CHAPTER EIGHT

DIVISIONS

PROGRESS OF THE COURT

In 1977, the Court started with divisions in Lagos, Kaduna, and Enugu. Then, th maximum number of Justices in each division, except Lagos, was about four. Th quorum was three under the Constitution. The inaugural sitting took place in Lago on February 21, 1977 with thirteen Justices. Next was Kaduna on March 15, 1977 an Enugu on March 24, in the same year. In June 1977 Ibadan and Benin divisions wer established. Jos division emerged in January 1983, Port Harcourt in July 1989 and Abuj in 1996. In February 1999, two new divisions were established at Ilorin and Calaba Sokoto division came into being on May 19, 2009; Owerri division on November 5 o the same year. In 2010, Yola division was inaugurated on November 9, Ekiti division o October 4, Akure division on October 18 and Makurdi division on 14th March 201 thus bringing the number divisions to 16.

The Court has impacted notably on the nation at large. With the creation of state throwing up more issues for legal interpretations and clarifications, the Court of Appea had to expand. This development can be seen in the continuous expansion in the numbe of court divisions. What started from a small three bedroom bungalow in Lagos, now boasts of many buildings across the country. Litigants and counsel do not have to trave far to have their cases heard. It is now easy for them to file appeals and argue their cases It is also cheaper and more convenient for everybody because when there were only three divisions of the Court, there was too much work for each division. There were times when the entire Court in one location would have to move to assist other states where there was no Court of Appeal. The costs and inconveniences ceased when more divisions of the Court were created.

"In terms of appeals, having the Court near the people is good," said Justice Akanbi

> *"Sometimes, the lower courts, when they know it will take time to appeal, do not handle cases thoroughly. Many do not use the opportunity to appeal as they do not have the money, but now the lower courts know there is a Court overseeing their activities they take action."*

In the course of initial expansion, the Court faced the problem of accommodation The incumbent President of the Court, Justice I. A. Salami pointed out that it had been the practice that when a dDivision was to be created, the host state was relied upon to provide the court hall, judges' quarters, and other accommodation for staff.

> *"The arrangement was not satisfactory because the States gave what they had. When Jos was created, we had a lot of problems with accommodation. The Justices had to stay in a hotel for many months before renting houses eventually. All that has now changed because finances have improved with the creation of the National Judicial Council."*[2]

To make expansion easier, the past President of the Court, Justice Umaru Abdullahi worked on the provision of accommodation owned by the Court, not borrowed housing. Eventually, those properties that were borrowed during General Obasanjo's first coming as President of Nigeria and Head of State in 1976 - 1979, were all paid for.

The other significant thing about the expansion of the Court, according to Justice M. Kekere-Ekun, is that a Justice gets integrated with the land and her people.

> *"I have found that it helps one to know the country because the Court sits in fifteen divisions. I've also found that the subject matter of the cases in the different divisions depends on what is important to the people in that particular area. So, it means that you learn different aspects of the law and you come to understand Nigerians better."*[3]

CREATION OF MORE DIVISIONS

The creation of more divisions of the Court in several states has given citizens in these locations and environs swift access to the Court. There has been improvement in the legal process. For justice to be meaningful and its impact to be better felt by the litigants, it must, by policy be brought nearer home. The economic conditions are very hard on people and the cost of securing their constitutional rights has become very high and unbearable. In explaining why there is a need for even more divisions of the court, Justice Abdullahi pointed out that before the creation of Yola division in 2010, a look at North-Eastern Nigeria showed that there were nine states all coming to the Court of Appeal Jos.

> *"Imagine how far Jalingo is from Jos, as well as Adamawa, Borno, Damaturu. All had to come to Jos. It was simply impossible. So to be fair to them, we had to take the Court to the doors of the people of this zone, as well as others. They still need a division in Borno."*[4]

The Sokoto division was created because of the challenge in distance to the Court of Appeal Kaduna. Kaduna division serves about seven states including Kaduna, Katsina, Kano, Jigawa, Zamfara, Sokoto, Kebbi. Litigants and their counsel had to travel from far away Sokoto to Kaduna to pursue their appeals. A lot of them probably gave up their rights when they thought about the distance between Sokoto and Kaduna. If they eventually came, appeals may not be heard, because one of the lawyers might not be around, and the matter would be adjourned. This person who travelled all the way had to consider the transportation costs, accommodation and the possible danger on the road or air. This situation made it compelling for additional divisions be created.

In the South-West, there is also a heavy load of work. Prior to the creation of the

division at Akure, Ondo State, appeals went to the Court of Appeal Benin. The ne division in Ekiti has also eased the pressure on Ilorin and Ibadan division which used t serve Osun, Ogun and Oyo. The Eastern states have already got some respite with th creation of Owerri division.

Justice Abdullahi explains:

> *"Setting up a division of the Court is very capital intensive as it's not just a Court of one or two chambers. You need to cater for at least five senior Judges, their accommodation, the Courts they have to use, their chambers which has to be five, six or even seven. This is not an easy feat, but it can be done. The Court of Appeal will be able to make progress with the support of the government and the National Assembly."*[5]

Yet, the clamour for creation of new divisions in all 36 states has not in any way abate Some of the reasons given for this development include:

1. Improvement on the administration of the Court.
2. The need to regionalize the Court which presently is a federal court.
3. Minimizing inconveniences endured by lawyers and litigants who travel out of state to pursue an appeal.
4. Reducing the workload of justices who have numerous cases filed before them on a daily basis from more than one state jurisdiction.

Plausible as these points are, other argument that multiplicity of divisions will furthe worsen the question of conflicting judgments cannot be ignored. The Federal High Court is one glaring example. The amount of conflicting decisions emanating fron that court in recent time is alarming. There is a Federal High Court in all 36 states Frighteningly, every politician today appears to desire a Court of Appeal in his backyard This will further exacerbate the problem.

Not a few have questioned the citing of divisions in Ekiti and Ondo states for instance The two states which were previously under Benin division are not only close neighbours but barely two hours apart. Though it is considered a litigious region, would one divisio not have sufficed for the zone?

CALL FOR REGIONAL COURTS OF APPEAL

With the ongoing agitation for creation of more divisions, others are requesting for the creation of Regional Courts Appeal. They argue that there is a need to decentralize judicia powers and give more to the states. Currently the National Assembly is considering the fourth alteration to the constitution which concentrates on the judiciary. If it sails through, the court system in Nigeria will be split up into federal courts and state courts Federal courts will become absolutely federal in nature. State courts will be those court

originating from the states and there is a strong recommendation for regional Court of Appeal and Supreme Courts so that matters relating to land tenure for instance would end in the regional court. In that way there will be an intermediary Supreme Court or Court of Appeal as the case may be. The present Court of Appeal would now become a federal Court of Appeal not a national Court of Appeal implying that matters that are being handled there are clearly originating from a Federal High Court. Olisa Agbakoba, SAN, favours this system.

> *"I believe that if this trend towards the creation of regional Courts of Appeal succeeds, it will go a long way in improving the administration and functioning of the Court of Appeal. This improvement will also help to decentralize the Court of Appeal and consequently promote its independence. Additionally the workload of the justices of the current divisions of the Court of Appeal will be streamlined and reduced and this may promote efficiency within the court. Additionally, the more courts that are created, the quicker cases will be distributed and dispensed with."*

This yearning however is not without some drawbacks. The States Courts of Appeal will become better in handling cases that originate from their states and may thus run the risk of generating divergent practices that cut across various states, which are different in their peculiarities. As it currently stands, because of the federal nature of the Court of Appeal, judges at this level are trained to interpret the law strictly without narrowing it to specific or particular states. Furthermore, the proximity of judges to the cases emanating from their judicial division may cause litigants to make allegations of corruption or bias. Besides, the risk of arriving at conflicting decisions that would arise from having regional courts cannot be disregarded; if the issue of conflicting decisions emanating from various divisions of the Court is yet to be addressed. How additional conflicts spicing up the already existing ones would be managed if such a situation arises is one that should be addressed before the idea comes into being.

When these new courts materialize, how will they be funded? Additional courts would require added expenses. At the 2015 All Nigeria Judges Conference hosted by the National Judicial Institute, for Judges of Superior Courts in Abuja, Chief Justice Mahmud Mohammed during the opening on 23rd November 2015, condemned the stinging financial challenges of the judiciary. His words:

> *"It is a source of great concern that in a country where an arm of Government is appropriated with less than one percent of the National Budget, it is difficult to refer to our Judiciary as being truly independent.*
>
> *"The Constitution prescribes the institutional independence of the Judiciary under Section 6 of its provisions. Sections 121 (3) and 162 (9) further guarantee fiscal independence for the Judiciary, a fact now*

acknowledged by the other arms of Government with recent resolutions by the Federal and some State Governments to pay the Judiciary its outstanding and future budgetary allocations as and when due. However, under the circumstances, the States Judiciaries continue to encounter a further burden of facing difficulties in accessing these paltry funds from their Executives in order to function."

COURT OF APPEAL LAGOS DIVISION

The development of the Court started in the Lagos division which is the largest divisio and former headquarters of the Court. Remarkably, four Presidents of the Court hav passed through this division. The first President of the Court, Justice Dan Ibekwe presided there. Justice Maman Nasir succeeded him and moved over to Lagos. Justic Umaru Abdullahi worked in the division for a while. Hon. Justice I. A. Salami served a the Presiding Justice before his appointment as the President of the Court in 2009.

In the Lagos division, Justices sit in two panels due to the volume of appeals they receive There are nine Justices in the division and as a result, they are able to sit as if there ar two divisions. It covers appeals only from Lagos State.

It is said that Lagos is the most difficult division to work in because it is the commercia centre of Nigeria. It is indeed a very busy division. All manner of cases are heard there commercial cases, maritime, constitutional, criminal and political cases, chieftaincy matters. Cases that are mostly difficult and uncommon in other divisions. Previously, th most interesting cases used to be the land cases.

In the early days, appeals were received from the High Court on decisions concerning land and that was a very difficult subject in the legal system in Nigeria. This was before the establishment of the Land Use Act of 1978. The volume of cases was very big and decisions took a long time. At that time, Judges were not restricted to giving judgment within three months. So you may find a Judge adjourning his case to give judgment and he would take a year before giving that judgment. All that has changed now. Justices in the division have taken giant strides in disposing of cases quickly, bearing in mind the words of William Gladstone, "Justice delayed is justice denied."[7]

To Prevent Injustice, Appeal Court Will Grant Bail

The first case at the Lagos division was *Duro Ajayi, Bamidele Ajayi and Daramola Dada v. The State.*[8] It was a criminal case presided over by Hon. Justices Daniel O. Ibekwe, Jemonu Omoigberai Eboh and Dahunsi Olugbemi Coker on March 10, 1977.

Duro Ajayi, Bamidele Ajayi and Daramola Dada were convicted by a Lagos High Court on September 28, 1976 on a criminal charge and sentenced to three years imprisonment with hard labour. Distressed by the verdict, they came to the Court of Appeal where they

applied for bail pending determination of appeal.

Their contention was that the Records of Appeal were not ready and that there was no indication as to when they would be ready. They also told the Court they were concerned that they would have spent the rest of their sentences in prison before their appeals came up for hearing, if bail was not granted. The trio pointed out that the case was complex and that numerous exhibits were presented at the High Court in which case, granting them bail would enable them have consultations with their legal advisers in pursuance of their appeal.

In his verdict, Justice Ibekwe who delivered the lead judgment noted that under Section 29 (1) of Decree No. 43, 1976, the Appeal Court has power to admit an applicant to bail, if it deems fit, pending the hearing of the appeal. Citing the case of *Rex v. Theophilus Adenuga Tunwashe* & *Others,* where it was held that bail would not be granted save in exceptional circumstances or where the hearing of the appeal is likely to be unduly delayed, Ibekwe concluded that if bail was not granted the contenders, they would have served the whole or a considerable part of their sentences before their appeals are heard. As a result, their application was granted and they got bail.

Mrs . Titi A.A. Osinuga, Senior State Counsel (Federal) and Mr. O. Hunpunu-Wusu[9] represented the Federal government while Duro Ajayi a lawyer represented himself. Mr. O.P. Otuedon stood for Bamidele Ajayi and Mr. A. Adeoti and Mr. A. Ogunyemi were counsel to Daramola Dada.

COURT OF APPEAL KADUNA DIVISION

Until the creation of Court of Appeal Sokoto division on May 19, 2009, the Court of Appeal Kaduna division handled appeals from Kaduna, Kano, Zamfara, Sokoto, Katsina, Jigawa and Kebbi States. Presently, it takes appeals only from Kano, Katsina, Jigawa, and Kaduna States. The division was officially opened on March 15, 1977, and started sitting at Lugard Hall where it had its temporary office. In February 1999 they moved officially to the present office.

Mamman Nasir was the first Presiding Justice. Others were Justices S. O. Ogunkeye, S. J. Ete and M. L. Uwais. These four started the division. Later on in 1978, Ibekwe passed away and was succeeded by Nasir who had to move over to the Lagos division while Ogunkeye was transferred to Ibadan and Ete to Benin division. Justice M. L. Uwais remained in Kaduna as the presiding justice until his appointment to the Supreme Court in August 1979. This division has benefited from the leadership of notable men in the judiciary: Mamman Nasir, M. L. Uwais, Adenekan Ademola, D. O. Coker, B. O. Kazeem, A. B. Wali, Uthman Mohammed, Umaru Abdullahi, I. A. Salami, Mahmood Mohammed and B.A Ba'aba.

At inception, Kaduna division was the only division of the Court in the Northern States. Needless to describe the large volume of work that went on there. When Jos division was later established in 1989, the whole of the eight states in the North-East were excised from Kaduna. Kogi, Abuja and Niger stayed on in Kaduna before other northern divisions were established.

The 1974 Echori Festival

When the Kaduna division started operation in the same year, the first appeal which featured was that of *Onobere Sunmonu v. The State*,[10] a culpable homicide case. That was on April 19, 1977. Hon Justices Mamman Nasir, Sunday James Ete and Mohammadu Lawal Uwais presided.

On or about June 18, 1974, Onobere Sunmonu and one Karimu Boyi (the deceased) were at the Echori festival at the Ori Ihima shrine. This was a very rocky place located at Obeiba Ihima area in Okehi Local Government of Kogi State.[11] Part of the festival which is celebrated yearly at the close of new yams harvest, included killing of goats and other animals and cooking of the meat for all to eat. Karimu Boyi was on that day cooking the meat while Sunmonu was waiting to eat the meat. When the cooking was completed, there was a scramble for the meat. Both Sumonu and the deceased, Boyi were part of thatscramble. At trial however, Sumonu denied being part of the scramble.

As the disorder continued, the deceased took a bamboo stick and started beating people indiscriminately to get them dispersed. One of the people hit by the deceased was the appellant (Sumonu). Upset by the beating, he grabbed the stick from the deceased and retaliated. The deceased fell on the rocks, sustained some injuries and died the following day.

One of the issues determined by the court was whether the deceased got the head injury because of the beating by the appellant or whether the injury was caused by the deceased's head hitting the rocks when he fell. The medical report tendered during trial did not explain what could have caused the injury, or whether the bleeding from the ear and nose was the direct result of the fracture of the parietal bone. In fact, the medical report was tendered in evidence without calling the doctor who performed the post mortem examination as a witness.

Also two of the principal witnesses for the prosecution who gave evidence at both the preliminary inquiry and the trial contradicted themselves by giving inconsistent evidence at the trial. Meanwhile, no prosecution witness contradicted the appellant on his evidence that the rock was slippery and that the head of the appellant hit the rock when he fell.

Nasir, in the lead judgment concluded amongst other findings that failure to call the doctor for cross-examination to enable the court consider the medical report in view of the appellant's defense that the rock was slippery and that the deceased fell and hit his head on the rock deprived him of his right to fair trial and raised doubts about his guilt. Consequent upon this, Sunmonu was discharged and acquitted.

Onobere Sunmonu was represented by Mr. A. Idoko while Mr. I. A. Salami, Acting Director of Public Prosecution in old Kwara State represented the government.

COURT OF APPEAL ENUGU DIVISION

Enugu division was one of the first three divisions of the Court. It was established on March 24, 1977 and first started sitting in the old East Central State House of Assembly building at Enugu . For several years, it was the only division serving the eastern states. A lot of people took advantage of the opportunity of having the Court in their zone having heard or observed the role of the Court in the struggle for individual rights and the establishment of the rule of law in the various cases brought before it. Politically, it served as a very sensitive station of the Court of Appeal, particularly because of the volume of cases from Anambra State. It was in this Court that the case of Senator Ben Obi was handled. Similarly, the Ngige and Peter Obi's cases (See Notable Decisions I, pages 47-56), as well as many other complex cases came to this court. Presently, the division covers Anambra, Ebonyi and Enugu States.

Speaking on his work as a former Presiding Justice of the division, Justice James Ogebe now a retired justice of the Supreme Court said:

> *"As a Presiding Justice, you are like the father of the division, making sure that the staff are doing their work. You carry the justices along and take care of their welfare to ensure that they are happy and productive. It is a leadership position where you lead by example."* [12]

The Damaged Fence

At the Enugu division which commenced work in May 1977, Hon. Justices Boonyami... Oladiran Kazeem, Donald Graham Douglas and Muhammed Mustapha Adebay... Akanbi were the foundation justices. The first appeal they heard was the criminal cas... of *Nkweke Unugu v. The State.*[13]

The appellant (Nkweke Unugu) was convicted at the Abakaliki judicial division[14] o... the Anambra High Court for the murder of Ogboji Oka and sentenced to death o... July 29, 1976. The deceased (Ogboji Oka) and his son had on two occasions take... a tractor through Unugu's compound in order to collect some stones from a depo... behind his compound. In doing so, Unugu's fence was broken down. He repaired it o... the first occasion but, on noticing the damage on a second occasion, he went to mee... the deceased at the depot and asked him why he had damaged his fence. The deceased... denied damaging the fence and thereafter the appellant hacked him to death with hi... machete.

On appeal, it was contended that the breaking of the Unugu's fence on two occasion... by Oka and his son, his being beaten by the dead man's son, and his attempt to commi... suicide after he had killed the deceased were acts of provocation which the trial judg... should have considered in his favour having regard to his cultural background. Th... Court in its lead judgment delivered by Justice Kazeem however, held that:

> *"The question of an accused person's cultural status should be considered in relation to whether any provocative act was committed against him in a charge of murder. In the absence of evidence that the appellant was an uncivilized peasant, judicial notice cannot be taken that every illiterate Abakaliki pagan farmer is prone to kill on any pretext which he regards as provocative. The learned trial judge was right in not considering the act of the deceased as amounting to any provocation..."*[15]

Again, the Court stressed the importance of a trial court recording the presence o... an accused person in a criminal trial as well as whether or not the accused person wa... remanded in custody. The appeal was eventually dismissed and Nweke Unugu face... his death sentence. He was represented by Enechi Onyia while M.N. Ekwereku, Actin... Director of Public Prosecution represented the State.

COURT OF APPEAL IBADAN DIVISION

In June 1977, the Ibadan division started in the House of Chiefs at the old Western Nigeri... House of Assembly with four Justices; Hon. Justice O. Akinkugbe as the Presidin... Justice, Hon. Justice A. I. Aseme, Hon. Justice M. M. A. Akanbi, and Hon. Justice Uche... Omo. Hon. Justice Akanbi who had served briefly in Enugu division, was transferred t... Ibadan to join the pioneering team of Justices. Ibadan division hears appeals from Oyo... and Ogun States.

Former Presiding justice of Court of Appeal, Ibadan, Hon. Justice J. A. Fabiyi, now a Justice of the Supreme Court, once noted that Ibadan is a place where you basically have appeals dealing with chieftaincy and land matters. Thus, anyone going to Ibadan division must be ready to broaden his/her horizon with respect to land and chieftaincy matters.

The Land is Mine

The first matter in this division brought before Justices Olajompo Akinkugbe, Anthony Ijoma Aseme, Mustapha Adebayo Akanbi, was between John Falaju who represented himself and other members of Esinja Ololokun family and Daniel Amosun. It was a case of land ownership.

Mr. Amosun had filed an application at an Ife High Court asking it to make an order stopping the implementation of its judgment delivered on January 28, 1977 pending the determination of the appeal lodged at the Appeal Court Lagos on April 18, 1977. At the time this matter came to the Court of Appeal, the Ibadan Division had not commenced operations. Matters from this region went to the division in Lagos. But it was later transferred and concluded at the Ibadan Division which was inaugurated on July 12, 1977.

Mr John Falaju who was plaintiff at the High Court and respondent at the Appeal Court had asked an Ife High Court for a declaration of title and recovery of possession to a piece of land. On January 28, 1977, Justice Agbaje Williams ordered Amosun, the defendant at the High Court and appellant at the Court of Appeal to give up possession of the land on or before March 31,1977. On February 7, 1977, he appealed to the Federal Court of Appeal (as the Court was then called). Meanwhile, his application for a stay of execution of judgment pending the determination of his appeal was on March 28, 1977, dismissed by the Ife High Court.

Undaunted, Amosun made his second application to the Appeal Court. The papers were filed in the Federal Court of Appeal, Lagos and the stamp date showed April 18, 1977. Before his application for stay of execution could be filed at the Court of Appeal, the respondent, John Falaju on April 13, 1977, executed the judgment in contention and took possession of the land in dispute.

Mr. Amosun had alleged in his affidavit that the Senior Registrar of the Ife High Court impeded his way thus making it difficult for him to file his papers at the Federal Court of Appeal for his second application for a stay of execution of judgment before the plaintiff effected judgment.

On April 15, 1977, a letter, written by Chief Olisa Chukwura, Amosun's lawyer to Mr. Ogunrinde, the Senior Registrar, and which formed part of the exhibit before the Court, it was alleged that since the appellant needed to bring his application to the Court which at that time had no division in Ibadan, he submitted the necessary papers for filing at the

Ife High Court. The documents were meant to be transmitted by the Senior Registr to the Court in Lagos. He was then advised by this Senior Registrar to pay for the filin at the Magistrate Court Registry as his office had no receipt. On returning, the Senio Registrar rejected the application and told him that he no longer had anything to do wi the case. His counsel in this letter warned the Senior Registrar about the consequenc of his action adding that any attempt to execute the contentious judgment before the are heard at the Court would amount to abuse of court process.

Chief Chukwura argued that the Senior Registrar deliberately impeded the filing of h client's application for stay of execution thereby paving way for the respondent to lev execution before they were heard by the appellate court. He further insisted that had h client's application been accepted in the Ife High Court Registry before April 13, 197 the High Court's judgment would not have been effected.

Chief T.O Oloyede, counsel to Falaju argued that the application lacked merit. Hi contention was that the appellant was ordered by the High Court to give up possessio on or before March 31, 1977 and when he refused to do so, they implemented the Hig Court's decision. He submitted that his client knew nothing of the alleged role of th Senior Registrar in putting impediment on the way of the applicant.

On his part, the Senior Registrar told the Court in a letter that on April 15, the appellan brought an application meant for the Court for filing. On seeing the papers, he observe that they had been assessed and paid for in the Chief Magistrate Court's Registry in Ile Ife. He then informed the defendant that he had gone to the wrong office to file th papers because the motion was meant for the Federal Court of Appeal. The applican was then advised to go to Ibadan High Court.

In his lead judgment, Justice Akinkugbe stressed that the crucial point to be decided i the application was whether the Senior Registrar of the Ife High Court or any membe of the High Court Registry put obstruction on the way of the applicant to file hi papers for a stay of execution. The acts of impediment on the part of the Senio Registrar according the appellant were:

i. Knowledge by the Senior Registrar on 5/4/77 of the applicant's application fo a stay at the Ife High Court Registry consequent upon which the applicant or hi agent was directed to take his papers to the Ife Chief Magistrate Court for assessment.

ii. Rejection of the applicant's papers for filing after assessment at the Chief Magistrate's Registry.

Justice Akinkugbe in the judgment, stated that the Senior Registrar's defense does no show he knew anything about the papers being brought to the Registry on April 4

1977 before the person that brought them was directed to the Chief Magistrate Court for assessment. He held that the Senior Registrar knew for the first time on April 15 that the papers were filed in Ife High Court and he had to advise the applicant to go to Ibadan. All these took place after the land in question had been taken possession of by the respondent.

Akinkugbe emphasized that in the absence of any affidavit from the applicant challenging the facts stated by the Senior Registrar, it could be assumed that what he stated was true. The Court then concluded that:

> *"On the face of the facts above stated we do not think there is any evidence suggesting that the Senior Registrar acted in bad faith or placed any impediment in the way of the applicant at the relevant time of this matter in April. We take judicial notice of the fact that Ibadan Division of the Federal Court of Appeal had not been inaugurated at that time. It was only inaugurated on July 12, 1977 and that was why the applicant's papers had to be filed in Lagos on April 18, 1977.*
>
> *"As the application was simply to stay execution, an exercise which has already been accomplished by the 12th or 13th day of April, 1977, an application to restore the applicant to possession of the land should first of all precede the one for a stay of execution although both could be taken together."*[16]

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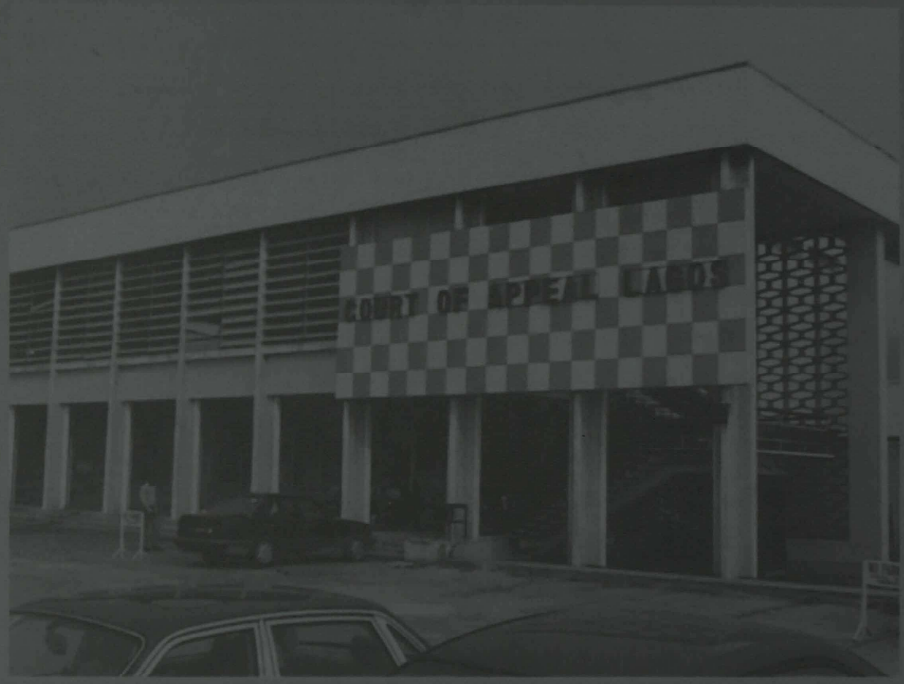
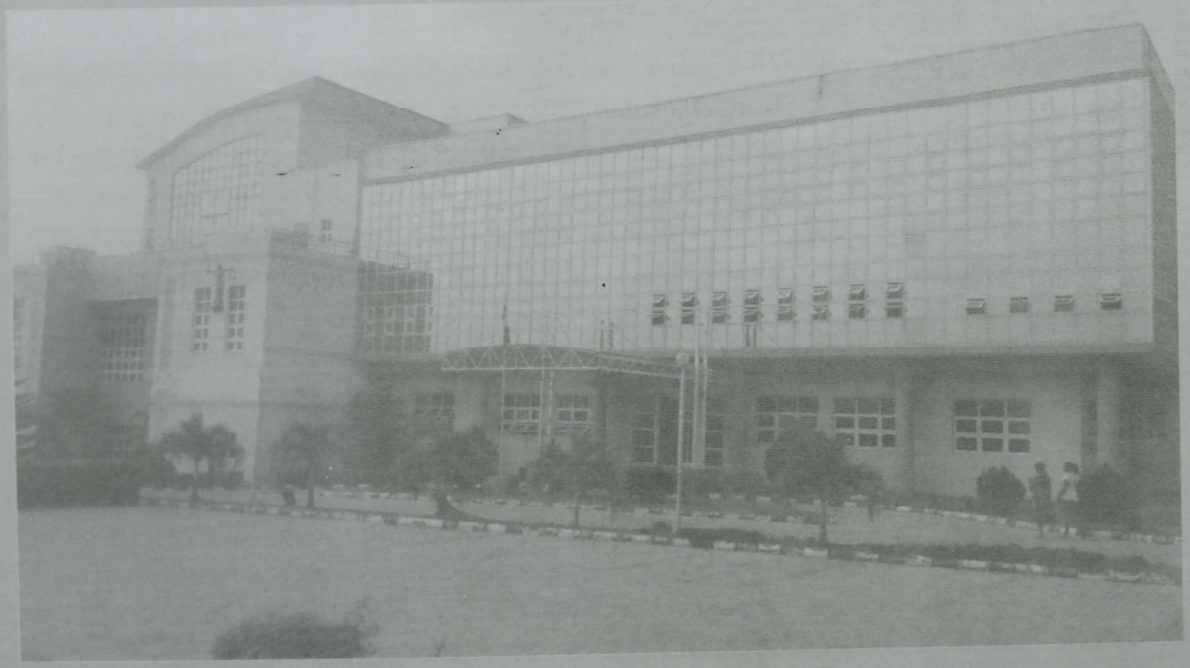

COURT OF APPEAL LAGOS

COURT OF APPEAL ENUGU DIVISION



COURT OF APPEAL IBADAN DIVISION

COURT OF APPEAL BENIN DIVISION

The Benin division was one of the early divisions of the Court. It was established in June 1977 and hears appeals from Delta and Edo States. Most of the matters that come to this court involve such issues as marine cases, criminal cases, chieftaincy matters and land cases. There has also been an increase in political cases.

The Threat

The case of Samuel Adaje v. The State,[17] a criminal matter about murder was one of the early appeals heard by the Appeal Court, Benin. Samuel Adaje was tried at the Sapele division of Bendel State High Court[18] on a charge that he had murdered one Johnson Uduenye at Sapele on November 3, 1975. At the hearing, six witnesses testified for the prosecution. Adaje gave evidence in his own defence, but called no witnesses. After assessing the entire evidence, the court found him guilty, convicted and sentenced him to death.

Aggrieved by the verdict, Adaje went on appeal. However, the Court of Appeal confirmed the findings of the High Court in Sapele. Rejecting the plea of self-defence as not being available to the appellant, the Court said that the ingredients necessary to sustain the defence were manifested in the evidence before the court and that for the plea of self-defence to succeed there must be evidence to which it could be tied.

Samuel Oladetimeyin who witnessed the incident, disclosed that, on November 3, 1975, the deceased, Johnson Uduenye, a relation, came to visit him at his home. They both sat down to a game of draughts and were later joined by Adaje, an acquaintance of theirs. Adaje remained with them for sometime but as he rose to go away, a lady, Kingsway Eyomi, spotted him and insisted that he would not leave until he had paid her the sum of five kobo, being the value of cigarettes which she had sold to him on credit two days earlier.

At first Adaje denied having made the purchase and an argument ensued. To quell the argument, Adaje, in anger, produced a 10 kobo coin, gave to the lady and asked for five kobo change. Before she could produce the change, he had began to swear juju on the money and this put fear into Eyomi, who then refused to take what was owed her. The deceased, who had been observing this drama, intervened and queried the appellant for resorting to the swearing of juju over as little a sum as five kobo. In reply, Adaje stated that he had done so because he did not wish to pay a debt he did not owe.

As Adaje was about to leave, the deceased insisted that he should revoke the juju before doing so. Adaje at this point lost his temper and dealt the deceased a slap. A fight ensued,

but the people present promptly separated and pacified them. The deceased and Adaje then went their separate ways. Shortly after this, Adaje returned and boasted to the cigarette seller that she would witness the shedding of blood that day. Later that night, there was a commotion down the road and Oladetimeyin went to investigate. On arrival at the scene he found the dead body of Johnson Uduenye lying on the ground, with blood gushing out from the back of his head.

Eyomi who sold the contentious cigarette, testified in an almost identical manner up to the point when there was a fight followed by separation. She added that after the fight she decided to call on a friend. As she was on her way and about to enter into the friend's compound, Adaje caught up with her and said that she would be mistaken if she thought that the fight which had just ended was over. He said he was going away then, but that he would surely return and that unless he washed the ground with someone's blood he would not find sleep. Eyomi stated that she got so frightened by what the appellant had said that she decided not to continue with the call she had intended to make on a friend. She quickly returned to her compound and repeated aloud to those present what the appellant had been saying.

Not long after this, word came that a person was lying dead on the road and she went to view the body along with others. She saw the corpse of the deceased lying on the ground with blood oozing out from his neck.

Samson Egbaho, the only eye-witness to the second encounter between Adaje and the deceased which resulted in the death, stated that at about 8 p.m. on 2nd November, 1975 while he was cooking in his hotel, he saw two men quarrelling at a road junction nearby in the Itsekiri language. Although he does not understand the said language, he heard the deceased say to the appellant (Adaje) "Wo mean Uja we" - which in English means - "So you mean this fight'. He said he also saw a third man trying to advise the two to desist from fighting apparently without success. This third man withdrew from the scene when the appellant slapped the deceased. The deceased retaliated and fighting began. that as the deceased aimed his blows at the appellant, the latter kept moving backwards into Boyo Road. He added that after the two combatants had left the road, the appellant gave the deceased a blow on the which resulted in his falling down.

On seeing the deceased fall, the appellant immediately took to his heels. Egbaho said that when he and others rushed to where the deceased fell, they saw blood issuing out from the back part of the head. The deceased soon became unconscious and some of those present ran to the police station to make a report. Egbaho gave the distance between his hotel and where he had seen the two men arguing as 30 feet, while the ultimate point where the deceased fell was some 6 feet short of the earlier distance.

The Court in its judgment further stated that:

> *"In this case in which the evidence that the learned trial judge believed showed that the appellant was the aggressor, being the first to slap the deceased both in the morning, on his own admission, when they first fought, and in the evening when he met the deceased on the road according to the evidence of Samson Egbaho (P.W.2),and especially having threatened earlier on that day that his fight against the deceased was not over and that he would not sleep unless he shed someone's blood that night - all amount to clear evidence of premeditation on the part of the appellant."* [19]

The appeal was dismissed. Afraid to die, the accused went further to the Supreme Cou in 1978. At the end of it all, the apex court concluded that a plea of self-defence fail when there is evidence of aggression and premeditation on the part of the accused.

COURT OF APPEAL JOS DIVISION

The division was inaugurated in January 1983 with Hon. Justice M. M. A. Akanbi as th Presiding Justice, Hon. Justice A. G. Agbaje, Hon. Justice M. E. Ogundare and Hon Justice Umaru Abdullahi as the youngest of them all.

Jos Division covers seven states of the Federation. They are: Bauchi, Benue, Borne Gombe, Nasarawa, Plateau and Yobe States. Many of the cases that go before the Cour arise from chieftaincy, land, family and several political cases.

Due Process, Key To Successful Appeals

The case of *Jibrin Adamu & 5 others v. State*[20] was among the initial appeals handled by th Court. It was a case of Culpable Homicide.

On the night of September 3, 1980, around 8.30pm, some unidentified persons allegedl took part in a mob attack on the Police in a place called Speaker's Corner in the vicinit of a mosque at Masallacin Juma'a Street, Jos. There were two groups of Muslims pitche at some distance apart, namely, the Izala group and the Kalakuta group.

The Kalakuta group was preaching to listeners. Suddenly the Izala section barged in first frightened and forcibly dispersed the Muslim preachers they met on the scene an then said they regretted failing to find a particular man, whom they intended to kill a the scene.

After creating the pandemonium, they took over the preaching ground and as wa customary, began propagating their beliefs by means of a loudspeaker. The listeners wer obviously upset as the Izala preached against worldly possessions including wristwatche

and television. It was said that throughout the preaching, their adherents were seated around with sticks they had brought into the scene. As the preaching went on, a team of 27 unarmed policemen arrived to find out if there was likely to be breach of peace. The unarmed policemen were then beaten up by the armed preachers leaving two of policemen dead. By arming themselves with sticks to the scene of the preaching and by behaving in the manner they did, it was clear according to the prosecution that their intention was to foment and execute trouble.

The Kalakuta group on seeing the armed preachers approaching, did not wait to be attacked but ran away. The prosecution related that at the approach of the leader of the police squad and at a given signal by the preacher, the listeners suddenly pounced on the police and started to beat them up.

This led to indiscriminate arrest of some 74 suspects who were not at the scene. They were taken to an Area Court and charged for assault on the police. There was no record of what happened at that Court but 15 persons out of the 74 were later charged to the High Court on four counts for conspiracy. Eventually six appellants, first being Jibrin Adamu, were found likely to be convicted on each count. The six appealed saying that on arraignment, the trial judge lumped together all their pleas and that aside from other irregularities, the whole trial was a nullity. They contended that a multiple plea of 'not guilty' to each count as entered by the trial judge against them was a fatal irregularity. They insisted that the plea of each person should have been taken separately.

In its judgment, the Court of Appeal held that not only was the plea bad as it did not comply with Section 187(1) of the Criminal Procedure Code , but that there was in fact no recorded conviction or sentence of the appellants. It concluded that the end result was a blatant disregard of section 33(6)(a) of the 1979 Constitution.[22]

In the judgment delivered by W.R.T Macaulay with the support of Abdul G. O. Agbaje and Reider Joe Jacks on February 26, 1986, the Court further stated that:

> *"Whilst identification by one vital witness may have been sufficient, in this case, apart from the fact that there was no evidence of any identification parade, it would be dangerous to convict on the identification PW1 and PW2 (eye witnesses) since on that same evidence the trial judge accepted the defence of alibi while rejecting others. ...the alibis were not checked and were totally disregarded even when considered at all. There was total failure to comply with the provisions of sections 196 and 269(1)(2) of the Criminal Procedure Code, and this has caused a miscarriage of Justice..."*[23]

Appeal was eventually allowed and the accused ordered to be released.

COURT OF APPEAL PORT HARCOURT DIVISION

The Port Harcourt division of the Court of Appeal was created out of the Enugu Judicial

division which hitherto served the old Eastern Region i.e. Owerri, Port-Harcourt a
Calabar. The number and types of cases pending in Enugu division was a reflection
the number and types of appeals from the High Courts in that region. These were mai
on land matters and criminal cases. The delay in the hearing of the appeals was c
mainly to the increasing number of appeals. In order to ensure speedy dispensation
justice, a decision was taken, and "rightly in my view," said late Justice Olatawura, the fi
Presiding Justice of the division, "that a new division of the Court of Appeal be carv
out of Enugu division. The two competing states were Rivers and Cross-River State
Nasir, who was President of the Court at that time, and Chief Justice Mohammed Bel
saw the urgent need and the division was created in August 1987.

There was no Court building and residential accommodation for the newly appoint
Justices but in order not to defeat the sole purpose of creating the division, a hall w
carved out of the court building in Enugu State for the Port Harcourt division to ta
off.

This division which started sitting in Enugu , had its first court session on September
1987. The first set of justices were: Hon. Justice Olajide Olatawura, Hon. Justice S.
Onu, Hon. Justice Owolabi Kolawole, and Hon. Justice B. A. Omosun. Hon. Justice A
Salami who should have joined was later asked to remain in Benin temporarily. He nev
resumed there as his services were needed elsewhere.

At the time the creation of the division was announced, the Rivers State Governme
offered the old Rivers State House of Assembly building. But the pressing needs f
having meaningful judicial duties were: good and befitting residential accommodatio
a good Court Hall and Court's Registry. The residential quarters were reportedly su
standard and unsuitable for the Justices of the Court of Appeal. Justice Mamm
Nasir's untiring efforts, numerous visits to Port Harcourt and contacts with the Fede
Government for funds, led finally to the establishment of the Court in Port Harcou
The official opening ceremony was performed by Justice Mohammed Bello, the th
Chief Justice of Nigeria, on Monday, July 3,1989.

Numerous appeals from Bayelsa and Rivers States are effectively handled and accordi
to the former Presiding Justice, Hon. Justice S. Galadima now a retired Justice of th
Supreme Court, there are more than enough commercial cases in this oil-rich region a
one should be versatile with commercial law practice to tackle them properly.[24]

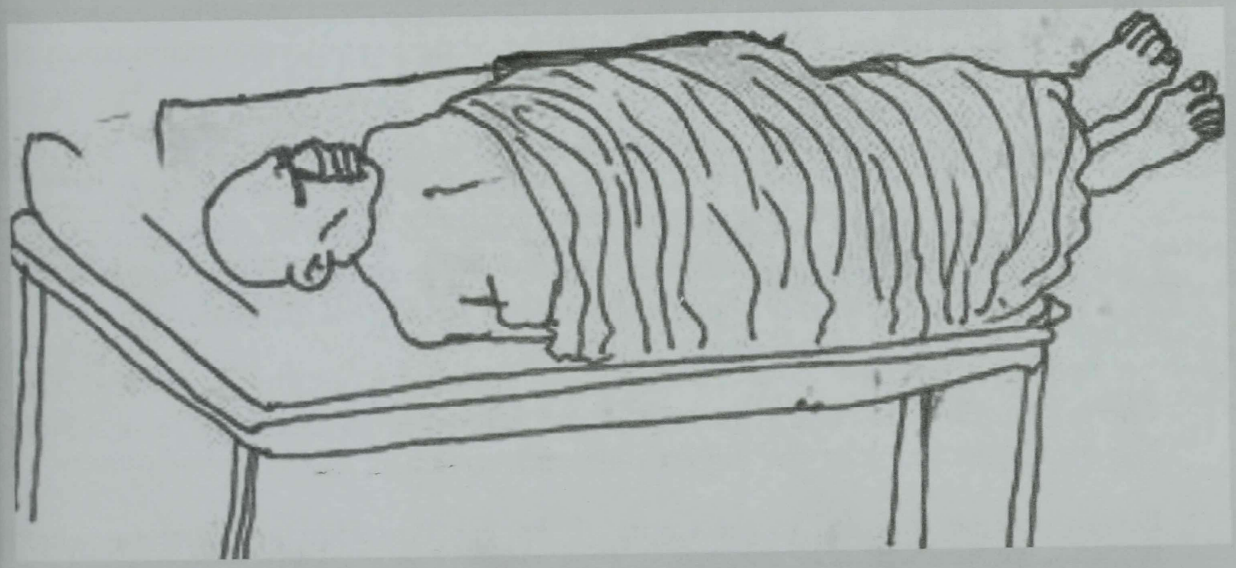
I Saw Him Touching Her!

This was the case of Basil Akalezi v. The State.

On January 1, 1981 which was the day of "Oji Mbaise" festival, Basil Akalezi who
the appellant and his niece Christiana Akalezi were returning from Akpodim Ezinihit

the venue of the festival. Along Chokoneze/Akpodim Road in Ezinihitte Mbaise, the appellant was said to have murdered the deceased Innocent Ohaka by hitting him twice and stabbing him thereafter at the back with a penknife after chasing him for about fifty meters along the said road.

The deceased allegedly made love advances to Christiana Akalezi (the appellant's niece) by holding her and touching her breast. This annoyed the appellant. One Godwin who was in the company of Christiana and the deceased at the time of the incident testified that as they were returning from the "Oji Mbaise" festival, the deceased stopped Christiana on their way and engaged her in amorous discussion in the presence of the appellant, one Nathaniel Ahunanya and himself. As Christiana who is also called "baby" and the deceased were discussing, she demanded the sum of one hundred naira from the deceased. He then asked her to follow him to his house if one hundred naira was a condition to selling herself.



At the bidding of Nathaniel Ahunanya, Akalezi held the deceased and hit him twice. The deceased took to his heels and the appellant pursued him. The next the witness heard was a shout in Igbo by the deceased meaning that he was dead. Godwin further stated that the appellant chased the deceased for about fifty metres and that when he (Godwin) got to the spot, he saw the deceased on the ground.

In the meantime, Christiana and Ahunanya had ran away from the scene. When Godwin enquired from the accused, he told him that he beat the deceased and he fell down. Godwin stated that he lifted the deceased from the ground and observed some blood on his back. He asked the accused what caused the bleeding on the deceased but the accused gave no reply to his question. Godwin who reported the incident to the parents of the deceased also refuted any suggestion that the deceased gave a blow to the appellant.

Christiana in her evidence denied knowing anything about the incident. She denie
knowing the deceased and that nobody made any advances to her during the ceremon
She testified that she went to the festival in the company of Nathaniel Ahunanya wh
also took her home and that she did not come home in the company of her uncl
The accused on his part testified that while he was walking home after the festival wit
Nathaniel Ahunanya and Bright Ahunanya, Christiana was walking ahead of them
He then heard Christiana shout and then he saw the deceased holding and touchin
her breast. The action was distasteful to him as it was happening on the road whe
people were passing by and according to him, he pleaded with the deceased to leav
his niece alone. Instead, the deceased threatened to fight him. During verbal exchange
the deceased hit him on the jaw. He gripped the deceased and both of them fell dow
He added that while they were on the ground, the deceased cried out that he had bee
hurt. When both of them got up, he observed that the deceased was bleeding from hi
back. At that point he became frightened and went away. He insisted that Christian
was present at the scene and saw when the deceased and himself fell on the ground. H
equally admitted having a pen-knife before going for the festival but suggested that th
deceased might have sustained the wound when he fell upon the pen knife which was i
his holder. Dr. Daniel I. Ogbonna who performed the post mortem examination on th
body of the deceased disclosed that:

> *"On examination I found as follows -: A gaping wound 3 cc x 2 cc at the upper back left. The wound extended poster medially to involve the rib heads and vertebrae column. The wound also penetrated through to involve the left lung at thoracic level six and seven. The cause of death was due to the stab wound which involved the vertebrae column and the left lung at thoracic level six and seven."*[25]

Thereafter, the accused was convicted and sentenced to death by Justice Sylveste
Nsofor, then a judge of the High Court of Imo State.

Dissatisfied, he appealed to the Court of Appeal, Port Harcourt Division which o
February 18, 1992 dismissed the appeal. The Court of Appeal considered the defens
of provocation and held that the trial judge adequately considered and rightly rejected th
defense of provocation. The Court further stated that "the defense of provocation raise
by the appellant under no circumstances can avail him and so cannot stand." Additionall
the Appeal Court stressed that: "The act of pursuing the deceased for a distance of up t
50 metres and stabbing him on the left upper back with a pen knife also provides sufficien
evidence of motive and premeditation."[26]

Still dissatisfied, Akalezi appealed to the Supreme Court which upheld the decision of th
Court of Appeal.

COURT OF APPEAL ABUJA DIVISION

In 1996, a Court of Appeal division opened in Abuja. This division covers the entire
Federal Capital Territory as well as Kogi and Niger States. The division is different from

the Court of Appeal Headquarters also in Abuja. The pioneering Justices were Hon. Justice Umaru Atu Kalgo who was the Presiding Justice for three years, Hon. Justice I. A. Salami and Hon. Justice J. O. Ogebe. Successive Presiding Justices have included Hon. Justice Dahiru Musdapher, Hon. Justice George Oguntade, Hon. Justice Tanko Mohammed and Hon. Justice M. L. Garba.

Explaining the peculiarity of the division, former presiding justice, R. D. Muhammad said:

> *"Abuja, being the capital of Nigeria is now becoming very busy, as far as cases are concerned. Most of the political cases originate here. They go to the Federal High Court and the appeals come to Abuja division. So we have many cases. Some of them political, some commercial in nature and some, criminal cases involving government, amongst other things."*[27]

The Unwilling Master

On July 9, 1996, the division delivered its first judgment. It was a matter between Afribank Nigeria Plc and Elliot D. Green. In that decision, the Court concluded that in a contract of service, ordering the reinstatement of a dismissed staff would amount to imposing a servant on an unwilling master.[28]

Elliot Green was employed by Afribank on April 10, 1979, at its Port Harcourt branch. His appointment was later confirmed and he eventually rose through the rank until January 1, 1980 when he was appointed an Executive Assistant. Eventually, there was an allegation of irregular payment concerning the account of Nicon Noga Hotel, Abuja. As a result of this, Green was queried and then suspended. He was also charged to the Magistrate Court and on the advise of the Director of Public Prosecution, he was discharged. It was at this point that his appointment was terminated by Afribank with payment of all entitlements. He was told that his "services were no longer required."

As a result, Green filed an action at a High Court of the Federal Capital Territory (FCT) asking it to hold that the termination of his appointment was unconstitutional, null and void and of no effect whatsoever. He also asked the court to issue an order directing Afribank to reinstate him to his status as a staff of the bank with all entitlements and promotion which might have built up within the period of this squabble. Should the bank be incapable of meeting these demands, Mr. Green asked that an order be made that Afribank paid him all his salaries and other entitlements in lump sum until he attains the statutory retirement age and one hundred thousand naira as general damages.

Afribank on its part said it wanted to repossess its residential building which was still being occupied by Green. They also wanted him to refund the total sum of what the apartment rent cost per annum, calculated from when his appointment was terminated.

Afterwards the trial Chief Judge, Hon. Justice Dahiru Saleh, on July 29, 1993 noted that the procedure followed in terminating Green's appointment did not follow the

provisions of the agreement reached between him and the bank. Afribank was the directed reinstate him, pay all his entitlements and allow him to continue occupyin their residential building.

The bank appealed to the Court of Appeal, arguing that a master can terminate th contract with its employee or servant at any time for good or bad reasons or no reason at all. It maintained that if the master terminates in a manner which is contrary to th terms of the contract of service of the parties, he must pay damages for his breach an that the motive which compels an employer to terminate a contract of employment i not relevant. Green still maintained that his appointment was wrongfully terminated

However, the Court in its judgment through Hon. Justice Okwuchukwu Open supported by Kalgo and Salami noted that from all the available evidence before th Court, the bank properly terminated Green's appointment and did not invoke th provisions of Article 4 of Exhibit 10 (Termination After Warning) which deals wit disciplinary procedure before appointments are terminated. The Appeal Court furthe stated that "this is a contract of service and ordering a reinstatement of the responden (Green) by the appellant (Afribank) is just imposing a servant on an unwilling maste and this is not the duty of the Court."

The Court also held that in an employment with statutory backing, the servant mus be terminated in the way and manner prescribed by the relevant statute and any othe manner inconsistent with that shall be of no effect. Since the trial Chief Judge, did no say the appointment has Statutory flavour and that the bank did not follow the wa and manner prescribed by the Statute, the Court declared that Afribank could not b ordered to reinstate Green.

Meanwhile, Justice Opene stressed that even if the appointment was wrongfull terminated, the damages are to be assessed by the amount of wages Green had bee prevented from earning as a result of the wrongful termination including other benefit he would have been entitled to under the contract of employment.

> *'If therefore the contract of employment provided that it is terminable upon giving a month notice, the damages will be normally a month salary... In the instant case, the respondent (Green) is entitled to one month salary in lieu of notice and the damages will be a month salary."*[29]

On the issue of giving up the bank's residential building Mr. Green was occupying and his paying the total value of the rent from the day his employment was terminated to the day he vacates, the Court said he must give up the premises since he was no longe in the organization's employ but that the bank could not make claims on the total value of the rent as it neither raised nor established the value of the premises. In all, Elliot D. Green lost out.

COURT OF APPEAL ILORIN DIVISION

The Court of Appeal Ilorin division was launched in February 1999, covering appeals from Kwara State. It was formerly under the Kaduna division. There was a great demand for the establishment of this division because more of the appeals that came to Kaduna division were exclusively from Kwara State.

Justice Akanbi was the driving force behind the inauguration of this division. He said:

> *"In Ilorin, we carried out a survey and found out that in the Kaduna Judicial Division, about 70 percent of cases that go to that Court, came from Kwara State. You know the division covers Kano, Katsina, Kwara and mostly north central states including Niger. I couldn't justify the idea of people all the time going from Ilorin to Kaduna. The risk on the road and all the challenges necessitated that we brought the Court home. I think somebody made a joke that Akanbi was carrying the Court to his village. Well as it is, everything has turned out good."*[30]

A Bad Lawyer, A Lost Case.

The division's first judgment *Abdulrahman Adisa & 3 Ors. v. Attorney General of Kwara State & 2 Ors.* was delivered on July 5, 1999. The Court in this appeal established that grounds of appeal containing issues of mixed fact and law, could be filed, only after obtaining permission from either the trial court or the Court of Appeal. Failing to do so would render the appeal incompetent and would be struck out.

The Defence Industries Corporation needed land for their operation at Jebba in Kwara State and contacted the Government of Kwara State which acquired land for them. They paid a huge compensation to the occupiers of the acquired land for economic trees. The compensation was paid to Alhaji A. A. Yusuf, Director General, Surveys and Physical Development, Kwara State. He was to transmit the money to the occupiers. However, one Mr. Adekunle Okedare who was also joined in this suit rose up and claimed that he was the sole owner of the land. He then approached A. A. Yusuf to pay him alone the compensation.

When the 20 farmers who were meant to get the money heard about the move, they sued the State's Attorney General and Yusuf to prevent them from paying compensation to Okedare. However, their lawyer failed to state on the writ that five of the 20 were suing in a representative capacity. ns among them to be their representatives. But there was a mistake. Whenever people are suing in a representative capacity, the names of the parties and the capacities in which the action is being brought or prosecuted must be clearly shown on the title of thc writ as well as in the endorsement on the writ. That is, the names of the people suing, their representatives, and the fact that these representatives are suing on behalf of the others must be clearly indicated. Where this is not done, counsel must seek the leave of court to amend the writ or the endorsement. Perhaps, counsel to these 20 farmers did not realise his error.

During the hearing, the farmers called witnesses who were cross-examined by counsel to the other parties and closed their case on May 12, 1997. The suit was then adjourned to July 3, 1997 for defense but before the date for defense, counsel on the opposing side filed an action on June 5, 1997 asking that the Court's ruling of July 3, 1993 which allowed the 20 farmers to sue in a representative capacity be set aside. Hon. Justice Ibiwoye of the Ilorin high Court reversed the ruling, four years after granting it.

The farmers went on appeal. At the Appeal Court, Ilorin, they asked the Court to explain whether their lawyer's failure to state clearly on the documents he filed at the High Court that five of them would represent others renders the suit incompetent. They also wanted the Court to explain whether the trial judge was right in agreeing with the defendants that they (the farmers) have separate and distinct interests.

The defendants brought a preliminary objection to the Appeal Court insisting that since the appeal is a mixture of law and facts, counsel to the farmers should have obtained permission from the trial court before going on appeal. Stressing that section 221 (1) of the 1979 Constitution directed that such permission be obtained from court, they averred that failure to do this has made the suit incompetent.

The Court on its part pointed out that it would give its verdict on the preliminary objection before delving into the main suit since the outcome of the preliminary objection would affect the main appeal. Moreover, the Court revealed that the current

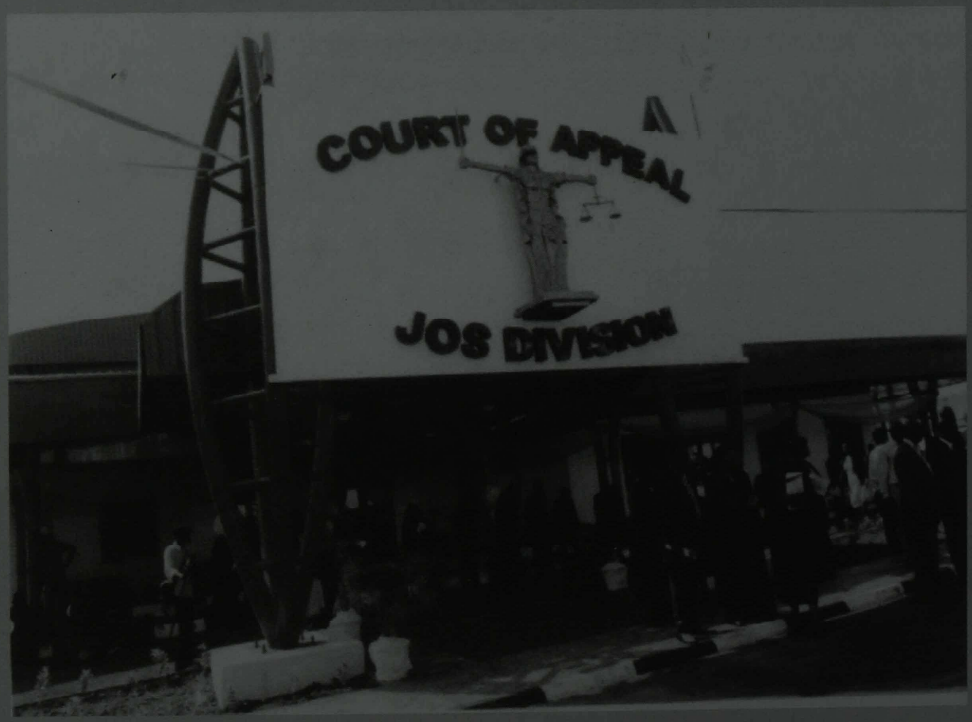
legal position is that a ground of appeal which complains about weight of evidence or one which warrants some determination, is a ground of fact. On the other hand, it explained that where the question raised is one of law as applied to the disputed facts; where the question is partly law and partly facts, it is a ground of mixed law and fact. In its verdict the Appeal Court said that the appeal borders on mixed law and fact, in which case permission ought to have been sought and obtained from the High Court before an appeal is embarked upon.

Furthermore, the Court in its judgment delivered by Hon. Justice Muritala A. Okunola, disclosed that section 221(1) of the 1979 Constitution prescribed that grounds of appeal containing issues of mixed fact and law, filed without obtaining permission from the Court of Appeal should be regarded as incompetent and struck out. He said:

> *"In consequence, since the leave of the Ilorin High Court or the Court of Appeal on these grounds which have been adjudged grounds of mixed law and facts, have neither been sought nor obtained, the grounds as well as the issues predicated upon them are incompetent. In short, the appeal is incompetent and deserves to be struck out."*[51]

The implication of this ruling is that, six years after the matter was commenced at the High Court, the case would have to be filed afresh at the High Court because of that error. It would move all the way up to the Supreme Court again unless the plaintiffs choose not to continue with the action in court, the parties settle out of court, the defendants decide to pay the 20 farmers their due, or perhaps another High Court makes a pronouncement and none of the parties goes to appeal.

COURT OF APPEAL BENIN DIVISION



COURT OF APPEAL JOS DIVISION

COURT OF APPEAL PORT HARCOURT DIVISION

OLD COURT OF APPEAL ABUJA DIVISION

COURT OF APPEAL CALABAR DIVISION

Calabar, in Cross River State once served as the seat of Government of the Nige Coast Protectorate, Southern Protectorate and Oil Rivers Protectorate (effectivel the headquarters of modern day Nigeria). The Court of Appeal building in thi division is one of its kind in Nigeria. It is the oldest and very solidly built. It used t be the Supreme Court building of the Southern Protectorate of Nigeria before th amalgamation in 1914 and was commissioned to be used as the Court of Appeal Calabar division on February 16, 1999. The Court covers Cross River and Akw Ibom States.

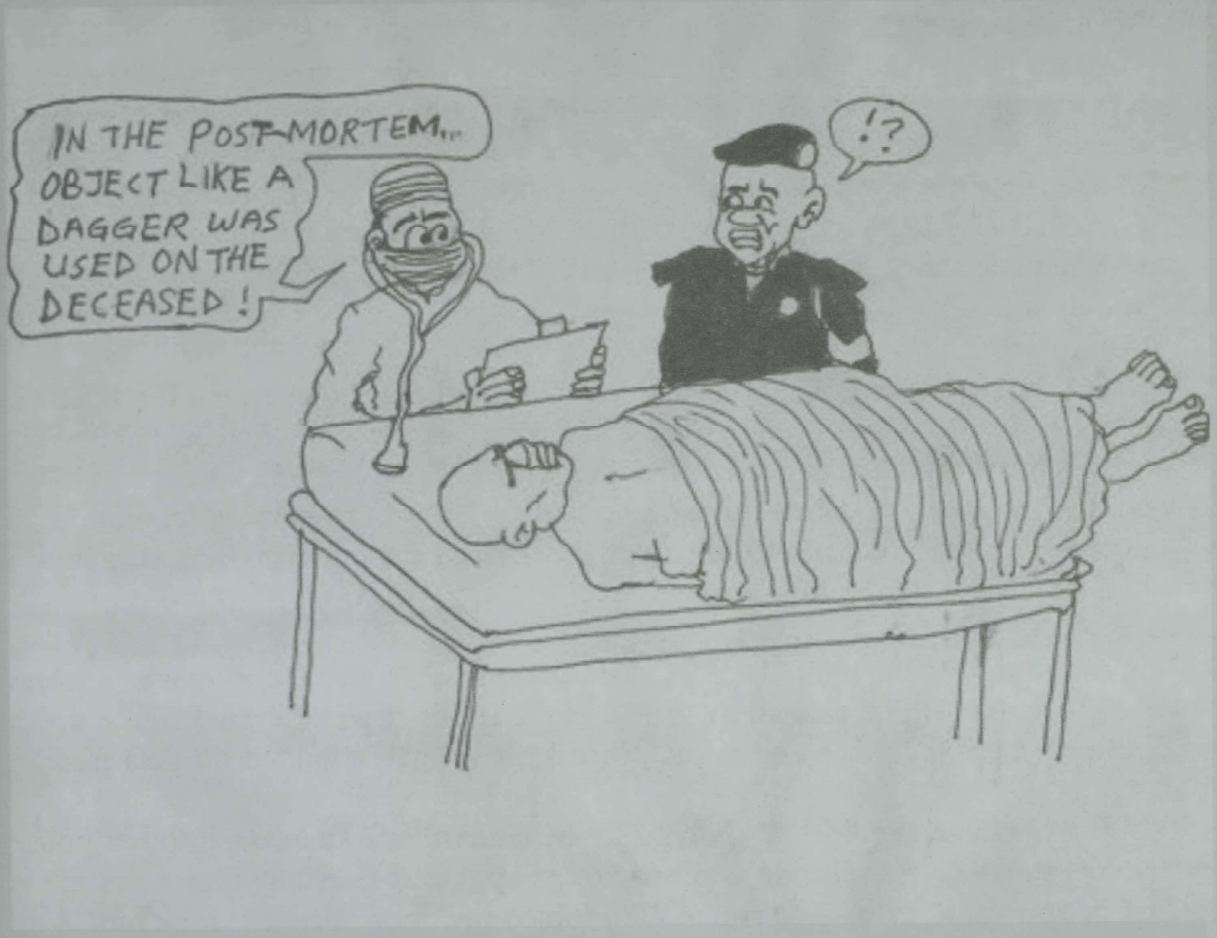
A former Presiding Justice of the division, Hon. Justice Victor Omage explained tha many cases that come to this division are chieftaincy and land matters. Political an criminal cases are also handled here.

'One One' or 'One Way'

The Court's judgment in the case of Akpan Ben Akpan v. The State,[32] delivered o May 11, 2000 is one of its notable ones. In a leading judgment delivered by Justic Dennis O. Edozie, the Court dealt with the need for corroboration to determine th correctness of a confessional statement and the duty on prosecution to prove murde beyond reasonable doubt.

Akpan Ben Akpan and Mrs. Regina Ukpong were arraigned before the Akwa Ibom State High Court sitting at Eket. Charged for murder, Akpan, alias 'One One' o 'One Way' was said to have unlawfully killed one Samuel Udo Samuel on Octobe 1, 1987 at Abat, Eket, while Regina Ukpong was alleged to be his accomplice. It al started at a Disco night dance held at Udokop Mansion guest house, Abat, organise for the national day celebration on October 1, 1987. Among those who attended th dance were Samuel Udo Samuel (the deceased) and his brother Efiok Udo Samuel Both men went in company of two sisters namely, Bessie Johnson Umana and Cecili Johnson Umana. Also present at the dance was the appellant, Akpan Ben Akpan whose nicknames are 'One One' and 'One way'.

Bessy Johnson explained that, while they were in the dancing hall, Akpan invited he for a dance but she declined with the explanation that she had her dancing partne with whom she came to the dance. On insisting to know who it was, she referre to Samuel Udo. When Akpan turned to the deceased, he confirmed that he came to the dance with her and advised him to look for another person. Akpan did not tak kindly to that and so he started quarreling with the deceased and threatened to kil him that night swearing that if he did not do so, he should not be called 'One One' anymore.



Apprehensive of these utterances, Bessie advised that they should go home to avoid any problem. The deceased heeded the advice and they, including Cecilia her sister and Efiok, Samuel's brother, started to leave. As they were walking out, Cecilia recalled that Akpan ran past them and caught up with Samuel - the deceased, who was in front of them. They also saw him running away from the deceased. They anxiously hurried to get to the deceased and they found him dead, on the ground in a pool of blood. Although the incident occurred at night, it was brightly moonlit night.

The incident was reported to the Abat police Station where a police corporal, Nicholas Ajangide was on duty. On information that Akpan was hiding in the house of Regina Ukpong at Ukot Akpatek village, Corporal Ajangide went there. He found the door of the house locked and when Ukpong refused to open it, he forced both the outer and inner doors open, saw and apprehended Akpan as well Mrs. Ukpong. Three days later, the Investigation Officer, Sergeant Simon Edet arranged for the post-mortem of Samuel's body at Immanuel Hospital Eket. On the same day, he arrested and charged Akpan and Ukpong. After due caution, he obtained a statement from Akpan in Ibibio language which he translated into English. On October 14, 1987, Akpan from his cell volunteered a second statement in Ibibio language which was also translated into English language.

Meanwhile, Dr. Ignatius George Eno had on October 4, 1987, at the Immanue
Hospital performed a post mortem examination on the corpse of the deceased after i
was identified to him by Udo Samuel Ufot, the father of the deceased. On examining
the body, the doctor found, that there was a deep penetrating wound on the left sid
of the chest measuring 6cm x 2cm deep caused by the use of an object like a dagge
He noted that death was due to extensive bleeding internally and externally which le
to traumatic shock and subsequent death. The injury, he added, could not have bee
self-inflicted.

In his defence at the trial court, Akpan admitted that he attended the Disco danc
and saw the deceased, Bessie, Cecilia and Efiok in the dancing hall. That he sought
the permission of the deceased to dance with Cecilia on the first occasion but when
he danced with her a second time he had to leave her on the intervention of th
deceased. As he went out to urinate, the deceased came to slap him, started to figh
him and as a result he fought back.

In the course of the fight, the deceased brought out from his pocket what looked like
a dagger and said he wanted to "finish him". In his struggle to disarm the deceased,
both of them fell down and in the process the dagger wounded the deceased.

In her own defence, Mrs. Ukpong told the court that Akpan ran into her house and
bolted the door from inside as groups of people were pursuing him. Later the group
of people came with a policeman who forced the door open and took him away.

After reviewing the entire evidence, the trial court discharged and acquitted Ukpong
but convicted and sentenced Akpan to death for murder. He went on appeal.

Justice Edozie who led the Appeal Court panel which included Justices Opene and
Simeon Osuji Ekpe acknowledged that the high court was right in convicting him
The Court also noted that the appellant's confessional statement taken in unison with
the evidence of the prosecution witnesses established beyond reasonable doubt the
charge against him.

COURT OF APPEAL SOKOTO DIVISION

Judicial history was made in Sokoto State, the seat of the Caliphate on May 19, 2009.
The 11th division of the Court of Appeal was inaugurated under the watch of the
former President of the Court, Justice Umaru Abdullahi. It was a fulfilment of his
desire to take justice to the doorsteps of the teeming population of Nigeria.

This division comprises Sokoto, Kebbi and Zamfara states. For many years, the people
of this zone had to go through a lot of difficulties in the pursuit of Justice. Because of
this, they gave up pursuing their rights on many occassions. They endured travelling

long distance to the Court of Appeal, Kaduna, with all the difficulties of road hazards, financial problems as well as security challenges both on the highways and at Kaduna, particularly for those who have no relations to assist them with accommodation and feeding. At times, they spent days in Kaduna without any certainty that their cases would be heard. In the words of Hon. Justice Abdullahi, *"There is a saying that you can't go through a difficult time without getting something out of it. I am not sure that the people from this zone got much out of their difficulties in going to Kaduna all these years."*[33]

The location of the Court is historic. The remodelled building was the first Magistrate Court in the defunct Sokoto Province. When States were created in 1967, the same premises became the first High Court of Justice of the then North-Western State. It has now been chosen to be the location for the take-off of the Sokoto division of the Court of Appeal.

One Judgment, Two Similar Petitions

The first judgment of the Sokoto division was delivered on October 7, 2009. It was a unique one in the sense that the Court delivered one judgment on two similar petitions filed by two different parties against five principal actors. The first appeal was filed by Aliyu Bello Mohammed Sambo and Democratic Peoples Party (DPP) against Mohammed Adamu Aliero, Peoples Democratic Party (PDP), whereas the Independent National Electoral Commission (INEC), Resident Electoral Commissioner, Kebbi State and Returning Collation Officer, Kebbi Central Senatorial District were respondents. The second was instituted by All Nigeria Peoples Party (ANPP) and Alhaji Abubakar Atiku Bunu against Muhammadu Adamu Aliero and 123 others.

Two petitions were presented before the Kebbi State Governorship and Legislative Houses Election Petition Tribunal sitting at Birnin Kebbi. Both were challenging the return of Mohammed Adamu Aliero who had been fielded by the PDP to contest the election for the Kebbi Central Senatorial District seat held on April 21, 2007. The petitioners alleged that Mohammed Adamu Aliero who at the end of the election conducted by INEC was declared and returned the winner of the election, was not qualified to contest the election. Aggrieved by the declaration and return, Aliyu Bello Mohammed and Alhaji Abubakar Atiku Bunu, who were candidates of the DPP and ANPP in respectively, challenged the pronouncement and return in their separate petitions.

The two petitions were premised on three grounds but two grounds were common to both parties. The two grounds common to the petitions were:

i. That the 1st Respondent (Aliero) was at the time of the election not qualified to contest and

ii. That the election was invalid by reason of corrupt practices and or non compliance with the mandatory provisions of the Electoral Act, 2006.

While the third ground in the first petition asserted that Aliero was not validly nominated to contest the election, the second petition in its third ground claimed that Aliero was not duly elected by a majority of lawful votes cast at the election.

The 2nd petitioners in the particulars in support of their common grounds alleged that there was improper merger between the Kebbi State chapter of the ANPP and the Kebbi State chapter of the PDP. This action they said was contrary to the Electoral Act. Also they claimed that it led to the improper substitution of the lawfully nominated and sponsored candidate of the PDP with Aliero who at the time of substitution was the candidate sponsored by the ANPP .

The petitioners further averred that the PDP had not given cogent and verifiable reasons for the substitution of its candidate with Aliero and that the election was also marred by thuggery, violence, snatching and stuffing of ballot boxes, bribery, undue influence and other corrupt practices.

The first petitioners on their part, concluded by asking the tribunal to void Aliero's election and order for a fresh election. The second petitioners made the same request and in the alternative asked that Atiku Bunu being the lawfully elected candidate be returned.

In their response to the two petitions, the respondents insisted that Aliero was validly nominated and that the nomination conforms with the provisions of the Electoral Act 2006 as well as the Constitution. Moreover, they remarked, there was neither a merger between the Kebbi State chapters of the PDP and the ANPP nor was Aliero's nomination the product of such merger. The respondents were emphatic that Aliero had never been presented as ANPP's candidate for the April 2007 election. It was additionally argued that the petitioners lacked the legal capacity to challenge Aliero and if they did, the appropriate time to contest the issue was before and not after the election had been concluded.

The tribunal eventually dismissed the petitions. Disappointed, the petitioners filed their separate appeals to the Court of Appeal in Sokoto. Like the pattern adopted by the lower tribunal, the appeals were merged. The respondents then brought an application requesting that the appeal be struck out for lack of merit. They added that Aliero whose election was being contested had even ceased being a Senator, having been appointed a Minister of the FCT in 2008.

The Court in its judgment delivered by Justice Musa Dattijo Muhammad held that the petitioners in the first appeal not being members of the PDP lacked the legal right to ask any court of law to intervene.

"The appellants were not the ones wrongly substituted. They could not for that reason have suffered any grief consequent upon an act resulting from a relationship they are not privy to."[34]

On the second petition, the Court said that beyond the second appellants failure to prove their case as presented, they also failed to establish that the malpractice or non compliance with the provisions of the Electoral Act, the basis on which they wanted Aliero's election nullified, was so substantial that they had the effect of preventing the majority of the voters from casting their votes in their favour.

In all, the two appeals were dismissed for lack of merit. Justices Ahmad O. Belgore and Massoud A. Oredola who were on the panel agreed with the decision.[35]

COURT OF APPEAL OWERRI DIVISION

As at 2006, about 361 cases and motions emanating from Imo state, most dating back to 1986 were still pending at the Court of Appeal Port Harcourt Division. Imo out of the four states under the Port Harcourt Division clearly had more cases, hence the need for a Division of the Court.

The Court of Appeal Owerri division in Imo State was inaugurated on November 5, 2009, after a very long wait. The division covers Imo and Abia States. This eagerly awaited new division of the Court of Appeal join the others created over the 3 year period of the Court's existence. The establishment of the Owerri division a welcome development for lawyers and litigants in Abia and Imo States and the southeast of Nigeria in general. In the past, lawyers in both Abia and Imo have had to their way to Port Harcourt to have their appeals heard. According to the Attorney-General of Imo State, Mr. Ken Njemanze, SAN, Abia and Imo States account for over 60% of the appeals pending at the Court of Appeal in Port-Harcourt. With that, there is no doubt that the bar in the region must have heaved a collective sigh of relief when the decision to establish a new division finally came through. Appeals from Imo and Abia that were pending at Port Harcourt division got transferred to the new division.

Did They Have a Case to Answer?

The first appeal that was decided here was an election matter. The appeal was brought by Senator Chris Adighije, senatorial candidate of Progressive Peoples Alliance (PPA) against Hon. Nkechi J. Nwaogu, candidate of the Peoples Democratic Party (PDP) in the Abia Central Senatorial District, Independent National Electoral Commission (INEC) and eight others. His contention was that no election took place at Osisioma Ngwa Local Government Area of Abia State on April 28, 2007.

The Court in that matter held that for an appeal to succeed, the appellant must show that the respondent truly had a case to answer. This appeal however, stems from the judgement of the National Assembly/Governorship Election Petition Tribunal sitting

in Umuahia, Abia State, delivered on October 24, 2008.

The judgment of October 24, 2008 by the Tribunal was in turn based on an order f[illegible] retrial by the Court of Appeal, Port Harcourt division in its judgment of May 14, 200[illegible] that the petition be heard by another panel to determine whether or not election w[illegible] conducted in Osisioma Ngwa Local Government Area on April 28, 2007. The ne[illegible] panel heard the matter and decided that the petitioner had been unable to prove h[illegible] case. Again the petitioner went on appeal.

Upholding that decision, the Appeal Court through Justice Helen M. Ogunwumuji in th[illegible] lead judgment pointed out that though the appellant, Senator Adighije argued that th[illegible] respondents did not produce the Voter's Register and Form EC25A (Election Mater[illegible] Receipt) which is the only proof that electoral materials were issued and distribute[illegible] this argument was not part of the requests brought before the Court and that at no tim[illegible] did he indicate that the Voter's Register and Form EC25A were in controversy. Th[illegible] documents in controversy according to her were the polling unit results in all the polli[illegible] units. She stressed that if the appellant felt the Voter's Register and Form EC25A we[illegible] needed to prove his case, he had the right to ask INEC to produce them for his use [illegible] in default face committal proceedings. Ogunwumuji said:

> *"The Supreme Court has placed a much greater burden on the petitioner to facilitate the tendering of relevant documentary evidence to prove his case. Niki Tobi, JSC held that it is the duty of the appellant to tender ballot papers in dispute to prove his case. In this case, the appellant did not ask the 2nd - 10th respondents (Nkechi Nwogu, INEC, Resident Electoral Commissioner Abia State, etc) to produce the Voters' Register and Form EC25A in their possession... I must reiterate the law that the onus was not on the respondent but the petitioner to prove that election did not take place.*
>
> *The petitioner had claimed that the respondents did not call the Electoral Officer and the Divisional Police Officer for Osisioma Ngwa Local Government to give evidence at the Tribunal but the Court held that since it was his assertion that the DPO had testified openly that no election took place, he cannot turn around to rely on his adversary to call such a person as a witness. Paragraph 19 of the petition additionally states that the Transition Chairman of Osisioma Local Government Area testified that no election held in the Local Government. The Tribunal on its part held that in the witness statement on oath, the Transition Chairman swore that he cancelled the election in consultation with the DPO and Electoral Officer because the result was marred by fraud. That he wrote to the Resident Electoral Commissioner and issued a press release. However, the Petitioner failed to produce these documents..."*[36]

At the end, Ogunwumiju observed that it was wrong for the appellant to assume that the legal onus rested on the respondent to prove that the election held. She said the appellant should have brought enough proof to support his case instead of relying on the respondent to prove that the election indeed took place.

Disagreeing with the majority judgment of Justices Abubakar A. Jega and Ogunwumiju, Justice Mojeed A. Owoade in his dissenting judgment countered that going by the petitioner's pleadings the question of who bears the burden of proof under sections 136 and 137 of the Evidence Act is the respondent.

This according to him is because if both parties had "folded their arms" and no evidence was adduced on either side in the case, it is the respondents who would not want to lose their case, that would have vigorously argued an election conducted and it was free and fair.

> *"Thus it is the respondents in this case that bear the burden of proof under section 136 as well as the burden of first adducing evidence under section 137 of the Evidence Act. ...the lower tribunal was wrong in placing the burden of proving that there was no election on the petitioner/ appellant."*[37]

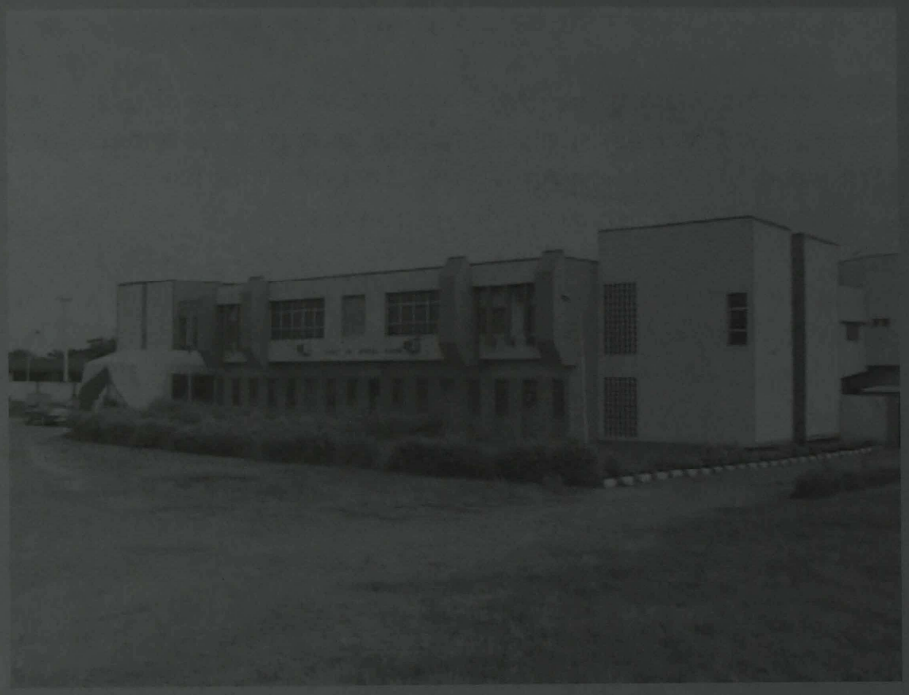
Justice Owoade equally added that since the fundamental complaint in this appeal borders on misdirection as to onus of proof, the proper order after allowing the appeal is that it should be retried before another panel of judges of the Governorship/ Legislative Houses Election Tribunal.

Additionally, he insisted that the question set down for retrial in the judgment and order of the Port Harcourt Division of the Court of Appeal on May 14, 2008 be heard before another panel of the Governorship/ Legislative Houses Election Petitions Tribunal.

COURT OF APPEAL EKITI, AKURE, YOLA AND MAKURDI DIVISIONS

These three divisions were created in the year 2010, under the leadership of Justice I. A. Salami. Ekiti division came up on October 4, 2010. It receives appeals only from Ekiti State. Akure division was created on October 18, 2010 and covers Osun and Ondo States. Yola division emerged in November 9, 2010 and it covers Adamawa and Taraba States.

Makurdi division was created in 2011 and it covers Benue and Nasarawa States.



COURT OF APPEAL ILORIN DIVISION

COURT OF APPEAL CALABAR DIVISION

COURT OF APPEAL SOKOTO DIVISION

COURT OF APPEAL OWERRI DIVISION

COURT OF APPEAL
(Judicial Division, as at November 2018)

ABUJA (HEADQUARTERS), Three Arms Zone, Abuja

Hon. Justice Zainab Bulkachwa, CFR	Hon. President
Aliyu Ibrahim Esq.	Chief Registrar
Hafizu Isah	Deputy Chief Registrar (Hqtr

LAGOS DIVISION

Hon Justice M.L. Garba	Presiding Justice
Hon Justice J.S. Ikyegh	JCA
Hon Justice T.S. Yakubu	JCA
Hon Justice T. Abubakar	JCA
Hon Justice B.A. Georgewill	JCA
Hon Justice U.A. Ogakwu	JCA
Hon Justice A.O. Obaseki-Adejumo	JCA
Hon Justice J.Y. Tukur	JCA
Hon Justice E. Tobi	JCA
Hon Justice G.O. Kolawole	JCA
Rasheedat Rasheed	DCR

KADUNA DIVISION

Hon Justice U.M. Abba Aji	Presiding Justice
Hon Justice M.A. Oredola	JCA
Hon Justice I.S. Bdliya	JCA
Hon Justice 0,0. Daniel - Kalio	JCA
Hon Justice O.A. Adefope-Okojie	JCA
Hon Justice J.G. Abunduga	JCA
Amina Ibrahim	DCR

IBADAN DIVISION

Hon Justice J.O. Bada	Presiding Justice
Hon Justice H.S. Tsarnmani	JCA
Hon Justice N, Okoronkwo	JCA
Hon Justice A.M. Talba	JCA
Hon Justice F.A. Ojo	JCA
Hassan Suleiman	DCR

COURT OF APPEAL
(Judicial Division, as at November 2018)

ABUJA DIVISION

Hon Justice A. Aboki	Presiding Justice
Hon Justice A.D. Yahaya	JCA
Hon Justice A. Jauro	JCA
Hon Justice S.J. Adah	JCA
Hon Justice T. Akomolafe-Wilson	JCA
Hon Justice P.O. Ige	JCA
Hon Justice E. Agim	JCA
Hon Justice M.B. Idris	JCA
Ahmed Sa'ad Alhaji	DCR

CALABAR DIVISION

Hon Justice M.A. Owoade	Presiding Justice
Hon Justice O.F. Ogbuinya	JCA
Hon Justice Y. Nimpar	JCA
Hon Justice M.L. Shuiabu	JCA
Micheal Nwagbegbe	DCR

ILORIN DIVISION

Hon Justice I.M.M. Saūlawa	Presiding Justice
Hon Justice C.N. Uwa	JCA
Hon Justice H.A. Barka	JCA
Hon Justice B.B. Aliyu	JCA
Fidelia I. Nwobia	DCR

OWERRI DIVISION

Hon Justice R.C. Agbo	Presiding Justice
Hon Justice T.N. Orji-Abadua	JCA
Hon Justice A.O. Lokulo-Sodipe	JCA
Hon Justice R.N. Pemu	JCA
Hon Justice I.G. Mbaba	JCA
Hon Justice I.A. Andenyangtso	JCA
K.O. Gbayegun	DCR

COURT OF APPEAL
(Judicial Division, as at November 2018)

SOKOTO DIVISION

Hon Justice H. Mukhtar	Presiding Justice
Hon Justice A.A. Wambai	JCA
Hon Justice F.O. Oho	JCA
Hon Justice A.M. Bayero	JCA
Abubakar Fatima Ahmed	DCR

YOLA DIVISION

Hon Justice O.F. Ornoleye	Presiding Justice
Hon Justice J.S. Abiriyi	JCA
Hon Justice S.T. Hussain	JCA
Musa Yusuf	DCR

EKITI DIVISION

Hon Justice A.O. Belgore	Presiding Justice
Hon Justice F.O. Akinbami	JCA
Hon Justice P.O. Elechi	JCA
Hon Justice O.E Williams - Daudu	JCA
Mesiobi-Emeto F. Obianuju	

AKURE DIVISION

Hon Justice U.I. Anyanwu	Presiding Justice
Hon Justice M.A. Danjuma	JCA
Hon Justice R.M. Abdullahi	JCA
Hon Justice P.A. Mahmoud	JCA
H. T. Kawu	DCR

MAKURDI DIVISION

Hon Justice J.H. Sankey	Presiding Justice
Hon Justice J. T. Tur	JCA
Hon Justice O.A. Otisi	JCA
Hon Justice J.E. Ekanem	JCA
Ubaka Uzoamaka Eugina	Ag. DCR

NOTES

1. Okenwa, Supra.
2. Ibid.
3. Ibid.
4. Ibid.
5. Ibid.
6. Ibid.
7. Ibid.
8. Duro Ajayi & 2 Ors. v. The State (1977) 1 F.C.A (Reserved Judgments of the Federal Court of Appeal, March - June, 1977) 1.
9. Mrs. Titi A.A. Osinuga rose to become a Solicitor General of the Federation while Mr. O. Hunpunu-Wusu later became Hon. Justice Hunpunu-Wusu. He served as a judge of the High Court of Lagos State.
10. Onobere Sunmonu v. The State (1977) 1 F.C.A (Reserved Judgments of the Federal Court of Appeal, March - June, 1977) 50.
11. Obeiba Ihima area in Okehi Local Government of Kogi State was part of the old Kwara state. Some parts of Kogi state as it is presently constituted fell under old Kwara State while other parts were under Benue State.
12. Okenwa, Supra.
13. Nweke Unugu v. The State (1977) 1 F.C.A (Reserved Judgments of the Federal Court of Appeal, March - June, 1977) 70.
14. Abakaliki which was under old Anambra state is now the capital of Ebonyi State.
15. Nweke Unugu v. The State, Op. Cit.
16. John Falaju v. Daniel Amosun (1977) 2 F.C.A (Reserved Judgments of the Federal Court of Appeal, July 1977) 132
17. Samuel Adaje v. The State (1979) NSCC (pt. 69).
18. Sapele which was part of the now defunct Bendel state is presently in Delta state. However, it is still under the jurisdiction of Court of Appeal Benin division.
19. Samuel Adaje v. The State, Op. Cit.
20. Jibrin Adamu & 5 Ors. v. The State (1986) 2 C.A (Part II) (Reserved Judgments of the Court of Appeal, July - September 1986).
21. Section 187 (1) of the Criminal Procedure Code provides that:
    When the High Court is ready to commence the trial, the accused shall appear or be brought before it and the charge shall be read out in court and explained to him and he shall be asked whether he is guilty or not guilty of the offence or offences charged.

22. Section 33(6)(a) of the 1979 Constitution provides that:
Every person who is charged with a criminal offence shall be entitled to
(a) be informed promptly in the language that he understands and in detail of the nature of the offence...
23. Jibrin Adamu & 5 Ors v. The State. 178.
24. Okenwa, Supra
25. Basil Akalezi v. The State (1993) 1 NSCC (pt. 188).
26. Ibid.
27. Okenwa, Supra.
28. Afribank Nig. Plc v. Elliot D. Green
(Unreported Appeal No. CA/A/29/94 of 9/7/1996).
29. Ibid.
30. Okenwa, Supra.
31. Abdulrahman Adisa & 3 Ors. v. A.G Kwara State & Ors.
(Unreported Appeal No. CA/IL/40/99 of 5/7/1999).
32. Akpan Ben Akpan v. The State (2000) 8 WRN (pt.130).
33. Umaru, U, Inauguration Address, Court of Appeal, Sokoto Division, May 19, 2009.
34. Aliyu Bello Mohammed Sambo & Anor. v. Mohammed Adamu Aliero & Ors, Al
Nigeria Peoples Party & Anor. v. Alhaji Muhammed Adamu Aliero & 123 Ors
(Unreported Appeal No. CA/S/EP/SN/5/09 and CA/S/EP/SN/6/09
of 7/10/2009).
35. Ibid.
36. Senator Chris Adighije & Hon. Nkechi Nwogu and 9 Ors
(Unreported Appeal No. CA/PH/EPT/667/2008 of 29/3/ 2010).
37. Ibid.

CHAPTER 8

List of cases

Reported:

1. Akpan Ben Akpan v. The State (2000) 8WRN(pt.130)
2. Basil Akalezi v. The State(1993) 1NSCC (pt.188)
3. Duro Ajayi & 2ors. V. The State (1977) 1 F.C.A. @ 1
4. John Falaju v. Daniel Amosun (1977) 2 F.C.A. @132
5. Jubrin Adamu & 5 ors. V. The State (1986) 2C.A. (pt. 2)
6. Nkweke Unugu v. The State (1977) 1F.C.A @70
7. Onobere Sunmonu v. The State(1977) 1F.C.A. @ 50
8. Samuel Adaje v. The State (1979)NSCC (pt. 69)

Unreported:

1. Afribank Nigeria Plc v. Elliot D. Green (Appeal No. CA/A/29/94 of 9/7/1996)
2. Abdulrahan Adisa & 3 ors. V. A.G Kwara State & ors. (Appeal No. C.A/IL/40/99 of 5/7/1999)
3. Aliu Bello Mohammed Sambo & Anor. V. Mohammed Adamu Aliero & Ors. (Appeal No. CA/S/EP/SN/5/09 of 7/10/2009)
4. All Nigeria Peoples Party & Anor. V. Alhaji Muhammed Adamu Aliero & ors. (Appeal No. CA/S/EP/SN/6/09 of 7/10/2009)
5. Senator Chris Adighije & Hon. Nkechi Nwogu & 9ors. (Appeal No. CA/PH/EPT/667/2008 of 29/3/2010)
6. Abdulrahman Adisa & 3 Ors. v. Attorney General of Kwara State & 2 Ors. CA/IL/40/99 of 5/7/1999

List of Statutes

1. Section 121(3) and 162(9) of the 1999 Constitution.
2. Section 187(1) of the Criminal Procedure code.
3. Section 33(6) (a) of the 1979 Constitution.
4. Section 269 (1) (2) of the Criminal Procedure Code.
5. Section 221 (1) of the 1979 Constitution.