

**SUPREME COURT OF NIGERIA**  
16TH JULY, 2010 SC. 109/2003  
**CORAM. - D. MUSDAPHER, A. M. MUKHTAR,**  
**W. S. N. ONNOGHEN, F. F. TABAI,**  
**M. S. MUNTAKA-COOMASSIE, JJSC**

1. APPOSTLE O. N. GODWIN
  2. REV. D. O. ORJI
  3. REV. S. K. OKORIE
  4. DEACON S. N. E. MADUBUKO ..... APPELLANTS
  5. ELDER I. I. EKWE
  6. REGISTERED TRUSTEES OF  
CHRIST ASCENTION CHURCH  
AND
  1. ELDER F. U. OKWEY
  2. BROTHER NDUKWE
  3. BROTHER FRANCIS IDIKA ..... RESPONDENTS
  4. ELDER ORJI UGORJI
- 

COMPANY LAW - Actions - Jurisdiction of Federal High Court - Limit  
- Where the dispute is not on matters concerning the law - Regulat-  
ing the operations of CAMA - It falls outside the exclusive jurisdiction  
of the court (H1)

**FACTS**

The plaintiffs/respondents sued defendants/appellants before the High Court of Abia State, Aba, challenging the way and manner in which the 1st to 5th appellants were running the affairs of the 6th appellant Church. Part of respondents' complaint was that 1st to 5th appellants had infringed the respondents' right to fair hearing as entrenched in the Constitution of the Country in that they disbanded the members of the District Youth fellowship and the National Youth Fellowship, to which bodies respondent's belonged, without first affording them the opportunity of defending themselves against the allegations made against them on the basis of which the bodies were dissolved. Other complaints included alleged unconstitutional appointments by 1st appellant who was the leader of the church and his refusal to render accounts to members of the church.

Appellants had filed a statement of defence to the action and thereafter filed an application challenging the jurisdiction of the court to hear the suit. The basis of appellants' objection to jurisdiction was that the 6th appellant, being a body corporate deemed to have been incorporated under the Companies and Allied Matters Act, 1990, any complaints on matters concerning its operations or how its affairs were being run fell to the exclusive jurisdiction of the Federal High Court by the provisions of section 230(1) (e) of Decree 109 of 1993. After hearing the application, the trial court dismissed same as it held that it had jurisdiction. Aggrieved, appellants appealed to Court of Appeal against the ruling but the appeal was dismissed. This is a further and final appeal by appellants.

### **ISSUE FOR DETERMINATION**

*"Whether the court below was right when it affirmed the decision of the trial court that it had jurisdiction to entertain the case before it."*

### **HELD (Unanimously dismissing the appeal per **ONNOGHEN JSC**) **Jurisdiction of Federal High Court - Limit****

1. Looking at the reliefs claimed in this action, it is very clear that the action concerns the internal wrangling within the Church involving the day to day business of the Church. They have nothing to do with the control or operation of the body under the Companies and Allied Matters Act or principles formulated by the courts under common law, relating thereto.

These, in my considered view, are not matters touching and concerning the law regulating the operation of Companies and Allied Matters and therefore fall outside the exclusive jurisdiction of the Federal High Court. The action also has nothing to do with dissolution of the Church so as to give the Federal High Court jurisdiction over the matter.

In the circumstance, I find no merit in the issue under consideration which is consequently resolved against the appellants.  
(pp. 2306H/2307C)

### **REPRESENTATION**

Chidozie Ogunji, Esq., for the Appellants.

G. O. Nwokeogu, Esq., for the Respondents.

**CASES REFERRED TO**

Egbe vs Adeferasin, (1987) 1 NWLR (pt. 47)1  
 Oredoyin vs Arowolo (1989) 4 NWLR (pt. 114) 172  
 Olumolu vs Islamic Trust of Nigeria (1996) 2 NWLR (pt. 430) 253  
 Tukur vs Government of Gongola State (1989) 4 NWLR (pt. 117) 577  
 Progressive Insurance Co. Ltd vs Mrs. M.T. Adepoju (1991) 1 NWLR (pt. 166) 248

**STATUTES REFERRED TO**

Lands (Perpetual Succession) Act  
 Companies and Allied Matters Act, ss. 674, 676, 680 & 681  
 Constitution of the Federal Republic of Nigeria, 1999, s. 251

**BOOK REFERRED TO**

J .O. Orojo, Company law and Practice in Nigeria, 3rd Edn. page 546

**LEAD JUDGMENT BY ONNOGHEN JSC**

By an Amended Statement of Claim filed on the 22<sup>nd</sup> day of July, 1994 at the High Court of Abia State, Holden at Aba, in suit No. A/404/92, the plaintiffs therein, now respondents in this Court, claimed the following reliefs:

*“(a) A declaration that the purported dissolution of the District*

*Youths Fellowship and the National Youths Fellowship by the 3<sup>rd</sup> defendant's letter dated 22<sup>nd</sup> of April, 1992 without giving the members of the two bodies an opportunity of defending the “package of questions” put to Rev. J.O. Nwoye and without complying with the provisions of the Constitution of Christ Ascension Church of Nigeria, is null and void and of no effect.*

*(b) A declaration that the so-called National Planning Committee under whose cover the 1<sup>st</sup> defendant has been running the affairs of the church as a private business to the exclusion of the General Council, a body vested with power by the Constitution to run the affairs of the Church is a body unknown to the Constitution, and consequently, its actions and decisions are null and void and of*

no effect.

(c) *A declaration that the appointment of the 2<sup>nd</sup> defendant by the 1<sup>st</sup> defendant as the Treasurer-General of the Christ Ascension Church of Nigeria contrary to the Constitution of the church is ultra vires, unconstitutional and therefore null and void.*

B (d) *A declaration that since the income and expenditure of the Church are matters under the budgetary control of the Missionary Executive Council the operation of the finances of the church by the 1<sup>st</sup> defendant without rendering account is unconstitutional, null and void.*

C (e) *Injunction restraining the defendants Nos. 1-5 by themselves, servants and agents from operating the finances of the church otherwise than in strict compliance with the relevant provisions of the Constitution of the church.*

D (f) *Injunction restraining the defendants by themselves, servants and agents from taking any steps whatsoever pursuant to the dissolution letter dated 22<sup>nd</sup> of April, 1992 pending the determination of the plaintiffs' action.*

E (g) *Injunction restraining the defendants from making any alteration whatsoever in the Constitution of the church, except in accordance with the provisions of the Constitution."*

The defendants reacted to the above Amended Statement of Claim by filing an Amended Statement of Defence to be found at pages 44 - 47 of the record after which the defendants filed an application before the court challenging the jurisdiction of that court to hear and determine the suit as constituted, which application was dismissed by the trial court. The defendants were not satisfied with that ruling as a result of which they appealed to the Court of Appeal, F Holden at Port Harcourt, in appeal No. CA/PH/238/99. In a judgment delivered on the 4<sup>th</sup> day of February, 2003, the Court of Appeal dismissed the appeal. The present appeal is therefore a further appeal by the appellant.

H The facts of the case relevant to this appeal are simple. Both parties are members of Christ Ascension Church of Nigeria but act in different capacities therein with the 1<sup>st</sup> defendant/appellant being the leader of the Church and is known by the title of Appostle. The 6<sup>th</sup> defendant/appellant is the registered trustee of the Church. The Church has branches in Enugu, Ehi Road, Aba etc. It is the com-

plaint of the respondents that the 1<sup>st</sup> - 5<sup>th</sup> appellants have been interfering with how the Church is being organised and in the process, infringed on the respondents' right to fair hearing as entrenched in the Constitution of the country in that the members of the disbanded District Youth Fellowship and National Youth Fellowship were denied the opportunity of defending themselves against allegations made against them before their dissolution. Their complaint also include unconstitutional appointments by the 1<sup>st</sup> appellant, refusal to render account to members etc, etc. B

The issue for determination, as stated in the appellants brief of argument filed on 28/5/2003 by learned Counsel for the appellants, O. A. OBIANWU ESQ., is: C

*"Whether the court below was right when it affirmed the decision of the trial court that it had jurisdiction to entertain the case before it."* D

In arguing the issue, learned Counsel referred to section 695 of the Companies and Allied Matters Act and submitted that since the 6<sup>th</sup> appellant was incorporated under the Lands (Perpetual Succession) Act, it is deemed, in law, to have been incorporated under the Companies and Allied Matters Act from 2<sup>nd</sup> January, 1990 when the said Act came into effect and that since the complaints of the respondents are mainly to the effect that the 1<sup>st</sup> - 5<sup>th</sup> appellants unlawfully attempted to alter the name and Constitution of Christ Ascension Church of Nigeria; the said appellants, for 13 years misappropriated the funds of the said Church; converted Church's property into private property and acted ultra vires the Constitution of the Church by dissolving the Youth Fellowship and expelling its members as well **as** other illegal acts, the proper court to adjudicate on the matter is, by the provisions of section 230 (1) (e) of Decree 107 of 1993, the Federal High Court; that the lower court was wrong in making a distinction between the affairs of the Church and the 6<sup>th</sup> appellant, which distinction is at variance with the pleadings of the respondents which regarded the Registered Trustees and the Church as one and the same thing; that what was incorporated was the Church, not the trustees as held by the lower court, which by holding contrary to the pleadings of the respondents, made a new case for the said respondents which practice is frowned upon by the courts, relying on Oredoyin vs Arowolo (1989) 4 NWLR (pt. 114) 172; E F G H

Olumolu vs Islamic Trust of Nigeria (1996) 2 NWLR (pt. 430) 253; Company Law and Practice in Nigeria, (3<sup>rd</sup> ed.) by J.O. OROJO page 546; that it is not correct that there was no complaint against the 6<sup>th</sup> appellant or how its affairs as a corporate body is being run, as held by the lower court in view of the allegation by the respondents  
 B that the appellants are attempting to change the name of the Church and the Constitution and that the appellants are plundering the financial resources of the Church to their personal needs; that the lower court also erred in holding that the internal wrangling of members of the Church has nothing to do with the Companies and Allied  
 C Matters Act as the complaints of the respondents are fundamental and go to the root of the Church as incorporated; that section 681 of the Companies and Allied Matters Act makes provision for amendment of the Constitution of incorporated association of trustees while  
 D section 680 contains the procedure for altering the name of the Association. Learned Counsel then proceeded to cite other sections of the Act which authorises the appellants to do what they are accused of doing and stated that for the complaints of the respondents to be resolved, recourse must be made to the provisions of the Act; that  
 E since the complaints *"relate to amendment of the Constitution and name, misapplication of income and property which are specifically provided for by the Act, then the operation of the Companies and Allied Matters Act is brought into play thus bringing the matter within the provisions of section 230(1) (e) of Decree 107 of 1993"*  
 F despite the claim for expulsion of certain members of the Church as the law is that a court must have jurisdiction to determine all the claims before it to assume jurisdiction, relying on Tukur vs Government of Gongola State (1989) 4 NWLR (pt. 117) 577 and urged the court  
 G to resolve the issue in favour of the appellants and allow the appeal.

On his part, learned Counsel for the respondents, G.O. NWOKEOGU ESQ., in the respondents' brief filed on 22/7/05 referred to section 230 (1) (e) of Decree 107 of 1993 which is now section 251(1) (e) of the 1999 Constitution and submitted that the  
 H Federal High Court will only assume jurisdiction under that provision if the claim or cause of action relates to law, whether statutory or common law, regulating the operations of the Companies; that the Federal High Court has exclusive jurisdiction on matters bothering on removal or change of trustees, altering of shares and share hold-

ings, winding up/dissolution being matters pertaining to regulation and/or operation, control of Companies and Allied Matters; that where the dispute does not involve the control of a company or body, but the ordinary course of day to day business of the company/body, as in the instant case, the State High Court has jurisdiction to hear and determine the matter, relying on *Rev. Ali Dingse vs The Registered Trustees of Church of Christ in the Sudan (State of Nigeria) Eklisiyar Krista a Sudan (A Nigeria) Ekas Church Kaduna (2001) 53 WRN 148 at 166; Jammal Steel Structures Ltd vs African Continental Bank Ltd (1973) 5 ncc 619*; that in determining the issue of jurisdiction, the court has to look at the writ of summons and Statement of Claim, relying on *Egbe vs Adeferasin, (1987) 1 NWLR (pt. 47)1; Progressive Insurance Co. Ltd vs Mrs. M.T. Adepoju (1991) 1 NWLR (pt. 166) 248*; that the substance of the claim of the respondents is lack of fair hearing; illegal appointments contrary to laid down procedure of the Church; lack of accountability by the appointees to the members of the Church and injunction to stop the 1<sup>st</sup> - 5<sup>th</sup> appellants from amending the Constitution of the Church contrary to the procedure laid down in the Constitution; that the above claims do not touch on the law regulating the operation of Companies and Allied Matters and as such are outside the exclusive jurisdiction of the Federal High Court.

It is the further submission of learned Counsel that sections 674, 676, 681 and 683 cited and relied upon by learned Counsel for the appellants are not relevant to the facts of the case as they do not vest jurisdiction on the Federal High Court as the court was not mentioned therein; that by the operation of section 693, Federal High Court is linked only to section 961(1) which expressly talked on dissolution of corporate bodies formed under part C of the Companies and Allied Matters Act; that it is not correct that the lower court made a case for the respondents different from their pleadings and urged the court to resolve the issue against the appellants and dismiss the appeal.

I had earlier reproduced the reliefs claimed by the respondents in this judgment. It is the case of the appellants that from the case presented by the respondents in their pleading, the appropriate venue or court that has jurisdiction to hear and determine the matter is the Federal High Court by virtue of the provisions of section 230(1)

(e) of Decree 107 of 1993 now section 251 (1) (e) of the Constitution of the Federal Republic of Nigeria, 1999. The said section 230(1) (e) of Decree 107 of 1993 provides thus:

*“230(1)-----the Federal High Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters arising from: -----*

*(a) -----*

*(e) The operation of any Act or Decree relating to Companies and Allied Matters and any other common law regulating the operation of Companies.”*

The question is whether the case of the respondents fall within the context of cases arising from the operation of any Act or Law relating to companies, including common law principles, regulating the operation of Companies? To answer the question, one has to look closely at the claims of the respondents earlier reproduced in this judgment as it is settled law that it is the claim(s) of the plaintiff as contained in the writ of Summons and/or Statement of Claim that determines the question as to whether or not the court before which the action pends has the jurisdiction to entertain and determine same. Can it be said that the claims of the respondents relate to law, whether statutory or common law, regulating the operation of companies so as to confer exclusive jurisdiction on the Federal High Court to entertain the matter? The lower courts have held that the claims do not fall within the purview of section 230(1) (e) of Decree 107 of 1993, are they correct in so holding?

It is clear from the provisions of section 230(1) (e) of Decree 107 of 1993 supra that the Federal High Court has exclusive jurisdiction in actions concerning legislations including subsidiary legislations, and common law principles regulating companies or operation of companies such as removal or change of Registered Trustees, alteration of share holdings, winding up or dissolution of companies/associations which are matters relating to regulation of the operations of companies under the Companies and Allied Matters Act. The question still remains whether the present action falls within that purview?

***Looking at the reliefs claimed in this action, it is very clear that the action concerns the internal wrangling within the Church involving the day to day business of the Church.***

***They have nothing to do with the control or operation of the body under the Companies and Allied Matters Act or principles formulated by the courts under common law, relating thereto.*** The claims include a complaint of lack of fair hearing against the 1<sup>st</sup> - 5<sup>th</sup> appellants before dissolving the National and District Youth Fellowships; illegal or unconstitutional appointments extraneous to the procedure laid down in the Church Constitution; lack of accountability by the appointees to the members of the Church and an injunction restraining the 1<sup>st</sup> - 5<sup>th</sup> appellants from amending the said Constitution of the Church other than by the manner provided in or prescribed by their Constitution. ***These, in my considered view, are not matters touching and concerning the law regulating the operation of Companies and Allied Matters and therefore fall outside the exclusive jurisdiction of the Federal High Court. The action also has nothing to do with dissolution of the Church so as to give the Federal High Court jurisdiction over the matter.***

***In the circumstance, I find no merit in the issue under consideration which is consequently resolved against the appellants.***

It is, however, unfortunate that the action which was instituted in 1992 over the affairs of a Church is still to be set down for hearing

following a dispute over jurisdiction, which could have been taken along with the substantive matter upon conclusion of hearing by the trial court if the need still arises. Unfortunately that course of action was not followed resulting in the present delay. Learned Counsel should always keep the best interest of their clients in view when conducting their cases so as to minimise costs.

Having resolved the sole issue against the appellant, it is obvious that the appeal lacks merit and is consequently dismissed. I affirm the judgments of the lower courts I assess and award the costs of N50,000.00 to the respondents.

Appeal dismissed.

**MUSDAPHER, JSC**

I have read before now the judgment just delivered by my brother Onnoghen, JSC with which I entirely agree. Consequently I find no merit in the appeal and I accordingly dismiss the same. I  
B abide by the order for costs proposed.

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**MUKHTAR JSC**

C I have had a preview of the lead judgment just delivered by my learned brother Onnoghen JSC. I will however make the following contribution by way of emphasis. The judgment from which this appeal emanated was one that affirmed the ruling of the High Court of Abia State. After parties in the litigation had exchanged pleadings,  
D the defendant/appellant filed and moved a motion on notice that was brought pursuant to the Companies and Allied Matters Act Cap. 59 Laws of Federation of “Nigeria 1990 and Order 8 Rules 1 and 7 of the Court’s Civil Procedure Rules. The motion was for an order striking out the suit filed seeking for the reliefs contained in the state-  
E ment of claim, and which have already been reproduced in the lead judgment. The motion was supported by an affidavit, the salient paragraphs of which read:-

“4. That the said Christ Ascension Church of Nigeria has an  
F incorporated Trustees registered under the relevant laws in Nigeria particularly the companies and Allied Matters Act, 1990.

5. That the affairs of the said Church including the activities of all the members are regulated by the said Trustees.

6. That under the said laws, including the Companies and  
G Allied Matters Act, 1990 this court does not have jurisdiction to entertain this suit, involving, the Registered Trustees of the Christ Ascension Church of Nigeria.”

The plaintiff in turn filed a motion on notice praying for an order striking out the defendants/respondents motion on notice dated  
H 23<sup>rd</sup> day of October, 1998 and filed on 26<sup>th</sup> day of October, 1998 on the ground that it is incompetent in that it did not disclose any ground upon which the application was sought.

In her ruling on the motions, Offonri J. pronounced thus.

“I agree with applicant’s counsel that court has jurisdiction in

*respect of the law in existence at a time of action and that Decree No. 3 of 1990 came into being after the suit was filed. However court is not satisfied that the sections of the COMPANIES AND ALLIED MATTERS ACT 1990 and Section 230 of the Decree 107 ousted the jurisdiction of this court. The internal wrangling of the Church can be determined by the court. 6<sup>th</sup> Defendant was not mentioned in the Statement of Claim. The application fails in the circumstance.”* <sup>B</sup>

On appeal to the Court of Appeal against the ruling, the Court of Appeal as per Ikongbeh JCA (of blessed memory), dismissed the appeal, and affirmed the ruling of the High Court. Rather than go back to the court to commence hearing of the suit, the defendants appealed to this court on a ground of appeal from which one issue for determination was distilled in the appellants’ brief of argument. The issue is whether the court below was right when it affirmed the decision of the trial court that it had jurisdiction to entertain the case before it. The bedrock of the appellants’ grouse lies in the provision of section 230 (1) (e) of Decree 107 of 1993, now section 251(1)(e) of the 1999 Constitution of the Federal Republic of Nigeria which stipulates thus:- <sup>C</sup>

*“230 (1) Notwithstanding anything to the contrary contained in this constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly or a Decree, the Federal High Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters arising from (e) the operation of any Act or Decree relating to Companies and Allied Matters and any other Common Law regulating the operation of companies.”* <sup>E</sup>

The pertinent question to be asked and answered at this juncture is, does the bone of contention or issues in controversy fall within the purview of the above provision? I think not, for a careful perusal of the claim and reliefs sought in the amended statement of claim (See Egbe v. Adefarasin 1987 1 NWLR part 47 page 1, and Progressive Insurance Company Ltd. v. Mrs. Adepeju 1991 1 NWLR part 166 page 248) reveal that the cause of the litigation is not in connection with the control of the 6<sup>th</sup> defendant/appellant, but the daily business of the church. In this case the state High Court has the jurisdiction to entertain, determine and dispose of the suit. The Federal High Court cannot be cluttered with every dispute involving com- <sup>G</sup> <sup>H</sup>

panies to form a synergy with the above provision. An illustration of this court frowning at a situation like the one at hand can be found in the case of Jamal Steel Structures Ltd. v. W.A.C.B 1973 N.S.C.C. page 619 as per Elias C.J.N. (of blessed memory), an excerpt of which reads thus:-

B *“It does not seem to us that the legislative intention behind the Decree was to clutter up the new Revenue Court with ordinary cases involving banker-customer relationship, such as disputes in respect of an overdraft, or the negligent payment of a forged cheque or negligent dishonouring of a customer’s cheques - all ‘banking transactions’ having nothing to do with Federal revenue concern. All the state High Courts and other appropriate courts must continue to exercise their jurisdiction in these and similar matters if the Federal Revenue Court must be allowed to concentrate on its essentially revenue protection functions.”*

D I find solace in the above excerpt of the judgment, within the context of this discussion, which I believe is analogous to the matter on appeal. I am satisfied that the High Court is vested with jurisdiction to hear and determine the suit before it. For the above reasoning and the fuller ones in the lead judgment of Onnoghen JSC I also dismiss the appeal in its entirety. I abide by the consequential orders made in the lead judgment.

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F **MUNTAKA-COOMASSIE JSC**

I have had the privilege of reading in a draft the lead judgment of my learned brother Walter Onnoghen JSC, and I am in full accord with his Lordship’s reasoning that led him to this conclusion that the appeal is un-meritorious. That being the case, I too will dismiss the appeal. I have nothing more to add. I uphold the consequential orders made therein including the order as to costs.

Appeal dismissed.

H