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THE SUPREME COURT'S DECISION IN THE OLOFA OF OFFA'S CHIEFTAINCY MATTER: A CRITIQUE

*N.A.O. Ijaiya, Ph.D.**

ABSTRACT

This paper examines the constitutional finality and bindingness of the Supreme Court decisions. However, this finality neither connotes jurisprudential infallibility of the Court nor extinguishes the liberty of citizens to objectively examine and even prudently criticize the Court's decisions. Using the recent Olofa of Offa's Chieftaincy decision (Alhaji Mufutau Mohammadu Gbadamosi Esuwoye v. Alhaji Jimoh Abodunrin Imam Bosere & 8 Ors.) of the Supreme Court as a major anchor, the paper addresses and points out the inherent danger and consequence of a possible error or mistake even at the Supreme Court, in the administration of justice and development of the principle of stare decisis. The paper calls for a critical review of the Nigerian Judiciary for necessary reforms as a result of some real or perceived decadence in the administration of justice system in the country. This is more so that the Supreme especially is the very last hope of the common man in the hierarchy of the justice system.

Key words: *The Gazette; Commission of Inquiry; Statutes of Limitation; Stare Decisis; Legitimate Adjudication*

1. INTRODUCTION

Offa is a town in Offa Local Government Area of Kwara State, North Central part of Nigeria. The Olofa of Offa's Chieftaincy matter was a decision of the Supreme Court of Nigeria in *Alhaji Mufutau Mohammadu Gbadamosi Esuwoye v. Alhaji Jimoh Abodunrin Imam Bosere & 8 Ors.* (Suit No: SC.890/2014). The decision was made on 1st July, 2016. The case arose as a result of the disagreement/dissatisfaction of the Olugbense Ruling House[1] against the nomination and installation of the present Olofa of Offa, Alhaji Muftau Gbadamosi Esuwoye II by the Offa Kingmakers and the Kwara State Government in the year 2010. The Olugbense Ruling House relying among

*Lecturer, Department Of Public Law, Faculty of Law, University Of Ilorin, Nigeria. E-mail: ijaivanao@yahoo.com.

[1]One of the two Ruling Houses in Offa, The other being *Anilelerin Ruling House.*

others on the Kwara State Government of Nigeria Gazette, No II Vol. 4 of 12th March, 1970 and legal notices 3 and 4 of 1969 challenged the appointment of Alhaji Muftau Gbadamosi Esuwoye II who is a member of the Anilelerin Ruling House[2] The Olugbense Ruling House asserted that it was the turn of their Ruling House to present a candidate.

This writer is of the opinion that the judgment throws a challenge to the finality of the Supreme Court decision/judgment[3]. The Supreme Court's decision in this case rests squarely on the Counter – Claim of the Appellant which was challenged by the Respondent by way of a preliminary objection. The Counter Claim of the Appellant is briefly set out herein-under for the consideration of this paper.

1. *The 1st – 5th defendants repeat paragraphs 4 – 18 of the statement of defence.*
2. *That the Olugbense Ruling House have been disinherited and have gone into extinction going by the curse due to the decision of Oba Olugbense their progenitor to allow only the female lineage of Anilelerin to occupy the Olofa stool.*
3. *That by reason of the fact that since the demise of Oba Olugbense, it is the female lineage of Anilelerin that have been occupying the Olofa stool, the Anilelerin House have become the main and the only Ruling House in Offa.*

Whereof the 1st – 5th defendants/counter claimants pray as follows:

a. *A declaration that no rotational policy exist in Offa between the Ruling Houses in Offa on the appointment of Olofa of Offa whenever a vacancy occurs to the stool.*
b. *A declaration that the only Ruling House that exists in Offa for purpose of appointing an Olofa of Offa is the Anilelerin Ruling House.*
c. *A declaration that the Kwara State Government Gazette No. 11 Vol. 4 of 12th March, 1970 and any other notices as it recognizes the Olugbense as a Ruling House in Offa be declared null and void as it is contrary to the*

[2]Because the last holder of that office Late Oba Mustapha Olawore Olanipekun was from the same Anilelerin Ruling House

[3] Because of its implication and effect on the lower courts by virtue of the principle of stare decisis.

History, Custom and Tradition of Offa on Offa Chieftaincy.

d. *An order of perpetual injunction restraining the 6th and 7th defendants from treating and or recognizing the Olugbense Ruling House that have a right to the Chieftaincy title of Olofa of Offa.*

The issues for consideration as per that decision/judgment of the Supreme Court in that case are: *Cause of action; accrual of cause of action; right of action; limitation of actions/statutes of limitation; evidential value of the recommendation of a commission of inquiry.* Each of these will now be considered seriatim.

a) Cause of Action

The Respondent's position in this case was that the Cause of Action per the counter claim of the Appellant was the Kwara State Government Gazette No. II Vol. 4 of 12th March 1970 and notices No. 3 & 4 1969 exhibit J whilst the Appellant's position was that the cause of action was the letter of invitation by the Offa Kingmakers inviting the two Ruling Houses to present candidates for the vacant stool. Exhibit "K" made on 22nd March, 2010. The Supreme Court agreed with the Appellant's position that the cause of action was the letter of invitation Exhibit "K" It is my considered position that the Cause of Action as per the counter claim of the Appellant is the decision of the Kwara State Government as reflected in the Gazette and notices Exhibit J".

This position is supported by the various decisions of the Supreme Court where the Supreme Court in one breadth held that:

> *Cause of action is the entire set of circumstances giving rise to an enforceable claim. It is in effect the fact or combination of facts which gives rise to a right to sue and it consists of two elements the wrongful act of the defendant which gives to the plaintiff his cause of complaint and the subsequent damage.*[4]

[4]*Christiana Yare vs. National Salaries Wages & Income Commission (2013) 12 NWLR (Part 1367) 173SC. See also; Savage v Nwaechia (1972) 1 All NLR (Pt. 1)255; Aderokan v Adegorolu (1997) 3 NWLR (Pt 493) 261; Emiator v Nigerian Army (1991) 12 NWLR (Pt. 631) 362; Akibu v Oduntan (2000) 13 NWLR (Pt. 685) 446; Sulgrave Holdings Inc v FGN (2012) 17 NWLR (Pt. 1329) 39 and Peacegate Oil.*

superstition and the nullification of the Gazette and notices Exhibit "J" is procedurally wrong and fatal to the case and which has led to a perversion of Justice.

In line with paragraph E of the circumstances, in *Citec Int. Estates Ltd. & Others*[34], the procedure adopted in this case had deprived the decision or judgment of the character of a legitimate adjudication. It is therefore further recommended to their Lordships, the eloquent and insightful decision of the Sharia Court of Appeal, KALTUNGO in Gombe State in the North Eastern part of Nigeria where the Court held as follows:

> *(i) Under Islamic Law of Procedure, an appellate court has no power to order reconciliation between adverse parties after the trial Court has passed its Judgment.*
> *(ii) Where reconciliation has been properly effected by a Court between adverse parties, the reconciliation has become Judgment of the Court and therefore binding upon the parties and accordingly none of them will be allowed to retract from it.*
> *(iii) A trial Court can make reconciliation after hearing a case but before judgment is given. Once it is given, the chance for reconciliation has ceased because the parties have already known who among them had won and lost the case.*[35]

[34] Op. cit.
[35] *Waziri Kawuwa v. Lamido Unguwar Shamaki Gombe* (1980) FNR p. 17