

**IN THE FEDERAL HIGH COURT**  
**HOLDEN AT LAGOS, NIGERIA**  
**ON WEDNESDAY THE 8<sup>TH</sup> DAY OF DECEMBER, 2021**  
**BEFORE THE HONOURABLE**  
**JUSTICE D. E. OSIAGOR**  
**JUDGE**

**SUIT NO: FHC/L/CS/816/2018**

**BETWEEN:**

1. ETI-OSA LOCAL GOVERNMENT COUNCIL LAGOS STATE
2. EGOR LOCAL GOVERNMENT COUNCIL EDO STATE..... PLAINTIFFS
3. OWERRI MUNICIPAL LOCAL GOVERNMENT COUNCIL  
IMO STATE
4. PORT-HARCOURT CITY LOCAL GOVERNMENT COUNCIL  
RIVERS STATE

**AND**

1. HON. MINISTER OF INTERIOR
2. ATTORNEY GENERAL OF FEDERATION AND MINISTER  
OF JUSTICE
3. ANCHOR DATAWARE SOLUTIONS LIMITED  
(PARTY JOINED BY THE ORDER OF THE COURT ON THE  
9<sup>TH</sup> DAY OF APRIL 2019)

*OM*  
**OMOWUMI A. ADEGOKE**  
**COMMISSIONER FOR OATIS**  
**FEDERAL HIGH COURT**  
**IKOYI, LAGOS**

15/12/2021  
.....DEFENDANTS

**JUDGEMENT**

The Plaintiffs by an Amended Originating Summons filed on the 12/04/19 presented the following questions for determination before the court:

1. Whether in view of judgement of Hon Justice (Coram) R. Oyindamola Olomjobi of the Federal High Court, Lagos Division in suit No: FHC/L/870/2002 between Prince L. Hasstrup & Anor v Eti-Osa Local Government Council & 2 Ors. delivered on the 8<sup>th</sup> day of June, 2004, this honourable court can grant perpetual injunction restraining the 1<sup>st</sup> Defendant himself and/or either by his privies, agents, officers and/or delegates from contracting marriages as required to be done by the Plaintiffs' Registrar under section 27 and/or other relevant sections of the Marriage Act, Cap. M6 Laws of the Federation of Nigeria (LFN), 2004.

2. Whether in view of judgement of Hon Justice (Coram) R. Oyindamola Olomajobi of the Federal High Court, Lagos Division in suit No: FHC/L/870/2002 between Prince L. Hasstrup & Anor v Eti-Osa Local Government Council & 2 Ors, delivered on the 8<sup>th</sup> day of June, 2004, this honourable court can grant perpetual injunction restraining the 1<sup>st</sup> Defendant himself and/or either by his privies, agents, officers and/or delegates from celebrating marriages as required to be done by the Plaintiffs' Registrar under section 29 and/or other relevant sections of the Marriage Act, Cap. M6 Laws of the Federation of Nigeria (LFN), 2004.
3. Whether in view of judgement of Hon Justice (Coram) R. Oyindamola Olomajobi of the Federal High Court, Lagos Division in suit No: FHC/L/870/2002 between Prince L. Hasstrup & Anor v Eti-Osa Local Government Council & 2 Ors, delivered on the 8<sup>th</sup> day of June, 2004, this honourable court can grant perpetual injunction restraining the 1<sup>st</sup> Defendant himself and/or either by his privies, agents, officers and/or delegates from registering marriages under the Marriage Act, Cap. M6 Laws of the Federation of Nigeria, 2004 as same is required to be done by section 26 and/or other relevant sections of the Marriage Act, Cap. M6 Laws of the Federation of Nigeria (LFN), 2004.
4. Whether in view of judgement of Hon Justice (Coram) R. Oyindamola Olomajobi of the Federal High Court, Lagos Division in suit No: FHC/L/870/2002 between Prince L. Hasstrup & Anor v Eti-Osa Local Government Council & 2 Ors, delivered on the 8<sup>th</sup> day of June, 2004, and pursuant to section 13 of the Marriage Act, Cap. M6 Laws of the Federation of Nigeria (LFN), 2004 the 1<sup>st</sup> Defendant himself and/or either by his privies, agents, officers and/or delegates, pertaining to marriages under the Marriage Act, can only issue or grant licenses to authorize intending parties to marry, contract and/or celebrate marriages without more as required under section of the Marriage Act, Cap. M6 Laws of the Federation of Nigeria (LFN), 2004.
5. Whether in view of judgement of Hon Justice (Coram) R. Oyindamola Olomajobi of the Federal High Court, Lagos Division in suit No: FHC/L/870/2002 between Prince L. Hasstrup & Anor v Eti-Osa Local Government Council & 2 Ors, delivered on the 8<sup>th</sup> day of June, 2004, this honourable court can grant perpetual injunction restraining the 1<sup>st</sup> Defendant himself and/or either by his privies, agents, officers and/or delegates howsoever from issuing marriage certificates under marriages

OMOWUMI A ADEGOKE  
COMMISSIONER FOR OATHS  
FEDERAL HIGH COURT  
IKOVI, LAGOS

contracted and/or celebrated by the Plaintiffs' Registrar respectively as under section 27 & 29 and/or other relevant sections of the Marriage Act, Cap. M6 Laws of the Federation of Nigeria (LFN), 2004.

In the event that the Plaintiffs questions as set above are in the affirmative, the Plaintiffs claim against the Defendants as follows:-

1. AN ORDER of Perpetual Injunction restraining the 1<sup>st</sup> Defendant himself and/or either by his privies, agents or delegates from further contracting marriages under the Marriage Act, Cap. M6 Laws of the Federation of Nigeria (LFN), 2004 within the Plaintiffs' Local Government Councils Area.
2. AN ORDER of Perpetual Injunction restraining the 1<sup>st</sup> Defendant himself and/or either by his privies, agents or delegates from further celebrating marriages under the Marriage Act, Cap. M6 Laws of the Federation of Nigeria (LFN), 2004 within the Plaintiffs' Local Government Councils Area.
3. AN ORDER of Perpetual Injunction restraining the 1<sup>st</sup> Defendant himself and/or either by his privies, agents or delegates from further granting or issuing certificates of marriage under the Marriage Act, Cap. M6 Laws of the Federation of Nigeria (LFN), 2004 within the Plaintiffs' Local Government Councils Area.
4. AN ORDER of Perpetual Injunction restraining the 1<sup>st</sup> Defendant himself and/or either by his privies, agents or delegates from further registering marriages contracted and/or celebrated under the Marriage Act, Cap. M6 Laws of the Federation of Nigeria (LFN), 2004 within the Plaintiffs' Local Government Councils Area.
5. AN ORDER of honourable court directing the 1<sup>st</sup> Defendant to transmit or return all marriage certificates issued within the respective Plaintiff's Local Government Councils subsequently after the delivery of the judgement of Hon. Justice (Coram) R. Oyindamola Olomjobi of the Federal High Court, Lagos Judicial Division Suit No; FHC/L/870/2002 between Prince L. Hasstrup & Anor v Eti-Osa Local Government Council & 2 Ors, delivered on the 8<sup>th</sup> day of June, 2004.
6. AN ORDER directing the 1<sup>st</sup> Defendant to return all the fees/money paid by couples' since the judgement in suit no FHC/L/870/2002 delivered on the 8<sup>th</sup> of June, 2004 to the Plaintiffs' Marriage Registries for re-issuance.
7. AN ORDER of this Honourable court sealing all the Federal Marriage Registry established by the 1<sup>st</sup> Defendant in the Applicants local


OMOWUNIFA ADEGOKE  
COMMISSIONER OF JUDICATURE  
FEDERAL HIGH COURT,  
IKOYI, LAGOS

Government in Nigeria or alternatively restrict the 1<sup>st</sup> Defendant Marriage Registry or agencies or officers, to only issue "LICENSES" to places of public worship for the celebration of marriage or to contract Marriage under the Act at the Local Government Registrar's office or to celebrate marriage in a licence place of worship.

In support of the originating summons is a 5 paragraphs affidavit deposed to by one Oluyole Temitayo Oluwaseun, a litigation clerk in the law firm of the counsel to the 1<sup>st</sup> Plaintiff, attached with five exhibits marked exhibits A-E. Also in support is a written address filed on the 12/04/19 wherein counsel to the Plaintiff raised a sole issue for determination being:

**"Whether by the judgement of Hon Justice (Coram) R Oyindamola Olomojobi of the Federal High Court, Lagos Judicial Division in Suit No; FHC/L/870/2002 between PRINCE L. HAASTRUP & ANR. V ETI-OSA LOCAL GOVERNMENT COUNCIL & 2 ORS, delivered on the 8<sup>th</sup> day of June, 2004, the 1<sup>st</sup> Defendant should not be restrained in contracting, celebrating, registering marriages and issuing of certificate of marriage within the Plaintiff's Local Government Council."**

In arguing their sole issue, counsel submits that in view of the 2004 judgement and particularly Section 7.1(5) and paragraph 1(i) of the fourth schedule of the 1999 Constitution of the Federal Republic of Nigeria as amended (1999 CFRN) and section 30 (1) of the Marriage Act that registration of marriages under the Marriage Act is within the exclusive reserve of the Registrars of the Marriage District (Local Government Councils in Nigeria) and in the instant case, the Plaintiff. Counsel also relying on the judgement of 2004 submits that no more than the Director-General Ministry of Internal Affairs, Director-General of a state Government in charge of marriages, any officer in the aforesaid ministries and of course the minister of Internal Affairs which is the 1<sup>st</sup> Defendant can issue or grant licenses to parties proposing to marry. On the premise of the above, counsel submits that the institutions or officers as listed are merely to issue or grant licenses to marry under the Act and no more. Counsel relies on Section 13 of the Marriage Act to buttress his point. Furthermore, counsel submits that upon the authority of the previously cited section, the 1<sup>st</sup> Defendant, which is the Minister, can only grant licenses (and cannot celebrate or contract marriages) than the registrar or a recognized minister of some religious denomination or body can now act on the license by celebrating and or contracting the marriage as between the parties named in

  
**OMOWUMI A. ADEGOKE**  
COMMISSIONER FOR OATS  
FEDERAL HIGH COURT  
IKOYI, LAGOS

the license. Counsel therefore submits that it is only the Registrars of Marriage Districts (Local Government Councils as constituted as under the 1999 Constitution of the Federal Republic of Nigeria, as amended) and recognized religious ministers of some religious denomination can contract or celebrate marriages under the Marriage Act. In conclusion, counsel submits that the Plaintiff by virtue of section 27 of the Marriage Act can contract marriages with parties so named on the licenses issued by the 1<sup>st</sup> Defendant under section 13 MA or issue a marriage certificate to married couples under the Act subject to section 7,8,9,10,11,12 and 13 of the Marriage Act.

The 1<sup>st</sup> Defendant filed its Amended Counter- Affidavit on the 5<sup>th</sup> of October 2021 in opposition to the Originating Summons. The Counter-Affidavit is made up of 5 paragraphs deposed to by one John Otuka, the Assistant Legal Adviser in the Legal Unit of the Ministry of Interior and attached with 3 exhibits marked Exhibits A1-A3 being Marriage (Designation of Districts) Order, 2021, Marriage (Delegation of Powers) Notice 2021, Marriage (Appointment of Principal Registrar, Registrars, etc) Notice 2021 respectively. Additionally attached exhibits are Marriage (Location of Marriage Offices) Directions, 2021 and Places for Celebration of Marriages (Delegation of Licensing Powers) Order, 2021.

The Plaintiffs on the 7<sup>th</sup> of October 2021, filed a Reply on Points of Law to the Counter-Affidavit of the 1<sup>st</sup> Defendant for which the court has considered as it dwells primarily on the interpretations to the judgements of suit no FHC/870/2002 of 2004 and Obiozor J's judgement of 2018.

The 2<sup>nd</sup> Defendant filed its Counter – Affidavit on the 5<sup>th</sup> of November 2018 in opposition to the Originating Summons. The affidavit is of 5 paragraphs and is deposed to by one Fafowora Samuel, a Litigation Officer in the Chamber of the 2<sup>nd</sup> Defendant. In support of the Affidavit is a written address filed on the same day wherein counsel raised a sole issue for determination being:

**Whether having due regard to the facts of this case, the court will grant the reliefs sought by the Plaintiffs as constituted and conceived?**

In arguing their sole issue, counsel submits that no law either under the Constitution of the Federal Republic of Nigeria or under the Marriage Act that regulates marriages in Nigeria, gives exclusive authority to the registrar to contract and celebrate marriages in Nigeria. Counsel also submits relying on Section 27 of the Marriage Act that the registrar does not have exclusive



authority to contract and/ or celebrate marriage that the parties have the option of where to celebrate and contract their marriage. Counsel further submits that every marriage contracted and celebrated in any licensed place or district is valid whether by the registrar or by the minister or any of his delegates according to the provisions of section 6 of the Marriage Act. Counsel concludes by submitting that the Plaintiffs did not disclose any cause of action to maintain this suit and therefore urges the court to dismiss the suit.

The Plaintiffs on the 7<sup>th</sup> of November 2018 filed a Reply on Points of Law to the Counter-Affidavit of the 2<sup>nd</sup> Defendant which the court has taken into consideration.

The 3<sup>rd</sup> Defendant on the 21<sup>st</sup> of June 2019 replied the Originating Summons by filing a Counter-Affidavit of 7 paragraphs deposed to by one Jenifer Uleh, a Legal Assistant in the Law Firm of Scepter & Maeda Law Practice, Counsel to the 3<sup>rd</sup> Defendant. The affidavit is annexed with one exhibits marked exhibit SM1. Accompanying the affidavit is a Written Address filed on the same day. Counsel submits that the suit of the Plaintiff is an abuse of court process as same has already been decided by the court in 2004 via suit FHC/L/870/2002 between Prince L Haastrup & Anor v Eti-Osa Local Government Council & 2 Ors. Counsel also submit that this instant suit is caught-up with the doctrine of Res judicata and as such cannot be decided again by this honourable court. Counsel further submits that if the Plaintiffs feel strongly that the 1<sup>st</sup> Defendant is in disobedience of a court order the proper remedy to seek is committal for contempt and not a fresh suit.

Furthermore, he argued that the entire suit of the Plaintiff is a duplication of the previously decided suit and is therefore a classic case of abuse of court process and forum shopping wherein the Plaintiffs are obviously jumping from one court to another. Thus seeking the same reliefs from all the courts, namely the administration of marriage registries in Nigeria. Counsel relied on the authority of **R-Benkay Nigeria Ltd v Cadbury Nigeria Limited** where the court held that forum shopping is an abuse of court process and where such is shown as in this instant case, the proper order to be made by the court is that of dismissal. Counsel therefore urges the court to dismiss the suit for same being an abuse of court process.

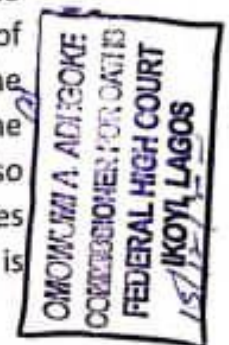
The Plaintiffs on the 2<sup>nd</sup> of July 2019 filed a Reply on Points of Law to the Counter -Affidavit of the 3<sup>rd</sup> Defendants and raised 2 issues for determination being:

OMOWUMI A. ADEGOKE  
COMMISSIONER FOR OATHS  
FEDERAL HIGH COURT  
IKOYI, LAGOS

15/12/2021

1. "Whether our present Originating Summons for consequential reliefs can be stopped in view of suit No: FHC/L/870/2002 where Coram R. Oyindamola Olomojobi of the Federal High Court granted declaratory orders or judgement"
2. "Whether our present case is an abuse of court process in view suit No: FHC/L/870/2002 and FHC/L/CS/1760/2017 struck out by Obiozor J. for lack of jurisdiction."

On issue 1, counsel submit that in deciding if this suit is caught up by the doctrine of estoppel, the court will have to consider whether the reliefs in the present suit are similar to the earlier one contained in their exhibit A that the present case is praying the court for injunctive reliefs which are consequential or incidental to the declaratory orders in Suit No.FHC/L/870/2002. Counsel also submit that the 3<sup>rd</sup> Defendant having alleged that a pending suit at the Court of Appeal and a suit in 2015 not supported by any exhibit are the same with the present suit, did not present before the court any proof showing that the claims before the court are similar in any way. That the Plaintiff did not also tender any of the reliefs claims or judgement of the court in the other cases claimed in order to enable the court reach appropriate justice whether it is same as claimed.



On issue two, counsel submits that the suit is not an abuse of court process as it is brought equitably and particularly in consonance with the rules of law. Counsel also submits that the suit No: FHC/L/CS/1760/2017 which is exhibit E referred to by the 1<sup>st</sup> Defendant was struck out by Obiozor J for lack of jurisdiction and was not dealt with on merit and most importantly was different from this instant suit. Counsel therefore submits that all the cases so cited by the defendant for the purpose of tainting the present case with an abuse have been concluded with. Counsel further submit that this instant suit seek from the court injunctive orders based on the declaration by the court in suit FHC/L/870/2002 and attached as exhibit A. That the 1<sup>st</sup> Defendant Ministry of Interior by the conclusion and decision of the declaration can only issue license to place of public worship for the celebration and contraction of marriages, this functions could also be carried out by States government department in charge of marriages. Counsel submit that the 3<sup>rd</sup> Defendant (A private organization) and 1<sup>st</sup> Defendant's contractor to register, contract and celebrate marriage under the Marriage Act is not derived from the 2004 judgement. By the judgement, the 1<sup>st</sup> Defendants power under the Act, that may be exercised with State Government marriage designated offices is only

limited to licensed place of public worship for the celebration of marriage and to issue license to couples to contract marriage before a Registrar in the marriage district now referred to as the local government council. That the judgement does not in any way empower the 1<sup>st</sup> Defendant to celebrate, contract or register Marriages under the Act or enter any contract with the 3<sup>rd</sup> Defendant or any other private organization whatsoever to carry out such functions, as such functions are strictly constitutional provisions clearly stated in the declarative 2004 judgement. Counsel concludes by urging the court to discountenance the 3<sup>rd</sup> Defendant's submission and grant the Plaintiffs prayers.

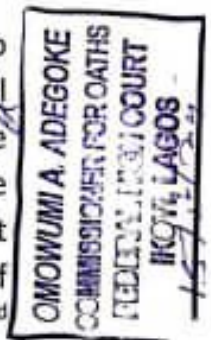
## RESOLUTION

This suit seeks consequential orders or ancillary reliefs allegedly founded on the interpretation to be given to the judgement of Olomjobi J in suit No FHC/L/870/2002 delivered in 2014. Consequential orders follow as a result of earlier order. It merely gives effect to a judgement or order to which it is consequential. See **Dec Oil Limited v Shell Nigerian Gas Limited (2019) LPELR-4934 (SC)**. Therefore all objections that it is res judicata, or have similar reliefs etc, goes to no issue.

This suit has as its hub, the decision of this court, that is, suit No FHC/L/870/2002 between Prince L. Haastrup & Anor v Eti-Osa Local Government Council & 2 Ors decided on the 8<sup>th</sup> day of June 2004, for which the Plaintiff seeks its interpretation as well as injunctive reliefs. The action of the 1<sup>st</sup> Defendant interpreted as disobedient to the judgement of Olomjobi J that precipitated this suit is the contracting, celebrating and registration of marriages, establishment of three Federal Marriage Registries in the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Plaintiffs Local Government Councils. Consequent upon the above acts of the 1<sup>st</sup> Defendant, the Plaintiffs instituted Suit No FHC/L/CS/1760/17 before Hon Justice Chuka Augustine Obiozor which was struck out for lack of jurisdiction.

This present suit therefore in the main seeks the interpretation of these two decisions vis a vis the respective powers of the parties to contract, celebrate and register marriages in Nigeria. What were the decisions in the above suits?

SUIT NO FHC/L/870 2002 Prince L. Haastrup and Another v Eti-Osa Local Government and two others wherein the Judge (Coram Olomjobi J) resolved this issue:





"The only issue that calls for determination is whether, it is only local authorities which are to contract and register marriages to the exclusion of any other authorities designated by the Ministry of Internal Affairs"

After a careful scrutiny of the provisions of the Marriage Act, the Marriage Act (Delegation of Powers) Notice, Legal Notice 44 of 1973 and the 1999 Constitution, the Court came to the following conclusions:

"It can be seen from the afforested provisions that power to issue or grant license to marry which was within the exclusive power of the Minister for Internal Affairs can now be carried out by the Director-General of the Federal Ministry of Internal Affairs, the Director-General of a State Government and any officer in either the Federal Ministry of Internal Affairs or a State Ministry charged with the responsibility of marriage.... Thus any marriage contracted or celebrated under the licence issued by any of the persons above are valid marriages and they carry the same weight."

The trial Judge held thus:

"All marriages celebrated in a licenced place of worship or contracted before a registrar are valid." Furthermore, the trial Judge concluded as follows:

"In conclusion therefore, lawful bodies or authorities which can celebrate or contract marriages for intending persons who are desirous of getting married as husband and wives are:

1. Registrars in places designated as an office
2. Recognised Ministers of religion in a licensed place of worship
3. Marriage contracted under the license granted by the Director-General Ministry of Internal Affairs, Director-General of a State Government in charge of marriages, any officer in the aforestated Ministries and of course, the Minister of Internal Affairs."

As regards registration of marriages only, this is within the exclusive authority of the Registrar within the Marriage District (Local Government) in accordance with the provisions of section 30(1) of the Marriage Act and section 7(5) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and paragraph 1(i) of the fourth schedule of the same Constitution."

  
OMOWUMI A. ADEGOKE  
COMMISSIONER FOR OATI IS  
FEDERAL HIGH COURT  
IKOYI, LAGOS  


Therefore, conscious of the above decision, Obiozor J before striking out the suit No FHC/L/CS/1760/16 (Egor Local Government Edo State and Others v Hon Minister of Interior and Others) in his obiter held:

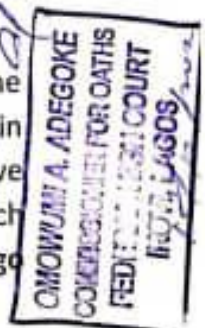
"It would be different if the Plaintiffs action and claims merely anchored in the decision in FHC/1/870/2002 with corollary orders(s) for injunction." Obiozor J went further "it seems to me that the Plaintiffs have a palpable complaint and *ubi jus ubi remedium*. See **Bello v Govt of Oyo State (1986) 5 NWLR (Pt 45) 828**. They have however approached the court wrongly. I adjudge this action, as constituted, as an abuse of court process and I so hold. I shall however decline to dismiss the suit but strike it out so as to avoid unnecessary arguments that the Plaintiffs complaints have been determined on the merits, should the proper action be instituted as corollary to the decision in FHC/L/870/2002, against which there is no appeal."

It is that proper action as underlined in the Obiozor J's Judgement that the Plaintiffs have instituted in the present suit as a corollary to the decision in FHC/L/870/2002. Where a suit is struck out the Plaintiffs in most cases have another opportunity to commence action after curing the deficiency which resulted in the striking out of the action. See **Abbas B. Lawal v Alhaji Idris Zago & Ors (2014) LPELR-24058 (CA)**.

A study of this suit reveals that it is not a re-litigation of the old issues or causes of action as argued by the Defendant. It is settled law that in interpreting a document or judgement, the document or judgement must be read as a whole and interpreted in that light. See **David Mbani v Mbiabe Bosi & Others (2006) LPELR-1853 (SC)**. The issues raised in the judgement of Olomjobi J dwells whether only Local Government authorities are to contract and register marriages in Nigeria whilst this present cause of action dwells on the legality of Defendants foraging into Marriage Districts (Local Government Areas) to establish Federal Marriage Registries and declaring certificates issued by the Local Government Areas as illegal in the light of the decision of Olomjobi J of 8<sup>th</sup> June 2004 that was not appealed against.

It must be noted that even two actions may be brought in respect of the same facts where those facts give rise to two distinct causes of action. See **A.I.C Limited v Mannesmann Anlagendau A.G & Anor (1993) LPELR-14510 (CA)**.

The gravamen of this present suit is traceable to the Public Private Partnership Agreement entered between the 1<sup>st</sup> Defendant (Hon Minister of Interior) and



the 3<sup>rd</sup> Defendant (Anchor Dataware Solutions Limited) with the primary purpose of establishing marriage registries across the states of the Federation. See Exhibits S and M2 annexed to the application for joinder.

By this Agreement, the 1<sup>st</sup> Respondent literally outlawed any marriage conducted by the Local Government (Marriage District) Registrars as it provided in Paragraphs 5.1.4, 5.1.5 and annexure A. (The Project: Additional Marriage Registries across the states.)

Under the obligations, the 1<sup>st</sup> Defendant in the agreement with 3<sup>rd</sup> Defendant

" b- Direct the Nigerian Immigration Department to make the Federal Marriage Certificate an inclusive eligibility requirement for all married applicants for international passport"

"d- Ensure adequate awareness and sensitization of the general public as well as the foreign embassies in Nigeria on the Constitutional provisions of the Marriage Act Laws of the Federal Republic of Nigeria."

The 1<sup>st</sup> Defendant in furtherance of the agreement established 3 Federal Marriage Registries in the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Plaintiffs Local Government Council and wrote a letter to the 2<sup>nd</sup> Plaintiff to obtain licenses from the Ministry of Interior. Letter exhibited as Exhibit C in the Affidavit in support of the Originating Summons.

Paragraph 6 of the Letter (Exhibit C) was very explicit in subjugating the Local Government Marriage Registry to the 1<sup>st</sup> Defendant contrary to the Judgement of Olomojobi J. "if the marriage Registry in your Local Government council has not fulfilled the requirement to obtain the aforementioned approval, please contact the Federal Marriage Registry for further details at the address stated above and to ultimately apply and obtain the approval so as to continue to conduct the marriages in accordance with the existing Marriage Act governing statutory marriages in Nigeria presently."

The 1<sup>st</sup> Defendant combining with its private partners (3<sup>rd</sup> Defendant) are metamorphosing from a Regulatory Agency into a Revenue driven Agency in establishing Marriage Registry to conduct marriages all over the Federation



within the marriage district (Local Government Areas) reserved for the Registrars of marriages in these districts. Taking further steps to Nigerian Immigration Service and Foreign Embassies in Nigeria to recognize Federal Marriage Certificate only is a complete abuse of power that undermines the constitutional recognition of the three tiers of government in Nigeria. It is highly condemnable and I so condemn it.

For emphasis, the plan and pursuit by the 1<sup>st</sup> Defendant through the 3<sup>rd</sup> Defendant to centralise the conduct, contracting and registration of marriages with 1<sup>st</sup> Defendant as its exclusive repository undermines the 1999 Constitution, flouts Olomojobi J's Judgement and an affront to the three tiers of government that makes up our Federation. At the risk of sounding *prolix* I must hold again that Marriage District (Local Government) are manned by Registrars licensed by the State Director- General over marriage matters in these Districts.

The stealthy manner in *arrogating* marriage territories beyond the statutorily delineated Central Licensing place of worship and undermining the Local Governments (Marriage Districts) is illegal. Let no Minister stealthily and surreptitiously do that.

Nigeria is a Federation consisting of States and a Federal Capital Territory- section 2(2) 1999 Constitution as amended. The Legislative competence of the National Assembly is circumscribed by Constitution section 4(1)(2)(3) and (4) to the Exclusive Legislative list and matters in the Concurrent legislative list to the extent prescribed in the second column opposite thereto. On interpretation of terms Exclusive and Concurrent Legislative lists- See generally **Hon Minister for Justice and AG Federation v Hon AG Lagos State (2013) LPELR-20974 (SC)**.

Therefore for clarity of purpose any marriage Registry established by the 1<sup>st</sup> Defendant outside the former Federal Capital Territory of Lagos and present Capital Territory of Abuja is a voyage in futility into the Marriage District (Local Government Councils) designated for such Registrars of such Marriage Districts to conduct marriages and is contrary to the spirit, intent and purpose of the Marriage Act and the judgement of Olomojobi J which recognised only-

1. Registrars in places designated as an office
2. Recognised Minister of religion in a licensed place of worship



3. Marriages Contracted under the license granted by the Director-General Ministry of Internal Affairs, Director-General of a State Government in charge of marriages, any officer in the aforementioned ministries and of course, the Minister of Internal Affairs (now interior).

It is a settled principle of interpretation that where a Statute or enactment mentions specific things or persons, the interpretation is that those not mentioned are not intended to be included. **Federal Republic of Nigeria v George Osahon & Ors (2006) LPELR-3174 (SC)**. Thus when a statute confers power or schedule on an organ or body those not specifically mentioned are excluded. See **Agnes U. Ebubedike v FRN & Ors (2013) LPELR-22061 (CA)**.

The 1<sup>st</sup> Defendant should remain in its lane, this is without prejudice to having stakeholders meetings with the District Registrars in harmonizing, standardizing the precepts of marriage under the Act like compliance with the Marriage Act's form E and precedents without subjugating any tier of Government to another. After all, marriage is a personal matter for individuals. Why would the 1<sup>st</sup> Defendant by conduct and agreements legislate where a citizen submits for marriage? Besides, only the Local Government have the exclusive responsibility of registration of marriages contrary to the 3<sup>rd</sup> Defendant's agreement with 1<sup>st</sup> Defendant. Under a constitution conferring specific powers, a particular power must be granted or it cannot be exercised. See **Marwa v Nyako (2012) ALL FWLR 1622 at 1669-1670**.

Therefore, question 1 is resolved in the negative as the conducting of marriages is not an exclusive duty of plaintiff. The 1<sup>st</sup> Defendant can be restrained from celebrating marriages in Districts headed by Plaintiff's Registrars except in the former Federal Capital Territory of Lagos and present Federal Capital Territory of Abuja as neither the 1999 Constitution nor any Statute abrogated existing Federal Marriage Registries' structure.

Question 3 is answered in the affirmative as registering of marriages is constitutionally donated to the Local Government Councils exclusively.

Question 4- the 1<sup>st</sup> Defendant can issue or grant licenses as well as contract marriages through its Registrars in its offices designated for such in the former Capital Territory of Lagos and the present Federal Capital Territory Abuja.

Question 5- is answered in the affirmative as the Plaintiffs are to issue their certificates in compliance with form E.



Question 5- is answered in the affirmative as the Plaintiffs are to issue their certificates in compliance with form E.

Therefore the court orders as follows:

Reliefs 1 granted as follows: AN ORDER of Perpetual Injunction restraining the 1<sup>st</sup> Defendant himself and/or either by his privies, agents or delegates from further contracting marriages under the Marriage Act, Cap. M6 Laws of the Federation of Nigeria (LFN), 2004 within the Plaintiffs' Local Government Councils Area. Except marriages conducted in the Marriage Registries of Ikoyi Lagos and Federal Capital Territory Abuja.

Reliefs 2 granted as follows: AN ORDER of Perpetual Injunction restraining the 1<sup>st</sup> Defendant himself and/or either by his privies, agents or delegates from further celebrating marriages under the Marriage Act, Cap. M6 Laws of the Federation of Nigeria (LFN), 2004 within the Plaintiffs' Local Government Councils Area. Except marriages conducted in the Marriage Registries of Ikoyi Lagos and Federal Capital Territory Abuja.

Reliefs 3 granted as follows: AN ORDER of Perpetual Injunction restraining the 1<sup>st</sup> Defendant himself and/or either by his privies, agents or delegates from further granting or issuing certificates of marriage under the Marriage Act, Cap. M6 Laws of the Federation of Nigeria (LFN), 2004 within the Plaintiffs' Local Government Councils Area. Except marriages conducted in the Marriage Registries of Ikoyi Lagos and Federal Capital Territory Abuja.

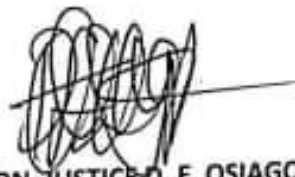
Relief 4 granted as follows: AN ORDER of Perpetual Injunction restraining the 1<sup>st</sup> Defendant himself and/or either by his privies, agents or delegates from further registering marriages contracted and/or celebrated under the Marriage Act, Cap. M6 Laws of the Federation of Nigeria (LFN), 2004 within the Plaintiffs' Local Government Councils Area. Except marriages conducted in the Marriage Registries of Ikoyi Lagos and Federal Capital Territory Abuja.

Reliefs 5 & 6 refused

  
OMOWUMI A. ADEGOKE  
COMMISSIONER FOR OAT/IS  
FEDERAL HIGH COURT  
IKOYI, LAGOS  
15/12/2021

Relief 7 granted to the extent that there shall be no Federal Marriage Registry in the Marriage Districts (Local Government Councils) save Ikoyi and Abuja Federal Marriage Registry predating the 1999 Constitution without prejudice to 1<sup>st</sup> Defendants exclusive powers to issue license to places of public worship to celebrate marriages all over the Federation.

The Parties to bear their respective costs.



HON. JUSTICE D. E. OSIAGOR  
JUDGE  
8/12/21


**APPEARANCES:-**

Roger Michael Adedimeji for the Applicant.

T. A. Mokuolu for 2<sup>nd</sup> Respondent holding brief of John Otuka for the 1<sup>st</sup> Respondent.



OMOWUMI A ADEGOKE  
COMMISSIONER FOR OATHS  
FEDERAL HIGH COURT  
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JUDGE  
8/12/21