

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
HOLDEN AT ABUJA
ON MONDAY 23RD MAY 2022
BEFORE HIS LORDSHIP: HON. JUSTICE O. A. ADENIYI
SITTING AT COURT NO. 8, MAITAMA, ABUJA

SUIT NO:CV/737/2022
M/3521/2022

BETWEEN:

1. REVD. ISAAC ADENIYI
2. MR. INNOCENT IGBOEKWE
3. PRINCE
- CLAIMANTS
4. MR. JAMILUABASS
5. ALHAJIDALHATU LIMAN

JOSEPH

JAMES

AND

1. ACCORD
2. INDEPENDENT NATIONAL ELECTORAL COMMISSION
3. HON. MOHAMMED LAWALNALADO DEFENDANTS
4. MR. MICHAEL O. LERAMA
5. BARR. MAXWELL NGBUDEM

JUDGMENT

The Claimants commenced this suit *vide* Originating Summons filed in this Court on 04/03/2022 wherein they have applied for the determination of the following questions:

1. Whether by virtue of the provision of Article 2 of the Constitution of ACCORD all members, officers and organs of the 1st Defendant's political party as listed in Article 17 of the ACCORD Constitution are not bound by the entire provisions of the 1st Defendant's Constitution.

2. Whether having regard to the clear and unambiguous provisions of section 223 (1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended), section 85 (3) of the Electoral Act 2010 (as amended) and Article 19 of the Constitution of ACCORD any member/officer of the 1st Defendant's political party can contest and/or hold any of the party's offices for more than two terms.

3. Whether having regard to the clear and unambiguous provisions of section 223 (1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended), section 85 (3) of the Electoral Act 2010 (as amended) and Article 19 of the

Constitution of ACCORD, the 3rd, 4th and 5th Defendants and/or any other member of Hon. Mohammed LawalNadado's led National Executive Members (NEC) and National Working Committees (NWC) of the ACCORD who had contested and spent more than 2 terms in office can re-constitute themselves as National Caretaker Committee or remain in the same office in acting capacity after the expiration of their term(s).

4. Whether having regard to the clear and unambiguous provisions of section 223 (1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended), section 85 (3) of the Electoral Act 2010 (as amended) and Article 19 and 23 of the Constitution of ACCORD, a team of 1st Defendant's members can administer Accord as a political party either at Ward, LGA, State, Zonal or National level except members who were/are democratically elected at the congresses and/or National Convention conducted in accordance with the provisions of the 1st Defendant's Constitution.

5. Whether the deliberate refusal, failure and negligence of the 3rd, 4th and 5th Defendants to call and hold National Convention and meeting of National Executive Committee and National

Working Committee as require by the ACCORD is not a gross violation of Provision of the 1st Defendant's Constitution.

- 6. Whether by virtue of the express and unambiguous provisions of Article 17 (17) of the Constitution of ACCORD, the offices of National Board of Trustees of the 1st Defendant is irrelevant, inconsequential and non-existing within the structure and organ in the administration of the 1st Defendant's political party.**
- 7. Whether by virtue of the provisions of Article 17 (17) (D) of the Constitution of ACCORD, the 2nd to 4th Defendants can dissolve the existing tenure of the members of National Board of Trustees of the 1st Defendant's political party who were elected for a five (5) year term on the 17th day of January, 2018.**
- 8. Whether by virtue of the doctrine of necessity, the 1st Claimant's led National Board of Trustees of the 1st Defendant is not the body obligated to act as National Caretakers Committee to prepare and conduct National Convention of the party in view of the 3rd to 5th Defendants former NEC/NWC.**

9. Whether the deliberate refusal, failure and negligence of the 3rd, 4th and 5th Defendants to call for the annual auditing of the finance of the ACCORD is not an infraction of the provision of 28 (1) of the Constitution of ACCORD.

10. Whether by virtue of the provision of section 223 (1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended), section 85 (3) of the Electoral Act 2010 (as amended), the 2nd Defendant should oblige the 1st, 3rd, 4th and 5th Defendants to comply with the extant laws on tenure of office and finance of the ACCORD.

Upon the determination of these questions, the Claimants prayed the Court to grant the following reliefs against the Defendants:

1. A declaration that by virtue of the provision of Article 2 of the Constitution of the ACCORD, all members, officers and organs of the 1st Defendant's political party as listed in Article 17 of the ACCORD Constitution are bound by the entire provisions of the ACCORD Constitution.

2. A declaration that having regard to the clear and unambiguous provision of section 223 (1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended), section 85 (3) of the Electoral Act 2010 (as amended), and Article 19 and 23 of the Constitution of the ACCORD, any member/officer of the 1st Defendant's political party cannot contest and/or hold any of the party's offices for more than two terms.

3. A declaration that having regard to the clear and unambiguous provision of section 223 (1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended), section 85 (3) of the Electoral Act 2010 (as amended), and Article 19 and 23 of the Constitution of the ACCORD, the 3rd, 4th and 5th Defendants and/or any other member of Hon. Mohammed Lawal Nadado's led National Executive Members (NEC) and National Working Committees (NWC) of the ACCORD who had contested and spent more than 2 terms in office cannot re-constitute themselves as National Care Committee or

remain in the same office in acting capacity after the expiration of their term(s).

4.A declaration that having regard to the clear and unambiguous provision of section 223 (1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended), section 85 (3) of the Electoral Act 2010 (as amended), and Article 19 and 23 of the Constitution of the ACCORD, a team of 1st Defendant's members cannot administer Accord as a political party either at Ward, LGA, State, Zonal or National level except members who were/are democratically elected at the congress and/or National Convention conducted in accordance with the provisions of the 1st Defendant's Constitution.

5.A declaration that the deliberate refusal, failure and negligence of the 3rd, 4th and 5th Defendants to call and hold National Convention and meetings of National Executive Committee and National Working Committee as require by the ACCORD is a gross violation of Provision of the 1st Defendants Constitution.

6.A declaration that by virtue of the express and unambiguous provisions of Article 17 (17) of the Constitution of ACCORD, the office of National Board of Trustees of the 1st Defendant is relevant, consequential and exists in the structure and organ of administration of the 1st Defendant's political party.

7.A declaration that by virtue of the provisions of Article 17 (17) (D) of the Constitution of ACCORD, the 2nd to 4th Defendants cannot dissolve the existing tenure of the members of National Board of Trustees of the 1st Defendant's political party who were elected for a five (5) year term on the 17th day of January, 2018.

8.A declaration that by virtue of the doctrine of necessity, the 1st Claimant's led National Board of Trustees of the 1st Defendant is the only existing body obligated to act as National Caretakers Committee to prepare and conduct

National Convention of the party in view of the 3rd to 5th Defendants former NEC/NWC.

9. A declaration that the deliberate refusal, failure and negligence of the 3rd, 4th and 5th Defendants to call for the annual auditing of the finance of the ACCORD is an infraction of the provision of 28 (1) of the Constitution of ACCORD.

10. A declaration that by virtue of the provision of section 223 (1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended), section 85 (3) of the Electoral Act 2010 (as amended), the 2nd Defendant should oblige the 1st, 3rd, 4th and 5th Defendants to comply with the extant laws on tenure of office and finance of the ACCORD.

11. An order of this Honourable Court restraining the 1st and 2nd Defendants from allowing the 3rd, 4th and 5th Defendants and/or any other members of the 1st Defendant who had contested and held party office for

two (2) terms for the same office from further contesting and holding office after their 2nd term.

12. An order of this Honourable Court dissolving and setting aside 3rd Defendant's led National Caretaker Committee set up on the 17th day of February, 2022 forthwith.

13. An order of this Honourable Court directing the 1st Defendant to hold its National Convention/State Congresses with a view to elect members of the National and some State Executive Committees within 90 days from the date judgment is delivered in this suit.

14. An order of this Honourable Court directing the 2nd Defendant to ensure that the 1st Defendant holds its National Convention/State Congresses with a view to elect members of the National and some State Executive Committees within 90 days from the date judgment is delivered in this suit.

15. An order of this Honourable Court appointing and/or granting leave to the 1st Claimant and other members of the 1st Defendant's National Board of Trustees to act as the Interim National Executive Committee (INEC) for three months from the day judgment is delivered in this suit and pending when National Convention of the 1st Defendant will be held.

16. AND SUCH ORDER OR FURTHER ORDER(S) as this honorable court may make in the circumstances.

At the commencement of proceedings, the Claimants filed an *ex parte* application by which they prayed the Court for interim injunctive reliefs pending the determination of their motion for interlocutory injunction. However, upon a considered ruling, the Court found no urgency warranting the interim orders prayed merit opined that it was unable to see the urgency in the application that would warrant the grant of the interim reliefs and thus refused the same. The Court however granted the prayers for substituted service and accelerated hearing.

The Claimant's motion on notice for interlocutory injunction, which was predicated substantially on the same terms as the motion *ex parte* ruled upon earlier on by the Court, was argued simultaneously with the substantive suit on 31/03/2022. However, since the essence and effect of an order for interlocutory injunction is to last till the determination of the substantive suit, I consider it academic to determine the same anymore, since the substantive suit had been heard. For this reason I shall proceed straightaway to determine the substantive Originating Summons.

The Claimants, together with the 3rd, 4th and 5th Defendants were members of the 1st Defendant's defunct National Executive Committee and National Working Committee. According to the Claimants, the tenures of these two organs of the 1st Defendant elapsed on 17/01/2022. The summary of the Claimants' case as further gathered from the affidavit filed in support of their Originating Summons is that the 3rd Defendant, who at

some point, was the National Chairman of the 1st Defendant has allegedly been posing and parading himself as the 1st Defendant's substantive National Chairman and has since 2007 been running the affairs of the Party together with some other members of his cabinet without lawful authority.

The 1st Claimant on behalf of the Claimants contended that as a member of the 1st Defendant, he is aware that by the provisions of **Article 19** of the 1st Defendant's **Constitution, "all National, Zonal, State, Local Government Area and Ward officers of the party shall hold office for a period of four (4) years and shall be eligible for re-election at the appropriate Convention or Congress for a second term only."**

The 1st Claimant further alleged that the 3rd Defendant was first elected to office at the 1st Defendant's National Convention on the **13/10/2010** as the Party's National Chairman and his tenure alongside all other National Officers elected at the Convention elapsed on

12/10/2014;that prior to his election in 2010, the 3rd Defendant had been in power for almost three (3) years; that even after the expiration of his tenure in 2014, the 3rd Defendant and some members of the party remained in office claiming they were acting pending the holding of another National Convention; that he continued to act in that capacity until the 2nd Defendant intervened by writing to him to comply the provision of the 1st Defendant's Constitution within 90 days; that it was then that the 1st Defendant held another Convention on 18th January, 2018 wherein the 3rd Defendant emerged for a second term which tenure elapsed on 17th January, 2022.

The Claimants' case is further that the 1st Claimant was also appointed member of Board of Trustees of the 1st Defendant's party at the National Convention which held on 18th January, 2018 and subsequently appointed Chairman of Board of Trustees in June, 2018 and has been in that capacity since then. That the tenure of his office is for five (5) years and expires on the 17th January, 2023.

The case of the Claimants is further that even though the tenure of the 3rd Defendant's National Working Committee had expired but that they were still parading, acting and posing as if their tenure of office was still running; and that after getting wind of the documents requested by the Claimants from the 2nd Defendant raising some constitutional issues, he was prompted to convene a National Executive Committee meeting on the 17th of February, 2022 wherein the 1st Claimant was present and the 3rd Defendant dissolved his already expired National Executive Committee; that the dissolved National Executive Committee/National Working Committee re-appointed and migrated themselves as National Caretaker Committee with tenure of six (6) months; that following the advice of the 5th Defendant who is the party's National Legal Adviser and the 2nd Defendant's Representative, the office of the National Board of Trustees was dissolved on grounds that it has no place in the 1st Defendant's Constitution, and the 1st Claimant was urged to take up the

post of Treasurer in the newly constituted National Caretaker Committee.

The Claimants further contended that the purported National Executive Committee meeting held on 17/02/2022 was illegal, unlawful, null and void as the members who called the meeting and those who attended the meeting were no longer members of the 1st Defendant's National Executive Committee because their tenure had elapsed since 17/01/2022; that the only members whose tenures were still running are the members of the National Board of Trustees and the statutory delegates, i.e the States Chairmen; that the office of the National Board of Trustees is a creation of the Constitution of the 1st Defendant and one of the important organs of the administration of the party; that it is *ultra vires* the power of both the National Executive Committee and National Working Committee of the 1st Defendant to abolish the National Board of Trustees without first amending the Constitution; that the 3rd to 5th Defendants'

former National Executive Committee/National Working Committee cannot dissolve the National Board of Trustees whilst their terms in office still subsisted; that the 1st Claimant's purported appointment as Treasurer of the National Caretaker Committee is an infraction of the Accord Constitution which prohibits the holding of double office; that the constitution of National Caretaker Committee by the 3rd to 5th Defendants is illegal, unlawful and unconstitutional as the only way to run the affairs of the Accord is through democratically elected offices; that there has been a constitutional vacuum in the party which must be filled by the National Board of Trustees.

It is on the premises of the facts and infractions allegedly perpetrated by the 3rd – 5th Defendants, as summarized in the foregoing that the Claimants approached this Court for redress.

The records of the Court disclose that the Defendants were duly served with the originating processes and hearing notice with respect to the suit. However, none of them

either entered appearance to the suit or filed any processes in response to the Originating Summons.

Now, besides the ten (10) questions set down for determination in this suit, the Claimants also prayed the Court for ten (10) substantive declaratory reliefs which is no mean feat to achieve regardless of the non-participation of the Defendants. This is because in an action where declaratory reliefs are sought, as in the instant suit, the Claimant must succeed on the strength of his case and not on the weakness or admission of the adverse party. In other words, it would not matter that the Defendants did not file any process in defence of the action, the Claimants are duty bound to adduce credible evidence in proof of the declaration sought from the Court. See Gambo Vs. Turdam [1993] 6 NWLR (Pt. 300) 500; Dumez Nigeria Ltd. Vs. Nwokhoba [2009] All FWLR (Pt. 461) 842.

Now, proceeding on the footing of the understanding that the Claimants must prove their case, even in the absence of

the Defendants, I have carefully considered the totality of the Claimants' case as set up in the Affidavit filed to support the Originating Summons, to which they attached relevant documents to further substantiate their case. I had equally taken benefits of the totality of the arguments canvassed by the Claimants' learned counsel in the written address filed alongside the Originating Summons. I shall make specific reference to learned counsel's arguments as I deem needful in the course of this judgment.

Learned Claimants' counsel made reference to several provisions of the 1st Defendant's Constitution, which is the main document that guides the affairs of the party. It is settled that a political party like any other organization or association, is bound by its own Constitution. All members of the political party are also bound by the provisions of the Constitution of the political party they belong. What this means is that the 1st Defendant like any other corporation duly registered with the 2nd Defendant is expected to cooperate within the guidelines, the powers and

duties set out in the Constitution it submitted to the 2nd Defendant at the point of registration. Likewise, all its members are bound by the provisions thereof and their rights and obligations created by their Constitution can be remedied as provided by the Constitution if breached by any of its members. Accordingly, the rights and obligations of the members of ACCORD including those of the Claimants and the 3rd to the 5th Defendants are defined by their party Constitution. They, that is, both the party and its members, are bound by its provisions and their rights and obligations created by their Constitution can be remedied as provided by the Constitution, if breached either by the party or any of the members of the party. See Gana Vs. SDP & Ors. [2019]LPELR-47153 SC.

Now, the Claimants have alleged and have canvassed that the 3rd Defendant has been in office since 2007 without legal consequences and that even after the expiration of his tenure, he reappointed and migrated himself and his executives into National Caretaker Committee. Learned

counsel for the Claimants relied on the provisions of **s. 223(1) & (2)** of the **1999 Constitution** of the Federal Republic of Nigeria, **s. 85(3)** of the **Electoral Act 2010** and **Articles 19** and **23** of the Accord Constitution. That section of the **Constitution** provides for the conduct of elections at regular intervals not exceeding four years. Whereas the provision of the section of the **Electoral Act** requires that the election be conducted in a democratic manner. And indeed **Article 19** of the Accord **Constitution** provides that:

“All National, Zonal, State, Local Government Area, and Ward officers of the party shall hold office for a period of four (4) years and shall be eligible for re-election at the appropriate Convention or Congress for a second term only.”

The implication of this provision of the Accord Constitution of which it has been established in the foregoing that both the political party and her members are bound by, is that no member of the 1st Defendant can present

himself/herself for re-election after the expiration of their second term. I so hold.

Now, the Claimants have by their deposition in the affidavit in support stated that upon the registration of the 1st Defendant in 2006, the party was led by **Hon. IkraBilbis** who was the pioneer National Chairman and remained till 2007; that he was thereafter succeeded by one **Mr. Longer Anyanwu** in an acting capacity for four (4) months, after which the 3rd Defendant assumed the mantle of leadership in the same year 2007. My understanding here is that the 3rd Defendant assumed office because there was a vacuum created that needed to be filled. His assumption into office as the acting National Chairman of the 1st Defendant was a necessary evil which must have been by consensus of members of the party as there is no fact that he had imposed himself on the party.

The Claimants have equally deposed that the 3rd Defendant was the substantive National Chairman between 13th October, 2010 to 12th October, 2014 and

had again emerged the substantive National Chairman of the party on the of 18th January, 2018 when the party's Convention was held whose tenure alongside every other officer elected at that Convention expired on 17th January, 2022. As such, it was incumbent on the 1st Defendant to organize a fresh election to elect new National Officers for the party as provided for under its Constitution.

On whether the 3rd to the 5th Defendants can reconstitute themselves as National Caretaker Committee having spent two terms in office, the Claimants deposed that the current tenure of National Executive Members expired on the 17th of January, 2022 and by the 17th of February, 2022, exactly a month later, the Chairman convened a meeting wherein he dissolved his Executive Committee and that the dissolved National Executive Committee/National Working Committee re-appointed and migrated themselves as National Caretaker Committee with tenure of six (6) months; that following the advice of the 5th Defendant who is the party's National Legal Adviser and the 2nd

Defendant's Representative, the office of the National Board of Trustees was also dissolved on grounds that it has no place in the Accord Constitution, and the 1st Claimant was urged to take up the post of Treasurer in the newly constituted National Caretaker Committee.

As clearly demonstrated by the Claimants' learned counsel, the actions of the 3rd – 5th Defendants in this regard were clearly in violation of the Constitution of the party. There is no place for National Caretaker Committee in the 1st Defendant's Constitution. The provisions of **Article 16** of the Constitution sets out the organs of the Party, but no provision is made with respect to National Caretaker Committee. I so hold.

The issues in this case, by my understanding, has nothing to do with tussle for leadership positions in the party. As such the suit cannot, in that regard be categorized as one founded on the internal affairs of the party of which the Court would ordinarily lack jurisdiction to determine. However, the issues in this suit relates strictly to failure and

refusal of the 3rd – 5th Defendants to uphold the tenets of the provisions the Constitution of the 1st Defendant, as demanded by Article 2 of the Constitution. I so hold. See *PDP Vs. Sherrif & Ors. [2017] LPELER-42736(SC)*, cited by the Claimants' learned counsel.

Going further the issues of election of officers or members of the Executive Committee of a political party and the tenure of office are matters legislated upon by the Constitution of the Federal Republic of Nigeria, s. **223(1) & (2)** thereof. According to s. **223(2) (d)** of the Nigerian **Constitution**, to which the provision of **Article 19** of the 1st Defendant's **Constitution** is fashioned after, specifically provides that the Executive Committee of a political party shall hold office for four years interval; whereas **Article 19** of the 1st Defendant's **Constitution** limits the tenure of its National Executive Committee to two terms of four years each. The case of the Claimants, simpliciter, is that the 3rd – 5th Defendants have exhausted their constitutionally allowed two terms of four years each and as such are not

eligible to continue in office under the guise of National Caretaker Committee. As the Supreme Court held in Ugwu Vs. Ararume [2007] 12 NWLR (Pt. 1048) 486, a political party should be disciplined enough to obey the laws of the land and their own constitution so as to assure the people of its readiness to defend the Constitution of Nigeria, if entrusted with political power.

The evidence before the Court is that the second tenure of the 1st Defendant's National Executive Committee and the National Working Committee lapsed by effluxion of time on 17/01/2022. As such, members of that NEC and the NWC cannot continue in office under any other guise, not provided for in the party's Constitution. I so hold.

With respect to the National Board of Trustees of the 1st Defendant, the evidence before the Court is that the current Board was elected on 17/01/2018. In accordance with the provision of **Article 17(d)** of the 1st Defendant's **Constitution**, the tenure of the Board subsists for 5 years, as such, in this case, the tenure of the Board has not

exhausted when it was purported to have been dissolved by the National Executive Committee on 17/02/2022, thereby acting in violation of the Party's Constitution. I so hold.

As I had noted earlier on, none of the Defendants filed any responses to the affidavit filed to support the instant Originating Summons. As such, the facts as deposed therein, supported by vital and relevant documents, must be and are hereby accepted as the correct position in this case, particularly as there is nothing in the affidavit that the Court finds apparently incredible.

On the whole, the Court must and I hereby resolve the totality of the questions set down for resolution in this case in favour of the Claimants.

In the final analysis, the Court finds merit in this suit and the same hereby succeeds in its entirety. Judgment is hereby entered in favour of the Claimants as claimed in **reliefs 1 – 15** of the Originating Summons.

I make no orders as to costs.

OLUKAYODE A. ADENIYI
(Presiding Judge)
23/05/2022

Legal representation:

Chief W. O. Liady—*for the Claimants*

Defendants unrepresented by counsel