

**IN THE HIGH COURT OF THE FEDERAL  
CAPITAL TERRITORY, ABUJA  
HOLDEN AT APO, ABUJA**

**ON MONDAY, 28<sup>TH</sup> DAY OF JUNE, 2021**

**BEFORE HON. JUSTICE SYLVANUS C. ORIJI**

**SUIT NO. FCT/HC/BW/CV/29/2021**

**BETWEEN**

- 1. MOHAMMED YARI ISMAILA**
- 2. ABDULRAHEEM YUSUF AKORE**
- 3. YUSUF ABDULGANIYU KEHINDE**



**CLAIMANTS**

**AND**

- 1. ALL PROGRESSIVES CONGRESS**
- 2. MAI MALA BUNI**  
*[CHAIRMAN CARETAKER COMMITTEE AND  
EXTRA ORDINARY CONVENTION PLANNING  
COMMITTEE OF THE ALL PROGRESSIVES  
CONGRESS]*
- 3. SEN. JOHN JAMES AKPANUDOEDEHE PHD**  
*[SECRETARY CARETAKER COMMITTEE AND  
EXTRA ORDINARY CONVENTION PLANNING  
COMMITTEE OF THE ALL PROGRESSIVES  
CONGRESS]*
- 4. ABDULLAHI SAMARI ABUBAKAR**



**DEFENDANTS**

**RULING & JUDGMENT**

The claimants instituted this suit on 28/1/2021 vide Originating Summons wherein they submitted these two questions for the Court's determination:

1. Whether the letter dated 4<sup>th</sup> January 2021 signed by the 3<sup>rd</sup> defendant is valid in the light of Article 2, Article 13.3, Article 13.4, Article 13.8 of the 1<sup>st</sup> defendant's Constitution and based on the decision of the National Executive Committee of the 1<sup>st</sup> defendant at its 8<sup>th</sup> December, 2020 meeting and *a fortiori* the implementation of the said decision by the Caretaker Committee and Extraordinary Convention Planning Committee now acting in the stead of the National Working Committee of the 1<sup>st</sup> defendant wherein Caretaker Committees for the Kwara State Chapter of the 1<sup>st</sup> defendant were constituted at the State, Local Government and Ward Levels; with Mr. Bashir OmolajaBolarinwa as Caretaker Committee Chairman and all the members of the Caretaker Committees in the 1<sup>st</sup> defendant's Kwara State Chapter.
2. Whether the 3<sup>rd</sup> defendant has the capacity to appoint the 4<sup>th</sup> defendant as Chairman of the Caretaker Committee of the 1<sup>st</sup> defendant'sKwara Chapter in direct contradiction of the provisions of Article 13.3 [vi], Article 13.4 [xvi] and [xvii] of the Constitution of the All Progressive Congress, 2014 [as amended], and the Resolution/Decisions of the National Executive Committee [NEC] of 8<sup>th</sup> December, 2020, and *a fortiori* the implementation of the said decision by the Caretaker Committee and Extraordinary Convention Planning Committee now acting in the stead of the National Working Committee of the 1<sup>st</sup> defendant wherein Caretaker Committees for the Kwara State Chapter of the 1<sup>st</sup> defendant were constituted with Mr. Bashir Omolaja as

Caretaker Committee Chairman of the 1<sup>st</sup> defendant's Kwara Chapter alongside other members of the Caretaker Committee of the 1<sup>st</sup> defendant in Kwara State for another six months.

Upon the Honourable Court answering the above questions in favour of the claimants, the claimants seek the following reliefs:

1. A declaration that upon an interpretation of the provisions of Article 2, Article 9.1 [ii], Article 9.4, Article 13.3, Article 13.4, Article 13.8, Articles 13.10, 13.11, 13.13 of the 1<sup>st</sup> defendant's Constitution and based on the decision of the National Executive Committee of the 1<sup>st</sup> defendant in its 8<sup>th</sup> December, 2020 meeting and *a fortiori* the implementation of the said decision by the Caretaker Committee and Extraordinary Convention Planning Committee now acting in the stead of the National Working Committee of the 1<sup>st</sup> defendant wherein Caretaker Committees for the Kwara State Chapter of the 1<sup>st</sup> defendant were constituted at the State, Local Government and Ward Levels, Mr. Bashir Omolaja Bolarinwa and all the caretaker committee members of the 1<sup>st</sup> defendant in the Kwara State Chapter at the State, Local Government and Ward Levels are the lawful executives of the party and can perform all their lawfully assigned duties without any inhibition to perform their functions as contained in the 1<sup>st</sup> defendant's Constitution.
2. A declaration that upon the interpretation of the provisions of Article 13.3 [vi], Article 13.4 [xvi] and [xvii] of the Constitution of the All

Progressives Congress, 2014 [as amended], and in furtherance of the Resolution/Decision of the National Executive Committee [NEC] of 8<sup>th</sup> December, 2020, and *a fortiori* the implementation of the said decision by the Caretaker Committee and Extraordinary Convention Planning Committee now acting in the stead of the National Working Committee of the 1<sup>st</sup> defendant wherein Caretaker Committees for the Kwara State Chapter of the 1<sup>st</sup> defendant were constituted at the State, Local Government and Ward Levels; Mr. Bashir OmolajaBolarinwa and other members of the caretaker committee in the 1<sup>st</sup> defendant's Kwara State Chapter are the only persons authorised in law to perform all the functions of the Elected Executive Officers of the All Progressives Congress at the State, Local Government Areas and Ward levels in its Kwara State Chapter.

3. An order of this Honourable Court directing the defendants and any person[s] acting through them to allow the Bashir OmolajaBolarinwa and all the members of the Kwara State Chapter of the caretaker committees at the State, Local Government and Ward Levels to, without inhibition, perform their functions such as registration and revalidation of members, conduct of congresses and running the affairs of the 1<sup>st</sup> defendant in Kwara State; the 1<sup>st</sup> defendant through its Caretaker Committee and Extraordinary Convention Planning Committee now acting in the stead of its National Working Committee, having duly

constituted Caretaker Committees for its Kwara State Chapter at the State, Local Government and Ward Levels.

4. An order of this Honourable Court restraining the 4 defendants and any person[s] acting through them or claiming to be Chairman of the Caretaker Committee of the 1<sup>st</sup> defendant in the Kwara State Chapter or howsoever described, howsoever called from inhibiting the claimants and all the members of the Kwara State Chapter Caretaker Committees at the State, Local Government and Ward Levels from performing their functions such as registration and revalidation of members, conduct of congresses and running the affairs of the 1<sup>st</sup> defendant in Kwara State; the 1<sup>st</sup> defendant through its Caretaker Committee and Extraordinary Convention Planning Committee now acting in the stead of its National Working Committee, having duly constituted Caretaker Committees for its Kwara State Chapter at the State, Local Government and Ward Levels.
5. And for such further order or other relief[s] as this Honourable Court may deem just and expedient to take in the circumstances.

Upon being served with the originating processes, the 1<sup>st</sup>& 2<sup>nd</sup> defendants filed a motion on notice on 9/3/2021 praying the Court for: *[i] an order striking out and/or dismissing the Originating Summons dated 28<sup>th</sup> January, 2021 for lack of jurisdiction; and [ii] such further or other orders as this Honourable Court may deem fit to make in the circumstances.*

The grounds for bringing the application of the 1<sup>st</sup>& 2<sup>nd</sup> defendants are:

1. The action cannot be brought by Originating Summons.
2. The claimants lack *locus standi* to bring this action.
3. The claimants failed to exhaust internal remedies afforded by the 1<sup>st</sup> defendant's Constitution.
4. The nature of the dispute leading to this action borders on internal dispute with the Constitution of the 1<sup>st</sup> defendant.
5. No sufficient material was placed before the Court.
6. The claimants' action did not disclose any reasonable cause of action.
7. The action amounts to forum shopping.

On 10/3/2021, 4<sup>th</sup> defendant filed a notice of preliminary objection by which it challenged the competence of this suit and urged the Court to strike out and/or dismiss same for being incompetent. The grounds upon which the application is predicated are:

- i. The claimants instituted this suit on the 28<sup>th</sup> January, 2021 vide Originating Summons.
- ii. The grouse of the claimants against the defendants relates to the validity of the suspension/removal of "*Hon. Bashir OmolajaBolarinwa*" [a non-party], and the appointment of the 4<sup>th</sup> defendant as the Chairman, Caretaker Committee of the 1<sup>st</sup> defendant in Kwara State.

- iii. None of the claimants claim to be the Chairman of Kwara State Caretaker Committee who was removed/suspended by the Caretaker/Extraordinary Convention Planning Committee of the 1<sup>st</sup> defendant.
- iv. None of the claimants also claimed that he was removed/suspended by the Caretaker/Extraordinary Convention Planning Committee of the 1<sup>st</sup> defendant as members of the Kwara State caretaker committee of the 1<sup>st</sup> defendant in their respective Local Government Areas.
- v. None of the claimants is affected by the removal of Hon. Bashir OmolajaBolarinwa as the Chairman [the 1<sup>st</sup> defendant], Caretaker Committee of Kwara State.
- vi. The claimants failed to state the injury/loss suffered by them by reason of the removal of Hon. Bashir OmolajaBolarinwa as the Chairman [1<sup>st</sup> defendant], Caretaker Committee of Kwara State.
- vii. The claimants on record lack the *locus standi* to institute the instant action as presently constituted.
- viii. The subject matter of the instant claimants' suit is connected with, related to and/or arises from the internal affairs of a political party which is non-justiciable.
- ix. The conditions precedent to the exercise of jurisdiction of this Honourable Court have not been met by the claimants as they did not exhaust the internal remedy before making recourse to a court action.

- x. The claimants' Originating Summons filed on 28<sup>th</sup> day of January, 2021 discloses no reasonable cause of action against the defendants as same is speculative, moot, academic and of no utilitarian value.
- xi. The Honourable High Court of the Federal Capital Territory lacks the territorial jurisdiction to entertain the subject matter of claimants' suit.
- xii. The instant suit as presently constituted is an abuse of the process of this Honourable Court.
- xiii. This Honourable Court lacks the requisite jurisdiction to hear and determine the instant suit as presently constituted.

By Order of the Court, the 1<sup>st</sup>& 2<sup>nd</sup> defendants' motion on notice, the 4<sup>th</sup> defendant's preliminary objection and the claimants' Originating Summons were heard together on 29/3/2021. The grounds of the 1<sup>st</sup>& 2<sup>nd</sup> defendants' motion are similar to the grounds of the 4<sup>th</sup> defendant's preliminary objection. Thus, the Court will first deliver a Composite Ruling on both applications. If the applications succeed, the suit will be struck out. If the applications fail, the Court will proceed to deliver judgment in the Originating Summons.

**RULING ON THE 1<sup>ST</sup> & 2<sup>ND</sup> DEFENDANTS' MOTION ON  
NOTICE FILED ON 9/3/2021 AND THE 4<sup>TH</sup> DEFENDANT'S  
PRELIMINARY OBJECTION FILED ON 10/3/2021**

The 1<sup>st</sup>& 2<sup>nd</sup> defendants' motion on notice is supported by the 9-paragraph affidavit of Nnamdi Akuneto, a legal practitioner in the Chambers of

AfolabiFashanu & Co.; attached therewith is Exhibit A. Chief AfolabiFashanu, SAN filed a written address in support of the motion. AbdulfataiOyedeleEsq. filed a written address in support of the 4<sup>th</sup> defendant's preliminary objection. On 16/3/2021, Abdul Mohammed, SAN filed the claimants' joint reply to the 1<sup>st</sup>, 2<sup>nd</sup> & 4<sup>th</sup> defendants' applications. On 26/3/2021, P. A. AbahEsq. filed the 1<sup>st</sup> & 2<sup>nd</sup> defendants' reply on points of law.

From the grounds of the 1<sup>st</sup> & 2<sup>nd</sup> defendants' motion on notice, the grounds of the 4<sup>th</sup> defendant's preliminary objection and the arguments on both sides of the divide, the Court is of the considered opinion that there are five issues for determination. These are:

1. Whether this Court has territorial jurisdiction to entertain this suit.
2. Is the subject matter of this suit non-justiciable?
3. Whether the Constitution of the 1<sup>st</sup> defendant provides for internal mechanism for resolution of complaints and/or disputes; and if the answer is in the affirmative, whether the claimants can maintain this action without first exploring and exhausting the internal dispute resolution mechanism.
4. Whether the claimants have *locus standi* to institute this action.
5. Whether the claimants' suit has disclosed a reasonable cause of action against the defendants?

These issues for determination arising from the grounds of the applications question or challenge the Court's jurisdiction to entertain the claimants' suit. It is trite law that in determining whether a court has jurisdiction to entertain a suit initiated by writ of summons, the only processes to be look at or considered are the writ of summons and the statement of claim. Where the action is commenced by originating summons, as in the instant case, the processes to be looked at or considered are the originating summons and the affidavit in support. In other words, it is the case presented to the court by the claimant that determines the jurisdiction of the court to adjudicate in the matter. See the cases of Inakoju v. Adeleke [2007] 4 NWLR [Pt. 1025] 423 and Mohammed v. Babalola, S.A.N. [2011] LPELR-8973 [CA].

Against this backdrop, it is necessary to refer to the facts relied upon by the claimants in support of the Originating Summons before dealing with the issues for determination. In the 27-paragraph affidavit of Mohammed Yari Ismaila [the 1<sup>st</sup> claimant], he stated that:

1. He is a card-carrying member of the 1<sup>st</sup> defendant. He is a member of Kwara State Caretaker Committee of the 1<sup>st</sup> defendant duly constituted on 8/12/2020.
2. 2<sup>nd</sup> claimant is a member of the 1<sup>st</sup> defendant's Caretaker Committee in Ile Akore/Budo-Egba Asa Local Government of Kwara State while the 3<sup>rd</sup> claimant is a member of the 1<sup>st</sup> defendant's Caretaker Committee in Ojumo Doyin Compound, Offa.

3. The 1<sup>st</sup> defendant is a registered political party; the Constitution of the 1<sup>st</sup> defendant is Exhibit 1. The 2<sup>nd</sup> & 3<sup>rd</sup> defendants are respectively the Chairman and Secretary of the Caretaker Committee and Extraordinary Convention Planning Committee of the 1<sup>st</sup> defendant. The 4<sup>th</sup> defendant is a member of the Caretaker Committee of the 1<sup>st</sup> defendant in Kwara State.
4. The National Executive Committee of the 1<sup>st</sup> defendant in a meeting held on 25/6/2020 passed a resolution dissolving the National Working Committee and appointed a 13-member Caretaker Committee and Extraordinary Convention Planning Committee with the mandate to conduct the National Convention of the 1<sup>st</sup> defendant, among others.
5. The Caretaker Committee and Extraordinary Convention Planning Committee effectively became the National Working Committee of the 1<sup>st</sup> defendant.
6. On 8/12/2020, the National Executive Committee convened another meeting to extend the tenure of the Caretaker Committee and Extraordinary Convention Planning Committee of the 1<sup>st</sup> defendant, which was to expire on 25/12/2020. At that meeting, the National Executive Committee also resolved to dissolve all existing State structures in the 1<sup>st</sup> defendant.
7. Thereafter, the Caretaker Committee and Extraordinary Convention Planning Committee, now acting in the stead of the National Working

Committee of the 1<sup>st</sup> defendant, constituted caretaker committees for all the State Chapters of the 1<sup>st</sup> defendant as well as caretaker committees for Local Government and Ward levels.

8. In respect of its Kwara State Chapter, a 68-member State Caretaker Committee was constituted with Mr. Bashir Omolaja Bolarinwa as its Chairman. On 11/12/2020, the Caretaker Committee was inaugurated with oath of office and oath of allegiance administered to the members. The oath of office and the oath of allegiance administered on Mr. Bashir Omolaja Bolarinwa and the other members of the Caretaker Committee of the 1<sup>st</sup> defendant's Kwara State Chapter are Exhibits B & B1.
9. On 4/1/2021, the 3<sup>rd</sup> defendant allegedly wrote a letter [Exhibit 2] to the 4<sup>th</sup> defendant and informed him that the National Executive Committee of the 1<sup>st</sup> defendant had passed a resolution appointing him as the Chairman Caretaker Committee of the 1<sup>st</sup> defendant in Kwara State following what he termed as allegations of anti-party activities levelled against Mr. Bashir Omolaja Bolarinwa.
10. The 3<sup>rd</sup> defendant does not have the power to override, negate or set aside the decision of the National Executive Committee which extended the tenure of the Caretaker Committee of the 1<sup>st</sup> defendant in Kwara State with Bashir Omolaja Bolarinwa as the Caretaker Chairman.
11. The 3<sup>rd</sup> defendant cannot through the purported letter of 4/1/2021 appoint the 4<sup>th</sup> defendant as the Chairman of the Caretaker Committee

of the 1<sup>st</sup> defendant in Kwara State in the light of the decision of the National Executive Committee of 8/12/2020 and the implementation of the said decision by the Caretaker Committee and Extraordinary Convention Planning Committee now acting in the stead of the National Working Committee of the 1<sup>st</sup> defendant wherein Caretaker Committees for the Kwara State Chapter of the 1<sup>st</sup> defendant were constituted at the State, Local Government and Ward levels with Mr. Bashir Omolaja Bolarinwa as the Chairman.

12. In the light of the above facts, the rights of the Caretaker Committees set up at the various levels of the State, Local Government and Wards, stand the risk of being violated.

Having set out the facts in support of the Originating Summons, the Court will now resolve the issues for determination one after the other.

### **ISSUE 1**

*Whether this Court has territorial jurisdiction to entertain this suit.*

The learned senior counsel for the 1<sup>st</sup> & 2<sup>nd</sup> defendants argued that the cause of action that led to this suit relates to, or is concerned with, the Kwara State Executive of the 1<sup>st</sup> defendant. Even though the 1<sup>st</sup> defendant is in Abuja, the two other defendants are resident in Ilorin, Kwara State. The claimants would have filed the action in Ilorin, Kwara State. By section 257[1] of the 1999 Constitution [as amended], the jurisdiction of the High Court of the Federal

Capital Territory [FCT] is conferred on matters that arose within the FCT and does not extend to matters that arose from other States. He referred to the case of **Sanitary Company Ltd. &Anor. v. Bank of the North Ltd. [2004] LPELR-7422 [CA]**.The claimants deliberately avoided Kwara State where the cause of action arose and filed the action in this Court simply for forum convenience otherwise known as forum shopping.

Chief AfolabiFashanu, Senior Advocate of Nigeria,referred to **Mailatarki v. Tongo&Ors. [2017] LPELR-42467 [SC]** where the plaintiff/appellant filed the suit in the High Court of FCT instead of the High Court of Gombe State, where the cause of action arose. The Supreme Court referred to this as “*forum shopping*” which it described as “*a reprehensible practice of choosing the most favourable territorial jurisdiction or court in which a matter or cause may be entertained and adjudicated upon.*”He submitted that the claimants’ action amounts to forum shopping and therefore is an abuse of court process. In the 1<sup>st</sup>& 2<sup>nd</sup> defendants’ reply on points of law, P. A. AbahEsq. stressed that the cause of action arose in Kwara State since the letter dated 4/1/2021 relates to the office of Kwara State Chairman Caretaker Committee of the 1<sup>st</sup> defendant.

Similarly, learned counsel for the 4<sup>th</sup> defendant submitted that the subject matter of this suit is outside the territorial jurisdiction of this Court. The subject matter of the claimants’ case is about the office of the Chairman, Caretaker Committee Kwara State and arose from Kwara State, outside the jurisdiction of this Court. All the claimants and the 4<sup>th</sup> defendant are in

Kwara State. All through the claimants' case, Kwara State "*resonates endlessly.*" He relied on Dalhatu v. Turaki [2003] 15 NWLR [Pt. 843] 310, Mailantarki v. Tongo & Ors. [supra] and Audu v. A.P.C. [2019] 17 NWLR [Pt. 1702] 379 to support the principle that the High Court of FCT lacks jurisdiction over matters that occur outside the FCT.

Abdulfatai Oyedele Esq. further argued that the 1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> defendants have a State office in Kwara State where they carry on their businesses and can be properly sued in the High Court of Kwara State for forum convenience. It is not for the claimants to travel to Abuja to institute a suit in a manner that suggests "*forum shopping*". He urged the Court to hold that it lacks territorial jurisdiction to entertain this suit.

For his part, Abdul Mohammed, SAN argued that the act of appointment of the 4<sup>th</sup> defendant arose from the Headquarters of the 1<sup>st</sup> defendant in Abuja within the jurisdiction of this Court. The 1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> defendants are resident in Abuja; and it is their conduct that is being challenged in this suit. It is the letter of the 3<sup>rd</sup> defendant that is the cause of this dispute. The learned senior counsel for the claimants referred to Lau v. PDP & Ors. [2017] LPELR-42800 [SC] and other cases to support his submission that the High Court of FCT has jurisdiction where it is shown that the cause of action arose in FCT.

It is correct that the claimants' cause of complaint that led to this suit relates to, or is concerned with, Kwara State Executive of the 1<sup>st</sup> defendant. However,

as the learned senior counsel for the claimants rightly stated, the complaint of the claimants that led to this suit is the appointment of the 4<sup>th</sup> defendant as the Chairman of the Caretaker Committee of the 1<sup>st</sup> defendant in Kwara State vide the letter dated 4/1/2021 in place of Bashir OmolajaBolarinwa.

The letter dated 4/1/2021 was signed by the 3<sup>rd</sup> defendant as the National Secretary of the Caretaker/Extraordinary Convention Planning Committee. By the letter, the 3<sup>rd</sup> defendant was directed by the National Chairman of the Caretaker/Extraordinary Convention Planning Committee to write to the 4<sup>th</sup> defendant. The Caretaker/Extraordinary Convention Planning Committee of the 1<sup>st</sup> defendant, which is acting in place of the National Working Committee of the 1<sup>st</sup> defendant by the resolution of its National Executive Committee on 25/6/2020, is in the FCT. The first paragraph of the letter dated 4/1/2021 reads: *“Compliments from the National Secretariat of our great party.”* It is clear to me that claimants’ cause of complaint did not occur in Kwara State but in FCT.

I am mindful of the admonition or advice of *His Lordship, Michael Ekundayo Ogundare, JSC* in **Dalhatu v. Turaki [supra] @ 339-340, H-A** as follows:

*“I think their Lordships of the High Court of the Federal Capital Territory ought to be circumspect before deciding whether or not it is wise and correct to exercise jurisdiction in matters outside the territory of the Federal Capital Territory. Their court, unlike the Federal High Court has jurisdiction only in matters arising out of the Federal Capital Territory, Abuja.”*

The admonition was reiterated in Mailatarki v. Tongo&Ors. [supra]; [2018] 6 NWLR [Pt. 1614] 69. In the instant case, the claimants' cause of complaint, which gave rise to this suit, occurred in the 1<sup>st</sup> defendant's Headquarters in the FCT. Where it is clear that a claimant's cause of complaint or cause of action occurred or arose in the FCT, this Court will not shy away from, or shirk its responsibility of, exercising its jurisdiction conferred under section 257[1] of the 1999 Constitution [as amended]. My decision is that this Court has territorial jurisdiction to entertain this suit. This issue is resolved against the 1<sup>st</sup>, 2<sup>nd</sup> & 4<sup>th</sup> defendants.

## **ISSUE 2**

### *Is the subject matter of this suit non-justiciable?*

The argument of Chief AfolabiFashanu, SAN, learned senior counsel for the 1<sup>st</sup> & 2<sup>nd</sup> defendants, on this issue is that the subject matter which led to this suit revolved around the decision taken by the 1<sup>st</sup> defendant on Hon. Bashir OmolajaBolarinwa and subsequent appointment of 4<sup>th</sup> defendant by letter dated 4/1/2021. The action deals purely with the internal or domestic affairs of the 1<sup>st</sup> defendant, which is an intra-party dispute as defined in the case of PDP v. KSIEC [2006] 3 NWLR [Pt. 968] 565. It was submitted that the courts lack jurisdiction to entertain matters which are purely within the domestic domain of a political party. He referred to several cases in support of his submission including Onuoha v. Okafor[1983] 2 SCNLR 244 and Dalhatu v. Turaki [supra].

Learned senior counsel for the 1<sup>st</sup>& 2<sup>nd</sup> defendants further argued that the issue in this case relates to, or concerns, the leadership of the office of State Chairman of the 1<sup>st</sup> defendant in Kwara State between Hon. Bashir OmolajaBolarinwa and the 4<sup>th</sup> defendant. He cited the case of **APC v. Dele Moses &Ors. [Unreported]; Suit No. SC/CV/29/2021 delivered on 5/3/2021** to support the submission that the courts lack jurisdiction to entertain leadership issues in a political party.

AbdulfataiOyedeleEsq., learned counsel for the 4<sup>th</sup> defendant, posited that issues relating to leadership or membership of a political party are domestic or internal affairs of the political party. Such matters are solely within the party's jurisdiction and a "no go area" for the courts as they lack jurisdiction to delve into the internal affairs of political parties. The issue in this case is the 1<sup>st</sup> defendant's decision to remove Bashir OmolajaBolarinwa as the Chairman of its Kwara State Caretaker Committee and the appointment of 4<sup>th</sup> defendant as Chairman. The claimants' action relates to the leadership of 1<sup>st</sup> defendant, which is a domestic or internal affair of the party and is not justiciable. He referred to **Onuoha v. Okafor [supra], Ufomba v. INEC [2017] 13 NWLR [Pt. 1582] 175** and **Mbanefo v. Molokwu [2014] 6 NWLR [Pt. 1403] 377.**

Abdul Mohammed, SAN, learned senior counsel for the claimants, conceded that the courts will not ordinarily interfere with the day to day running of the affairs of a political party or the nomination of candidates for elections. He however submitted that courts will not shy away from the responsibility

of ensuring that political parties comply with the law and rules which guide the party. Learned senior counsel emphasized that this suit is for the Court to *“determine whether the actions of the Defendants in the appointment of the 4<sup>th</sup> Defendant as the Caretaker Chairman of the 1<sup>st</sup> Defendant in Kwara State is within the provisions of the Constitution of the 1<sup>st</sup> Defendant.”* He relied on the decision in **Mbanefo v. Molokwu [supra]** to the effect that the court will not interfere unless the association violated its own constitutional provisions. He also referred In **Uzodinma v. Izunaso [2011] 17 NWLR [Pt. 1275] 30.**

The law is well established in a long line of cases that intra-party governance, intra-party disputes and affairs are entirely within the province, domain or jurisdiction of the political party. Such internal affairs of political parties are not within the competence or jurisdiction of the courts to adjudicate. See the case of **Onuoha v. Okafor [supra]**. However, as rightly argued by Mr. Abdul Mohammed, Senior Advocate of Nigeria, the position of the law is that a political party must obey its constitution; and the courts will not allow a political party to act arbitrarily. See **Uzodinma v. Izunaso [supra]**.

The courts have held that where a claimant alleges in his suit that the action or decision of a political party violated its constitution, the courts will have jurisdiction to interfere. In **Mr. Peres Peretu & Ors. v. Chief Koko Gariga & Ors. [2013] 5 NWLR [Pt. 1348] 415,** the Supreme Court held that the courts are not precluded from determining any question as to whether the act of the political party is in consonance with its constitution. Also in **APC v. Dele**

**Moses &Ors. [supra]**, His Lordship, Amina Adamu Augie, JSC in the Leading Judgment adopted the decision of His Lordship, Bode Rhodes-Vivour, JSC in the case of **Agi v. Agu [2017] 17 NWLR [Pt. 1595] 386** thus:

*“A party is like a club, a voluntary association. It has its rules, regulations, guidelines and Constitution. Members join ... of their own free will. By joining, they have freely given their consent to be bound by [its] rules, regulations, guidelines and Constitution. These rules ... must be obeyed by all members and the Party, as the Party’s decision is final over its own affairs. Members of a Party would do well to understand and appreciate the finality of the Party’s decision over its domestic or internal affairs. The Court would only interfere where the Party has violated its own rules.” [Underlining is mine for emphasis].*

I hold the considered opinion that the issue in the instant suit is whether or not the appointment of the 4<sup>th</sup> defendant as the 1<sup>st</sup> defendant’s Caretaker Committee Chairman in Kwara State as conveyed in the letter dated 4/1/2021 signed by the 3<sup>rd</sup> defendant is within the provisions of the Articles of the 1<sup>st</sup> defendant’s Constitution which are set out in the questions for determination in the Originating Summons. I hold the respectful view that the said issue comes within the purview of the issues or matters where the courts have jurisdiction to adjudicate and interfere in appropriate cases. See **APC v. Dele Moses &Ors. [supra]**. The decision of the Court is that the subject matter of this suit is justiciable.

### ISSUE 3

*Whether the Constitution of the 1<sup>st</sup> defendant provides for internal mechanism for resolution of complaints and/or disputes; and if the answer is in the affirmative, whether the claimants can maintain this action without first exploring and exhausting the internal dispute resolution mechanism.*

Learned senior counsel for the 1<sup>st</sup>& 2<sup>nd</sup> defendants stated that the claimants as members of the 1<sup>st</sup> defendant are bound by its Constitution, which makes provision for settling disputes at all levels. Any member who is dissatisfied with any decision must follow the internal mechanism for settling complaints in the 1<sup>st</sup> defendant's Constitution. He submitted that failure of the claimants to comply with the said provision, which is a condition precedent to the institution of an action, renders the action incompetent. In support of the submission, he cited Eguamwense v. Amaghizemwen [1993] 9 NWLR [Pt. 315] 25, Bamisele v. Osasuyi [2007] 9 NWLR [Pt. 1042] and other cases.

The viewpoint of learned counsel for the 4<sup>th</sup> defendant is that by the affidavit in support of the Originating Summons, the claimants failed to show that they [or Bashir OmolajaBolarinwa] have explored and exhausted the internal remedy in the 1<sup>st</sup> defendant Constitution as required by law. Therefore, the claimants' suit "*violates the doctrine of Exhaustion, thereby making same to be premature and impotent for the activation of the jurisdiction of this Honourable Court to entertain same.*" The wisdom behind the doctrine of Exhaustion is,

*inter alia*, to prune down the number of disputes that eventually find their way into courts. He relied on the cases of A.G., Kwara State v. Adeyemo [2017] 1 NWLR [Pt. 1546] 210, Bukoye v. Adeyemo [2017] 1 NWLR [Pt. 1546] 173 and Ogologo v. Uche [2005] 14 NWLR [Pt. 945] 226.

Mr. Abdulfatai Oyedele stated that the 1<sup>st</sup> defendant has created an avenue under Article 21C of its Constitution for a person who is dissatisfied by any action or inaction of any body of 1<sup>st</sup> defendant to ventilate his dissatisfaction by approaching the appeal committee of 1<sup>st</sup> defendant. Articles 21A & 21D[h] & [v] of the 1<sup>st</sup> defendant's Constitution make it an offence for failure of an aggrieved member to ventilate his dissatisfaction by first approaching the appeal committee before filing an action in a court. Thus, same becomes a condition precedent for the institution of the instant case, failure of which robs the Court of its jurisdiction. He referred to the case of Nigeriacare Development Co. Ltd. v. Adamawa State Water Board & Ors. [2008] 9 NWLR [Pt. 1093] 498. He concluded that the claimants' suit is premature and liable to be struck out.

On the other hand, learned senior counsel for the claimants argued that there is no provision in the 1<sup>st</sup> defendant's Constitution for the internal remedies to be exhausted by the claimants before seeking redress in court where the grievance is the non-compliance with the provisions of the Constitution. Mr. Abdul Mohammed, SAN, posited that Article 21C of the Constitution of the 1<sup>st</sup> defendant has to do with "*an appeal by an aggrieved party who has been punished*

*by the appropriate committee and which therefore stipulated the appropriate procedure to follow for the purpose of appealing such punishment as provided in Article 21 [C] of the Constitution of the 1<sup>st</sup> Defendant.*” He concluded that the said provision does not refer to the internal remedies to be satisfied before seeking redress in court. Thus, the contention that internal dispute resolution mechanism was not explored *“becomes frivolous and a moot point.”*

In the 1<sup>st</sup>& 2<sup>nd</sup> defendants’ reply on points of law, Mr. P. A. Abah argued that Article 21B of the 1<sup>st</sup> defendant’s Constitution provides for procedure for complaints and allegations by aggrieved members of the Party. The case of the claimants comes under complaints within the ambit of the provisions of the said Article 21B. He emphasized that the provisions regarding internal remedy are not restricted to punishment but apply to any action or decision taken by the relevant organ of the Party.

I have read Article 21A of the 1<sup>st</sup> defendant’s Constitution, which provides for offences against the Party. Article 21A[x] thereof reads:

*“x. Filing an action in a Court of Law against the Party or any of its Officers on any matters relating to the discharge of the duties of the Party without first exhausting all avenues for redress provided for in this Constitution.”*

Article 21B[i] of the 1<sup>st</sup> defendant’s Constitution provides that: *“The Procedure for the hearing of and determination of complaints or allegations are as follows:*

*[i] A complaint by any member of the Party against a Public Office holder, elected or appointed, or another member or against a Party organ or officer of the Party shall be submitted to the Executive Committee of that Party at all levels concerned which shall NOT LATER THAN 7 days of the receipt of the complaint, appoint a fact-finding or Disciplinary Committee to examine the matter."*

Article 21D[v] provides that:

*"Any member who files an action in court of law against the Party or any of its officers on any matter or matters relating to the discharge of the duties of the Party without first exhausting the avenues for redress provided for in this Constitution shall automatically stand expelled from the Party on filing such action and no appeal against expulsion as stipulated in this Clause shall be entertained until the withdrawal of the action from Court by the Member."*

The claimants' complaint that gave rise to this litigation is the action of the Caretaker/Extraordinary Convention Planning Committee, which acts in place of the National Working Committee of the 1<sup>st</sup> defendant. By Article 11 of the 1<sup>st</sup> defendant's Constitution [which provides for Organs of the Party], the Executive Committee at the national level is the National Executive Committee.

My considered opinion is that since the claimants had a complaint about the appointment of 4<sup>th</sup> defendant as the Chairman of the Caretaker Committee in

Kwara State by the Caretaker/Extraordinary Convention Planning Committee in place of Bashir OmolajaBolarinwa, they had a duty under Article 21B[i] of the Constitution of their Party to submit their complaint to the National Executive Committee before instituting this action. Failure to comply with this provision before filing a suit is an offence against the Party by virtue of Article 21A[x] of its Constitution.

In the light of the provisions set out above, I reject the submission of learned senior counsel for the claimants that the 1<sup>st</sup> defendant's Constitution did not make provision for internal remedies to be exhausted by the claimants before seeking redress in court. Therefore, I resolve the first part of Issue No. 3 in the affirmative and hold that the Constitution of the 1<sup>st</sup> defendant provides for internal mechanism for resolution of complaints and disputes such as the claimants' complaint against the action of the 1<sup>st</sup> defendant's Caretaker/Extraordinary Convention Planning Committee.

The second part of Issue No. 3 is whether the claimants can maintain this action without first exploring and exhausting the internal dispute resolution mechanism. Put differently, whether the claimants' failure to first exhaust the internal dispute resolution mechanism in their Party's Constitution affects the competence of this suit and the jurisdiction of the Court to entertain same.

The position of the law is that where administrative remedies are statutorily provided for determination of an issue, an aggrieved party must exhaust all

the remedies available to him before going to court. See the cases of Adesola v. Abidoye [1999] 1 NWLR [Pt. 637] 28, Bamisele v. Osasuyi [supra] and Eguamwense v. Amaghizemwen [supra].

I am mindful of the fact that in the above cases, the internal remedies were stipulated by various statutes. For example, in Adesola v. Abidoye [supra], the internal remedy was provided in section 22 of the Chiefs Law of Oyo State of 1978. There is no doubt that the 1<sup>st</sup> defendant's Constitution is not a statute. Be that as it may, my respectful view is that the principle enunciated in the above cases is applicable to the internal remedies stipulated in the 1<sup>st</sup> defendant's Constitution because it is trite that the claimants are bound to obey the Constitution of their Party. See Agi v. Agu [supra]. Moreover, the 1<sup>st</sup> defendant's Constitution - like the constitution of every registered political party in Nigeria - is recognised by section 222[c] of the 1999 Constitution [as amended].

There is nothing in the claimants' affidavit in support of the Originating Summons to suggest that they explored or exhausted the internal remedies in the Constitution of their Party before instituting this action. I also resolve the second part of Issue No. 3 against the claimants and hold that their failure to first exhaust the internal dispute resolution mechanism stipulated in the 1<sup>st</sup> defendant's Constitution before approaching the Court renders the suit premature and incompetent. The effect is that the Court lacks jurisdiction to entertain the suit.

## ISSUE 4

*Whether the claimants have locus standi to institute this action.*

The submission of learned senior counsel for the 1<sup>st</sup>& 2<sup>nd</sup> defendants is that before a person can institute an action, he must have sufficient personal interest; and where he does not disclose such personal legal interest on how the action has affected him, he cannot be entitled to any redress. He referred to Bewaji v. Obasanjo [2008] 9 NWLR [Pt. 1093] 540 and Adesokan v. Adegorolu [1991] 3 NWLR [Pt. 179] 295. Where, as in this case, the claimants have not shown that the action of the 1<sup>st</sup> defendant has adversely affected their personal interests recognized in law, they would have no legal capacity or *locus standi* to sue.

Chief AfolabiFashanu, SAN further argued that the claimants' deposition that the decision to remove or suspend Bashir OmolajaBolarinwa may be extended to members of the caretaker committees at all levels is nothing than speculation. It was submitted that the claimants have merely come to Court for the protection of the Constitution of the 1<sup>st</sup> defendant rather than show how the removal of Bashir OmolajaBolarinwa and subsequent appointment of the 4<sup>th</sup> defendant affected them as members of the 1<sup>st</sup> defendant. Learned senior counsel relied on the case of Thomas v. Olufosoye [1986] 17 NSCC Vol. 17, 323 and submitted that the claimants are "*no more than busybodies who cry more than the bereaved.*" He urged the Court to strike out the suit as the claimants lack *locus standi* to bring the action.

Abdulfatai Oyedele Esq. argued the issue of the claimants' *locus standi* to institute this action from pages 10-22 of his written address. He referred to section 6[6][b] of the 1999 Constitution [as amended] which provides:

[6] *The judicial powers vested in accordance with the foregoing provisions of this section -*

[b] *shall extend to all matters between persons, or between government or authority and to any person in Nigeria and to all actions and proceedings relating thereto, for the determination of any question as to the civil rights and obligations of that person.*

Learned counsel for the 4<sup>th</sup> defendant relied on **Chief Merubami Akinnubi & Ors. v. Grace Olanike Akinnubi [Mrs.] & Ors. [1997] 1 SCNJ 217** to support the submission that under the said section 6[6][b], the courts are to entertain suits at the instance of any person only where the question to be determined relates to the civil rights and obligations of the party suing. The section has been interpreted to mean that before a person can bring a suit in respect of any subject matter, he must show that he has a legal right or special interest in that subject matter. The case of **Adesanya v. President of the Federal Republic of Nigeria [1951] All NLR 1** was also cited in support.

Mr. Oyedele referred to the affidavit in support of the Originating Summons and submitted that the claimants have not shown their *locus standi* to institute

the suit as the subject matter of the suit is the removal or suspension of Bashir Omolaja Bolarinwaas Chairman of the 1<sup>st</sup> defendant's Caretaker Committee in Kwara State and the appointment of his Vice Chairman [the 4<sup>th</sup> defendant] as the Chairman. There is nothing to show that the claimants' positions in the 1<sup>st</sup> defendant were affected or that their civil rights and obligations or interests have been violated or stand the risk of being violated by the action or inaction of the defendants. It was submitted that the claimants "*are nothing but a busybody, meddling interlopers and hired mourners whose role is to cry more than the bereaved. The law clearly forbids such kind of act.*"

The further submission on behalf of the 4<sup>th</sup> defendant is that claimants have not shown that they have any right over and above that of other members of the 1<sup>st</sup> defendant in Kwara State. The fact that the claimants are members of the Caretaker Committee of the 1<sup>st</sup> defendant at the Local Government levels in Kwara State does not confer on them any special status or special interest or *locus standi* to institute this action. The mere fact that the claimants stated in their affidavit that their rights stand the risk of being violated without any allegation of infraction of their civil rights and obligations poses no question to be settled between them and the defendants before this Court.

On the other hand, Mr. Abdul Mohammed, SAN argued that where the complaint is a breach of the provisions of the Constitution, *locus* is available to any party who shows interest in the matter. By section 6[6][b] of the 1999 Constitution [as amended], individuals are conferred with the right to sue

institutions and authorities so long as they show interest in the matter. He relied on the dictum of *His Lordship, Hon. Justice AtandaFatayi-Williams, CJN* in **Adesanya v. President of the Federal Republic of Nigeria [supra] @ 376** in respect of the provision of section 6[6][b] of the 1979 Constitution thus:

*“To my mind, it should be possible for any person who is convinced that there is an infraction of the provisions of Sections 1 and 4 of the Constitution ... to be able to go to court and ask for the appropriate declaration and consequential relief if relief is required. In my view any person, whether he is a citizen of Nigeria or not, who is resident in Nigeria or who is subject to the laws in force in Nigeria, has an obligation to see to it that he is governed by a law which is consistent with the provisions of the Nigerian Constitution. Indeed, it is his civil right to see that it is so.”*

The claimants’ senior counsel also stated that in the case of **Fawehinmi v. Akilu [1987] 4 NWLR [Pt. 67] 797**, the Supreme Court upheld the above view when it found that Chief GaniFawehinmi had the *locus* to initiate private criminal prosecution against the perceived murderers of Dele Giwa. He also referred to the views of *His Lordship, Pats Acholonu, JCA [as he then was]* in **Shell Petroleum Development. v. Nwawka [2001] 10 NWLR [Pt. 720] 64** that *“locus could be extended where there is a public course to be achieved by the initiation of a suit”*. It was submitted that the position of the law today is that courts have moved away from the strict interpretation of *locus standi* which places

emphasis on the need for the claimants to be personally affected by the acts complained of or to have suffered some injury due to such alleged acts.

Learned SAN for the claimants submitted that based on the depositions in the affidavit in support of the Originating Summons, claimants have established that *“their interest as card carrying members of the 1<sup>st</sup> Defendant/Respondent is to protect against any violation of the provisions of the Constitution of the 1<sup>st</sup> Defendant/Respondent. Thus, ... the purported appointment of 4<sup>th</sup> Defendant as the Chairman Caretaker Committee of the 1<sup>st</sup> defendant in Kwara State is a gross violation of the Constitution of the 1<sup>st</sup> Defendant and thereby represents an affront to their interest which is to protect the sanctity of the Constitution of the 1<sup>st</sup> defendant. ... The Claimants have placed sufficient materials before this Honourable Court to show their interest in ensuring that the Constitution of the 1<sup>st</sup> defendant is strictly adhered to in the running of the affairs of the party at all levels.”*

Abdul Mohammed, Senior Advocate of Nigeria, further contended that the membership of the claimants of the 1<sup>st</sup> defendant and the fact that they are members of the Caretaker Committees in Kwara State *“confer on them interest by way of rights, duties and obligations with respect to the day to day running of the 1<sup>st</sup> Defendant Caretaker Committee in Kwara State. This position ... placed on them onerous duty to preserve, protect and defend the Constitution and other related matters of the 1<sup>st</sup> Defendant Caretaker Committee in Kwara State.”* He also referred to paragraph 24 of the claimants’ affidavit to support the contention that they

have “*established sufficient interests capable of clothing them with locus standi to bring this action*”. He further cited the cases of **Yesufu v. Governor, Edo State [2001] 3 NWLR [Pt. 731] 517** and **Chidi B. Nworika v. Ann Ononze-Madu & Ors. [2019] LPELR-46521 [SC]** in support of his submissions.

Now, in **Pam v. Mohammed [2008] 16 NWLR [Pt. 1112] 1**, it was held that the term *locus standi* denotes legal capacity to institute proceedings in a court of law. It is used interchangeably with terms like standing or title to sue.

In the light of the detailed arguments canvassed by Abdul Mohammed, SAN on this issue, it is necessary to refer to the case of **Adesanya v. President of the Federal Republic of Nigeria [supra]** and other cases. In **Adesanya’s case**, the plaintiff/appellant, a Senator, filed a suit to challenge the appointment of Justice Ovie-Whisky as Chairman of the Federal Electoral Commission by the President. The appointment was confirmed by the Senate. In the confirmation process, the appellant objected to the appointment saying that it violated certain provisions of the Constitution. The issue of the appellant’s *locus standi* to institute the suit was raised *suomotu* by the Federal Court of Appeal and arguments were canvassed by the parties. The Federal Court of Appeal held that the appellant had no *locus standi* to institute the action.

The appellant appealed to the Supreme Court. Their Lordships expressed several views on the matter. In their respective decisions, My Lords, *Atanda Fatayi-Williams, CJN; George Sodeinde Sowemimo, JSC; Mohammed Bello, JSC [as he then was]; Chukwunweike Idigbe, JSC; Andrews Otutu Obaseki, JSC;*

*Augustine Nnamani, JSC; and Muhammadu Lawal Uwais, JSC [as he then was],* unanimously upheld the decision of the Federal Court of Appeal that the appellant had no *locus standi* to institute the action. For the sake of emphasis, let me quote the view of His Lordship, *Augustine Nnamani, JSC* at page 398 of the report thus:

*“What peculiar interest of the appellant is involved in the circumstances of this case? What rights and obligations personal or peculiar to him have been injured or infringed by the appointment of the second respondent by the first respondent, and the confirmation of that appointment by the Senate ...? The short answer, in my view, is none.”*

In his submissions, Abdul Mohammed, SAN appears to suggest that the case of *Fawehinmi v. Akilu [supra]* broadened or enlarged the concept of *locus standi* to institute proceedings in court. In his words, *“the Supreme Court in FAWEHINMI V. AKILU [supra] has revolutionized the concept of locus standi and the Apex Court has enlarged the concept beyond the hitherto infinitesimal prism of the concept decided in ABRAHAM ADESANYA V. THE PRESIDENT OF THE FEDERAL REPUBLIC OF NIGERIA [supra.]”*

Let me make the point that the case of *Fawehinmi v. Akilu* was decided on its peculiar facts. While the view of Abdul Mohammed, SAN may be correct with regards to *locus standi* of a person to initiate criminal proceedings, it is, with profound respect, not correct in respect of *locus standi* to initiate civil

actions. As His Lordship, Andrews OtutuObasaki, JSC held in the Leading Judgment at *page 832, paras. B-C*:

*“Adesanya v. President of Nigeria [supra] and Irene Thomas v. Olufosoye [supra] are both in respect of a civil cause or matter and provide sound and solid authority for the locus standi of the appellant. The narrow confines to which section 6[6][b] restricts the class of persons entitled to locus standi in civil matters have been broadened by the Criminal Code, the Criminal Procedure Law and the Constitution of the Federal Republic of Nigeria 1979. The powers of arrest and prosecution conferred by the various sections of the Criminal Procedure Law and the Criminal Code on “any person” has the magic effect of giving locus standi to any person who cares to prosecute an offender, if, and only if, he saw him committing the offence or reasonably suspects him of having committed the offence.”*

I have no doubt that the decision in *Adesanya’s case* is still good law. The principles enunciated in *Adesanya’s case* were highlighted by His Lordship, MassoudAbdulrahmanOredola, JCA in the case of *YunanaShibkau&Ors. v. Attorney-General, Zamfara State &Anor. [2010] 10 NWLR [Pt. 1202] 312 @ 338 [A-G] & 341 [B-C]* when he held as follows:

*“In Adesanya [supra] the Supreme Court on the issue of locus standi held thus:*

- 1) *A person who seeks a remedy in a court of law in Nigeria against an unconstitutional act must show that he is directly affected by that act before he can be heard.*
- 2) *A general interest which is common to all members of the public is not litigable interest to accord standing in a court of law.*
- 3) *There must be an assertion of right by such a person which is peculiar or personal to him and that right must have been infringed or that there is a threat of such infringement.*

*Section 6[6][b] of the 1999 Constitution does not confer locus standi on any litigant to have free, automatic and unbridled access to a court in order to ventilate any issue under the sun, mundane or otherwise. The sub-section merely allows the court to examine any question regarding such a litigant's civil rights and obligations. ... In this regard, it can be seen that before a person can institute and maintain an action under section 6[6][b] of the 1999 Constitution, he must show or establish that his "civil rights and obligations" have been or likely to be infringed upon by the defendant or respondent as the case may be. ...*

*It is thus the law that where a plaintiff institutes an action claiming a relief or reliefs which on the face of the cause of action is readily enforceable by another person, then such a plaintiff cannot succeed because he lacks the requisite locus standi to stand on. ...."*

In Yesufu v. Governor, Edo State [supra], cited by the senior counsel for the claimants, the Supreme Court - in holding that the plaintiff/appellant had no *locus standi* to institute the suit -reiterated the principle that a plaintiff, to enable him invoke the judicial powers of the court, must show sufficient interest or threat of injury he would suffer. Recently in 2019, the Supreme Court applied the same principle in the case of Chidi B. Nworika v. Ann Ononze-Madu&Ors. [supra] also cited by Mr. Abdul Mohammed, SAN.

In the light of the well-established principles on *locus standi*, can it be said that the claimants have established that they have *locusstandi* to institute this action? As rightly stated by Chief AfolabiFashanu, SAN and AbdulfataiOyedeleEsq., the claimants have not shown that they were affected by the decision of the Caretaker/Extraordinary Convention Planning Committee to appoint the 4<sup>th</sup> defendant as the Chairman of the 1<sup>st</sup> defendant's Caretaker Committee in Kwara State in place of Bashir OmolajaBolarinwa. The positions of the claimants as disclosed in their affidavit were not affected by the letter dated 4/1/2021 or any other action of the Caretaker/Extraordinary Convention Planning Committee.

Clearly, the claimants did not bring the suit to protect any interest or right which is peculiar to them. They did not bring the action for the determination of their civil rights and obligations. Abdul Mohammed, SAN contended that the claimants' rights, interests and obligations, which gave them *locus standi* to bring this action, is to ensure that the Constitution of the

1<sup>st</sup> defendant is strictly adhered to in the running of the affairs of the Party at all levels in accordance with their oath of office and oath of allegiance administered on them for the respective offices they occupy.

In Adesanya's case, it was contended that the appellant's status as a Senator of the Federal Republic of Nigeria who took oath of allegiance clothed him with *locus* to institute action on any perceived infraction of the Constitution. The Supreme Court rejected the argument. I take the view that the fact that the claimants are officers of the 1<sup>st</sup> defendant in Kwara State as disclosed in their affidavit cannot give them the required standing or *locus* to institute this action except the action or decision taken by the 1<sup>st</sup> defendant affected them personally; or that they have a peculiar, special or sufficient interest; or if the alleged non-compliance adversely affected their individual rights or interests.

Finally on this issue, the claimants stated in paragraph 24 of their affidavit that: "*in the light of the above facts, the rights of the Caretaker Committee set up at the various levels of the State, Local Government and Wards, stand at the risk of being violated.*" The Court hereby rejects the view of Abdul Mohammed, SAN that this deposition is a basis for holding that the claimants have *locus standi* to bring this action. The Court agrees with the view of the objectors that this deposition amounts to speculation; and a mere speculation cannot confer *locus standi* on the claimants.

From all that I said, I resolve Issue No. 4 against the claimants. I hold that the claimants failed to establish that they have *locus standi* to institute this action against the defendants.

## **ISSUE 5**

*Whether the claimants' suit has disclosed a reasonable cause of action against the defendants?*

Chief AfolabiFashanu, SAN and AbdulfataiOyedeleEsq. submitted that the claimants' suit did not disclose a reasonable cause of action against the defendants. Chief AfolabiFashanu, Senior Advocate of Nigeria, argued this issue from page 23-25 of his written address while AbdulfataiOyedeleEsq. argued this issue from pages 31-34 of his written address. On the other hand, Abdul Mohammed, SAN argued at pages 18-19 of his written address that the claimants' suit has disclose a reasonable cause of action.

In **Chevron Nig. Ltd. v. Lonestar Drilling Nig. Ltd. [2007] 16 NWLR [Pt. 1059] 168**, a cause of action was defined as the entire set of circumstances giving rise to an enforceable claim. It is in effect the fact or combination of facts which give rise to a right to sue and it consists of two elements namely, [i] the wrongful act of the defendant which gives the plaintiff his cause of complaint; and [ii] the consequent damage. In **Rinco Construction Co. Ltd. v. Veepee Industries Ltd. [2005] 9 NWLR [Pt. 929] 85**, it was held that for a

statement of claim to disclose a reasonable cause of action, it must set out the legal rights of the plaintiff and the obligations of the defendant. It must then go on to set out the facts constituting infraction of the plaintiff's legal right.

Flowing from my decision that the claimants lack *locus standi* to institute this action because the suit is not for the determination of their civil rights or obligations, I hold that the claimants' suit has not disclosed any reasonable cause of action against the defendants. This is because the claimants have stated the alleged wrongful action of the 1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> defendants but have failed to show the consequent damage they suffered as a result of the alleged wrongful act. Therefore, Issue No. 5 is resolved in favour of the 1<sup>st</sup>, 2<sup>nd</sup> & 4<sup>th</sup> defendants/objectors.

## **CONCLUSION**

The decision of the Court is that the motion of the 1<sup>st</sup> & 2<sup>nd</sup> defendants and the preliminary objection of the 4<sup>th</sup> defendant have merit on these three grounds: [i] the claimants failed to explore and exhaust the internal dispute resolution mechanism provided in 1<sup>st</sup> defendant's Constitution; [ii] the claimants lack *locus standi* to institute this suit; and [iii] claimants' suit has not disclosed a reasonable cause of action against the defendants. The result is that the Court lacks jurisdiction to entertain this suit. Thus, the suit is liable to be struck out.

Since the Court lacks jurisdiction to determine the suit, it will serve no useful purpose to embark on the mission of considering the Originating Summons.

The suit is hereby struck out for lack of jurisdiction. I award costs of N200,000 to the 1<sup>st</sup> & 2<sup>nd</sup> defendants and N200,000 to the 4<sup>th</sup> defendant payable by the claimants.

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HON. JUSTICE S. C. ORIJI  
[JUDGE]

*Appearance of Counsel:*

Bolakale Abdulsalam Esq. for the claimants; with Francis Amedu Esq.