

IN THE SUPREME COURT OF NIGERIA

HOLDEN AT ABUJA

ON FRIDAY, THE 29TH DAY OF JANUARY, 2016

BEFORE THEIR LORDSHIPS

NWALI SYLVESTER NGWUTA
MARY UKAEGO PETER-ODILI
OLUKAYODE ARIWOOLA
MUSA DATIHO MUHAMMAD
JOHN INYANG OKORO

JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT

SC. 37/2015

BETWEEN:-

1. EJIKE OGUEBEGO
2. HON. CHUKS OKOYE
(Chairman P.D.P. Anambra State and
Legal Adviser PDP Anambra State Chapter
respectively, suing for themselves and on
behalf of the other members of the State
Executive Committee of the PDP Anambra State)

----- APPELLANTS

A N D

1. PEOPLES DEMOCRATIC PARTY
2. INDEPENDENT NATIONAL ELECTORAL COMMISSION (INEC)
3. CHUKWUDI OKASIA

----- RESPONDENTS

JUDGMENT

(Delivered by JOHN INYANG OKORO, JSC)

This is an appeal against the judgment of the Court of Appeal, Abuja Division delivered on the 6th of February,

there any dispute that the Federal High Court made an order directing the 1st and 2nd respondents to recognize the appellants as Executive members of the PDP in Anambra State? The answer is No. Secondly, is there any dispute that the 2nd respondent wrote Exhibit E recognizing the 1st appellant and his executive committee members, as ordered by the court? Again, the answer is No. Thirdly, is there any dispute the fact that the 1st respondent reacted negatively by setting up a caretaker committee in spite of the order of the Federal High Court? The answer is No. So, what are we talking about? The issue before the trial court was whether the 1st respondent can rubbish the judgment/order of the court for whatever reason and set up a caretaker committee, other claims notwithstanding. For me, I strongly hold the view that there is no dispute on the relevant/essential facts granting the claims of the appellants which relate to the determination/interpretation of the action of the 1st

respondent in setting up a caretaker committee of the PDP Anambra State Chapter during the pendency of the judgment/order of the Federal High Court recognizing the appellants as persons duly elected to that position. See *Famfa Oil Ltd V. Attorney-General of the Federation* (2003) 18 NWLR (pt. 852) 453, *Doherty V. Doherty* (1968) NWLR 241, *Habib Bank Nig. Ltd V. Ochete* (2001) 3 NWLR (pt. 699) 114. *Jer V. Iyortom* (2014) 14 NWLR (pt. 1428) 575 at 627 - 628.

The 1st and 3rd respondents have tried to raise issues which tend to show that there are conflicts as to facts. I do not see any. Those facts which seem to cause disputes are not relevant to the determination of the main issue before the court.

As it stands it is clear that the court below premised its decision on this issue on a wrong appreciation of the claim of the appellants before the trial Federal High Court. I hold therefore, that Originating Summons was properly used to commence this suit at the Federal High

urt. This issue is resolved in favour of the appellants.

Having resolved all the five issues in favour of the appellants, I hold that there is merit in this appeal which is hereby allowed. The judgment of the Court of Appeal is hereby set aside. The order of the Federal High Court in Suit No *FHC/PH/CS/213/2013*) (now Suit No. *FHC/AWK/CS/247/2013*) recognizing the Ejike Oguebego - led Executive Committee of the People's Democratic Party, Anambra State Chapter is still subsisting until it is set aside by an order of court. I award costs of N100,000.00 against the 1st and 3rd respondents in favour of the appellants.

APPEAL ALLOWED.



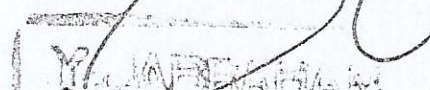
JOHN INYANG OKORO,
JUSTICE, SUPREME COURT

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Sign.....

Date.....

Supreme Court of



Annx 1


SENATORIAL 2015 LIST

	ANAMBRA	ANAMBRA NORTH SD/011/AN	MPAKWE ESTHER CHIBUZOR	F	ACCORD	42	WASC
1			CHUKWU-DUBEM ANTHONY OBAZE	M	APGA	53	B.SC
2			NWOKORA UCHENNA	F	ADC	46	WASC
3			HON. RALPH U. OKEREKE	M	ADC	54	OND. B.SC
4			MOUK WE CELESTINE C.	M	CPP	37	WAEC
5			NDIFE FRANKLINE L.	M	ID	-	SSCE
6			MONEKE OKUKWEKA C.	F	KOWA	40	NCE
7			DUMAKA VICTOR DAVID OKOLO	M	LP	49	SSCE
8			TOCHUKWU JAMES IKWUEMEZI	M	NCP	36	BSC
9			EZINANDO ARTHUR NNAMDI	M	PDC	48	WASC
10			JOHN OKECHUKWU EMEKA	M	PDP	52	M.BA
11		COURT ORDER	NWADIOGBU JOHN CHUKWUDOZIE	M	PPA	52	WASC
12			NWACHUKWU AUGUSTINE NNAMDI	M	UPP	42	SSCE
13							
		ANAMBRA CENTRAL SD/011/AN	CHIEF (SIR) VICTOR UMEH	M	APGA	52	B.SC
1			CHUKWUNONYELUM UMEH, OFR, KSI	F	ACCORD	45	NCE, B.ED
2			OYEH MERCY UCHE	F	ACD	52	GCE
3			HON. OBY KATE OKAFOR	M	ADC	37	WAEC
4			CHIEF ANAYO AUGUSTINE NWEKE	M	APC	62	MBBS
5			SEN. (DR.) CHRIS N. NGIGE	M	CPP	54	MBA
6			CHRISTOPHER AKUDO C.U.	M	CPP	54	MBA
7			CHUKWENDU	M	ID	-	B.SC
8			OKAFOR IKECHUKWU	M	KOWA	50	WAEC
9			CHIEF DENNIS M.F. OGUGUO	M	LP	48	LL.B, BL
10			KINGSLEY CHUKWUMA NWOFOR	M	MPPP	37	LL.B, BL
11			EKWEZOH CHRISTOPHER NKEM	M	NCP	40	BSC
12			UBAKAMMA JERONE IKENNA	M	PDC	41	WASC, DIP.
13		COURT ORDER	REV. CHARLES ONYEKACHI EKWUEME	M	PDP	54	ADV. DIPLOMA
14			OKONKWO ANNIE CLEMENT	M	PPA	55	HND
15			IGWILO MICHAEL C	M	UPP	60	MBA
		ANAMBRA SOUTH SD/012/AN	ENGR. ERNEST CHUKWUKA NDUKWE	M	APGA	66	BSC, D.SC
			JANE. ONYINYE AGBARAKWE	F	ACCORD	45	WAEC

Certified True Copy
 OSEAN LEE AMAECHI
 TRAINING SECRETARY
 ANAMBRA STATE

10-02-2015

DATED: 13TH JANUARY, 2015

Signed: 
 MRS. AUGUSTA O. OGAKWU
 SECRETARY, INEC


SENATORIAL 2015 LIST

3		CHUKWUEMEKA CHUKWUMA	M	ACD	39	LLB (HONS), BL
4		OTTI JOSEPH	M	AD	52	GCE
5		PRINCESS JEMIMA'EZE-ILONDU	F	ADC	49	DIPLOMA
6		ETHEL OBIAKOR	F	APC	61	BSC
7		OFORDUM IFEANYI ANTHONY	M	CPP	35	DIPLOMA
8		OTTI CHRISTIAN IKECHUKWU	M	ID	43	UNKNOWN
9		NWOSU BENSON CHUKWUMEZIE	M	LP	66	LLB, BL
10		SIR PETER OKALA	M	NCP	48	SSCE
11		EMEKA MARK GEORGE OSUNKWO	M	PDC	51	LLB, BL, M.SC
12	14	COURT ORDER	M	PDP	57	WAEC
13		UBAH CHUKWUNEDUM C.	M	PPA	49	WAEC
14		DR. IGWILLO SYLVESTER CHUKWUELOKE M.	M	UPP	50	BSC

Certified True Copy
OSCAR-LEE AMAECHI
 ADMINISTRATIVE SECRETARY
 INEC, ANAMBRA STATE
 DATE: _____
 SIGN: _____

10-02-2015


DATED: 13TH JANUARY, 2015

Signed: 
 MRS. AUGUSTA C. DGARWU
 SECRETARY, INEC

1	ANAMBRA	AGUATA	CHUKS NWSU EMEKA SYLVESTER	M	APGA	46	B.SC, MPA
2			ONYENMOBI OCHIAGHA	M	LP	46	BL
3			CHUKWUNWIKI	M	ID	39	SSCE
4			OKAMIFEANYI	F	UPP	35	WAEC
5			NWOKIKE PHILOMINA	M	NCP	37	BSC
6			IFEMEJE KENECHUKWU	F	PPA	63	MPA
7			OKOYE ANGELA NDIDI	F	ADC	44	WAEC
8			NWAFOR CHINYERE	F	APC	49	WAEC
9			APOLONIA UZONDU	M	PDC	36	B.A
10			OKOYE OBINNA FRANCIS	M	PDP	49	BA, MA
11			OFFIAH ANTHONY CHUKWUDI	F	ACCORD	46	SSCE
			MRS OTUMEMENA ONYINYECHI				
1		NNEWI NORTH	ODUMEGWU-OJUKWU	M	APGA	49	B.SC
2		SOUTH/EKWUSIGO	CHUKWUEMEKA	M	LP	40	B.A
3			OBII OBIIORA ONYEABOR	F	UPP	35	NCE
4			ANAZODO STELLA ENUMA	M	UDP	39	LL.B, BL
5			BARR. IFEANYI EJOFOR	M	ADC	50	WASC
6			JUDE OGUEHOFOR	M	APC	58	B.A
7			HON. PHILIP OBIIORA AGBASI	F	ACD	32	B.SC
8			JULIETH NKECHI UBOZOR	M	PDP	51	HND
9			JULIUS OFORMA O.	F	ACCORD	40	DIPLOMA
			JUSTINA IFEOMA OKIKE				
1		IHIALA	MOMAH CHUDY, IFEANYI MARK	M	APGA	36	
2			CHUDY	M	UPP	60	MBA
3			CHINWE THEODORE ALBERT	M	PPA	41	WAEC
4			NGOBILI MATTHEW	M	ADC		WASC
5			EMMANUEL IKEMEFUNA	M	APC	59	B.SC, MBA
6			HON. FORT IFEANYI DIKE	M	PDP	43	B.A, PH.D
7			ANOJU CHUKWUEMEKA	F	ACCORD	41	WAEC
			MRS NWANKWO CATHERINE				

Certified True Copy
 OSCAR-LEE AMAECHI
 ADMINISTRATIVE SECRETARY
 ANAMBRA STATE

DATE: 13TH JANUARY, 2015

Signed: 
 MRS. AUGUSTINA C. OGAKWU
 SECRETARY, INEC

10-02-2015

1	ANAOCHA/NJIKOKA/DUNUK OPIA	NWANKWO DOZIE FERDINAND	M	APGA	39	B.SC
2		ILOUNOH AFAMEFUNA	M	LP	48	LLB
3		DONATUS EGBUNA NWABUEZE	M	UPP	61	BSC
4		CHINWE NWAFOR	F	UDP	36	BSC
5		EZE KINGSLEY	M	PPA	41	WASC
6		HON. ANEKWE IKENNA	M	ADC	49	WASC
7		BARR. CYRIAN UDENWA	M	APC	54	WAEC, LLB, BL, LLM
8	COURT ORDER	HON. VAL AYIKA	M	PDP	49	HSC
9		HON. UMERIE UCHENNA SUNDAY	M	ACCORD	40	SSCE
1	ANAMBRA EAST/WEST	MADUBUEZE PETER OBIANO	M	APGA	56	LLB
2		NWOSU EMMANUEL	M	ID	39	SSCE
3		ONWUBE RAPHAEL NWABUNWANNE	M	UPP	53	WAEC
4		OKONKWO CHUK WUEMEKA P.	M	PPA	49	WASC
5		OBIORA UCHENNA ANTHONY	M	ADC	30	WASC
6		GABRIEL CHIDOZIE GINIKI	M	APC	52	WAEC, LLB, BL
7	COURT ORDER	NWENE EJIKE KENNETH	M	PDP	50	MBBS, MPH
1	ORUMBA NORTH/SOUTH	IGWEBUIKE IFEANYI HYGERS	M	APGA	49	B.SC
2		ESIObU BELONWU IKECHUKWU	M	LP	64	B.SC
3		UKATU NONSO	M	ID	38	SSCE
4		AMAH JOSEPH OKECHUKWU	M	UPP	28	WAEC
5		GILBERT EZEIGWE	M	ADC	54	WASC
6		EBELE OKEREKE	F	APC	44	WASC
7		PRINCE ISAAC ONUKA	M	PDC	38	WAEC
8	COURT ORDER	UCHE IFEOMA OBI	M	PDP	54	B.SC, M.SM
9		ONWUMERE LETICIA AMECHI	F	ACCORD	22	NCE
1	IDEMILI NORTH/SOUTH	IBEZI IFEANYICHUKWU ANTHONY	M	APGA	38	M.SC
		CHIDEBE NICODEMUS CHIBUNNA	M	UPP	43	NCE

Certified True Copy

OSCAR-LEE AMAECHI
ADMINISTRATIVE SECRETARY
H.C. ANAMBRA STATE

DATE: 13TH JANUARY, 2015

Signed:

MRS. AUGUSTA C. OGARWU
SECRETARY, INEC

3		OFILI ELOCHUKWU	M	PPA	38	HND
4		ADIBE ONYINYE CHINAGOROM	F	ADC	39	WASC
5		CHIBUZOR OBLAKOR	M	APC	54	WAEC, B.S.C
6		OKAFOR NKIRU ROSEMARY-	F	ACD	35	NCE
7	COURT ORDER	HON. CHARLES ODEDO	M	PDP	58	B.S.C
8		IGBOEKWE INNOCENT CHIMBUDIKE	M	ACCORD	49	BA FRENCH
1	AWKA NORTH/SOUTH	EZENAGU GODSON CHUKWUMA	M	APGA	62	HND
2		MODEZIE KENNETH EIKE	M	MPPP	56	PGDM
3		MUOGBO CHIDUBEM	M	ID	32	SSCE
4		ONUORAH UCHENNA HELEN	F	NNPP	34	DIPLOMA
5		NNEREDUM NWEKE C. FABIAN	M	UPP	55	HND
6		CHIEF MICHAEL OZOEMENA	M	UDP	40	B.S.C
7		OZOEMENA MICHAEL C.	M	ADC	46	B.PHARM
8		CHUKWUEMEKA E. NWOGBO	M	APC	54	HND
9		MADEBO VICTOR CHIGBOGU	M	PDC	43	B.S.C
10		GLORIA OBY OZOEMENA	F	ACD	47	NCE
11	COURT ORDER	HON. EMMA NWEKE	M	PDP	58	B.S.C
12		CHINWEZE IFEOMA THERESA	F	ACCORD	27	SSCE
1	OGBARE	NWAEBILI CLARE CHINWE	F	APGA	43	B.S.C
2		EDEMUZOR CHINEZIE ERNEST	M	UPP	32	B.S.C
3		OKEKE DONATUS	M	NCP	35	HND
4		NWAGGWUGWU E. JONATHAN	M	PPA	33	NCE
5		OKAFOR EMEKA ELIAS	M	ADC	47	WASC
6		VICTOR A. OGHENE	M	APC	54	PGD
7	COURT ORDER	BENEDICT O. OBAZE	M	PDP	56	WASC
8		MRS. ORIZU P. MILCHIAN	F	ACCORD	24	SSCE
1	ONITSHA NORTH/SOUTH	TABANSI-OKOYE ANTHONIA EKWUTOSI	F	APGA	55	BL, LLB
		REV. PATRICK O. ACHUKWU	M	UPP	59	B.S.C
		ENENMUOH EMEKA	M	ADC	45	OND
		EKWE RITA N.	F	APC	50	WAEC

Certified True Copy

OSCAR-LEE AMAECHI
ADMINISTRATIVE SECRETARY
INEC, ANAMBRA STATE

DATE: 13TH JANUARY, 2015

Signed: 
MRS. AUGUSTA C. OGAKWU
SECRETARY, INEC

HOUSE OF REPS 2015 FINAL LIST

5		DANIEL IKECHUKWU MUOKWNE	M	ACD	41	B.SC
6		OKAGBUE UCHENNA DAVID	M	ACPN	51	B.SC, FCIA
7		IBUZO ANTHONY OGUEJOFOR	M	ACCORD	49	B.A (AGRIC)
8	14 COURT ORDER	IFEYINWA ANAZONWU	F	PDP	59	BSC
1	OYI/AYAMELUM	ONYENWIFE GABRIEL OKOYE	M	APGA	47	LLB
2		MRS. MBAMALU CECILIA NWAUGO	F	ADC	53	ND
3		VIRGINIA E. MEZUE	F	APC	45	WAEC
4	COURT ORDER	IGNAY A.O. NWENE	M	PDP	49	B.SC, MBA
5		CHIGBO NWAKEGO FELICIA	F	ACCORD	40	B.ED
6		OKONKWO GORDIAN OBI	M	UPP	42	WAEC


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OSCAR-LEE AMAECHI
 ADMINISTRATIVE SECRETARY
 INEC, ANAMBRA STATE
 DATE: 10-02-2015
 SIGN: [Signature]

DATE: 13TH JANUARY, 2015

Signed: [Signature]
 MRS. AUGUSTA C. OGARWU
 SECRETARY, INEC

- 2 A Declaration that the purported Caretaker Committee set up by the 1st Defendant is an illegal and unconstitutional body when the tenure of the Ejike Oguebego led State Executive Committee of the People's Democratic Party, Anambra State Chapter which will only lapse on the 16th day of March, 2016 is still subsisting, functioning and duly recognised by the Court and the 2nd Defendant.
- 3 A Declaration that the acts, decisions and any delegate list or nominated candidates that may emanate from the congresses and primaries conducted by the caretaker committee set up by the 1st Defendant is illegal, invalid, unconstitutional and therefore null and void and of no effect whatsoever nor can the said list be used for any purpose for the conduct of the 2015 General Election with regard to Peoples' Democratic Party, Anambra State Chapter.
- 4 An Order of this Honourable Court that the Defendants in this case are bound to recognise, deal with and accept the list of delegates and nominated candidates that may emanate from the congresses and primaries conducted by the Plaintiff in this Case.
- 5 An Order of Perpetual Injunction restraining the 1st Defendant, its agents, servants, privies, assigns, officials whatsoever name they may be called from forwarding, sending or submitting to the 2nd Defendant any delegates list or nominated candidates that may emerge from the congresses or primaries conducted by the purported caretaker committee set up by the 1st Defendant for the Peoples' Democratic Party, Anamabra State Chapter except those that emanate from the Plaintiffs' congresses and primaries election.
- 6 An Order of Perpetual Injunction restraining the 2nd Defendant, its agents, servants, privies, assigns, officials whatsoever name they may be

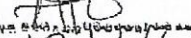
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FEDERAL HIGH COURT
ABUJA

Signature: 
Date: 8/12/14

called from accepting or receiving any delegate list or nominated candidates that may emerge from the congresses or primaries conducted by the caretaker committee set up by the 1st Defendant for the Peoples' Democratic Party, Anambra State Chapter except those that emanate from the Plaintiffs.

- 7 An Order of this Honourable Court that the 1st Defendant – Peoples' Democratic Party by the purported appointment of a caretaker committee to oversee, run the affairs and conduct elections for the Peoples' Democratic Party, Anambra State Chapter is in flagrant disobedience and contempt of the Order of this Honourable Court made by Hon. Justice E.S. Chukwu on the 10th day of October, 2014 and re-affirmed on the 24th in Suit No:FHC/ABJ/CS/680/2014 – Ken Emeakayi Vs Peoples' Democratic Party & 6 Ors.
- 8 An Order of this Honourable Court disbanding, nullifying and setting aside the illegal caretaker committee set up by the 1st Defendant to oversee, run the affairs and conduct the elections for the Peoples' Democratic Party, Anambra State Chapter.
- 9 An Order of this Honourable Court re-affirming the Order of Interlocutory Injunction given in Suit No: FHC/PH/CS/213/2013 (NOW Suit No: FHC/AWK/CS/247/2013) Ejike Oguebego & 2 Ors Vs Peoples' Democratic Party & 3 Ors pending the hearing and determination of the Appeal before the Port-Harcourt Judicial Division of the Court of Appeal in Suit No: CA/PH/764/2013- Peoples' Democratic Party Vs Ejike Oguebego & 3 Ors.

CERTIFIED TRUE COPY
FEDERAL HIGH COURT
ABUJA

Signature 
Date 8.12.14

AND AFTER READING the affidavit in support of the Originating Summons filed on 17/11/2014 and sworn to by MR OLORUNSOGO OLUSOJI

JOHN, Male, Christian, Adult, Nigerian Citizen and of No. 14 James Brown Street, Gwarimpa Abuja together with a written address in support of the Plaintiffs Originating Summons with Exhibit attached thereto both dated and filed 17/11/2014 at this Court's Registry.

AND AFTER HEARING TAIWO ABE ESQ, appears for the Plaintiff and prayed the Court to enter Judgment as per the Reliefs Sought by the Plaintiff.

AND AFTER HEARING CHIEF SOLO AKUMA, SAN, appears with MAURIN EZE (MISS) and UCHENNA OGUNEDO (MISS) for the 1st and 5th Defendants opposing the Reliefs Sought by the Plaintiff.

AND AFTER HEARING CHIEF OLUSOLA OKE ESQ. appears with EMENIKE IKORO ESQ and OLUWASEYI BAMGBOYE for the 1st Defendant opposing the Reliefs Sought by the Plaintiff.

AND AFTER HEARING ABDULAZEEZS ANI ESQ appears for the 2nd Defendant not opposing the Reliefs Sought by the Plaintiff.

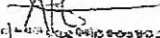
AND AFTER HEARING ABDULAZEEZS ANI, ESQ appears for the 2nd Defendant not opposing the Reliefs Sought by the Plaintiff.

AND AFTER HEARING ARTHUS, OBI OKAFOR SAN Appears with V.C OTAOKPUKPU ESQ, ANJORN OLAREWAJU, ESQ. for the 3rd Defendant.

AND ARTHUR OBI OKAFOR SAN opposing the reliefs sought by the Plaintiff's Counsel.

AND THE COURT HAVING GIVEN ITS JUDGMENT THIS 5TH DAY OF DECEMBER, 2014.

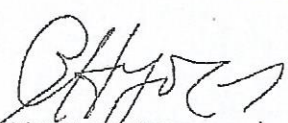
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FEDERAL HIGH COURT
ABUJA

Signature 
Date 8/12/14

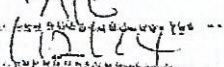
accepting or receiving any delegate list or nominated candidates that may emerge from the congresses or primaries conducted by the caretaker committee set up by the 1st Defendant for the Peoples' Democratic Party, Anambra State Chapter except those that emanate from the Plaintiffs.

6 That the 1st Defendant Peoples' Democratic Party by the purported appointment of a caretaker committee to oversee, run the affairs and conduct elections for the Peoples' Democratic Party, Anambra State Chapter is in flagrant disobedience and contempt of the Order of this Honourable Court made by Hon. Justice E.S. Chukwu on the 10th day of October, 2014 and re-affirmed on the 24th in Suit No:FHC/ABJ/CS/680/2014 - Ken Emeakayi Vs Peoples' Democratic Party & 6 Ors.

ISSUED AT ABUJA under the Seal of the Court and the Hand of the Presiding Judge, Hon. Justice E.S. CHUKWU this 5th day of December, 2014.


HASSAN C. SHEKARA
REGISTRAR

RECEIVED FROM GOVT
FEDERAL HIGH COURT
ABUJA

Signature 
Date 28/12/14

Fatima Abdullahi
CG (GD)

IN THE SUPREME COURT OF NIGERIA

HOLDEN AT ABUJA

ON FRIDAY, THE 29TH DAY OF JANUARY, 2016

BEFORE THEIR LORDSHIPS

NWALI SYLVESTER NGWUTA
MARY UKAEGO PETER-ODILI
OLUKAYODE ARIWOOLA
MUSA DATIJO MUHAMMAD
JOHN INYANG OKORO

JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT

SC. 37/2015

B E T W E E N :-

1. EJIKE OGUEBEGO
2. HON. CHUKS OKOYE
(Chairman P.D.P. Anambra State and
Legal Adviser PDP Anambra State Chapter
respectively, suing for themselves and on
behalf of the other members of the State
Executive Committee of the PDP Anambra State)

----- APPELLANTS

A N D

1. PEOPLES DEMOCRATIC PARTY
2. INDEPENDENT NATIONAL ELECTORAL COMMISSION (INEC)
3. CHUKWUDI OKASIA

----- RESPONDENTS

JUDGMENT

(Delivered by JOHN INYANG OKORO, JSC)

This is an appeal against the judgment of the Court of Appeal, Abuja Division delivered on the 6th of February,

2015. In it, the lower court allowed the appeal of the 1st Respondent herein from the judgment of the Federal High Court, Abuja Division presided over by E. S. Chukwu, J, delivered on the 15th day of December, 2014. In order to appreciate the issues thrown up for the determination of this appeal, an understanding of the complicated facts of this case is *sine qua non*. I shall, as much as is practicable, summarize the facts as can be gleaned from the three volumes of the record of appeal.

The Anambra State Executive Committee of the Peoples Democratic Party (PDP for short), led by the 1st appellant was elected into office on the 7th day of March, 2012 at the State congress election convened for that purpose. The election was duly monitored by the Independent National Electoral Commission. The said Commission later wrote Exhibit E found on pages 33 – 34 of Volume 1 of the record of appeal recognizing both the congress and the executive committee emerging therefrom.

However, sometime in March, 2012, one Emma Mbamalu, alleging himself to be the Acting Chairman of the PDP, commenced an action at the High Court of the Federal Capital Territory in Suit No. FCT/CV/2631/2012 - Emma Mbamalu Vs PDP, to which none of the members of the 1st appellant's led state executive committee of the PDP was joined. Judgment was entered in favour of the Plaintiff in that suit nullifying PDP Wards, local government and state congresses held on 3rd and 7th, 10th and 17th March, 2012 respectively. No order was however made against the Ejike Oguebego - led Anambra State Executive, not having made parties to the case. Records show that even when the appellants herein sought to join in the said suit as parties likely to be affected or interested party, the said court refused their application, stating that they had no interest in the matter as constituted.

When an attempt was made by certain elements in the PDP to recognize one Ken Emeakayi (a former State

Executive Chairman of PDP Anambra State Chapter), and his associates as the authentic PDP Executive Committee for Anambra State, the 1st and 2nd appellants herein, as members of the INEC-recognized Ejike Oguebego - led executive committee filed an action (during the annual vacation) at the Port Harcourt Judicial Division of the Federal High Court in Suit No. FHC/PH/CS/213/2014 now Suit No. FHC/AWK/CS/247/2014. The action was brought in representative capacity such that all the members of the Anambra PDP Executive Committee were parties to the case.

On 12th September, 2013, the Federal High Court, presided over by Hon. Justice H. A. Ngajiwa ordered the PDP to maintain the *status quo ante bellum*, which is that the Ejike Oguebego-led State Executive Committee is the authentic PDP Anambra State Executive. Part of the order of the said court can be found on pages 22 - 24 of Volume I of the record of appeal as follows:

"That the 1st and 2nd defendants are hereby ordered to recognize and deal with the plaintiffs in all election matters in Anambra state pending the hearing and determination of the substantive matter."

The 1st respondent herein appealed against the said order of the Federal High Court to the Court of Appeal in Appeal No. CA/PH/764/2013. The notice of appeal can be found at pages 25 - 28 of Volume I of the record of appeal. As at the time this appeal was taken, that appeal was still pending before the Court of Appeal.

Mr. Ken Emeakanyi commenced another action in the Federal High Court, Abuja in Suit No. FHC/ABJ/CS/680/2014 claiming to still be the Chairman of PDP Anambra State Chapter. The said suit was dismissed by E. S. Chukwu, J. of the Federal High Court, Abuja.

When the 1st respondent, during the pendency of the orders of the Federal High Court and Exhibit E written by INEC, set up a caretaker committee to run the affairs

of PDP, Anambra State Chapter, the present appellants being persons affected by the said act of the 1st respondent, approached the Federal High Court by way of an originating summons dated and filed on the 17th of November, 2014, presented the following questions for determination, namely:

1. *Whether in view of the subsisting and binding order of interlocutory injunction made by this Honourable Court in Suit No. FHC/PH/CS/213/2013) (now Suit No. FHC/AWK/CS/247/2013) – Ejike Oguebego & 2 Ors VS. Peoples' Democratic Party & Anor (which order and suit is also subject of pending appeal before the Port Harcourt Judicial Division of the Court of Appeal in Suit No. CA/PH/764/2013 – Peoples' Democratic Party VS. Ejike Oguebego & 3 Ors) the 1st Defendant can validly set up a caretaker committee to run, or oversee the affairs or conduct any delegate election or primaries of the Peoples' Democratic Party, Anambra State Chapter.*
2. *Whether the caretaker committee set up by the 1st*

Defendant is not an illegal and unconstitutional body when the tenure of the Ejike Oguebego led state executive committee is still subsisting functioning and duly recognized by the court and the 2nd Defendant.

- 3. Whether the acts, decisions and any delegate list or nominated candidates that may emanate from the congresses and primaries conducted by the caretaker committee set up by the 1st defendant is not illegal, invalid, unconstitutional and therefore null and void and of no effect whatsoever nor can the said list be used for any purpose for the conduct of the 2015 general election.*
- 4. Whether the defendants in this case are not bound to recognize and accept the list of delegates and nominate candidates that may emanate from the congresses and primaries conducted by the Plaintiff in this case.*

The plaintiffs then sought the following reliefs from the Federal High Court, namely:

- 1. A DECLARATION that the 1st defendant cannot legally and validly set up a caretaker committee or any other*

body whatsoever when the order of interlocutory injunction made by this Honourable Court in Suit No. FHC/PH/CS/213/2013 now Suit No. FHC/AWK/CS/247/2013 – Ejike Oguebego & 2 Ors. VS. Peoples' Democratic Party & 1 Or (which order and suit is also subject of pending appeal before the Port Harcourt Judicial Division of the Court of Appeal in CA/PH/764/2013 – Peoples' Democratic Party VS Ejike Oguebego & 3 Ors). is still subsisting and subject of an appeal.

2. A DECLARATION that the caretaker committee set up by the 1st defendant is an illegal and unconstitutional body when the tenure of the Ejike Oguebego led state executive committee is still subsisting, functioning and duly recognized by the court and the 2nd defendant.
3. A DECLARATION that the acts, decisions and any delegate list or nominated candidates that may emanate from the congresses and primaries conducted by the caretaker committee set up by the 1st defendant is illegal,

invalid, unconstitutional and therefore null and void and of no effect whatsoever nor can the said list be used for any purpose for the conduct of the 2015 general election with regard to the Peoples' Democratic Party, Anambra State Chapter.

4. *AN ORDER OF THIS HONOURABLE COURT that the defendants in this case are bound to recognize and accept the list of and nominated candidates that may emanate from the congresses and primaries conducted by the plaintiff in this case.*
5. *AN ORDER OF PERPETUAL INJUNCTION restraining the 2nd defendant, its agents, servants, privies, assigns, officials whatsoever name they may be called from accepting or receiving any delegates list or nominated candidates that may emerge from the congresses or primaries conducted by the caretaker committee set up by the 1st defendant for the Peoples' Democratic Party, Anambra State Chapter except those that emanate from the Plaintiffs.*

After full trial and fully hearing the parties and considering the totality of the evidence before it, the trial court granted the reliefs sought in the following terms as contained at pages 851 - 853 of Volume 2 of the record of appeal, as follows:-

1. *It is hereby ordered that the purported caretaker committee or Ad-hoc Committee set up by the 1st defendant during the subsistence and pendency of this suit is illegal, null and void.*
2. *It is further ordered that any delegate list or nominated candidates that emanate from the congresses and primaries conducted by the caretaker Committee or Ad-hoc Committee set up by the 1st defendant during the pendency and subsistence of this suit is illegal, invalid, unconstitutional, abuse of court process, null and void and cannot be used for any purpose.*
3. *The 1st defendant, agents and privies are hereby restrained from forwarding, sending or submitting to the 2nd defendant any delegates' list or nominated candidates that may emerge from the congresses or*

primaries conducted by the Caretaker Committee set up by the 1st defendant for the PDP.

4. *That the 1st defendant, its agents, servants, privies are restrained from forwarding, sending or submitting to the 2nd defendant any delegates list or nominated candidates that may emerge from the congresses or primaries conducted by the purported caretaker committee set up by the 1st defendant for the Peoples' Democratic Party, Anambra State Chapter except those that emanate from the plaintiffs' congresses and primaries election.*
5. *That the 2nd defendant, its agents, servants, privies, assigns, officials whatsoever name they may be called are restrained from accepting or receiving any delegate list or nominated candidates that may emerge from the congresses or primaries conducted by the caretaker committee set up by the 1st defendant for the Peoples' Democratic Party Anambra State Chapter except those that emanate from the plaintiffs.*