

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT MAITAMA

BEFORE HIS LORDSHIP : HON. JUSTICE Y. HALILU
COURT CLERKS : JANET O. ODAH & ORS
COURT NUMBER : HIGH COURT NO. 13
CASE NUMBER : SUIT NO: CV/844/24
DATE: : WEDNESDAY 16TH JULY, 2025

BETWEEN:

1. MUHAMMAD KABIR ABUBAKAR
2. HUZAIFA YAHUZA
3. AI MUSTAPHA ABBA ABDULLAHI
4. ZILKIFILU MAHMUD
5. MAIKASUWA UMAR
6. MATHEW JACOB KUJE

PLAINTIFFS

AND

1. THE HON. MIN. FED. CAP. TERR.
2. FED. CAP. TERR. ADMIN (FCTA)
3. INDEPENDENT ELECTORAL COMM.
4. INSPECTOR GENERAL OF POLICE
5. THE A.G.F, MINISTER OF JUSTICE

RESPONDENTS

JUDGMENT

The Plaintiffs approached this court vide an Originating Summons dated 9th January, 2024 and filed on same day, praying the Court for determination of the following questions:-

1. Whether or not, by the correct interpretation and application of the provisions of S. 6 (6) of the Constitution of the Federal Republic of Nigeria 1999 (as amended); and all other enabling laws and instruments applicable in the circumstances of this case, the Claimants/plaintiffs being indigenes, residents and citizens of the six (6) Area Councils of the Federal Capital Territory (FCT) affected by this suit are not entitled to the protection of the honorable court enabling them to be governed only by persons who have been elected in strict compliance with extant and relevant laws and whose tenure is still valid and running in accordance with such enacted laws?
2. Whether or not, by the legal consequence of the provisions of Section 113(1) & (2) Electoral Act, 2010 and Section 108(1) and (2) of The Electoral Act, 2022, the tenure of the FCT Area Council Chairmen is a period of 3 years?

3. Whether or not, by the legal consequence of the provisions of Section 113(1) & (2) Electoral Act, 2010 and Section 108 (1) and (2) of The Electoral Act, 2022, consequent upon the FCT Area Council Chairmen having been elected into office as Chairmen of the 6 Area Councils of the Federal Capital Territory on the 12th of February, 2022 by the 3rd Defendant pursuant to which they were sworn into their respective offices on the 14th of June 2022, their tenure expires and terminates by effluxion of time, on the 14th June 2025 in accordance with the provision of Section 113(1) & (2) Electoral Act, 2010 which was the law in force at the time of their election into office as Chairmen of the 6 Area Councils of the FCT?

4. Whether or not, the FCT Area Council Chairmen having been duly elected into the office vide election conducted by the 2nd Defendant on the 12th of February, 2022, before the enactment of the Electoral Act, 2022 which was enacted on the 15th February 2022, can benefit from the provisions of the said law with the consequence of an extension of their tenure from three (3) years as contained in the Electoral Act, 2010, under which their election into office were conducted by the 2nd Defendant, as against the provisions of the

Electoral Act, 2022, which subsequently altered the tenure to four (4) years?

5. Whether or not, any attempt by the 1st, 2nd and 5th Defendants to extend the tenure the FCT Area Council Chairmen elected under the Electoral Act of 2010 beyond three (3) years will not be a breach of the enabling law under which they were elected and assumed office and an unlawful attempt to give the provisions of Section 108 (1) and (2) of The Electoral Act, 2022, a retrospective effect?
6. Whether or not, by the legal consequence of the provisions of Section 113 (1) and (2) of The Electoral Act, 2010, consequent upon the FCT Area Council Chairmen' assumption of office on the 14th June, 2022, their tenure expires, terminates by effluxion of time on the 14th June, 2025 and that the Defendants be perpetually restrained from extending their tenure to any other subsequent date which will be tantamount to an extension contrary to the express provision of the Electoral Act, 2010, under which law they were elected?

7. Whether or not, the attempt for an extension of the tenure of the FCT Area Council Chairmen does not amount to an unlawful and unconstitutional Act.

The application is supported by a 17 paragraph affidavit deposed to by Muhammed Kabir Abubakar, the 1st Claimant in this case. It is the deposition of 1st Claimant, that the 3rd Defendant Conducted the Area Council Chairmen/Councilors election for the Federal Capital Territory (FCT) on the 12th February, 2022 following which it has duly issued Certificates of Return to the elected members of Area Council of Federal Capital i.e the Incumbent FCT Area Council Chairmen/Council Members. The CTC of the Certificates of Return were herein attached and marked as Exhibits "A11-A16".

That the 1st Defendant as the Minister of Federal Capital Territory is in charge of the Administration of the 2nd Defendant including the Six Area Councils within the Federal Capital Territory Abuja, which include Abuja Municipal Area Council, Bwari Area Council, Kuje Area council, Gwagwalada Area Council, Abaji Area Council and Kwali Area Council.

That the 3rd Defendant is the Commission charged with the responsibility of implementing the Electoral Act by conducting

elections and Issuance of Certificate of Returns to elected members of the Federal Capital Territory Area Council, the subject matter of this Suit.

That the 3rd Defendant Conducted the FCT Area Council Chairmen/ Councilors elections on the 12th of February, 2022 under the Electoral Act, 2010 and at a time the Electoral Act 2022 was yet to be passed into law.

That the 4th Defendant being in charge of enforcement of laws and orders of the Federal Republic of Nigeria having its office all over the Federation including Abuja for the purpose of enforcement of laws and orders supervised the procedures cumulating into the assumption into office of the Defendants.

That the 5th Defendant as the law officer of the Federation advices the President of the Federation on the legality or otherwise of all Federal laws including Electoral Act and help in the administration of all laws in the Federal Republic of Nigeria.

That the entire processes incidental to the conduct of the said Election through which the Incumbent FCT Area Council Chairmen/ Councilors emerged elected were squarely governed and regulated by the Electoral Act of 2010, a period when the 2022 Electoral Act was not in force.

That the entire FCT Area Council Incumbent Chairmen contested for their respective offices knowing fully that their tenure was three (3) years sequel to the Electoral Act, 2010 which published their elections guidelines and or timetable. Area Council

That the 3rd Defendant also issued the Incumbent FCT Chairmen with their Certificates of Return under guidance of the Electoral Act 2010 which brought them to powers.

That the 4th Defendant being in charge of enforcement of laws the Federal Republic of Nigeria having its office all over the Federation including Abuja-FCT for the purpose of enforcement of laws and orders supervised e procedures culminating into the swearing-in of the Incumbent FCT Area Council Chairmen by the 1st Defendant.

That the 1st to 3rd Respondents are not laws under which the Incumbent FCT Area Council Chairmen were elected not working towards giving effect to the as regards to their tenures in office which is statutorily three (3) years as stipulated under the 2010 Electoral Act that regulated their elections into office.

That there is an urgent need for the intervention of the Honourable court to prevent the interpretation of conduct inconsistent with the laws under which the elections that brought

the incumbent FCT Area Council Chairmen into Office, that is the 2010 Electoral Act.

In line with law and procedure, written address was filed wherein Claimants argued all seven (7) issues of the Originating Summons, making clear submissions relevant to each of them.

- 1. Whether or not, by the correct interpretation and application of the provisions of S. 6 (6) of the Constitution of the Federal Republic of Nigeria 1999 (as amended); and all other enabling laws and instruments applicable in the circumstances of this case, the Claimants/plaintiffs being indigenes, residents and citizens of the six (6) Area Councils of the Federal Capital Territory (FCT) affected by this suit are not entitled to the protection of the honorable court enabling them to be governed only by persons who have been elected in strict compliance with extant and relevant laws and whose tenure is still valid and running in accordance with such enacted laws?**
- 2. Whether or not, by the legal consequence of the provisions of Section 113(1) & (2) Electoral Act, 2010**

and Section 108(1) and (2) of The Electoral Act, 2022, the tenure of the FCT Area Council Chairmen is a period of 3 years?

3. Whether or not, by the legal consequence of the provisions of Section 113(1) & (2) Electoral Act, 2010 and Section 108 (1) and (2) of The Electoral Act, 2022, consequent upon the FCT Area Council Chairmen having been elected into office as Chairmen of the 6 Area Councils of the Federal Capital Territory on the 12th of February, 2022 by the 3^d Defendant pursuant to which they were sworn into their respective offices on the 14th of June 2022, their tenure expires and terminates by effluxion of time, on the 14th June 2025 in accordance with the provision of Section 113(1) & (2) Electoral Act, 2010 which was the law in force at the time of their election into office as Chairmen of the 6 Area Councils of the FCT?

4. Whether or not, the FCT Area Council Chairmen having been duly elected into the office vide election conducted by the 2nd Defendant on the 12th of

February, 2022, before the enactment of the Electoral Act, 2022 which was enacted on the 15th February 2022, can benefit from the provisions of the said law with the consequence of an extension of their tenure from three (3) years as contained in the Electoral Act, 2010, under which their election into office were conducted by the 2nd Defendant, as against the provisions of the Electoral Act, 2022, which subsequently altered the tenure to four (4) years?

5. **Whether or not, any attempt by the 1st, 2nd and 5th Defendants to extend the tenure the FCT Area Council Chairmen elected under the Electoral Act of 2010 beyond three (3) years will not be a breach of the enabling law under which they were elected and assumed office and an unlawful attempt to give the provisions of Section 108 (1) and (2) of The Electoral Act, 2022, a retrospective effect?**
6. **Whether or not, by the legal consequence of the provisions of Section 113 (1) and (2) of The Electoral Act, 2010, consequent upon the FCT Area Council**

Chairmen' assumption of office on the 14th June, 2022, their tenure expires, terminates by effluxion of time on the 14th June, 2025 and that the Defendants be perpetually restrained from extending their tenure to any other subsequent date which will be tantamount to an extension contrary to the express provision of the Electoral Act, 2010, under which law they were elected?

7. Whether or not, the attempt for an extension of the tenure of the FCT Area Council Chairmen does not amount to an unlawful and unconstitutional Act.

It is the submission of learned counsel, that the Claimants/Applicants humbly submit that this Honourable Court has the discretionary powers to grant the prayers herein sought for, having regard to Section 6(6)(a) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). The said Section states:

6(6) The Judicial powers vested in accordance with the foregoing provisions of this section-

(a) Shall extend, notwithstanding anything to the contrary in this Constitution, to all inherent powers and sanctions of court of law.

In support of the above-mentioned section, counsel refer this Court to the case of ***BRITISH AMERICAN TOBACCO (INVESTMENTS) LIMITED VS. THE ATTORNEY-GENERAL OF LAGOS STATE AND 20RS (2014) ALL FWLR (Pt. 755) 358 C.A***

Learned counsel further submits, that the law that is applicable to a matter is the law that exists at the date that the cause of action arose, and not that that exists on the date that the matter is brought to court, or is being heard. (P. 605. paras. B-C) Per OGUNDERE, J.C.A. at pages 608-610, paras. H-A: "*I have no doubt whatsoever that Orilonise, J. was right that the applicable law was the law in force when the cause of action arose in 1970 and that at the relevant time the jurisdiction of the court was ousted as regards chieftaincy matters, including that of Eletan of Etan, having regard to the applicable law, to wit, the combined effect of the following: (a) Section 161(3) of the 1963 Constitution of the Federation which provides as follows: "(3) Notwithstanding anything in any other provision of this Constitution (including in particular Sections 32 and 53 of this Constitution) but without prejudice to the provision to subsection (1) of Section 22 and Subsection (4) of section 27 of this Constitution, no chieftaincy question shall be entertained by any court of law in Nigeria, and a*

certificate which is executed by an authority authorized in that behalf by a law coming into force in a territory on or after the date of the commencement of this Constitution.

Learned counsel also submits, that the applicable law for determination of an action is the substantive law existing at the time of the action. The rights and obligations of parties must be considered in the light of the provision of the law as at when the cause of action arose and any change in the law after the cause of action arose will not affect the accrued rights and obligations of the parties, unless the change is made retrospective. In the instant case, since both the Recognized Chieftaincies (Revocation and Miscellaneous) Order Western State laws of Nigeria No. 6 of 1976 and the 1979 Constitution are not made retrospective, notwithstanding their provisions, in view of the fact that Section 24(a) of the Chiefs law Cap 19 of Western Region was the applicable law when the cause of action arose, the High Court or any other court will have no jurisdiction to entertain this matter. Learned counsel cited ***ROSSEK VS. AFRICAN CONTINENTAL BANK LTD. (1993) 8 NWLR (Pt. 312) 382*** referred to ***Page 636, Paragraphs C-D.***

Learned counsel contends, that the court extensively dealt with the principle that a law cannot be allowed to have a retrospective effect as well as the only circumstance in which such can be allowed, within which exception the present case does not fall. ***AFOLABI VS. GOVERNOR OF OYO (1985) 2 NWLR (Pt. 9) 734*** was cited.

It is further the submission of learned counsel, that it was further held in ***PURIFICATION TECH. LTD. VS. L.S.B.P. CORP. (2001) 10 NWLR (Pt. 720) 86***, that an existing right, liability or obligation remains unaffected by the repeal of a statute. This is the purport of Section 6(1) of the Interpretation Act. In the instant case, when the cause of action arose, Section 23 of Edict No. 17 of 1986 had not been repealed. The effect of this is that the section transferred the assets and liabilities of the defendant in suit No. **LD/150/87** to the Respondent and it cannot be rendered ineffective thereafter when on 11/6/87 the section was repealed. Thus, the effort made by Edict No. 3 of 1987 which repealed Section 23 of Edict No. 17 of 1986 to avoid vesting of such liability failed as it is contrary to section 6(1) of the interpretation Act. This being so, by virtue of the provisions of Edict No. 17 of 1986 the liability of the Lagos State Building

Material Company in suit No. LD/150/87 became the liability of the Respondent. (P. 94, paras. D-H).

Learned counsel also submits, that it is against the principle of interpretation and/or construction of statutes to give it a retrospective operation, as it impairs an existing right or obligation. In ***AFOLABI VS. GOVERNOR***, Oyo State the Supreme Court held that no statute should be construed to have retrospective operation unless such construction appears very clearly in the provisions of the statute, arising therefore by necessary and distinct implication; and that Courts lean against interpreting a statute to deprive a party of an accrued right.

Learned counsel submits, that the Court of Appeal followed the decisions of the Supreme Court on this subject when it was called upon to pronounce on whether the AMCON Amended Act of 2015 could operate retrospectively to cover acquisitions carried out by AMCON prior to it coming into force on 26th May 2015 in the case. In ***AMCON VS. ISRAEL AEROSPACE INDUSTRIES LIMITED & ANOR12***, The Court held that the relevant Act was the AMCON Act that was in force at the time of acquisition of the loan and in the absence of express provision in the Act; the amendments to the AMCON Act vide AMCON Amended Act, 2015

only took effect on its commencement date being 26th May, 2015. Consequently, given the absence of an express provision that the amendment is to operate retrospectively, AMCON Amended Act of 2019, applies only to loans that were granted after commencement of the Act in 2019.

Learned counsel further submits, that it is instructive to state at this juncture that the cause of action in this suit is simply the tenure of office of the incumbent Chairmen of the 6 Area Councils of the FCT. It is not in doubt that their election was conducted before the enactment of the Electoral Act, 2022. Therefore, the cause of action in this suit accrued upon their election as Chairmen of the 6 Area Councils of FCT. Their swearing in which was conducted on the 14th of June, 2022 is only ceremonial which would not have been effected without their election into office. It is trite law that one cannot place something on nothing and expect it to stand. *Look "the legal principle of, one cannot give what he does not have and further that no one can place something on nothing expecting it to stand will come into play. U.A.C. VS. MACFOY (1961) 3 WLR 1405;*

ORAKA VS. ORAKA & ANOR (2019) LPELR-47615 (CA)."
PER TOBI, J.C.A (as he then was) in ***JAKO-JAKO VS. YAHAYA & ORS. Page 19 Paragraph A*** were cited.

Learned counsel further submits, that to further appreciate the time the cause of action in this suit accrued for a just determination of this suit, we commend the decision of Per AGUBE, J.C.A in ***AP & ORS VS. GOVT. OF KWARA STATE & ORS. (2009) LPELR-3584 (CA) Pages 60 - 65 Paragraph F*** was cited.

Learned counsel also submits, that it is therefore crystal clear that, unless there is a saving clause or an express provision contained in a new law, the content of a repealed law remains consistently prevalent on facts, actions, rights and obligations of persons or conducts enjoyed or taken in accordance with those repealed laws and that the content of the newly enacted laws does not operate to affect those facts, actions, rights or obligations.

Learned counsel submits, that any attempt to extend the tenure of the Incumbent FCT Area Council Chairmen from the three (3) years stipulated by Section 113, of the Electoral Act, 2010 will

amount to giving the provisions of the 2022 Electoral Act a retrospective effect which is not envisage by extant law.

In conclusion, learned counsel urge the honorable court to answer all the questions posed by the Claimants in their favor and grant all the reliefs sought in the best interest of Justice.

On their part, 1st and 2nd Defendant filed a 7 paragraph counter affidavit, duly deposed to by one Saidu B. Abdulkadir, a Litigation Assistant with the Legal Services Secretariat of the 1st – 2nd Respondents.

It is the deposition of the 1st and 2nd Respondent, that paragraphs 4 – 17 of the Applicants' affidavit are not true and are hereby denied as they do not reflect the actual trajectory of events that transpired in respect of this suit.

That elections into Chairmanship and Councillorship positions in the respective Area Councils of the Federal Capital Territory were conducted on the 12th of February, 2022 and the present occupants of the aforesaid political offices were sworn in on the 14th of June, 2022.

That the Amended Electoral Act, 2022 was assented to by the President of the Federal Republic of Nigeria on the 25th of

February, 2022, and that the tenure of office of elected officials takes effect from the date of swearing in and not the date of election.

That the Applicants in this suit lack the requisite locus standi to institute this action as presently constituted.

In line with law, written address was filed wherein three (3) issues were formulated for determination to-wit;

1. **Whether this Honourable Court possesses the requisite jurisdiction to entertain this suit as presently constituted considering that same seeks to determine the tenure of office of Chairmen and Councilors of Area Councils within the FCT.**
2. **Whether the Electoral Act of 2010 which was repealed by virtue of Section 151 of the Electoral Act, 2022 with effect from the 25th of February 2022 could regulate the tenure of elected officials sworn in on the 14th of June, 2022.**
3. **Whether the Applicants have proved their case to be entitled to the reliefs sought in this suit.**

On issue 1, *whether this Honourable Court possesses the requisite jurisdiction to entertain this suit as presently constituted considering that same seeks to determine the tenure of office of Chairmen and Councilors of Area Councils within the FCT.*

Learned counsel submits, that Section 131 of the Electoral Act, 2022 which established the Area Council Election Petition Tribunal made it abundantly clear that the tribunal has original jurisdiction to the exclusion of any other court or tribunal to determine certain issues pertaining to elections in respect of Area Council elections. Of particular relevance to this argument is the provision of Section 131(1)(b) which states unequivocally that only the Area Council Election Petition Tribunal has original jurisdiction to determine whether *"the term of office of any person elected to the office of Chairman, Vice - Chairman or Councilor has ceased."*

Learned counsel also submits, that a close look at the claims of the Applicant in this suit and the reliefs sought will clearly reveal that same revolves around a determination of when the term of office of elected officials in the Area Councils will cease (whether 3 or 4 years).

Learned counsel further submits, that the subject matter of this suit clearly falls under the jurisdiction of the FCT Area Councils Elections Petition Tribunal and not this Honourable Court.

Counsel submits, that on the strength of the above statutory and judicial provisions to resolve the above issue in favour of the 1st and 2nd Respondents by declining jurisdiction as the subject matter of this suit can only be determined by the Area Council Elections Petitions Tribunal. We therefore urge my lord to dismiss this suit in its entirety.

One issue 2, *Whether the Electoral Act of 2010 which was repealed by virtue of Section 151 of the Electoral Act, 2022 with effect from the 25th of February 2022 could regulate the tenure of elected officials sworn in on the 14th of June, 2022.*

Learned counsel submits, that the facts of this case are clear as crystal. The position taken with due respect by the Applicants is tantamount to asking the Court to declare that a repealed should be applied to the tenure of elected officials who took their oath of office about 4 months after the repeal of the Electoral Act, 2010.

Similarly, in ***OLAFISOYE VS. FRN (2004)LPELR - 2553 (SC)***, the apex court stated that a *"repealed law no more has legal life,*

as it does not exist any longer, it cannot be cited as if it still exists. If it must be cited at all, it must be cited as a repealed law, which has no life to influence an argument. A repealed law cannot be basis for any comparison with existing law".

Learned counsel further submits, that there are several judicial authorities on this issue but we commend the above to this Honourable court so that this issue can be resolved against the Applicants who have commenced this suit seeking for a declaration that a repealed law which has no life should regulate the tenure of elected officials of Area Councils in the FCT.

On issue 3, *whether the Applicants have proved their case to be entitled to the reliefs sought in this suit.*

Learned counsel submits, that the arguments canvassed in issues 1 and 2 in urging the Honourable Court to hold that the Applicant has not discharged the onus of proof as enshrined in Section 135 of the Evidence Act.

In conclusion, counsel urged this Honourable Court to dismiss this suit in its entirety for being frivolous with substantial costs.

On their part, 3rd Defendant filed a 5 paragraph counter affidavit in opposition to the Plaintiffs' Originating

Summons, duly deposed to by one Shagari Oyigwu Mohammed, an Assistant Executive Officer in the Headquarters of the 3rd Defendant in this case.

It is the deposition of 3rd Defendant, that the 3rd Defendant denies Paragraphs 11, 12, 13, 15, and 16 of the Affidavit in support of the Originating Summons.

That the 3rd Defendant, on 12th day of February 2022 conducted election into the Six (6) Federal Capital Territory Area Councils, and returned the Chairmen and Councilors in accordance with the provisions of the Electoral Act, 2010 (as amended).

That while the Chairmen and Councilors-elect were waiting to be sworn in, the Electoral Act, 2010 under which their election was conducted was repealed and, in its place, the Electoral Act, 2022 was enacted and came into force on 25th February, 2022, after it was assented to by the President, Federal Republic of Nigeria.

That he was aware that the Chairmen and Councilors-elect were subsequently sworn - in on 14th June, 2022, and that he knows that it is the extant Law at the time the Chairmen and Councilors took Oath of office that governs their tenure and not the Law in force at the time of the election.

That Section 108 of the Electoral Act, 2022 gave the Chairmen and Councilors Four years' tenure in office.

That the FCT Area Council Chairmen and Councilors having taken Oath of office after the enactment of the Electoral Act, 2022, on 14th June, 2022, their tenure of office will elapse on 14th June, 2026.

That the latest date for issuance of Notice of FCT Area Councils' election shall be 19th June, 2025 by virtue of Section 28(1) of the Electoral Act, 2022 which requires the Commission to publish Notice for Election not later than 360 days before the date of the election.

That the latest date for FCT Area Councils' election is 15th May, 2026 by virtue of Section 103(3) of the Electoral Act, 2022 which provides that election into all the FCT Area Councils shall be on a date not earlier than 150 days and not later than 30 days before the expiration of the tenure of the last holder of the offices.

In line with law and procedure, written address was filed wherein the 3rd Defendant respectfully adopted issues 2 and 3 as formulated by the Plaintiffs as the issues for determination in this suit, to-wit;

- a. **Whether or not, by the legal consequence of the provisions of Sections 113(1) & (2) Electoral Act, 2010 and Section 108 (1) and (2) of The Electoral Act, 2022, the tenure of the FCT Area Council chairmen is a period of 3 years?**
- b. **Whether or not, by the legal consequence of the provisions of Section 113(1) & (2) Electoral Act, 2010 and Section 108 (1) and (2) of The Electoral Act, 2022, consequent upon the FCT Area Council chairmen having been elected into office as Chairmen of the 6 Area Councils of the Federal Capital Territory on the 12th of February, 2022 by the 3rd Defendant pursuant to which they were sworn into their respective offices on the 14th of June, 2022, their tenure expires and terminates by effluxion of time, on the 14th June, 2025 in accordance with the provision of section 113 (1) & (2) Electoral Act, 2010 which was the law in force at the time of their election into office as Chairmen of the 6 Area Councils of the FCT?**

It is the submission of learned counsel, that the Plaintiffs in paragraph of their written address rightfully stated as follows: ***"It is instructive to state at this juncture that the cause of action in this suit is simply the tenure of office of the Incumbent Chairmen of the 6 Area Councils of the FCT"***

Learned counsel further submits, that the fundamental issue here is which law governs the tenure of the Chairmen and Councilors? Is it the Electoral Act, 2010 (as amended) under which their election was conducted or the Electoral Act, 2022 under which they subscribed to the Oath of Office? It is counsel's humble submission that in answering that question, regard must be had to the extant Law at the material time the Chairmen and Councilors took Oath of Office as opposed to the Law in force at the time of the conduct of the election. This is because the wording of Section 108(1) of the Electoral Act, 2022 gave insight as to the commencement date of the tenure of the elected Chairmen and Councilors when it provides thus: *"..... at the expiration of 4 years commencing from the date (a) when the Chairman took the oath of office; or (b) when the legislative arm of the council was inaugurated whichever is earlier"*.

Learned counsel submits, that the attitude of the Judiciary is in accordance with counsel's submission in paragraph 4.4 above and in complete variance with the above submission of the Plaintiffs as quoted in paragraph 4.5 above. A Plethora of Judicial Authorities have consistently interpreted the commencement of tenure of elected Legislators, Chairmen and Governors from the date the elected officials took Oath of office. ***PETER OBI VS. I.N.E.C (2007) 11 NWLR (Pt.1046) Page 565*** was cited.

Learned counsel further submits, that the presumption against retrospective application of Statute, in this case, the Electoral Act, 2022 as it affects the tenure of the said elected Officials is not tenable. This is because at the time of repeal of the Electoral Act, 2010, the elected officials had not taken their Oath of office. Consequently, their swearing in, into the office after enactment of the Electoral Act, 2022 obviates the principle against retrospective application of Statute.

Learned counsel also submits, that all the authorities cited by the Plaintiffs are not applicable in this case. This is because there is a bridge that connects the Electoral Act, 2022 with the election of the Chairmen and Councilors - And that is the Oath of office administered on them after the Electoral Act, 2022 had taken

effect. Though, the election was concluded under the repealed legal regime, their tenure only started under the new legal regime. It would have been a different thing if the elected officials were sworn in under the Electoral Act, 2010.

Learned counsel further submits, that in view of the judicial Authorities cited above, the provision of Section 108 of the Electoral Act, 2022 which stipulates a tenure of four (4) years for FCT Area Council Chairmen and Councilors is the relevant law for determination of their tenure. Consequently, the FCT Area Council Chairmen and Councilors having taken Oath of office after the Enactment of the Electoral Act, 2022, on 14th June, 2022, their tenure of office will elapse on 14th June, 2026. The latest date for issuance of Notice of FCT Area Councils' election shall be 19th June, 2025 by virtue of Section 28(1) of the Electoral Act, 2022 which requires the Commission to publish Notice for Election not later than 360 days before the date of the election. The latest date for FCT Area Council election is 15th May, 2026 by virtue of Section 103(3) of the Electoral Act, 2022 which provides election into all the FCT Area Councils shall be on a date not earlier than 150 days and not later than 30 days before the expiration of the tenure of the last holder of the offices.

In conclusion, counsel urge this Honourable Court to so hold.

In line with procedure, 5th Respondent filed written address in opposition to the Originating Summons dated 9th January, 2024, wherein 5th Defendant seeks the leave of this Court to combine all the 7 questions raised in the Originating Summons into a singular issue and argue same, to-wit;

"Whether, in the circumstance of the case, the 3rd Defendant ought to be compelled to act under Section 113 of the Electoral Act 2010 or Section 108 of the Electoral Act, 2022."

It is the submission of learned counsel, that the first and most important question is when the cause of action arose. It has been indicated elsewhere that no cause of action has arisen for the present action, and it is reiterated here. In a case like the present one, the cause of action would have arisen when any of the present Defendants take a step which they ought not to have taken or fail to take a step which they ought to have taken at the particular time.

Learned counsel argued, that the Plaintiffs is to guide the Court, it would appear that the cause of action arose when the election

took place in 2022. This cannot be because the Plaintiff could not have brought a suit of the present nature at that time.

Counsel submits, that perhaps one might consider that the cause of action arose when the Electoral Act, 2022 was enacted. But then an action of this nature could not have been grounded too at that time, because there was no action or inaction to ground a suit.

It follows therefore that the said authorities do not apply, and this Court is urged to so hold.

Learned counsel further submits, that in support of their claim, the Plaintiffs referred to ***AFOLABI VS. GOVERNOR OF OYO;***

PURIFICATION TECH VS. LSBP;

ARO VS. LAGOS ISLAND LGC;

AKPAN V. UMAH; to urge the Court to hold that laws are not meant to have retrospective effect. However, it is noteworthy that the cases cited make it clear that this position is only operative where the law destroys an accrued right.

Learned counsel contends, that the present case of Section 108 of the Electoral Act, 2022 is one of a legislation that falls within

the first category (i.e. legislation of a benevolent nature), which the law does not presume against retrospective effect.

The Electoral Act 2022 extended the term of the Council Chairmen and members to 4 years. It is clearly benevolent.

Learned counsel also submits, that the present case is an attempt to revive a dead law. This Court cannot allow that. This Court is not empowered to do that, and this Court is urged not to allow it.

In conclusion, from the foregoing, there is no case against any of the parties. The suit is a waste of judicial time and resources as well as the resources of the Defendants.

Learned counsel urge this Honourable Court to dismiss this application for lack of merit and to award costs against the Plaintiff.

On their part, Applicant filed Reply on points of law to the 1st, 2nd, 3rd and 5th Respondents counter affidavit and opposition on point of law.

Learned counsel submits, that Section 113 of the repealed Electoral Act 2010 under which the outgoing Chairmen and Councilors were elected and sworn-in enacts a three-year tenure

for Area Councils in the FCT, for ease of reference, the section is reproduced thus:

- (1) An Area Council shall stand dissolved at the expiration of 3 years commencing from the date:
 - (a) When the Chairman took the oath of office;
 - (b) When the legislative arm of the Council was inaugurated whichever is earlier.

Learned counsel further submits, that the above provision being clear and unambiguous admits of no interpretation but the literal or ordinary meaning of the words used therein which is to the effect that the tenure of the outgoing Chairmen and Councilors of the six Area Councils who were sworn in on 20th May, 2019 would, by effluxion of time, expire on the 20th day of May, 2022.

Learned counsel submits, that the fundamental issue here therefore is whether the tenure of the outgoing Chairmen and Councilors has been extended by the Electoral Act, 2022 which in its section 108 increased the tenure of the Area Councils from three to four years?

It is the submission of learned counsel, that in answering this million-dollar question, regard must be had to the fact that the

law in force as at the time the outgoing Chairmen and Councilors were elected and sworn into the Area Councils was the Electoral Act, 2010 (As Amended) and the legal effect simply is that the rights and liabilities attaching to those offices were acquired by the outgoing Chairmen and Councilors under the repealed Act. The law is quite settled that the repeal of a law does not obliterate or render non-existent transactions past and closed before it's repeal: ***EZEOKAFOR VS. EZEILO_ (1999) LPELR-1209 (SC) at 26-27*** per Achike, JSC.

Learned counsel also submits, that the rights and liabilities accruing to the outgoing Area Council officials under the repealed 2010 Electoral Act was and is still liable to be regulated by the provisions of the said Act notwithstanding its having been repealed by the 2022 Electoral Act. In other words, the Chairmen and Councilors elected under the Electoral Act, 2010 (as Amended) for a term of three years would still retain all the incidents of their office, including the tenure thereof as stipulated under the repealed Act.

The law is thus settled that unless expressly stated in the legislation, a law is presumed not to operate retroactively, for lex

prospicit, non respicit meaning that the law looks forward and not backward.

Learned counsel further submits, that the swearing in of the chairmen and councilors is a matter of procedural law and not the substantive law that brought them into power. It is worthy of mention that all issues arising from the said election were dealt with under the 2010 electoral Act and as such the term in office should be determined by 2010 electoral Act and not the 2022 Electoral Act.

Learned counsel also submits, that on whether a cause of action has arisen necessitating the present suit as canvassed by the 5th defendant, while copiously referring to the plaintiffs' supporting affidavit, we humbly submit that a cause of action has sufficiently arisen and established with reference to paragraphs 16 and 17 of the plaintiff's further and better affidavit which is the same affidavit embodying the counter affidavit to the 5th Defendant's Notice of Preliminary Objection.

In conclusion, learned counsel urge the Honourable Court to discountenance the arguments on cause of action and hold in favour of the Plaintiff/Respondents.

3rd Defendant/Applicant raised Preliminary Objection dated 24th May, 2024 and filed on the 31st May, 2024 on the following;

That the subject of this case is not within the jurisdiction of this Honourable Court.

That the 3rd Respondent in this case is a Federal Government Agency.

That the Plaintiffs do not have locus standi to bring this action.

The Grounds upon which this Application is brought are as follows;

1. The Plaintiffs' Suit challenges the term of office of Chairmen and Councilors of the Area Councils of the Federal Capital Territory (FCT).
2. This Honourable Court has no Jurisdiction over actions of the 3rd Defendant which is an Agency of the Federal Government.
3. The Plaintiffs do not fall within the persons with legal standing to bring this action.

3rd Defendant/Applicant sought for an order of this court dismissing Suit No: **CV/844/2024** for lack of jurisdiction.

In support of the application is a written address wherein three (3) issues were formulated for determination to-wit;

- a. **Whether this Honourable Court has the requisite jurisdiction to entertain this action or proceeding for a declaration affecting the term of office of elected Chairmen and Councilors.**
- b. **Whether this Honourable Court has the requisite jurisdiction to entertain this action or proceeding for a declaration affecting the validity of an executive or administrative action or decision by a Federal Government Agency?**
- c. **Whether the Plaintiffs/Respondents have legal standing (locus standi) to file this suit?**

On issue one, **whether this Honourable Court has the requisite jurisdiction to entertain this action or proceeding for a declaration affecting the term of office of elected Chairmen and Councillors.**

Learned counsel submits, that the subject matter of this case is simply the TENURE in office the incumbent Chairmen and

Councilors of the FCT. Counsel refers the court to paragraph 15 of the affidavit in support of the Originating Summons.

Learned counsel further submits, that the Plaintiffs in paragraph 7.0 of their written address rightfully elaborated this position when they stated as follows:

"It is instructive to state at this juncture that the cause of action in this suit is SIMPLY THE TENURE OF OFFICE OF THE INCUMBENT CHAIRMEN of the 6 Area Councils of the FCT"

Learned counsel also submits, that the EXCLUSIVE jurisdiction to hear and determine any question as to the term of office of any person elected to the office of Chairman, Vice-Chairman or Councilor is vested in the Area Council Election Tribunal. Section 131 of the Electoral Act, 2022 is hereunder reproduced for ease of reference:

"131 (1) There is established for the Federal Capital Territory one or more Election Tribunal (in this Act referred to as "the Area Council Election Tribunal") which shall, to the exclusion of any other Court or Tribunal, have original jurisdiction to hear and determine ANY QUESTION as to whether-

(b) THE TERM OF OFFICE OF ANY PERSON ELECTED to the office of Chairman, Vice-Chairman or Councilor..."

Learned counsel submits, that the subject matter of this suit is not within the competence of the FCT High Court and this Honourable Court lacks the Jurisdiction to determine same.

On issue two, **whether this Honourable Court has the requisite jurisdiction to entertain this action or proceeding for a declaration affecting the validity of an executive or administrative action or decision by a Federal Government Agency?**

Learned counsel submits, that although the FCT High Court generally has unlimited Jurisdiction, the Constitution and Statutes confer certain Courts with exclusive jurisdiction to the exclusion of all other Courts including the states and FCT High Courts.

The jurisdiction of the Federal High Court is donated by Section 251 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) which listed the items upon which the Federal High Court exercises exclusive jurisdiction.

Learned counsel further submits, that the entire averments in the affidavit in support of the Originating summons border around

giving effect to the Electoral Act under which the incumbent FCT Area Council Chairmen were elected. Paragraph 15 of the affidavit in support of the originating summons is reproduced for ease of reference:

"That the 1st to 3rd Respondents are not working towards giving effect to the laws under which the incumbent FCT Area Council Chairmen were elected as regards to their tenures in office which is statutorily three (3) years as stipulated under the 2010 Electoral Act that regulated their elections into office.

Learned counsel submits, that as rightly alluded to by the Plaintiffs in paragraph 7 of the Affidavit in support of the originating summons, the 3rd Respondent is charged with the responsibility of implementing the Electoral Act by conducting elections and issuance of certificate of return to elected members of the Federal Capital Territory Area Council; the subject matter of this suit.

That for a Plaintiff to challenge any action (or inaction) and decision of a Federal Government Agency, the Federal High Court is the proper Court with exclusive jurisdiction and not the FCT High Court.

Flowing from the above, this court is urged to resolve the above issue in favour of the 3rd Defendant/Applicant and sustain the Preliminary Objection as the action challenges the administrative and executive decisions of the 3rd Defendant, an agency of Federal Government and ipso facto, this Honourable Court lacks the jurisdiction to hear same.

On issue three, **Whether the Plaintiffs/Respondents have legal standing (locus standi) to file this suit?**

Learned counsel submits, that it is pertinent to state here that a challenge such as this, for a Plaintiff to have locus standi, he must show convincingly by unassailable evidence that he has sufficient interest otherwise, he could be classified as an interloper with no real interest.

That It is not in dispute that the Plaintiffs call themselves "card holding members of the All Progressives Congress (APC" and "political aspirants within the jurisdiction of this Honourable Court". They did not by their pleadings disclose that their interest has been or is in danger of being violated or adversely affected in line with the provisions of the law.

Learned counsel further submits, that "Locus standi" touches on and is closely linked to the question of jurisdiction of court, in

that, if a Plaintiff or an Applicant does not have "locus standi" or the required standing to institute an action, the court cannot properly assume jurisdiction to entertain the matter. It is a "sine qua non" to the exercise of jurisdiction because judicial powers are constitutionally limited to cases in which the parties have "locus standi". The "locus standi" of a Plaintiff in essence is a condition precedent to court's adjudication. That is, before the court can proceed to the hearing of a matter on merit, the Plaintiff must have "locus standi". ***M. V. BACO LINER, 1 & 20RS. VS. S. G. S. INSPECTION SERVICES LTD. (2001) 52 WRN Page 168;***

MOGAJI VS. MILITARY ADMINISTRATOR OF EKITI STATE (1998) 2 NWLR (Pt. 538) Page 425 were cited.

Learned counsel submits, that the real essence of the rule in "locus standi" is to protect the court from being used as a playground by professional litigants, busybodies and meddlesome interlopers that have no real stake or interest in the subject matter of the litigation they are seeking to pursue.

This court is urged to hold that the Plaintiffs lack the requisite "locus standi" to maintain this suit and strike out the suit for lack of jurisdiction.

Learned concludes by urging this court to sustain the Preliminary Objection and the dismiss the Plaintiffs' suit for want of jurisdiction.

On their part, Plaintiffs filed 19 paragraph Counter Affidavit deposed to by Muhammad Kabir Abubakar, the 1st Plaintiff in this suit. It is the deposition of the Plaintiffs, that the fulcrum of our case is seeking the interpretation of the court as to the applicable law in determining the tenure of office of the present councilors and chairmen in all the Area councils in the FCT.

That their aspiration is being presently frustrated by the refusal of the 1st, 2nd and 3rd Defendants to kick start the processes for the conduct of elections into the various councils comprising the FCT.

That almost all other states across the Federation of Nigeria have conducted primaries into the various offices of the Chairmen and Councillors of their various Councils with candidates already emerging for the various offices.

That the 1st, 2nd and 3rd Defendants/Respondents have however refused to commence the processes leading to the conduct of the council elections in the FCT despite the timing haven crystalized.

That this Honourable Court has the power to give that interpretation.

That the 3rd Defendant though an agency of the Federal Government conducted elections that brought in the present Area Council chairmen and councilors in the FCT.

That the orders of this Honourable court as being presently sought is necessary to legally pave way for us to constitutionally exercise our right and aspiration in a properly conducted council primaries and eventually a general election into the six councils comprising the Federal Capital Territory.

That a denial of their prayers in this suit will result in the deprivation of both their constitutional rights as their rights a bonafide card carrying members of their great political party.

That this court has the jurisdiction to give interpretation to the law in question.

In line with procedure, written address was filed wherein two (2) issues were formulated for determination to-wit;

1. **Whether the court in the instant case has the jurisdiction to give interpretation as well as make**

declaratory order notwithstanding the 3rd defendant being an Agency of the Federal Government.

2. **Whether the Plaintiffs have the locus standi to institute the instant suit.**

On issue one, **whether the court in the instant case has the jurisdiction to give interpretation as well as make declaratory order notwithstanding the 3rd Defendant being an Agency of the Federal Government**

It is the submission of learned counsel, that this court has the power to give interpretation to any legislation or law whenever such need arises as in the instant case. ***OLATUNJI VS. F.R.N. (2003) 3 NWLR (Pt. 807) 406;***

ABARIBE VS. ABIA STATE HOUSE OF ASSEMBLY (2002) 14 NWLR (Pt. 788) 466 were cited.

Learned counsel further submits, that this court has the jurisdiction to hear this suit as presently constituted as the issues raised by the plaintiffs in this borders on interpretation of a statute and making declarations thereof.

That the submissions of the 3rd Defendant on the strength it's an establishment of the Federal Government does not in any way rob this court of its powers to hear this suit.

On issue Two, **Whether the Plaintiffs have the locus standi to institute the instant suit.**

It is the submission of learned counsel, that since locus standi is the legal capacity to institute proceedings in a court of law, it then means that locus standi will only be accorded a plaintiff who shows that his civil rights and obligations have been or are in danger of being violated or adversely affected. Thus, there is locus standi whenever there is a justifiable dispute. A person is said to have an interest in a thing when he has rights, advantages, duties and liabilities connected with it whether present or future. **ADEKUNLE VS. ADELUGBA 2011) 16 NWLR (Pt. 1272) 154** was cited.

Learned counsel further submits, that the plaintiffs in this suit have successfully established in the averment as contained in the affidavit before this court that they possess the locus standi to bring this action before this Honourable Court by virtue of being card holding members of the All Progressive Congress and also political aspirants.

This court is urged to hold that the Plaintiffs have the right to sustain the action against the Defendants.

In conclusion; from the facts contained in the counter affidavit bordering this present application and authorities marshalled above, learned counsel submits that this Honourable court has the power to entertain this suit the Plaintiff is to go ahead and proof his claim against the Defendants in his main suit, at the end of which the Honourable court will be equipped with sufficient facts and law to arrive at a well informed and guided decision. This court is therefore urged to discountenance the application of the Applicant.

COURT:-

I have gone through the arguments of learned counsel for the 3rd Defendant/Applicant, on one hand and the Counter Affidavit of the Plaintiff on the other hand...on the issues of jurisdiction, and locus standi..

I shall deal with the issues raised one after another for the purposes of justice and posterity.

Indeed, Jurisdiction is the life wire of the court as a legal institution established for the determination of the rights of parties.

Whether a court has jurisdiction or not does not lie in the speculative or conjectural mind of the court or parties either.

The determination of jurisdiction is not a game of chess where there is always the chance element. Since it is not opened to guess, it is not one of the aspects of our law whether the court should use the objective or subjective test.

On the contrary, it is a matter of raw and hard law which is either donated by the constitution or by the enabling statute or both. See ***AFISI VS. LAWAL (1992) 1 NWLR (Pt. 217) at page 366, Paragraphs D – H.***

It is the law that locus standi goes into the jurisdictional competence of court to adjudicate.. there must be proper parties before the court for there to be judicially agreeable litigation.

Once the Plaintiff has a right or vested interest to protect and enforce legally and this has been disclosed in the statement of claim, the onus on him to establish locus standi to sue would have been discharged.

In other words, the Plaintiff must in the statement of claim disclose sufficient interest of threat of injury and show a nexus between them and the right claimed to enable him involved the judicial process. See ***UGWUNZE VS. ADELEKE (2002) 2 NWLR (Pt. 1070) 148 at Page 171 Paragraphs F – H.;***

See also ***DISU VS. AJILOWURA (2006) 14 NWLR (Pt. 1000) 783.***

A court is generally competent to adjudicate over a matter only when the condition precedent for its having jurisdiction are fulfilled. A court will be competent when:-

- a. It is properly constituted as regards numbers and qualifications of the members of the bench, and no member is disqualified for one reason or the other;
- b. The subject matter of the case is within its jurisdiction and there is no feature in the case which prevents the court from exercising its jurisdiction;
- c. The case comes before the court initiated by the due process of law and upon fulfillment of any condition precedent to the exercise of jurisdiction.

Any defect in competence is fatal, for the proceedings are nullity, however well conducted and decided. Above was stated in the case of ***MINISTER OF WORKS & HOUSING VS. SHITTA (2008) ALL FWLR (Pt. 401) 847 at 863 – 864 Paragraphs G – C.***

The Plaintiffs who claim to be card-carrying members and aspirants under the platform of the All Progressives Congress (APC), seek the Court's interpretation on which law governs the tenure of the FCT Area Council Chairmen, whether the Electoral Act 2010 or the Electoral Act 2022.

They ask whether the Chairmen elected under the 2010 Act are entitled to a 3-year tenure of a 4-year tenure under the 2022 Act, which came into force after the election but before their swearing-in.

The gamut of their argument is that the Chairmen, having been elected on 12th February 2022 before the new Act came into force, are bound by the 2010 Act under which they were elected. Accordingly, their tenure expires on 14th June 2025, three years after assumption of office.

The Plaintiffs assert that the failure of the 1st to 3rd Defendants to initiate fresh elections, or to adhere to the tenure stipulated under the governing law at the time of election, constitutes a breach of the Electoral Act 2010 and undermines their legitimate expectation to contest for office.

A perusal of the questions for determination in the Originating Summons reveals that the Plaintiffs are not challenging the conduct or validity of the FCT Area Council elections, nor seeking to void any certificate of return. Instead, they ask the Court to interpret which statute-Electoral Act 2010 or Electoral Act 2022-governs the tenure of officials elected on 12th February 2022 and sworn in on 14th June, 2022.

While the 3rd Defendant is arguing that Section 131(1) (b) of the Electoral Act, 2022 confers exclusive jurisdiction on the Area Council Election Tribunal to determine questions about the "term of office" of elected persons, that provision must be read in light of the reliefs sought in this suit.

The courts have consistently held that a suit which seeks declaratory reliefs and the interpretation of statutory or constitutional provisions does not fall within the exclusive

jurisdiction of election tribunals. See ***OLATUNJI VS. FRN (2003) 3 NWLR (Pt. 807) 406.***

The Plaintiffs are not asking this Court to remove any elected official or determine the validity of their election. The claim lies in determining the applicable law at the time of election versus the time of swearing-in, and whether any tenure extension would be unconstitutional or retrospective. See ***ABARIBE VS. SPEAKER, ABIA STATE HOUSE OF ASSEMBLY (2002) 14 NWLR (Pt. 788) 466.***

This Honourable Court, therefore, finds that it has jurisdiction to hear and determine the suit as presently constituted.

The Plaintiffs are residents, indigenes, political aspirants, and card-carrying members of the APC within the six Area Councils. They have shown that failure to hold elections or truncate timelines adversely affect their legitimate political rights. In order words, any attempt to unlawfully extend the tenure of incumbent Chairmen undermines their right to contest in fresh elections and participate in governance.

For a party to have standing, they must show sufficient interest or injury. See ***ADESANYA VS. PRESIDENT OF THE FEDERAL REPUBLIC OF NIGERIA (1981) 2 NCLR 358.***

Political aspirants have sufficient interest to sue where their rights to contest elections may be infringed or affected.

See ***ADEKUNLE VS. ADELUGBA (2011) 16 NWLR (Pt.1272) 154.***

Based on the affidavit evidence, and judicial authority, this Court finds that the Plaintiffs possess locus standi to institute this suit.

The 3rd Defendant argues that since it is a Federal Government Agency, the Federal High Court alone has jurisdiction under Section 251(1)(r) of 1999 Constitution (as amended).

The 3rd Defendant is indeed an agency of the Federal Government. However, not every suit involving a federal agency must be filed at the Federal High Court. **Section 251(1) (r) of the 1999 Constitution** confers exclusive jurisdiction on the Federal High Court only in matters involving administrative or executive decisions of such agencies.

In the instant case, the reliefs are not challenging an executive act or omission by INEC. Rather, the Plaintiffs are seeking the Court's interpretation of electoral statutes, to determine which law governs the tenure of already elected Chairmen.

Where declaratory reliefs and interpretation of statutes are sought, the High Court has jurisdiction, notwithstanding the involvement of a Federal Government agency. ***NEPA VS. EDEGBERO (2002) 18 NWLR (Pt. 798) 79***

The Court retains jurisdiction when the claim is not about enforcement of administrative actions, but about construction of legal provisions. This suit falls into the latter category.

Accordingly, this Court is competent to entertain this action despite the 3rd Defendant's participation.

Having resolved all issues in favour of the Plaintiffs/Respondents, the Preliminary Objection filed by the 3rd Defendant is hereby dismissed.

***Justice Y. Halilu
Hon. Judge
16th July, 2025***

With the determination of locus standi and jurisdiction, I now gravitate to the claims of the Plaintiffs.

I have reproduced the arguments of parties in the preceding part of this judgment.

It'll therefore not add any value reproducing it here again, hook, line and sinker..

Local Governments in Nigeria unlike the incorporated bodies or entities, are the third tier of Government created by the Constitution of the Federal Republic of Nigeria 1999 as amended, which is the ground norm and mother of all laws, with their financial and potential independence duly guaranteed under the same Constitution of the Federal Republic of Nigeria 1999.

The dissolution (tenure of Area Councils), renewal of Chairman etcetera etcetera within the Federal Capital has been addressed under sections 108, 109, 110 and 113 of the Electoral Act 2022.

I will like to note the fact that Plaintiffs in record are indeed entitled to the protection of this court enabling them to be governed by persons who have been elected in strict compliance with the extant and relevant laws.

The fundamental questions submitted by the Plaintiffs for interpretation is whether the six Area Council Chairmen who were elected on the 12th February, 2022 and sworn – in on the 14th June, 2022 under the 2010 Electoral Act for a term of three years, with 14th June, 2025 as their exit date, can now benefit from the provision of section 108 (1) and (2) of the new Evidence Act 2022 which makes the tenure of Area Council Chairmen 4 years in the FCT.

It is instructive to note that an Area Council Chairman who was duly elected as such, cannot exercise the executive power of the occupant of such an office unless he sworn – in in that capacity.

It is therefore legally logical to also say that his tenure of office shall begin to run from the date Oath of office is administered and not the date of declaration of result.

It is therefore suggestive that where an amendment to the Electoral Act as done in this case, is carried out after the swearing -in of such an elected Council Chairman, the benefits or otherwise that come with such amendment cannot affect such a Chairman.

Similarly, where an amendment is so carried out before the swearing in of such an elected person, the benefit shall be

enjoyed by the occupant of the office regardless of the fact that the election was conducted under the old Act (Electoral Act).

It is on record, that the election of Chairmen/Councillors into the six Area Council was conducted under the Old 2010 Electoral Act which was amended under the 2022 Area Act.

It is also true that the elected council Chairmen/Councillors were later sworn – in after the 2010 Electoral Act was repealed in 2022.

In view of the fact that the six Area Council Chairmen were sworn – in on the 14th June, 2022 after the amendment of the 2010 Electoral Act, which was assented to by the President Federal Republic of Nigeria on the 25th February, 2022, they shall automatically benefit from the provisions of section 108 of the 2022 Electoral Act, which provides for 4 years tenure of Area Council Chairmen/Councillors in the Federal Capital Territory (FCT), Abuja.

It is not the date they were elected but the date they were sworn-in that their tenure shall begin to run.

On above score, it is then very clear, legally speaking that the tenure of the Area Council Chairmen/Councillors in the Federal

Capital Territory (FCT) Abuja, shall lapse on the 14th day of June, 2026.

The reliefs sought for by Plaintiffs succeed in part as it relate to relief No. 1 only.

It is hereby granted as prayed.

On the other hand, reliefs 2, 3, 4, 5, 6 and 7 are refused and dismissed for the reasons given in the body of this judgment.

Above is the judgment of this court.

***Justice Y. Halilu
Hon. Judge
16th July, 2025***

APPEARANCES

Tabese Oluwakemi, Esq., – for the 3rd Defendant/Respondent (INEC).

Abdullahi Saidu Daya, Esq. – for the 5th Respondent.

Other Parties not in court and not presented.