

SUPREME COURT OF NIGERIA
FRIDAY 24TH JANUARY, 2003. SC. 168/1995
CORAM:-S. M. A. BELGORE, S. U. ONU, A. I. IGUH,
S. O. UWAIFO, E. O. AYOOLA, JJSC

1. CHIEF A.B. BRIGGS
2. CHIEF B.R. BRIGGS
3. CHIEF DR. M.T.O. MEMBERE
4. CHIEF G.N. ANABRABA
5. CHIEF M.T.C. BRIGGS APPELLANTS
6. CHIEF B.A. BRIGGS
7. CHIEF T.G. MEMBERE
8. CHIEF T.C.F. ORUWARI
9. MR. O.B. LULU-BRIGGS
10. MR. FUBARA ANABRABA
11. MR. ANTHONY ABO
12. MR. ADONIYE M. BRIGGS
(For themselves and as representing
the BRIGGS (ORUWARI) House of
Abonnema)

AND

1. CHIEF L.O.K. BOB-MANUEL
2. CHIEF W.K. BOB-MANUEL
3. CHIEF HON JUSTICE J.D. MANUEL
4. CHIEF J.J. BOB-MANUEL RESPONDENTS
5. CHIEF I. DODOIYI-MANUEL
6. CHIEF ALAYE K. FUBARA-MANUEL
7. CHIEF TONYE K. EKINE BOB-MANUEL
(For themselves and as representing the
Manuel (OWUKORI) house of Abonnema)

CHIEFTAINCY MATTERS - Courts - Jurisdiction - Ouster clause -
There is nothing in the Edict of 1978 that ousts the jurisdiction - To
determine issues in the statement of claim (H1)

CHIEFTAINCY MATTERS - Statutes - River State Chieftaincy Edict
1978 - The Edict was not repealed by 1979 Constitution - Its appli-
cation rather became limited to matters - That arose prior to the

118 Briggs v. Bob-Manuel (2003) 1 KLR (pt. 151) 117; (2003) 5 NWLR
coming into force of that Constitution (H2)

APPEALS - Courts - Action - Jurisdiction - Court of Appeal rightly held that trial court has jurisdiction in the matter - As the cause of action is one that respondents can litigate on (H3)

APPEALS - Cross appeal - Purpose - Respondent who seeks to set aside decision of court on a crucial aspect - Must do so by cross appeal - And not by respondent's notice (H4)

APPEALS - Adjournment - Judgments - Arrest of - Court of Appeal rightly refused to arrest the judgment - Since parties were duly represented - And briefs of argument were considered by court (H5)

FACTS

Plaintiffs/respondents sued defendants/appellants in the High Court of Rivers State claiming declarations and an injunction by which they sought the nullification of the installation of 1st appellant as "H. R. H. the Amayanabo of Abonnema" and to restrain him from so parading himself. The case of respondents was that Abonnema consisted of 4 main autonomous groups of Houses and the town is governed by the consensus of the 4 houses as represented by their respective heads/paramount chiefs. They contended that there was no title known as Amayanabo of Abonnema and that the installation of 1st appellant as such was an unconstitutional innovation being imposed on the town. While conceding that there was no such known title in Abonnema, appellants contended that their family head nevertheless took precedence over the other family heads in everything.

Before the hearing proper, appellants brought a motion to have the case dismissed for lack of jurisdiction on the ground that by virtue of the Rivers State Chieftaincy Edict, 1978 the jurisdiction of the court was ousted in regard to matters pertaining to recognised chieftaincy. The learned trial judge upheld the objection and struck out the respondents' action. Dissatisfied, respondents appealed to the Court of Appeal, Port Harcourt which reversed the decision of the trial court on the ground that the edict was impliedly repealed by the 1979 Constitution. An application by appellants to arrest judgment of the court was equally dismissed. Aggrieved, appellants filed appeal at

Supreme Court. They also appealed on the dismissal of their application to arrest judgment.

ISSUES FOR DETERMINATION

- (i) Whether the jurisdiction of the court was ousted.
- (ii) Whether the Court below was right in its interpretation of Order 3, rule 14 (2) of the Court of Appeal Rules.
- (iii) Whether the plaintiffs' case (vis-à-vis the reliefs claimed) was justiciable.

HELD (Unanimously dismissing both appeals per UWAIFO JSC)

Courts - Jurisdiction - Ouster clause

1. It is clear from the statement of claim that the respondents wish to contend that there is no title known as Amayanabo in Abonnema and that the installation of the 1st defendant on 24 December, 1988, as Amayanabo of Abonnema was of no effect. In my view, there is nothing in the Edict of 1978 which can be relied on to oust the jurisdiction of the court to determine the issues arising from the statement of claim. First, it is not the case of the respondents that Amayanabo is a recognised chieftaincy in Abonnema.

Second, the cause of action is shown to be the installation of the 1st appellant as Amayanabo in December, 1988. Neither the effect of the 1978 Edict nor the principle in *Uwaifo v. Attorney-General Bendel State* (1982) 7 S.C. 124 applies here. The learned trial Chief Judge also himself fell into error to have failed to understand the nature of the appellants' grievance and when the cause of action arose. If he had not, he would have realised that the 1978 Edict did not apply.

(p. 125 E)

Statutes - 1978 Edict - Scope

2. The 1978 Edict was not rendered void by the 1979 Constitution. The 1979 Constitution made it unconstitutional for it to be applied in respect of chieftaincy matters where the cause of action arose after the 1979 Constitution came into opera-

tion. But in respect of causes of action before then, that Edict was still capable of denying jurisdiction to the court. That is the whole essence of the principle in *Uwaifo v. Attorney-General Bendel State*. (p. 126 C)

B *Courts - Action - Jurisdiction*

3. In regard to issue (ii), this arose as one of the issues which the present appellants requested the court below to determine. It was whether the court was competent to hear and determine a claim that is not justiciable. The respondents laid their complaint in that regard by filing a respondents' notice. The learned Justice of Appeal was of the opinion that this should have been done by a notice of cross-appeal. I have no doubt in my mind that the learned Justice of Appeal, with profound respect to him, misapplied the *American Cyanamid* case. Nothing was more appropriate than the respondents' notice in question in the circumstances it was sought to defend the judgment in the present case. However, notwithstanding the error made by the court below, it was right on the question that the trial court has jurisdiction to hear and determine this case. The cause of action is one the respondents can litigate having regard to the issues involved. I therefore find no merit in this appeal and dismiss it. (p. 126 H/128 E)

F *Cross-appeal - Purpose*

4. In *Sumonu v. Ashirota* (1975) 1 NMLR 16 at 23, this court held that when a complete reversal of a decision of a lower court is sought by a respondent, it should be by cross-appeal and not respondent's notice. The law therefore has been clearly laid down that any respondent who seeks to set aside a decision of a lower court on any crucial aspect must do so by way of a cross-appeal. It is said that the traditional role of a respondent's notice is to seek to affirm the Judgment appealed against on other grounds than may have been given in the judgment. The essential position of a respondent who files a respondent's notice is that the judgment is correct but that there are other grounds which could either be in substitution for some of the reasons given for it or in addition to the grounds

for the judgment. (p. 127 D)

Adjournment - Judgments - Arrest of

5. The reason for seeking to arrest the judgment already reserved was that Mr. Chike Ofodile, SAN, who was the leading counsel for the respondents (in the court below), was not aware that the appeal, which had been adjourned to 30th October, 1995, had been brought down to 12th June, 1995. The Court below took into account (1) that briefs of argument had been exchanged; that of the respondents was settled by Mr. Ofodile, SAN, himself; (2) that Mr. Ofodile had always appeared with Mr. Georgewill who later argued the appeal; (3) that it was Mr. Georgewill who settled the pleadings in the High Court; and (4) that on the occasion when the appeal was set down for hearing, Mr. Georgewill did not ask that it be adjourned for Mr. Ofodile SAN, to personally conduct it. In the event, the court below found no merit in the contention that Mr. Georgewill had no instruction to conduct the appeal. I think the court below was absolutely right. There is nothing demonstrated to show that the absence of Mr. Ofodile led to a miscarriage of justice. The parties were duly represented and the briefs of argument were considered by the court. I would therefore dismiss the second appeal as being without any merit. (p. 129 F)

REPRESENTATION

Emeka Ofodile, Esq., with I. F. Chude, Esq., for the Appellants
C.J. Anyamene-Ezugwu (Mrs.), for the Respondents

CASES REFERRED TO

American Cyanamid Co. v. Vitality Pharmaceutical Ltd. (1991) 2 NWLR (Pt. 171) 15

Sumonu v. Ashirota (1975) 1 NMLR 16

Ellochinn (Nig.) Ltd, v. Mbadiwe (1986) 1 NWLR (Pt. 14) 47

Anyaduba v. Nigerian Renowned Trading Co. Ltd (1990) 1 NWLR (Pt. 127) 397

Broniks Motors Ltd. v. Wema Bank Ltd (1983) 6 S.C. 158

STATUTES & RULES REFERRED TO

Constitution of the Federal Republic of Nigeria, 1979
 Rivers State Chieftaincy Edict, 1978, s. 18
 Court of Appeal Rules, 0.3, r. 14(2)

B LEAD JUDGMENT BY UWAIFO JSC

The respondents, Briggs (Oruwari) House, were the plaintiffs at the trial court. From their statement of claim, they aver that they represent one of the four main autonomous groups of Houses in Abonnema town in Rivers State. The three others are Jack (Iju) House, C Georgewill (Otayi) Group of Houses and Manuel (Owukori) Group of Houses. The town of Abonnema had been governed, and remains so, by the consensus of the four paramount chiefs representing the four Houses as their heads respectively. The stools of Briggs, D Jack, Georgewill and Manuel were created and made heads and paramount chiefs of their respective War-Canoe Houses many years before the founding of Abonnema on 16 June, 1881. The above-stated facts are contained in paragraphs 8, 9 and 10 of the Statement of Claim.

E The respondents then further narrated what appears to be the cause of action which led to the present suit. The volume of the pleadings of both parties as contained in the statement of claim, the statement of defence and reply by the plaintiffs is quite substantial. F The relevant averments in the statement of claim for the purposes of this appeal go as follows.

“11. The first defendant was elected to succeed late Chief Clement I.G. Bob-Manuel who was on the Stool of Manuel (Owukori) group of Houses of Abonnema.

G *12. The presentation of the first defendant by the defendants to the Abonnema Council of Chiefs and the Abonnema Community, and his installation were scheduled to be on 24th December, 1988, and invitation cards were printed and distributed to invitees.*

H *13. The said invitation cards from the defendants contained words and inscriptions which described and styled the first defendant as ‘H.R.H. the Amayanabo of Abonnema.’ The said invitation card will be founded upon at the hearing of this suit.*

14. When the Chiefs of the BRIGGS House received the said invitation card, the interpolation thereon ascribing the first defen-

dant as 'H.R.H. the Amayanabo of Abonnema' was observed, and promptly, a protest letter dated 20th December, 1988, addressed to the 2nd defendant and copied to the Secretary, Abonnema Council of Chiefs, Abonnema, was sent and delivered to the defendants.

15. In that letter referred to above, the plaintiffs pointed out to the defendants that there was no royal family in Abonnema and that the town was administered jointly by the consensus (sic) of the four equal and paramount Heads. That since the Rivers State Government has set up a panel for the Reclassification of Chiefs, the defendants' action was calculated to pre-empt Government decision. The plaintiffs will rely on the said letter at the trial and NOTICE is hereby given to the defendants and Chief W.K. Bob-Manuel in particular who is the Secretary of the Chiefs' Council to produce the original at the trial.

16. The defendants replied by a letter dated 20th December, 1988, that they were going to instal a new Amayanabo and nothing short on 24th December, 1988. The plaintiffs shall rely on the said letter.

17. In order to foist an unconstitutional innovation on Abonnema which was quite an anathema to Kalabari custom and constitution and Abonnema in particular, the defendants printed a special brochure entitled 'Coronation of Chief Lawrence Opubenibo Karibi Bob-Manuel as the Head of the Manuel (Owukori) Group of Houses and Amayanabo of Abonnema Saturday, 24th December, 1988.'

18. In the said printed special brochure, the defendants falsified the histories of Abonnema and Kalabari. The said brochure will be relied upon at the hearing of this Suit.

19. The four groups of houses as stated above in paragraph B, are equal in status and not subject to one another except to the Amayanabo of Kalabari to whom all Kalabari, (including Abonnema), owe allegiance"

Based essentially on the above averments which show the nature of the grievance, the respondents claimed as follows:

"1. Declaration that there had never been a title known as 'H.R.H. the Amayanabo of a abonnema' from the founding of Abonnema in 1881 till date.

2. Declaration that the purported installation of Chief Lawrence

Opubenibo Karibi Bob-Manuel from parading himself as 'H.R.H. The Amayanabo of Abonnema' on the 24th December, 1988 is unconstitutional, null and void and of no effect whatsoever

3. *A perpetual injunction restraining Chief Lawrence Opubenibo Karibi Bob-Manuel from parading himself as 'H.R.H. The Amayanabo of Abonnema' and the defendants, their servants, agents and supporters from calling or styling the 1st defendant as such.*

4. *Declaration that the Briggs (Oruwari) House founded the town of Abonnema and the first settlers, and on merit and of right, best qualified to produce the 'Amadabo' or 'Amayanabo' of Abonnema."*

The appellants as defendants responded to some of the averments above in a manner to join issue with the respondents on the very vital matter over which they seek reliefs. Apart from joining issues in regard to paragraphs 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 of the statement of claim, the appellants pleaded in paragraph 9 (i) of their statement of defence -

"Even though Abonnema comprises 4 main autonomous groups, there is selected from amongst them a leader known as the Amayanabo but later retitled Amadabo. That person has always come from the Manuel house and no other. Automatically the Amayanabo stool also takes precedence in anything in Abonnema. After the Amayanabo stool comes Briggs (Oruwari) followed by Georgewill before Jack. This order of precedence has always been observed since the founding of Abonnema, and it is so known throughout Kalabari land."

It would appear that at least the issues whether in Abonnema the stool is Amayanabo or Amadabo, whether Bob-Manuel House takes precedence over others and occupy the stool perpetually as of right and whether the stool of Amadabo is occupied by consensus of the four Houses.

But the appellant brought a motion to have the case dismissed or struck out principally, from the argument, on the grounds that the court lacked jurisdiction to entertain it because (a) the Abonnema Chieftaincy stool matter was concluded before the 1979 Constitution came into being, (b) the Rivers State Chieftaincy Edict, 1978, Section 18, ousted the jurisdiction of the court by virtue of the relevant provision in the 1963 Constitution in regard to matters per-

taining to recognised chieftaincy: and (c) the controversy over the stool in Abonnema arose before the 1979 Constitution came into operation with no retrospective effect to alter the consequence of what had taken place. On 21 April, 1994, Ungbuku, C.J., granted the motion and struck out the suit on the basis that the court lacked the jurisdiction to hear and determine it. The Court of Appeal, Port Harcourt Division, set aside the decision of the trial Court on the ground that the ouster clause in the 1978 Edict ceased to have effect at the inception of the 1979 Constitution.

That judgment is the sought of the main appeal with which this judgment is concerned. The appellants in that appeal complain on five grounds of appeal against the judgment of the court below and have raised 3 issues for determination. In the course of argument before us, it was clear that what became paramount for consideration were (1) was Amayanabo a recognised chieftaincy title in Abonnema which is caught by the 1978 Edict ? (2) did the installation of the 1st defendant which the respondents complained of not happen as recently as 1988 according to the statement of claim? (3) is it not the statement of claim prima facie that needs to be examined on the question of jurisdiction of the court to hear the subject matter?

It is clear from the statement of claim that the respondents wish to contend that there is no title known as Amayanabo in Abonnema and that the installation of the 1st defendant on 24 December, 1988, as Amayanabo of Abonnema was of no effect. In my view, there is nothing in the Edict of 1978 which can be relied on to oust the jurisdiction of the court to determine the issues arising from the statement of claim. First, it is not the case of the respondents that Amayanabo is a recognised chieftaincy in Abonnema.

Second, the cause of action is shown to be the installation of the 1st appellant as Amayanabo in December, 1988. Neither the effect of the 1978 Edict nor the principle in Uwaifo v. Attorney-General Bendel State (1982) 7 S.C. 124 applies here. Even though the court below came to the right decision, it was wrong when it said inter alia per Edozie, JCA.,:

“.....the crucial question is whether the clause (ouster clause in the 1978 Edict) is still valid and operative having regard to the 1979 Constitution..... The Court below opined that there was ‘no

legislation, nor superior court judgment declaring the said Edict, (i.e. Rivers State Chieftaincy Edict), as being unconstitutional null and void.’ With respect to the learned Chief Judge, that statement is misconceived as far as by it, he is understood to be saying that the ouster clause in the Edict is still valid..... *It follows that the provision of the ouster clause in Sections 18 and 19 of the Rivers State Chieftaincy Edict, 1978, being inconsistent with the 1979 Constitution was impliedly repealed, notwithstanding that there is no legislation expressly enacted or a superior court decision to that effect.* It is therefore my considered view that the learned Chief Judge with due respect, was in grave error when he relied on the said ouster clause which had become null and void in declining jurisdiction to entertain the action before him.”

The 1978 Edict was not rendered void by the 1979 Constitution. The 1979 Constitution made it unconstitutional for it to be applied in respect of chieftaincy matters where the cause of action arose after the 1979 Constitution came into operation. But in respect of causes of action before then, that Edict was still capable of denying jurisdiction to the court. That is the whole essence of the principle in Uwaifo v. Attorney-General Bendel State (supra). The learned trial Chief Judge also himself fell into error to have failed to understand the nature of the appellants’ grievance and when the cause of action arose. If he had not, he would have realised that the 1978 Edict did not apply. The issues which the appellants have presented to this court for the determination of this appeal are-

- (i) *Whether the jurisdiction of the court was ousted.*
- (ii) *Whether the Court below was right in its interpretation of Order 3, rule 14 (2) of the Court of Appeal Rules.*
- (iii) *Whether the plaintiffs’ case (vis-à-vis the reliefs claimed) was justiciable.*

From what I have discussed already, issue (i) must be answered in the negative while issue (iii) must be in the affirmative.

In regard to issue (ii), this arose as one of the issues which the present appellants requested the court below to determine. It was whether the court was competent to hear and determine a claim that is not justiciable. The respondents laid their complaint in that regard by filing a respondents’ no-

tice. Before the court below it was argued by the appellants in that court (respondents here) that the respondents' notice filed in support of Issue (iii) above was incompetent. It was contended that, that should have been notice of a cross-appeal.

The court below relied on *American Cyanamid Company v. Vitality Pharmaceutical Ltd.* (1991) 2 NWLR (Pt. 171) 15 decided by this court, in particular the observation of Olatawura, JSC., at p. 31, to hold that a respondents' notice was inappropriate. Order 3, r. 14 (2) of the Court of Appeal Rules provides thus:

"14(2). A respondent who desires to contend on the appeal that the decision of the court below should be affirmed on grounds other than those relied upon by that court must give notice to that effect specifying the grounds of that contention."

This provision or a similar one has been considered in many decisions of this court. ***In Sumonu v. Ashirota (1975) 1 NMLR 16 at 23, this court held that when a complete reversal of a decision of a lower court is sought by a respondent, it should be by cross-appeal and not respondent's notice. The law therefore has been clearly laid down that any respondent who seeks to set aside a decision of a lower court on any crucial aspect must do so by way of a cross-appeal:*** see *Ellochinn (Nig.) Ltd. v. Mbadiwe* (1986) 1 NWLR (Pt. 14) 47; *Anyaduba v. Nigerian Renowned Trading Co. Ltd* (1990) 1 NWLR (Pt. 127) 397. ***It is said that the traditional role of a respondent's notice is to seek to affirm the Judgment appealed against on other grounds than may have been given in the judgment:*** see *Lagos City Council v. Ajayi* (1970) 1 All NLR 291 at 294. ***The essential position of a respondent who files a respondent's notice is that the judgment is correct but that there are other grounds which could either be in substitution for some of the reasons given for it or in addition to the grounds for the judgment.*** That can be seen in the observation of Olatawura, JSC., at p. 31 of *American Cyanamid* ease thus:

"In my view, invocation of Order 3 rule 14 (2) postulates that the judgment is correct but the reasons for the judgment are based on wrong premise when there is enough evidence on record which can sustain the judgment of other grounds- other (sic) than those relied upon by the trial court. The respondent's notice postulates

the correctness of the judgment notwithstanding the grounds of appeal by the appellant to set it aside.”

This observation was made in the course of treating an issue raised for determination, namely, whether the Court of Appeal was right in affirming the decision of the trial court because of the conflicts in the findings of fact by the trial court and the findings of fact by the Court of Appeal, moreso when there was neither a cross-appeal nor a respondent’s notice as provided under Order 3, r. 14 (2). The learned Supreme Court Justice held that there was no such conflict and then said:

“Since the respondent did not contend in the lower court that the grounds on which the trial court relied upon in arriving at its decision were wrong or extraneous to the issue before it, there was no need to invoke Order 3 rule 14 (2) of the Court of Appeal Rules. On the other hand, it was the contention of the respondent in the lower court that the decision of the trial court should be upheld. There was no need for any respondent’s notice.”

This was regarded by the court in the present case per Edozie, JCA., to be authority for saying that the respondents’ notice failed to sustain the judgment of the trial court on other grounds, that is to say, that the judgment striking out the suit be confirmed on the ground that the subject-matter of the action was not justiciable, was inappropriate. **The learned Justice of Appeal was of the opinion that this should have been done by a notice of cross-appeal. I have no doubt in my mind that the learned Justice of Appeal, with profound respect to him, misapplied the American Cyanamid case.** What Olatawura, JSC, said in totality on that point was that neither a cross-appeal nor a respondent’s notice was necessary since he found no conflict of findings complained of. **Nothing was more appropriate than the respondents’ notice in question in the circumstances it was sought to defend the judgment in the present case. However, notwithstanding the error made by the court below, it was right on the question that the trial court has jurisdiction to hear and determine this case. The cause of action is one the respondents can litigate having regard to the issues involved. I therefore find no merit in this appeal and dismiss it.**

In the second appeal, the appellants, (as respondents in the

court below) sought to stop judgment being delivered in the appeal heard by that court on 13th July, 1995. The appeal had been fixed for hearing on 12th June, 1995. The present respondents who were the appellants were represented by Mr. A.N. Anyamene, SAN, with whom Chief A.O. Briggs and Chief C.F.C. Membere appeared. Mr. O. Ediye-Kio appeared for the respondents, now the appellants in the present appeal. The appeal was stood down to await Mr. Ofodile, SAN, who was supposed to appear for them. He did not show up and the court adjourned the appeal to the next day, 13th June, 1995. On that day, it was Mr. C.V. Georgewill who appeared for them. The appeal was heard and judgment reserved till 13th July, 1995. The Court dismissed the application to “arrest the proceedings” of the court on 12th June, 1995 and “in particular the judgment fixed for delivery on the 13th of July, 1995” and delivered the judgment.

It was against that dismissal that an appeal was filed and the following three issues set down for determination:

“1. Whether or not the Court of Appeal was right in dismissing the motion for arrest of judgment and order re-opening of the appeal.

2. Whether the learned Justices of the Court of Appeal exercised their discretion judicially and judiciously by refusing an application for amendment of the appellants’ brief on the grounds that it was too late.

3. Whether the appellants were denied fair hearing as a result of the proceedings of 12/6/95, 13/6/95 and the ruling of the Court on 13/7/95.”

The reason for seeking to arrest the judgment already reserved was that Mr. Chike Ofodile, SAN, who was the leading counsel for the respondents (in the court below), was not aware that the appeal, which had been adjourned to 30th October, 1995, had been brought down to 12th June, 1995. The Court below took into account (1) that briefs of argument had been exchanged; that of the respondents was settled by Mr. Ofodile, SAN, himself; (2) that Mr. Ofodile had always appeared with Mr. Georgewill who later argued the appeal; (3) that it was Mr. Georgewill who settled the pleadings in the High Court; and (4) that on the occasion when the appeal was set down for hearing, Mr. Georgewill did not ask that it be

adjourned for Mr. Ofodile SAN, to personally conduct it. In the event, the court below found no merit in the contention that Mr. Georgewill had no instruction to conduct the appeal. I think the court below was absolutely right. There is nothing demonstrated to show that the absence of Mr. Ofodile led to a miscarriage of justice. The parties were duly represented and the briefs of argument were considered by the court. I would therefore dismiss the second appeal as being without any merit.

I have dealt with the two appeals in this judgment because it was convenient to do so. I have dismissed each of them. I order that the case shall be remitted to the Port Harcourt High Court to be heard on the merits. I award N10,000.00 costs to the respondents.

BELGORE JSC

I also dismiss these two appeals for cogent reasons adumbrated in the judgment of my learned brother, Uwaifo, JSC. I remit the case to the High Court of Rivers State to be heard on the merits. I award N10,000.00 costs to the respondents.

ONU JSC

I have had the advantage to read before now the judgment of my learned brother, Uwaifo, JSC., wherein he meticulously considered the two appeals that came on appeal before us before dismissing them for lacking in merit. I agree with his reasoning and conclusion and having nothing further to add thereto.

IGUH JSC

I have had the privilege of reading in draft the judgment of my learned brother, Uwaifo, JSC., and I totally agree that each of the two appeals lacks substance and ought to be dismissed.

It is clear as averred in paragraph 2 of the plaintiffs' Particulars of Claim that the cause of action in the suit arose on the 24th December, 1988, well after the Constitution of the Federal Republic of Nigeria, 1979 had come into force. The State High Courts under Section 236 of that Constitution enjoyed unlimited jurisdiction in all

matters set out thereunder unless such jurisdiction is expressly precluded by statute or by the same Constitution. See *Bronik Motors Ltd. & Another v. Wema Bank Limited* (1983) 6 S.C. 158. I think the court below was entirely right to hold that the trial court had jurisdiction to entertain the suit.

On the interlocutory appeal, I am also in agreement for reasons contained in the leading judgment that the same lacks merit and is therefore bound to fail. B

Accordingly, both appeals fail and are hereby dismissed. The case is remitted to the High Court of Rivers State for trial de novo before another Judge. I abide by the order for costs made in the leading judgment. C

AYOOLA JSC

Editor's Note - The Judgment of Hon. Justice E.O. Ayoola, JSC., was not available as at the time of going to press. His Lordship's judgment will be published in a subsequent Edition). D

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