

**IN THE FEDERAL HIGH COURT OF NIGERIA**  
**IN THE ABAKALIKI JUDICIAL DIVISION**  
**HOLDEN AT ABAKALIKI**  
**ON TUESDAY THE 17<sup>TH</sup> DAY OF MAY, 2016**  
**BEFORE THE HON. JUSTICE MAUREEN ADAOBI ONYETENU**  
**JUDGE**

**SUIT NO. FHC/AI/CS/27/2011**

**BETWEEN:-**

THE REGISTERED TRUSTEES  
OF THE PRESBYTERIAN  
CHURCH OF NIGERIA

- PLAINTIFF

**AND**

1. REV. IBIAM EGWU UKENI
2. REV. EZE NWONU EZE
3. REV. AMARACHI NNACHI UKOMI
4. REV. AKA AKA IBIAM
5. ELDER CHRISTOPHER INYA EWA
6. ELDER JOHN MMAHI
7. ELDER ROSE U. OKO

DEFENDANTS

(For themselves and representing the Revolting  
members of the Mid-East Synod of the plaintiff)

**JUDGEMENT**

The plaintiff claim against the defendants is as follows:-

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1. A declaration that the (Defendants) are not entitled to harass, humiliate or threaten the workers of the plaintiff; they are also not entitled to threaten loyal members of the Plaintiff, they (Defendants) are without any iota or shred of right in persuading loyal members of the Plaintiff in Mid-East Synod to join their revolting group.
2. A declaration that the Defendants, having revolted and purportedly broken away from the plaintiff are not entitled to claim any right over the property of the Plaintiff namely Church buildings and all the furniture and fittings, the manse and all the furniture and fittings within the bounds of the Plaintiff in Mid-East Synod.
3. A declaration that the Defendants are not entitled to parade as THE REFORMED PRESBYTERIAN CHURCH OF NIGERIA a name not recognised and duly registered by the Corporate Affairs Commission but merely used to distract and confuse lawful followers of the Plaintiff to joining their revolting rank.
4. An order directing the Defendants to stop forthwith, their acts of harassing, intimidating and humiliating the workers of the Plaintiff within Mid-East Synod of

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the Plaintiff as well as threatening lawful and loyal members of the Plaintiff threat.

5. An order of injunction restraining the Defendants from continuing to parade as THE REFORMED PRESBYTERIAN CHURCH OF NIGERIA, an unregistered and illegal religious organisation, formed mainly to confuse and distract lawful members of the Plaintiff.
6. An order of injunction restraining the Defendants, their agents and/or privies from continuing to use the property of the Plaintiff or continuing to disturb howsoever, the workers of the Plaintiff from the free use of the Plaintiff's property located in Mid-East synod of the Plaintiff or else where in Nigeria.

The defendants by their statement of defence and counter claim filed on 19/4/12 counter claimed as follows:-

- (a) A declaration that the deprivation of the Mid-East Synod of the PCN the opportunity to produce the Moderator of the General Assembly is in breach of the policies, practices, procedures and the working documents of the PCN.
- (b) A declaration that the purported election of Rev. (Prof) Emele Uka as the Moderator of the General Assembly

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from the Synod of the East when he is a retiree as a Priest of the PCN is in breach of the policies, practices, procedures and the working documents of the PCN and a nullity

- (c) A declaration that Rev. Nzie Nsi Eke of the Mid-East Synod emerged as the candidate for the post of the Moderator of the General Assembly of the PCN in compliance with policies, practices, procedures and the working documents of the PCN and should be declared the Moderator of the General Assembly of the PCN.
- (d) A declaration that in the success of this suit Rev. Nsime Nsi Eke shall assume the post of the Moderator of the General Assembly even on attaining the retirement age of 65 years or having retired at the age of 65 years and so remain for 6 years, that, being his right.
- (e) A declaration that Rev. Nwachukwu Ndukwe Eme ceases to be the principal clerk of the PCN, a vote of no confidence having been passed on him by the Mid-East Synod of the PCN, on account of precipitating this crisis in spite of several warnings in words and in writing.

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- (f) A declaration that the defendants are entitled to worship their God under any name of their choice.
- (g) A declaration that all properties (real and personal) within the bounds of the Mid-East Synod of the PCN were built and acquired by the worshipers and parishioners and not of the plaintiff.

In proof of its case against the defendants the plaintiff called a sole witness while the defendants called 2 witnesses.

In all 20 Exhibits were tendered to wit:-

- (1) Exhibit A: Authorization letter to institute legal action against the defendants
- (2) Exhibit A1 Constitution of the Presbyterian Church of Nigeria Mid-East Synod
- (3) Exhibit A2 statement of Mid-East Synod
- (4) Exhibit A3: Congratulatory message of Rev. Amarachi Nnachi Ukoma
- (5) Exhibit A4 A letter asking Church workers to leave the church
- (6) Exhibit A5: Affidavit of fact justifying the establishment of Reformed Presbyterian Church of Nigeria
- (7) Exhibit A6: Act of declaration

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- (8) Exhibit A7: A letter written to Rev. Chidi Uche to vacate the mansion
- (9) Exhibit A8: Letter written to Rev. E. N. Eme (PC) and those loyal to him to leave their synod till further notice
- (10) Exhibit A9: E-mail print out of letter asking for peace and unity in the church meeting
- (11) Exhibit B: Minutes of the church at Ikom dated 13<sup>th</sup> to 18<sup>th</sup> August 1999

Exhibit B1: Minutes of the 9<sup>th</sup> General Assembly 1<sup>st</sup> to 19<sup>th</sup> August 2010

Exhibit B2: Book titled PCN Policies of the General Assembly 1987 to 2002 vol 1

Exhibit B3: Protest letter dated 7/5/10

Exhibit B4: Protest letter captioned petition agent nomination process

Exhibit B6: Letter from Corporate Affairs Commission

Exhibit B7: Letter dated 15/1/11

Exhibit B8: Letter dated 11/5/10

Exhibit B9: Certificate of incorporation

Exhibit C: PCN policies

Exhibit D: Copy of document accompanying petition of Rev Nsi Eke

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Exhibit C1: Copy of minutes of meeting of General Assembly of May 21 – 22<sup>nd</sup>

Exhibit C2: Re-petition against nomination processes

Exhibit C3: communiqué

Exhibit C4: Letter dated 8/7/10

Exhibit C5: Minutes of August 13<sup>th</sup> to 20<sup>th</sup> May

Exhibit C6: PCN administration

Exhibit C7: PCN practice and procedure 1989

Exhibit C8: PCN proceedings and Reports of May 13<sup>th</sup> – 20

Exhibit C9: Pg 21 of Exhibit C8

Exhibit C10: Letter dated 21/12/10

Exhibit C11: Objection in writing by members as to the election

Exhibit C12: Letter from the office of Inspector General of Police to the Commissioner of Police Ebonyi State dated 29/03/11

Briefly stated, the case for the plaintiff is that she is a registered body with the Corporate Affairs Commission and she operates by the provisions of her constitution. That the 1<sup>st</sup> to 4<sup>th</sup> defendants were ministers ordained by her serving as pastors while the 5<sup>th</sup> to 8<sup>th</sup> defendants are ruling elders. That the plaintiff i.e. the church operates a four court

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structure consisting of the General Assembly (the highest court) Synods, Presbyteries and Sessions respectively and officers of the church are selected democratically, by elections through nominations made by their member synods and subject to approval of a General Assembly of the Church in a conference held once a year at a designated venue. The moderator of the General Assembly is rotated and when it came to the turn of Mid-East Synod they were asked to select and present a candidate at the General Assembly Executive meeting to be held in Aba in May 2010.

The Mid-East synod then led by the 1<sup>st</sup> defendant held an election for the post of moderator which was held inconclusive as there was wide spread protests. However a Rev. Nsi Nsie Eke was presented to the General Assembly Executive committee in July 2010. But there was protests as ministers from that synod claimed that a Rev. Dr. Agwu Onwuta was wrongfully excluded from the nomination exercise. The General Assembly could not reach a decision. Amidst fears of violence Eminent members of the church set up an 8 man committee to resolve the matter. The committee suggested that another synod should present another candidate to cool down the situation and the Mid

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East synod be given an opportunity then and the General Assembly adopted this hence Rev. Prof. Emele Mbe Uka was duly elected. The 1<sup>st</sup> defendant sent him a congratulatory letter as well as the 3<sup>rd</sup> defendant. Before then the 1<sup>st</sup> to 4<sup>th</sup> defendants were delegates from the Mid East synod who voted in the election of the said moderator.

Months after, the defendants recruited the members of the church and objected to the election of the moderator of the General Assembly of the council on the ground that they were deprived of their right to produce the moderator. They wrote a letter that unless the principal clerk and moderator of the General Assembly were removed they will secede from the church. They directed officers of the Mid East synod of the church to stop remittance to the General Assembly office of the church. The 2<sup>nd</sup> defendant published a sworn affidavit stating that the entire members of the Mid East synod were ready to back out and to form the Reformed Presbyterian Church of Nigeria. They then threatened officers of the plaintiff who were not ready to join them asking them to vacate their offices.

The General Assembly held an emergency meeting and excommunicated the ministers. Despite this the defendants kept threatening the life and properties of the members of

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the plaintiff for example Onicha presbytery of the church hence the plaintiff wrote a petition to the Inspector General of Police. The defendants then started to parade themselves as members of the Reformed Presbyterian Church even though they were refused incorporation by the Corporate Affairs Commission and started to mislead the illiterates into believing they are still the same church and forcing members of the plaintiff to attend their own church. The plaintiff held meetings trying to reconcile with the defendants and even lifted their suspension yet the defendants remained stubborn and have gone as far as planning for the ceremonial opening of the presbyteries of the Reformed Presbyterian Church of Nigeria using the logo of the plaintiff without the plaintiffs approval hence this action.

The defendants on their own part claimed breach of the provisions of the church laws by the plaintiffs, the General Assembly Executive Committee and the General Assembly of the Presbyterian Church of Nigeria. They stated that the Mid East synod which they belonged to conducted a peaceful election using the provisions of the Presbyterian Church policies and only one candidate was qualified to contest Rev. Nzie Nsi Eke as only him had at

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least 25 years post ordination parish experience, the other 2 not having attained this. And the said Rev. was duly elected and presented to the General Assembly Executive Committee but then some members of that committee started protesting and there emerged 2 factions. That a Thursday Initiative Group was then assembled that looked into the matter and found nothing wrong with the election of Rev. Nzie Nsi Eke and delegated 5 persons to caution Rev. Eme and Rev. Onwuta but rather than doing this they went to state that both Rev. Nzie Nsi eke and Rev. Onwuta be disqualified and Mid East not be allowed to present a moderator. That Prof Emele Uka of (Calabar Synod) presented as being of East synod was not qualified to contest the election having retired as a Priest of the presbytery and not being a commissioner to the council assembly hence his contest of the election was in breach of the various policy documents of the Presbyterian Church of Nigeria.

The defendants denied harrasing any church member or worker and made the following counter claim against the plaintiffs.

1. A declaration that the deprivation of the Mid-East Synod of the PCN the opportunity to produce the

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moderator of the General Assembly is in breach of the policies, practices, procedures and the working documents of the PCN

2. A declaration that the purported election of Rev. (Prof) Emele Uka as the moderator of the General Assembly from the synod the East and when he is a retiree as a Priest of the PCN is in breach of the policies, practices, procedures and the working documetns of the PCN and a nullity.
3. A declaration that Rev. Nzie Nsi Eke of the Mid-East synod emerged as the candidate for the post of the Moderator of the General Assembly of the PCN in compliance with policies, practices, procedures and the working documents of the PCN and should be declared the moderator of the General Assembly of the PCN.
4. A declaration that in the success of this suit Rev. Nzie Nsi Eke shall assume the post of the moderator of the General Assembly even on attaining the retirement age of 65 years or having retired at the age of 65 years and so remain for 6 years, that, being his right.
5. A declaration that Rev. Nwachukwu Nduke Eme ceases to be the principal clerk of the PCN, a vote of no

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confidence having been passed on him by the Mid-East synod of the PCN, on account of precipitating this crisis in spite of several warnings in words and in writing.

6. A declaration that the defendants are entitled to worship their God under any name of their choice.
7. A declaration that all properties (real and personal) within the bounds of the Mid-East Synod of the PCN were built and acquired by the worshipers and parishioners and not of the plaintiffs.

The plaintiffs filed a reply to statement of defence and reply to the counter claim of the defendants in which they denied the defendants claims. In his written address counsel to the defendants raised 5 issues for determination of court:-

- (a) Whether the plaintiff who in her writ of summons prayed for 6 reliefs but who in statement of claim and deposition of witnesses prayed for 5 reliefs cannot be said to have abandoned the 6<sup>th</sup> relief.
- (b) Whether the plaintiff is entitled to reliefs (a – e) set out in the statement of claim as the written statement on oath was signed at the law firm of A. A. Asuquo at Uyo

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in Akwa Ibom State instead of the Registry of this court before the Registrar.

- (c) Whether by the tenor of the constitution of the Presbyterian Church of Nigeria the plaintiff can file this suit against the defendants and their Reformed Presbyterian Church of Nigeria.
- (d) Whether the p.w.1 was authorised by the plaintiff to stand in for the registered trustees
- (e) Whether on the merits the plaintiff is entitled to reliefs a – e in the statement of claim and written statement on oath when the written statement on oath was signed in the chambers of the former counsel

On issue (a) counsel to the defendant submitted relief 6 in the writ of summons was not mentioned in the statement of claim nor in the written statement on oath of p.w.1. hence it is deemed abandoned citing the cases of

P.P. Modus Nig. Ltd. v. Roads Nig. Ltd. 2011 2 NWLR Pt 1230 88 P3

University of Jos v. Ikewuoda 2013 9 NWLR Pt 1360 at 478

That even though it was mentioned in the writ of summons the statement of claim supersedes writ of summons citing

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P.P. Modus Nig. Ltd. v. Roeds Nig. Plc (Supra)

and no relief of a party in the writ of summons can be considered by a court when such relief has not been prayed for in the pleadings citing

Okobia v. Ajanya

1998 5SCNJ 95 Ratio 2

On issue 2 counsel submitted that the initiating processes of this suit of 9/5/11 and reply to statement of defence and reply to counter claim by the plaintiff were made at the law firm of A. A. Asuquo the former counsel in this case instead of the Registry of this court and this is contrary to order 3 Rule 3 (1) (e) of the Rules of Court and Rules of Court are recent to be obeyed citing

Katol Investment Ltd. v. ACN Property Development Company Plc

2011 16 NWLR Pt 1273 at 211 R6

First Bank of Nigeria Plc v. TSA Industries Ltd.

2010 18 NWLR Pt 1216 at 247

and that this has led to the non fulfilment of a condition precedent in this court hearing this matter hence the court's jurisdiction has not been properly invoked by the plaintiff citing

Okanyi v. Fatoba

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2012 7 NWLR Pt 1299 at 266 R 4 and 6

Ayida v. Town Planning Authority

2013 10 NWLR Pt 1362 226 at 12

Agip Nig. Ltd. v. Agip Petrol International

2010 5 NWLR Pt 1187 at 348 at 16

On the 3<sup>rd</sup> issue whether by the tenor of the constitution of the Presbyterian Church of Nigeria of the plaintiff the plaintiff can file this suit against the defendants and their Reformed Presbyterian Church of Nigeria counsel to the defendant answered this in the negative referring to Exhibit A1 at Pg 5 as that documents states that the Presbyterian Church of Nigeria shall maintain fraternal relationship within Presbyterian and Reformed Churches in particular and all Christian churches in Nigeria and the defendants and their Reformed Presbyterian Church of Nigeria fall within this category.

On the 4<sup>th</sup> issue whether the 1<sup>st</sup> p.w. was authorised by the plaintiff to stand in for the Reformed trustees defendant counsel also answered this in the negative.

Counsel submitted that the plaintiff asserted in paragraph 1 of the reply to the statement of defence and counter claim that he was authorised to initiate this suit and tendered Exhibit B7. That Exhibit B7 did not establish

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this as the document is a letter from a member of the plaintiff disclosing the deliberation of the meeting of the plaintiff that p.w.1 should stand for the plaintiff. The proper documents being the minutes of such meetings.

Counsel submitted that by virtue of S. 131 and 132 of the Evidence Act he who asserts must prove and the p.w.1 have not proved that he was mandated to stand in for the Registered trustee citing

Purification Technique (Nig) Ltd. v. Jubril

2012 18 NWLR Pt 1331 at 109

CT & E.C Nig. Ltd v. Nevico International Ltd.

2004 3 NWLR Pt 860 at 327

Counsel to the defendants on reliefs (a) and (d) conceded that the members of the plaintiff are entitled not to be threatened, humiliated and harassed by the defendants and have not been treated as such.

On whether the plaintiffs are entitled to relief (b) in the claim, defendant counsel submitted that the defendants having broken away to form the Reformed Presbyterian Church of Nigeria cannot abandon the Church building, furniture and fittings in the Mid-East Synod acquired by them as worshippers to the plaintiff who neither bought or acquired them. Counsel submitted that the buildings,

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furniture and fittings belong to the worshippers and the plaintiff is a mere trustee and that the sole plaintiff witness in his evidence stated that some churches were built with funds from the mother church and others by some true worshippers and gave the church at Afikpo as an example of the church.

Counsel submitted that a trustee holds property in trust for another the owner and is not the owner and that the plaintiff came into existence on 1/12/03 from Exhibit B after the churches of the Mid West Synod while the churches it claimed to own were built between 1913 to 1930.

On relief C and (e) on the non recognition and non registration of the Reformed Presbyterian Church of Nigeria by the Corporate Affairs Commission he submitted that<sup>p</sup> his did not make the church an illegal religious organisation that should not be allowed to exist.

Counsel submitted that the definition of an illegal religious organisation has been set out in S. 384 of the 1999 Constitution to mean a secret society whose actions have been exemplified by the supreme court.

Registered Trustees of Rosicrucian Order Work (Nig) v.  
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1994 7 – 8 SCNJ 310 at 12

Counsel then emphasised that the non registration was due to the plaintiff objecting to the registration as stated under cross-examination by the D.w.2. That p.w.1 explained this objection that the Reformed Presbyterian Church of Nigeria and Presbyterian Church both has the word Presbyterian which is a registered name.

Counsel submitted that under the Companies And Allied Matters Act the Corporate Affairs Commission can refuse the registration of a name similar to another already registered body when both organisation are in business as companies in part A of Companies and Allied Matters Act Cap C2 laws of the Federation of Nigeria 2010 S. 3 (1) (a) or as business out fits in part B of the Act S. 5 7-9 (1) (d) of the Act not as in this case where the bodies are churches in part C (S. 596 – 612). On Registered trustee whether this case falls under that counsel stated if the framers of the Act had meant the Corporate Affairs Commission to refuse registration of a name similar to an already registered name in part C of the Act they would have expressly stated so citing

Opia v. INEC

2014 7 NWLR Pt 1407 437 Pt 10 9

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Counsel moreover submitted that Pg 5 of Exhibit A1 recognised Presbyterian Churches and Reformed Presbyterian Churches of Nigeria of which the Reformed Presbyterian Churches of Nigeria is one

On the counter claim of the defendants counsel submitted that the plaintiffs have not been able to controvert the reliefs set out in their counter claim.

On relief (a) counsel submitted that the Mid East Synod of the Presbyterian Church of Nigeria was denied the opportunity to produce moderator of the General Assembly of the Presbyterian Church of Nigeria in breach of the working documents of the Presbyterian Church of Nigeria and that this was not controverted by the plaintiff rather the evidence of the sole plaintiff witness supported this.

On relief (1) counsel submitted that the Rev. Professor Emeka Uka that was elected was in breach of the policies of the Presbyterian Church of God as he was elected when he was retired and that was not refuted by the sole plaintiff witness.

On relief (3) counsel submitted that Rev. Nzie Nsi Eke who emerged as the candidate for the position of moderator of the General Assembly of the Church in compliance with the church policy should be so declared as this evidence

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was in the written statement of D.w.2 and this was not debunked by the plaintiffs and should be deemed accepted as true.

On relief (4) that on success of this suit the Rev. Nzie Nsi Eke should assume the position of the moderator of the General Assembly of the Presbyterian Church even if he had retired as this was not contested by the plaintiffs church cross-examination.

Moreso when under cross-examination D.w.2 stated that Rev. Professor Emeka Uka was made the head of the church when he had retired as a Priest of the plaintiff's Presbyterian Church of Nigeria and was made the head of the Church at the age of 70 years.

On relief 5 that Rev. Nwachukwu Ndukwe Eme ceases to be the Principal Clerk of the Presbyterian Church of Nigeria. That this was not contested or controverted but then the said Reverend Nwachukwu Nduka Eme has since retired as the Principal Clerk.

On Relief 6 that this was not controverted by the plaintiff rather that in Exhibit A the plaintiff acknowledged the existence of Presbyterian Churches and Reformed Churches of which the Reformed Presbyterian Church of Nigeria of the defendant is one.

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On relief 7 that the properties (real and personal) of the Mid-East Synod of the Presbyterian Church of Nigeria was built and acquired by the worshippers as P.W. 1 acknowledged in his evidence and the plaintiffs only held them in trust for the worshippers.

He urged this court to grant the reliefs of the defendants also.

In his written address, Counsel to the Plaintiff gave 2 issues for determination to wit:

1. Whether from the pleadings evidence led in this case and the law the Plaintiff has proved her case against the Defendants in this case as to entitle her to all the reliefs claimed.
2. Whether the Defendants counter-claim in the circumstances of the case is competent and or proved by them to entitle them to the reliefs claim.

Counsel then gave a brief statement of the Plaintiffs claim and submitted that the Defendants in their paragraphs 5, 6, 10, 17, 18 to 26, 33 and 34 of their statement of defence admitted the case of the Plaintiffs and in paragraphs 4, 30, 31, 35 and 36 of her statement of defence admitted the facts in paragraphs 4, 30, 31, 35 and 36 of the statement of claim and that the general transverse

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reflected in the paragraph of the defendant's statement of defence is not an effective denial of essential or material averments in the plaintiff's statement of claim citing

UBN Plc v. Chimeze 2014 All FWLR Pt 734 at 48 and that an admission is the best evidence citing

Madumere v. Okafor 1996 6 NWLR Pt 445 at 637

and an admission against interest is admissible citing

Nnadozie v. Omesu

1996 % NWLR Pt 446 at 112

Counsel defined an admission as stated in Black's Law Dictionary 8<sup>th</sup> Edition by Bryen A. German at Pg 51 and S. 20 of the Evidence Act 2011

Counsel then submitted that facts admitted need no further proof citing

MTN (Nig) Communication LTD v. WIGTAP Trade and Investment Ltd.

2012 26 WRN 119 at 137

Ibrahim v. 1<sup>st</sup> Bank of Nigeria Plc

2013 All FWLR Pt 694 at 135

Adeleke v. Anike

200 6 16 NWLR Pt 1004 at 131



Counsel referred to Order 15 Rule 4 of the Federal High Court Rules submitting that based on the admissions of the defendants the plaintiff is entitled to judgment.

Counsel also submitted that by paragraph 5 of Exhibit A the Mid East Synod was to be given an opportunity to produce a moderator by the end of this tenure without any impediment which is 16 years after the tenure of Rt Rev. Prof. E. M. Uka P. H. D. whom the defendants acknowledged as the incumbent moderator and pledged their loyalty that even the defendants entered a decision. By implication they now have an opportunity to elect a new and incumbent moderator.

Counsel also submitted that the defendants need that they make a declaration Exhibit A5 according to D.w

On the issue of the depositions of p.w.1 being signed in the chambers of their former counsel. Counsel to the plaintiff urged this court to take further notice of the entire pleadings in this matter so as to come to a just decision citing

Attorney General Anambra State v. Okihe

2002 FWLR Pt 112 175 at 196

Mlaanibe v. Slide

1994 2 NWLR Pt 326 321

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In further reply counsel submitted that order 3 Rule 3 (1) (e) of the Federal High Court Rules is not applicable in this case as it provides what should accompany the writ of summons before it will become acceptable by the registrar of court and that it provides that where there is no compliance the processes should not be accepted by the registrar for filing.

He urged this court to refer to its file and records to show that the plaintiff has strictly complied with the provision of Order 3 Rule 3 (2) of the Federal High Court Civil Procedure Rules citing

Abraham v. Olorunfunmi

1991 1 NWLR Pt 165 53

and that the 1<sup>st</sup> p.w. swore before a commissioner of oath at this court's registry.

Moreover that the 1<sup>st</sup> p.w. took an oath before this court and adopted his sworn deposition without any objections from the defendants and that by virtue of this whatever defect that attaches to the p.w.1's deposition of 9/5/11 and 3/5/11 were regularized citing

UDEAGHA v. OMEGARA

2010 11 NWLR Pt 1204 168

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Counsel to the plaintiff also submitted that since the defendants have left the religious organisation of the plaintiff all the property of the plaintiff in possession of the defendants must return to the plaintiff. That what has occurred is a schism after incorporation of the Presbyterian Church referring to Black's Law Dictionary 6<sup>th</sup> Edition at 1344 and citing

Adegbite & Ors v. Chief Imam OB Lawal

12 WACA 398 at 400

and where this is the position then it is for the party breaking away to move out of the church premises and establish their own else where citing

Ajayi v. The Registered Trustees of Onalwa Mimo, Cherubim and Seraphim

1998 7 NWLR Pt 556 at 156

That in the present case it is the party who disagrees in the instant case the defendant to vacate the land or premises of the plaintiff.

Counsel submitted that where schism occurs and there are no agreements the fact that the land was in the personal name of the trustees or trustees who is or are part of the seceding group is not an advantage at all as same is left for the main stream group citing



Jubril Martins & Ors v. Saka Tinubu & Ors.

1937 13 NLR 124

Counsel then submitted that there was no entity distinct from the plaintiff by the name Reformed Presbyterian Church of Nigeria before or during the development and acquisition of the Mid East Synod Church buildings and assets. That members of the Mid East Synod who acquired the said properties at the material time did so as members of the plaintiffs on her behalf and with resources meant for the plaintiffs and according to them by virtue of their membership of the plaintiff citing

Adegboyega v. Igbinosen SC/207/68 1969 All NLR

Akinwata Joe Oguejiofor Anyaegbunem v. Pastor Okwudili Oseka

2000 10 WRN 108

and in so far as the defendants had seceded from the plaintiff they cease to have any strike in the property of the plaintiff no matter where located or how acquired.

On the issue of the rejection of the registration of the defendant unincorporated body, plaintiff counsel submitted that the act of rejecting or upholding an objection is entirely the functions of the Corporate Affairs Commission and that rejection was defined in the case of



Akere v. Adesanya

1993 4 NWLR Pt 288 at 484

and that the court will not interfere in the decision of the Registrar of Companies unless there is an exceptional circumstance citing

R v. Registrar of Companies

1912 2 KB 23

Counsel submitted that in the present case where the parties are restrained by court from causing a breach of peace, the court should restrain the defendants from using the name Reformed Presbyterian Church of Nigeria. Moreso as the only authority to approve the use of a particular name by the Companies and Allied Matters Act the Corporate Affairs Commission in Exhibits B5 and B6 has rejected the use of the name Reformed Presbyterian Church of Nigeria referring to S. 7 (1) (a) of the Companies and Allied Matters Act.

Counsel further submitted that even though S. 593 (8) of the Companies and Allied Matters Act did not include incorporated trustees in bodies that cannot give similar names it must have intended so citing

Hendricks v. Montagu

1881 17 Ch D 638

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On the issue that the constitution of the Registered Trustees of the Presbyterian Church of Nigeria recognizes and concedes the existence of Christian organization with the name Presbyterian. Counsel submitted that that is a mischievous interpretation and that the provision refers to the preparedness of plaintiff to recognise churches with that ideology and not necessary churches with the word "Presbyterian" in their names and that in any event the plaintiff cannot bind the Corporate Affairs Commission to recognise and register an organisation that choose names intended to mislead people with the content of their constitution.

On the defendants' contention that p.w. 1 was not authorized by the plaintiff to stand in for the Registered Trustees, counsel submitted that by Exhibit A and B7 it is clear that p.w.1 was so authorised and even at that there has been no protest from any member of the plaintiff on their action.

On the issue of 6<sup>th</sup> relief being omitted in the statement of claim counsel submitted that it is an error citing

Abraham v. Olorunfunmi (Supra)

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- and that the Defendants are an illegal and unrecognized
- religious association and members only parade as Reformed Presbyterian Church and not as duly recognized organization of the Reformed Presbyterian Churches and in any event the constitution of the Nigeria gives right of action to any person or group of persons who are aggrieved to file an action referring to S. 6 (6) (b) and (c) of the 1999 Constitution.

On whether the counter claim of the defendants is competent and proved by them, Counsel to the Plaintiffs submitted there is no pleadings on them citing

**MBANU vs NIGERIA MINING COOP** 2006 13 NWLR pt 659;

**GAJARARI vs PASHIRI** 2006 1 NWLR pt 962 521 and that Defendant cannot lead evidence in support of reliefs sought by them as the reliefs sought in a statement of defence is a function of the legal practitioner who settles the statement of claim from the brief he receives from his client citing

**BEN JEKPE & ANOR vs CHING DR. S. T. ALOKWE & 5 ORS (Supra).**

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He urged this court to hold there is no pleading to support the reliefs of the Defendants' counter claim.

Finally Counsel submitted that the Defendants contended that the Corporate Affairs Commission was in error when vide Exhibit B it refused them registration, yet they did not make the Corporate Affairs Commission a party to this suit and have not appealed that decision.

Counsel submitted that the Plaintiffs having ceased to be members of the Plaintiff lack the locus standi to pursue their counter claim. He therefore urged this court to grant judgement to the Plaintiff.

In his reply on point of law, Counsel to the Defendant submitted that the case of

**MADUMERE vs OKAFOR (Supra)** is not applicable to the contention of the Plaintiff that a general traverse is an admission that even if there is a general traverse it has not relieved the Plaintiff of the burden of proving their case. That the Plaintiff succeeds on the strength of his case not weakness of the defence especially where their relief include a declaration citing the cases of



**CONGRESS FOR PROGRESSIVE CHANGE vs INEC**

2011 18 NWLR pt 1279 at 464;

**ONYERO vs NWADIKE** 2011 18 NWLR pt 1279 at 954;

**OLOGUN vs FATOYE** 2013 NWLR pt 1335 at 303;

**SIJUWADE vs OYEWOLE** 2012 11 NWLR pt 1311 at 250.

Counsel further submitted that it is transverse without more that can be deemed an admission not where the other side proceeded to give evidence as in this case citing

**NDUKWE vs ORJIAKOR** 2013 8 NWLR pt 1356 at 311;

hence the case of

**MTN NIG. COMMUNICATION LTD vs WIGATAP  
TRADE vs INVESTMENT LTD (Supra)** is not applicable

as it contemplates voluntary acknowledgment and also

Order 15 Rule 4 of the Federal High Court Civil Procedure Rules.

On Plaintiff's Counsel contention that where there is non-compliance with Order 3 Rule 3 of the Duly Registrar will direct on what the litigants must do, Defendant Counsel stated it is not so worded in the rules and that words in a statute should be interpreted the way it is citing

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**EASTERN BULKCEM CO. LTD vs C. AMOMBI** 2010 4  
NWLR pt 1184 at 381.

Counsel further referred to the records of court stating that the Plaintiff under cross examination agreed that he signed his 2 statements in the law firm of his former Counsel A. A. Asuquo and that the court is bound by its records citing **LEADERS & CO. LTD BEMAIYI** 2010 18 NWLR pt. 1225 at 329.

That whilst it is true that the case of **UDEAGHA vs OMEGARA** 2010 11 NWLR pt 1204 at 168 held that a witness who has on oath adopted a statement not deposed to before a Commission of Oath has by that Oath or affirmation cured that defect of not having deposed to the oath before a commissioner for oath, that is not the position in this case as the said witness never adopted the said statements. Moreover in that case the person before whom the oath was deposed was a person duly authorized to do so unlike the present one which did not even disclose who the Oath was sworn before in the Counsel's chamber.

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On the exercise of discretion by the Corporate Affairs Commission, Counsel submitted that it must be exercised judicially and judiciously not upon wrong principles of law for the court not to intervene citing

**R vs REGISTRAR OF COMPANIES 1912 2 KB 23.**

Again Counsel to the Defendant submitted that the fact that the Corporate Affairs Commission has not been sued by Reformed Presbyterian Church of Nigeria does not right the wrong of Corporate Affairs Commission in refusing registration when not so authorized by statute CAMA and that the Plaintiff asserting that the Corporate Affairs Commission was not wrong in not registering the Defendant, the burden of proof was shifted to them and it is for them to join Corporate Affairs Commission as party to this suit to prove that assertion citing the cases of

**MUDASHIRU vs ONYEARU 2013 7 NWLR pt 1354 at 415;**  
**OKUNADE vs ABIOYE 2013 NWLR pt 1341 at 221 and**  
referring to **S. 133 (2) of the Evidence ACT.**

Again Defendant Counsel submitted that the issue of non-registration by the Corporate Affairs Commission has been

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raised in both pleadings and issues joined hence this court is bound to rule on it, that once a statute is in existence the court is bound to give effect to it citing

**CORPORATE IDEAL INNOCENCE LTD vs AJAOKUTA STEEL CO. LTD** 2014 7 NWLR pt 1405 at 157 hence the cases of

**HENDRICKS vs MONTAGU (Supra);**

**GABERI vs ILORI & ORS (Supra);**

**AKINONISI vs MAERSK NIG. LTD.** 2013 10 NWLR Pt. 1361 at 73;

**MOSES ODUWOLE vs AINA**

**BEN JEKEPE vs CHIEF DR. ALOUKWE (Supra);**

**ADEDOYIN vs SONYA (Supra);**

**AKINBOBOLA vs FISKI (Supra);**

**BINYEN vs AKINBOYE**

cited by Counsel to the Plaintiff's are not applicable to this court.

Finally, Counsel to the Defendants submitted that the Plaintiff has not been able to establish the issues raised by

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them and urged this court to enter judgement in favour of the Defendants.

While adopting his written address, Counsel to the Plaintiff submitted that the age of Ministers in the church in paragraph 5:17 of the address of Counsel was not raised in any pleading and is thus a situation of Counsel giving evidence citing the case of

**JEV vs IYGRYEN** 2014 ALL F.W.L.R. pt 747 at 749.

On Exhibit B6 which Counsel to the Defendant urged this court to discountenance, he submitted that this court granted a motion front loading it.

On part C of CAMA not covering Incorporated Associations, he referred this court to the cases of

**MUSTAPHA vs COOPERATE AFFAIRS COMMISSION** 2009 8 NWLR pt 1142 at 35;

**G. E. INTERNATIONAL OPERATIONS LTD vs OIL AND GAS** 2014 ALL F.W.L.R pt 761 at 1509 particularly pt. 1524;

**OKWUNTA vs ODEGH** 2015 ALL F.W.L.R. pt 764 at 149.

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Now I have carefully considered the claim of the Plaintiff as well as evidence adduced in proof thereof.

I have also considered the defence of the Defendants and their counter claim as well as the addresses of both Counsel in this case.

I will take as issues for determination that raised by both Counsel in their written addresses to wit:

- a. Whether the Plaintiff cannot be said to have abandoned their 6<sup>th</sup> relief?
- b. Whether the P. W. 1 was authorized by the Plaintiff to file this suit.
- c. Whether by the tenor of the Constitution of the Presbyterian Church of Nigeria the Plaintiff can file this suit against the Defendants and their Reformed Presbyterian Church of Nigeria.
- d. Whether the Plaintiff is entitled to reliefs claimed when the written statement on oath of its witness was signed in the chambers of the former counsel A. A. Asuquo at Uyo.

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e. Whether the Defendants' Counter Claim in this case has been proved so as to entitle them to reliefs claimed by them.

On issue (a) whether the Plaintiffs cannot be said to have abandoned their 6<sup>th</sup> relief, this has already been ruled upon by this court on 19/11/15 and as court granted the Plaintiff's prayer for an amendment of their statement of claim. I will thus not go into this issue again.

On issue (b) whether the P. W. 1 was authorized by the Plaintiffs to file this suit against the Defendants, Defendant Counsel had submitted that Exhibit B7 tendered by the Plaintiff is not proof of this while the Plaintiff Counsel reply is that their Exhibit A and Exhibit B7 shows that the 1<sup>st</sup> Plaintiff Witness is so authorized.

I have examined the said Exhibits. Exhibit A is a letter written by one of the trustees of the Plaintiffs on behalf of the other trustees authorizing this action while Exhibit B7 is letter to the 1<sup>st</sup> Plaintiff Witness by the Clerk of the General Assembly of Plaintiff authorizing the institution of this action.

M. A. Ouyefu



In my humble view these 2 documents are enough to show such authorization. So I rule in favour of the Plaintiffs on this issue.

The third issue is whether by the tenor of the constitution of the Presbyterian Church of Nigeria, the Plaintiff can file this suit against the Defendants and their Reformed Presbyterian Church of Nigeria. Here the Defendant Counsel referred to page 5 of Exhibit A1 the constitution of the Presbyterian Church of Nigeria Mid East Synod.

I have studied that provision and I agree with Plaintiff Counsel that the Defendants cannot bind the Corporate Affairs Commission to recognize and register an organization. It is when an organization has been duly recognized and registered a church that it becomes one and it is then that **S. 2** of Exhibit A1, the Constitution of the Presbyterian Church comes into play. I therefore answer the 3<sup>rd</sup> issue in favour of the Plaintiff.

The 4<sup>th</sup> issue is whether the Plaintiff is entitled to reliefs sought when the written statement on oath was signed in the chambers of their former counsel.

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Counsel to the Plaintiff submitted that the 1<sup>st</sup> Plaintiff Witness swore before a Commissioner of Oath at this Court's Registry and that he adopted his sworn deposition in court without any objections from the Defendants and by virtue of this his depositions have been regularized.

I have studied the evidence of the 1<sup>st</sup> Plaintiff Witness in this suit, under cross-examination he did admit that his 2 statements (his depositions on oath were signed in the law firm of his former counsel A. A. Asoquo) I have also studied the cases of

**UDEAGHA vs OMEGARA (Supra)** the court did say per Ogunwumifu J. C. A. at pg. 195 that where the statement of witness in a case are not sworn to before a person duly authorized to take Oaths in contravention of **S. 90 of the Evidence Act** the subsequent adoption of their written depositions after the witness have been sworn in open court to give oral evidence regularizes the depositions.

In the present case, throughout the length and breadth of the evidence of the 1<sup>st</sup> Plaintiff Witness he never did adopt his depositions on Oath so that this case is not applicable.

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The depositions on Oath of 1<sup>st</sup> Plaintiff Witness is thus in contravention of the Evidence Act 2011 (As Amended) and this court will discountenance it with the resultant effort that there is no evidence in support of the Plaintiff's claim.

In reply Counsel to the Plaintiffs had submitted that the Defendants in their paragraphs 5, 6, 10, 17, 18 to 26, 33 and 34 admitted the case of the Plaintiffs and in paragraph 4, 30, 31, 35 and 36 of their statement of defence admitted the facts in paragraphs 4, 30, 31, 35 and 36 of the statement of defence and that the general transverse in the statement of defence is not an effective denial of essential or material averments in the Plaintiff's statement of claim.

Let me first of all state that indeed the case of **U. B. N. PLC vs CHIMEZE (Supra)** establishes that a general transverse is not an effective denial of essential or material averments in the opposing party's pleadings. The cases of **NNADOZIE vs OMESU (Supra)** and **MADUMERE vs OKAFOR (Supra)** are on admissions against interest not on general transverse.

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In the present case apart from a general transverse in paragraphs 4, 30, 31, 35 and 36 of their statement of defence the Defendants made a specific denial of paragraphs 4, 30, 31, 35 and 36 of the statement of claim. Plaintiff's Counsel submissions on this is therefore not correct.

The Defendants in paragraphs 5, 6, 10, 17, 18 to 26, 33 and 34 of their statement of defence admitted part of the case of the Plaintiffs but those areas in which they made their admissions cannot in a manner be described as admissions against interest most are limited admissions with explanations contrary to Plaintiff's case. In my humble view these are not the types of admissions envisaged in the cases of **MADUMERE vs OKAFOR (Supra)** and **NNADOZIE vs OMESU (Supra)**.

The above 2 cases are therefore not applicable.

The admissions made by the Defendants do not touch on the material particulars of the Plaintiff's case.

It is trite law that it is for the Plaintiff's to prove its case and not rely on the weakness of the defence. See the cases of

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**CONGRESS FOR PROGRESSIVE CHANGE vs INEC**  
**(Supra);**

**OLOGUN vs FATOYE (Supra);**

**SIJUWADE vs OYEMOLE (Supra).**

All the cases cited by Plaintiff Counsel on this issue are thus not applicable.

Since the Plaintiff claim cannot be supported by any evidence, it must therefore fail and its case against the Defendants dismissed.

I shall now proceed to deal with the counter claim of the Defendants which is as follows:

1. A Declaration that the deprivation of the Mid-East Synod of the PCN the opportunity to produce the Moderator of the General Assembly is in breach of the policies practices, procedures and working documents of the P.C.N.
2. A Declaration that the purported election of Rev. (Prof) Emele Uka as the Moderator of the General Assembly from the Synod of the East and when he is a retiree as a Priest of the PCN is in breach of the policies, practices,

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procedures and the working documents of the PCN and a nullity.

3. A Declaration that Rev. Nzie Nsi Eke of the Mid-East Synod emerged as the candidate for the post of the Moderator of the General Assembly of the PCN in compliance with policies, practices, procedures and the working documents of the PCN and should be declared the Moderator of the General Assembly of the PCN.
4. A Declaration that in the success of this suit Rev. Nzie Nsi Eke shall assume the post of the Moderator of the General Assembly even on attaining the retirement age of 65 years or having retired at the age of 65 years and so remain for 6 years, that, being his right.
5. A Declaration that Rev. Nwachukwu Ndukwe Eme ceases to be the principal clerk of the PCN, a vote of no confidence having been passed on him by the Mid-East Synod of the PCN, on account of precipitating this crisis in spite of several warnings in words and in writing.
6. A Declaration that the Defendants are entitled to worship their God under any name of their choice.

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7. A Declaration that all properties (real and personal) within the bounds of the Mid-East Synod of the PCN were built and acquired by the worshippers and parishioners of the Mid-East Synod and are the properties of the said worshippers and parishioners and not of the Plaintiff.

Here Plaintiff Counsel had argued that there is no pleading in support of the counter claim of the Defendants but then there are averments in the statement of defence and as pointed out by Counsel to the Defendants in the statement of defence which is sufficient facts upon which the counter-claim is based.

Cases cited by Counsel to the Plaintiffs in this regard are not directly applicable to the present situation.

Having said all that the sole issue for determination by this court in this regard is whether from the evidence led in this case the Defendants has proved their counter claim against the Plaintiff so to entitle them to the reliefs sought by them.

On Relief (1), Counsel to the Counter-Claimant submitted that the Mid-East Synod of the Presbyterian Church was

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denied the opportunity to produce Moderator of the General Assembly of the Presbyterian Church of Nigeria.

It is not in dispute that it was the turn of the Mid-East Synod of the Presbyterian Church of Nigeria to produce Moderator of the General Assembly of the Church. Defendants accepted this and even congratulated the present Moderator.

The 1<sup>st</sup> and 3<sup>rd</sup> Defendants have not denied this. Having thus accepted and indeed participated in the election of the Present Moderator Ude Exhibit A2 and A3, are they estopped from bringing this claim. But what of the rest of the Defendants bearing in mind that this is a representative action which the 1<sup>st</sup> and 3<sup>rd</sup> Defendants are not only representing themselves but others.

In my humble view the estopped does not affect the other Defendants or the body cooperate they represent. Moreover the fact of the 1<sup>st</sup> and 3<sup>rd</sup> Defendants accepting a wrong does not make fact wrong right, so that relief (a) has been established in this case.

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On relief 2 that the present Moderator was elected in breach of the policies of the Presbyterian Church of Nigeria as he was elected when he was retired.

D. W. 2 stated that Rev. Professor Emele Uka at time of his appointment had passed 60 years which was age of retirement. The Plaintiff have not denied that the said Rev. Professor Emele Uka was past retirement age.

Now I have studied Exhibit B2, the policies of the General Assembly of the Presbyterian Church cited at page 90 S. 106 2. 51, it stated that the Retirement age shall be 65 years for the General Assembly Moderator. But the Reverend Professor Uka was past this age contrary to the church policy. Now there is no doubt that the General Assembly of the Church serves as the Supreme Authority of the Church but if they want to go contrary to policies they had set out before then on age of retirement, they need to amend the church policy. This they did not do before the retirement of the Rev. Professor Uka. This fact has thus been established by the Defendants.

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On Relief 3, Defendants case is that Rev. Nzie Nsi Eke emerged as the candidate for the position of Moderator of the General Assembly of the Church in compliance with the church policy.

The Plaintiff have not been able to counter this piece of evidence. So this fact is also established by the Defendants.

On Relief 4 that on success of the counter claim the Rev. Nzie Nsi Eke should assume the position of the Moderator of the General Assembly of the Presbyterian Church even if he had retired.

The Defendants led evidence to show that Rev. Nzie Nsi Eke was the only person qualified to contest to the office of the General Assembly Moderator of the Mid-East Synod as out of the 3 contestants, he was the only one with at least 25 years experience as per exhibit C and was duly elected and presented to the General Assembly Executive Committee as the General Assembly Moderator.

See Exhibit C3, Exhibit D. From Exhibit D it is clear that Rev. Nze Nsi Eke was born in 1952. He is thus 64 years old not having reached the retirement age of 65 as per the policies of

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the General Assembly of the Presbyterian Church of Nigeria thus he ought to be the Moderator of the General Assembly and since he was robbed of this tenure, that tenure should start running from when he assumes duty as a Moderator.

Relief 5 has been overtaken by events as it is in evidence that the said Rev. Nwachukwu Ndukwe Eke has since retired as the principal clerk.

Relief 6 is not in issue as this is a constitutional right as per S. ....of the 1999 Constitution.

On Relief 7 which is a declaration that all properties (real and person) within the bounds of the Mid-East Synod of the PCN were built and acquired by the worshippers and parishioner of Mid-East Synod and are the properties of the said worshippers and parishioners not the Plaintiff.

Counsel to the Plaintiffs have argued that the Defendants having left the Plaintiff religion as organization are not entitled to the property of the Plaintiff.

But in my humble view what this court is being asked to determine as per that relief is whether the properties in the Mid-East Synod of the Presbyterian Church having been built



and acquired by the parishioners and worshippers of the Mid-East Synod are not owned by the said worshippers of the Mid-East Synod of the Presbyterian Church of Nigeria. So that Plaintiff Counsel submission does not arise and all cases cited by him are inapplicable.

The question in who built there parishes, who acquired them, was it built or acquired on behalf of trustees of the Presbyterian church of Nigeria.

In their paragraph 28 to 32 of their statement of defence the defendants answered that the Plaintiffs do not have property in their synod and did not acquire any. That the real and personal property in the Mid-East Synod were acquired by the worshippers themselves.

In his evidence D.W. 1 stated that the Plaintiffs hold the property of the church as trustees for the members or congregation or synod that acquired it, that what is given to the Plaintiff is a certain % of the offertory. He also stated that it is the parishioners in the Mid East Synod that acquired the real and personal property by themselves.

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The Plaintiff did not challenge this evidence during the cross-examination of the 2 defence witnesses even though in their reply to statement of defence of the defendants paragraphs they stated that all the church buildings of their church located in the Mid-East Synod belong to the Plaintiff but no evidence was adduced in proof of this.

Defendant Counsel has submitted that a trustee holds for another and is never the owner and I agree with this his contention.

In the present case, I find that the Plaintiff is only a trustee of the property built and acquired by the worshippers of the Presbyterian Church of Nigeria within Mid-East Synod and not the owner.

Finally let me comment on the issue of non registration of Reformed Presbyterian Church of Nigeria. It is when a body is incorporated that it acquires legal personality. If not, it does not have as it is not a natural person. An artificial person is an entity created by law and given certain legal rights and duties of a being an incorporation, it then acquires the right to sue and be sued. It is only then that it can have the rights of a

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natural person. It is only then it can have the power to own properties.

In the present case, it is not dispute that the Reformed Presbyterian Church of God is not Registered with the Corporate Affairs Commission. Thus it does not have power to sue or be sued or to own property. See Blacks Law Dictionary, 8<sup>th</sup> Edition.

Counsel to the Defendants have submitted that the Cooperate Affairs Commission have no right to refuse incorporation of the said church and that this court can go ahead and declare so.

But as pointed out by Counsel to the Plaintiff, the Corporate Affairs Commission has to be a party to this suit for this counter claim to affect them.

It is trite law that a person or corporate body must be afforded fair hearing in any suit affecting them, hence the Corporate Affairs Commission must be heard by this court. Secondly it is trite law that the court makes an order against a party not sued before it.

Defendants Counsel has argued that the Corporate Affairs Commission have no right to deny their registration, but then it is left for them to appeal that decision or sue the Corporate Affairs

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Commission and it is not for the Plaintiff to join them. It is the Defendants that raised the issue that the Corporate Affairs Commission have no right to refuse their incorporation and it is for them to join them to this suit.

In the absence of the non-joinder, this court will not go into what will be an academic exercise as its decision on this suit will not bind the Corporate Affairs Commission for the reasons I have given above.

Not therefore being a body Corporate the Reformed Presbyterian Church of Nigeria do not own properties. The properties as I stated earlier remain that of the worshippers of the Presbyterian Church of God Mid East Synod. I will therefore make a declaration to that effect.

In conclusion therefore, I find that the counter claim of the Defendants succeeds and I will grant the reliefs prayed for. I therefore make the following declarations:

1. That the deprivation of the Mid-East Synod of the PCN the opportunity to produce the Moderator of the General Assembly is in breach of the policies, practices, procedures and working documents of the PCN.

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2. That the purported election of Rev. (Prof) Emele Uka as the Moderator of the General Assembly from the Synod of the East and when he is a retired a priest of the PCN is in breach of the polices, practices, procedures and the working documents of the PCN and is therefore a nullity.
3. That Rev. Nzie Nsi Eke of the Mid East Synod emerged as the candidate for the post of the Moderator of the General Assembly of the PCN in compliance with policies, practices, procedures and the working documents of the PCN and hereby declared the Moderator of the General Assembly of the PCN.
4. That the said Rev. Nzie Nsi Eke is to assume the post of the Moderator of the General Assembly and his tenure starts from date of assumption of office for a tenure of 6 years.
5. That the Defendants are entitled to worship their God under any name of their choice according in line with constitution of this country the 1999 Constitution (as Amended).
6. That all the properties (real and personal) within the bounds of the Mid-East Synod of the PCN were built and acquired by the worshippers and parishioners of the Mid-East Synod

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of PCN and are therefore the properties of the said worshippers and parishioners and not of the Plaintiff.

*M. A. Onyetenu*  
**M. A. ONYETENU**  
**JUDGE**  
**17/5/16**

All parties absent.

Uche S. Awa with S. C. Igboke for the Plaintiff.

O. Okorie for the Defendants.

*M. A. Onyetenu*