

SPEECH BY HON JUSTICE E.F. IKPONMWEN,FCJEI, CHIEF JUDGE OF EDO STATE, AT THE VALEDICTORY COURT SESSION HELD THIS 18TH DAY OF DECEMBER, 2018 IN HONOUR OF THE HON. MR. JUSTICE JAMES AIGBULOKO OYAKHIROME.

PROTOCOLS:-

It is with exceeding joy and gratitude to God that I welcome all to yet another valedictory court session to mark the retirement of another distinguished jurist the Hon. Mr. Justice James Aigbuloko Oyakhirome from the Edo State Judiciary. This has become necessary because today marks the mandatory retirement age of (65) Sixty-five for my Lord. As my Lord celebrates his birthday today. May I use this rare opportunity to say Happy Birthday to my Lord on behalf of the body of Judges and the entire judiciary.

It will be recalled that on the 22nd of May, 2018 we had the valedictory Court Session in honour of Hon. Mr. Justice James Uyi Oyomere and on the 29th of June, 2018 we did that of Hon. Justice Alero Edodo-Eruaga, that of the Hon. Mr. Justice J.O. Osadiaye had been quietly done in his house due to his indisposition.

My Lord Hon. Mr. Justice J. A. Oyakhirome was born on the 18/12/53 to the family of Mr. and Mrs. Oyakhirome of Iraede Quarters Ozalla in Owan West Local Government Area of Edo State.

His Lordship holds an LLB Degree from the University of Lagos in 1980 and was called to the Nigerian Bar in 1981 after attending the Nigerian Law School Lagos. He later bagged an LLM from the University of Benin in 1988.

Upon being called to the Nigerian Bar in 1981, His Lordship work variously in the chambers of J.A. Ojeme & Co. Solicitors between 1983 – 1984 with late J.A. Ojeme Esq as principal; Freedom chambers, with his principal as the late Victor Oviosun Esq. He was a partner in F. S. Erhonsele & Co. Legal Practitioners from 1992 – 1997 before he opened his own chambers J. Aigbuloko Oyakhirome & Co GILGAL CHAMBERS 117 NEW LAGOS ROAD BENIN CITY IN 1997.

Before Justice Oyakhirome was appointed to the High Court Bench of Edo State Judiciary, he was a law Lecturer at the faculty of Law

University of Benin, which he combined with active legal practice. Today many of his students are lecturers, Doctors and Professors of Law, and some Magistrates and Presidents of Area Customary Courts. In the Faculty of Law he held the following positions among others (1.) Faculty Time Table Officer 1985 – 1987. (2) Faculty Assistant Examination Officer 1986-1988. (3) Faculty Examination Officer 1988 – 1990. (4) Ag. Head of Department of Business Law. (i) 1997/98 academic session. (ii) 2000/2001 academic session. (iii) Ag. HOD 1999/2000, Dept of Jurisprudence & International Law. (iv) Ag. Head of Department of Private and Property Law. July 2001 – June 2002. (5). Ag. Dean Faculty of Law. July 1, 2002 – June 30, 2004. He also has Eighteen Published Papers on different areas of law, nine completed but unpublished papers and Six research works that are partially completed.

While in practice, Hon. Justice J. A Oyakhirome was humble, easy going and showed seriousness in cases he handled both at the Magistrate Courts and at the High Courts. He was an ideal private legal practitioner and he has to his credit a Judgment of the Supreme Court and many other Judgments of both the Court of Appeal and the High Courts. A gentleman by any standard not given to raising his voice on any occasion but his view or points he will strongly, politely and eloquently put forward. A humble Judge who is never proud.

He was appointed a High Court Judge on the 1/1/2007 and posted to Igarra High Court during the tenure of His Excellency, Chief (Dr.) Lucky Nosakhare Igbinedion. In his Eleven (11) years, as a High Court Judge, he has served in many jurisdictions and presently he is the sitting Judge for Fugar High Court.

Hon. Mr. Justice Oyakhirome's invaluable contributions, to the judiciary will ever be remembered as he gave many land mark judgments and rulings. His love for the calling of a Judge is legendary

and would not be suppressed even by debilitating effect of ill health. He surmounted it and kept working diligently to the last week of his retirement.

His Lordship high knowledge of the Law and sound principles of life can be seen in the Judgements that are delivered by my Lord. For example in the case of MR. MARCEL PETER ETO (Suing by his lawful Attorney MR. JONAH OSEGHLE ETOH) Vs. MR. SUNDAY EHEBHOLO AND ANOR unreported SUIT NO. HUB/10/2014 delivered in Fugar where the claimants contended that the building of a petrol station in built up residential area was an act of nuisance and thus create health hazard to and endanger the lives and properties of the claimants and other inhabitants in the said built up residential area in Ubiaja. My Lord said “Ought the claimant to have waited till the defendant finishes his building of the petrol station? Ought he not wait till the apprehended mischief becomes a reality? Me think not. Let us look at the scenario. The Defendant bought a piece of land in a residential area. The law is

that a man can use his land the way he pleases but not to the detriment of his neighbors. When the consequence of what he does on his land is not confined to his own land but extends to the land of his neighbor it becomes a nuisance when it interfere with the comfortable and convenient enjoyment of the neighbor's land. The law of nuisance strives to strike a balance between the right of the defendant to use his land as he wishes and the right of the claimant to be protected from interference with the enjoyment of his own land – a question of adjustment of interest. Court believe the evidence of the claimant. The apprehension is real. He deserves a preventive injunction to check the apprehended mischief. He has an interest to protect. The Defendant has a right to use his property but in such a way as not to injure neighbors. The Latin maxim is "sic untere tuo ut alienum non laedas".

The Defendants erection of the petrol station was therefore declared illegal and he was ordered to excavate and evacuate the large petrol storage tanks from the premises.

Also in the case of Mr. Saturday Inhanzuaria & 4ors V. Niger Construction Company and 2ors Suit NO. HUB/11/2010 My Lord in a well considered 87 pages Judgment in a land case said among others.

“The Court does not believe in the existence of a Custom where after two to three years any land left fallow goes back to the community as Communal land. Ewatto is purely an agricultural Community. There are no industries. . Such customs will be unreasonable in an Agricultural Community. His Lordship therefore awarded (~~₦~~1,000,000) one Million Naira, general damages and (~~₦~~880,000) Eight Hundred and Eight thousand naira special damages against the defendants”.

Also in Appeal NO. HFU/1A/2017) in the case of ZEKERI KADIRI & ANOR V. CHIEF JOHNSON AMANESI & ANOR which was an appeal from the Etsako Central Area Customary Court Fugar, His Lordship in deciding a land case in a judgement delivered on the 25/7/2018 said “Court does not set aside a Judgment of a Customary Court based on

conjecture and matters that were never canvassed before it on which no decision was taken by the lower court. Evaluation of evidence is the exclusive domain of the trial court. Appraisal of oral evidence and the ascription of probative values to such evidence is the primary duty of the trial court. This Court is satisfied that the decision of the Area Customary Court was based on proper evaluation of credible evidence before it. This Appeal is totally lacking in merit. It ought to fail. It is dismissed in its entirety.

It is, indeed, to the like of this humble jurist that the maxim “as sober as a Judge” rightly applies. For all of the eleven years that my Lord was at the bench he distinguished himself.

His Lordship from a humble beginning and with hard work and dedication coupled with the Grace of God, has come thus far to the glory of God

The Bible in proverbs 30 :14 says “There is a generation, whose teeth are as swords, and their jaw teeth as knives, to devour the poor from off the earth, and the needy from among men” I am proud to say here that Hon. Mr. Justice Oyakhirome does not belong to that

generation. He does not talk ill of anyone. He remain humble and friendly to people. In the eleven years he served as a High Court Judge he made more friends than enemies. As we join him to celebrate his 65th birthday today and as he retire from the High court bench today we in Edo State Judiciary we miss him but we are assured of his welcome into the fold of retired Judges.

As a family man, Hon. Mr. Justice Oyakhirome is married to his jewel of inestimable value Dr. Mrs. Helen Oyakhirome and the marriage is blessed with seven biological and two adopted children who are doing very well in their various fields of human endeavours.

Finally, in the words of God in Ecclesiastes 3 Vs 1-4:-

“To everything there is a season and a time to every purpose under the heaven. A time to be born and a time to die, a time to plant and a time to pluck up that which is planted. A time to kill and a time to heal; a time to break down and a time to build up. A time to weep and a time to laugh; a time to mourn and a time to dance”.

For Hon. Mr. Justice J. A. Oyakhirome this is your time to truly celebrate. You have labored, it is now time to reap the fruits of your

labour. It is my prayer that your life and health after retirement will greatly improve as you now will have more time to serve God your Maker.

On behalf of your brother Judges of Edo State Judiciary and others who have come to rejoice with you on this great occasion, I wish you a peaceful retirement.

Thank you and God Bless us all.

HAPPY CHRISTMAS AND PROSPEROUS NEW YEAR

**HON. JUSTICE E.F. IKPONMWEN FCJEI
CHIEF JUDGE
EDO STATE**

