

IN THE HIGH COURT OF JUSTICE, EDO STATE OF NIGERIA
IN THE BENIN JUDICIAL DIVISION, HOLDEN AT BENIN CITY
BEFORE HIS LORDSHIP, HONOURABLE JUSTICE E. F. IKPONMWEN –
CHIEF JUDGE

THURSDAY, 26TH JULY, 2018

SUIT NO. B/460/2014

BETWEEN:

- | | | | |
|----|---------------------------------|---|------------------|
| 1. | MR. JOHNSON OBASOGIE IGBINEDION | } | CLAIMANTS |
| 2. | MRS. EUNICE ADORIE IGBINEDION | | |

AND

- | | | | |
|----|---|---|------------|
| 1. | EDO STATE HOUSE OF ASSEMBLY. | } | DEFENDANTS |
| 2. | EDO STATE GOVERNMENT. | | |
| 3. | COMMISSIONER FOR ENVIRONMENT & PUBLIC UTILITIES, EDO STATE. | | |
| 4. | EDO STATE WASTE MANAGEMENT BOARD. | | |
| 5. | ROBEE VENTURES NIGERIA LTD
(Trading under the name and style of
"Imose Cleaning Company") | | |
| 6. | MR. KNIGSLEY AYO EBOME
(Trading under the name and style
of "Imose Cleaning and Facilities
Management Company"). | | |
| 7. | ATTORNEY GENERAL OF EDO STATE. | | |

JUDGMENT

The claimants, Mr. Johnson Igbiniedion and Mrs. Eunice Igbiniedion by paragraph 29 of their statement of claim filed on 8/9/2014 claim as follows:

- (a) A declaration that the Edo State Sanitation and Pollution Management Law No. 5 of 2010 is contrary to the provisions of the Constitution of the Federal Republic of Nigeria (1999) as amended, item 17, Part 111 of the Taxes and Levies (Approved List for Collection) Act No. 21, Laws of the Federation of Nigeria, 1988 and other laws ultra vires the powers of the Edo State House of Assembly (1st Defendant) it is unconstitutional, illegal, null, void and of no effect whatsoever.
- (b) An order of court nullifying the aforesaid Edo State Sanitation and Pollution Management Law, No. 5 of 2010 in its entirety.
- (c) A further declaration that the establishment and composition of the Edo State Waste Management Board (the 4th defendant) by the 2nd and 3rd defendants pursuant to the provisions of the aforesaid Edo State Sanitation and

Pollution Management Law No. 5 of 2010 is also ultra vires the 2nd defendant unconstitutional, illegal, null, void and of no effect whatsoever.

- (d) A further declaration that the 4th defendant's licensing, registration, appointment or contracting of the 5th and 6th Defendants as Waste Manager(s) with powers to charge the Claimants fees, levies or rates from the Claimants House/Bakery for waste (which was not collected) and also instigate criminal prosecutions against the 1st claimant before the Edo State Magistrate/Mobile Court(s) is unconstitutional, illegal, null, void and of no legal effect whatsoever.
- (e) A further declaration that the 5th and 6th Defendants act of collecting the sum of ₦176,000.00 on the claimants house and bakery for non existent and/or uncollected waste/services not rendered was unjust, unconstitutional, illegal, null and void and of no legal effect whatsoever.
- (f) A further declaration that the 5th and 6th Defendants act of instigating several criminal prosecutions against the 1st Claimant before the Edo State Magistrate/Mobile court(s)

between September, 2013 and August, 2014 for failure to pay fees, levies or rates for services not rendered as unconstitutional violation of the claimants rights to fair hearing, freedom from inhuman and degrading treatment and freedom of movement guaranteed by Sections 34, 36 and 41 of the constitution of the Federal Republic of Nigeria (1999) as amended and Articles 7, 5 and 12 of the African Charter on Human and People's Rights (Ratification and Enforcement Act), illegal, null, void and of no legal effect whatsoever.

- (g) An order that the 5th defendant should refund the sum of ₦176,000.00 which the 5th and 6th defendants collected from the claimant for non existent and/or uncollected waste/services not rendered.
- (h) An order of perpetual injunction restraining the defendants by themselves, their servants, agents, assigns, privies or anyone claiming to derive authority from them howsoever from acting pursuant to further implementation and/or performing or giving effect to the provisions of the aforesaid

Edo State Sanitation and Pollution Management Law No. 5 of 2010.

- (i) A further order of perpetual injunction restraining the Defendants by themselves, their servants, agents, assigns, privies or anyone claiming to derive authority from them howsoever from entering the Claimant's house/bakery at No. 2, John Obo Street, Off Aroko Road, Benin City whilst purportedly performing functions pursuant to or giving effect to the provisions of the aforesaid Edo State Sanitation and Pollution Management Law No. 5 of 2010.
- (j) ₦50,000,000.00 fifty million naira) as general damages from the defendants for breach of the claimants' constitutional rights, trespass to the claimant's house and bakery of the 2nd Claimant.

The 1st claimant who is the owner of a premises known as No. 2, John Obo Street, Benin City and joint owner of a bakery with the 2nd Claimant within the same premises found a bill of N60,000.00 posted from the 4th and 5th Defendant (being the accredited waste manager for their refuse disposal) for the period April, 2012 to 13th April, 2013. He was surprised as no one ever saw them on any occasion remove refuse as they do not generate any

occasion remove refuse as they do not generate any waste. He told the said that since he had not rendered any services, they were not liable for his waste disposal services. The 6th defendant however insisted that he must pay half of the bill whether he disposed of his waste or not and irrespective of the fact that he did not generate waste/refuse for him to dispose of. He threatened to arraign him in court and that he may go to jail if he failed to pay half of the bill to his satisfaction. Based on the threat, he paid ₦30,000.00 cash to the 6th Defendant, who insisted that ₦20,000.00 out of the ₦30,000.00 was in part payment of the bill while ₦10,000.00 would be applied so as not to institute an action against him in court and further informed him of a balance of ₦10,000.00 to pay against the bill. However, the 5th and 6th Defendants did not issue any receipt for the payments made. The 6th Defendant further informed him of the bill of ₦3,000.00 monthly which must be paid otherwise he would be charged before the Magistrate Court. He then complied to pay for the said services not rendered in order to avoid the threatened criminal case. In September, 2013, he received another bill from the 4th, 5th and 6th Defendants to pay the sum of ₦75,000.00

Upon receipt of the said bill, he wrote a letter to the 5th and 6th Defendants explaining that no waste was being evacuated from his house/bakery and as such he did not see any reason why he was continually

sent such bills. However, he promised to make a payment of ₦2,000.00 monthly for peace to reign as he had no choice and to avoid the criminal prosecution which the 6th Defendant was always threatening him with. The 4th, 5th and 6th Defendants did not respond to the letter. On the 10th of September, 2013, the 4th, 5th and 6th Defendants served him a violation notice for failure to pay for services rendered by the accredited waste manager. Upon receipt of the Notice, he immediately wrote a letter dated 11th September, 2013 to the 4th defendant's Central Enforcement Unit. The 4th defendant did not respond to the letter or address the issues raised therein rather the 4th, 5th and 6th defendants served him with a court summons to appear in the Magistrate Court to answer to a criminal charge on the 27th of September, 2013 for failure to comply with the Violation Notice. On the 27th September, 2013, he met the 6th defendant in the 5th defendant's office along Benin Agbor Road, Benin City and paid him ₦20,000.00 for which no receipt was issued. When he demanded for the receipt, the 6th defendant told him that the money belongs to him so issuing receipt was unnecessary. They thereafter proceeded to the Magistrate court at Sapele Road where the defendant collected further sum of ₦10,000.00 from him for the purpose of stopping the proceedings and told him to forget about the matter. However, sometime in May, 2014, he found a court summons pasted on his door by

the 4th, 5th and 6th defendants for failure to comply with a Violation Notice. He then instructed his son to go to the 5th and 6th defendants office to collect a bank teller to effect payment into the bank. The 6th defendant refused to give him any bank teller but rather insisted on collecting cash. Later that day, the 6th defendant collected the sum of ₦5,000.00 from him and told him to forget about the court summons. To his dismay sometime in July, 2014, the 6th defendant brought another bill for ₦120,000.00. He met the 6th defendant and protested the bill as no waste was evacuated from his premises. After deliberations with the 6th defendant, he accepted ₦30,000.00 in full and final settlement of outstanding arrears which he paid immediately. He thereafter demanded for a receipt for the said ₦30,000.00 which he promised to provide through his son but never did till date. On the 18th of august, 2014, he received a telephone call from his wife while in Port-Harcourt that the 6th defendant and officials of the 4th and 5th defendants burst into her bedroom and arrested her daughter, Joy and bakery workers and later taken to a Mobile Magistrate court where she was convicted for not paying the 5th and 6th defendants charges for disposing off their waste. Joy was sentenced to pay ₦90,000.00 or 4 months imprisonment.

Under cross examination by S. Erhaze, Esq. the 1st Claimant stated that he was not aware that the Edo State Waste management Board assigned

waste managers to some areas. He did not any amount to the account number in first bank as directed on the face of the bill.

The 2nd claimant on her part also corroborated the evidence of the 1st claimant. The defendants opened their case on 24/4/2018 with Dwl Evans Ogbeide adopting his statement on oath filed on 18/11/2014 wherein he stated that he was informed by Kingsley Ayo Ebome (6th defendant) on the 12th of November, 2014 that for over a period of two years, the 6th defendant as an agent of the 4th defendant in respect of waste collection and management have actually rendered services to all the owners/occupiers of the premises within that zone (including the premises known as No. 2, John Oboh Street, Ikpoba Hill, Benin City). The claimants refused to pay for the services rendered them despite the usual and regular services of the bill on them which included the demand Notices and Violation Notices earlier served on them and thereafter a court summons. Failure of the claimants (owners/occupiers of the premises) to honour the court's summons resulted in a court order to seal up the premises/bench warrant for the arrest of the owner/occupier. He stated further that it was while the order to seal up the premises/bench warrant for the arrest of the owner/occupier was being executed on the 20th day of August, 2014 that one Godwin Samson, the manager of the bakery in the premises surfaced and introduced himself as

as the manager of the bakeries but when asked by the Enforcement Officers to present himself in his official capacity as the manager, he refused but pleaded to be allowed to call one Joy Igwe (the daughter of the owner/director of the bakery) who voluntarily accompanied Godwin Samson to the venue of the mobile court on the 20th day of August, 2014. The said Joy Igwe voluntarily appeared for the defendant (owner/occupier of the bakery) pleaded liable to the charge and was consequently convicted by the court. He denied that the Claimants ever paid to the 6th defendant any sum for any amount owed.

At the close of evidence, both learned counsel adopted their written addresses on 16/5/2018. In her written address filed on 2/2/2016, learned counsel for the defendants, P. I. Irusota Esq. raised five issues for determination:

- (i) Whether this suit does not amount to an abuse of court process in view of the Claimant's pending suit at the Magistrate court in motion No. EWMB/MISC/12202/2014 wherein they are seeking almost similar reliefs.
- (ii) Whether this Honourable court can validly grant the Claimants reliefs E, F and G same being the consequential orders of a Magistrate court in criminal charge No. EWMB/VN/12202/2014

delivered on the 20th day of August, 2014 when the procedure for this criminal appeal had not been complied with.

- (iii) Whether from community reading, the reliefs sought by the claimants, the mode of commencing this action is proper in view of Orders 3 Rule 8 and Order 38 Rules 1, 2 and 3 of the Edo State High Court (Civil Procedure) Rules, 2012.
- (iv) Whether the issue of environmental and waste management within a State is not within the legislative competence of a State House of Assembly.
- (v) Whether if issue 4 is answered in the affirmative the Edo State Sanitation and Pollution Management Law No. 5, 2010 is unconstitutional same having been duly enacted by the Edo State House of Assembly in exercise of its constitutional duties.

Learned counsel submitted that exhibits A, A1, A2 and A3 show that the premises of the Claimants (No. 2 John Oboh Street, Ikpoba Hill, Benin City) have been captured by the 4th defendant for the purpose of waste management and that a specified amount of money is paid for the services.

He submitted that it is an offence under the relevant law for any owner/occupier to refuse to patronize an appointed accredited waste

manager or fail to pay for their services. See 87 of the Edo State Sanitation and Pollution Management Law No. 5, 2010.

He submitted that failure of the claimant to lead evidence or call witness to prove the averment in paragraphs 9, 10, 11, 14, 16, 18, 20, 24, 26 and 27 of the Statement of Claim and non admission by the defendants amounts to an abandonment of those paragraphs and the court should take it as such. See **Biremalo Ltd v N.B.N. Ltd** (2003) 16 NWLR (pt. 846) page 235, ratio 4.

He therefore urged this Honourable court to so hold and discountenance the averment of the claimants who merely pleaded illegality and unconstitutionality of the provisions of the aforesaid Edo State Sanitation and Pollution Management Law No. 5 of 2010 pursuant to which the defendant acted without leading any evidence thereof.

He further submitted that the evidence of the 1st Claimant (a Chartered Accountant by profession) that he was in fact paying monies to the 6th defendant without any issuance of receipts and notwithstanding the clear instruction on the bill as to the mode of payment through the First Bank Plc. only, should be discountenanced for being incredible.

He urged this Honourable court to hold that the Claimants conduct in respect of this transaction is unjust and inequitable having failed to do the

right thing by paying for the services rendered or appearing in court when summoned moreso as it is trite that he who comes to equity, must come with clean hands. See **Datec Int'l (Nig) Ltd v Universal Insurance Co. Ltd** (2006) 4 CLRN CA, page 115, page 117, lines 30 – 37.

In his written address filed on 22/3/2018, learned counsel for the claimants Bamidele Uche Igbinedion Esq. raised four issues for determination:

- (i) Whether the Edo State Sanitation and Pollution Management Law, No. 5 of 2010 is not contrary to Section 7(5) and paragraph (h) to the 4th Schedule to paragraph to the constitution of the Federal Republic of Nigeria 1999 as amended.
- (ii) If issue one is in the affirmative, whether the activities of the defendants made pursuant to the aforesaid law is not illegal, unconstitutional, null and void.
- (iii) In the alternative to issues 1 and 2, whether the Claimants have not successfully shown that the 5th and 6th defendants did not collect or dispose off refuse belonging to the claimants and consequently to which they are entitled to payments.

- (iv) Whether in the circumstance of this case, the claimants have discharged the burden of proof on the balance of probability and are thus entitled to the reliefs sought.

On issue one, he submitted that the Edo State Sanitation and Pollution management Law No. 5 in its entirety contradicts Section 7(5) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and the specific provisions as enumerated in the 4th Schedule particularly at paragraph (h) of the Constitution. He further relied on the Taxes and Levies (Approved List for collection Act Cap T2, Laws of the Federation of Nigeria.

He submitted that the Taxes and Levies (Approved list for collection) Act Cap T2 LPN 1989 is an act of the National Assembly which provisions on any subject matter supercedes any law of the House of Assembly.

On issue two, he submitted that the Constitution being the groundnorm of the laws of Nigeria is supreme and therefore any other law(s) inconsistent with its provisions is null and void and of no effect whatsoever. See Section 1(i)(3) of the Constitution of the Federal Republic of Nigeria (1999) as amended and **Saraki v FRN** (2016) LPELR – 4001 SC.

He submitted that the burden of proof shall rest on the party who asserts the positive as against the party who asserts the negative. See **Teju Investment and Property Co. Ltd v Subair** (2016) LPELR – 40087 (CA)

On issue four, he submitted that it is trite that even in civil proceedings the standard of proof of a crime is beyond reasonable doubt. See **Mrs. Dele Akingboye v Latifu Salifu & Ors** (1999) LPELR – CCN/1/11/99. He therefore urged this Honourable court to find and hold that the Defendant did not prove beyond reasonable doubt that the claimants committed the offence it alleges.

I have examined the evidence and exhibits in this case. I have also read the legal submissions of learned counsel.

The main issue for determination is:

“Whether the Edo State Sanitation and Pollution Management Law No. 5 of 2010 is contrary to the provisions of the Constitution of the Federal Republic of Nigeria (1999) as amended, item 17, Part 111 of the Taxes and Levies (Approved List for Collection) Act No. 21 Laws of the Federation of Nigeria, 1988”.

The Kernel of this case is whether the Edo State Sanitation and Pollution Management Law, No. 5 of 2010 is contrary to the provisions of

the Constitution of the Federal Republic of Nigeria. In his argument, learned counsel for the Claimant drew the court's attention to Section 7(5) and paragraph H of the 4th Schedule to the 1999 Constitution of the Federal Republic of Nigeria.

I have carefully perused the above provisions of the Constitution along with the Edo State Sanitation and Pollution Management Law No. 5, 2010.

This case brings again to the fore the issue of the powers and functions of the State and Local governments of each State. The nation Nigeria is a Federation i.e. It practices the Federal System of Government. It also practices the Presidential System of Government and it is a Republic. Under these systems of government the doctrine of separation of powers is very paramount. Nigeria has a written Constitution which is the Constitution of the Federal Republic of Nigeria (1999) as amended (CFRN 1999). The said Constitution provides for the separate organs of government which are the Legislative, Executive and Judiciary. Section 4 deals with the Legislative Powers of the National Assembly and the State Houses of Assembly. Section 5 deals with the Executive Powers of the President and Governors etc. Section 6 deals with the powers of the judiciary. These three organs though separate work in unison and coordinate each other's activities

in such a way that it works for the good of the country. These organs acts as checks and balances to each other. The legislative powers of the Edo State House of Assembly like the other States of the Federation is provided for in Section 4 (6 and 7) of the constitution of the Federal Republic of Nigeria 1999 as amended. Section 4 of the Constitution of the Federal Republic of Nigeria 1999 as amended provides for the legislative powers of the National Assembly and State Houses of Assembly.

Section 4(6) and (7) of the CFRN 1999 as amended provide thus:

“(6) The legislative powers of a State of the Federation shall be vested in the House of Assembly of the State.”

“(7) The House of Assembly of a State shall have power to make laws for the peace, order and good government of the State or any part thereof with respect to the following matters, that is to say:

- (a) any matter not included in the Exclusive Legislative List set out in Part 1 of the Second Schedule to this Constitution.
- (b) any matter included in the Concurrent Legislative List set out in the First Column of Part 11 of the

Second Schedule to this Constitution to the extent prescribed in the Second Column opposite thereto; and

- (c) any other matter with respect to which it is empowered to make laws in accordance with the provision of this Constitution.”

A thorough scrutiny of Part I and Part II of the Second Schedule to the Constitution which deals with the exclusive and concurrent legislative list does not show or reveal that the Edo State House of Assembly has powers to make laws as it relates to waste management, disposal or collection of levies or payment of such disposal.

By the Edo State House of Assembly enactment of the Edo State Waste Management Board Law 2010 and the Edo State Sanitation and Pollution Management Law 2010 the House of Assembly has gone ultra vires, their powers given to them by the Constitution. The content of the both laws have been dealt with in the Taxes and Levies (Approved List for Collection) Act Cap T2, Laws of the Federation of Nigeria 2004 especially Section 1 and paragraph 17 of Part III of the Schedule to the Act.

By the above Act the National Assembly has enacted an Act to cover the field and so the above laws enacted by the Edo State House of Assembly are unnecessary surplusages. It is a breach of Section 4(5) of the

aforementioned Constitution. It is therefore my humble view that the enactment of the laws are ultra vires the powers of the House of Assembly of Edo State.

Another feature of the Federal System of Government is that the country has three tiers of government namely: Federal, State and Local Governments. The Powers exercisable by the various tiers of government is provided for in the Constitution. The Local Governments are the grassroot government, it is through this tier of government that the people feel the direct impact of the government on their daily lives. The local government system and its functions is provided for in Section 7 of the Constitution which is reproduced below:

Section 7(1) (CFRN) 1999 as amended provides as follows:

“The system of local government by democratically elected local government councils is under this Constitution guaranteed; and accordingly, the Government of every State shall subject to Section 8 of this Constitution, ensure their existence under a law which provides for the establishment, structure, composition, finance and functions of such councils.”

Section 7(5) (CFRN) 1999 as amended provides thus:

“The functions to be conferred by law upon Local Government Council shall include **those set out in the Fourth Schedule to this Constitution.**”

Paragraphs 1 and 2 of the said Fourth Schedule provides of the functions of the local government council. Paragraph 1(h) provides that **it is the function of the local government to provide and maintain public conveniences, sewage and refuse disposal.** See the case of **A. G. Federation v A. G. Abia State** (2007) 1CCLR 104 at 170 – 171.

Tobi, JSC at page 170

“The Constitution of a Nation is the fons et origo, not only of the jurisprudence but also of the legal system of the nation. It is the beginning and the end of the legal system. In Greek language it is the alpha and the omega. It is the barometer with which all statutes are measured in line with this position of the Constitution all the 3 arms of government are slaves of the Constitution, not in the sense of undergoing servitude and bondage but in the sense of total obedience and loyalty to it. This is in recognition of the supremacy of the Constitution over and above every statute, be it an Act of the National Assembly or a law of the House of Assembly of a State.”

Tobi, JSC at page 171

“... Courts of law including this court, have no jurisdiction to question the law making power of the National Assembly and the House of Assembly of a State. This is because the power to make laws is vested in them and the court cannot by or through common laws remove the power from them. But where a Statute is enacted in breach of the Constitution, the courts must come in to stop the breach. This the courts can do, only by one more parties seeking the courts jurisdiction to declare a statute void.”

Per Onnoghen, JSC at page 186

“I hold the view that though we may continue to say that our democracy is at its infancy, we cannot lose sight of the fact that ours is a constitutional democracy based on the rule of law. Where the rule of law reigns, political expediency ought to be sacrificed on the alter of the rule of law so as to guarantee the continued existence of democratic institution fashioned to promote social values of liberty, orderly conduct and development particularly in a Republic founded on the principles of Federalism where power is not only apportioned

between the Federal and State Governments but also the Local Governments with checks and balances.”

Finally, the confirmation of the constitutionality of the fact in issue in this case by Muhammad, JSC when stated thus:-

- (a) It is generally accepted in legal circles that a schedule to any enactment forms part of that enactment, see **NNPC v famfa Oil Ltd** (2012) 17 NWLR (pt. 1328) 48. Thus paragraph 15(1) of the 5th Schedule of the 1999 Constitution (as amended) [in this case paragraph 1(h) of the 4th Schedule] forms part and parcel of that Constitution.” Per Muhammad JSC, at page 193 and 194 in the case of **Saraki v FRN** (2016) vol. 262 LRCN 116.
- (b) The time honoured principle of law is that wherever and whenever the Constitution speaks any provisions of an Act/Statute, on the same subject matter, must remain silent. See:
 - (i) **INEC v Musa** (2003) 3 NWLR (pt. 806) 72, (2003) 106 LRCN 620.
 - (ii) **A. G. Ogun State v A.G. Federation** (1982) 2 NCLR 166 per Muhammad, JSC at page 195 in Saraki’s case supra.
- (c) The 1999 Constitution of the Federal Republic of Nigeria (as amended) is Supreme over the laws made by the States in Nigeria

and any law passed by a State House of Assembly which is inconsistent with the provision of the 1999 Constitution, shall to the extent of its inconsistency be void. See Section 1(3) of the said Constitution. **Igbinedion v ESBIR** (2017) vol. 267 page 69 at 85 Bada, JCA.

Each tier of the government is separate and independent of each other. The tiers of government compliment each other but not to the extent of usurping the powers of the other tier of government. From the above provisions of the aforementioned Constitution it is glaring whose function it is to dispose of waste and whose function it is under Paragraph 1 (h) of the Forth Schedule to the Constitution. It is the exclusive preserve of local government and the state government can not perform these functions. I hold that the fact that the State Government continues to usurp the powers of the Local government does not make the State Government actions constitutional. The Local Government cannot donate their constitutional right to the State Government. The court has the duty to check such infractions and end them.

The Local Government Council when allowed to perform their constitutional functions would in my respectful view be self sustaining and viable and bring needed development nearer the people. The Local

Government can make by laws for the enforcement of waste disposal and management in the State for the good of all.

In the light of the foregoing, the enactment of the Edo State Sanitation and Pollution Management Law 2010 is a usurpation of the functions of the Local Government by the Edo State Government. The Claimants were therefore right in bringing this action as stated by Niki Tobi, *supra*. I agree entirely with the submission of learned counsel to the claimants and I hold that issues 1 and 2 as formulated by the Claimant in this case be resolved in favour of the Claimants.

I must point out that the fact of other pending cases pending in the Magistrate's Court would pale into insignificance because of the constitutional issue in this case which has rendered the actions in that court if at all a nullity. The argument for abuse of court process as contended by the defendants' issues i and ii therefore cannot be sustained in this case. The claimants' case succeeds to a large extent. It is therefore binding on me to make declarations sought for by the Claimants in paragraph 29(a), (b), (c), (d), (h) and I accordingly declare that:

- (1) The Edo State Sanitation and Pollution Management Law No. 5 of 2010 is contrary to item 17, part III of the Taxes and Levies (approved


List for collection) Act No. 21, Laws of the Federation of Nigeria 1988.

- (2) I order the aforesaid Law nullified and struck down.
- (3) I further declare that the establishment and composition of the Edo State Waste Management Board (4th Defendant) by the 2nd and 3rd Defendants pursuant to the aforesaid Edo State Sanitation and Pollution Management Law No. 5 of 2010 is ultra vires the 1st and 2nd Defendants, unconstitutional, null and void and of no effect.
- (4) I therefore Order the Waste Management Board disbanded.
- (5) I further declare that the 4th Defendant's acts of licensing, registration, contracting of 5th and 6th Defendants as Waste Managers with powers listed in paragraph 29 (d) is unconstitutional, illegal, null and void and of no legal effect.

It is therefore binding on me to make declarations sought for by the Claimants in paragraph 29 and I accordingly declare that:

The sum of N176,000 claimed by the claimants as paid to the 5th and 6th Defendants cannot be ordered paid to the claimants as it is essentially bribe money as given in evidence. The claim in paragraph 29(i) of the Statement of claim is dismissed. I declare that the suits pending in the Magistrates court are a nullity.

I order perpetual injunction restraining the defendants by themselves, their servants, agents, assigns, privies or any one claiming to derive authority from them howsoever from acting pursuant to further implementation and/or performing or giving effect to the provisions of the aforesaid nullified Edo State Sanitation and Pollution Management Law No. 5 of 2010.


Hon. Justice E.F. Ikponmwon,
Chief Judge

Counsel: Dele Uche Igbinedion, Esq. -	-	for the Claimants
S. Erhaze, Esq. (Principal State Counsel)		for the Defendants