

**THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY,
IN THE BƱARI JUDICIAL DIVISION,
HOLDEN AT COURT NO. 11 BƱARI, ABUJA.
BEFORE HIS LORDSHIP: HON. JUSTICE O. A. MUSA
SUIT NO:FCT/HC/BW/CV/07/2021**

BETWEEN:

1. DR. IPEGHAN GODPOWER

(Member, Rivers State Caretaker Committee of the All Progressives Congress)

2. JEFFERSON BOB

(Member, Caretaker Committee,
Ahoada-East Local Government Area of the All Progressives Congress, Rivers State)

3. IKASHI MILLER ORLU

(Member, Ward 3, Caretaker Committee
Ahoada-East Local Government Area of the All Progressives Congress Rivers State)

4. OWOHONDA HENRY MEHORUM

(Member, Ward 10 Caretaker Committee,
Port Harcourt Local Government Area of the All Progressives Congress, Rivers State)

5. SAMUEL HANETU -CLAIMANTS

(Member, Ward 2 Caretaker Committee,
Port Harcourt Local Government Area of the All Progressives Congress, Rivers State)

6. JOHN LEKOVA KOOTTEE

(Member, Caretaker Committee,
Gokana Local Government Area of the All Progressives Congress,
Rivers State)

7. GONI FRIDAY BARINAAIYALONEN

(Member, Ward 4 Caretaker Committee,
Gokana Local Government Area of the All Progressives Congress,
Rivers State)

8. PASTOR PROMISE GIABARI GEREGERE

(Chairman, Tai Local Government Area
Care Taker Committee of the All Progressives Congress, Rivers
State)

9. NKANE NPAPA

(Member, Ward 7, All Progressives Congress
Caretaker Committee in Tai Local Government Area, Rivers State)

AND

1. ALL PROGRESSIVES CONGRESS

2. MAI MALA BUNI -DEFENDANTS

(Chairman Caretaker Committee and Extra ordinary
Convention Planning Committee of the All Progressives
Congress)

JUDGMENT

DELIVERED ON THE 21ST JANUARY, 2021

This instant suit was commenced by way of an originating summons filed by the Claimants on the 7th day of January 2021 against the 1st and 2nd Defendants. The 1st-9th Claimants who are members of the Rivers State Caretaker Committee of the 1st Defendant at the State, Local Government or Ward levels instituted the case against the 1st and 2nd Defendants. By this suit, the Claimants seek the interpretation of some section of the constitution of the 1st Defendant as it affects their rights, powers and functions.

The Claimants submitted 3 questions for the determination of the court to wit:

- 1. Whether in the light of Article 2, Article 9.1(ii), Article 9.4, Article 13.3, Article 13.4, Article 13.8, Article 13.10, 13.11, 13.13 of the 1st Defendant's Constitution and based on the decision of the National Executive Committee of the 1st Defendant at its 8th December, 2020 meeting and a fortiori the implementation of the said decision by the Caretaker Committee and Extra ordinary Convention Planning Committee now acting in the stead of the National Working Committee of the 1st Defendant wherein Caretaker Committees for the Rivers State**

Chapter of the 1st Defendant were constituted at the State, Local Government and Ward Levels; the Claimants and all the members of the Caretaker Committees in the 1st Defendant's Rivers State Chapter at the State, Local Government and Ward Levels can perform their duties as contained in the 1st Defendant's Constitution.

2. Whether in the light of the provisions of Article 13.3 (vi), Article 13.4 (xvi) and (xvii) of the Constitution of the All Progressives Congress, 2014 (as amended), and in furtherance of the Resolution/Decisions of the National Executive Committee (NEC) of 8th December, 2020, and a fortiori the implementation of the said decision by the Caretaker Committee and Extraordinary Convention Planning Committee now acting in the stead of the National Working Committee of the 1st Defendant wherein Caretaker Committees for the Rivers State Chapter of the 1st Defendant were constituted at the State, Local Government and Ward Levels; the Claimants and other members of the said committees are not the only persons authorised in law to perform all the functions of the Elected Executive Officers of the All Progressives Congress at the State, Local Government Areas and Ward levels in its Rivers State chapter.

3. Whether in the light of the provisions of Article 13.3 (vi), Article 13.4 (xvi) and (xvii) of the Constitution of the All Progressives Congress, 2014 (as amended) the National Executive Committee of the 1st Defendant having duly extended the tenure of the Caretaker Committee and Extra ordinary Convention Planning Committee, now acting in the stead of the National Working Committee of the 1st Defendant, which Committee in turn constituted members of the Caretaker Committees for the Rivers State Chapter of the 1st Defendant at the State, Local Government and Ward Levels; the Claimants and all the members of the Caretaker Committees in its Rivers State Chapter at the State, Local Government and Ward Levels can, without inhibition, proceed to perform their functions such as registration and revalidation of members, conduct of congresses and running the affairs of the 1st Defendant in the Rivers State chapter of the 1st Defendant.

And in answering the above questions, the Claimants sought the following reliefs against the Defendants. The reliefs sought by the Claimants are:

1. A DECLARATION that upon an interpretation of the provisions of Article 2, Article 9.1(ii), Article 9.4, Article

13.3, Article 13.4, Article 13.8, Article 13.10, 13.11, 13.13 of the 1st Defendant's Constitution and based on the decision of the National Executive Committee of the 1st Defendant in its 8th December, 2020 meeting and a fortiori the implementation of the said decision by the Caretaker Committee and Extra ordinary Convention Planning Committee now acting in the stead of the National Working Committee of the 1st Defendant wherein Caretaker Committees for the Rivers State Chapter of the 1st Defendant were constituted at the State, Local Government and Ward Levels, the Claimants and all the caretaker committee members of the 1st Defendant in the Rivers State Chapter at the State, Local Government and Ward Levels can, without any inhibition, perform their duties as contained in the 1st Defendant's Constitution.

2. A DECLARATION that National Executive Committee of the 1st Defendant having duly extended the tenure of the Caretaker Committee and Extra ordinary Convention Planning Committee, now acting in the stead of the National Working Committee of the 1st Defendant, which Committee in turn constituted Caretaker Committees for the Rivers State Chapter of the 1st Defendant at the State, Local Government and Ward Levels; the

Claimants and all the members of the caretaker committees of the 1st Defendant's Rivers State Chapter at the State, Local Government and Ward Levels can, without inhibition, proceed to perform their functions such as receiving applications for membership from prospective/ intending members, registration and revalidation of members, conduct of congresses and running the affairs of the 1st Defendant in Rivers State.

- 3. A DECLARATION that upon the interpretation of the provisions of Article 13.3 (vi), Article 13.4 (xvi) and (xvii) of the Constitution of the All Progressives Congress, 2014 (as amended), and in furtherance of the Resolution/Decisions of the National Executive Committee (NEC) of 8th December, 2020, and a fortiori the implementation of the said decision by the Caretaker Committee and Extra ordinary Convention Planning Committee now acting in the stead of the National Working Committee of the 1st Defendant wherein Caretaker Committees for the Rivers State Chapter of the 1st Defendant were constituted at the State, Local Government and Ward Levels; the Claimants and other members of the caretaker committee in the 1st Defendant's River State Chapter are the only persons authorised in law to perform all the functions of the**

Elected Executive Officers of the All Progressives Congress at the State, Local Government Areas and Ward levels in its Rivers State chapter.

- 4. AN ORDER OF THIS HONOURABLE COURT directing the Defendants and any person(s) acting through them to allow the Claimants and all the members of the Rivers State Chapter of the care taker committees at the State, Local Government and Ward Levels to, without inhibition, perform their functions such as registration and revalidation of members, conduct of congresses and running the affairs of the 1st Defendant in Rivers State; the 1st Defendant through its Caretaker Committee and Extra ordinary Convention Planning Committee now acting in the stead its National Working Committee, having duly constituted Caretaker Committees for its Rivers State Chapter at the State, Local Government and Ward Levels.**
- 5. AN ORDER OF THIS HONOURABLE COURT restraining the Defendants and any person(s) acting through them or claiming to be members of the 1st Defendant in the Rivers State chapter or howsoever described, howsoever called from inhibiting the Claimants and all the members of the Rivers State Chapter Caretaker**

Committees at the State, Local Government and Ward Levels from performing their functions such as registration and revalidation of members, conduct of congresses and running the affairs of the 1st Defendant in Rivers State; the 1st Defendant through its Caretaker Committee and Extra ordinary Convention Planning Committee now acting in the stead its National Working Committee, having duly constituted Caretaker Committees for its Rivers State Chapter at the State, Local Government and Ward Levels.

6. AND FOR SUCH FURTHER ORDER OR OTHER RELIEF(S) AS THIS HONOURABLE COURT MAY DEEM JUST AND EXPEDIENT TO MAKE IN THE CIRCUMSTANCES.

In support of the originating summons, the Claimants filed an affidavit of 34 paragraphs deposed by one Dr. IpeghanGodpower (the 1st Claimant herein) and attached exhibits A to E. In addition, the Claimants also filed a written address which contained argument in support of their case and urged the Court to grant their prayers.

It must be stated that pursuant to the commencement of this suit, the Claimants filed an affidavit of urgency containing 22 paragraphs stating the need for the case to be urgently assigned and determined.

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Claimants also filed an ex-parte application dated the 7th of January 2021 seeking an order of substituted service on the Defendants and

further prayed the court for an order to abridge the time within which the Defendants can file their counter affidavit from 21 days to 5days. The Claimants also prayed the court to grant accelerated hearing of this suit. The ground upon which the said application was brought are as contained on the face of the ex-parte application.

On the 11th day of January 2021, learned counsel for the Claimants, T.J. Aondo moved the ex-parte application before this Court. Upon a careful consideration of the affidavit in support of the application, the grounds upon which it was brought and the argument in the address filed alongside, this Court exercised its discretion in favour of the Applicants and granted the application filed by the Claimants/applicants. Thus, the Court granted the accelerated hearing of this suit and abridged the time within which the parties can file their responses.

Upon the service of the Claimants' originating processes on the Defendants, the 1st and 2nd Defendants filed a counter affidavit of 10 paragraphs sworn to by one Johnson Timothy, the litigation secretary in the law office of G.E. Awulu & Co. The Defendants equally filed a written address wherein they argued in opposition to the originating summons filed by the Claimants.

It is also important to state that the Claimants filed a reply on point of law in response to the written address filed by the Defendants. The aforementioned are the processes before this Court in this case.

When the matter came up on the 18th of January 2021, respective counsel for the parties identified and adopted their processes filed in support of their cases. Having adopted their processes, the matter was adjourned for judgment.

The instant case before this court is straight forward, narrow and the facts necessitating the same are clear. The Claimants are members of the caretaker committee members of the 1st Defendant in Rivers State. The Claimants as members of the caretaker committee cut across the Ward, Local and State levels in Rivers State.

It is the Claimants' case that sometime in June 2020, the National Executive Committee of the 1st Defendant held a meeting on 25th June 2020 whereat a resolution was passed which dissolved the National Working Committee of the party and a-thirteen member Caretaker Committee and Extra ordinary Convention Planning Committee was appointed and that the Caretaker Committee is headed by the 2nd Defendant. That the said Committee effectively became the National Working Committee of the 1st Defendant.

That on 8th December, 2020 the National Executive Committee convened another meeting where the tenure of the Caretaker Committee and Extra ordinary Convention Planning Committee was extended. That on the same date, the National Executive Committee dissolved all existing State structures in the 1st Defendant.

That as a result of the dissolution of the State structures, Caretaker Committee and Extra ordinary Convention Planning Committee constituted Caretaker Committees for all the State Chapters of the 1st Defendant as well as Caretaker Committee for Local Government and Ward Levels.

The Claimants further stated that in respect of its Rivers State Chapter, a seventeen-member Care caretaker committee was constituted with one Mr. Isaac Abbot Ogbobula as its Chairman. That the Caretaker Committee also appointed Caretaker Committees at the Local Government and Ward Levels in respect of its Rivers State Chapter.

Thereafter, 1st Defendant announced its intention to undertake the registration and revalidation of new members and also conduct of congresses to elect party structures at the National, State, Local Government, Ward, Polling Unit and Zonal levels.

That on 10th December, 2020 the 2nd Defendant as the Chairman of the Caretaker committee announced a suspension of the scheduled registration and revalidation of new members and mentioned that same would commence in January, 2021.

According to the Claimants, the 1st and 2nd Defendants are under pressure to suspend the registration and revalidation of new members and to also stall any congress of the 1st Defendant at the State, Local Government and Ward levels in Rivers State.

The Claimants stated further that the Defendants are under pressure to decline the involvement of the Caretaker Committees appointed at the State, Local Government and Ward levels in the event they proceed with the registration and revalidation exercise as well as the ward, Local Government and State Congresses in Rivers State.

To the Claimants, their concerns have become heightened by the fact that the 1st Defendant has not communicated to them on the modalities for the exercise in Rivers State. That more worrisome is the fact that their counterparts in the other state in the country are being informed by the 1st Defendant on the planned activities.

That having been appointed at the State, Local Government and Ward levels, they are empowered to exercise the functions of their offices.

That in the light of these facts, their rights as the appointed Caretaker committees at the State, Local Government and Wards, stand at the risk of being violated.

The Claimants therefore sought the protection of their rights by urging the Court to grant all the reliefs sought in their originating summons. I have carefully perused the exhibits attached to the Claimants' affidavit and equally studied the written address filed by the Claimants.

On the flip side, the Defendants filed a counter affidavit of 10 paragraphs on the 14th of January 2021.

According to the Defendants, it was at the virtual National Executive Council (NEC) meeting that dissolved the National Working

Committee (NWC) of the 1st Defendant was dissolved and a Caretaker Committee and Extra ordinary convention Planning Committee led by the 2nd Defendant immediately appointed.

That on the 8th day of December 2020, the NEC of the 1st Defendant dissolved all existing State, Zonal and National structures of the party across the country including Rivers State Chapter of the party. That the NEC also extended the tenure of the Caretaker Committee for another six (6) months; an act which the constitution of the 1st Defendant allows and permits.

That the constitution of the 1st Defendant also allows and permits the NWC of the party now under the leadership of the 2nd Defendant to dissolve and constitute any committee set up for any purpose.

In line with the dissolution of the party executives at across the States one Mr. Isaac Abbot Ogbobula was appointed by the Caretaker Committee and Extra ordinary convention Planning Committee as the Chairman, Caretaker committee, Rivers State chapter and has since commenced work.

That though the 1st Defendant proposed and ordered registration of new members and revalidation of old members in all the States, the exercise was put on hold for some reasons including logistics reasons with a later date to be communicated to the party faithful.

According to the Defendant, it is the prerogative of the leadership of the party to order new registration and revalidation and to suspend

the exercise to enable the party put machinery in place to ensure a seamless and successful exercise and not necessarily due to pressure from external forces.

That the exercise is can only to be organized and coordinated at the State, Local and Ward levels by the constituted and inaugurated State Caretaker executiveswith the express authorization from the national leadership of the party.

In further reaction, the Defendants averred that the registration and/or revalidation of members of the 1st Defendant require adequate preparation and enormous financial commitment and also ensure that covid-19 protocols are strictly adhered to with the commencement of the exercise. The Defendants finally prayed the court to dismiss the suit.

I have taken great patience to consider the written argument as canvassed by the Defendants.

As stated earlier, the Claimants filed a reply on points of law which I shall reference in the course of this judgment.

This suit calls for the interpretation of certain provisions of the constitution of the party such as **Article 2, Article 9.1(ii), Article 9.4, Article 13.3, Article 13.4, Article 13.8, Article 13.10, 13.11, 13.13** and so on. I do not see the need to repeat the provisions in this judgment but I shall refer to some salient provisions of the 1st Defendants' constitution in arriving at the very just decision.

I have read the provisions of the constitution of the 1st Defendant which the Claimants attached to the affidavit as Exhibit D to identify which of the three cardinal principles of interpretation of statutes would best suitable in this case.

In doing justice to this matter, I must be guided by the principles regulating the interpretation of statute as recognised by the Court generally. The literal rule postulates that the Courts are enjoined to give

plain, clear, unambiguous, explicit and ordinary meanings to words and phrases used in the statute.

In defining the literal rule of interpretation, Niki Tobi JSC held in **Awuse v Odili (2003)18 NWLR (Pt. 851) 116**, that:

“The law of statutory interpretation is elementary and it is that if a language of a statute is clear, the courts must give the words the words their ordinary meaning in its interpretation of the statute. That is the principle of literal interpretation, which must be followed, unless it will lead to absurdity and inconsistency with the provisions of the statute as a whole.”

Following the earlier decision, the Supreme Court again held in the case of **F.B.N V Maiwada (2013)5 NWLR (Pt.1348) 444 @483** that:

“Generally, where the words of a statute are clear and unambiguous, the court should give same its ordinary literal interpretation. This is often referred to as the

literal rule. It is the most elementary rule of construction. Literal construction has been defined as the interpretation of a document or statute according to words alone. A literal construction adheres closely to the words employed without making differences for extrinsic circumstances.”

I have considered the 3 cardinal principles vis-à-vis the issues for determination presented before the court and I strongly believe that the literal rule of interpretation will be the most suitable in this case to assist in arriving at a just decision.

It is very paramount to note from the onset that article 2 of the constitution of the 1st Defendant which is subject only to the provisions of the Constitution of the Federal Republic of Nigeria and other laws in force in the country, is supreme.

A proper starting point of the resolution of the issues posed to this court would be to resolve whether the Claimants were duly appointed in their various capacities as members of the caretaker committee of the 1st Defendant at the State, Local and Ward level in Rivers State.

The Claimants stated in paragraph 14 of their affidavit that the National Executive Committee of the 1st Defendant dissolved all existing State structures and in paragraph 15 that Caretaker Committee and Extra ordinary Convention Planning Committee, acting in the stead of the National Working Committee, constituted Caretaker Committees for all the State Chapters. They stated in

paragraph 17 that in the Rivers State Chapter, the caretaker committee was constituted with Mr. Isaac Abbot Ogbobula as its Chairman and stated further in paragraph 18 that the Caretaker Committee and Extra ordinary Convention Planning Committee also appointed Caretaker Committees at the Local Government and Ward Levels in respect of its Rivers State Chapter.

I have noted that the averments in paragraphs 14,15,17 and 18 of the Claimants affidavit with respect to their appointment by the Caretaker Committee and Extra ordinary Convention Planning Committee as the Caretaker Committees at the Local Government and Ward Levels in respect of its Rivers State Chapter was not denied, challenged or controverted by the Defendants in their Counter affidavit.

As a matter of fact, the Defendants admitted in paragraphs 6(g)(i&ii) of their counter affidavit that they constituted a caretaker committee in all the States including Rivers State and appointed Mr. Isaac Abbot Ogbobula as the Chairman, Caretaker committee in Rivers State.

It is trite in law that facts admitted requires no further proof as the court can act on the admitted fact. See **Atanda v Iliashu (2013)6 NWLR (Pt. 1351)529 @551**, para. A.

Also, in **Anason Farms Ltd. V NAL Merchant Bank (1994)3 NWLR (Pt. 331)240 @252** para. G, it was held that

“The most important quality of an admission is that it saves time of the party making the assertion to prove its truth or correctness. This is because once there is an

admission, then there is no dispute and so the need for proof does not arise. Admissions act as a short cut in the judicial process as they save so much valuable litigation time.”

The implication of such admission is stated at the same pg. 252 as follows:

“Where a party makes a statement admitting the facts deposed to by the adverse party, the court readily makes use of such evidence in determining liability. Admission of a party against his interest is regarded as priceless evidence and the courts find them valuable in the decision making process.”

Thus, it is not in contention or dispute that the Claimants were appointed as the Caretaker Committees at the Local Government and Ward Levels in respect of its Rivers State. In view of the unchallenged averment of the Claimants with respect to their appointment and the admission by the 1st and 2nd Defendants, I therefore hold that the Claimants were duly and properly appointed as the Caretaker Committees of APC at the Local Government and Ward Levels in Rivers State which committee is led by one Isaac Abbott Ogbobula.

Now, having resolved that the Claimants were duly appointed as the Caretaker Committees at the Local Government and Ward Levels in Rivers State, the next question is whether the Claimants and the rest of

the members of the Caretaker Committee possess or have the powers to perform the duties for which they were appointed.

From the affidavit evidence presented by the parties before me, it is not in contention that sometime in June 2020, the National Executive Committee of the 1st Defendant and appointed a Caretaker Committee and Extra Ordinary Convention Planning Committee headed by the 2nd Defendant. It is not also in dispute that upon the inauguration of the said committee, it became the National Working Committee of the party and thus assumed the role. It is worthy to note that the same effect tricked down in a similar fashion particularly in the State, Local and ward levels. In order words, the Caretaker Committee and Extra Ordinary Convention Planning Committee constituted for all the States, Local and Ward levels the Caretaker committees.

It is needless to state that the Caretaker committees constituted at the State levels took up the functions and exercised the powers of the State Executive Committee and ditto for the Local and Ward Caretaker Committees. From the constitution of the party, it is evident that the composition of the State Working Committees and the Local Working Committees are made up of the State Executive Committees members while the Local Working Committee are made up of the Local Executive Committee members respectively. See articles 12.10 and 12.14 of the APC constitution.

The said party organs were created to exercise certain powers and perform certain roles. These powers are clearly enumerated in the

constitution of the party. The functions of the National Working Committee are provided in article 13.4, the functions of the State Executive Committee are provided in article 13.8, functions of Local Executive Committee are provided in article 13.11 while the functions of the ward committee are provided in article 13.12-13. These are the provisions submitted by the Claimants for due interpretation of this Court.

The provisions of the constitution of the 1st Defendant under reference is easy to understand and comprehend. So applying the **liberal rule** of interpretation, I have no difficulty in holding that the duly constituted committees are empowered by the constitution of the 1st Defendant to perform the functions so provided. Furthermore, having been duly appointed, only members of the constituted committees can parade themselves and perform the roles assigned to the said committee and I so hold.

In clear terms, only the Caretaker Executive Committee headed by Mr. Isaac Abbot Ogbobula for the Rivers State Chapter of the All Progressives Congress is allowed, permitted and empowered to perform the functions assigned to the State Executive Committee under the constitution of the 1st Defendant. In a similar fashion, it is only the constituted Local Government Executive Committee in the Rivers State chapter of the 1st Defendant that can exercise the powers assigned to the Local Government Committee under the constitution of the party

and ditto for the executives constituted at the ward level in Rivers State and I so hold.

The Claimants have averred that the 1st and 2nd Defendants have taken steps aimed at frustrating them from performing their duties including conducting the registration and revalidation of members, conduct of congress et at without them and deliberately hoarding necessary information from them. See paragraphs 23, 25 and 29 of affidavit in support of originating summons.

Rather than denying the averments of the Claimants, the 1st&2nd Defendants were evasive in their response. I have read the counter affidavit filed by the Defendants over again and I find no frontal challenge to the Claimants averment. There was no attempt at such denial. The Defendants merely blamed the Claimants for not presenting their grievances before the South-South Reconciliation Committee. To my mind, the Defendants' response is grossly insufficient and does not challenge the Claimants' averments.

The law is trite that depositions in an affidavit which are not challenged are deemed admitted by the adverse party. **See Ajuwa v S.P.D.C.N Ltd. (2011)18 NWLR (Pt. 1279)797 @ 830.**

I also find support in the case of **Ajomale v Yadaut (No. 2)(1991)5 NWLR (Pt. 191)266 @282-283**, paras. H-A, where the Supreme Court held that:

“It is trite law that when, in a situation in which facts are provable by affidavit, one of the parties deposes to certain facts his adversary has a duty to swear to an affidavit to the contrary if he disputes the facts. Where such a party fails to swear to an affidavit to contradict such facts, the facts may be regarded as duly established.”

It is therefore settled beyond dispute that an uncontradicted deposition in an affidavit is deemed admitted by the adversary. See also the case of **New (Nig.) Bank Ltd. V Onwudiwe (2006) All FWLR (Pt. 292)178.**

I have further looked at the Constitution of the 1st Defendant (Exhibit D) with the finery of a toothcomb. I cannot see where it directs the State Working Committee (who now are the members of the Caretaker Committee) to submit a complaint to the South-South Reconciliation Committee.

In view of the above, I believe the depositions of the Claimants in paragraphs 23,25 and 29 of their affidavit credible and believable to the effect that the Defendants are violating their rights by preventing and frustrating them from performing their duties.

I believe strongly that the actions of the Defendants are unlawful and unconstitutional. The Defendants have though argued in paragraph 6(h)(v) that the Claimants as the State, Local and Ward Executive

Committee deprive their powers to act from the ‘national leadership of the party’. The Defendants further argued at paragraph 3.14 *inter alia* that **‘it is only the duties assigned or delegated to the State Executive Committee that it is permitted to undertake...’**I find fault in the Defendants’ position and hold that same is erroneous. I am of the firm opinion that all organs of the 1st Defendant derive their powers from the constitution of the party. To my mind, bestowing absolute powers in one organ of the party would lead to anarchy and abuse of power.

I therefore hold that Claimants as Caretaker Committee members at the State, Local and Ward levels of the 1st Defendants’ Rivers State chapter were duly appointed and should be given the unfettered powers to exercise and perform the functions assigned to them by the constitution of the 1st Defendant which includes but is not limited to registration/revalidation of members and conduct of ward congresses.

The 1st Defendant as a political party must ensure that the provisions of its constitution are strictly adhered to and not violated or abused in order to further entrench internal democracy within the party. Courts have now adopted a proactive approach to ensure that political parties and its members adhere to the parties’ constitution. Courts have been enjoined not to brook arbitrary or capricious conduct of political parties.

I find strength in the case of **TUKUR V. UBA (2013) 4 NWLR (PT. 1343) 90 @163, paras. C-D**, wherethe Supreme Court per **ARIWOOLA JSC** held thus:

“The description of the prevailing circumstance is as briefly stated by my learned brother, Rhodes–Vivour JSC in *Hope Uzodinma v. Senator OsitaIzunaso* delivered on the 20th day of May, 2011 in suit no. SC.177/2011, reported as (2011) 17 NWLR (Pt. 1275) 30 at 60 para E. wherein he said:

‘The courts will never allow a political party to act arbitrarily or as it likes. Political parties must obey their own constitution and once this is done there would be orderliness and this would be good for politics and the country.’”

In the more recent case of **MATO V. HEMBER (2018) 5 NWLR (PT.1612) 258 @297 paras. C-G**, the Supreme Court per **KEKERE-EKUN J.S.C** held thus:

“As stated by my learned brother in the lead judgment, this court in a plethora of cases has asserted the fact that political parties must obey their own constitutions and guidelines and where necessary (as provided by law) the courts will intervene and wield the big stick to prevent arbitrariness. The failure of internal democracy within our political parties right

from the grassroots level eventually leads to instability in the entire political system. The failure of internal democracy is one of the reasons why the courts' dockets are congested with pre-election disputes.”

The Supreme Court also emphasized and harped on the need for political parties to adhere to the provisions of its constitution in the case of **LAU V. PDP (2018) 4 NWLR (Part 1608) 60 @pg. 123** paras. E-F, when **ONNOGHEN, C.J.N** held thus:

“Political parties must do all that is possible to ensure adherence to the provisions of their constitution so as to encourage Nigerians/ to be confident in entrusting the protection and enforcement of the provisions of the Nigerian Constitution into their hands. Where a political party refuses or neglects to abide by the provisions of its constitution in its relationship with its members we have the beginning of the culture of impunity and with itchaos, uncertainty and discipline, which should not be encouraged.”

In line with the decisions above and in line with the principle of *stare decisis*, this court will not condone any act of impunity, arbitrariness and abuse of the constitution of the 1st Defendant. The rights of the Claimants as duly registered and appointed members of the 1st Defendant must be protected and it is accordingly protected.

The Defendants have argued at paragraphs 3.26, 3.27, 3.28, 3.29 and 3.30 that this instant action filed by the Claimants is speculative as the rights of the Claimants had not been violated yet. Let me state unequivocally that I disagree with the submission of the learned counsel for the Defendants. From the findings earlier stated in this judgment, the actions of the Defendants, stated in paragraphs 23, 25 and 29 and which the Defendants did not contradict or challenge clearly constitute violation of their rights.

The Defendants by the above submission are expecting the Claimants to await injury before they can approach the Court, this is not the law as I know it. Apart from the obvious fact that the injury complained of exists and is of a continuing kind, it is also the law that a person is always expected to act Assuming, it is argued. At any rate, the law is settled that a vigilant litigant who sees that his right is about to be infringed has a duty to protest at the earliest opportunity. I refer to **AG, ANAMBRA vs. EBOH (1992) 1 NWLR (Pt. 218) 509.**

I therefore find to fault in the institution of this suit by the Claimants against the Defendants more so as the Defendants have exhibited acts that reveal and represent abuse of the rights of the Claimants.

In resolving the issues 1-3 as submitted by the Claimants, I hold that given the circumstances of this case, the Claimants as duly appointed Caretaker Committee members at the State, Local and Ward levels of the 1st Defendant in Rivers State can perform their duties as contained in the party's constitution and are the only persons authorised in law

to perform the function assigned to executive officers of the 1st Defendant as provided in its constitution. Consequently, any action done by any other person or group of persons not being the duly constituted caretaker committee is illegal, null and void.

The Defendants are hereby ordered to desist and restrain from frustrating the Claimants from doing their constitutionally assigned functions, being the duly appointed Caretaker Committee members at the State, Local and Ward levels of the 1st Defendant in Rivers State from performing all the functions assigned to them by the party's constitution.

I find merit in the case of the Claimants and hereby grant their reliefs as sought in the originating summons. This instant action filed by the Claimants succeeds in its entirety.

For the sake of emphasis, the reliefs granted by this Honourable Court are as follows:

- 1. A DECLARATION that upon an interpretation of the provisions of Article 2, Article 9.1(ii), Article 9.4, Article 13.3, Article 13.4, Article 13.8, Article 13.10, 13.11, 13.13 of the 1st Defendant's Constitution and based on the decision of the National Executive Committee of the 1st Defendant in its 8th December, 2020 meeting and a fortiori the implementation of the said decision by the Caretaker Committee and Extra ordinary Convention**

Planning Committee now acting in the stead of the National Working Committee of the 1st Defendant wherein Caretaker Committees for the Rivers State Chapter of the 1st Defendant were constituted at the State, Local Government and Ward Levels, the Claimants and all the caretaker committee members of the 1st Defendant in the Rivers State Chapter at the State, Local Government and Ward Levels can, without any inhibition, perform their duties as contained in the 1st Defendant's Constitution.

- 2. A DECLARATION that National Executive Committee of the 1st Defendant having duly extended the tenure of the Caretaker Committee and Extra ordinary Convention Planning Committee, now acting in the stead of the National Working Committee of the 1st Defendant, which Committee in turn constituted Caretaker Committees for the Rivers State Chapter of the 1st Defendant at the State, Local Government and Ward Levels; the Claimants and all the members of the caretaker committees of the 1st Defendant's Rivers State Chapter at the State, Local Government and Ward Levels can, without inhibition, proceed to perform their functions such as receiving applications for membership from prospective/ intending members, registration and revalidation of members, conduct of**

congresses and running the affairs of the 1st Defendant in Rivers State.

3. A DECLARATION that upon the interpretation of the provisions of Article 13.3 (vi), Article 13.4 (xvi) and (xvii) of the Constitution of the All Progressives Congress, 2014 (as amended), and in furtherance of the Resolution/Decisions of the National Executive Committee (NEC) of 8th December, 2020, and a fortiori the implementation of the said decision by the Caretaker Committee and Extra ordinary Convention Planning Committee now acting in the stead of the National Working Committee of the 1st Defendant wherein Caretaker Committees for the Rivers State Chapter of the 1st Defendant were constituted at the State, Local Government and Ward Levels; the Claimants and other members of the caretaker committee in the 1st Defendant's River State Chapter are the only persons authorised in law to perform all the functions of the Elected Executive Officers of the All Progressives Congress at the State, Local Government Areas and Ward levels in its Rivers State chapter.

4. AN ORDER OF THIS HONOURABLE COURT directing the Defendants and any person(s) acting through them to allow the Claimants and all the members of the Rivers State Chapter of the care taker committees at the

State, Local Government and Ward Levels to, without inhibition, perform their functions such as registration and revalidation of members, conduct of congresses and running the affairs of the 1st Defendant in Rivers State; the 1st Defendant through its Caretaker Committee and Extra ordinary Convention Planning Committee now acting in the stead its National Working Committee, having duly constituted Caretaker Committees for its Rivers State Chapter at the State, Local Government and Ward Levels.

- 5. AN ORDER OF THIS HONOURABLE COURT restraining the Defendants and any person(s) acting through them or claiming to be members of the 1st Defendant in the Rivers State chapter or howsoever described, howsoever called from inhibiting the Claimants and all the members of the Rivers State Chapter Caretaker Committees at the State, Local Government and Ward Levels from performing their functions such as registration and revalidation of members, conduct of congresses and running the affairs of the 1st Defendant in Rivers State; the 1st Defendant through its Caretaker Committee and Extra ordinary Convention Planning Committee now acting in the stead its National Working Committee, having duly constituted Caretaker Committees for its Rivers State**

Chapter at the State, Local Government and Ward Levels.

This is the judgment of this Honourable Court and I make no order as to cost.

Parties are to bear their respective cost. I so hold.

APPEARANCE

G.N Amah Esq. holding brief for C. J. Aondo Esq. for the Applicant
Onu S. Achem Esq. for the defendant.

Sign
Hon. Judge
21/01/2021