

SUPREME COURT OF NIGERIA
15TH MAY, 2009. SC. 261/2002
CORAM:- N. TOBI, G. A. OGUNTADE, M. MOHAMMED,
I. F. OGBUAGU, J. O. OGEBE. JJSC

MARTIN USONG APPELLANT
AND
HANSEATIC INTERNATIONAL LTD. RESPONDENT

DAMAGES - General damages - Quantum of - Determinant factors
- A court should confine itself to the facts of the case - And the
circumstances leading to the injury suffered - Trial court considered
irrelevant matters (H1)

DAMAGES - Reduction on appeal - Proper procedure - Appellate
court should consider whether or not the amount awarded was so
extremely high - As to make an entirely erroneous estimate - Before
reducing it (H2)

EVIDENCE - Proof - Consistency with pleadings - It is not true that the
cross-respondent's evidence is inconsistent with his pleadings - As
alleged by counsel for the cross-appellant (H3)

FACTS

The plaintiff/appellant sued the defendant/respondent in the
High Court of Cross - River State claiming inter, general damages for
negligence in the work place which resulted in the loss of one of his
eyes. The trial court gave judgment to appellant and awarded one
million naira (N1m) general damages against respondent. Respon-
dent appealed against the judgment to Court of Appeal which allowed
the appeal partially by reducing the quantum of general damages to
five hundred thousand naira (N500,000).

Aggrieved, appellant has appealed to the Supreme Court
against the part of the judgment of the Court of Appeal reducing the
quantum of general damages. Also dissatisfied, respondent has
brought a cross - appeal against part of the judgment affirming the
judgment of the trial court.

ISSUES FOR DETERMINATION

1. *“WHETHER it was proper for the Court of Appeal to reduce the quantum of general damages awarded the plaintiff/appellant from N1 million to N5000,000.00?”*

2. *“Whether the Court of Appeal was not in error when it affirmed the judgment in favour of the plaintiff whose evidence was wholly inconsistent with his pleadings on material facts?”*

HELD (Unanimously allowing the appeal and dismissing the cross - appeal per **OGEBE JSC**)

General damages - Quantum of - Determinant factors

1. I agree with the Court of Appeal that the trial court took extraneous matters into consideration in the award of the general damages. It should have confided itself purely to the facts of this case and the circumstances which led to the damage to the appellant's eye. The issue of whether or not the respondent treated its employees harshly or badly was irrelevant. (p. 1429 H)

DAMAGES - Reduction on appeal - Proper procedure

2. The Court of Appeal should have considered whether or not the amount of damages awarded was so extremely high as to make an entirely erroneous estimate of the damages to which the appellant was entitled. In not doing so the Court of Appeal was not justified in slashing the quantum of damages by fifty percent for a serious injury like the loss of an eye. (p. 1430 B)

EVIDENCE - Proof - Consistency with pleadings

3. I do not agree with the learned counsel for the cross-appellant that the cross-respondent's evidence is inconsistent with his pleadings. It was in the course of his work as a forklift operator that he had this accident which resulted in the total loss of his right eye. If the respondent/cross appellant had provided him with goggles to protect his eyes, he might have been saved from this accident. (p. 1431 D)

NOTABLE POINT OF INTEREST

OGBUAGU JSC

1. *If appellant had asked for more he could have gotten it*

If the Appellant had asked this Court for an/the enhancement of the

said award, it may have given serious and adequate consideration to it in view of the severity and permanency of the said injury to a precious eye more so, in view of the rising inflation in the country.
(p. 1438 B)

REPRESENTATION

Chief O. O. Obono-Obla, for the Appellant/Cross-Respondent.
D. Diegbe, Esqr., for the Respondent/Cross Appellant, with him, U. I (Miss.)

CASES REFERRED TO

U.B.A. Limited V. Achoru (1990) 6 NWLR (Pt.156) 254
Major Shehu Ibrahim V. Dr. Junoid S. Mohammed (2003) 6 NWLR (Pt.817) 615 at p. 647
Flint v. Lovell (1935) 1 K.B. 350
Zik's Press Ltd. v. Ikoku (1951) 13 W.A.C.A. 188
Idahosa v. Oronsaye (1959) S.C.N.L.R. 407; (1959) 4 F.S.C. 166
Bala v. Bankole (1986) 3 N.W.L.R, (Pt. 27) 141
Odogu v. Attorney-General of the Federation & 6 ors. (1996) 6 NWLR (Pt.456) 508; (1996) 7 SCNJ. 132
Saleh Boneh Overseas (Nig.) Ltd. v. Ayodele (1989) 1 NWLR (Pt.99) 549.
Anaga v. Micho & Co. (1960) All NLR 101
Tilbury Construction Co. Ltd. & anor v. Ogunniyi (1988) 2 NWLR (pt.74) 64
Ojini v. Ogo-Oluwa Motors Nig. Ltd. (1998) 1 NWLR (Pt.534) 353

LEAD JUDGMENT BY OGEBE JSC

The appellant sued the respondent/cross-appellant in the High Court of Cross Rivers State, Ugep Division claiming general damages for negligence in the work place which resulted in the loss of one of his eyes.

The trial court gave judgment in favour of the appellant and awarded one million Naira (N1,000.000) damages against the respondent. The respondent appealed to the Court of Appeal, Calabar Division which allowed the appeal in part and reduced the quantum of damages to N500, 000. Dissatisfied with the reduction in the quantum of damages awarded the appellant has appealed to this Court.

The respondent/cross-appellant was also aggrieved by the decision of the Court of Appeal affirming the judgment of the High Court and cross-appealed to this Court.

The learned counsel for the appellant formulated one issue for determination as follows-

B “*WHETHER it was proper for the Court of Appeal to reduce the quantum of general damages awarded the plaintiff/appellant from N1 million to N5000,000.00?*”

C The learned counsel for the respondent/cross-appellant also filled a brief and adopted the issue raised by the appellant. The facts of the case are relatively simple. The appellant was employed as a folk-lift operator in the respondent company. On the 27th of April 1996, the appellant was involved in an industrial accident which led to the complete perforation of his right eye. The respondent bore all D the expenses for the treatment of the appellant but refused to pay him any compensation for the loss of his eye. The appellant appointment was terminated by the respondent and the appellant then sued the respondent claiming damages for negligence.

E The appellant testified on his own behalf and called a medical doctor to testify on the extent of the damage to his eye. The respondent called its Accountant who knew next to nothing about how the injury to the respondent arose to testify on its behalf. The trial court gave judgment in favour of the appellant.

F The learned counsel for the appellant submitted that the Court of Appeal reduced the quantum of damages from one million Naira to 500,000.00 because in its view the trial court took into consideration in the award of damages irrelevant factors and unproved matters, that is; the alleged bad treatment of the Multinational Companies of their employees.

G He submitted that the learned trial judge did not base his judgment on irrelevant factors. On the contrary, the learned trial judge based, his award on strong weighty and compelling evidence adduced by the appellant. He referred to the case of *U.B.A. Limited v. Achoru (1990) 6 NWLR (Pt. 156) 254* to show the principles to guide the court in the award of damages.

H The learned counsel for the respondent submitted that the trial judge was wrong in considering extraneous matter to award damages in favour of the appellant and the Court of Appeal was justified

in reducing the quantum of damages.

At page 81 of the record of appeal the learned trial judge in awarding damages remarked as follows.

In awarding damages I must also not fail to take into consideration the high incidents of death of employees of the Defendant Company as has been admitted by them. The Company like other multinationals operating in the State treat their employers as slaves subjecting them to all sorts of inhumanities. They are hired and fired at will and when death or permanent deformity results they are either paid nothing or given peanuts. This unwholesome attitude must stop and it behoves on counsel on such Company's Retainerships to advise them to comply with laid down rules and regulations in master servant relationship and modern Industrial Relations Law."

In reducing the damages the Court of Appeal at page 179 of the record commented as follows:

"It is plain from the passage of the judgment quoted that the court below took into consideration in the award of damages, irrelevant factors and unproved matters, that is, the alleged bad treatment of multinational companies to their employees. In so doing, it based its award on wrong principle and extraneous matters thereby rendering the award liable to interference by the appellate court."

The correct approach in the award of damages in the case of personal injury of this nature can be found in the case of *U.B.A. LTD. V. Achoru* (1990) 6 NWLR (Pt. 152) 254 in which Karibi-Whyte, JSC stated at page 281 as follows:

"The expression 'loss of amenities of life' which is exemplified in the physical disability of the plaintiff is hardly quantifiable in terms of money. This is generally because apart from the fact that every person is entitled to enjoy the amenities of life, the natural and ordinary activity and age of the plaintiff, may determine the nature of the deprivation suffered by the physical injury. The value depends on the assessment of the trial judge based on the evidence, guided by awards made in respect of earlier similar disabilities."

I agree with the Court of Appeal that the trial court took extraneous matters into consideration in the award of the general damages. It should have confided itself purely to the facts of this case and the circumstances which led to the damage to the appellant's eye. The issue of whether or not the

respondent treated its employees harshly or badly was irrelevant.

However, am of the view that the amount of one Million Naira awarded by the trial court for the loss of one eye was modest considering the fact that the appellant was claiming five Million Naira for general damages. Can that amount be regarded as too high in the circumstances of this case for the Court of Appeal to reduce it? I think not. ***The Court of Appeal should have considered whether or not the amount of damages awarded was so extremely high as to make an entirely erroneous estimate of the damages to which the appellant was entitled.*** See Major Shehu Ibrahim V. Dr. Junoid S. Mohammed (2003) 6 NWLR (Pt.817) 615 at p. 647. ***In not doing so the Court of Appeal was not justified in slashing the quantum of damages by fifty percent for a serious injury like the loss of an eye.***

Accordingly, I see merit in this appeal and I allow it. I set aside the judgment of the Court of Appeal as it relates to the quantum of general damages and restore the One Million Naira general damages awarded by the trial court.

On the cross appeal the learned counsel for the respondent/cross-appellant formulated one issue for determination as follows:

“Whether the Court of Appeal was not in error when it affirmed the judgment in favour of the plaintiff whose evidence was wholly inconsistent with his pleadings on material facts?”

The learned counsel for the cross-appellant was at pains to show that the appellant/cross-respondent did not prove negligence against his client especially as his pleadings were inconsistent with his evidence before the trial court.

In paragraphs 8 and 16 of the appellant’s amended Statement of Claim in pages 5 and 6 of the record he averred as follows:

“8. On the 27th April, 1996, the plaintiff while in the course his of employment as a Forklift Operator with the Defendant Company work site at Iko-Ekperem, Biase Local Government Area was involved in an accident when a stick fell into his right eye.

16. The cause of the injury to the right eye of the plaintiff was a stick which fell straight on the right eye of the plaintiff while operating a Forklift of (sic) the Defendant. The Defendant has negligently refused to provide a protective gear to the plaintiff to protect his

head or face while operating the Defendant's Forklift."

At page 19 of the record of appeal the appellant testified as follows

"On the 27th day of April, 1996, I was on night duty having reported to work at 2.00 p.m. As an operator all duties are divided into various parts. I took my Forklift plant with my mate within the premises of the Hanseatic International Company. My duty was to fill the mill with wood logs and evacuate some particles and refuse out of the mill. While dropping the two trips for my mates to off load, I went for the third trip which I dropped at the second gate of the premises - Having dropped same I came down from the forklift to straighten the bucket I used in carrying the particles. In the process of lifting the bucket some wood particles sprang from the ground and hit me inside my right eye which was damaged. I can no longer see with the said eye. Before the incident I did not have any problem. Up-till now I cannot see with the said eye."

The evidence tallies with the pleadings and **I do not agree with the learned counsel for the cross-appellant that the cross-respondent's evidence is inconsistent with his pleadings. It was in the course of his work as a forklift operator that he had this accident which resulted in the total loss of his right eye. If the respondent/cross appellant had provided him with goggles to protect his eyes, he might have been saved from this accident.**

In any event, apart from the cross-appellant's pleadings which denied the accident there was no proper evidence to counter the appellant's version of how he came about the injury.

I see no substance whatsoever in the cross-appeal and hereby dismiss it and affirm the concurrent findings of facts by the two lower courts that the appellant proved negligence against the respondent/cross-appellant.

I award costs of N50,000.00 in favour of the appellant in the main appeal. I also award costs of N50,000.00 in favour of the appellant/cross-respondent against the respondent/cross-appellant in the cross appeal.

TOBI JSC

This is a very pathetic case. The appellant lost his right eye in an industrial accident. The appellant was employed by the respondent as a forklift operator. He was involved in the accident in the course of his work as a forklift operator which led to the complete perforation of his right eye.

The respondent bore all the expenses for the treatment of the appellant but refused to pay compensation to him. All the efforts of the appellant to make the respondent pay him compensation were rebuffed. Appellant's appointment was subsequently terminated. Appellant sued. He asked for the following reliefs:

1. *The sum of (N14,005.00 Fourteen thousand and five Naira) only as special damages.*
2. *The sum of N5 million (five Million Naira) only being General/Compensatory Damages for the loss of the Plaintiffs eye during the course of employment in 1996."*

The learned trial Judge gave appellant judgment. He awarded appellant special and general damages in the sum of N1,008,005.00. He said in the final paragraph of the judgment at page 81 of the Record:

"Accordingly Judgment is entered for the plaintiff and the defendant is liable in the following sums:

<i>Special damages -</i>	<i>N8,005.00</i>
<i>General damages -</i>	<i>N1,000,000.00</i>
<i>Total -</i>	<i>N1,008,005.00"</i>

The respondent appealed to the Court of Appeal. That court set aside the award of general damages of N1,000,000 and awarded N500,000.00. The Court said at page 181 of the Record:

"Guided by the above authorities and considering the serious nature of the Respondent's injuries resulting in total blindness of right eye and the fact that the decline in the value of the naira has continued unabated, I consider an award of N500,000.00 conservatively appropriate. The appeal on the award of general damages is allowed but subject to that the appeal is dismissed.

Accordingly, I set aside the N1,000,000 general damages awarded by the trial court. In its place, I substitute an order awarding N500,000.00 general damages to the Respondent against the Ap-

pellant company. The Respondent is awarded costs assessed and fixed at N5,000.00 against the Appellant."

Dissatisfied with the reduction of the award of general damages by half, the appellant has appealed to this court. There is also a cross appeal by the respondent. Let me deal with the appeal by the appellant. B

In awarding damages, the learned trial Judge said at pages 80 and 81 of the Record:

"Here the plaintiff has lost his amenities of life, by the disability his life expectancy is given as 70 years and he is presently about 55 years with a balance of about 15 years to live and cater for his children who are all in secondary schools. He has also lost the possibility of gainful employment from the disability. It is however gratifying to note that the Defendant has settled the medical Bills of over N19,000.00 on behalf of the plaintiff even though they purported that it is part of his conditions of service." C

In awarding damages I must also not fail to take into consideration the high incidents of deaths of employees of the Defendant Company as has been admitted by them. The company like other multinationals operating in the State treat their employees as slaves subjecting them to all sorts of inhumanities. They are hired and fired at will and when death or permanent deformity results they are either paid nothing or given peanuts. This unwholesome attitude must stop and it behoves on counsel on such Company's Retainership to advise them to comply with laid down rules and regulations in master servant relationship and modern Industrial Relations law," E

Reacting to the above, the Court of Appeal said at page 179 of the Record:

"It is plain from the passage of the judgment just quoted that the court below took into consideration in the award of damages, irrelevant factors and unproved matters, that is the alleged bad treatment of multinational companies to their employees. In so doing, it based its award on wrong principle and extraneous matters thereby rendering the award liable to interference by the appellate court." G

I entirely agree with the Court of Appeal that the learned trial Judge *"took into consideration in the award of damages irrelevant factors and unproved matters, that is the alleged bad treatment of multinational companies to their employees"*. But that was not the H

whole matter. The learned trial Judge, in the first leg of what I have quoted above, considered relevant factors known to law. These are the appellant's loss of amenities of life by the disability, his life expectancy, catering for his children all in the secondary school and the loss of appellant's possibility to gainful employment. These, in my humble
B view, are not irrelevant or extraneous matters. They are rather matters of law. Considering the above, I do not see the award of N 1,000,000.00 general damages excessive. It is a very serious disability for a person to lose an eye.

C Like my learned brother, I too allow the appeal and dismiss the cross appeal. I regard the cross appeal as petty. I must say that I do not like some aspects of the conduct of the respondent in this matter. While I commend the respondent for paying the medical bills for the treatment, I feel bad that the respondent refused to pay compensation and fought to this court. Why? That is not my understanding of fair human conduct and I condemn it. I expected the respondent to sympathise with the appellant in the circumstances and pay him compensation. I see the source of anger of the learned trial Judge which resulted in his moving to the irrelevant matters. While I do not
D justify what he said, the human being in him expressed the anger. Removing the irrelevances, the learned trial Judge was right in awarding general damages of N1,000,000.00. I have already restored that award. I abide by the order as to costs made by my learned brother, Ogebe, JSC.
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OGUNTADE JSC

I agree with the lead judgment by my learned brother Ogebe
G J.S.C. I would also allow the appeal and dismiss the cross-appeal with costs as assessed in the lead judgment.

MOHAMMED, JSC

H The Appellant, a fork lift Operator was an employee of the Respondent. The Appellant while carrying out his duties sustained injuries in one of his eyes resulting in total loss of sight in the injured eye. The parties were before the trial High Court of Justice of Cross River State at Ugep mainly on the question of liability of the Respon-

dent for negligence in failing to provide the Appellant with conducive environment to discharge his duties resulting in the injury and the appropriate damages if the Respondent was found liable. After hearing the parties on their pleadings and evidence called by them, the learned trial Judge found for the Appellant who was the Plaintiff and granted him N8005.00 as special damages and N1,000,000.00 as general damages. The Respondent which was the Defendant which felt that it was not liable to the Appellant for negligence and that the quantum of damages awarded were excessive appealed against the judgment of the trial Court to the Court of Appeal, Calabar which affirmed the decision of the trial Court on the question of liability in negligence but allowed the appeal on general damages by reducing it to N500,000.00. Both parties are not satisfied with this judgment and are therefore before this Court on appeal and cross-appeal respectively against it.

Starting with the cross-appeal which is against the concurrent findings of the trial Court and the Court of Appeal that the Respondent is liable to the Appellant in negligence, from the evidence on record, the Appellant had clearly established his case against the Respondent to have been entitled to judgment. The cross-appeal has no merit at all.

As for the Appellant's appeal against the reduction of his general damages, the law on powers of the Court of Appeal to interfere with the award is well settled. In order to justify the reversing or interfering with the amount of damages granted by a trial Court, it will generally be necessary for the appellate Court to be convinced that -

(a) *the trial Court acted up on wrong principle of law; or*

(b) *the amount awarded was so extremely high or very small as to make it, in the judgment of the appellate Court, an entirely erroneous estimate of the damages to which the Plaintiff is entitled.*

See Flint v. Lovell (1935) 1 K.B. 350; Zik's Press Ltd. v. Ikoku (1951) 13 W.A.C.A. 188; Idahosa v. Oronsaye (1959) S.C.N.L.R. 407; (1959) 4 F.S.C. 166 and Bala v. Bankole (1986) 3 N.W.L.R., (Pt. 27) 141. In the instant case, having regard to the circumstances revealed by the evidence before the learned trial Judge which same evidence was before the Court below, I entirely agree with my learned brother Ogebe JSC in his lead judgment that the Court below was wrong in reducing the amount of general damages awarded to the Appellant

for the loss of the use of his eye for the rest of his life. The appeal indeed is meritorious and I also allow it by restoring the N1,000,000.00 general damages awarded to the Appellant.

In the result, for the above reasons and the fuller reasons contained in the lead judgment of my learned brother Ogebe JSC, I also
B dismiss the cross-appeal and allow the appeal. I also abide by the orders on costs in the lead judgment.

OGBUAGU, JSC

C This is an appeal against the decision of the Court of Appeal, Calabar Division, (hereinafter called (“the court below”) delivered on 20th March, 2002, dismissing the appeal to it by the Respondent and affirming the Judgment of the High Court of Cross River State,
D Ugep Judicial Division dated 9th July, 2001, which found in favour of the Appellant/Cross Respondent.

Dissatisfied with the said decision reducing the quantum of General Damages awarded in his favour by the trial court, the Appel-
E Cross Appellant, aggrieved by the entire decision of the court below, has cross-appealed.

This case leading to the instant appeal, arose out of the suste-
F nance of a serious personal injury to one of his eyes by the Appellant, in the course of performing his official duty in the Respondent’s Com-
pany.

The Appellant, has formulated a sole issue for determination. It reads,

“Whether it was proper for the Court of Appeal to reduce the
G quantum of General Damages, awarded the Plaintiff/Appellant from N1 Million to N500,000.00?”

This issue, is adopted by the Respondent/Cross Appellant. I
note that the Claim of the Appellant, is for general damages or com-
pensatory damages and not aggravated, exemplary or punitive dam-
H ages in respect of which the principles, are different. See the case of Odogu v. Attorney-General of the Federation & 6 ors. (1996) 6 NWLR (Pt. 456) 508; (1996) 7 SCNJ. 132 - per Ogundare, JSC.

The attitude of the two Appellate Courts in respect of an award of general damages by a trial court in respect of personal injury, is

now firmly settled in a line of decided authorities. An Appellate Court, should not interfere with the findings of a trial Judge, as to quantum of damages unless, it can be established that the trial Judge, proceeded on a wrong principle of law, or that the award, was clearly erroneous estimate. See the case of *Saleh Boneh Overseas (Nig.) Ltd. v. Ayodele (1989) 1 NWLR (Pt.99) 549.* B

An Appellate Court, ought not to reverse the findings and verdict of a trial Judge as to the amount of damages, merely because, it thinks that if it had tried the case at the first instance, it might have awarded a lesser sum. In order to justify a reversal of a trial Judge on the question of quantum of damages awarded, the Appellate Court, C ought to satisfy itself;

- (i) *that the trial court acted upon some wrong principle of law;* or
- (ii) *that the amount awarded, was so extremely high or low as D to make it, in the opinion of an Appellate Court, an entirely erroneous estimate of the damage in which the plaintiff is entitled.*

See the cases of *Anaga v. Micho & Co. (1960) All NLR 101 @ 105-106; (1961) 2 SCNLR 101* also cited in the case of *UBA Ltd. & anor v. Mrs. Ngozi Achoru (1990) 6 NWLR (Pt.156) 254*; - per Karibi-Whyte, JSC @ 279 and Nnaemeka-Agu, JSC @ 288 respectively, (it is cited in the Respondent's Brief as "Anchora" and at 211 (sic) - per Karibi-Whyte, JSC); (it is also reported in *(1990) 10 SCNJ. 17; Tilbury Construction Co. Ltd. & anor v. Ogunniyi (1988) 2 NWLR (pt.74) 64 @ 74; (1988) 3 SCNJ. 121* - per Wali, JSC, *Ojini v. Ogo-Oluwa Motors Nig. Ltd. (1998) 1 NWLR (Pt.534) 353 @ 362-363; (1998) 1 SCNJ. 20* - per Ogwuegbu, JSC, citing some other cases therein; and recently, *The Shell Petroleum Development Corporation of Nigeria Ltd. & 4 ors. v. Chief Trebo VII (2005) 4 SCNJ. 39 @ 56; (2005) 3-4 S.C. 137* - per Oguntade, JSC, citing also some other cases therein. E F G

The facts in *Tilbury Construction Co. Ltd. v. Ogunniyi, (supra)*, where Nnamani, JSC. (of blessed memory), at page 71 of the NWLR, lamented and described it as a tragedy, about the small amount the Respondent in that case, claimed, in view of the extensive injuries he suffered, appear similar to the instant case leading to this appeal, where the Appellant, also has lost forever, one of his eyes due to the said injury he sustained. I however, cannot fault the court below when H

it stated and held that the basis for the award made by the trial court, was that it erroneously, took into consideration, extraneous matters which were most irrelevant in the circumstances of the said claim of the Appellant.

Therefore, having regard to the fact that the Appellant claimed
B (N5m) five million naira, the court below, should and ought not to
have reduced the amount awarded by the trial court. If the Appellant
had asked this Court for an/the enhancement of the said award, it
may have given serious and adequate consideration to it in view of
C the severity and permanency of the said injury to a precious eye
more so, in view of the rising inflation in the country. The appeal is
meritorious and succeeds. I too allow it.

In respect of the Cross-Appeal, there is the concurrent findings
of fact by the two lower courts, as to the proof and establishment by
D the Appellant, of negligence on the part of the Respondent/Cross
Appellant. This Court, cannot disturb or interfere with such findings
as they are not perverse and in view of the many decided authorities
of this Court in respect thereof. The result is that the Cross-Appeal,
lacks merit and I too, dismiss it.

E I had the advantage of reading before now, the lead Judgment
of my learned brother, Ogebe, JSC. I agree with his reasoning
and conclusion. I abide by all the consequential orders including that
on costs, contained in the said lead Judgment.

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