 160 at 212, paras. C - E, wherein it was held that:-

"Section 2 (a) of the Public Officers Protection Act does not apply in cases of recovery of land." Similarly, in *A. G. Rivers State v A. G., Bayelsa State* (2013) 3 NWLR (Pt.1340) 123 at 150, this Honourable Court held thus: "The protection afforded public officers under the Public Officers (Protection) Act does not apply in cases of recovery of land..."

4.2.31 By the premise of the arguments hereinabove, I most humbly urge my Lords to refuse the arguments of the Appellant on issue 2 and to dismiss this appeal.

4.3 **ISSUE NO.3**

Whether the lower court erred when it failed to strike out the suit as an abuse of court process.

4.3.1 The gist of the Appellant's complaint in issue 3 is that the trial court ought to have struck out this suit for not having been commenced by way of an application for judicial review and that is an abuse of court process.

The alleged abuse is premised on two grounds as argued hereafter.

A) That the suit ought to have been commenced against the 3rd Respondent by way of application for judicial review under Order 34 of the Federal High Court Civil Procedure Rules 2009.

4.3.2 **Failure to commence action by way of judicial review.**

4.3.3 It is humbly submitted that this action was rightly commenced by way of writ of summons pursuant to Order 3 Rules 1, 2 and 3 of the Federal High Court Civil

Procedure Rules, 2009 hereinafter referred to as “**the Rules of Court.**” See pages 3 – 82 of the record for the Originating Process.

4.3.4 Order 34 of the Rules of Court 2009 provide for applications for judicial review in two respects viz:

- (i) In Order 34 Rule 1(1) of the Rules of Court, where the action is the case for an injunction to restrain “**a person from acting in any office in which he is not entitled to act, it shall be made by way of an application for judicial review....**”

It is humbly submitted that this suit did not seek any injunctive relief to restrain the 3rd Respondent from acting in the office of the Honourable Minister so as to require the 1st Respondent to have mandatorily commenced this suit by way of an application for judicial review. I humbly urge my Lords to so hold.

- (ii) It is humbly submitted my Lords that Order 34 Rule 1(2) of the Rules of Court 2009 provides that “**An application for declaration or injunction (not being an injunction in rule (1) (b) of this rule) may be made by way of an application for judicial review....**”

4.3.5 I humbly draw my Lords kind attention to the use of the word “**may**” in Order 34 Rule 1(2) and submit that the use of the word “**may**” therein gives the 1st Respondent the **option** or **election** to commence this suit either by way of a writ of summons or by way of an application for judicial review. I refer my Lord to the case of **EDEWOR vs. EWEGBA & ORS (1987) LPELR 1009 (SC) Per NNAMANI JSC at PP.45-46 Para B** where the word “**May**” was held to be permissive and not mandatory as follows:-

“Generally the word 'may' always means 'may'. It has long been settled that may is a permissive or enabling expression. In Messy v. Council of the Municipality of Yass (1922) 22 S.R.N.S.W. 494 per Cullen, C.J at pp.497, 498 it was held that the use of the word 'may' prima

facie conveys that the authority which has power to do such an act has an option either to do it or not to do it. See also Cotton, L.J. in *Re Daker, Michell v. Baker* (1800) 44 CH.D 282. But it has been conceded that the word may acquire a mandatory meaning from the context in which it is used. See *Johnson's Tyre Foundry Pty Ltd. v. Shire of Maffra* (1949) A.L.R. 88. The word may also acquires a mandatory meaning from the circumstances in which it is used. Most of the cases in which the word 'may' has a mandatory meaning relate to cases in which they are used in penal statutes conferring powers to Courts. In *Re Baker* (Supra) Cotton L.J. said - "I think great misconception is caused by saying that in some cases "may" means must. It never can mean (must) so long as the English language retains its meaning; but it gives a power, and then it may be a question in what cases where a Judge has a power given him by the word 'may', it becomes his duty to exercise it". In *Over v. Felton* (1966) A.L.R. 1088 Jenkyn, J. said that "it lies upon those who contend that an obligation exists to exercise that power to show in the circumstances of the case something which according to the above principles, creates that obligation."

- 4.3.6 I humbly refer my Lords to Order 3 Rule 2 (a) (i) (ii) and (c) of the Rules of Court and the reliefs claimed in this suit and submit that the 1st Respondent was entitled to commence this suit by the way of writ of summons as it did.
- 4.3.7 My Lords, I submit that under Order 3 and Order 34 of the Rules of Court, it is not the law that suits which contain declaratory and injunctive reliefs must and can only be commenced by way of an application for judicial review. I further submit that the 1st Respondent was entitled under the Rules of Court hereinabove referred to have commenced this action by way of Writ of Summons or by way of Judicial Review. I humbly urge my Lords to so hold.

4.3.8 It is submitted that where the law allows **two options** for a party to ventilate his grouse in court, his decision to harness or elect one of those options cannot constitute an abuse of court process. See the cases of:

- (i) **OJUKERE vs. OYEBANJI (2017) LPELR 42718 (CA) Per OGBUINYA JCA at PP.16-19 Paras F-C.**

- (ii) **INRE-BANKAY NIG. LTD. vs. CADBURY NIG. PLC (2012) LPELR 7820 (SC) Per PETER-ODILI JSC at PP.37-38 Paras F-D** where the apex court held that:

"It is now trite law that where a party is by law given the option or discretion to exercise his right in different ways it is not for an opponent to prescribe the particular form the other party should utilize and where the form adopted by the other party is not what the opponent feels is the right course, then automatically an abuse of court process would be said to have taken place. There were options open to the respondent to tackle the scenario before him and he cannot be confined to the only choice of a counter claim to the appellant's counter claim to ventilate his own grouse or grievance even though at the base is the same contract or facts since he had the alternative of bringing a fresh action so that all that he needs say would be brought to the fore. He had that right and he was at liberty to take it and did so. I have therefore no difficulty in flowing along with what the court of Appeal did as I see no error in their decision in upholding that the fresh action filed by the respondent was in order and the integrity of the court was not jeopardized. I refer to the case of Saraki v. Kotoye (1992) 9 NWLR (pt.264) 156 at 170."

I urge my Lords, most humbly, to hold that is not the province of the Appellants to prescribe for the 1st Respondent the process by which it should have commenced this suit either by way of an application for judicial review or by way of Writ of Summons. I urge my Lords to reject the Appellant's argument on this point.

4.3.9 **Whether the 1st Respondent was legally competent to have commenced thi suit.**

4.3.10 The second leg of the argument of the Appellant is that this suit was commenced on behalf of persons who are neither Directors nor Shareholders of the 1st Respondent.

4.3.11 My Lords, the above complaint is not, *stricto sensu* a complaint of an abuse of court process but a challenge as to the legal competence of the 1st Respondent to bring this action in its name as it did. I humbly urge my Lords to so **hold**.

4.3.12 I refer my Lords to the argument of the Appellants in paragraphs 53-55 of the Appellant's brief of argument and humbly submit that the Appellant is complaining of an abuse of court process arising from multiplicity of suits as between this suit and suit no.FHC/ABJ/206/2017. See paragraphs 4 and 5 of the affidavit in support of the Notice of Preliminary objection at page 155 of the record and exhibit "AO1" thereto at pages 162-176 of the record of appeal.

4.3.13 With due respect, I find very strange the submission of the Appellant at paragraph 56 of the Appellant's brief to the effect that **"the status of the persons who purportedly instituted this instant suit before the lower court are not persons authorized to commence same on behalf of the 1st Respondent"**.

This suit as manifest from the record of appeal was not instituted by any **"persons"** on behalf of the 1st Respondent but by the 1st Respondent; a corporate person in its own corporate name as it is entitled to under Section 37 of Company and Allied Matters Act 2004.

See the cases of:

- (i) **ATLANTIC DAWN LTD. vs. G.NET COMMUNICATION (2019) LPELR 47772 (CA) Per YAHAYA JCA at PP.35-40 Paras C-E.**

"It is trite that a company upon registration, becomes a legal person distinct and separate from its members. This principle has been emphasized in the case of SALOMON V. SALOMON (SUPRA). See also TSOKWA OIL &MKT V. U.T.C (NIG) PLC (2002) 12 NWLR (PT. 782) 468; S.T.B PLC V. OLUSOLA (2008) 1 NWLR (PT 1069) 561. The Companies and Allied Matters Act has also given effect to the same principle in Section 37. Section 37 provides: As from the date of incorporation mentioned in the certificate of incorporation, the subscriber of the memorandum together with such other persons as may; from time to time, become members of the company, shall be a body corporate by the name contained in the memorandum, capable forthwith of exercising all the powers and functions of an incorporated company including the power to hold land, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is mentioned in the Act. It therefore follows that an incorporated company is an entirely different and distinct entity from its managing director or human agents who act for it. See AFRIBANK (NIG) LTD V. M. ENT (2008) 12 NWLR (PT 1098) 223; OKATTA V. REGISTERED TRUSTEES, O.S.C (2008) 13 NWLR (PT 1105) 632."

- (ii) In the case of **OCTOPUS INVESTMENT AND FINANCE CO. LTD vs. SUNIL S. VASWANI & 2ORS (2015) All FWLR (Pt.806) at P 402-403 Paras G-A OBASEKI JCA** in establishing the principle of the effect of incorporation of a company, cited **NEW NIGERIAN NEWSPAPERS LTD. vs. OLAYINKA AGBOMABINI (2013 LPELR-20741 (CA) Per ABIRU JCA** thus:

“The concept of corporate personality which has become firmly established since the decision of the English House of Lords in the celebrated case of SALOMON vs. SALOMON CO. LTD (1897) AC 22 from means that once a company is incorporated under the relevant laws, it becomes a separate person from the individuals who are its members. The company has capacity to enjoy legal rights and is subjected to legal duties which do not coincide with that of its members. Such company is said to have legal personality and is always referred to as “artificial person” and it can sue and be sued in its own name. it owns property in its own rights and its asset, liabilities, rights and obligation are distinct from that of its members.”

4.3.14 I refer my Lords to paragraphs 57-63 of the Appellant’s brief and submit that the instant suit was not instituted in the name of the Directors nor Shareholders of the 1st Respondent to be affected by the suit No.FHC/ABJ/206/2017 which has different parties and reliefs so as to constitute an abuse of court process in any form.

4.3.15 I humbly urge my Lords to reject the Appellant’s argument on issue 3 and to dismiss this appeal.

5. CONCLUSION

My Lords, by the premise of the submissions and the judicial and statutory authorities cited hereinabove, I most humbly urge my lords to

dismiss this appeal in its entirety and to affirm the decision of the lower court delivered on 22nd December, 2021.

DATED THIS 27TH DAY OF JUNE, 2022.



J. A. ACHIMUGU ESQ. ✓
OLANIKE DARE ESQ.
ACHIMUGU JOHN ACHIMUGU ESQ.
YAWURYI B. ABIRIYI ESQ.
JOEL PAUL MUSA ESQ.
(Counsel for 1st Respondent)

J. A. ACHIMUGU & CO.

c/o (Dr.) R.O ATABO

R.O ATABO & CO.

1ST Floor City Plaza

No. Rukuba Close

Off Muhammed Buhari Way

Garki II, Abuja.

TEL: 08034509704

Email: achimugulegalconsults@gmail.com

achimugulawfirm@Nigerianbar.ng

FOR SERVICE ON:

1. APPELLANT

c/o Its Counsel

BABATUNDE FAGBOHUNLU SAN

CHUKWUKA IKWUAZOM SAN

OLADIMEJI OJO

INYENE UKO ROBERT

IFE OMOTOLA

(Appellant's Counsel)

ALUKO & OYEBODE

Afri-Investment House

2nd Floor, Right Wing

Plot 2669 Aguiyi Ironsi Street,

Maitama FCT, Abuja.

Phone: 08163482544; 08107251105.

Email: aodisputes@aluko-oyebode.com

chukwuka.ikwuazom@nigerianbar.ng

chukwu.ikwuazom@aluko-oyebode.com

2. **2nd & 3rd RESPONDENT**

The Federal Government of Nigeria
c/o The Federal Attorney General of the
Federation and Minister of Justice,
Federal Ministry of Justice,
Shehu Shagari Way
Maitama, Abuja.

3. **4th & 5th RESPONDENT**

Shell Nigerian Ultra-Deep Limited
Shell Nigeria Exploration and Production Company Ltd
c/o its Counsel
Olaniwun Ajayi LP
Leadway House
4th Floor, Pilot 1601
Herbert Macaulay Way
Wuse II, Abuja.

4. **6th RESPONDENT**

Chief Dan Etete
No.12 River Kobani Close
Maitama, Abuja.

LIST OF AUTHORITIES CITED.

1. **INEC ANAMBRA STATE & ANOR vs. OKONKWO (2008) LPELR 4315 (CA) Per SANUSI, J.S.C Pp. 13-14, para. B.**
2. **AJUWON & ANOR vs. GOV OF OYO STATE & ORS (2021) LPELR-55339 (SC) Per EKO JSC at PP.34-35 Para F.**
3. **OLIYIDE & SONS LTD vs. O.A.U ILE-IFE (2018) LEPLR 43711 (SC) Per OGUNBIYI, J.S.C (Pp. 15 para. A.**
4. **A.G ADAMAWA STATE vs. A.G. FED (2015) AFWLR (Pt.797) 597 at 627 Paras F-H.**
5. **MILITARY ADMIN EKITI STATE vs. ALADEYELU (2007) AFWLR (Pt.369) 1195 at 1218-1219 Paras G-B.**
6. **DAUDU vs. SHELU (2019) AFWLR (Pt.998) 265 Per ADUMEIN JCA at PP.296-297 Paras A-A.**
7. **HASSAN vs. ALIYU & ORS (2010) LPELR 1357 (SC) Per ONNGHEN JSC (AHTW) at PP.22-24 Para F and Per ADEKEYE at PP.86-87 Para C.**
8. **A.G RIVERS STATE vs. A.G. BAYELSA STATE (2013) AFWLR (Pt.699) 1087 at PP.1105 - 1106 Paras G-A; at P.1106 Para F and P.1107 Para A.**
9. **OSUN STATE GOVT. vs. DANLAMI NIG. LTD (2007) LPELR 2817 (SC)**
10. **CIL RISK & ASSET MANAGEMENT LTD vs. EKITI STATE (2020) LPELR 49565 Per PETER ODILI JSC at PP.57-60 Para A.**
11. **WEMA SECURITIES & FINANCE PLC vs. NIG. AGRICULTURAL INS. CORP. (2015) LPELR 24833 Per OYEWOLE JCA at PP.12-16 Paras F-A.**
12. **OSUN STATE GOVT vs. DANLAMI NIG. LTD (2007) 9NWLR (Pt.1038) 66 or (2007) LPELR 2817 (SC).**

13. **OYENIRAN & ORS vs. EGBETOLA & ANOR (1997) LPELR 2876 (SC) Per MOHAMMED JSC at P.19 Paras D-E.**
14. **ADETONO & ANOR vs. ZENITH INTL. BANK PLC (2011) LPELR 8237 (SC) Per NGWUTA JSC at P.41 Para C-D.**
15. **CONFITRUST NIG. LTD vs. EMMAX MOTORS LTD & ORS (2016) LPELR 41428 (CA) Per GEORGEWILL JCA at 38-39 Para C.**
16. **LAWSON vs. AJIBULU (1977) LPELR 1766 (SC) Per ADIO JSC at P.56 Para A.**
17. **MIMASA & ANOR vs. HENSMOR NIG. LTD (2014) LPELR 22462 Per IYIZOBA JCA at P.30 Paras A-F.**
18. **A.G RIVERS STATE vs. A.G. BAYELSA STATE (2013) AFWLR (Pt.699) 1087 Per GALADIMA JSC at PP.1105 - 1106 Paras G-A.**
19. **AREMO II vs. ADEKANYE (2004) AFWLR (Pt.224) 2113 at 2132.**
20. **SANI vs. PRESIDENT F.R.N & ANOR (2020) LPELR 509090 Per NWEZE JSC at PP.6-12 Para B.**
21. **KWARA STATE PILGRIMS WELFARE BOARD vs. JIMOH BABA (2018) LPELR 43912 (SC) Per BAGE JSC at PP. 12-20 Paras D-E.**
22. **AWOLOLA vs. GOV. OF EKITI STATE Per EKO JSC at PP.47-50 Paras B-E.**
23. **U.I vs. GOVT OF KWARA STATE (2012) LPELR 14326 (CA) Per AGUBE JCA at PP.91-95 Paras E-A.**
24. **A.G. RIVERS STATE vs. A.G. BAYELSA STATE (2013) AFWLR (Supra) at PP.1107 Paras A-B.**
25. **CIL RISK ASSET MANAGEMENT LTD. vs. EKITI STATE (2020) LPELR 49565 (SC) Per PETER-ODILI JSC at P.55 Para A.**
26. **EDEWOR vs. EWEGBA & ORS (1987) LPELR 1009 (SC) Per NNAMANI JSC at PP.45-46 Para B.**

27. **OJUKERE vs. OYEBANJI (2017) LPELR 42718 (CA) Per OGBUINYA JCA at PP.16-19 Paras F-C.**
28. **INRE-BANKAY NIG. LTD. vs. CADBURY NIG. PLC (2012) LPELR 7820 (SC) Per PETER-ODILI JSC at PP.37-38 Paras F-D.**
29. **ATLANTIC DAWN LTD. vs. G.NET COMMUNICATION (2019) LPELR 47772 (CA) Per YAHAYA JCA at PP.35-40 Paras C-E.**
30. **OCTOPUS INVESTMENT AND FINANCE CO. LTD vs. SUNIL S. VASWANI & 2ORS (2015) All FWLR (Pt.806) at P 402-403 Paras G-A OBASEKI JCA.**
31. **NEW NIGERIAN NEWSPAPERS LTD. vs. OLAYINKA AGBOMABINI (2013 LPELR-20741 (CA) Per ABIRU JCA.**