

**IN THE FCT AREA COUNCIL APPEAL TRIBUNAL
HOLDEN AT ABUJA
BEFORE THEIR LORDSHIPS**

**HON. JUSTICE SULEIMAN BELGORE
HON. JUSTICE YUSUF HALILU
HON. JUSTICE JUDE O. ONWUEGBUZIE**

**CHAIRMAN
MEMBER I
MEMBER II**

**PETITION NO: FCT/ACET/EP/31/2022
APPEAL NO: FCT/ACEAT/AP/11/2022**

BETWEEN:

**1. ABUBAKAR UMAR ABDULLAHI
2. ALL PROGRESSIVES CONGRESS (APC)** } **APPELLANTS**

AND

**1. HON. YAHAYA GARBA
2. PEOPLES DEMOCRATIC PARTY (PDP)
3. INDEPENDENT NATIONAL ELECTORAL
COMMISSION (INEC)** } **RESPONDENTS**

JUDGMENT

This appeal number FCT/ACET/AP/11/2022, sprung from the decision of the FCT Area Council Election Petition Tribunal headed by Chief Magistrate F. Oyekan in Petition number

FCT/ACET/EP/02/2022 and FCT/ACET/EP/31/2022. The judgment complained of was delivered on 5th August, 2022. It was in favour of the petitioners.

Petition number FCT/ACEP/EP/31/2022 was predicated on two grounds:

- (1) The 1st Respondent was at the time of the election not qualified to contest the Abaji Area Council Chairmanship Election held on the 12 February, 2022 having not participated in all stages of the election.
- (2) The 1st Respondent was unduly returned elected on the 8th April, 2022 and not duly elected by majority of lawful votes cast at the election held on the 12th February, 2022.

The pleaded facts in justification of the above grounds of the petition are:

- (1) ***The 1st Respondent's name is not in the INEC Final List of Chairmanship candidates for Abaji Area Council to confirm that he did not contest and he did not participate in all the stages of the election held on the 12th February, 2022. The Petitioners hereby plead and shall rely on the 3rd Respondent's Final list of Chairmanship candidates' for Abaji Area Council 2022 Federal Capital Territory (FCT) Elections dated 6th July, 2021 during trial.***

- (2) The 1st Respondent did not also participated in all election activities as contained in the INEC Timetable and Schedule of Activities for 2022 FCT Area Councils Election. A copy of the INEC Timetable and Schedule of Activities for 2022 FCT Area Councils Election dated 30th March, 2021 is hereby pleaded and shall be relied upon at trial.**
- (3) The 1st Respondent's name was not contained in any of the ballot papers used for the conduct of Abaji Area Council Chairmanship Election held on the 12th February, 2022. The 1st Respondent did not participate in the election at the Polling Unit level where voting proper is done. The Petitioners hereby plead and shall rely on all the ballot papers from the 10 wards of Abaji Area Council used for conduct of the aforesaid Chairmanship election held on 12th February, 2022 and all the Form EC8A series for Abaji Area Council.**
- (4) The 1st Respondent did not also participate in the Abaji Area Council Chairmanship Election held on the 12th February, 2022 at the Wards Collation Centres wherein Polling Units results are collated in Form EC8B. The Petitioners hereby plead and shall rely on Form EC8B series for the 10 Wards of Abaji Area Council.**
- (5) The 1st Respondent did not also participate in Abaji Area Council Chairmanship Election held on the 12th February, 2022**

at the Abaji Area Council Collation Centre wherein the 10 Wards Collation Centre results in Form EC8Bs were collated in Form EC8C. The Petitioners plead and shall rely on the Form EC8C of Abaji Area Council during trial.

(6) The 1st Respondent did not also participate in Abaji Area Council Chairmanship Election held on the 12th February, 2022 at the Abaji Area Council Declaration of Result stage, wherein the 3rd Respondent recorded the final election result in Form EC8E and the name of the 1st Respondent is not contained in the Form EC8E confirming that the 1st Respondent did not indeed participated in the Abaji Area Council Chairmanship Election held on the 12th February, 2022. The Petitioners plead and shall rely on the Form EC8E for Abaji Area Council during trial.

(7) The 1st Respondent in all his cases at the Federal High Court Abuja Division, Court of Appeal Abuja Division and the Supreme Courts, he had never been declared to be the candidate of the 2nd Respondent. The 1st Respondent's case at the Supreme Court was not determined on the merit; the apex Court held that the suit filed at the Federal High Court was filed outside the limitation period to file a pre-election matter. The Petitioners hereby give the 1st Respondent notice to produce the judgments of the Federal High Court, Court of Appeal and Supreme Court in the case between the 1st Respondent and Mohammed Angulu Loko & 2 Ors. The Petitioners hereby plead the judgments from Federal High Court, Court of Appeal and shall rely in Supreme Court

decision unreported delivered on the 16th day of March, 2022 in SC/CV/411/2022 ABUBAKAR UMAR ABDULLAHI & 2 ORS. VS. LOKO and SC/CV/761/2022 APC VS. LOKO & 2 ORS. Delivered on the 16th day of April, 2022 unreported. See 150 and 151 of the Record of Appeal.

The same Petitioners, had earlier on 1st March, 2022 filed a Petition before the same Tribunal, numbered it FCT/ACET/EP/02/2022. This first petition challenged the declaration of the election result made on 12/2/2022.

Petition number FCT/ACET/EP/31/2022 was later filed by the same petitioners on 21st April, 2022 as a consequence of the return of 1st Respondent as being duly elected on 8th April, 2022 by 3rd Respondent (INEC).

After a lengthy trial of the two petitions put together, the Lower Tribunal, in a considered composite judgments on 5th August, 2022 nullified the return of the 1st APPELLANT as the winner of the 12th February, 2022 Abaji Area Council Chairmanship election.

Dissatisfied with that judgment in both petitions, the appellant filed the instant appeal specifically against the Lower Tribunal judgment as it relates particularly and significantly to petition number FCT/ACET/EP/31/2022.

I considered it of prime importance to bend backward and do a recapitulation of all antecedent relevant facts leading to this appeal. Even if at the risk of repetition.

- (1) On 12th February, 2022 Election was conducted into Abaji Area Council Chairmanship.
- (2) For purposes of and in readiness to participate in the election, APC (2nd Appellant) conducted its primary election for nominating a candidate to represent her.
- (3) As a result of (2) above 1st appellant (Abubakar Umar Abdullahi) emerged as the candidate of APC.
- (4) As a result of (3) above, APC (2nd Appellant) forwarded the name of 1st appellant to INEC (3rd Respondent) as her candidate.
- (5) INEC accepted the name as submitted in 4 above.
- (6) One Mohammed Angulu Loko, a member of APC and one who also participated in (2) above, later challenge the success and nomination of 1st appellant at the Federal High Court.
- (7) He won at the Federal High Court and the decision was appealed to Court of Appeal.

- (8) The decision of the Court of Appeal was also appealed to Supreme Court.
- (9) As the case was pending at the Supreme Court, INEC conducted the election as indicated in (1) above.
- (10) After the election of 12/2/2022, INEC declared the result with APC scoring 7,280 Votes and PDP scoring 4,064 votes.
- (11) INEC while declaring the result made no returns as to the candidate elected due to the pendency of the case at the Supreme Court.
- (12) As a result of (11) the PDP and Hon. Yahaya Garba who was her candidate at the election filed a petition against the declaration in (11). That was on 12/3/2022.
- (13) On 16/3/2022, the Supreme Court delivered judgment wherein it held that the Federal High Court and Court of Appeal had no jurisdiction to have delve into the matter.
- (14) INEC acting on the Supreme Court judgment as indicated in (13) above now returned the 1st appellant as the winner of the 12/2/2022 Abaji Area Council Chairmanship Election.
- (15) It was the act of returning 1st appellant as duly elected on 8/4/2022 that gave rise to the 2nd petition -

FCT/ACET/EP/31/2022. This bring to two, the pending petitions at the Election Tribunal by the same petitioners i.e. FCT/ACET/EP/02/2022 and FCT/ACET/EP/31/2022. Both were tried together and judgment delivered as regard both.

For all the above, you can see pages 20 - 490 of the Record of Appeal.

In this appeal, the Appellant filed their Brief of Argument on 8th September, 2022 and dated same day. 1st and 2nd Respondents filed their own on 12th September, 2022; and 2nd Respondent filed on 13th September, 2022. 3rd Respondent (INEC) did not file any Brief of Argument. They conceded to the appeal. The grounds of Appeal (1-16) are as found in the Notice of Appeal at pages 471 - 486 of Record.

On 13th September, 2022 learned Counsel to all the parties adopted their Briefs as their arguments and respectively urged in favour of their divergent positions and prayers. See pages 471 - 486.

On 13th September, 2022 Appellants' filed a Reply Brief on Points of Law to the 1st Respondent's Brief of argument. The Appellant Brief of Arguments contained at page 6, paragraphs 2.0. four (4) issues for determination to wit:

(1) Having regard to the facts of this case, whether Petition No. FCT/ACET/EP/31/2022 is not statute barred or constituted an abuse of Court process. (Grounds 1, 2, and 3).

(2) Having regard to the facts of this case, the decision of the Supreme Court in SC/CV/41/2022 and the settled principle of stare decisis, whether the trial tribunal was not bound to reaffirm the return of the 1st Appellant as the winner of the 12th February 2022 Chairmanship Election in Abaji Area Council. (Grounds 6, 7, 9, 10, 11, 12, 14, 15 and 16).

(3) Having regard to the fact of this case, whether the trial tribunal did not misconceive the issues raised in the case placed before it and the misconception occasioned a miscarriage of justice. (Ground 8).

(4) Whether the trial tribunal was not wrong in failing to determine and pronounce on all the issues canvassed before it and whether the failure does not amount to a miscarriage of justice. (Grounds 4, 5, 13).

1st Respondent in their Brief of Argument submitted five (5) issues for determination thus:

(1) Whether or not EP/31/22 was statute barred and an abuse of Court process. Relates to Ground 1, 2, 3, 4.

(2) Whether from the relevant evidence in this case the tribunal was right to have found that 1st appellant did not

participate in all the stages of the election into the office of Chairman Abaji Area Council held on 12/2/22. Relate to ground 7 and 8.

(3) Whether or not based on the combined effect of Section 285 (13) of the 1999 Constitution as amended and section 141 of the electoral Act 2010 (as amended) the learned tribunal was not right when it nullified the return of the 1st and 2nd appellant as winners of the election into the office of Chairman Abaji Area Council. Relate to Ground 9, 10.

(4) Whether or not the declaration of the 1st respondent as the winner of the election held on 12/2/2022 by the learned tribunal was valid in law and appropriate relates to ground 11, 12, 14, 15, 16.

(5) Whether or not tribunal properly considered and pronounced on all the issues presented before it by the parties. Relates to Ground 5.

The 2nd Respondent quite rightly adopted the five (5) issues distilled by 1st Respondent as theirs too. The 3rd Respondent (INEC) filed no Brief of Argument.

In my view, I could perceive a proliferation of issues in the ones submitted by Chief Ologunorisa SAN for appellants and the ones submitted by Chief K. Tunyan SAN for the 1st and 2nd Respondents.

With due respect to the two learned Silk, only two issues calls for determination in this appeal. All other issues cleverly and brilliantly crafted by them can conveniently be subsumed in these two issues and thereby dispose off the appeal. The two issues are:

- (1) Whether having regard to the facts of this case, petition No. FCT/ACET/EP/31/2022 is not statute barred or constituted an abuse of Court process in view of the pendency of petition No. FCT/ACET/EP/02/2022 earlier filed before the Tribunal. (This is from ground 1, 2, 3, and 4 of Appeal).**

- (2) Whether having regard to the decision of the Supreme Court in SC/CV/41/2022, the Lower Tribunal was not bound to affirm the Return of the 1st Appellant as the winner of the 12/2/2022 Chairmanship Election in Abaji Area Council. (This is from grounds 6, 7, 9, 10, 11, 12, 14, 15 and 16 of the Appeal).**

The robust arguments of all Counsel both written and oral are firmly captured on record. It would serve no useful purpose to reproduce them word for word, line by line and as fully as they were narrated. Suffice to say I may refer to them where necessary as they may appear imminent.

ISSUE 1

(1) Whether having regard to the facts of this case, petition No. FCT/ACET/EP/31/2022 is not statute barred or constituted an abuse of Court process in view of the pendency of petition No. FCT/ACET/EP/02/2022 earlier filed before the Tribunal. (This is from ground 1, 2, 3, and 4 of Appeal).

The nucleus of this issue is whether or not the petition filed on 21st April, 2022 is statute barred and whether or not when aligned with the first petition filed in February it constitutes an abuse of Court process.

A case is statute barred if it is not filed within the time frame allowed for it. What do we find here? All the parties in this appeal and indeed at the Lower Tribunal are at *ad idem* on the fact that the declaration of result of the 12/2/2022 election was made on that same 12/2/2022. No disagreement on it. See pages 7, 8, 190 and 206 the of Record of Appeal.

The 1st petition FCT/ACET/EP/02/2022 was filed on 12/3/2022 while the 2nd petition FCT/ACET/EP/31/2022 was filed on 21/4/2022. The question is, when is a prospective petitioner meant to file his/her intended petition? What is the time frame allowed in law?

The answer is found in **Section 285 (5)** of the 1999 Constitution (as amended). It reads:

"An Election Petition shall be filed within 21 days after the date of the declaration of result of the election."

When is 21 days after declaration of the result of this election under scrutiny? The result was declared on 12/2/2022.

The date of declaration is not inclusive in counting 21 days. It begins the day after. See **MAKU VS. SULE (2022) 3 NWLR (PT. 1817) 231**. 21 days ended on 5/3/2022. The 1st petition that was filed on 12/3/2022 and within 21 days. 2nd one filed on 21/4/2022 was after the prescribed "within 21 days". The 2nd petition was filed 63 days after declaration of result.

I am fascinated by the argument of Chief Tunyan SAN that though election results were declared on 12/2/2022, no return was made until after Supreme Court judgment. This according to him means time to file petition did not start to run until the return were made. He relied on **Section 133 (1) of Evidence Act 2010** (as amended) and **Section 25 (2) and Evidence Act 2022**. Learned Silk argued that one can only complain against a RETURN of a candidate; which is a component of Declaration of result.

According to him, Declaration means; a combination of two acts; declaring scores of parties and return of candidate who scores the highest votes. Chief Tunyan submitted that the Returning Officer performed one of the constituent of

declaration and did not perform the other because APC with the highest votes had no candidate at the election. Is it true APC had no candidate at the election? I will deal with this shortly in this judgment.

Mr. Peter SAN who argued the appeal in Court, seems to agree that Declaration of Result has 2 components when he submitted that time begins to run for purposes of compliance with **Section 285 (5)** of the Constitution when scores were declared and not when returns are made.

I am thrilled by the ingenious argument of Chief Tunyan SAN. I am However, unable to agree with him. The Constitution used the word "Result". Result here connotes revealing of and the identity of the candidate that contested for the party. The scores are given to party whose logo appears on the ballot and the return is ascribed to the name of the candidate. They go pari passu. It is not conceivable that the scores of party 'A' would be matched to the candidate of party 'B'. No it would not happen. So where the scores are known and pronounced, the declaration of result is done because the name of party and candidates are deemed revealed. And the date that is done is the date of declaration of result. Where, however, it so happened for obvious reason(s) that because of legal imbroglio or altercation or some other disputes or even death, the name of the candidate is still not clear as at that date and time, the fact still remains that there is no vacuum as regard the candidature of the party. The party had a candidate whose

identity was subject of litigation. Otherwise, the party's logo would not be on the ballot paper. It is unimaginable that a party that has no candidate would have her logo and name printed on the ballot papers. That is not done. If a party's name and logo appears on the ballot paper such a party must have fielded a candidate at the election.

Furthermore, it is not in doubt that the candidate of APC would be return as the winner, since his party has the highest scores at the election. The only question is who among the 1st Appellant and one Muhammed Angulu Loko should be declared winner. So, it is not correct that APC had no candidate at the election. It is a fallacy and deep hallucination to so believe and to so hold. The APC at the time of the election had two disputing candidate and they were at the proper venue to settle the dispute. The conduct of INEC is commendable in tarrying a while by awaiting the outcome of the Supreme Court decision before making a return.

So, what happened on 12/2/2022 was a valid declaration not withstanding the inconclusive nature of it. There was a declaration for purposes of **Section 285 (5)** of the Constitution and any aggrieved candidate at the election becomes fixed to that date if any petition is/was being contemplated.

The above being the case, the petition FCT/ACET/EP/31/2022 filed about 64 days after declaration of result on 12/2/2022 is statute barred and therefore not cognisable at the Election

Petition Tribunal. The Tribunal lacked jurisdiction to entertain same as it was filed in clear deviance of the provision of the Constitution which is our organic law.

The next point on this first issue is issue of abuse of court process. Any abuse of Court process? My answer is a very loud YES.

The concept of abuse of Court process is defined as a concept that involves circumstances and situations of infinite variety and conditions. The concept cannot be straight jacketed into a definition. The concept involves the use of a judicial process by a party to the irritation and annoyance of his opponent. This will arise in instituting a multiplicity of actions on the same subject matter against the same opponent. See **KOLAWOLE VS. ATTORNEY-GENERAL OF OYO STATE (2006) 3 NWLR (PT. 966) 50; AKINOLA VS. VICE-CHANCELLOR, UNIVERSITY OF ILORIN (2004) 11 NWLR (PT. 285) 616.**

The 1st petition FCT/ACET/EP/02/2022 was filed on 12th March, 2022 while the 2nd petition FCT/ACET/EP/31/2022 was filed on 21st April, 2022.

To my mind this is purely an abuse of Court process. Why filed a 2nd petition during the pendency of the 1st petition? One would have thought the 1st and 2nd Respondents in this appeal as petitioners at the Lower Tribunal would have

towed the path of withdrawing the 1st petition. But alas! They did not do so.

Two live petitions by the same person on the same election that was held on the same day at the same polling units relating to the same political party before the same adjudicating authority cannot be anything but abuse of Court process. See **KWARA STATE VS. LAWAL (2018) 3 NWLR (PT. 1606) 266; OLAKEHINDE VS. EFCC (2020) LPELR - 50246 (CA).**

In the ultimate, I resolve this first issue in favour of the appellants.

All the above findings are enough to terminate this appeal here and reverse the decision of the Lower Tribunal. But it is better to touch on the Supreme Court judgment vide issue II.

ISSUE 2

(2) Whether having regard to the decision of the Supreme Court in SC/CV/41/2022, the Lower Tribunal was not bound to affirm the Return of the 1st Appellant as the winner of the 12/2/2022 Chairmanship Election in Abaji Area Council. (This is from grounds 6, 7, 9, 10, 11, 12, 14, 15 and 16 of the Appeal).

The potent facts that are very germane to the above issue have been specified in the earlier part of this judgment. It is worth re-focusing.

At the APC primary held to pick a candidate for the Chairmanship of Abaji Area Council, the 1st appellant Abubakar Umar Abdullahi emerged victorious. His name was submitted to INEC and it was so accepted. One Mohammed Angulu Loko, also a member of APC and a participant at the APC primaries, would have none of that scenario to digest or comprehend. He headed to the Federal High Court. From Federal High Court to Court of Appeal and finally the Supreme Court.

All the parties agreed there was a Supreme Court judgment in respect of the primary election dispute. Whether the Supreme Court judgment was put in evidence at the Lower Tribunal is of no consequence. All those fiery arguments from Counsel especially Chief Tunyan SAN about not being part of evidence or by Peter SAN about judicial Notice of same makes no impression here. The fact is that I have seen the CTC of the Supreme Court judgment. And I dare not ignore it.

At the Supreme Court, the jurists there took notice of the fact that Mohammed Loko approached the Federal High Court outside the 14 days period allowed by the 1999 Constitution (as amended) in **Section 285 (9)** thereof. They held that the Federal High Court and the Court of Appeal that entertained

the grievances acted without jurisdiction as the suit was statute barred. That was on 16th March, 2022 long after the election was conducted and declaration of result made on 12/2/2022. At pages 59 - 60 of the suit No. SC/CV/41/2022 the Supreme Court per Adamu Jauro JSC held:

"On the whole, I hold that the 1st respondent's suit having been commenced outside the 14 days statutorily provided for under Section 285(9) of the Constitution is statute barred. I also find the consideration on issue No. 2 academic and otiose. Consequently, the suit having been entertained without jurisdiction by the lower Courts is hereby struck out. I therefore find, merit on this appeal, same is hereby allowed. The decision of the two lower Courts are hereby set aside".

The basic point and in fact the most important question now is; in the light of the Supreme Court judgment, can the 1st appellant lay claim to his ticket as the candidate of APC at the 12/2/2022 election for Abaji Area Council Chairmanship?

Mr. Peter SAN for Appellant answered in the affirmative. In paragraph 3.2.13 of the Appellant Brief of Argument which

was adopted by Peter SAN, the answer was given admirably this way:

".....the effect of the Supreme Court decision in SC/CV/41/2022 was to return the parties to the position they were before the petition challenging the candidature of the 1st Appellant at the Federal High Court. The position the 1st appellant was before the action at the Federal High Court was that he was the candidate of 2nd Appellant"

In buttress of his argument, learned SAN cited numerous cases including **ARARUME VS. E. E. OKEWA; KANAWA VS. INEC etc** see pages 15 - 21 of Brief of Argument of Ologunorisa SAN.

On his part, Chief Tunyan submitted that since the Supreme Court made no declaration as to who the candidate was, 1st appellant cannot claim it. In the learned SAN's word in Court, he said:

"The Supreme Court did not say that the 1st appellant is the candidate and should be returned. The Supreme Court only set aside the decision of

the Federal High Court and Court of Appeal. The case was a pre-election matter. Both contenders are members of the same party - APC"

I agree the Supreme Court only set aside the decision of the Federal High Court and the Court of Appeal. But what is the implication in law? The implication in law is that everything reverts back to the position it were before the commencement of litigation. In popular or bar parlour setting they will say "back to square one" in legal parlance we would say everything returns back to *status quo ante bellum*.

Broadly speaking, there are two classes of judgment; Executory and Declaratory. Executory judgment declares the respective rights of the parties and then proceed to order the Defendant to act in a particular way while Declaratory judgment on the other hand, merely proclaim the existence of a legal relationship and do not contain any order which may be enforced against the Defendant. It may be the ground of subsequent proceedings in which the right, having been violated receives enforcement - **ADEDOYIN VS. SONUGA (1999) 13 NWLR (PT. 635) 355**. What am I saying? A declaratory judgment is a judicial pronouncement of the legal state of affairs. When a judgment is executory in nature, it becomes enforceable immediately by writs of attachment and committal is disobeyed. But a declaratory judgment would only be a ground for subsequent proceeding in which

any alleged right, having been violated receives enforcement, but till such violation, there is no enforcement or any claim on such judgment.

The Supreme Court Judgment in suit SC/CV/41/2022 is in the class of Declaratory judgment. Supreme Court having declared that the Federal High Court and Court of Appeal have no jurisdiction to entertain the pre-election matter, it becomes obvious that a legal relationship has been pronounced. The legal relationship is that the parties are returned back to their initial state of affairs and relationship in the scheme of the outcome of their party primary. What is that state of affairs? The 1st appellant was the winner of the APC primary election. One Muhammed Angulu Loko was among the losers. 1st appellant's name was sent to 3rd Respondent - INEC. So, by the judgment of the Supreme Court on 16/3/2022, everything done at the Federal High Court and Court of Appeal becomes a nullity. It is as if, the parties never approached those two Courts. It is as if no dispute ever arose after the APC primary. It is as if 1st appellant fully participated at the election of 12/2/2022. It is as if he was fully recognised to be so by the umpire, party officials and supporters alike. See **UDE & ORS VS. AGU & ORS. (1991) LPELR - 25126 (SC); IBRAHIM VS. OJONYE (2012) NWLR (PT. 1286) 128;**

Interestingly, the Lower Tribunal claimed the Supreme Court judgment was not made available to them. Perhaps that is so and perhaps it is not so. I have successfully restrained myself

in making any further comment on this. But can we in this Appeal Tribunal says we have not seen the judgment also? No. we have seen it and must follow and abide with everything it factually and legally portends.

We must all realise at all time that the judgment of any Court nay that of Supreme Court cannot be in vain. It must be given effect to all at all times and by all and sundry as appropriate in all circumstances.

In effect therefore, the failure or inadvertence of the Lower Tribunal to recognise, follow and give judicial effect to that judgment dealt a fatal blow to their decision. It was such a fatal blow that I compare it with killing a lion with a deadly one gun shot on the head or killing a mosquito with a sledge hammer. Their judgment was so perverse, and glaringly wrong that I refuse to countenance other lofty arguments of appellants as regard scoring the highest number of votes and having the required constitutional spread. That is already given and obvious from the Record of Appeal. See page 148 of the Record.

In conclusion, the appeal has considerable merit in it. It is allowed. The judgment of the Lower Tribunal delivered on 5/8/2022 is hereby set aside. The return of the 1st Appellant as the duly elected Chairman of Abaji Area Council on the platform of the 2nd Appellant by the 3rd Respondent is hereby affirmed and re-pronounced.

**HON. JUSTICE SULEIMAN BELGORE
CHAIRMAN**

**HON. JUSTICE YUSUF HALILU
MEMBER**

**HON. JUSTICE JUDE O. ONWUEGBUZIE
MEMBER**