

SUPREME COURT OF NIGERIA

1ST APRIL, 2005. SC. 58/2004

**CORAM:- M. L. UWAIS CJN, S. M. A BELGORE,
I. L. KUTIGI, A. O. EJIWUNMI, D. MUSDAPHER,
I. C. PATS-ACHOLONU, S. A. AKINTAN, JJSC**

CHARLES OKIKE	APPELLANT
AND	
THE LEGAL PRACTITIONERS	
DISCIPLINARY COMMITTEE	RESPONDENT

CONSTITUTIONAL LAW - Legal Practitioners Act s. 12(7) - Is constitutional - National Assembly can establish the LPDC - And give appellate jurisdiction to the Supreme Court (H1)

CONSTITUTIONAL LAW - Existing law - Legal Practitioners Act s. 12(7) - Being an existing law vide s. 315 1999 Constitution - Is valid and constitutional (H2)

COURTS - Jurisdiction - Of the Supreme Court - To hear appeal from the LPDC - Is established under s. 316 (1) of the 1999 Constitution (H3)

LEGAL PRACTITIONERS - Conduct of - Supreme Court has always had jurisdiction - In their disciplinary matters - And s. 233(1) 1999 Constitution - Did not terminate that jurisdiction (H4)

FACTS

The appellant is a Legal Practitioner. The respondent, Legal Practitioners Disciplinary Committee (LPDC) on 3rd April, 2003, issued some directions against him as follows:- *“After carefully considering the unchallenged evidence before the Committee, oral and documentary, it is hereby decided that the name of the respondent, Charles Okike, Esq., be struck off the Legal Practitioners List (sic) in addition to the respondent refunding the sum of \$123,000 (sic) to the complainant.”* Appellant filed

a notice of appeal challenging the directions before the Supreme Court. When the Appeal came up before the Court on 12th October, 2004, the Supreme Court suo motu raised a constitutional point: Whether in the light of the provisions of Section 233 of the Constitution of the Federal Republic of Nigeria 1999, Supreme Court had the jurisdiction to entertain the appeal, given the fact that the said Section 233 restricts the appellate jurisdiction of the court to hearing appeals from the Court of Appeal only. In other words, whether this court could hear appeal from any other court or tribunal than the Court of Appeal.

The case was adjourned for a full court to be empanelled to hear the constitutional issue raised. The parties were directed to file briefs of argument. Another solicitor was also permitted to appear as an amicus curiae. All the counsel presented a common stand arguing that the Supreme Court is competent to hear appeal from the directions (decisions) of the Legal Practitioners Disciplinary Committee as provided by s. 12(7) of the Legal Practitioners Act (LPA) Cap. 207 LFN 1990, as amended.

HELD (Unanimously ruling that the Supreme Court has jurisdiction per **UWAIS CJN**)

Legal Practitioners Act s. 12(7) - Is constitutional

1. This notwithstanding, the question remains: Are the provisions of Section 12 subsection (7) of the Legal Practitioners Act, Cap. 207 as amended, constitutional and therefore valid or are they otherwise? I think they are constitutional and valid for the following reasons.

First, Section 4 subsection (2) of the 1999 Constitution provides:-

“4(2) The National Assembly shall have power to make laws for the peace, order and good government of the Federation or any part thereof with respect to any matter included in the Exclusive Legislative List set out in Part I of the Second Schedule to this Constitution.”

By the combined effect of all the foregoing provisions, it is clear to me that the National Assembly has the power to legislate in respect of legal profession. Within such power, the National Assembly can establish for the legal profession a disciplinary committee such as the Disciplinary Committee. It is also within its power for it to give appellate jurisdiction

to the Supreme Court to hear appeals from the Disciplinary Committee.
(p. 864 B)

CONSTITUTIONAL LAW - Existing law

2. Secondly, Section 315 subsection (1) of the 1999 Constitution provides:-

“315-(1) Subject to the provisions of this Constitution, an existing law shall have effect with such modifications as may be necessary to bring it into conformity with the provisions of this Constitution and shall be deemed to be -

(a) an Act of the National Assembly to the extent that it is a law with respect to any matter on which the National Assembly is empowered by this Constitution to make laws;”

the words “existing law” have been defined under Section 315 subsection (4) (b) of the Constitution to mean -

“(4)(b)... any law and includes any rule of law or any enactment or instrument whatsoever which is in force immediately before the date when this section comes into force or which having been passed or made before that date comes into force after that date;”

The section came into force on the 29th day of May, 1999.

It can be seen from the foregoing that the Legal Practitioners Act, Cap. 207, as amended, qualifies to be “an existing law” and therefore the provisions of Section 12 subsection (7) thereof are constitutional and valid. (p. 865 B)

Jurisdiction - Of the Supreme Court

3. Thirdly, by the provisions of Section 316 subsection (1) of the 1999 Constitution -

“Any office, court of law or authority which immediately before the date when this section comes into force was established and charged with any function by virtue of any other Constitution or law shall be deemed to have been duly established and shall continue to be charged with such function until other provisions are made, as if the office, court of law or authority was established and charged with the function by

virtue of this Constitution or in accordance with the provisions of a law made there under.”

The Legal Practitioners Act, Cap. 207 was validly enacted in 1975 under the Constitution of the Federation, 1963 as suspended and modified many times by various Constitution (Suspension and Modification) Decrees. It was validly amended by the Legal Practitioners (Amendment) Decree, 1994, No. 21 of 1994. Since the 1994 amendment the Supreme Court had exercised appellate jurisdiction in respect of appeals from the Legal Practitioner’s Disciplinary Committee. To confirm this, Section 7 subsection (6) of the Legal Practitioners Act, 1962, No. 33 of 1962 provided:-

“7.(6) The person to whom such direction relates may, at any time within twenty-eight days from the date of service on him of the notice of the direction, appeal against the direction to the Federal Supreme Court.....”

Therefore, by virtue of the provisions of Section 316 subsection (1) of the 1999 Constitution, the Supreme Court is deemed to have been charged with the function of hearing appeals from the Disciplinary Committee under the 1999 Constitution. Consequently, Section 12 subsection (7) is constitutional and valid. (p. 865 G)

LEGAL PRACTITIONERS - Conduct of

4. As can be seen from all the foregoing the Supreme Court has all along exercised jurisdiction in disciplinary matters pertaining to the conduct of legal practitioners long before and after the promulgation of the 1979 Constitution. There was no express provision in that Constitution which ousted the jurisdiction of the Supreme Court. Similarly, there are no specific provisions in the 1999 Constitution which ousted the jurisdiction of the court.

In my opinion, the provisions of Section 233 subsection (1) of the 1999 Constitution have not in any way ousted the jurisdiction either expressly or impliedly of the Supreme Court to hear appeal from the Disciplinary Committee. Therefore in the absence of any express provision in the Constitution which ousts the jurisdiction of the court, we should be

very reluctant to hold that the jurisdiction has been ousted. This court does not readily oust its jurisdiction. In principle, it jealously protects the jurisdiction.

It follows from all the foregoing that this court amply has the jurisdiction to hear the present appeal from the Disciplinary Committee. I, therefore, so hold. (p. 869 E)

NOTABLE POINTS OF INTEREST

BELGORE JSC

1. Legal profession must not be allowed to go off rail

Thus it is clear that the committee is a special body, I will not call it a tribunal, to expeditiously deal with issues of discipline among legal practitioners. All through our history from colonial period to now the legal profession is a strategic profession that must not be allowed to go off the rail. Law is the mother of all professions; it is a living and constantly producing mother and she must not be allowed to be sick. Sickness in legal profession is the act of indiscipline whether due to outright becoming act or corruption or fraud. Every situation, just like every person, is under the law and if the law is sick then the rot will quickly take over our society. It is for this reason that legal practitioners must be able to clear indiscipline within their rank with despatch and effectiveness. The Legal Practitioners Disciplinary Committee is a quasi tribunal to look into aspects of discipline by investigating in a fair hearing manner and give its direction. The appeal against that direction is to Supreme Court. It is more of highest administrative procedure than ordinary tribunal. Section 233 (1) of the Constitution of 1999 has not ousted Supreme Court's jurisdiction in this. (p. 871 B)

KUTIGI JSC

2. When Supreme Court may hear appeal from any other court

I think Section 233(1) confers exclusive jurisdiction on this court to hear appeals from the Court of Appeal but does not in my view specifically or expressly state that this court shall hear appeals from the Court of Appeal only. In other words this court can and will hear appeals from other

Courts established by the Constitution or law once there is appropriate and proper provision to that effect in the law. This court is therefore competent I believe, to hear an appeal from any other court in appropriate cases and not only from the Court of Appeal. My conclusion therefore is that Section 12(7) of the Legal Practitioners Act (as amended) (see above), which confers jurisdiction on this court to hear appeals from the decisions or directions of the Legal Practitioners Disciplinary Committee is not inconsistent with Section 233(1) of the Constitution (ibid). (p. 873 D)

PATS-ACHOLONU JSC

3. Need for periodic amendment of the Constitution

There is no doubt that ex facie and examining the provisions of Section 233(1) without relating same to other provisions of the Constitution one might be tempted straight away to come to the conclusion that in strict sense there could be no way any appeal could lie from any other body other than the Court of Appeal to the Supreme Court. It must readily be pointed out that there is no Constitution that is perfect even if an autochthonous Constitution like ours. The fact that our Organic Law by its nature is indigenous does not mean that the wise men and women who framed it are vested with the omnipotence of God or vested with the ability to take care of all possible eventualities. This explains why in most jurisdictions with written Constitutions amendments are now and again made to attempt to infuse new life into the Constitution and make it relevant to societal needs. (p. 883 A)

AKINTAN JSC

4. Jurisdiction conferred on Supreme Court by s. 12(7) LPA is appellate

While the original jurisdiction conferred in Section 232(1) is restricted to dispute between the Federation and a State or between States, the National Assembly is, however, empowered to confer additional original jurisdiction on the court, provided that such additional original jurisdiction which may be conferred does not include any criminal matter. The jurisdiction conferred in Section 12(7) of the Legal Practitioners Act cannot

be said to be original jurisdiction. This is because the matter must have first been deliberated upon by the Disciplinary Committee before the appellant, as the person to whom “*such direction given by the disciplinary committee relates*”, could file his appeal at the Supreme Court. The jurisdiction conferred on the Supreme Court in Section 12(7) of the Act can B therefore not be an original but an appellate jurisdiction. (p. 892 D)

5. Court's attitude in construing jurisdictional statutes

An important rule of interpretation of statutes is that a strong leaning C exists against construing a statute so as to oust or restrict the jurisdiction of the superior courts. It is also a well-known rule that a statute should not be construed as taking away the jurisdiction of the courts in the absence of clear and unambiguous language to that effect. Similarly in D determining either the general object of the legislature, or the meaning of its language in any particular passage, it is obvious that the intention which appears to be most in accord with convenience, reason, justice and legal principles should, in all cases of doubtful significance, be presumed to be the true one. An intention to produce an unreasonable result E or an absurdity is therefore not to be imputed to a statute if there is some other construction available. (p. 893 E)

REPRESENTATION

Nelson Uzuegbu, (with him, S. E. Elema), for the Appellant. F

Dele Oye, (with him, M. Osigbemhe and P. Okonkwo) for the Respondent.

Ubong Esop Akpan as amicus curiae. G

CASES REFERRED TO

Commissioner of Customs & Excise v. Cure & Deeley Ltd. (1962) 1 Q. B. 340 at 357

Artemiou v. Procopion (1966) 1 Q B. 878 at 888 H

African Newspapers of Nigeria & Ors. v. The Federal Republic of Nigeria, (1985) 2 NWLR (Pt. 6) 137

Anakwenze v. Aneke & Ors. (1988) 2 NSCC 798 at p. 803

A-G of Lagos State v. A-G of the Federation (2004) 11-12 S.C. 85 at page 112; (2004) 18 NWLR (Pt. 904) 1 at page 89 H.

Donoghue v. Stevenson (1932) AC 562

Popoola Adio & Anor. v. The State (1986) 4 S.C. p. 194 at 204

B West Virginia State Board of Education v. Barnette (1943) 319 U.S. 63 S. Ct. 1178, 87 L. Ed 1628

Abua v. Legal Practitioners Committee (1962) 2 N.S.C.C. 175

STATUTES REFERRED TO

C Constitution of Federal Republic of Nigeria, 1963 s. 118

Constitution of Federal Republic of Nigeria, 1979 ss. 212 & 213

Constitution of Federal Republic of Nigeria, 1999 ss. 4, 232, 233, 315(4), 316

D Legal Practitioners Ordinance No. 57 of 1933 ss. 32 - 38

Legal Practitioners Act 1962 s. 6(1), (3) & (6)

Legal Practitioners Act 1975 s. 12(7)

Legal Practitioners (Amendment) Decree No. 21 of 1994

E Legal Practitioners Act Cap. 101 LFN 1958 ss. 20, 31 - 37

Medical & Dental Practitioners Act Cap. 221 LFN 1990 ss. 15 & 16

LEAD JUDGMENT BY UWAIS CJN

F The appellant in this case, who is a legal practitioner, filed a notice of appeal to this court on 25th February, 2004, in the Court of Appeal challenging the directions issued against him by the respondent on 3rd April, 2003. The directions read:-

G “After carefully considering the unchallenged evidence before the Committee, oral and documentary, it is hereby decided that the name of the respondent, Charles Okike, Esq., be struck off the Legal Practitioners List (sic) in addition to the respondent refunding the sum of \$123,000 (sic) to the complainant.”

H When the appeal came up for hearing before this court on 12th October, 2004, the Court (Kutigi, Uwaifo, Musdapher, Pats-Acholonu and Akintan, JJSC.) suo motu raised the constitutional point: whether in the light of the provisions of Section 233 of the Constitution of the Fed-

eral Republic of Nigeria 1999, the Supreme Court had the jurisdiction to entertain the appeal, given the fact that the said Section 233 restricts the appellate jurisdiction of the court to hearing appeals from the Court of Appeal only. In other words, whether this court could hear appeal from any other court or tribunal than the Court of Appeal.

As the court was not properly constituted to hear the constitutional point raised, the case was adjourned for a full court to be empanelled. The parties were directed to file briefs of argument in support of the position they would take on the adjourned date. This has been done and in addition, Ubong Esop Akpan, Esq., was given permission to appear as an amicus since he is representing another legal practitioner in a different case, which is similar to the present, pending for hearing. He too has filed a brief of argument.

It is interesting to note at the on-set that counsel for the parties and Mr. Akpan have all presented a common stand. They have argued that this court is competent to hear appeal from the decisions (directions) of the Legal Practitioners Disciplinary Committee as provided by Section 12 subsection (7) of the Legal Practitioners Act, Cap. 207.

In the appellant's brief it is argued as follows. Any appellate jurisdiction granted to the Supreme Court by the Legal Practitioners Act to hear and determine this particular appeal is not inconsistent with the powers of the National Assembly to grant such jurisdiction to the court. That in the circumstances of the present case, the right which the Legal Practitioners Act confers on the appellant must be seen as a right of appeal which could even form the basis of this court exercising its original jurisdiction. It is argued further, that the provisions of Section 12 subsection (7) of the Legal Practitioners Act, Cap. 207 is not inconsistent with any provisions of the 1999 Constitution and that its provisions are within the powers of the National Assembly to enact. That the power of the Supreme Court to hear appeals from the directions issued by the respondent, which predated the 1999 Constitution, has in fact been preserved by the Constitution.

We are then invited to depart from our decisions in the cases of A-G of Oyo State v. Fairlakes Hotel Ltd. (1988) 12 S.C. (Pt. 1) 1; (1988) 5

NWLR (Pt. 92) 1 per Nnamani, JSC; Amusa Popoola Adio & Anor. v. The State. (1986) 4 S.C. 194. per Oputa. JSC., Kalu v. Odilli. (1992) 5 NWLR (Pt. 240) 130 per Nnaemeka-Agu, JSC., and Ajomale v. Yaduat (No. 1) (1991) 5 NWLR (Pt. 191) 257 per Karibi-Whyte, JSC., which
 B decided that by virtue of the provisions of Section 213 of the 1979 Constitution (which has the same provisions as Section 233 of the 1999 Constitution) the appellate jurisdiction conferred on the Supreme Court was to hear appeals from decisions of the Court of Appeal only.

It is submitted that the phrase “*to the exclusion of any other court of law in Nigeria*” in Section 233 of the 1999 Constitution means that the
 C only court in Nigeria which can hear appeals from the Court of Appeal is the Supreme Court of Nigeria. It does not mean that it is only from the Court of Appeal “*to the exclusion of any court of law in Nigeria*” that the
 D Supreme Court can hear appeals.

The appellant canvassed further that the National Assembly has the power to enact Section 12 subsection (7) of the Legal Practitioners Act (as amended in 1994) by virtue of the provisions of Section 4 sub-
 E sections (1), (2) (3) and (4) of the 1999 Constitution and Items 49 and 68 of the Exclusive Legislative List (ELL) in Part I of the Second Schedule to the 1999 Constitution and paragraph 2 (b) of Part III of the same Schedule to the Constitution. It is submitted that if all these provisions
 F are read together, it is easy to see that the National Assembly has powers to make laws for the peace, order and good government of Nigeria in respect of professional occupations such as the legal profession. That such powers include the passing of any Act which bestows jurisdiction and practice and procedure on the courts of law, provided that such Act
 G is not inconsistent with the provisions of the Constitution. It is submitted that in that regard Section 12 subsection (7) of the Legal Practitioners Act is not inconsistent with Section 233 subsection (1) of the 1999 Constitution.

H It is submitted that the position of the Supreme Court vis-a-vis the legal profession is unique. The Supreme Court had always heard appeals in disciplinary proceedings, concerning legal practitioners, from the respondent as exemplified by the cases of Abuah v. LPDC, (1962) 1 All

NLR 278 and LPDC v. Idowu, (1971) All NLR 128. Reference is made to the provisions of Section 118 of the 1963 Constitution, which stated -

“118. Parliament may confer jurisdiction upon the Supreme Court to hear and determine appeals from any decision of any court of law or tribunal”.

In pointing out that the Supreme Court had had the final say in disciplinary measures taken against legal practitioners, reference was made to Sections 32 to 38 of the Legal Practitioners Ordinance No. 57 of 1933; Section 6 subsections (1), (3) and (6) of the Legal Practitioners Act, 1962 and Section 12 subsection (7) of the Legal Practitioners Act, 1975 as well as the case of Fawehinmi v. LPDC, (1985) 2 NWLR (Pt. 7) 300 and the Legal Practitioners (Amendment) Decree, No. 21 of 1994.

The appellant referred to Section 316 subsection (1) of the 1999 Constitution with regard to the continued existence and functions of offices, courts and authorities that existed before the Constitution came into force. The section states:-

“316 -(1) Any office, court of law, or authority which immediately before the date when this section comes into force was established and charged with any function by virtue of any other Constitution or law shall be deemed to have been duly established and shall continue to be charged with such function until other provisions are made, as if the office, court of law or authority was established and charged with the function by virtue of this Constitution or in accordance with the provisions of a law made there under.”

He also referred to the case of FCSC v. Laoye. (1989) 2 NWLR (Pt. 106) 652 where Oputa, JSC remarked thus at page 709:-

“The government of any country is or should be a continuing process. Even where a new constitution has been promulgated, special provisions are usually made to preserve continuity. A new Constitution does not create a tabula rasa. It normally makes a provision to cover, protect and preserve existing laws, offices and institutions. The 1979 Constitution does exactly that in its Sections 274 and 275.”

Appellant therefore submitted that Section 12 subsection (7) of the Legal Practitioners Act, Cap. 207 survived as an existing law under

Section 315 of the 1999 Constitution since there is no specific section of the Constitution that can render it inconsistent with the Constitution. It is submitted in the alternative, that even if Section 12 (7) is inconsistent with the 1999 Constitution the function of the Supreme Court to hear the
 B appellant's appeal in this case, would still continue as if the function was established under the 1999 Constitution until contrary provisions are made by an Act of the National Assembly.

The appellant went on to argue on the difference between the meanings of "*appeal*" and "*directions*" as stated under Section 12(7) of
 C Cap. 207 and relying on the Australian case of Ex. p. Australian Sporting Club Ltd., Re Dash, (1947) 47 NSWVN 283 per Jordan, CJ., and the definition in Blacks Law Dictionary, 6th Edition, of the word "*jurisdiction*", to come to the conclusion that the appellant, in the present case,
 D "*is in fact invoking, and should be seen as invoking, the original jurisdiction of the Supreme Court in these proceedings.*"

The respondent in its brief of argument contends that the 1999 Constitution empowers the National Assembly to confer both additional
 E original jurisdiction and appellate jurisdiction on the Supreme Court. It cited a number of cases decided by this court on the interpretation of Sections 212 and 213 of the 1979 Constitution and Section 233 subsection (1) of the 1999 Constitution, which are in pari materia, including
 F Adio v. The State, (1986) 4 S.C. 194, A-G of Oyo State v. Fairlakes Hotel Ltd. (supra); Adili v. State, (1989) 2 NWLR (Pt. 103) 305 at p. 315; Kalu v. Odili, (supra); Ajomale v. Yaduat (No. 1), (supra) at p. 263F; Nwanezie v. Idris, (1993) 3 NWLR (Pt. 746) 572; Akakluka v. Yongo, (2002) 5
 G NWLR (Pt. 759) 169E-H, and Africa Re Corporation v. JDP Construction Co. (2003)2-3 S.C. 47; (2003) 13 NWLR (Pt. 838) 609 at p. 636 A-C, and submitted that they are all distinguishable from the present case, because they have not applied to any issue under consideration in the present appeal, which concerns the competence of the National Assem-
 H bly to make law that gives additional appellate jurisdiction to the Supreme Court. The cases, it is argued, merely dealt with the incompetence of the issues for determination or grounds of appeal invoking the Supreme Court to adjudicate on matters from the High Court and not based on decisions

by the Court of Appeal. It is therefore submitted, and I think rightly too, that it is not necessary for this court to overrule its decisions in those cases, as urged by the appellant, since the cases did not decide on the issue whether any statute had conferred additional appellate jurisdiction on the Supreme Court as in the present case. B

Next, it is submitted that there cannot be any doubt that Section 12 subsection (7) of the Legal Practitioners Act, as amended, is “*an existing law*” within the meaning of Section 315 subsection (4) (b) and (c) of the 1999 Constitution and in accordance with the decision of this court in *A-G of Lagos State v. A-G of the Federation* and 35 Ors. (2003) 6 S.C. (Pt. 1) 24; (2003) 12 NWLR (Pt. 833) 1 at pp. 144H - 155C. It is also contended, on the authority of *Onigbeden v. Balogun*, (1975) 4 S.C. (Reprint) 63; (1975) 4 S.C. 85 at 93-94, that where there is no express provision in the Constitution affecting the legislative power of the National Assembly to make laws to increase the appellate or original jurisdiction of the Supreme Court, we should give effect to any law by the National Assembly which seeks to add to or increase the appellate jurisdiction of the court. Reliance is placed on the dictum in *Adeyemi & 3 Ors. v. A-G of Oyo State & 3 Ors.* (1984) (Vol. I) SCNLR 525 at p. 548A per Irikefe, JSC., (as he then was), and the case of *Karimu Mabinuori v. Samuel Onti Ogunloye*, (1970) All NLR 17. C D E

In conclusion, it is submitted in support of the earlier submission by the appellant, that the legal profession in Nigeria has had a historical relationship with the Supreme Court, hence the current position of the law in question is as a result of the decision by this court in the case of *LPDC v. Chief Gani Fawehinmi* (supra). F

The amicus, in his brief of argument, submitted that the Supreme Court has additional jurisdiction, apart from the one it exercises under Section 233 of the 1999 Constitution, to hear appeals notwithstanding the provisions of Section 232 subsection (2) of the Constitution, which gives the National Assembly only the power to confer additional original jurisdiction on the Supreme Court. G H

It is observed, rightly in my view, that Section 12 subsection (7) is badly drafted because it is stated thereunder that the Supreme Court is

established by the Section, while the court is a creature of the Constitution. However, it is argued that the effect of the rest of the section is clear. It is that the legislature had intended by the provisions of the subsection to confer on the Supreme Court appellate jurisdiction over decisions by the Legal Practitioners Disciplinary Committee. By so holding, it is submitted, this court will follow its decision in *FCSC v. Laoye*, (supra) where it held on p. 686 E-F as follows:-

"it is accepted that where the main object and intention of a statute are clear, it must not be reduced to a nullity by the draftsman's unskillfulness or error....."

Reference is made to Section 316 subsection (1) of the 1999 Constitution and it is submitted that the jurisdiction of this court to hear and determine appeals from the Legal Practitioners Disciplinary Committee is unaffected and remains to exist notwithstanding the provisions of Section 232 of the 1999 Constitution. Learned counsel contends, relying on *FCSC v. Laoye*, (supra) at page 723 C-D, that although generally it is for the legislature to change the law when it desires to do so, the court can, and ought to, correct obvious slips found in drafting. In all such cases, it is argued that it is permissible for the court to depart from strict literal construction in order to give effect to the legislator's intention.

In conclusion, learned amicus submits that before the coming into force on 29th May, 1999, of the Constitution, the jurisdiction to hear appeals from decisions of the Legal Practitioners Disciplinary Committee rested with the Supreme Court. That it was the clear intention of the legislature in passing Decree No. 21 of 1994 to amend the Legal Practitioners Act, Cap. 207, to confer on the Supreme Court appellate jurisdiction over the decisions of the Legal Practitioners Disciplinary Committee. If this court should refuse to exercise that jurisdiction which is expressly conferred on it, it would not only be doing violence to the express words of a statute, which is an existing law, but will overtly fail to apply or obey a law of the National Assembly.

Now, Section 12 subsection 7 of the Legal Practitioners Act, Cap. 207, of the Laws of the Federation of Nigeria, 1990, as amended, provides:-

“12(7) The person to whom such a direction relates may, at any time within twenty-eight days from the date of service on him of notice of the direction, appeal against the direction to the Supreme Court established under Section 12 of this Act; and the disciplinary committee may appear as respondent to the appeal and, for the purposes of enabling directions to be given as to the costs of the appeal and of proceedings before the Disciplinary Committee, shall be deemed to be a party thereto whether or not it appears on the hearing of the appeal. B

The words underlined by me in the section depicts the carelessness by the legal draftsman mentioned in the amicus argument. The statement thereunder is not correct and therefore should be disregarded. When this is done the rest of the section is very clear. It is that a legal practitioner affected by the direction given against him or her by the Disciplinary Committee can appeal against the direction to the Supreme Court. D The question is: in the light of the provisions of Section 232 subsection (2) and 233 subsection (1) of the 1999 Constitution, does such right of appeal exist or is it constitutional? I think Section 232 subsection (2) and Section 233 subsection (1) of the Constitution when read together will appear that each one stands independently on its own and applies to a different circumstance. Section 232 subsection (2) provides:- E

“(2) *In addition to the jurisdiction conferred upon it by subsection (1) of this section, the Supreme Court shall have such original Jurisdiction as may be conferred upon it by any Act of the National Assembly.*” F

While Section 233 subsection (1) states -

“(1) *The Supreme Court shall have jurisdiction to the exclusion of any other court of law in Nigeria to hear and determine appeals from the Court of Appeal.*” G

It seems to me the power mentioned under Section 232 subsection (2), enabling the National Assembly to increase the original jurisdiction of the Supreme Court, is not similarly mentioned under Section 233 subsection (1) of the National Assembly to extend or increase the jurisdiction of the Supreme Court to hear appeals from the Court of Appeal. H The reason is clear. The subsection has already given the Supreme Court the exclusive jurisdiction to hear appeals from the Court of Appeal. This

provision is exhaustive. There is nothing more left by way of appeal from the Court of Appeal that the National Assembly can increase or add to the jurisdiction of the Supreme Court. That is why the provision which appears under Section 232 subsection (2) cannot be found under Section 233 subsection (1). Therefore, to read into the latter the provisions of Section 232 subsection (1) is, in my opinion, to do violence to Section 233 subsection (1).

This notwithstanding, the question remains: Are the provisions of Section 12 subsection (7) of the Legal Practitioners Act, Cap. 207 as amended, constitutional and therefore valid or are they otherwise? I think they are constitutional and valid for the following reasons.

First, Section 4 subsection (2) of the 1999 Constitution provides:-

“4(2) The National Assembly shall have power to make laws for the peace, order and good government of the Federation or any part thereof with respect to any matter included in the Exclusive Legislative List set out in Part I of the Second Schedule to this Constitution.”

In Part I of the Second Schedule to the Constitution, Item 49 of the Exclusive Legislative List provides that the National Assembly can legislate in respect of “Professional occupations as may be designated by the National Assembly.” Items 67 and 68 of the Exclusive Legislative List are that the National Assembly can legislate on -

“67. Any other matter with respect to which the National Assembly has power to make laws in accordance with the provisions of this Constitution.

68. Any matter incidental or supplementary to any matter mentioned elsewhere in this List.”

In addition, it is provided in paragraph 2 (a) and (b) of Part III to the Second Schedule to the Constitution -

“2. In this Schedule, references to incidental and supplementary matters include, without prejudice to their generality, references to -

(a) offences

(b) the jurisdiction, powers, practice and procedure of courts of

law;

By the combined effect of all the foregoing provisions, it is clear to me that the National Assembly has the power to legislate in respect of legal profession. Within such power, the National Assembly can establish for the legal profession a disciplinary committee such as the Disciplinary Committee. It is also within its power for it to give appellate jurisdiction to the Supreme Court to hear appeals from the Disciplinary Committee. B

Secondly, Section 315 subsection (1) of the 1999 Constitution provides:- C

“315-(1) Subject to the provisions of this Constitution, an existing law shall have effect with such modifications as may be necessary to bring it into conformity with the provisions of this Constitution and shall be deemed to be - D

(a) an Act of the National Assembly to the extent that it is a law with respect to any matter on which the National Assembly is empowered by this Constitution to make laws;”

the words “existing law” have been defined under Section 315 E subsection (4) (b) of the Constitution to mean -

“(4)(b)... any law and includes any rule of law or any enactment or instrument whatsoever which is in force immediately before the date when this section comes into force or which having been passed or made before that date comes into force after that date;” F

The section came into force on the 29th day of May, 1999.

It can be seen from the foregoing that the Legal Practitioners Act, Cap. 207, as amended, qualifies to be “an existing law” and therefore the provisions of Section 12 subsection (7) thereof are constitutional and valid. G

Thirdly, by the provisions of Section 316 subsection (1) of the 1999 Constitution -

“Any office, court of law or authority which immediately before H the date when this section comes into force was established and charged with any function by virtue of any other Constitution or law shall be deemed to have been duly established and shall continue to be charged

with such function until other provisions are made, as if the office, court of law or authority was established and charged with the function by virtue of this Constitution or in accordance with the provisions of a law made there under.”

B The Legal Practitioners Act, Cap. 207 was validly enacted in 1975 under the Constitution of the Federation, 1963 as suspended and modified many times by various Constitution (Suspension and Modification) Decrees. It was validly amended by the Legal Practitioners (Amendment) Decree, 1994, No. 21 of 1994. Since the 1994 amendment the Supreme Court had exercised appellate jurisdiction in respect of appeals from the Legal Practitioner’s Disciplinary Committee. To confirm this, Section 7 subsection (6) of the Legal Practitioners Act, 1962, No. 33 of 1962 provided:-

D “7.(6) *The person to whom such direction relates may, at any time within twenty-eight days from the date of service on him of the notice of the direction, appeal against the direction to the Federal Supreme Court.....”*

E Therefore, by virtue of the provisions of Section 316 subsection (1) of the 1999 Constitution, the Supreme Court is deemed to have been charged with the function of hearing appeals from the Disciplinary Committee under the 1999 Constitution. Consequently, Section 12 subsection (7) is constitutional and valid.

F Fourthly, historically the Federal Supreme Court and the present Court have exercised jurisdiction in matters pertaining to the conduct of legal practitioners. For Sections 20, 31 to 37 of the Legal Practitioners Act, Cap. 101 of the Laws of the Federation of Nigeria, and Lagos, 1958 G (see Volume IV) provided:-

“20. *The Attorney-General may require any person who makes allegations of misconduct against any legal practitioner to support such allegations by an affidavit setting out the facts on which he relies as proof of the misconduct.”*

H “21.(1) *The committee on the termination of the inquiry shall embody their findings in the form of a report to the Federal Supreme Court and the report shall be signed by the chairman and filed in the office of*

the Chief Registrar, and shall be open to inspection by the party charged and any legal practitioner assisting him, but shall not be open to public inspection.

(2) If the committee are of the opinion that no prima facie case of misconduct has been made out they need not proceed further, but if they are of the contrary opinion it shall be their duty to bring the report before the Federal Supreme Court together with the evidence taken and the documents put in evidence at the inquiry.

32. (1) The powers conferred in the following sections of this Ordinance upon the Federal Supreme Court shall be exercised by any three of the judges of such court.

(2) The decision of the majority of the three judges, in case they shall not agree in their opinion, shall be taken to be the decision of the Federal Supreme Court

33. The Federal Supreme Court may refer the report back to the committee with directions for their finding on any specified point.

34. The Federal Supreme Court may set the report down for consideration for a date fourteen days' notice of which shall be given to the committee and to the legal practitioner concerned by the Chief Registrar who shall forward with the notice copy of the report. The notice aforesaid shall be as in Form B in the Schedule.

35. The committee and the legal practitioner may appear by counsel or a solicitor before the Federal Supreme Court at the consideration of the report.

36. The Federal Supreme Court after considering the evidence taken by the committee and the report, and any evidence taken by a judge under the next section, and after taking any further evidence, if it thinks fit to do so, may admonish the legal practitioner or suspend him from practising in the Federal Supreme Court during any specified period, or may order the Chief Registrar to strike his name off the roll of the Court.

37. (1) Any judge of the Federal Supreme Court shall have power, after considering the evidence taken by the committee and the report and after taking any further evidence if he thinks fit to do so, suspend the legal practitioner from practising in the Federal Supreme Court, tempo-

rarily, pending the consideration of the case and the confirmation or disallowance of such suspension by the Federal Supreme Court.

(2) The provisions of Sections 33, 34 and 35 shall, *mutatis mutandis*, apply to any proceedings under this section.”

B Section 6 subsection (3) and Section 7 subsections (1) and (6) of the Legal Practitioners Act, 1962 No. 33 which replaced the 1958 Cap. 101, provided as follows:-

C “6. (3) There shall be a body, to be known as the Legal Practitioners Investigating Panel (and hereafter in this Act referred to as “the panel”), which shall be charged with the duty of conducting a preliminary investigation into any case where it is alleged that a person whose name is on the roll has misbehaved in his capacity as a legal practitioner or should for any other reason be the subject of proceedings before the D tribunal, and of deciding whether the case should be referred to the tribunal.”

“7.-(1) Where-

E (a) a person whose name is on the roll is judged by the tribunal to be guilty of infamous conduct in any professional respect; or

F (b) a person whose name is on the roll is convicted, by any court in Nigeria having power to award imprisonment, of an offence (whether or not an offence punishable with imprisonment) which in the opinion of the tribunal is incompatible with the status of a legal practitioner; or

(c) the tribunal is satisfied that the name of any person has been fraudulently enrolled, the tribunal may, if it thinks fit, give a direction-

G (i) ordering the registrar to strike that person’s name off the roll; (ii) suspending that person from practice by ordering him not to engage in practice as a legal practitioner for such period as may be specified in the direction; or

H (iii) admonishing that person and any such direction may include provision requiring a refund of money paid, or the handing over of documents as the circumstances of the case may require.”

“(6) The person to whom such a direction relates may, at any time within twenty-eight days from the date of service on him of the notice of the direction, appeal against the direction to the Federal Supreme Court;

and the tribunal may appear as respondent to the appeal and, for the purpose of enabling directions to be given as to the costs of the appeal and of proceedings before the tribunal, shall be deemed to be a party thereto whether or not it appears on the hearing of the appeal.”

In addition. Section 12 subsections (6) and (7) of the Legal Practitioners Act, Cap. 207 of the Laws of the Federation of Nigeria, 1990, as amended by the Legal Practitioners (Amendment) Decree, 1994, No. 21 of 1994, provides:-

“12. (6) *When the disciplinary committee gives a direction under subsection (1) or subsection (2) of this section, the disciplinary committee shall cause notice of the direction to be served on the person to whom it relates and submit to the Body of Benchers a report on its findings which resulted in the issuance of the notice.*

(7) *The person to whom such a direction relates may, at any time within twenty-eight days from the date of service on him of notice of the direction, appeal against the direction to the Supreme Court established under Section 12 of this Act; and the disciplinary committee may appear as respondent to the appeal, for the purpose of enabling directions to be given as to costs of the appeal and of proceedings before the disciplinary committee, shall be deemed to be a party thereto whether or not it appears on the hearing of the appeal.”*

As can be seen from all the foregoing the Supreme Court has all along exercised jurisdiction in disciplinary matters pertaining to the conduct of legal practitioners long before and after the promulgation of the 1979 Constitution. There was no express provision in that Constitution which ousted the jurisdiction of the Supreme Court. Similarly, there are no specific provisions in the 1999 Constitution which ousted the jurisdiction of the court.

In my opinion, the provisions of Section 233 subsection (1) of the 1999 Constitution have not in any way ousted the jurisdiction either expressly or impliedly of the Supreme Court to hear appeal from the Disciplinary Committee. Therefore in the absence of any express provision in the Constitution which ousts the jurisdiction of the court, we should be very reluctant to hold that the jurisdic-

tion has been ousted - see *African Newspapers of Nigeria & Ors. v. The Federal Republic of Nigeria*, (1985) 2 NWLR (Pt. 6) 137; *Anakwenze v. Aneke & Ors.* (1988) 2 NSCC 798 at p. 803 and *A-G of Lagos State v. A-G of the Federation* (2004) 11-12 S.C. 85 at page 112; (2004) 18 NWLR (Pt. 904) 1 at page 89 H. **This court does not readily oust its jurisdiction. In principle, it jealously protects the jurisdiction.**

It follows from all the foregoing that this court amply has the jurisdiction to hear the present appeal from the Disciplinary Committee. I, therefore, so hold.

Accordingly, the appeal in this case is fixed for hearing on 28th April, 2005.

D **BELGORE JSC**

The Constitution of the Federal Republic of Nigeria 1999 in Section 233(1) providing:-

“The Supreme Court shall have jurisdiction to the exclusion of any other court of law in Nigeria to determine appeals from the Court of Appeal.”,

does not say more than it means. Any appeal from the decision of Court of Appeal must be to Supreme Court. It has not provided that Supreme Court cannot hear any other appeal provided by an Act of National Assembly. Section 232 of the Constitution relates to conferment of original jurisdiction by National Assembly and has no bearing on this issue before us. The Legal Practitioners Disciplinary Committee is a body created by Legal Practitioners Act to investigate and give direction on whether a legal practitioner has professionally misconducted himself. The direction is the disciplinary action recommended by the Committee. The Act provides

“S.12(6) When the disciplinary committee gives a direction under subsection (1) or subsection (2) of this Section, the disciplinary committee shall cause the notice of the direction to be served on the person to whom it relates and submit to the Body of Benchers a report of its findings which resulted in the issuance of the notice.

(7) The person to whom such a direction relates may, at any time within twenty-eight days from the date of service on him of notice of the direction, appeal against the direction to the Supreme Court established under Section 12 of this Act.”

Thus it is clear that the committee is a special body, I will not call B it a tribunal, to expeditiously deal with issues of discipline among legal practitioners. All through our history from colonial period to now the legal profession is a strategic profession that must not be allowed to go off the rail. Law is the mother of all professions; it is a living and constantly producing mother and she must not be allowed to be sick. Sick- C ness in legal profession is the act of indiscipline whether due to outright unbecoming act or corruption or fraud. Every situation, just like every person, is under the law and if the law is sick then the rot will quickly take over our society. It is for this reason that legal practitioners must be D able to clear indiscipline within their rank with despatch and effectiveness. The Legal Practitioners Disciplinary Committee is a quasi tribunal to look into aspects of discipline by investigating in a fair hearing manner and give its direction. The appeal against that direction is to Supreme E Court. It is more of highest administrative procedure than ordinary tribunal. Section 233 (1) of the Constitution of 1999 has not ousted Supreme Court’s jurisdiction in this.

I therefore entirely agree with the ruling of Honourable Chief Jus- F tice in his elaborate ruling that this court has jurisdiction to hear appeal from the direction of Legal Practitioners Disciplinary Committee. Chief Justice has adverted adequately to where we have been asked to distin- G guish some cases. I entirely agree with him that those cases have no bearing on the present matter.

KUTIGI JSC

The appellant has appealed against the decision of the Legal Prac- H tioners Disciplinary Committee, the respondent, herein, pursuant to Section 12(7) of the Legal Practitioners Act Cap. 207, Laws of the Federation of Nigeria, 1990, as amended by the Legal Practitioners (Amend-

ment) Decree No. 21 of 1994. It reads:

“127(7) *The person to whom such a direction relates may, at any time within twenty-eight days from the date of service on him of notice of the direction, appeal against the direction to the Supreme Court (established under Section 12 of this Act), and the Disciplinary Committee may appear as respondent to the appeal, and for the purpose of enabling directions to be given as to the costs of the appeal and of proceedings before the Disciplinary Committee, shall be deemed to be a party thereto whether or not it appears on the hearing of the appeal.*”

The respondent had directed that the appellant’s name be struck off from the list of Legal Practitioners for professional misconduct with an order on him to refund the sum of \$123,000.00 US Dollars to the petitioner or complainant. On 12/10/2004 when the appeal came up for hearing, this court suo motu raised the issue of the competence of the appeal in view of the provisions of Section 233 (1) of the 1999 Constitution which appear to restrict the appellate jurisdiction of the court to decisions of the Court of Appeal. The court therefore invited counsel on both sides to file briefs of argument on the competence of the appeal. They have now complied.

Now, I will need to reproduce the relevant Constitutional provisions which relates to the jurisdiction of this court. These are Sections 232 and 233 of the Constitution. They read -

“Original Jurisdiction

232(1) *The Supreme Court shall to the exclusion of any other Court, have original jurisdiction in any dispute between the Federation and a State or between States if and in so far as that dispute involves any question (whether of law or of fact) on which the existence or extent of a legal right depends.*

(2) *In addition to the jurisdiction conferred upon it by subsection (1) of this section, the Supreme Court shall have such original jurisdiction as may be conferred upon it by any Act of the National Assembly:*

“Appellate Jurisdiction

233(1) *The Supreme Court shall have jurisdiction to the exclusion of any other Court of law in Nigeria, to hear and determine appeals from*

the Court of Appeal.”

Section 232(1) & (2) relating to original jurisdiction of the court are quite clear, unambiguous and present no difficulty in understanding. Of course they are not relevant now in these proceedings. Clearly, Section 232(2) confers powers on the National Assembly to enlarge the original jurisdiction of the Supreme Court save in criminal matters. Such powers are, however, not conferred on the National Assembly in respect of appellate jurisdiction of this court. The appellate jurisdiction which is conferred on this court by Section 233(1) is to hear and determine appeals from the Court of Appeal. So the question which naturally comes to mind is whether under Section 233(1), appeals from the Court of Appeal must come to the Supreme Court only to the exclusion of any other court, or whether the Supreme Court can hear appeals from the Court of Appeal only to the exclusion of any right of appeal conferred by law from any other court to the Supreme Court.

I think Section 233(1) confers exclusive jurisdiction on this court to hear appeals from the Court of Appeal but does not in my view specifically or expressly state that this court shall hear appeals from the Court of Appeal only. In other words this court can and will hear appeals from other Courts established by the Constitution or law once there is appropriate and proper provision to that effect in the law. This court is therefore competent I believe, to hear an appeal from any other court in appropriate cases and not only from the Court of Appeal. My conclusion therefore is that Section 12(7) of the Legal Practitioners Act (as amended) (see above), which confers jurisdiction on this court to hear appeals from the decisions or directions of the Legal Practitioners Disciplinary Committee is not inconsistent with Section 233(1) of the Constitution (ibid). It is settled law that no cause or matter is prima facie deemed to be beyond jurisdiction unless it is specifically or expressly shown to be so (see for example *Anakwenze v. Aneke & Ors.* (1985) 5 S.C. 41. There is nothing in the Constitution which puts beyond the Supreme Court the power to hear this appeal.

It is for the above reasons and those ably contained in the lead ruling of the Honourable the Chief Justice Nigeria, Hon. Justice Uwais,

that I agree that this court has jurisdiction to entertain the appeal herein.

EJIWUNMI JSC

B Following the complaint made against the appellant to the Nigeria Bar Association, that body referred the matter to the respondent for its consideration. The appellant was then notified to appear before the respondent to defend the allegation. As the appellant did not appear as notified before the respondent, the respondent proceeded with the consideration of the allegation.

C The respondent at the end of the exercise issued the following directives:-

D “After carefully considering the unchallenged evidence before the Committee, oral and documentary, it is hereby decided that the name of the respondent, Charles Okike, Esq., be struck off the Legal Practitioners List (sic) in addition to the respondent refunding the sum of \$123,000 (sic) to the complaint.”

E The appellant, upon being served with the above directives of the respondent, then appealed against the said directives. When the appeal came up for hearing before this court, the court suo motu questioned whether in view of the provisions of Section 233 of the Constitution of the Federal Republic of Nigeria 1999, the Supreme Court had the jurisdiction to entertain the appeal, as the said Section 233 restricts the appellate jurisdiction of the court to hearing appeals from the Court of Appeal. The question raised pointedly being whether this court had the jurisdiction to hear appeals from any court or tribunal other than the Court of Appeal.

H The court not being properly constituted to hear the constitutional point raised adjourned its hearing for a full court to be empanelled. It is pursuant to that order that this matter came before this court to hear argument in respect of the constitutional point raised. Parties had in the meantime been ordered to file their respective briefs in respect of this preliminary point. Pursuant thereto, a learned counsel, Mr. Ubong Esop Akpan, was permitted by the court to appear as an amicus.

At the hearing, learned counsel for the parties adopted and placed reliance on their briefs, and also addressed the court further on what they considered central to the arguments in their briefs.

It must be observed that though the learned counsel for the parties advanced copious arguments in their brief, the conclusion reached in their respective brief appears to be that this court possesses the jurisdiction to hear and determine this appeal, although for different reasons. For the appellant, it is submitted that the appellate jurisdiction granted to the Supreme Court by the Legal Practitioners Act to hear and determine this appeal is not inconsistent with the powers vested in the Supreme Court to hear appeals by the Constitution of Nigeria, 1999. It must be noted that learned counsel of the appellant argued that the appeal could also be heard on the basis of the original jurisdiction vested in this court by virtue of Section 232 of the Constitution of Nigeria, 1999.

As for the learned amicus, Mr. Ubon Esop Akpan, appointed by the court, his argument in a nutshell is that this court is vested with the jurisdiction to hear and determine this appeal. He has therefore pleaded that the provisions of Section 233 of the Constitution be not interpreted to deny the jurisdiction of this court to hear the appeal. In support of his argument, he referred also to items 49, 67 and 68 of the Exclusive List in Part 1 of the Second Schedule to the Constitution.

It is clear from the arguments set out in the briefs of the parties and the submissions made by learned counsel that the provisions of Sections 232, 233 and 315 of the Constitution of Nigeria, 1999, are germane for the determination of the question raised in the appeal. They read thus:-

“232 (2) In addition to the jurisdiction conferred upon it by subsection (1) of this section, the Supreme Court shall have such original jurisdiction as may be conferred upon it by any Act of the National Assembly.

233(1) The Supreme Court shall have jurisdiction to the exclusion of any other court of law in Nigeria to hear and determine appeals from the Court of Appeal.”

It is plain from a careful reading of Section 232 subsection (1) of the 1999 Constitution that its provisions states quite clearly that the Su-

preme Court is vested with original jurisdiction in any dispute between the Federation and a State or between States if and in so far as that dispute involves any question (whether of law or fact) on which the existence of a legal right depends. By this provision, it is in my view clear
B that the question in dispute in this appeal does not fall into jurisdictional competence of the Supreme Court. The additional jurisdiction given to the Supreme Court by virtue of the provisions of subsection 2 of Section 232 do not also apply. In any event, the question is whether this court has
C appellate jurisdiction in respect of this appeal and it is therefore not appropriate to consider the original jurisdiction of the Supreme Court in this context.

However, although the provisions of Section 233(1) affirmatively vests jurisdiction for the hearing of appeals from the Court of Appeal,
D there is nothing in the provisions of this section that seeks to limit the hearing of appeals only from the Court of Appeal. In the absence of any such limitation to the hearing of appeals by the Supreme Court, the question then is, whether the appeal under consideration can be heard by the
E Supreme Court.

It is manifest that by virtue of Section 12, subsection (7) of the Legal Practitioners Act Cap 207, there is the specific provision that appeals from the decisions, and/or directions of the respondent lies to the
F Supreme Court. It reads:

*“12(7) The person to whom such a direction relates may, at anytime within twenty-eight days from the date of service on him of notice of the direction, appeal against the direction to the Supreme Court established under Section 12 of this Act; and the disciplinary committee may appear
G as the respondent to the appeal, for the purposes of enabling directions to be given as to the costs of the appeal and of proceedings before the disciplinary committee, shall be deemed to be a party thereto whether or not it appears on the hearing of the appeal.”*

H But the outstanding question is, whether the non-inclusion of this right of appeal to the Supreme Court from the provisions of Section 233 subsection 1 of the Constitution should be interpreted to mean that the right to appeal to the Supreme Court emblazoned in the provisions of

Section 12 subsection (7) of the Legal Practitioners Act, Cap 207 is no longer available to anyone in the situation of this appellant.

But it is my view that that conclusion cannot be right if the provision of Section 12 subsection (7) of the Legal Practitioners Act is regarded as an existing law. Its validity would then have to be considered in the light of the provisions of Section 315 subsection (1) of the 1999 Constitution, which provides:-

“315(1) Subject to the provisions of this Constitution, an existing law shall have effect with such modifications as may be necessary to bring it into conformity with the provisions of this Constitution and shall be deemed to be-

(a) an Act of the National Assembly to the extent that it is a law with respect to any matter on which the National Assembly is empowered by this Constitution to make laws.”

Now, it ought to be stated that the words “existing law” have been defined under Section 315 subsection (4)(b) of the Constitution to mean:-

“(4)(b) “existing law” means any law and includes any rule of law or any enactment or instrument whatsoever which is in force immediately before the date when this section comes into force or which having been passed or made before that date comes into force after that date;”

Undoubtedly, that section of the Constitution came into force on the 29th day of May, 1999. It follows therefore that the Legal Practitioners Act Cap 207 (as amended) qualifies to be an “existing law” as it was promulgated in 1976. It also follows that being an existing law, the makers of the Constitution of 1999 must be taken to have been aware of the law and would therefore have duly considered it as one of those laws which deserves to be left unchanged, in any event, there is no gainsaying about that proposition having regard to the provisions of Section 316 subsection (1) of the 1999 Constitution which reads:

“Any office, court of law or authority which immediately before the date when this section comes into force was established and charged with any function by virtue of any other Constitution or law shall be deemed to have been duly established and shall continue to be charged with such function until other provisions are made, as if the office, court

of law or authority was established and charged with the function by virtue of this Constitution or in accordance with the provisions of a law made there under.”

As the Legal Practitioners Act Cap 207 was validly enacted in 1976 under the Constitution of the Federation 1963, and further amended by the Legal Practitioners (Amendment) Decree 1994, No. 21 of 1994, it is my respectful view that by virtue of the provisions of Section 316 subsection (1) of the 1999 Constitution, the Supreme Court is deemed to have been charged with the function of hearing appeals from the Disciplinary Committee under the 1999 Constitution. Accordingly, I must therefore hold that Section 12 subsection (7) is constitutionally valid.

It is also my respectful view that any other decision would be contrary to the well known recognised practice that it is the Supreme Court that has always been the body responsible for the registration, admittance and discipline of legal practitioners from the very beginning of the institution of legal practice in this country. Hence such cases as *Abua v. Legal Practitioners Committee* (1962) 2 NSCC 175 went before the Supreme Court.

I will therefore for all the above reasons and the fuller reasons given in the leading ruling hold that appeal lies to this court in respect of this matter.

F —————

MUSDAPHER JSC

I have had the honour to read in advance the ruling of my Lord Uwais, Chief Justice of Nigeria, with which I entirely agree. For the same reasons so lucidly set forth in the aforesaid judgment. I have also come to the inevitable conclusion that this court, the Supreme Court, has the jurisdiction to entertain this matter. Section 12(7) of the Legal Practitioners Act, Cap. 207 Laws of the Federation of Nigeria as amended, is constitutional and valid. There is no doubt that the legislation referred to is an existing law, deemed to have been promulgated by the National Assembly, under powers conferred to it by Section 4(2) of the 1999 Constitution, there are other constitutional provisions exhaustively and

comprehensively set out in the aforesaid judgment of the Chief Justice of Nigeria making it beyond any doubt that the aforesaid Section 12(7) of the Legal Practitioners Act, as amended, is valid.

Finally, I agree that the provisions of Section 233 subsection (1) of the 1999 Constitution have not in any way ousted the jurisdiction of the Supreme Court to entertain this matter either expressly or impliedly. Therefore, in the absence of any other provision ousting the jurisdiction of this court, this court has the jurisdiction to hear an appeal from the direction of the Disciplinary Committee, as this matter now pending before this court.

PATS-ACHOLONU JSC

I have read the judgment in draft of my learned and noble Lord Uwais, CJN., and I agree with his conclusion. The appellant in this matter, a legal practitioner, had been disciplined by the Legal Practitioners Disciplinary Committee for what was regarded as an infamous conduct or gross abuse of his position as a legal practitioner in client/professional relation in that he abused his fiduciary relationship with his client by dishonestly holding on to his client's money without the intention of refunding that money. The committee after hearing the matter, consequently gave directives that the appellant's name be struck off from the roll of Legal Practitioners. The appellant, obviously unhappy with this state of affairs, appealed to this court pursuant to Section 12(7) of the Legal Practitioners Act of 1975 as later amended in 1994. The operative provision of Section 12(7) of Legal Practitioners Act, as amended states as follows:-

“The person to whom such a direction relates may at any time within 28 days from the date of service on him of notice of the direction appeal against the direction to the Supreme Court, and the Disciplinary Committee may appear as respondent to the appeal and for the purpose of enabling directions to be given as to the costs of the appeal and of proceedings before Disciplinary Committee shall be deemed to be a party thereto whether or not it appears on the hearing of the appeal”.

The two parties filed their respective briefs and at the date fixed for hearing, this court on its own motion however raised the issues as to whether it has the jurisdiction to adjudicate on this type of case having regard to what appears to be the tenor and intendment of Section 233(1) of the Constitution. The parties to this legal duel consequent upon this, filed their respective briefs on this preliminary issue. What is easily noticed and readily observed in both briefs is that the parties argued and agreed in unison that this court has the jurisdiction to hear the appeal or in fact to review the direction. The arguments proffered by the protagonists in this dispute hinge on the interpretation to be placed on Section 233(1) of the Constitution. The appellant's argument is that it would narrow the scope of the ambit of sub-section (1) afore-mentioned to give a constrictive interpretation to its tenor arguing with verve that the term "exclusion" used should be properly situated in the context it is used in our organic law. Section 233(1) of the Constitution states as follows:-

"The Supreme Court shall have jurisdiction to the exclusion of any other Court of Law in Nigeria to hear and determine appeals from the Court of Appeal".

The learned counsel for the appellant submitted *"that it is not only from the Court of Appeal to the exclusion of any other court of law in Nigeria that the Supreme Court can hear appeals"*. He referred to earlier judgments of this court in *Amusa Opoola Adio & Anor. v. The State* (1986) 4 S.C. 194 and *Kalu v. Odilli* (1992) 5 NWLR (Pt. 240) p. 130 and asked this court to overrule those decision. He assiduously canvassed that the only reasonable construction that can best be put in 233(1) is that the Supreme Court and not any other court in the land has the monopoly, competence or privilege to hear appears from the Court of Appeal. In other words, no order court is vested with the power to hear appeals from the Court of Appeal. In this line of reasoning he seriously canvassed that nothing precludes the National Assembly from relying on or pursuant to exercising its power as set out in the exclusive legislative list, to make laws for the good of Nigeria and in particular as regards the legal profession. He strongly intoned and agitated that the Legal Practitioners Act is an existing law which by the operation of the Constitution is deemed

to have been made by the National Assembly. The respondent equally argued in the same vein, that the power conferred on the Supreme Court in Section 233(1) should be construed liberally in respect of Section 12(2) of Legal Practitioners Act to mean that the Supreme Court could equally hear appeal or (to be factual) exercise a reviewing power on the direction B given by the Disciplinary Committee. The arguments seem to show that the arrangement provided in Section 12(7) of Legal Practitioners Act as amended is a unique one having regard to the uncommon history and exercise of power to strike out the Role of Practitioners the Supreme C Court or the Chief Justice of Nigeria has historically played in this direction.

This case is a bit novel in that this court is being called for the first time, to entertain an appeal which on the face of it emanates from another body exercising a disciplinary power and making a decision and not D the Court of Appeal. It is equally being asked not to give a construction that could or might conceivably widen the horizon of Section 233(1). In other words, we are being called upon to give a wide berth in any construction this court would give to that sub-section. This court was referred to the pronouncement of this court in some earlier cases, based on E Section 213(1) of the 1979 Constitution which stated as follows

“The Supreme Court shall to the exclusion of any other court of law in Nigeria have jurisdiction to hear and determine appeals from the F Federal Court of Appeal”.

Relying on the prescription of this section, Oputa, JSC., in *Amusa Opoola Adio & Anor. v. The State* (1986) 4 S.C. p. 194 at 204 said in respect to a canvassed jurisdictional issue:

"This Court is a creature of statute and its Constitutional powers G to hear appeals as conferred by Section 213(1) of the 1979 Constitution is limited to hearing and determining appeals from the Federal Court of Appeal now the Court of Appeal. There is no jurisdiction in this Court to hear appeal straight from the High Court." H

Nnaemeka-Agu, JSC, relying on the same provision said in *Kalu v. Odilli* inter-alia,

"This means that outside Section 212 the Court can only adjudi-

cate on a matter where there has been a decision on the matter by the Court of Appeal followed by a proper appeal to this Court from that decision of the Court of Appeal”.

The question that readily faces one and agitates the mind is whether the pronouncements of these great learned jurists can be said to mean, denote or connote that outside appeals emanating from the Court of Appeal the Supreme Court is not vested with the power to hear an appeal from any other quarters. I advisedly used the word *”appeal”* as I have to take into contemplation the provision of Section 232 of the Constitution which I would later in this judgment address my mind. Let me pause here and dwell on other relevant provisions of the Constitution which in my view are germane to properly understanding the ramifications of Section 233(1) as referred above. I here set forth the provision of Section 4(1), (2), (3), (4) of the Constitution.

(1) The legislative powers of the Federal Republic of Nigeria shall be vested in a National Assembly for the Federation which shall consist of a Senate and a House of Representatives.

(2) The National Assembly shall have power to make laws for the peace, order and good government of the Federation or any part thereof with respect to any matter included in the Exclusive Legislative List set out in Part 1 of the Second Schedule to this Constitution.

(3) The power of the National Assembly to make laws for the peace, order and good government of the Federation with respect to any matter included in the Exclusive Legislative List shall save as otherwise provided in this Constitution, be to the exclusion of the Houses of Assembly of States.

(4) In addition and without prejudice to the powers conferred by sub-section (2) of this section, the National Assembly shall have power to make laws with respect to the following matters, that is to say:-

(a) any matter in the Concurrent Legislative List set out in the first column of Part II of the Second Schedule to this Constitution to the extent prescribed in the second column opposite thereto; and

(b) any other matter with respect to which it is empowered to make laws in accordance with the provisions of this Constitution.

The two counsel on opposite sides of the spectrum referred this court to items 49 and 68 in the Exclusive Legislative List which set down these as inclusive subject matters the National Assembly may legislate upon. The power to legislate includes any matter incidental or supplementary to any matter mentioned elsewhere in the list. There is no doubt that ex facie and examining the provisions of Section 233(1) without relating same to other provisions of the Constitution one might be tempted straight away to come to the conclusion that in strict sense there could be no way any appeal could lie from any other body other than the Court of Appeal to the Supreme Court. It must readily be pointed out that there is no Constitution that is perfect even if an autochthonous Constitution like ours. The fact that our Organic Law by its nature is indigenous does not mean that the wise men and women who framed it are vested with the omnipotence of God or vested with the ability to take care of all possible eventualities. This explains why in most jurisdictions with written Constitutions amendments are now and again made to attempt to infuse new life into the Constitution and make it relevant to societal needs. Even in a Constitution as in the case of the Great Britain where the Constitution is not written various effects are always being made to modernize it to take care of the developments in the nation. The reason for this is that the society is dynamic and laws should reflect and therefore be in accentuation to societal development, it is important that care should be taken that the Constitution, being the primary law is from time to time clothed with new garb that will make it reflective of the aspirations of the society. In the absence of such amendments coming readily, the court normally uses its interpretative powers, and, actuated by altruistic motives activates its minds to endeavour to do utmost justice. I can cite cases where the courts have used the best motives to give judgments or opinions that are in accordance with the living Law. In *R. v. Almon* (1765) Wilmo 343, Wilmor, J., laid down the law governing “contempt matters” although legal historians and chroniclers would have it that it originated from Gascoigne, C.J., a one time Chief Justice of England who committed Prince Monmouth for contempt. Let me consider the case of *Marbury v. Madison* 1 Cranch 137 where the U.S. Supreme Court with beautiful

and edifying legal subterfuge assumed for the first time the power to review the laws made by the Congress, and also the acts of executive powers which are or appear inconsistent with the provision of the U.S. Constitution. In this connection, I would also refer to the case of *Donoghue v. Stevenson* (1932) AC 562 where Lord Atkin advanced the law of negligence by his inscrutable construction of “who is my neighbour”. In *Mojekwu v. Mojekwu*, (1997) 7 NWLR (Pt. 512) p. 283 Niki Tobi, JCA., (as he then was), injected life to the proprietary rights of women in our Nigerian, complex society and there sought to broaden and expatiate on the fundamental rights of women in respect to rights of inheritance in the context of Beijing Declaration and CEDEW (Convention for Elimination of Discrimination Against Women) - a treaty to which Nigeria is signatory. See also *Guardian Newspapers v. A. G. & Ors.* (1995) 5 NWLR (Pt. D 397) at p. 703.

I have always believed that it is at a time like this that our courts, animated by the burning desire to do justice deep down into the forest of its forensic amplitude of experience in adjudication try and do justice E where on the face of it, there would appear to be no way out.

The two combatant parties have with gusto and unction argued that the Legal Practitioners Act as amended is an existing law and deemed to have been made by the National Assembly, therefore appeal by way of F a direction as contained in the decision of the Disciplinary Committee could competently lie to the Supreme Court. It is contended that sub-section 232(2) of the Constitution is being invoked by the court to hold that the Legal Practitioners Act is a law that shall be construed to embrace Section 12 of Legal Practitioners Act. Section 232(2) which states: G “*In addition to the jurisdiction conferred upon it by sub-section (ii) of this section, the Supreme Court shall have such original jurisdiction as may be conferred upon it by any Act of the National Assembly*”. I find it difficult to accept the view that sub-section (2) afore-said can readily be H read to embrace an appeal from the direction of the Disciplinary committee. What then is an appeal. Although the term is an everyday used and hackneyed expression, it is worthwhile for the purpose of this case to examine the niceties of what it is or connotes. Blacks Law Dictionary

defines it to be “*a complaint to a higher tribunal in which the error or injustice is sought to be corrected or reversed*”. It cannot therefore be correct to say that a decision on a matter for review to changing the tenor or import of the committee’s recommendation or affirm it is an appeal within the ambit of Section 233(1). I would with greatest respect B find it difficult to accommodate such an “*appeal*” within the embrace of this sub-section.

What then is the situation? Does the appellant or one who seeks a review order have no remedy? The Legislature is vested with the power to make laws in respect of items 49 and 68. The Legal Practitioners Act C is a statute made by the National Assembly. Section 12 of that Act makes a provision for appeal to the Supreme Court from the decision of the Committee. I have given a careful consideration to the state of affairs in respect of this matter and I have a feeling that if Section 233(1) is given D a narrow and constricted interpretation rather than expounding the horizon and amplitude of its provisions, then it may turn out that the appellant has no readily available remedy except to institute an action in the High Court from which proceedings may finally reach this court I do not think E that this is the contemplation of the Legislation that a legal complainant should be made to go through the gamut of a normal process - a situation that may last for many years at which time the complainant might have conceivably suffered irremediably. Taking into consideration what Sec- F tion 12 of the Legal Practitioners Act intends to achieve by providing what I may describe as an easy ride to the apex court, and as the contemplation must have been that time is of essence in such a matter, I am of the view that we should read items 49 and 68 along side Section 12. That G is to say, that the nature of the Legal Profession because of its uniqueness, its peerless or matchless characteristics, access to the Supreme Court by way of appeal or to use a more appropriate term by way of review has been made to traduce the normal conventional course of proceedings, for a resort to a critical judicial re-consideration of a direction. H By this, it means that while the Supreme Court is the only court that can hear an appeal from the Court of Appeal, it may be said that the door is not entirely closed for it to have been conferred with jurisdiction to re-

view a direction from the Legal Practitioners Disciplinary Committee.

Does this then mean that the National Assembly could make laws conferring on the Supreme Court power to hear appeals from other tribunals other than the Court of Appeal? It would on the face of it seem so due to the seeming inelegant way Section 233(1) of the present Constitution appears to have copied Section 213(1) of the 1979 Constitution. However, I do not think so having regard to Section 6(4) of the Constitution. This subsection provides as follows:-

“Nothing in the foregoing provisions of this section shall be construed as precluding:

(a) The National Assembly or any House of Assembly from establishing Courts other than those to which this section relates with subordinate jurisdiction to the High Court”.

The Legal Practitioners Disciplinary Committee is neither a court nor a tribunal of justice but an ad-hoc body that is charged to investigate and mete out appropriate punishment to an erring lawyer subject to the finding or the directive as it is described being appealed to the Supreme Court. I believe that the corollary provisions to Section 12(1) afore-said are that of Sections 15 and 16 of the Medical and Dental Practitioners Act (Cap 221) Laws of the Federation 1990 state as follows:-

Section 15(1) There shall be established a tribunal to be known as the *“Medical and Dental Practitioners Disciplinary Tribunal”*, which shall be charged with the duty of considering and determining any case referred to it by the Panel established under subsection (3) of this section and any other case of which the Disciplinary Tribunal has cognisance under the following provisions of this Act.

Section 16(2) Where-

(a) a registered person is adjudged by the Disciplinary Tribunal to be guilty of infamous conduct in any professional respect; the Disciplinary Tribunal may, if it thinks fit, give any of the directions specified in sub-section (2) of this section.

(3) The Disciplinary Tribunal may give a direction under subsection (1) of this section:-

(a) ordering the Registrar to strike the person’s name off the rel-

evant register or registers; or

(6) The person to whom such a direction relates may, at any time within 28 days from the date of service on him of the notice of direction, appeal against the direction to the Court of Appeal; and Disciplinary Tribunal may appear as respondent to the appeal and for the purpose of enabling directions to be given as to the costs of the appeal and of proceeding before the Disciplinary Tribunal, the Disciplinary Tribunal shall be deemed to be a party thereto whether or not it appears on the hearing of the appeal. B

In essence therefore what is provided in Medical and Dental Practitioners Act whereby an affected person may appeal straight to the Court of Appeal without going through the High Court is the same as in the case under consideration. Can it seriously therefore be argued that a provision offends Section 240 of the Constitution. I think not. Where the construction to be placed in Section 233(1) is narrow, then a legal practitioner complainant has been sentenced to punishment of almost irremediable proportion that our legal system could not possibly have contemplated. C D

In the course of an adjudication on any matter affecting the interpretation of Constitution one is always faced with a problem of the nature of construction which will liberate the mind from the cocoon of conservatism or conversely be a stick in the mud conservative - an attitude of mind which does not make law grow, and hinders the development of jurisprudence. E F

In the realm of construction of the provisions of a Constitution, jurists have always been faced with two school of thoughts (a) liberal Constructionism whereby some jurists have espoused the cause of activist role and then of course (b) the self restraint wherein others belong. The dissenting Judgment of Justice Frankfurter an Associate Justice of U.S. Supreme Court in the West Virginia State Board of Education v. Barnette (1943) 319 U.S. 63 S. Ct. 1178, 87 L. Ed 1628 shows self restraint school of thought. In that case he said: G H

“One’s conception of the Constitution cannot be served from one’s conception of a Judge’s function in applying it. The court has no reason for existence if it merely reflects the pressure of the day. Our system is

built on the faith that men set apart for this special function, freed from the influences of immediacy and from the deflections of worldly ambition, will become able to take a view of longer range than the period of responsibility entrusted to Congress and legislatures. We are dealing with matters as to which legislators and voters have conflicting views. Are we as Judges to impose our strong convictions on where wisdom lies?..... The uncontrollable power wielded by this court brings it very close to the most sensitive areas of public affairs. As appeal from legislation to adjudication becomes more frequent, and its consequences more far-reaching, judicial self-restraint becomes more and not less important, lest we unwarrantably enter social and political domains wholly outside our concern."

This view is subject to a proper critical analysis depending on certain situations particularly where the liberty of an individual is concerned. It must be recognized that at times in interpreting some provisions of the Constitution, it is not enough to try to understand what the framers of the Constitution might have intended in the past clime. It seems absurd to use such abstruse reasoning to interpret a Constitution. To my mind a court embarking on such a venture should rather endeavour to situate its mind on (a) the present understanding of that provision to making it easily assimilable and realistic. It is my belief that in interpreting an indigenously drafted and framed Constitution normally described in legal parlance as autochthonous, the court should apply some element of flexibility and liberalism to reflect the changes that have occurred and are continually taking steps seeing that the society is dynamic, (b) The Court should look back at former precedents which gave beneficial and favourable interpretations to such provisions or like provisions. It should abhor any skewed philosophical tendency that seeks to confine the administration of justice to a mere abstract concept which might have the ungainly feature of robbing such a provision of pragmatic, sensible and perhaps utilitarian construction. I would here mention two cases which had in the past been taken to the then Supreme Court from the Legal Practitioners Disciplinary Committee. In *Abua v. Legal Practitioners Committee* (1962) 2 N.S.C.C. 175 the appellant was

charged with forgery and false pretences and convicted. On his conviction the complainants convened a meeting about his professional conduct. They found that he had behaved in a manner unbecoming of his profession and referred the matter straight to Federal Supreme Court (without the need to route same through any intermediary court) pursuant to Section 31 of the Legal Practitioners Ordinance (Cap 101) (now repealed) 1958 Laws of the Federation. Section 31 of that law stated as follows:-

(1) The committee on the termination of inquiry shall embody their findings in the form of a report to the Federal Supreme Court and the report shall be signed by the Chairman and filed in the office of the Chief Registrar, and shall be open to inspection by the party charged and any Legal Practitioner assisting him, but shall not be open to public inspection.

(2) If the Committee are of the opinion that no prima facie case of misconduct has been made out they need not proceed further, but if they are of the contrary opinion it shall be their duty to bring the report before the Federal Supreme Court together with the evidence taken and the documents put in evidence at the inquiry.

Section 32 states as follows:-

(1) The powers conferred in the following sections of this Ordinance upon the Federal Supreme Court shall be exercised by any three of the Judges of such Court.

(2) The decision of the majority of the three Judges, in case they shall not agree in their opinion, shall be taken to be the decision of the Federal Supreme Court.

The point I am making is that the term “appeal” as in Section 12 of the Legal Practitioners Act of 1972 as amended in my view means no more than reference to the Supreme Court for endorsement or otherwise. That is the position in this case under consideration.

Also in *Legal Practitioners Committee v. Edewor* (1968) NSCC 178, the appellant was a committee set up under Legal Practitioners Ordinance (Cap. 101) 1958. The Committee acting in accordance with Section 31 of the Legal Practitioner Ordinance having found Mr. Edewor guilty

submitted its report straight to the Federal Supreme Court charged with the duty of final decision to mete disciplinary measure against any practitioner for gross professional misconduct. The Federal Supreme Court assumed jurisdiction. I believe that the word appeal in Section 12 of the Legal Practitioners Act as amended ought to be construed as meaning or denoting a final re-consideration with a view to either quashing or agreeing with the punishment suggested or advised to be imposed. It does not appear to be an appeal in the strictest sense. In other words the direction which is the word used in Section 12 is not supposed to be a final verdict. The final verdict is that of the Supreme Court. It therefore can be said that when the Supreme Court sits to review the direction of the Committee it is to give a final endorsement or otherwise. The direction of the Committee is not meant to be final that would nail the position of the offender.

In the circumstance I hold that the Supreme Court has jurisdiction to re-hear or re-consider and carefully review the direction of the Committee made at the instance of the appellant aggrieved by the decision of the Committee.

AKINTAN JSC

The appellant, Charles Okike, is a legal practitioner. Following allegations of professional misconduct made against him by one of his clients, his matter came before the respondent, the Legal Practitioners Disciplinary Committee of the Body of Benchers. The Committee, after deliberating on his case, found him guilty and imposed the following punishment on him in its decision delivered on 3rd April, 2003:

“After carefully considering the unchallenged evidence before the committee, oral and documentary, it is hereby decided that the name of the respondent, Charles Okike, Esq., be struck off the Legal Practitioners List in addition to the respondent refunding the sum of \$123,000 to the complainant.”

The appellant has filed an appeal against the decision in this court.

The main issue to be resolved in this ruling is whether the Su-

preme Court can entertain the said appeal emanating from the decision of the respondent, the Legal Practitioners Disciplinary Committee (hereafter in this ruling referred to as “*the Disciplinary Committee*”). The Disciplinary Committee was established in Section 11 (1) of the Legal Practitioners Act (Cap 207 Laws of the Federation of Nigeria 1990 as amended by No. 21 of 1994). The Disciplinary Committee is “*charged with the duty of considering and determining any case where it is alleged that a person who is a member of the legal profession has misbehaved in his capacity as such or should for any other reason be the subject of proceedings under the Act*”.

The Disciplinary Committee is empowered in Section 12(1) of the same Legal Practitioners Act as amended, to impose appropriate punishment on any erring legal practitioner found guilty of any improper professional misconduct after its deliberation on each case that comes before it. The punishments which the Disciplinary Committee may impose are set out in Section 12(1) (c) of the Act. Such punishment imposed by the Committee is described as a direction.

Section 12(6) & (7) of the Legal Practitioners Act, as amended, sets out the procedure to be followed by the disciplinary committee in handing down the punishment imposed and the right of appeal opened to the person affected. The two sub-sections provide as follows:

“(6) *When the disciplinary committee gives a direction under subsection (1) or subsection (2) of this section, the disciplinary committee shall cause notice of the direction to be served on the person to whom it relates and submit to the Body of Benchers a report on its findings which resulted in the issuance of the notice; and*

(7) The person to whom such a direction relates may, at any time within 28 days from the date of service on him of notice of the direction, appeal against the direction to the Supreme Court; and the disciplinary committee may appear as respondent to the appeal and, for the purpose of enabling directions to be given as to the costs of the appeal and of proceedings before the disciplinary committee to be a party thereto whether or not it appears on the hearing of the appeal.”

The appellant’s case came before the disciplinary committee and

on 3rd April, 2003 the said disciplinary committee gave its above-mentioned decision in the matter. It is against that decision of the disciplinary committee that the appellant filed this appeal in this court.

The question is whether this court has jurisdiction to entertain the B appeal “*against the direction.*” The jurisdiction of this court is prescribed in Sections 232 and 233 of the 1999 Constitution. Section 232(1) of the 1999 Constitution confers on the court original jurisdiction “*in any dispute between the Federation and a State or between States if and in so C far as that dispute involves any question (whether of law or of fact) on which the existence or extent of a legal right depends*”. Section 232(2) provides that:

“(2) *In addition to the jurisdiction conferred upon it by subsection D (1) of this section, the Supreme Court shall have such original jurisdiction as may be conferred upon it by any Act of the National Assembly. Provided that no original jurisdiction shall be conferred upon the Supreme Court with respect to any criminal matter.*”

While the original jurisdiction conferred in Section 232(1) is restricted to dispute between the Federation and a State or between States, E the National Assembly is, however, empowered to confer additional original jurisdiction on the court, provided that such additional original jurisdiction which may be conferred does not include any criminal matter. The jurisdiction conferred in Section 12(7) of the Legal Practitioners Act cannot F be said to be original jurisdiction. This is because the matter must have first been deliberated upon by the Disciplinary Committee before the appellant, as the person to whom “*such direction given by the disciplinary G committee relates*”, could file his appeal at the Supreme Court. The jurisdiction conferred on the Supreme Court in Section 12(7) of the Act can therefore not be an original but an appellate jurisdiction.

Apart from the provision relating to the original jurisdiction of the Supreme Court prescribed in Section 232 and discussed above, Section H 233(1) of the Constitution also sets out the general appellate jurisdiction of the court. The sub-section provides as follows:-

“233 (1) *The Supreme Court shall have jurisdiction, to the exclusion of any other court of law in Nigeria, to hear and determine appeals*

from the Court of Appeal.”

While the above provision gives the Supreme Court jurisdiction to entertain appeals from the Court of Appeal to the exclusion of any other court, it does not bar the Supreme Court from entertaining appeals from any other source other than the court of appeal. It follows thereafter that the right of appeal conferred in Section 12(7) of the Legal Practitioners Act could safely be entertained by the Supreme Court under the jurisdiction conferred on it in Section 233 (1) of the Constitution.

Any contrary interpretation given that deprives the Supreme Court jurisdiction in this matter may result in an absurd situation. This is because there is no way the Court of Appeal could assume jurisdiction in the matter. This is because by the provisions of Sections 239 and 240 of the Constitution, the Court of Appeal has original jurisdiction in Section 239 in respect of election petitions relating to the President and Vice President and in Section 240, its appellate jurisdiction is restricted to appeals emanating from the courts and tribunals named in that section and of which the Disciplinary Committee of the Body of Benchers in omitted.

An important rule of interpretation of statutes is that a strong leaning exists against construing a statute so as to oust or restrict the jurisdiction of the superior courts. It is also a well-known rule that a statute should not be construed as taking away the jurisdiction of the courts in the absence of clear and unambiguous language to that effect: See Commissioner of Customs & Excise v. Cure & Deeley Ltd. (1962) 1 Q. B. 340 at 357; and Maxwell on Interpretation of Statutes, 12th edition, page 153. Similarly in determining either the general object of the legislature, or the meaning of its language in any particular passage, it is obvious that the intention which appears to be most in accord with convenience, reason, justice and legal principles should, in all cases of doubtful significance, be presumed to be the true one. An intention to produce an unreasonable result or an absurdity is therefore not to be imputed to a statute if there is some other construction available: see Artemiou v. Procopion (1966) 1 Q. B. 878 at 888 per Dankwert, LJ., Maxwell on Interpretation of Statutes, supra; page 199; and Odgers’ Construction of Deeds and

Statutes, 5th edition, page 263.

In the instant case, Section 12 (7) of the Legal Practitioners Act specifically provides that a person to whom a directive given by the Disciplinary Committee of the Body of Benchers relates “*may, at any time within 28 days from the date of service on him of the notice of the direction, appeal against the direction to the Supreme Court.*” The language of the provision is clear and unequivocal as to which court the aggrieved person should file his notice of appeal. It is at the Supreme Court. Any interpretation to the contrary may lead to an absurd situation by which the appellant may be deprived of his right of appeal as he may not be able to successfully go to the Court of Appeal.

I had the privilege of reading the draft of the leading ruling prepared by my learned brother, Uwais, CJN. He has painstakingly and thoroughly dealt with the matter. He gave a full historical background of this court’s jurisdiction in cases of this nature. I entirely agree with his reasoning and conclusion, which I hereby adopt. For the reasons I have given above, and the fuller reasons given in the leading ruling which I hereby adopt, I also hold that this court has jurisdiction to entertain the appeal and I abide by all the consequential orders made in the leading ruling.

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