

**SUPREME COURT OF NIGERIA**

19TH FEBRUARY, 1999. SC. 107/1989

**CORAM:- M. L. UWAIS CJN, A. B. WALI, I. L. KUTIGI, E. O. OGWUEGBU, U. MOHAMMED, S. U. ONU, A. I. IGUH, JJSC.**

ATTORNEY - GENERAL OF BENDEL STATE ..... APPELLANT  
AND

1. CHIEF C.O.M. AGBAFODOH

2. CHIEF JACKSON ONWURIE

3. CHIEF JACKSON IKPESAN ..... RESPONDENTS

(For themselves and on behalf of Ekpan

Community of Delta State, substituted

on 27/5/97 by order of Court.)

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**JURISDICTION** - Ouster - Challenge of the validity of the 1978 Edict - The jurisdiction of the learned trial judge to entertain the matter was ousted - By the provisions of S.2(2) of the 1977 Decree.

**STATUTES** - Purpose - Decree No.18 of 1977 - Was promulgated to provide a general validation - In respect of all enquiries instituted by the Military Governor of a State - And other consequential actions.

**STATUTES** - Interpretation - Bendel State Edict No. 7 of 1978 - The Edict imposed forfeiture on the respondents - As envisaged by S. 2(1) of Decree No. 18 of 1977.

**STATUTES** - Ouster of jurisdiction - Under S. 1(2) of Decree No. 18 of 1977 - Does not apply to the present case.

**WORDS & PHRASES** - "Person" - How properly defined.

**WORDS & PHRASES** - "Forfeiture" - The Ordinary meaning of the word.

### **FACTS**

The plaintiffs/respondent for themselves and on behalf of Ekpan Community took out a writ of summons asking for declarations that sections 1,3,4 and 5 of the Bendel State Edict No.7 of 1978 is unconstitutional illegal and ultra vires the Government of Bendel State and is therefore null and void. On the 15th day of August, 1977 there was a conflict involving riots and clashes between two neighbouring villages of Ekpan in Ethiopie Local Government Area and Ubeji in Warri Local Government Area. As a result, the then Military Governor of Bendel State set up a Commission of Inquiry in exercise of his powers under S.2(1) of the Commissions of Inquiry Law, Cap. 23 of the Laws of Western Region of Nigeria 1959 applicable in Bendel State. The terms of reference of the commission was to inter alia, "make recommendations towards peace, law and order in the two villages and other recommendations including and/or individual punishment, if any." The inquiry was accordingly conducted. It assigned blame for the riots and clashes to the Ekpan community. A white paper on the Report submitted by the Sole Commissioner for the inquiry was issued by the Military Government of Bendel State accepting the Commission's re commendations. Next, an Edict called "Ekpan and Ubeji Communities (Riots and Clashes) (Determination) Edict, No. 7 of 1978" was promulgated by the Military Governor. The Edict provided inter alia that the Ekpan community shall pay N55,000.00 to the treasury of the Bendel State Government within one month of the commencement of the edict as part of the total cost of rehabilitation and reconstruction of Ubeji village. It was as a result of this Edict that the Ekpan community took out a writ of summons against the defendant /appellant asking for the aforementioned declaration.

On the 12th day of December, 1981 the defendant brought a motion on notice under order 22 rules 2, 3 and 4 of the Bendel State High Court (Civil Procedure) Rules praying that the legal points mentioned in his Amended Statement of Defence be determined before the trial of the suit began. The application was granted. The learned trial judge after hearing arguments from the parties held that the jurisdiction of the High Court was ousted. Aggrieved by the ruling, the plaintiffs successfully

appealed to the Court of Appeal, Benin Division. The Defendant dissatisfied has now appealed to the Supreme Court raising three issues while the plaintiffs on their part raised four issues. The appeal was however decided on a lone issue.

### **ISSUE FOR DETERMINATION**

Whether the Court of Appeal was right in overruling the decision of the learned trial judge that he had no jurisdiction to hear the plaintiffs' action.

**HELD** (Unanimously allowing the appeal per lead judgment **UWAIS, CJN**)

### ***Statutes - Purpose***

1. The 1977 Decree was promulgated to provide a general validation in respect of all inquiries instituted by the Military Governor of a State and all actions taken in execution of the policy of the Government of that State on the matter in respect of which the inquiries were instituted. (p. 413 C)

### ***Statutes - Ouster of jurisdiction***

2. When examined closely, it will be seen that the ouster provisions apply disjunctively to each of the following questions:-

- (1) Whether a tribunal or inquiry has been validly instituted,
- (2) Whether any Law, Edict or subsidiary instrument under which a tribunal or inquiry was instituted (or purported to have been instituted) had been validly made.

The issues in this case do not concern any of the two questions. The provisions of the 1978 Edict do not apply to the institution of a tribunal or inquiry but apply to incidents after the inquiry; that is the execution of the recommendations made by an inquiry. Secondly, the 1978 Edict is not an enabling Edict to facilitate the institution of the inquiry. Therefore, the ouster of jurisdiction under section 1 subsection (2) of the 1977 Decree does not apply to the present case. (p. 416 E)

### ***Words & phrases - person***

3. Learned counsel for the Appellant contends that the Court of Appeal was in error and he sought assistance from the definition by the Interpre-

tation Act, 1964 of the word "person" in section 18 subsection (1) thereof. The word is defined to include any body of persons corporate or unincorporate. (p. 417 F)

**B Words & phrases - Forfeiture**

4. The ordinary meaning of the word "forfeiture" as under the provisions of section 2 subsection (1) (a) of the 1977 Decree is provided by Blacks Law Dictionary, special Deluxe Fifth Edition, to inter alia mean loss of property or money because of breach of a legal obligation. The word "forfeit" has been defined in the same Dictionary to mean - to incur a penalty, to become liable to the payment of a sum of money, as the consequence of a certain act. The Oxford Advanced Learners' Dictionary of Current English defines the word "forfeit" as to give up something or have something taken away as a consequence of or punishment for having done something wrong; and the word "forfeiture" is defined therein as the action of forfeiting something of being forfeited. The Webster's New Twentieth Century Dictionary, Second Edition, defines the word "forfeit" as that act or process of paying a penalty for a crime, fault, mistake etc. and the word "forfeiture" is defined therein to mean that which is forfeited; a penalty; a forfeit; a fine or mulct. It is also stated in the Dictionary to be synonymous with fine, penalty, damage, confiscation, sequestration and amercement. (p. 418 F)

**Interpretation - Bendel State Edict No 7 of 1978**

5. In the light of the foregoing, I am satisfied that the 1978 Edict, imposed forfeiture on the Respondents - the Ekpan Community, as envisaged by section 2 subsection (1) (a) of the 1977 Decree. It also exercises disciplinary control over the Respondents - the Ekpan Community. (p. 420 B)

**H Jurisdiction - Ouster**

6. By the nature of the Respondents' claims in the High Court, as stated above, it is clear that the validity of the 1978 Edict was challenged with regard to whether its sections 1,3,4 and 5 were validly made, as it was

requested that the sections should be declared "unconstitutional, illegal and ultra vires the Government of Bendel State and therefore null and void." Also the validity of the forfeiture and the exercise of disciplinary control over the Respondents had been challenged. I, therefore, come to the conclusion that the learned trial judge was right when he held that his jurisdiction was ousted by the provisions of section 2 subsection (2) of the 1977 Decree and the Court of Appeal was in error when it reversed his decision. (p. 420 C)

## NOTABLE POINTS OF INTEREST

### OGWUEGBU JSC

#### *1. Definition of "person" and "forfeiture"*

It is the respondents' contention in this appeal that Edict No. 7 does not enjoy the ouster clause in section 2(2) of the Decree because it is not in respect of :-

*(a) "the forfeiture or other disposal of the property of any person or (b) The dismissal, retirement or any other exercise of disciplinary control over any public officer of the State....."*

It should not be forgotten that the Omosun Commission of Inquiry was instituted under section 1(1) (d) of the Decree,. That being the case, the question of retirement, dismissal or disciplinary control does not arise in this case. The issue under consideration will therefore, be confined to the forfeiture or other disposal of the property of any person. The key words in section 2(1) (a) are "forfeiture" and "person" and in the case of the latter, section 18 (1) of the Interpretation Act, Cap. 192 Laws of the Federation of Nigeria, 1990, defines "person" as including anybody of persons corporate and unincorporate. The respondents who instituted the action in a representative capacity come within the definition of "person" in section 2(1) (a) of the Decree. As to the word forfeiture, I will refer again to the interpretation Act which provides:-

*"7. Where an enactment provide that any property shall be forfeited, the enactment shall be construed as providing that the property, or where the property is duly sold the proceeds of sale, shall vest in the Minister of the government of the Federation responsible for finance and be held by him*

*for the purposes of the government of the Federation."*

*Section 7 does not define the word "forfeiture ". It merely said what is to happen where a law provides that property shall be forfeited.*

While the word "forfeiture" was not defined in section 7 of the Interpretation Act, the said word is defined in Words and Phrases, Legally Defined, 3rd edition by Saunders, as "something lost by commission of a crime; - something paid for the expiation of the crime, a fine, a mulct". In Black's Law Dictionary, 6th edition, "forfeiture" is defined as "loss of property or money because of breach of a legal obligation" and the word "forfeit" in the same dictionary is defined as "to incur a penalty, to become liable to the payment of a sum of money, as a consequence of a certain act". In the Dictionary of English Law by Earl Jowitt, "forfeiture" is defined as where a person loses some property, right, privilege or benefit in consequence of having done or omitted to do a certain act, (the underlining is for emphasis only). I have no doubt therefore that the word "forfeiture" used in section 2 (1) (a) of the Decree comes within the above definitions. (p. 425 D)

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2. *Dictionaries as a means of elucidating the construction of statutes*

Dictionaries are not generally resorted to as a means of elucidating the construction of statutes. They may however afford some help. See Camden (Macquis) V. I.R.C. (1914) I.K.B 641 at 647 where Cozens - Hardly, M.R. said:-

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*"It is for the Court to interpret the statute as best it can. In so doing the courts may no doubt assist themselves in the discharge of their duty any literary help they can find, including of course the consultation of standard authors and reference to well - known and authoritative dictionaries....."* (p. 426 G)

### **IGUHJSC**

#### **H 3. *Attitude of the Courts to Ouster Clauses***

Turning now to the issue of jurisdiction, it cannot be disputed that in a military regime, Decrees are the supreme laws of the land and other laws, including the constitution are inferior thereto. See Attorney-Gen-

eral, Anambra State v. Attorney-General of the Federation (1993 ) 6 N.W.L.R. (Part 302) 692. It is also beyond question that the clear meaning of the provisions of a Decree or statute must be applied and upheld so long as such provisions are plain, unequivocal and unambiguous. Although the powers of the superior courts of record, such as a High Court are, without doubt, great and, indeed wide, they are certainly not unlimited. They can be and are indeed sometimes properly limited by ouster of jurisdiction clauses in some Decrees or legislations. See Shodeinde v. Registered Trustees of Ahmaddiya Movement in Islam (1980) 1-2 S.C. 225, Olaniyi v. Aroyehun (1991) 5 N.W.L.R. (Part 194) 653 at 686, Attorney-General of the Federation v. Sode (1991) 1 N.W.L.R. (Part 128) 500 at 517 etc. Although it has always been the practice of the courts to guard their jurisdiction jealously, if in any given case that jurisdiction is expressly ousted by the provisions of a Decree, the path of justice dictates compliance with such an ouster clause especially as under our present Constitution, Decrees are the Supreme laws of the land. See Osadebay V. Attorney-General of Bendel State (1991) 1 N.W.L.R. (part 169) 533 at 571. I should however point out that it is not the law that once an ouster of jurisdiction clause is raised in any proceedings, the court must automatically throw in the towel, decline jurisdiction and strike out the suit. The court, where it is faced with an ouster clause still has a duty to inquire into the issue to enable it determine whether or not it has jurisdiction to entertain the action. (p. 434 H)

### **REPRESENTATION**

L.U. Unokesan for the Appellant.

N. Amaechina for the Respondents.

### **CASES REFERRED TO**

Kasikwu Farms v. Attorney-General of Bendel State (1986) 1 N.W.L.R. (part 19) 695 at p. 707

Adejumo v. Col. M. Johnson, (1974) All NLR. 28 at p. 34

Uwaifo v A-G of State (1982) 7 S.C. 124 at p. 219.

Ademolekun v. Council of University of Ibadan, 1968 N.M.L.R. 253

Ereku v. Military Governor Bendel State (1974) 10- S.C. 59

B.C. Onyuike v. E.S.I. A. L.A. (1971) 10 S.C. 77

A-G of Midwester State v. Chief Sam Warri Essi, (1977) 4 S.C. 71;

Agip (Nig.) Ltd. v. A-G of Lagos State, (1977) 11-12 S.C. 3

B Peenok investments Ltd. v. Hotel Presidential Ltd. (1982) 12 S.C. 1.

Ports Authority v. Panalpina World Transport (Nig.) Ltd. 1974 N.M.L.R. 82 at pp. 95 and 96.

Barclays Bank v. Central Bank, (1976) 6 S.C. 175 at pp. 188-189 and

C Nwosu v. Imo State Environmental Sanitation Authority (1990) 2 N.W.L.R. (part 135) 688.

Wilson v. A-G of Bendel State, (1985) 1 N.W.L.R. (part 140) 572

A-G of Lagos State v. Dosunmu, (1989) 3 N.W.L.R. (part 111) 552.

#### D STATUTES AND RULES REFERRED TO

High Court (Civil Procedure) Rules Cap. 65 Bendel State Laws, 1976, O.22 2. 3

E Commissions of Inquiry Law Cap. 23 of the Laws of Western Region of Nigeria, 1959 applicable in Bendel State, S.2(1)

Ekpan and Ubeji Communities (Riots and Clashes) (Determination) Edict, No. 7 of 1978 ss 1,2, 3, 4 and 5

Tribunal or Inquiries (Validation etc) Decree No. 18 of 1977, ss 1 and 2

F Interpretation Act, 1964, SS 7, 8 and 18

Constitution (Suspension and Modification) Decree No 1 of 1966 S.3(3)

Constitution (Basic Provisions) Decree No 32 of 1975 S.1 (3)

#### BOOKS REFERRED TO

G Blacks Law Dictionary, special Deluxe fifth Edition

Oxford Advanced Learners' Dictionary of Current English

Webster's New Twentieth Century Dictionary, 2nd Ed.

Words and Phrases, Legally Defined, 3rd Edition by Sounders

H Dictionary of English Law by Earl Jowitt



**LEAD JUDGMENT BY UWAIS CJN**

This is an appeal from the decision of the Court of Appeal, Benin (Ogundare, JCA, as he then was, Musdapher and Ajose-Adeogun, JJ.C.A.). The Appellant was the defendant in the High Court of former Bendel State, sitting at Benin (moje Bare, J) while the Respondents, by their predecessors, were the plaintiffs. The writ of summons was taken out on the 8th day of May, 1978. By a motion on notice brought in the High Court by one Kenera Denedo, for himself and on behalf of Ubeji community of Warri Local Government Area, the applicant was joined on the 18th day of October, 1979 as a co-defendant to the action. The Respondents were unhappy with the order of joinder granted and so they appealed to the Court of Appeal against the joinder, but, from the record before us, nothing seems to have become of the appeal. Later Kenera Denedo filed another Suit (No. W/76/80) on the same dispute in the same High Court, this time holden at Warri, in which he made the Attorney-General of Bendel State and Anthony Atiri and Agbalagba Awhaisoba jointly for themselves and on behalf of Ekpan community of Ethiopian Local Government Area, defendants.

By a motion on notice brought in Benin on the 23rd day of February, 1981, by Kenera Denedo, a request for the transfer of the earlier Suit from Benin to Warri Judicial Division was made on the ground that the two suits might be determined simultaneously. There is nothing on the record of proceeding to show that the motion on notice was either heard or granted. The last time that Kenera Denedo was shown in the record of proceedings as 2nd defendant in the case, was during the High Court's sitting on the 16th day of June, 1981.

On the 12th day of December, 1981, the Appellant, as the only defendant to the action, brought a motion on notice under Order 22 rules 2,3 and 4 of the Bendel State High Court (Civil Procedure) Rules praying that the legal points mentioned in his Amended Statement of Defence be determined before the trial of the suit began. The application was granted by Moje Bare, J on the 11th day of March, 1982. Argument by the parties was heard between the 4th day of February, 1983 and the 12th day of August 1983. Ruling on the application was delivered on the 10th

day of October, 1983. The learned trial Judge held that the jurisdiction of the High Court was ousted. He concluded his ruling as follows:-

*"In the result this application ought to succeed.*

*Order: Order as prayed.*

B Pursuant to the provisions of Order 22 rule 3 of the High Court  
(Civil Procedure) Rules, Cap. 65, Bendel State Laws, 1976, it is my view  
that the points of law raised in this application substantially dispose of  
the action; to my mind, once a matter comes within or among the cat-  
egory or class of cases or acts which are protected or covered by the  
C ouster provisions of those statutory enactments, the jurisdiction of the  
Court is ousted automatically and the courts are thereby precluded from  
entertaining or adjudicating upon them by operation or law: See Attor-  
ney-General, Bendel State and 2 Others v. A.I. Wilson: Suit No. FCA/B/  
D 115/82 delivered on 28th April, 1983 by the Federal Court of Appeal.

*Plaintiffs' claims are hereby dismissed."*

Now the plaintiffs' claims in question are -

"(1) A DECLARATION that Section 5 of the Bendel State Edict,  
E No. 7 of 1978 is unconstitutional, illegal and ultra vires the government  
of Bendel State and is therefore null and void.

(2) A DECLARATION that the Bendel State Edict No. 7 of  
1978 (Ekpan and Ubeji Communities (Riots and Clashes) Determina-  
tion) Edict, in which the Ekpan Community has been directed to pay  
F N55,000.00 as part of the total cost of 'Rehabilitation' and 'Reconstruc-  
tion, of Ubeji Village is unconstitutional, oppressive, illegal and ultra  
vires the Government of Bendel State and is therefore null and void.

(3) A DECLARATION that the Bendel State Edict No. 7 of  
G 1978 (Ekpan and Ubeji Communities (Riots and Clashes) Determination  
Edict, in which it was directed in section 3 of the Edict that the Ekpan  
community should pay the said sum of N55,000.00 to the Treasury of  
Bendel State Government within one month from 13th of February, 1978,  
H is unconstitutional, unlawful and ambiguous and is therefore null and  
void."

(4) A DECLARATION that Section 1 of Bendel State Edict No.  
7 of 1978 is unconstitutional, illegal and ultra vires the Government of

*Bendel State and is therefore null and void."*

The facts which gave rise to the case are briefly as follows. On the 15th day of August, 1977 there was a conflict involving riots and clashes between two neighbouring villages of Ekpan in Ethiope Local Government Area and Ubeji in Warri Local Government Area. As a result, the then Military Governor of Bendel State set up a commission of Inquiry in exercise of his powers under Section 2 subsection (1) of the commissions of Inquiry Law, Cap. 23 of the Laws of Western Region of Nigeria, 1959 applicable in Bendel State. A legal Notice, No. 89 of 1977 was published in the Bendel State Gazette appointing Hon, Justice B.A. Omosun, as the Sole commissioner for the Inquiry. The Legal Notice contained the terms of reference of the Commission. It was to inter alia " make recommendations towards peace, law and order in the two villages and other recommendations including and/or individual punishment, if any."

The inquiry was accordingly conducted. It assigned blame for the riots and clashes to the Ekpan community. A white paper on the Report submitted by the commissioner was issued by the Military Government of Bendel State accepting the commissions recommendations. Next, an Edict called "Ekpan and Ubeji communities (Riots and Clashes) (Determination) Edict, 1978 No. 7 of 1978" was promulgated by the Military Governor. Section 2,3,4 and 5 of the Edict, provide as follows:-

"2. *In respect of the riots and clashes, Ekpan and Ubeji Communities (Riots and Clashes) hereinbefore referred to, it is hereby declared as follows:-*

(a) *The people of Ekpan are the aggressors of the said riots and clashes;*

(b) *The people of Effurun are the aiders and abettors;*

(c) *The value of the houses totally burnt and partially destroyed as well as personal chattels destroyed or lotted is about N110,000.00.*

3. *It is hereby directed that the total cost of rehabilitation and reconstruction shall be paid as follows:-*

(a) *Ekpan community shall pay N55,000.00 (i.e. 50 per cent of N110.000.00) to the Government treasury within one month from the*

*date of commencement of this Edict.*

*(b) Ubeji Community shall bear the loss amounting to N27,000.00 (i.e. 25 per cent of N110,000.00).*

*(c) The Government of Bendel State of Nigeria shall pay to the Government Treasury the balance of N27,500.00 (i.e. 25 per cent of N110,000.00).*

*(d) Payments referred to in paragraphs (a) and (c) above shall be held in trust by the Accountant-General, for the Ubeji community and shall be used exclusively for the reconstruction and rehabilitation of Ubeji village.*

*(4) If the full payment falling due under section 3 (a) of this Edict or any part of the sum is not made within twenty one days next after the 'date fixed for payment thereof, it shall be lawful for the Military Governor to direct by an order to be published in the Gazette that a distress be levied upon the movable and immovable property of all or any members of the community upon whom the payment has been imposed in respect of the amount then remaining unpaid.*

*5. An appeal shall not lie from any order made under this Edict which shall be final and shall not be liable to be contested by Suit or other-wise."*

It was as a result of this Edict, that the Ekpan community took out a writ of summons against the Appellant asking for the declarations aforementioned.

Aggrieved by the ruling of Moje Bare, J. the Ekpan community appealed to the Court of Appeal. In its decision per Ogundare, JCA (as he then was) who wrote the leading judgment, the Court of Appeal held thus:-

*"Section 5 of the Edict being inconsistent with section 22(1) of the 1963 constitution, is therefore, void. See Section 1 of the 1963 constitution, as modified by Decree No. 1 of 1966 (Second Schedule) which modification was saved by section 14(2) of Decree No. 32 of 1975. The section in its modified form reads:-*

*1. This constitution shall have the force of law throughout Nigeria and if any other law (including the Constitution of a State) is incon-*

*sistent with this constitution, this constitution shall, to the extent of the inconsistency be void.*

*Provided that this constitution shall not prevail over a Decree, and nothing in this constitution shall render any provision of a Decree void to any extent whatsoever."*

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*Sections 2 and 3 of the Edict offend against sections 22 (2) (Of the 1963 constitution) and to the extent of the inconsistency, the sections are void. Imposing of penalties or forfeitures can only be validly levied for breach of the law, whether under civil process or after conviction for an offence. That is not the case here.*

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*It has been argued that section 4 (of the Edict) offends against section 31 of the 1963 constitution in that 'distress' amounts to compulsory acquisition without compensation, which was prohibited by section 31(1) of the (1963) constitution. I agree with the submissions of the learned counsel for the appellants. Clearly, section 4 envisages the compulsory taking possession of the property of the appellants in the events of their failure to pay the amount imposed on them by section 3. This offends against section 31(1) of the constitution. Nor does the Edict come under subsections (2) and (3) (thereof) for that section to be saved. It is therefore my conclusion that section 4 of Edict No. 7 (of 1978) is void for inconsistency with section 31 (1) of the Constitution of the Federation, 1963." (Parenthesis mine).*

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In conclusion the Learned Justice allowed the "appeal and set aside the judgment (sic ruling) of the court below," and found that the plaintiffs' claims were proved and he entered judgment for them, accordingly.

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The Defendant was not satisfied with the decision; and so he appealed to this Court. He filed a brief of argument in which he stated the following 3 issues for our determination:-

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*"1, Whether the Bendel State Edict No. 7 of 1978 and any other act or thing done by the Military Governor of Bendel State came under the protection of Decree No. 18 of 1977 to oust the jurisdiction of the*

courts.

2. *Whether the learned justices of the Court of Appeal could suo motu declare the Collective Punishment Law, Cap. 40 of Bendel State (sic) unconstitutional, null and void so as to enable them declare*  
 B *Edict No. 7 of 1978 void, when no such relief was claimed by the plaintiffs/respondents.*

3. *Whether the reparation of N55,000.00 imposed on the plaintiffs/respondents was a conviction or a mere implementation of the findings of the Omosun Commission of Inquiry protected by Decree No. 18 of*  
 C *1977."*

The Respondents countered by formulating 4 issues in their brief of argument for our consideration. These are -

"1. *Whether the Bendel State Edict No. 7 of 1978 falls under*  
 D *the categories of the statutes enjoying the protection of Decree No. 18 of ousting the jurisdiction of the court.*

2. *Whether section 5 of Edict of No. 7 of 1978 did not conflict with the 1963 constitution and if the answer is in position (sic) what is*  
 E *the legal effect of such conflict.*

3. *Whether sections 2 and 3 of Edict No. 7 of 1978 did not conflict with 1963 Constitution and Decree No. 32 of 1975 and what is the effect of such conflict.*

4. *Whether sections 3 of the Edict No. 7 of 1978 can seek*  
 F *protection under the Collective Punishment Law, Cap. 40 of the Laws of Bendel State."*

At this stage, it is necessary to draw attention to the fact that the point determined by the learned trial judge was whether his court had the  
 G jurisdiction to entertain the plaintiffs' claims. He ruled that his jurisdiction was ousted and consequently the action (i.e. plaintiffs' claims) was disposed of. This is what the learned trial judge stated in his ruling which was the subject of the appeal on both the court below and this court:-

"I have given very careful and most serious consideration to the various aspects of all the submissions made in this application by counsel for both parties. There is no doubt that the main issue which calls for  
 H a decision is the point relating to the jurisdiction of this court or any

court for that matter to inquire into the validity of Edict No. 7 of 1978 of Bendel State or any act done in respect of the Tribunal of Enquiry set up in consequence thereof .....the jurisdiction of the courts (sic) is ousted automatically and the courts (sic) are thereby precluded from entertaining or adjudicating upon them by operation of law."

(underlining mine).

As allowed by Order 22 rule 3 of the Bendel State High Court (Civil Procedure) Rule, Cap. 65, the learned trial judge, at the same time of holding that the jurisdiction of the court was ousted, dismissed the plaintiffs' claims.

The Court of Appeal in allowing the plaintiffs' appeal, after holding that the jurisdiction of the lower court was not ousted, entered judgment for the plaintiffs on their claims as follows:-

*"In conclusion, I allow this appeal and set aside the judgment (sic ruling) of the court below. I find the plaintiffs' claims are proved and I enter judgment for them accordingly. Consequently, I hereby declare -*

*(1) That section 5 of Edict No. 7 of 1978 of Bendel State is inconsistent with section 22 (1) of the Constitution of the Federation, 1963, and therefore void.*

*(2) That sections 2 & 3 of the said Edict are equally inconsistent with section 22 (2) of the said Constitution and are, therefore, void.*

*(3) That section 4 of the said Edict is inconsistent with section 31(1) of the said Constitution and is equally, therefore, void." (Underlining mine ).*

It appears to me, therefore, that the real issue for determination by us is whether the Court of Appeal was right in overruling the decision of the learned trial judge that he had no jurisdiction to hear the plaintiffs' action. This is the point raised by the first issue formulated by the Appellant and the first issue formulate by the Respondents. The determination of the merit of the claims, which is consequential by virtue of Order 22 H rule 3 of the High Court (Civil Procedure) Law, Cap. 65 will be dependent upon the answer given for the Appellant's and Respondents' issues in question.

Learned counsel for the Appellant argued in his brief of argument that section 1 of the Tribunal or Inquiries (validation etc Decree, 1977, No. 18 of 1977, permitted the appropriate authority in a state to constitutes any tribunal or institute an inquiry into any matter concerning the administration of the affairs of any person, or of any body , whether corporate or unincorporate, in the State; the conduct of any person whether or not a public officer of the State and to inquire into matter whatsoever in the State.

He referred to the finding made by the Court of Appeal that Edict No. 7 of 1978 was not caught by the provisions of section 2 subsection (1) of the 1977 Decree, and submitted that the Court of Appeal was in error when it ascribed to the word "person" in section 2 subsection (1) (a) of the 1977 Decree a restrictive meaning. He argued that the Court of Appeal failed to take into consideration the fact that the plaintiffs brought a representative action on behalf of the Ekpan Community. The word "person", he said, had been defined by the interpretation Act, 1964 to include any body of persons corporate or incorporate. He contended that the preamble to Edict No. 7 of 1978 clearly shows the purpose of the enactment which falls under the provisions of the 1977 Decree. Consequently, he submitted, that the 1978 Edict cannot be challenged in any court by virtue of the provisions of section 2 subsection (2) of the 1977 Decree. He cited in support the case of Kasikwu Farms v Attorney-General of Bendel State, (1986) 1 N.W.L.R. (part 19) 695 at p. 707 per Belgore, J.C.A. (as he then was).

Learned counsel argued further that the 1978 Edict is a law validly made by the Military Government of Bendel State, pursuant to his powers to maintain peace, order and good government within the Bendel State. Consequently, the Edict falls under the provisions of section 3 subsection (3) of the Constitution (Suspension and Modification) Decree, 1966, No. 1 of 1966 and section 1 subsection (3) of the Constitution (Basic provisions) decree 1975, No. 32 of 1975 both of which provide that the Military Governor of a State shall have power to make laws for the peace, order and good government of the State. Learned counsel referred to the cases cited by the Court of Appeal in support of its deci-



sion and submitted that those cases are distinguishable from the present case in that the Edicts challenged in the cases did not derive their force from any Decree whereas Edict No. 7 of 1978 is supported by the 1977 Decree. He cited in support the Supreme Court decisions in the cases of Adejumo & Anor. v. Col. M. Johnson, (1974) All N.L.R. 28 at p. 34 and Uwaifo v A-G. of Bendel State & Ors., (1982) 7 S.C. 124 at p. 219. The cases in question referred to by the Court of Appeal are - Ademolekun v Council of University of Ibadan, 1968 N.M.L.R. 253; Ereku v Military Governor Bendel State, (1974) 10- S.C. 59; B.C. Onyuike v E.S.I. A. L.A. (1971) 10 S.C. 77; A-G of Midwester State v Chief Sam Warri Essi, (1977) 4 S.C. 71; Agip (Nig.) Ltd. v. A-G of Lagos State, (1977) 11-12 S.C. 3 and Peenok investments Ltd. v Hotel Presidential Ltd., (1982) 12 S.C. 1.

Learned counsel submitted once the language of a statute or Decree is clear and unambiguous, as in the case of the 1977 Decree, the courts had always enforced the ouster provisions in the exercise of their jurisdiction. He cited in support the case of Ports Authority v Panalpina World Transport (Nig.) Ltd. & Ors. 1974 N.M.L.R. 82 at pp. 95 and 96.

In reply, in the briefs of the Respondents, learned Counsel for the Respondents submitted that section 2 of the 1977 Decree does not oust the jurisdiction of the High Court having regard to the peculiar fact of this case. He argued that the 1978 Edict deals with the proprietary rights of citizens and as such must be strictly construed in accordance with the letter of the Edict. He cited in support the case of Peenok Ltd. v Hotel Presidential Ltd., (1982) 12 S.C. 1 at pp. 25-26. Also that where a statute seeks to oust the jurisdiction of a court, strict construction will apply; so that if the word of the statutes is capable of having two meanings, the meaning which preserves the ordinary jurisdiction of the court would be preferred - Barclays Bank v Central Bank, (1976) 6 S.C. 175 at pp. 188 -189 and Nwosu v Imo State Environmental Sanitation Authority, (1990) 2 N.W.L.R. (part 135) 688.

Learned counsel contends that before the Appellant can claim protection under section 1 subsection (2) of Decree No. 18 of 1977 five conditions must be satisfied. These are -

(1) *The tribunal of inquiry must have been instituted by the Military Governor, who is the appropriate authority in the State.*

(2) *The tribunal must have held inquiry and submitted a report.*

(3) *An Edict or a subsidiary instrument must have been promulgated for the implementation of the report.*

(4) *Apart from the Edict or the subsidiary instrument, the Military Governor must have performed an act or took a step to implement the report.*

(5) *The Edict or subsidiary instrument or any act or step taken must be for the forfeiture or disposal of property or dismissal or retirement or exercise of disciplinary control over any public officer of the State.*

Therefore, the 1978 Edict must be shown to implement the report of the justice Omosun Commission of inquiry that recommended the forfeiture of the assets of the Respondents. He argued that the 1978 Edict neither forfeits nor disposes of the property of the Respondents nor dismisses, retire or exercises any disciplinary control over any public officer or any member of any body whether corporate or unincorporate in Bendel State. As such the Edict is not protected by the 1977 Decree. The case of Wilson v A-G of Bendel State, (1985) 1 N.W.L.R. (part 14) 572 was cited in support. Learned counsel contended that the cases cited by the Appellant's counsel are distinguishable from the present case in that in those cases forfeiture of property had taken place. The cases in question are Uwaifo v A-G of Bendel State, (supra) and A-G of Lagos State v Dosunmu, (1989) 3 N.W.L.R. (part 111) 552.

It is further argued that the action taken by the Military Government and the effect of the 1977 Decree is to impose a fine of N55,000.00 as a penalty or punishment and not a forfeiture. Learned counsel submitted that there is a distinction between "forfeiture," "fine" and "punishment" and referred to their definition in the Interpretation Act, 1964 in sections 7, 8, and 18 subsection (3) thereof. He, therefore, contends that the words "penalty" "forfeiture" or "punishment" in sections 7 and 8 of the Interpretation Act are mutually exclusive and mean different things because section 18 subsection (3) of the Interpretation Act provides that

the words "or" and "other" in any enactment, shall be construed disjunctively and not as implying similarity. He further submitted that the 1977 Decree did not empower the Military Governor to punish the Respondents by imposing a fine and when he did so he acted outside the confines of the enabling Decree. Since the 1978 Edict is outside the scope and contemplation of the 1977 Decree, wherever it conflicts with the provisions of the decree or the unsuspended provisions of the 1963 Constitution, the Courts can exercise jurisdiction to declare the Edict as unconstitutional. He cited a number of cases in support of the contention. He finally submitted that the 1978 Edict does not fall under the provisions of the 1977 Decree to enable this Court uphold the ouster of jurisdiction by the Decree.

Now, **the 1977 Decree was promulgated to provide a general validation in respect of all inquiries instituted by the Military Governor of a State and all actions taken in execution of the policy of the Government of that State on the matter in respect of which the inquiries were instituted.** Sections 1 and 2 of the 1977 Decree provide as follows:-

*"1,-(1) Where on or after the commencement of this Decree (but before 30th September 1977) the appropriate authority in a State has instituted any tribunal or inquiry (however described or constituted)*

*-*

*(a) to inquire into any matter concerning the administration of the affairs of any person or of any body, whether corporate, in the State; or*

*(b) to inquire into any aspect of the exercise of his official duties by a public officer of the State; or*

*(c) to inquire into the conduct of any person whether or not a public officer of the State in so far as it concerned any of the matters mentioned in paragraph (a) or (b) above; or*

*(d) to inquire into any matter whatsoever in the State, the tribunal or inquiry as aforesaid shall notwithstanding anything to the contrary in any enactment, law or rule of law, be deemed to have been validly instituted or constituted.*

(2) *The question whether any tribunal or inquiry to which subsection (1) of this section relates was or has been validly instituted or constituted, or whether any Law, Edict or subsidiary instrument under which the tribunal or inquiry was instituted (or purported to have been instituted) had been validly made shall not be inquired into in any court; and if any action or other proceedings whatsoever has been or is instituted in any court in respect of any such question the action or other proceeding shall be void.*

2, - (1) Any Edict or subsidiary instrument made by the appropriate authority in a State and any act or thing done by the appropriate authority in respect of the implementation of the report of any tribunal or inquiry to which section 1 of this Decree applies respecting -

(a) *the forfeiture or other disposal of the property of any person; or*

(b) *the dismissal, retirement or any other exercise of disciplinary control over any public officer of the State or any member of any body, whether corporate or unincorporate, in the State, shall be deemed to have been validly made or done and shall have full effect in accordance with its tenor.*

(2) *The question whether any Edict or subsidiary instrument or any act or thing to which subsection (1) of this section relates was validly made or done shall not be inquired into in any court; and if any action or other proceeding whatsoever has been or is instituted in any court in respect of any such Edict or subsidiary instrument or act or thing the action shall be void."*

It is clear from the foregoing provisions that the jurisdiction of a court can be ousted under the 1977 Decree either under section 1 subsection (2) or section 2 subsection (2) thereof. For the provisions of section 1 subsection (2) to apply, the Edict must meet the requirements of one or more of the paragraphs under subsection (1) of section 1, namely (a), (b), (c) or (d). Now, the Court of Appeal found as follows:-

*"It is not in dispute that as the OMOSUN COMMISSION OF INQUIRY was set up in August, 1977, it was covered by the validation provision of section 1 (1) of Decree 18 nor was the Commission's validity*

questioned in these proceedings, Now, section 2 (1), of the Decree validates any Edict or subsidiary instrument made in respect of the implementation of the report of any tribunal or inquiry to which section 1 of the Decree applies. This validation, in my view, applies only where the Edict or subsidiary instrument is in respect of -

(a) the forfeiture or other disposal of the property of any person, or

(b) the dismissal, retirement or any other exercise of disciplinary control over any public officer of the State or any member of any body, whether corporate or unincorporate in the State.

Unless Edict No. 7 is one such Edict, the ouster of court's jurisdiction in section 2 (2) will not apply. Reading Edict No. 7 as a whole, I am of the view, and I so hold, that it is not an Edict to which section 2 (1) of the Decree relates in that it neither forfeits or disposes of the property of any person nor does it dismiss, retire or exercise any other disciplinary control over any public officer or any member of any body, whether corporate or unincorporate, in the State.

I am not unaware of the decision of the Supreme Court in F.S. UWAIFO V ATTORNEY-GENERAL OF BENDEL STATE & 4 ORS., (supra) which has to do with the application of Decree No. 18 of 1977, particularly sections 1 and 2 therefore .....

It is my respectful conclusion, therefore, that Edict No. 18 of 1977, and as such, the suspension of Chapter II of the Constitution of the Federation, 1963 (as provide for under section 3 (2) (of 1977 Decree) will not apply to the consideration of its validity, or otherwise of an Edict and (2) that Edict No. 7 of 1978 not being one to which subsection (1) of section 2 of Decree No. 18 of 1977 relates, the ouster of the court's jurisdiction in subsection 2 of section 2 thereof does not apply to preclude the court from inquiring into its validity nor does section 3 (2) apply to suspend Chapter III of the constitution in relation to the said Edict," therefore, that Edict No. 7 of 1978 does not come under section 2 (1) of Decree No. 18 of 1977, and as such, the suspension of Chapter II of the constitution of the Federation, 1963 (as provided for under section 3 (2) (of 1977 Decree) will not apply to the consideration of its

validity.

*Having held as above that (1) the court has competence to inquire into and pronounce on the validity or otherwise of an Edict and (2) that Edict No. 7 of 1978 not being one to which subsection (1) of section 2 of Decree No. 18 of 1977 relates, the ouster of the court's jurisdiction in subsection 2 of section 2 thereof does not apply to preclude the court from inquiring into its validity nor does section 3 (2) apply to suspend Chapter 111 of the constitution in relation to the said Edict."*

For the sake of emphasis, section 1 subsection (2) of the 1977 Decree provides as follows:-

*"(2) The question whether any tribunal or inquiry to which subsection (1) of this section relates was or has been validly instituted or constituted, or whether any Law, Edict or subsidiary instrument under which the tribunal or inquiry was instituted (or purported to have been instituted) had been validly made shall not be inquired into in any court; and if any action or other proceeding whatsoever has been or is instituted in any court in respect of any such question the action or other proceeding shall be void."*

**When examined closely, it will be seen that the ouster provisions apply disjunctively to each of the following questions:-**

**(1) Whether a tribunal or inquiry has been validly instituted,**

**(2) Whether any Law, Edict or subsidiary instrument under which a tribunal or inquiry was instituted (or purported to have been instituted) had been validly made.**

**The issues in this case do not concern any of the two questions. The provisions of the 1978 Edict do not apply to the institution of a tribunal or inquiry but apply to incidents after the inquiry; that is the execution of the recommendations made by an inquiry. Secondly, the 1978 Edict is not an enabling Edict to facilitate the institution of the inquiry. Therefore, the ouster of jurisdiction under section 1 subsection (2) of the 1977 Decree does not apply to the present case.**

Similarly, section 2 subsection (2) of the 1977 Decree provides:-

*"(2) The question whether any Edict or subsidiary instrument or any act or thing to which subsection (1) of this section relates was validly made or done shall not be inquired into in any court; and if any action or other proceeding whatsoever has been or is instituted in any court in respect of any such Edict or subsidiary instrument or act or thing the action shall be void."* B

For these provisions to apply in relation to the present case, the following must be met -

(1) The 1978 Edict must relate to any of the events mentioned under section 2 subsection (1) (a) and (b) of the 1977 Decree, namely the forfeiture or disposal of the property of any person; or the exercise of disciplinary control over any public officer of the State or any member of any body, whether corporate or unincorporate, within the Bendel State. C

(2) The validity of the 1978 Edict is challenged with regard to whether it was validly made. D

(3) The validity of any act or thing done relating to forfeiture or disposal of property of any person or exercise of disciplinary control over any member of any body, whether corporate or unincorporate, is challenged. E

The Court of Appeal held that the 1978 Edict is not an Edict to which section 2 subsection (1) of the 1977 Decree relates because it neither forfeits nor disposes of any property nor exercises any disciplinary control over any public officer or any member of any body corporate or incorporate. In other words the provisions of section 1 subsection (1) (a) have not been satisfied. **Learned counsel for the Appellant contends that the Court of Appeal was in error and he sought assistance from the definition by the Interpretation Act, 1964 of the word "person" in section 18 subsection (1) thereof. The word is defined to include any body of persons corporate or unincorporate.** Counsel argued further that the Respondents in this case brought a representative action as plaintiffs on behalf of themselves and the Ekpan Community. They, therefore, qualify under the definition of "persons" as unincorporate body. He drew attention to the provisions of the 1978 Edict which directed that part of the rehabilitation and reconstruction of F G H

the damage caused to Ubeji Community shall be met by the Ekpan Community by paying N55,000.00 to the Bendel State Government Treasury within one month from the date of the commencement of the Edict. He submitted that the payment of the money amounts to the forfeiture of property by virtue of the definition of "forfeiture" in section 7 of the Interpretation Act, 1964 which provides -

*"7. Where an enactment provides that any property shall be forfeited, the enactment shall be construed as providing that the property, or where the property is duly sold the proceeds of sale, shall vest in the Minister of the government of the Federation responsible for finance and be held by him for the purposes of the government of the Federation."*

While I agree that the Respondents are caught by the expression "any member of any body, whether ..... unincorporate," I find it difficult to accept that the reference to "forfeiture" under section 7 of the Interpretation Act, 1964 applies to this case. The provisions specifically mention the forfeiture of property or the proceeds of the sale of the property. In this case the Respondents are to forfeit money and not property or the proceeds of sale of property as envisaged by the Interpretation Act, 1964. Again the forfeiture concerned in the Interpretation Act should be in relation to the Minister of Finance of the Federation and it should be to the benefit of the Federal Government. In the present case the N55,000.00 was to be paid to Ubeji Community through the Bendel State Government Treasury and not the Federal Minister of Finance, and nor to the benefit of the Federal Government.

However, the ordinary meaning of the word "forfeiture" as under the provisions of section 2 subsection (1) (a) of the 1977 Decree is provided by Blacks Law Dictionary, special Deluxe Fifth Edition, to inter alia mean loss of property or money because of breach of a legal obligation. The word "forfeit" has been defined in the same Dictionary to mean - to incur a penalty, to become liable to the payment of a sum of money, as the consequence of a certain act. The Oxford Advanced Learners' Dictionary of Current English defines the word "forfeit" as to give up something or have some-



thing taken away as a consequence of or punishment for having done something wrong; and the word "forfeiture" is defined therein as the action of forfeiting something of being forfeited. The Webster's New Twentieth Century Dictionary, Second Edition, defines the word "forfeit" as that act or process of paying a penalty for a crime, fault, mistake etc. and the word "forfeiture" is defined therein to mean that which is forfeited; a penalty; a forfeit; a fine or mulct. It is also stated in the Dictionary to be synonymous with fine, penalty, damage, confiscation, sequestration and amercement.

In the present case, sections 2, 3 and 4 of the 1978 Edict provide as follows:-

"2. In respect of the riots and clashes hereinbefore referred to, it is hereby declared as follows:-

(a) The people of Ekpam are the aggressors and perpetrators of the said riots and clashes.

(b) The people of Effurun are the aiders and abettors.

(c) The value of the houses totally burnt and partially destroyed as well as personal chattels destroyed or looted is about N110,000.00

3. It is hereby directed that the total costs of rehabilitation and reconstruction shall be paid as follows:-

(a) Ekpam Community shall pay N55,000.00 (i.e. 50% of N110,000.00) to the Government Treasury within one month from the date of commencement of this Edict.

(b) Ubeji community shall bear the loss amounting to N27,500.00 (i.e. 25% of N110,000.00).

(c) The Government of Bendel State of Nigeria shall pay to the Government Treasury the balance of N27,000.00 (i.e. 25% of N110,000.00).

(d) Payment referred to in paragraphs (a) and (b) above shall be held in trust by the Accountant-General for the Ubeji Community and shall be used for the reconstruction and rehabilitation of Ubeji village.

4. If the full payment falling due under section 3(a) of this Edict or any part of the sum is not made within twenty-one days next after the

*date fixed for payment thereof, it shall be lawful for the Military Governor to direct by an order to be published in the Gazette that a distress be levied upon the moveable and immovable property of all or any members of the community upon whom the payment has been imposed in respect of the amount then remaining."*

**In the light of the foregoing, I am satisfied that the 1978 Edict, imposed forfeiture on the Respondents - the Ekpan Community, as envisage by section 2 subsection (1) (a) of the 1977 Decree. It also exercises disciplinary control over the Respondents - the Ekpan Community.**

**By the nature of the Respondents' claims in the High Court, as stated above, it is clear that the validity of the 1978 Edict was challenged with regard to whether its sections 1,3,4 and 5 were validly made, as it was requested that the sections should be declared "unconstitutional, illegal and ultra vires the Government of Bendel State and therefore null and void." Also the validity of the forfeiture and the exercise of disciplinary control over the Respondents had been challenged.** In fact claim No. (2) which reads:

*"(2) A declaration that the Bendel State Edict No. 7 of 1978 (Ekpan and Ubeji communities (Riots and clashes) (Determination) Edict, in which the Ekpan Community has been directed to pay N55,000.00 as part of the total cost of 'rehabilitation' and 'reconstruction' of Ubeji vil-*

*lage is unconstitutional, oppressive, illegal and ultra vires the Government of Bendel State and is therefore null and void."*

is direct challenge of the validity of the 1978 Edict as a whole.

**I, therefore, come to the conclusion that the learned trial judge was right when he held that his jurisdiction was ousted by the provisions of section 2 subsection (2) of the 1977 Decree and the Court of Appeal was in error when it reversed his decision.**

With this finding I do not think that it is necessary to consider the remaining issues for determination, that is Appellant's issue Nos. 2 and 3.

On the whole the appeal succeeds. The decision of the Court of Appeal is hereby set-aside and in its place the decision of the High Court

is restored. Costs assessed at N10,000.00 are hereby awarded against the Respondents.

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**WALI JSC**

I have had the privilege of reading in advance, the lead judgment of my learned brother Uwais, CJN and I entirely agree with his reasoning and conclusion for allowing the appeal. He has exhaustively dealt with the main and decisive issues in this appeal to wit: the validity of Edict No. 7 of 1978 promulgated by the Military Governor of the then Bendel State and the ouster clause in Decree No. 18 of 1977 vis-a-vis the challenge of the said Edict in any Court of law, and I have nothing more useful to contribute. I adopt the reasoning and conclusion as mine.

For these same reasons contained in the lead judgment, I also hereby allow the appeal, set aside the judgment of the Court of Appeal and restore the Ruling and orders of the trial court. I adopt the order of costs made in the lead judgment.

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**KUTIGI JSC**

I read in advance the judgment just rendered by my learned brother Uwais, CJN. It is not without difficulties that I come to agree with the conclusion to allow the appeal, set aside the judgment of the Court of Appeal, and restore the decision of the trial High Court striking out the case for want of jurisdiction. I endorse the order for costs.

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**OGWUEGBU JSC**

I have had the advantage of a preview of the judgment just read by my learned brother Uwais, C.J.N., and I agree with him that the appeal should be allowed. I wish to comment briefly on Issue No. (1) in both briefs for the purpose of emphasis.

It will be necessary to examine and analyses the relevant provisions of Edict No. 7 of 1978 titled Ekpan and Ubeji Communities (Riots

and Clashes) (Determination) Edict and Tribunals Or Inquiries (Validation Etc.) Decree No. 18 of 1977. The relevant sections of the Decree and the Edict are as follows:-

DECREE NO. 18 OF 1977

B *"1(1) Where on or after the commencement of this Decree (but before 30th September, 1977) the appropriate authority in a State has instituted any tribunal or inquiry (howsoever described or constituted):-*

*(a) to inquire into any matter concerning the administration of the affairs of any person or of anybody whether corporate or unincorporate in the State ; or*

*(b) to inquire into any aspect of the exercise of his official duties by a public officer of the State; or*

D *(c) to inquire into the conduct of any person whether or not a public officer of the State in so far as it concerned any of the matters mentioned in paragraph (a) or (b) above ; or*

*(d) to inquire into any matter whatsoever in the State; the tribunal or inquiry aforesaid shall notwithstanding anything E to the contrary in any enactment, law or rule of law, be deemed to have been validly instituted or constituted.*

(2) The question whether any tribunal or inquiry to which subsection (1) of this section relates was or has been validly instituted or constituted, or whether any law, Edict or Subsidiary instrument under F which the tribunal or inquiry was instituted (or purported to have been instituted) had been validly made shall not be inquired into in any court; and if any action or other proceeding whatsoever has been or it instituted in any court in respect of any such question the action or other proceeding shall be void.

G *2(1) Any Edict or subsidiary instrument made by the appropriate authority in a State and any act or thing done by the appropriate authority in respect of the implementation of the report of any tribunal or inquiry to which section (1) of this Decree applies respecting -*

*(a) the forfeiture or other disposal of the property of any person; or*

*(b) the dismissal, retirement or any other exercise of disciplin-*

*any control over any public officer of the State ..... shall be deemed to have been validly made or done and shall have full effect in accordance with its tenor.*

*(2) The question whether any Edict or subsidiary instrument or any act or thing done to which subsection (1) of this section relates was validly made or done shall not be inquired into in any court; and if any action or other proceeding whatsoever has been instituted in any court in respect of any such Edict or subsidiary instrument or act or thing the action shall be void."*

**EDICT NO. 7 OF 1978**

*"Whereas the Government of the Bendel State of Nigeria has taken certain decisions in respect of the said Report.*

**WHEREAS THE PURPOSE IT NECESSARY TO PROMULGATE AN EDICT FOR THE PURPOSE OF IMPLEMENTING AND GIVING EFFECT TO THE SAID DECISIONS.**

1. This Edict may be cited as the Ekpan and Ubeji Communities (Riots and Clashes) (Determination) Edict, 1978.

2. In respect of the riots and clashes herein before referred to, it is hereby declared as follows:-

(a) The people of Ekpan are the aggressors and perpetrators of the said riots and clashes.

(b) The people of Effurun are the aiders and abettors.

(c) The value of the houses totally burnt and partially destroyed as well as personal, chattels destroyed or looted is about N110,000.00.

3. It is hereby directed that the total costs of rehabilitation and reconstruction shall be paid as follows:-

(a) Ekpan Community shall pay N55,000.00 (i.e. 5% of N110,000.00 to the Government Treasure within one month from the date of commencement of this Edict.

(b) Ubeji Community shall bear the loss amounting to N27,500.00 (i.e. 25% of N110,000.00).

(c) The Government of Bendel State of Nigeria shall pay to the Government Treasury the balance of N27,000.00 (i.e.. 25% of N110,000.00).

(d) *Payment referred to in paragraphs (a) and (b) above shall be held in trust by the Accountant General for the Ubeji Community and shall be used exclusively for the reconstruction and rehabilitation of Ubeji Village.*

B 4. ....  
5. *An appeal shall not lie from any order made under this Edict which shall be final and shall not be liable to be contested by suit or otherwise."*

C A common question raised in the briefs of both parties is whether the Bendel State Edict No. 7 of 1978 and any other act or thing done by the Military Governor of Bendel State came under the protection of Decree No. 18 of 1977 to oust the jurisdiction of the courts. The learned trial Judge held that his Jurisdiction was ousted. The Court of Appeal,  
D Benin Division held a contrary view. That Court found as follows:-

*It is not in dispute that the Omosun Commission if inquiry was set up in August, 1977, it was covered by the Validation Provision of section 1(1) of Decree No. 18 nor was the commission's validity questioned in these proceedings. What is being questioned is Edict No. 7 Which was promulgated to implement the report of the commission. Now section 2(1) of the Decree validates an Edict or subsidiary instrument made in respect of the implementation of the report of any tribunal or  
E inquiry to which section 1 of the Decree applies. This validation in my  
F view however applies only where Edict or subsidiary instrument is in respect of:-*

(a) *The forfeiture or other disposal of the property of any  
G person, or*

(b) *the dismissal, retirement or any other exercise of disciplinary control over any public officer of the State or any member of any body, whether corporate or unincorporate in the state.*

*Unless Edict No. 7 is one such Edict, the ouster of courts' juris-  
H diction in section 2(2) will not apply. Reading Edict No. 7 as a whole, I am of the View, and I so hold, that it is not an Edict to which section 2(1) of the Decree relates in that it neither forfeits or disposes of the property of any person nor does it dismiss, retire or exercise any other disciplinary*

*control over any public officer..... "*

It was specifically stated in the preamble to Edict No. 7 of 1978 that it was promulgated for the purpose of implementing and giving effect to the findings and recommendations of the Omosun Commission of Inquiry which the Government of the then Bendel State accepted in respect of riots and clashes involving Ekpan and Ubeji Communities. The Commission of Inquiry fell under section 1(1) (d) of Decree No.18 of 1977. This Decree provides a general validation in respect of all inquiries instituted by the Military Governor of a State and all actions taken in execution of the Government of State on the matter in respect of which the inquiry was instituted. Edict No.7 of 1978 is an action taken by the Governor of Bendel State in implementing the report of Omosun commission of Inquiry.

It is the respondents' contention in this appeal that Edict No. 7 does not enjoy the ouster clause in section 2(2) of the Decree because it is not in respect of :-

*(a) "the forfeiture or other disposal of the property of any person or (b) The dismissal, retirement or any other exercise of disciplinary control over any public officer of the State....."*

It should not be forgotten that the Omosun Commission of Inquiry was instituted under section 1(1) (d) of the Decree. That being the case, the question of retirement, dismissal or disciplinary control does not arise in this case. The issue under consideration will therefore, be confined to the forfeiture or other disposal of the property of any person.

The key words in section 2(1) (a) are "forfeiture" and "person" and in the case of the latter, section 18 (1) of the Interpretation Act, Cap. 192 Laws of the Federation of Nigeria, 1990, defines "person" as including anybody of persons corporate and unincorporate. The respondents who instituted the action in a representative capacity come within the definition of "person" in section 2(1) (a) of the Decree.

As to the word forfeiture, I will refer again to the interpretation Act which provides:-

*"7. Where an enactment provide that any property shall be forfeited, the enactment shall be construed as providing that the property, or where the*

*property is duly sold the proceeds of sale, shall vest in the Minister of the government of the Federation responsible for finance and be held by him for the purposes of the government of the Federation."*

Section 7 does not define the word "forfeiture ". It merely said  
B what is to happen where a law provides that property shall be forfeited.

Edict No. 7 is cited as Ekpan and Ubeji Communities (riots and  
Clashes) (Determination) Edict, 1978. The people of Ekpan were de-  
clared the aggressors and perpetrators of the riot and clashes, while the  
people of Effurun, the aiders and abettors. Section 3 thereof proceeded  
C to apportion the costs of rehabilitation and reconstruction of burnt and  
partially destroyed house as well as personal chattels. Ekpan Commu-  
nity, (respondents) were apportioned 50% of the total costs or N55,000.00  
to be paid into the Government treasury within one month from the com-  
D mencement of the Edict. While the word "forfeiture" was not defined in  
section 7 of the Interpretation Act, the said word is defined in Words and  
Phrases, Legally Defined, 3rd edition by Saunders, as "something lost by  
commission of a crime; - something paid for the expiation of the crime,  
E a fine, a mulct'. In Black's Law Dictionary, 6th edition, "forfeiture" is  
defined as "loss of property or money because of breach of a legal obli-  
gation" and the word "forfeit" in the same dictionary is defined as "to  
incur a penalty, to become liable to the payment of a sum of money, as a  
F consequence of a certain act. In the Dictionary of English Law by Earl  
Jowitt, "forfeiture" is defined as where a person loses some property,  
right, privilege or benefit in consequence of having done or omitted to do  
a certain act, (the underlining is for emphasis only). I have no doubt  
therefore that the word "forfeiture" used in section 2 (1) (a) of the Decree  
G comes within the above definitions.

Dictionaries are not generally resorted to as a means of elucidat-  
ing the construction of statutes. They may however afford some help.  
See Camden (Macquis) v. I.R.C. (1914) I.K.B 641 at 647 where Cozens  
H -Hardly, M.R. said:-

*"It is for the Court to interpret the statute as best it can. In so doing the  
courts may no doubt assist themselves in the discharge of their duty any  
by any literary help they can find, including of course the consultation of*



*standard authors and reference to well - known and authoritative dictionaries..... "*

Again, the payment referred to in section 3 (a) and (b) of Edict No. 7 of 1978 was to be held in trust by the Accountant-General of Bendel State for Ubeji community and to be used exclusively for the reconstruction and rehabilitation of Ubeji Village. B

I entertain no doubt that Edict No. 7 of 1978 is such Edict to which section 2(1) of Decree No. 18 of 1977 relates and it enjoys the protection of 2(2) of the said Decree.

For the foregoing reasons and the fuller reasons stated in the judgment of my learned brother Uwais, CJN, I, too, allow the appeal and set aside the decision of the court below. In its place, I restore the judgment of the learned trial Judge. I make the sum orders as to costs as contained in the Judgment of my learned brother Uwais, CJN. D

### MOHAMMED JSC

I agree that this appeal succeeds for the reasons given in the judgment of my Lord, the Chief Justice. I have had the privilege of reading the judgment, in draft, before now. E

The facts leading to this appeal have been given in the lead judgment. I do not need to repeat them. The core issue in this appeal is the question whether the Bendel State Edict No. 7 of 1978 came under the protection of Decree 18 of 1977 to oust the jurisdiction of the courts. It is axiomatic that Decree No. 18 of 1977 permits appropriate authority in a State to institute any tribunal or inquiry F

*"(a) to inquire into any matter concerning the administration of affairs of any person or of any body, whether corporate or unincorporate, in the State; or G*

*(b) to inquire into any aspect of the exercise his official duties by a public officer of the State; or H*

*(c) to inquire into the conduct of any person whether or not a public officer of the State in so far as it concerned any of the matters mentioned in paragraph (a) or (b) above; or*

(d) *to inquire into any matter whatsoever in the State, the tribunal or inquiry as aforesaid shall notwithstanding anything to the contrary in any enactment, law or rule of law, be deemed to have validly instituted or constituted."*

B If one looks at paragraph (d) of Section 1 of Decree 18 of 1977 above, it becomes clear the Decree covered the Edict established Omosun Commission of Inquiry which was set up in August 1977. This appeal does not concern the issue of the establishment of Omosun Commission of inquiry but the recommendation of the Commission to the then Bendel State Government. The Bendel State Government considered the findings and recommendations of the Commission of inquiry and promulgated Edict No. 7 of 1978 for the implementation of the recommendations. Sections 1,2,3,4 and 5 of the Edict read:

D *"1. This Edict may be cited as the Ekpan and Ubeji Communities (Riots and Clashes determination) Edict, 1978.*

*2. In respect of the riots and clashes Ubeji Communities (Riots and Clashes) hereinafter referred to, it is hereby declared as follows:-*

E (a) *The people of Ekpan are the aggressors of the said riots and clashes;*

(b) *The people of Effurun are the aiders and abettors;*

F (c) *The value of the house totally burnt and partially destroyed as well as personal Chattels destroyed or looted is about N110,000.00. it is hereby directed that the total cost of rehabilitation and reconstruction shall be paid as follows:*

G (a) *Ekpan Community shall pay N55,000.00 (i.e 50 percent of N110,000.00) to the Government Treasury within one month from the date of commencement of this Edict.*

(b) *Ubeji Community shall bear the loss amounting to N27,000.00 (i.e. 25 per cent of N110,000.00).*

H (c) *The Government of Bendel State of Nigeria shall pay to the government Treasury the balance of N27,000.00 (i.e. 25 percent of N110,000.00).*

(d) *Payment referred to in paragraphs (a) & (c) above shall be held in trust by the Accountant-General, for the Ubeji Community and*

*shall be used exclusively for the reconstruction and rehabilitation of Ubeji village.*

4. *If the full payment failing due under section 3(a) of this Edict or any part of the sum is not made within twenty-one days next after the date fixed for payment therefore, it shall be lawful for the Military Governor to direct by an order to be published in the Gazette that a distress be levied upon the movable and immovable property of all or any members of the community upon whom the payment has been imposed in respect of the amount then remaining unpaid.*

5. *An appeal shall not lie from any order made under this Edict which shall be final and shall not be liable to be contested by suitor otherwise".*

The respondents, dissatisfied with the orders made in the Edict, took out a writ and applied for declarations that section 5 of the Edict is unconstitutional and that the direction given to Ekpan community to pay N55,000.00 as part of the cost of rehabilitation and reconstruction of Ubeji village is unconstitutional, oppressive, illegal and ultra vires the Government of Bendel State. Section 2(a) and (b) of Decree No. 18 of 1977 provides that any Edict or subsidiary instrument made by the appropriate authority in a state and any act or thing done by the appropriate authority in respect of the implementation of the report of any tribunal or inquiry to which section 1 of Decree No. 18 of 1977 applies respecting:- (a) the forfeiture or other disposal of the property of any person or (b) the dismissal, retirement or any other exercise of disciplinary control over any public body, whether corporate or unincorporate, in the state, shall be deemed to have been validly made or done and shall have full effect in accordance with its tenor.

Decree No. 18 of 1977 provided that no court shall have Jurisdiction to inquire into whether any Edict or subsidiary instrument or any act or thing to which subsection (1) of Decree No. 18 of 1977 relates was validly made or done. I have earlier in this judgment referred to section 1(d) of Decree NO. 18 of 1977 which gives appropriate authority an a state power to institute an inquiry into any matter whatsoever in the state.

The acceptance of Bendel State Government of the recommendation of Omosun Omission of Inquiry that Ekpan Community shall be made to pat N55,000.00 for the rehabilitation and reconstruction of Ubeji Village and the subsequent promulgation of Edict No. 7 of 1978 for the implementation of the said recommendation was, in my view, valid and constitutional. The community had been ordered to forfeit some money in order to compensate the Villagers of Ubeji who lost their house during the riot. Such an Edict is covered by section 2(a) and (b) of Decree No. 18 of 1977. It is not therefore justiceable in my court of law to question the validity of the Edict. See Wilson v. A.G. of Bendel State & ors. (1985) 1 N.S.C.C. 191 at 210 and Uwaifo v. A.G. of Bendel State & ors. (1982) 7 S.C. 124.

For these reasons and the fuller reasons in the judgment of my learned brother, Uwais, C.J.N., this appeal must succeed and it is allowed. The judgment of the Court of Appeal is set aside. The judgment of the trial High Court is hereby restored. I awarded N10,000.00 costs to the appellants.

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### ONU JSC

Having had the advantage to read before now the leading judgment of my learned brother Uwais, C.J.N. just delivered, I am in complete agreement with him that this appeal is meritorious and it therefore succeeds. Accordingly, the decision of the Court is restored.

Costs assessed at N10,000.00 are also hereby awarded against the Respondents by me.

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### IGUH JSC

I have had the privilege of reading in draft the leading judgment just delivered by the Honourable the Chief Justice of Nigeria and I am in full agreement with the reasoning and conclusions therein.

The narrow issue that arises for determination in this appeal is whether or not the Court of Appeal was right in holding that the trial

court had jurisdiction to entertain the respondents' claims.

In this regard, I think I ought to observe that the respondents' claims questioned the validity or constitutionality of the former Bendel State Ekpan and Ubeji Communities (Riots and Clashes) (Determination) Edict No. 7 of 1978. The respondents' claims before the trial court together with the relevant provisions of the said Edict No. 7 of 1978 have already been set out in the leading judgment of the Honourable the Chief Justice and I find it unnecessary to reproduce them all over gain. I need only state that the appellant's contention is that there is no jurisdiction in any court of law to question or pronounce on the validity of the Edict of the fact that it is protected by the provisions of section 2(2) of the Tribunals or Inquiries (Validation etc.) Decree No. 18 of 1977 which expressly oust the jurisdiction of the courts to entertain all matters which question the validity of any Edict to which section 2(1) of the Decree relates.

For a better appreciation of the issue for determination in this appeal, it is necessary to set out the provisions of sections 1 and 2 of Decree No. 18 of 1977 which stipulate as follows:-

*"1(1) Where on or after the commencement of this Decree (but before 30th September 1977) the appropriate authority in a State has instituted any tribunal or inquiry (however described or constituted) -*

*(a) to inquire into any matter concerning the administration of the affairs of any person or of any body, whether corporate or unincorporate, in the State; or*

*(b) to inquire into any aspect of the exercise of his official duties by a public officer of the State; or*

*(c) to inquire into the conduct of any person whether or not a public officer of the State in so far as it concerned any of the matters mentioned in paragraph (a) or (b) of this sub-section; or*

*(d) to inquire into any matter whatsoever in the State, the tribunal or inquiry as aforesaid shall notwithstanding anything to the contrary in any enactment, law or rule of law, be deemed to have been validly instituted or constituted.*

*(2) The question whether any tribunal or inquire to which sub-section (1) of this section relates was or has been validly instituted or*

*constituted, or whether any law, Edict or subsidiary instrument under which the tribunal or inquiry was instituted (or purported to have been instituted) had been validly made shall not be inquired into in any court; an if any action or other proceeding whatsoever has been or is instituted*  
 B *in any court in respect of any such question the action or other proceedings shall void.*

*2(1) Any Edict or subsidiary instrument made by the appropriate authority in a state and any act or thing done by the appropriate authority in respect of the implementation of the report of any tribunal or*  
 C *inquiry to which section 1 of this Decree applies respecting -*

*(a) the forfeiture or other deposal of the property of any person; or*  
*(b) the dismissal, retirement or any other exercise of disciplin-*  
 D *ary control over any public officer, whether corporate or unincorporate, in the State, shall be deemed to have been validly made or done and shall have full effect in accordance with its tenor.*

*(2) The question whether any Edict or subsidiary instrument or*  
 E *any act or thing to which subsection (1) or this section relates was validly made or done shall not be inquired into in any court; and if any action or other proceeding whatsoever has been or is instituted in any court in respect of any such Edict or subsidiary instrument or act or thing, the*  
 F *action shall be void."*

It is clear that both sections 1(2) and 2(2) of the above Decree made provisions for ouster of jurisdiction clauses. In my view, the real issue for determination in this appeal is the extent, if any, that the provisions of the said Decree No. 18 of 1977 protect or cover any questions  
 G concerning the validity or constitutionality of Edict No. 7 of 1978 in a court of law.

A close study of the provisions of section 1(2) of Decree No.18 of 1977 makes it clear that the ouster of jurisdiction clause therein stipu-  
 H lated cannot be applicable to the facts and circumstances of the present case. This is because the 1978 Edict is not concerned with the institution or constitution of a tribunal or inquiry as envisage under section 1(2) of the said Decree No. 18 of 1977 but deals primarily with the execution of

the recommendation made to Government by the Omosun Commission of Inquiry. I will now turn to section 2(2) of the same Decree.

There is no doubt that section 2(1) of Decree No. 18 of 1977 concerns, *inter alia*, all Edicts or subsidiary instruments, such as Edict No. 7 of 1978, promulgated by the appropriate authority in respect of the implementation or execution of the recommendations by the Omosun Commission of Inquiry over the civil disturbances that broke out on the 15th day of August, 1988 between the Ekpan and Ubeji communities of the then Bendel State. The more controversial question seems to be whether, as stipulated in the Decree, the Edict is a law to which section 2(1) of the 1977 Decree relates and whether in particular, the Edict concerns the forfeiture or other disposal of the property of any person pursuant to the said recommendation of the Omosun Commission of Inquiry.

In this regard the court below, per the leading judgment of Ogundare, J.C.A. as he then was, and with which Musdapher and Ajose-Adeogun, JJ.C.A. agreed stated as follows:

*"Reading Edict No. 7 as a whole, I am of the view, and I so hold, that it is not an Edict to which section 2(1) of the Decree relates in that it neither forfeits or disposes of the property of any person nor does it dismiss, retire or exercise any other disciplinary control over any public officer or any member of any body, whether corporate or unincorporate, in the State..... It is my respectful conclusion, therefore, that Edict No. 7 of 1978 does not come under section 2(1) of Decree No. 18 of 1977 and, as such, the suspension of Chapter 11 of the constitution of the Federation, 1963 (as provided for in section 3(2) will not apply to the consideration of its validity.*

*Having held as above that (1) the court has competence to inquire into and pronounce on the validity or otherwise of an Edict and (2) that Edict No. 7 of 1978 not being one to which subsection (1) of section 2 of Decree No. 18 of 1977 relates, the ouster of the court's jurisdiction in subsection 2 of section 2 thereof does not apply to preclude the court from inquiring into its validity....."*

With profound respect, I find it difficult to accept the above

observation of the Court of Appeal as well founded. This is because Edict No. 7 1978 in the clearest possible terms directed inter alia the payment by the Ekpan community of the sum of N55,000.00 to the Bendel State government Treasury within one month being 50% of the total costs of rehabilitation and reconstruction of the ravage Ubeji Village as a result of the riots and clashes between the people of Ekpan in Ethiopie Local Government Area. The said riots and clashes were stated to have occasioned loss of lives, injuries, to persons, destruction of property, burning of house and looting and whereof the people of Ekpan provides as follows:-

"4. If the payment falling due under section 3(a) of this Edict or any part of the sum is not made within 21 days next after the date fixed for payment thereof, it shall be lawful for the Military Governor to direct by an order to be published in the Gazette that a distress be levied upon the movable and immovable property of all or any members of community upon whom the payment has been imposed in respect of the amount then remaining unpaid."

(Underlining supplied for emphasis)

It is plain to me that the fine or penalty imposed on the respondents compulsorily under the Edict and payable as aforesaid amounts to an imposition of forfeiture on the respondents of Ekpan community. The stipulated amount of the money they were of a legal duty is a clear confiscation of the respondents' property in issue, namely, the money they were ordered to forfeit or pay into Government Treasury. By the said Edict, they were directed to pay the said penalty or face legal distress or execution upon their movable and immovable property in default of payment. In my view, Edict No. 7 of 1978 is a law to which section 2(1) of the 1977 Decree relates as it touches, not only on the forfeiture or disposal of the property of the respondents, but concerns also the exercise of disciplinary control over members of Ekpan community therein specified. I think the court below, with respect, was in error when it held that Edict No. 7 is not an Edict to which section 2(1) of the 1977 Decree relates.

Turning now to the issue of jurisdiction, it cannot be disputed



that in a military regime, Decrees are the supreme laws of the land and other laws, including the constitution are inferior thereto. See Attorney-General, Anambra State V. Attorney-General of the Federation (1993 ) 6 N.W.L.R. (Part 302) 692. It is also beyond question that the clear meaning of the provisions of a Decree or statute must be applied and upheld so long as such provisions are plain, unequivocal and unambiguous. Although the powers of the superior courts of record, such as a High Court are, without doubt, great and, indeed wide, they are certainly not unlimited. They can be and are indeed sometimes properly limited by ouster of jurisdiction clauses in some Decrees or legislations. See Shodeinde v. Registered Trustees of Ahmaddiya Movement in Islam (1980) 1-2 S.C. 225, Olaniyi v. Aroyehun (1991) 5 N.W.L.R. (Part 194) 653 at 686, Attorney-General of the Federation v. Sode (1991) 1 N.W.L.R. (Part 128) 500 at 517 etc. Although it has always been the practice of the courts to guard their jurisdiction jealously, if in any given case that jurisdiction is expressly ousted by the provisions of a Decree, the path of justice dictates compliance with such an ouster clause especially as under our present Constitution, Decrees are the Supreme laws of the land. See Osadebay V. Attorney-General of Bendel State (1991) 1 N.W.L.R. (part 169) 533 at 571.

I should however point out that it is not the law that once an ouster of jurisdiction clause is raised in any proceedings, the court must automatically throw in the towel, decline jurisdiction and strike out the suit. The court, where it is faced with an ouster clause still has a duty to inquire into the issue to enable it determine whether or not it has jurisdiction to entertain the action. As I explained the position in Chukwuemeka Agwuna v. The Attorney-General of the Federation and Another (1995) 5 N.W. L.R. (Part 396) 418 at 438.

*"While a person's right of access to the law courts any be taken away or restricted by statute, the legal position is that the language of such statute must be carefully scrutinized by the Courts and will not be extended beyond it least onerous meaning unless clear word are used to justify such extensions. See Barclays Bank of Nigeria Ltd. V. Central Bank of Nigeria (1976) 1 ALL NLR 326 at 334. But where, as I have observed, the*

*ouster of court's jurisdiction clause in a Decree is plain, clear and unambiguous, the judicial attitude has always been to decline jurisdiction. See Osadebay V. Attorney-General of Bendel State, supra. I agree that to do otherwise and to refuse to give way to an ouster in a Decree in an appropriate case after due inquiry will, no doubt, amount to judicial lawlessness. See National Electoral Commission V. Chief F.A. Nzeribe (1991) 5 NWLR (Part 192) 458 at 472."*

In the present case, the provisions of section 2(2) of the Tribunals or Inquiries (Validation etc.) Decree No. 18 of 1977 in so far as the ouster of jurisdiction clause is concerned appear to me absolutely clear, plain and unambiguous. I am thus satisfied that the validity of the 1978 Edict and/or sections thereof under attack in the respondents' action cannot be questioned in any court law. In my view, the court below, with respect, was in error when it held that the trial court possessed the competence to inquire into and pronounce on the validity or otherwise of the said Edict. In my judgment, the trial court was right by holding that it had no jurisdiction to entertain the claims.

It is for above and the more detailed reasons contained in the judgment of the honourable the Chief Justice of Nigeria that I, too, allow this appeal. The decision of the court of Appeal is set aside and the ruling of the learned Judge is hereby restored. I abide by the order for costs made in the leading judgment.

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