

IN THE COURT OF APPEAL
IN THE PORT HARCOURT DIVISION
HOLDEN AT PORT HARCOURT
THIS FRIDAY, THE 15TH DAY OF MAY 2026

BEFORE THEIR LORDSHIPS:

<u>UGOCHUKWU ANTHONY OGAKWU</u>	<u>JUSTICE, COURT OF APPEAL</u>
<u>ISAH BATURE GAFAI</u>	<u>JUSTICE, COURT OF APPEAL</u>
<u>ZAINAB BAGE ABUBAKAR</u>	<u>JUSTICE, COURT OF APPEAL</u>

APPEAL NO. CA/PH/622/2008

BETWEEN:

ECONOMIC AND FINANCIAL CRIMES COMMISSION APPELLANT

AND

- | | | |
|---|---|--------------------|
| <ol style="list-style-type: none">1. ATTORNEY GENERAL FOR RIVERS STATE2. THE SPEAKER, RIVERS STATE HOUSE OF ASSEMBLY3. THE HOUSE OF ASSEMBLY FOR RIVERS STATE4. THE CLERK TO RIVERS STATE HOUSE OF ASSEMBLY5. DR. PETER ODILI | } | RESPONDENTS |
|---|---|--------------------|

JUDGMENT

(DELIVERED BY UGOCHUKWU ANTHONY OGAKWU, JCA)

This appeal is against the decision of the Federal High Court, Port Harcourt Judicial Division in **SUIT NO. FHC/PHC/CS/78/2007: ATTORNEY GENERAL FOR RIVERS STATE vs. THE ECONOMIC AND FINANCIAL CRIMES COMMISSION (EFCC) & 3 ORS.** The 1st Respondent herein, as Plaintiff before the Federal High Court, Port Harcourt Judicial Division (hereinafter the lower court) commenced the action by Originating Summons for the determination of questions on the interpretation of the judgment of the High Court of Rivers State in **SUIT NO. PHC/114/2007: ATTORNEY GENERAL, RIVERS STATE vs. THE SPEAKER, RIVERS STATE HOUSE OF**

CHINYERE A. KADURUMBA ESQ.
REGISTRAR II
COURT OF APPEAL
PORT HARCOURT

[Signature]
15/5/2026

ASSEMBLY & ORS. delivered on 16th February 2007, vis-à-vis the provisions of Sections 120, 121, 122, 124, 125, 128 and 188 of the 1999 Constitution, as well as the interpretation of the provisions of Section 7 of the Economic and Financial Crimes Commission (Establishment) Act.

Upon the determination of the said questions, the 1st Respondent claimed sundry declaratory and injunctive reliefs. The lower court heard the matter on the affidavits and processes filed and exchanged by the parties, and in its judgment it found in favour of the 1st Respondent and granted the declaratory and injunctive reliefs claimed. The scarified judgment of the lower court which was delivered on 20th March 2007 is at pages 135-246 of the Records of Appeal.

Miffed by the decision, the Appellant, pursuant to an order of this Court made on 6th October 2008, granting it extension of time to appeal, filed its original Notice of Appeal on 17th October 2008. However, the extant Notice of Appeal on which the appeal was argued is the Amended Notice of Appeal filed on 20th July 2011 but deemed as properly filed on 15th March 2012. The 5th Respondent was not a party in the matter at the lower court. However, upon the Appellant appealing, the 5th Respondent applied, and was joined as a party in this appeal.

In prosecution of the appeal, the Records of Appeal was compiled and transmitted, and the parties filed and exchanged briefs of argument and other processes in support of their respective positions. The briefs and other processes filed by the parties and on which the appeal was argued are:

1. Appellant's brief of Argument filed on 31st January 2014 but deemed as properly filed on 12th June 2014.

2. 1st Respondent's Brief of Argument filed on 17th June 2025 but deemed as properly filed on 18th June 2025.
3. 1st Respondent's Notice of Preliminary Objection filed on 10th February 2026.
4. 2nd - 4th Respondents' Brief of Argument filed on 19th January 2026 but deemed as properly filed on 5th February 2026.
5. 5th Respondent's Brief of Argument filed on 25th November 2014, but deemed as properly filed on 26th November 2014.
6. Appellant's Reply Brief to the 1st Respondent's brief filed on 31st October 2025.
7. Appellant's Reply Brief to the 5th Respondent's brief filed on 31st October 2025.

At the hearing of the appeal, the learned counsel for the parties adopted and relied on their briefs and other processes and urged the Court to uphold their respective submissions in the determination of the appeal.

Our odyssey in the consideration and resolution of this appeal will commence with the preliminary objections of the 1st and 5th Respondents, wherein they seek to scuttle the hearing of this appeal *in limine*. It is the manner in which the preliminary objections is determined that will chart the course on how to proceed with the consideration of the merits of the appeal. It is abecedarian law that once a preliminary objection is raised, it ought to be heard and determined before proceeding to consider and determine the substantive appeal: **PETGAS RESOURCES LTD vs. MBANEFO (2017) LPELR (42760) 1 at 6, THE REGD TRUSTEES OF DEEPER CHRISTIAN LIFE MINISTRY vs. EBODAGHE (2022) LPELR (58481) 1 at 4-5 and VIRGIN ATLANTIC AIRWAYS vs. PABLO-AMARAN (2026) 1 NWLR (PT 2026) 405 at 433.**

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THE PRELIMINARY OBJECTIONS

In its yen to have the appeal struck out for being incompetent, the 1st Respondent predicated its preliminary objection on the grounds that the issues for determination raised by the Appellant were not formulated and/or tied to any of the grounds of appeal; and that the grounds of appeal had been abandoned by the Appellant. In argument, it was contended that the failure to tie or relate the issues for determination to any of the grounds of appeal rendered the issues incompetent and liable to be struck out *vide* **OMAGBEMI vs. GUINNESS NIG LTD (1995) LPELR-SC 195/1992; (1992) 2 NWLR (PT 377) 258.**

It was asserted that an issue for determination that is not raised from a ground of appeal will not be considered and that a ground of appeal that has not been argued is deemed abandoned and should be struck out. The cases of **WESTERN STEEL WORKS vs. IRON & STEEL WORKERS (1987) 1 NWLR (PT 49) 284 at 304, EJOWHOMU vs. EDOK-ETER MANDILAS LTD (1986) 5 NWLR (PT 39) 1 at 16** and **UKIRI vs. GECO-PRAKLA (NIG) LTD (2010) 16 NWLR (PT 1220) 544 at 549 ratio 8** were referred to. It was contended that the effect of not relating the issues for determination to the grounds of appeal is that the grounds of appeal are deemed as abandoned as no issues for determination were raised from them and it is not for the court to decipher if the issues for determination arise from the grounds of appeal. The Court was urged to strike out the issues for determination, the grounds of appeal and indeed the entire appeal.

On his part, the 5th Respondent hankers after the striking out of all the grounds of appeal and the issues formulated for determination by the Appellant

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on the grounds that the Appellant did not marry the issues it distilled for determination to any of the grounds of appeal, as a result of which the grounds of appeal had been abandoned. Furthermore, that ground 7 of the Notice of Appeal and particular VI of Ground 8 of the Notice of Appeal raised fresh issues on appeal without leave of court having been obtained to so do.

It was argued that the issue of whether the action was rightly commenced under the originating summons procedure raised in ground 7, and non-exhibition of the investigation report raised in particular VI of Ground 8 of the Notice of Appeal; were fresh issues that were not canvassed at the lower court and that a party must be consistent in arguing his case at every stage. The cases of **ORGAN vs. NLNG LTD (2013) 16 NWLR (PT 1381) 506 at 531, OSIDELE vs. SOKUNBI (2012) 15 NWLR (PT 1324) 470 at 498, SHEKA vs. BASHARI (2013) LPELR 21403 1 at 36, ADESOLA vs. ABIDOYE (1999) 14 NWLR (PT 637) 28 at 68 and AKPAN vs. BOB (2010) 17 NWLR (PT 1223) 421 at 523-524** were relied upon.

It was stated that the fact that an issue of jurisdiction can be raised on appeal is qualified. The case of **JOV vs. DOM (1999) 9 NWLR (PT 620) 538 at 547** was called in aid. The question of the mode of commencement of the action raised was said to be about suitability or convenience and not the correctness of the procedure. That even if it is jurisdictional, that it is an issue of procedural jurisdiction which can be waived or acquiesced to, and that the Appellant having belatedly raised the suitability of hearing the suit under the originating summons procedure amounts to a waiver/acquiescence. The provisions of the rules of the lower court on commencement of actions was said to be procedural, and that rules of procedure do not confer jurisdiction on

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courts. The case of **OGUNREMI vs. DADA (1962) ANLR 657 at 660** was cited in support.

It was opined that the defect in particular VI of Ground 8 infected the other particulars of the ground as it is not for the court to excise the incompetent particular by a surgical operation. The cases of **LAAH vs. OPALUWA (2004) 9 NWLR (PT 879) 558 at 569-570**, **HAMBE vs. HUEZE (2001) SC 26** among other cases were referred to.

In further argument, it was submitted that the fact that the Appellant was granted leave to file additional grounds of appeal is not the same as applying for and being granted leave to raise fresh issues on appeal *vide* **UNITY BANK vs. BOUARI (2008) 7 NWLR (PT 1087) 372 at 402**, **EKWULUGO vs. ACB LTD (2006) 6 NWLR (PT 975) 30 at 42** and **PETERS vs. THE STATE (1992) 9 NWLR (PT 265) 323 at 332**.

It was conclusively contended that the Appellant failed to tie its issues for determination to any of the grounds of appeal, rendering the issues for determination incompetent and all the grounds of appeal deemed as abandoned and liable to be struck out. The cases of **INEC vs. IJEZIE (2011) ALL FWLR (PT 596) 452 at 483**, **AGBAKA vs. AMADI (1998) 11 NWLR (PT 572) 16 at 24**, **SAPO vs. SUNMONU (2010) ALL FWLR (PT 531) 1408 at 1418** and **OLAIYA vs. THE STATE (2010) ALL FWLR (PT 514) 1 at 7** were cited in support.

In replication, the Appellant submits that it is not fatal where issues for determination are not tied to grounds of appeal as the courts adopt a liberal approach to such a lapse. The case of **HARRIS TRAVEL AGENCY LTD vs. LEADWAY ASSURANCE CO. LTD (2023) LPELR-60050 (CA) at 5-8** was

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called in aid. The Court was urged not to dismiss the appeal on a procedural technicality as it will be visiting the alleged procedural malfeasance of counsel on the Appellant. It was further submitted that Ground 7 of the Notice of Appeal attacks a specific finding and pronouncement made by the lower court, and so the ground arose from the decision of the lower court.

RESOLUTION OF THE PRELIMINARY OBJECTIONS

The preliminary objections of the 1st and 5th Respondents are predicated on two limbs. Firstly, that the Appellant did not identify the grounds of appeal from which it distilled its issues for determination, and secondly, that the ground 7 and particular VI of ground 8 of the grounds of appeal raised fresh issues on appeal which were not canvassed at the lower court without obtaining leave of court to so do. The 1st and 5th Respondents have not seriously contended that the issues formulated for determination do not derive from the grounds of appeal. Their contention as I understand it is that because the grounds of appeal from which the issues for determination were distilled were not stated, that it is not for the Court to start analysing the issues for determination in order to decipher from which ground of appeal each issue for determination was formulated; and that the consequence is that the grounds of appeal had been abandoned.

Without a doubt, it is effulgent that the Appellant did not state the grounds of appeal from which it distilled the issues it formulated for determination. The Appellant contends that this is not fatal and that this procedural malfeasance occasioned by its counsel should not be visited on the Appellant. Now, what is the legal implication of the Appellant having failed to state the grounds of appeal

from which it formulated its issues for determination? This is the pith of the first limb of the preliminary objections.

By all odds, the courts have deprecated and abhorred the failure by counsel to identify the grounds of appeal from which the issues for determination derive. See for instance **UBN LTD vs. ODUSOTE (1995) 9 NWLR (PT 421) 558 at 577-578, SPDCN vs. EDAMKUE (2009) 14 NWLR (PT 1160) 1 at 23-24, OKO vs. A-G EBONYI STATE (2021) LPELR (54988) 1 at 14-15** and **UBANI-UKOMA vs. SEVEN-UP BOTTLING CO. PLC (2022) LPELR (58497) 1 at 4-5**. However, it is not in all instances where there has been such a failure that the courts have defenestrated the appeal. The zeitgeist of the courts has been to treat the matter as inelegance in drafting or bad drafting, and proceed to consider the germane and crucial issues arising from the appeal and determine the appeal on the merits. For instance, in **SPDCN vs. EDAMKUE (supra)**, the apex court ignored the error by the appellant in not disclosing the grounds of appeal from which the issues for determination were distilled as the respondents therein had stated the grounds of appeal from which their own issues for determination were distilled. Similarly, in **UBANI-UKOMA vs. SEVEN-UP BOTTLING CO. PLC (supra) at 10-11**, the apex court still disregarded the defect and considered the appeal on the merits. See also **NIG. PORTS PLC vs. B. P. PTE LTD (2012) 18 NWLR (PT 1333) 454 at 480** and **CHABASAYA vs. ANWASI (2010) 10 NWLR (PT 1201) 163 at 181**.

I have always cast my lot with this zeitgeist of the courts to treat such a situation that the Appellant has wrought in this appeal by its failure to state the grounds of appeal from which its issues for determination were distilled as not

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being fatal. In **AIYEGBUSI vs. DUROJAIYE (2017) LPELR (50888) 1 at 14-15**, I was privileged to state as follows:

*"With regard to the evident failure by the Appellants to state the grounds from which each issue has been formulated, I do not think that it is fatal. It equally does not mean, as submitted by the Respondents, that the issues were distilled from the actions or inactions of the Appellants as opposed to having been derived from the ratio decidendi of the lower court. In **NIGERIAN PORTS PLC vs. B. P. PTE LTD (2012) 18 NWLR (PT 1333) 454 at 480** the Supreme Court held that, it is necessary for counsel to indicate the Ground(s) of Appeal from which an issue for determination has been distilled. The purpose of indicating the Ground or Grounds from which an issue has been distilled is mainly to avoid unnecessary objections on the competence of those issues in an appeal. However, failure to indicate the Ground of Appeal from which an issue has been raised is not fatal to the appeal. It may be indicative of bad drafting but it is not fundamental as to go to the root of the appeal. See also **HEIN NEBELUNG K. G. vs. U.B.A. PLC (2012) 16 NWLR (PT 1326) 357** and **TAIGA vs. MOSES-TAIGA (2012) 10 NWLR (PT 1308) 219**. By all odds, the law is that an issue which is not rooted in a ground of appeal is incompetent; this however is not the situation in this matter as the three issues formulated by the Appellants are deeply rooted in their grounds of appeal, which grounds of appeal challenge the ratio decidendi in the judgment of the lower court."*

This remains the legal position as espoused by the courts in order to eschew undue technicality in pursuit of substantial justice. Interestingly, the 5th Respondent in his brief of argument distilled four issues for determination, clearly stating the grounds of appeal from which the issues for determination were derived. Taking a cue from the case of **SPDCN vs. EDAMKUE (supra)**,

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there is no justifiable legal basis on which to scuttle the hearing of the appeal on the merits on the first limb of the preliminary objections.

The second limb of the preliminary objections is that ground 7 of the grounds of appeal and particular VI of ground 8 of the grounds of appeal raise fresh issues which were not raised at the lower court. Now, the complaint in ground 7 is that the lower court erred by hearing the matter under the originating summons procedure, as the proceedings were hostile, and particular VI of ground 8 complains that the alleged investigation report of the Appellant was never placed before the lower court.

Undoubtedly, the suitability of the proceedings being conducted under the originating summons procedure or the production of the alleged investigation report of the Appellant at the lower court were not raised in argument before the lower court, but the lower court made pronouncements in that regard. Now, it is hornbook law that grounds of appeal are not formulated *in nubibus*. Grounds of appeal must arise from the decision appealed against. Where a ground of appeal has no connection with the decision appealed against, and is in respect of fresh issues raised for the first time on appeal without leave of court, such a ground of appeal is incompetent and would not be countenanced by the court. See **SDP vs. INEC (2023) LPELR (59836) 1 at 15-16, MUHAMMAD vs. BARMA (2024) LPELR (62913) 1 at 20-22 and FUTO vs. AMCON (2024) LPELR (63036) 1 at 24-25.**

The grievance and dissatisfaction with the judgment of a court is articulated and conveyed to an appellate court in the ground(s) of appeal. Put differently, grounds of appeal index the appellant's complaints against the judgment of a court. See **CCB PLC vs. EKPERI (2007) 3 NWLR (PT 1022)**

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493 at 511. The law is that a ground of appeal is the error of law or facts alleged as the defect in the decision appealed against and on the basis of which the decision should be set aside. It is the reason why the decision is considered wrong by the aggrieved party: **IDIKA vs. ERISI (1988) 2 NWLR (PT 78) 563 at 578** and **AKPAN vs. BOB (2010) 17 NWLR (PT 1223) 421 at 464.** The determining factor in ascertaining the nature or character of a ground of appeal and whether it arises from the decision appealed against, is the real issue or complaint raised in the ground of appeal.

It is rudimentary law that a ground of appeal need not arise from the *ipsissima verba* of the decision appealed against, but can arise from factors such as the procedure under which the decision was rendered and from commissions or omissions by the court from which an appeal emanates in either refusing to do what it ought to do or doing what it ought not to do or even in overdoing the act complained of. In **AKPAN vs. BOB (2010) 17 NWLR (PT 1223) 421 at 464-465**, *Muhammad, JSC* (later *CJM*) stated as follows:

"Although many authorities lay emphasis that a ground of appeal must stem from the text of the judgment (ipsissima verba), for instance, in the case of Metal Construction (West Africa) Ltd v. DA. Migliore and Ors. In Re-Miss C. Ogundare (1990) All NLR 142 at 148, (1990) 1 NWLR (Pt. 126) 299; F.M.B.N. v. NDIC (supra), such decisions in my humble view, by no means limit the scope of a ground of appeal. And, from the general definitions, a ground of appeal, can arise in a number of situations such as the following:

- (a) from the text of the decision appealed against (ipsissima verba).*
- (b) from the procedure under which the claim was initiated*

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- (c) *from the procedure under which the decision was rendered or*
- (d) *from other extrinsic factors such as issue of jurisdiction of a court from which the appeal emanates.*
- (e) *from commissions or omissions by the court from which an appeal emanates in either refusing to do what it ought to do or doing what it ought not to do or even in overdoing the act complained of."*

The essence of grounds of appeal is to give sufficient notice to the adverse party of the nature of the appellant's complaint, which such adverse party will be confronted with in court. Where the grounds of appeal serve such notice, then the purpose and essence of a ground of appeal is achieved and the ground of appeal will not be extruded on any technical grounds. See **AIGBOBAHI vs. AIFUWA (2006) LPELR (267) 1 at 17** and **F. H. A. vs. OLAYEMI (2017) LPELR (43376) 1 at 21-23**. In **ADEROUNMU vs. OLOWU (2000) 4 NWLR (PT 652) 253 at 272**, *Ayoola, JSC* stated:

"The rules of our appellate procedure relating to formulation of grounds of appeal are primarily designed to ensure fairness to the other side. The application of such rules should not be reduced to a matter of mere technicality whereby the court will look at the form rather than the substance. The prime purpose of the rules of appellate procedure, both in this Court and in the Court of Appeal, that the Appellant shall file a notice of appeal which shall set forth concisely the grounds which he intends to rely upon on the appeal and that such grounds should not be vague or general in terms and must disclose a reasonable ground of appeal, is to give sufficient notice, an information to the other side of the nature of the complaint of the Appellant and consequently of the issues that are likely to arise on the appeal.

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Any ground of appeal that satisfies that purpose should not be struck out notwithstanding, that it did not conform to a particular form."

I have against the background of the foregoing considered the chafed ground 7 and particular VI of ground 8 of the grounds of appeal, and it is translucent that they arise from the text of the decision appealed against (the *ipsissima verba*). See page 208 of the Records of Appeal. Equally, the complaint is that the lower court by making injunctive orders in respect of reports that were not placed before it, did *what it ought not to do*. See pages 244-245 of the Records of Appeal. Therefore, they not fresh issues for which leave to raise must be first obtained since it stems from the *ratio decidendi* of the lower court in the decision appealed against. They are in respect of matters in which the lower court made pronouncements upon in its judgment. This second limb of the preliminary objections equally fails.

In a summation, the preliminary objections are without merit and they are hereby dismissed. With the preliminary objections out of the way, I now see my way clear to segue to a consideration of the appeal on the merits.

THE APPEAL

The Appellant formulated seven issues for determination, *videlicet*:

- i. Whether the learned trial Judge was right in holding that there were no facts in dispute between the parties thereby preserving the competence of the action and his jurisdiction to entertain the suit commenced through an originating summons.*
- ii. Whether the learned trial Judge was right in striking out the issues formulated by the 1st Defendant when it was clear that those issues relate to the extent of*

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the powers or duties of the 1st Defendant which were in dispute in the proceedings.

- iii. Whether the power of investigation vested in the House of Assembly of State under Section 128 of the Constitution of the FRN 1999 for the purpose, inter alia, of exposing corruption precludes the Powers of the Appellant under the EFCC Act 2004 to investigate allegations of corruption or economic and financial crimes against state officials involving public funds of the state.*
- iv. Whether the learned trial Judge erred in holding that the 1st Defendant's/Appellant's investigation of financial crimes against officials of Rivers State Government amounted to usurping or sharing the powers of impeachment under Section 188 of the Constitution of FRN 1999 vested in the State House of Assembly.*
- v. Whether the learned trial Judge erred in his interpretation of S. 7 of the EFCC Act by holding that 'person', 'Corporate body' or 'organisation' excludes 'Government' and thereby the powers of the Appellant to investigate corruption, financial or economic crimes did not extend to State Government agencies or its officials.*
- vi. Whether the investigation of corruption, economic or financial crimes by the Appellant amounted to meddling into the affairs of Rivers State Government or take-over of its legislative or executive arms contrary to the principles of Nigeria's Federal Constitution.*
- vii. Whether the learned trial Judge was right in granting declaratory and injunctive reliefs against the 1st Defendant nullifying its investigations and precluding it from carrying out further investigations or using the reports of its investigations when such reports had not been placed before him."*

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The 1st Respondent adopted the issues formulated by the Appellant and proffered its submissions thereon. For the 2nd – 4th Respondents, three issues sufficed for the determination of the appeal, namely:

- "1. Whether the learned trial Court was justified when it held that the facts of the case were not hostile to the Originating Summons procedure and proceeded to assume jurisdiction to hear and determine the case based on the Originating Summons?*
- 2. Whether the learned trial Court was justified in striking out the issues formulated by the Appellants for determination of the 1st Respondents Originating Summons, in all the circumstances of this case?*
- 3. Whether the learned trial Court was justified in its conclusion that the 1st Respondent proved its entitlement to the declaratory and injunctive reliefs sought in the Originating Summons and proceeded to grant all the reliefs sought in favour of the 1st Respondents?"*

The 5th Respondent distilled four issues for determination, *scilicet*:

- "i. Considering the facts deposed to in the 1st Respondent's originating summons and the questions submitted before the lower court for determination, whether the learned trial Judge was wrong to have entertained the suit by way of originating summons. (**Ground 7 of the Amended Notice of Appeal**).*
- ii. Having regard to the questions submitted for determination in the 1st Respondent's originating summons at the lower court, whether the learned trial Judge was wrong to have struck out the issues formulated by the Appellant in its written address, for being extraneous to the questions contained in the said originating summons. (**Ground 9 of the Amended Notice of Appeal**).*

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- iii. *Considering the provisions of **Sections 120, 121, 122, 124, 125, 128 and 188 of the 1999 Constitution of the Federal Republic of Nigeria (as amended)** ('the Constitution'), whether the learned trial Judge was wrong to have held that the Appellant cannot usurp, share in or otherwise interfere with the powers of the Rivers State House of Assembly. (**Grounds 1 & 2 of the Amended Notice of Appeal**).*
- iv. *Having come to the conclusion that the Appellant had no Constitutional or Statutory powers to conduct inquiry and/or investigation into the disbursing, administering or management of the funds of Rivers State, whether the learned trial Judge was wrong to have granted all the declaratory and injunctive reliefs sought by the 1st Respondent (**Grounds 3, 4, 5, 6 & 8 of the Amended Notice of Appeal**).*"

I will presently consider the submissions of learned counsel on their respective issues for determination in related clusters, using the issues as formulated by the Appellant as the lodestar. I will start with the Appellant's issue number i (one), which is akin to the 2nd – 4th Respondents' and 5th Respondent's issue number one; thereafter the Appellant's issue number ii (two), which is similar to the 2nd – 4th Respondents' and 5th Respondent's issue number two. Finally, I will consider the Appellant's issue numbers iii (three) to vii (seven) together, alongside the 2nd – 4th Respondents' issue number three and the 5th Respondent's issue numbers three and four.

ISSUE NUMBER i (ONE)

Whether the learned trial Judge was right in holding that there were no facts in dispute between the parties thereby preserving the competence of the action and his jurisdiction to entertain the suit commenced through an originating summons.

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SUBMISSIONS OF THE APPELLANT'S COUNSEL

The Appellant submits that the lower court was wrong to hold that there was no hostile or substantial dispute of facts that would prevent the matter from being heard under the originating summons procedure. It was maintained that there were disputes arising from the depositions in the affidavit of the 1st Respondent which the Appellant denied in its counter affidavit. It was asserted that the originating summons procedure was not suitable as the facts were highly contentious. The cases of **OMON vs. OMON (2004) 13 NWLR (PT 889) 45 at 59**, **OBAJIMI vs. A-G, WESTERN NIGERIA (1967) ALL NLR 31** and **AJAGUNGBADE III vs. ADEYALU II (2001) 16 NWLR (PT 738) 126** were referred to.

It was opined that even though no objection was raised against the procedure at the lower court, that the lower court was still bound to apply the law as the commencement of the action by a wrong procedure cannot be waived by acquiescence, as it touches on the competence of the court to adjudicate *vide* **MADUKOLU vs. NKEMDILIM (1962) 2 SCNLR 341**. It was further stated that being a matter of jurisdiction, it can be raised on appeal where there has been a miscarriage of justice. The case of **DOHERTY vs. DOHERTY (1967) ALL NLR 260** was relied upon.

SUBMISSIONS OF THE RESPONDENTS' COUNSEL

The learned counsel for the 1st Respondent stated that the lower court rightly held that the suit was properly commenced under the originating summons procedure. It was submitted that it is the nature of the plaintiff's case and reliefs claimed that determine the jurisdiction of the court. The case of **NEPA vs. AUWAL (2023) 6 NWLR (PT 1879) 1** was called in aid. The

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stipulation of Order 2 Rule 2 of the Federal High Court (Civil Procedure) Rules, 2000 on commencement of actions by the originating summons procedure was said to be disjunctive as the word, OR, is used; which shows that the action can be where the principal question is for the construction of a written law or any instrument, deed, will, contract or other document, **OR** there is unlikely to be any dispute of fact. Both stipulations were said to apply independently and alternatively. It was maintained that from the facts in the affidavits and reliefs claimed, the substantial facts were not in dispute. The cases of **DAPIANLONG vs. DARIYE II (2007) 8 NWLR (PT 1036) 222** and **APC vs. ELEBEKE (2022) 10 NWLR (PT 1837)** were cited in support.

It was further contended that the questions submitted to the lower court for determination border on the interpretation of the provisions of the Constitution, the Economic and Financial Crimes Commission (Establishment) Act, as well as a judgment of the Rivers State High Court. It was asserted that the case was suitable for determination under the originating summons procedure and that the lower court was correct in holding that from the affidavits there were no hostile or dispute of facts of substance.

The argument of the 2nd – 4th Respondents is that the subject matter of the 1st Respondent's action was the construction and interpretation of the Constitution with a view to determining the extent of the statutory powers of the Appellant in the exercise of the powers of control of public funds vested in the Rivers State House of Assembly under the Constitution. It was contended that the lower court was justified in entertaining and determining the suit under the originating summons procedure as the central issue was the interpretation or construction of statutes or other written instruments where there was no

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substantial dispute of facts *vide* **EZEIGWE vs. NAWAWULU (2010) LPELR-1201 (SC) at 67-69.**

It was maintained that the lower court properly exercised its discretion to hear the case under the originating summons procedure and that an appellate court would not interfere with the same, even if it would have exercised the discretion differently. The case of **ENEKEBE vs. ENEKEBE (1964) LPELR-25146 (SC) at 8-10** was referred to. It was further opined that the Appellant can only challenge the said exercise of discretion with leave of court, which, having failed to seek and obtain, its argument was defective and incompetent. The case of **OGUNMILUA vs. ASHAOLU (2013) LPELR-22324 (CA) at 22-23** was relied upon.

Still in argument, the 2nd – 4th Respondents stated that the Appellant did not in its counter affidavit specifically deny the depositions that it was usurping the duties and functions of the Rivers State House of Assembly, and that evasive denial amounts to admission, and admitted facts need no further proof. The cases of **EYOP INDUSTRIES LTD vs. EKONG (2021) LPELR-55837 (CA) at 25** and **MODIBBO ADAMAWA UNIVERSITY OF TECHNOLOGY, YOLA vs. ASUU (2014) LPELR-24178 (CA) at 10-13** were called in aid.

It is the submission of the 5th Respondent that the lower court was correct in determining the action under the originating summons procedure. Order 2 Rule 2 of the Federal High Court (Civil Procedure) Rules, 2000 and the cases of **FAMFA OIL LTD vs. A-G, FEDERATION (2003) 18 NWLR (PT 852) 453 at 487**, **NATIONAL BANK vs. ALAKIJA (1978) 9-10 SC 59** and **SHELL TRUSTEES (NIG) LTD vs. IMANI & SONS LTD (2000) 6 NWLR (PT 662) 629** were cited in support. It was stated that the use of the word **OR** in Order

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2 Rule 2 of the Federal High Court (Civil Procedure) Rules, 2000, shows that the stipulation therein is disjunctive *vide* **ABUBAKAR vs. YAR'ADUA (2008) 19 NWLR (PT 1120) 1 at 83-84** and **KIM vs. EMEFO (2001) 4 NWLR (PT 702) 147 at 166-167**, and so any of the conditions in the stipulation can sufficiently ground an action under the originating summons procedure. It was maintained that the questions for determination in the originating summons was for the construction of the provisions of the Constitution and the Economic and Financial Crimes Commission (Establishment) Act and the judgment of the Rivers State High Court and therefore the action was suited for hearing under the originating summons procedure.

It was further submitted that there was no substantial dispute of facts involved in the action, as the substantial dispute of facts does not arise because contrary depositions have been made in a counter affidavit *vide* **LSDPC vs. ADOLD STAMM (2005) 2 NWLR (PT 910) 603 at 621**, **IKEDIGWE vs. FAI (2012) 10 NWLR (PT 1308) 375 at 402-403**, **SHUGABA vs. UBN PLC (1997) 4 NWLR (PT 500) 481 at 490** and **EPE LG vs. KESHINRO (2009) 4 NWLR (PT 1131) 365 at 427**. It was stated that the live issue in the case was whether in the light of the decision of the High Court of Rivers State, the Appellant can exercise the powers belonging to the State House of Assembly, and that the Appellant never denied the existence of the said judgment. It was maintained that there was nothing in the Appellant's counter affidavit showing any dispute of facts sufficient to make the proceedings hostile. The case of **UZODINMA vs. IZUNASO (NO. 2) (2011) 17 NWLR (PT 1275) 30 at 75-76** was referred to.

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APPELLANT'S REPLY ON LAW

Replicando, the Appellant submits in its Reply Briefs that there was violent conflict in the affidavits deposed to by the parties, which necessitated for the lower court to have called for pleadings and *viva voce* evidence. The case of **ALFA vs. ATTAH (2018) 5 NWLR (PT 1611) 59 at 87** was relied upon. It was maintained that the lower court was wrong to have proceeded summarily under the originating summons procedure.

RESOLUTION OF ISSUE NUMBER i (ONE)

This issue interrogates the propriety of the lower court having entertained the action under the originating summons procedure. In holding that the action was cognisable under the originating summons procedure, the lower court after reproducing the text of the affidavits filed by the parties, reasoned and held as follows at page 208 of the Records of Appeal:

"It is clear from the facts in the affidavits reproduced above there are no hostile or dispute of facts of substance that can deny this court on entertaining the originating summons, I accordingly hold that the questions for determination by the Plaintiff are apt and within the proper confines of originating summons."

The lower court referring to paragraph 14 of the Appellant's counter affidavit before it, further found and held at the said page 208 of the Records of Appeal, that the parties were agreed on the interpretation of Sections 120, 125, 128 and 188 of the Constitution by the High Court of Rivers State. The Appellant's grouch in this issue is with the finding of the lower court that there are no hostile or dispute of facts of substance in the affidavits filed in the matter.

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Now, it is hornbook law that the originating summons procedure is intended to be used in limited circumstances in matters involving the construction and interpretation of enactments and documents. In **NATIONAL BANK OF NIGERIA vs. ALAKIJA (1978) 9-10 SC 39 at 71**, *Eso, JSC* stated:

"In other words, it is our considered view that Originating Summons should only be applicable in such circumstances as where there is no dispute on question of facts or the likelihood of such dispute. Where for instance, the issue is to determine short questions of construction and not matters of such controversy that the justice of the case would demand the settling of pleadings, Originating Summons could be applicable."

See also **DOHERTY vs. DOHERTY (1964) 1 ALL NLR 299**, **OLUMIDE vs. AJAYI (1997) 8 NWLR (PT 517) 433 at 442-443**, **ANATOGU vs. ANATOGU (1997) 9 NWLR (PT 519) 49 at 70-71** and **EZEIGWE vs. NWAUWULU (2010) 4 NWLR (PT 1183) 159 at 191**.

The underlying principle in all these decisions is that Originating Summons may only be used in initiating proceedings to obtain declarations or decisions of court on the construction or interpretation of documents, instruments or statutory provisions in circumstances where there is no dispute on question of facts or the likelihood of such dispute. In other words, where the facts in issue between the parties involve matters of serious controversy that the justice of the case would demand the settling of pleadings, Originating Summons cannot be applicable: **PAM vs. MOHAMMED (2008) 16 NWLR (PT 1112) 1 at 15**, **MICHAEL vs. MIMA PROJECTS VENTURES LTD (2002) 24 WRN 71 at 81** and **OSSAI vs. WAKWAH (2006) ALL FWLR (PT 303) 239 at 254-255**.

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I stated at the outset that the 1st Respondent's action at the lower court was for the determination of questions on the interpretation of the judgment of the High Court of Rivers State in **SUIT NO. PHC/114/2007: ATTORNEY GENERAL, RIVERS STATE vs. THE SPEAKER, RIVERS STATE HOUSE OF ASSEMBLY** delivered on 16th February 2007, vis-à-vis the provisions of Sections 120, 121, 122, 124, 125, 128 and 188 of the 1999 Constitution, as well as the interpretation of the provisions of Section 7 of the Economic and Financial Crimes Commission (Establishment) Act. As rightly found by the lower court at page 208 of the Records of Appeal, the parties are at one that there was the aforesaid decision of the High Court of Rivers State which interpreted the said constitutional provisions. It is lucent that the question before the lower court was whether the construction and interpretation of the said constitutional provisions by the High Court of Rivers State was proper. The parties having agreed on the existence of the said judgment of the High Court of Rivers State, there can be nothing in the affidavits which can make the proceedings hostile or involve any substantial dispute of facts as what required resolution was whether the proper interpretation and construction was done by the High Court of Rivers State.

It is pertinent to state that where the construction and interpretation made by the High Court of Rivers State on the said constitutional provisions is proper, it will affect the question of the interpretation and construction of the provisions of Section 7 of Economic and Financial Crimes Commission (Establishment) Act, regardless of whatever the Appellant asserts that it was doing in exercise of its statutory powers, since the provisions of the Constitution are supreme and no other legislation can undermine the effect of a constitutional provision. See **NWOKEDI vs. ANAMBRA STATE GOVT (2022)**

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LPELR (57033) 1 at 38-39, MPPP vs. INEC (2015) LPELR (25706) 1 at 38 and AGI vs. PDP (2016) LPELR (42578) 1 at 79-80. We will return to this later.

The Appellant filed a Counter Affidavit on the strength of which it contends that the proceedings were hostile and not suited for hearing under the originating summons procedure. Now, the fact that the defendant in an action commenced by originating summons filed a counter affidavit is not tantamount to the matter being contentious and hostile: **EDEH vs. OKORIE (2018) LPELR (43769) 1 at 31** and **UNITY BANK vs. CLESON INVESTMENT LTD (2022) LPELR (59045) 1 at 42.** The dispute on facts, which will necessitate the conversion of an action commenced by originating summons to a writ of summons, must be substantial, material and affecting the live issues in the matter. Where the disputes are peripheral and not material to the live issues, an action can be sustained by originating summons. See **PAM vs. MOHAMMED (supra) at 88-89, LSDPC vs. ADOLD/STAMM INTERNATIONAL NIG LTD (2005) 2 NWLR (PT 910) 603 at 621, BALONWU vs. OBI (2007) LPELR (4255) 1 at 25-29 and SANI vs. KOGI STATE HOUSE OF ASSEMBLY (2019) LPELR (46404) 1 at 13-16.** In the diacritical circumstances of this matter, irrespective of the depositions in the Appellant's counter affidavit, the material and live issue before the lower court was to determine whether the construction and interpretation placed on the aforesaid constitutional provisions by the High Court of Rivers State is proper. Accordingly, there were no contested facts on the material and live issues in the matter to have made the proceedings not suited for hearing under the originating summons procedure: **NRC vs. ZARIA (2017) LPELR (46221) 1 at 7-8, REGISTERED TRUSTEES OF AUTO SPARE PARTS AND**

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MACHINERY DEALERS ASSOCIATION vs. JOHN (2020) LPELR (49541) 1 at 38-44 and **OLAOYE vs. OAMEN (2022) LPELR (58012) 1 at 17-18.**

So, the lower court was correct when it reasoned and held that there were no hostile or dispute of facts of substance that prevented it from entertaining the matter under the originating summons procedure.

The regnant rules of the lower court at the date of hearing of the matter by the lower court was the Federal High Court (Civil Procedure) Rules, 2000. Order 2 Rule 2 of the said Rules provides for where an action can be commenced by originating summons as follows:

"2 (a) the sole or principal question at issue is, or is likely to be, one of the construction of a written law or of any instrument made under any written law, or of any deed, will, contract or other or document or some other questions of law; or

(b) there is unlikely to be any substantial dispute of fact."

It cannot be confuted that the question presented before the lower court was for the construction of a document, the judgment of the High Court of Rivers State in **SUIT NO. PHC/114/2007: ATTORNEY GENERAL, RIVERS STATE vs. THE SPEAKER, RIVERS STATE HOUSE OF ASSEMBLY** delivered on 16th February 2007, vis-à-vis the provisions of Sections 120, 121, 122, 124, 125, 128 and 188 of the 1999 Constitution, as well as the construction of a written law, *id est*, the provisions of Section 7 of the Economic and Financial Crimes Commission (Establishment) Act. As has been analysed above, there was no substantial dispute of facts involved in the action. The originating summons procedure was therefore suitable for the hearing of the matter and the lower

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court was correct to proceed to hear and determine the matter under the said procedure. Indubitably, this issue number one is resolved against the Appellant.

ISSUE NUMBER ii (TWO)

Whether the learned trial Judge was right in striking out the issues formulated by the 1st Defendant when it was clear that those issues relate to the extent of the powers or duties of the 1st Defendant which were in dispute in the proceedings.

SUBMISSIONS OF THE APPELLANT'S COUNSEL

The Appellant submits that the lower court was in error when it struck out the issues it formulated, which issues relate to the extent of the powers and duties of the Appellant, the lower court having confused the issues with the questions for determination in the originating summons. It was stated that the Appellant's issues which relate to its powers come within the second question submitted for determination in the originating summons. It was posited that by discountenancing the Appellant's issues the lower court failed to fully direct its mind to the real issues in controversy.

SUBMISSIONS OF THE RESPONDENTS' COUNSEL

The submission of the 1st Respondent is that a court will discountenance issues that fall outside the purview of the questions for determination in an action *vide* **CBN vs. A.T.& B.S. LTD (2010) 9 NWLR (PT 1200) 567**. It was stated that the lower court was correct in holding that the issues framed by the Appellant were outside the questions that the 1st Respondent formulated before it.

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It was contended that the Appellant could have by way of a counterclaim sought the resolution of its issues pursuant to Order 40 Rule 8 of the Federal High Court(Civil Procedure) Rules, 2000, but it did not counterclaim, and it could therefore not raise an issue different from that raised by the 1st Respondent as Plaintiff at the lower court. The case of **NSIRIM vs. AMADI (2016) LPELR-26053 (SC)** was referred to.

The 2nd – 4th Respondents argue that the two issues formulated by the appellant for determination at the lower court were separate and distinct from the questions for determination in the originating summons. It was opined that the lower court was right in discountenancing the said issues since it is not for a defendant, who has not counterclaimed, to formulate his own issues different from those raised in the originating summons. The cases of **NJC vs. ALADEJANA (2014) LPELR-24134 (CA) at 30** and **ACHU vs. C. S. C. CROSS RIVER STATE (2009) 3 NWLR (PT 1129) 475 at 507-508** were relied upon.

It was further argued that even if the lower court was wrong by discountenancing the Appellant's issues, that it would still be of no consequence as the Appellant's argument was taken into consideration by the lower court in resolving the action and so no miscarriage of justice was occasioned. The cases of **ONAGORUWA vs. THE STATE (1993) LPELR-43436 (SC) at 89-90** and **OJE vs. BABALOLA (1991) 4 NWLR (PT 185) 267 at 282** were cited in support.

On his part, the 5th Respondent argues that by Order 2 Rule 2 (a) of the Federal High Court (Civil Procedure) Rules, 2000, the questions for determination form the bedrock of any matter commenced by originating

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summons and that the consideration and adjudication of the matter is circumscribed and delineated by the said questions for determination. The cases of **OBASANYA vs. BABAFEMI (2000) 15 NWLR (PT 689) 1 at 17, OLLEY vs. TUNJI [no reference supplied] at 316** and **OKEZIE vs. CBN (2012) 4 NWLR (PT 1304) 89 at 100-103** were called in aid.

It was asserted that the issues the Appellant formulated at the lower court fell outside the scope of the questions formulated for determination in the originating summons, and indeed constitute questions for determination of their own, which the Appellant could only have done if it had counterclaimed. It was maintained that the lower court rightly held that the Appellant's issues went to no issue. It was further submitted that regardless, the lower court still considered the Appellant's argument before arriving at its decision.

RESOLUTION OF ISSUE NUMBER ii (TWO)

I have alluded to the questions which the 1st Respondent presented for determination in its originating summons. In its processes before the lower court, the Appellant formulated the following two issues for determination of the said questions:

Whether the 1st Defendant has a duty imposed on it to investigate financial crimes?

Whether in view of Sections 7 and 46 of the EFCC Act of 2004, corruption is a financial crime?

The lower court at pages 217-218 of the Records of Appeal reasoned and held that the above issues formulated by the Appellant were outside the questions formulated for determination in the originating summons and that since the Appellant did not have a counterclaim that they went to no issue.

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It is instructive to state that the Appellant has not contended that the lower court did not consider its submissions and the case it made out before it. The complaint is that it discountenanced the issues it formulated, not that it discountenanced its submissions. It seems to be settled law that the duty of the court in the adjudicatory process is to ensure that justice is served. Justice is the primary consideration and this is attained by giving due consideration to the case of the parties and arrive at a just decision: **ONU vs. IDU (2006) LPELR (2696) 1 at 37, MAAJI vs. WILSON (2022) LPELR (58491) 1 at 12** and **NEWSWATCH COMMUNICATIONS LTD vs. ATTAH (2006) LPELR (1986) 1 at 32.**

That said, the law is that an issue raised for determination in a case must be such a proposition of law or fact or both that is cogent, weighty, and compelling that a favourable resolution of the same will entitle the party to judgment. See **KALU vs. ODILI (1992) 6 SCNJ 76, EZEKWESILI vs. AGBAPUONWU (2003) 9 NWLR (PT 825) 337** and **BANK OF AGRICULTURE vs. SALEM FARMS LTD (2025) LPELR (80902) 1 at 12.** Given this legal position, and against the background of the questions for determination in the originating summons, it is limpud that even if the Appellant's issues as formulated are resolved in the affirmative by the lower court holding that the Appellant can investigate financial crimes and that corruption is a financial crime, it would not in any way result in a resolution and disposal of the questions for determination in the originating summons. The lower court was therefore correct that they went to no issue.

It is pertinent to state that while a court is duty bound to consider the case made out by a party before arriving at its decision, it is not bound to do

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so based on the issues distilled by the parties as it is rudimentary law that a court can reformulate the issues distilled by the parties, or resolve the action based on the issues distilled by any of the parties which it finds idoneous. See **UNITY BANK PLC vs. BOUARI (2008) 7 NWLR (PT 1086) 371 at 401, ILA ENTERPRISES LTD vs. UMAR ALI & CO. NIG LTD (2022) LPELR (58067) 1 at 15-16, SUPER CERAMICS MANUFACTURERS LTD vs. H. E. P. ENGINEERING (NIG) LTD (2020) LPELR (55369) 1 at 25 and AKINOLA vs. AKINTEWE (2024) LPELR (80487) 1 at 16-17.**

Let me iterate that the Appellant's contention is not that the lower court did not consider its case before arriving at its decision. It is rather peeved that the lower court discountenanced the issues it distilled for determination. In so far as the lower court had given due consideration to the Appellant's case, no miscarriage of justice was occasioned to the Appellant, as there was no failure of justice. Justice was neither misapplied, miscarried, misappreciated, or misappropriated: **UNITY BANK vs. RHOOR & LUE (NIG) LTD (2025) LPELR (80534) 1 at 30, OBAJE vs. NAMA (2023) LPELR (61645) 1 at 31-32 and OGUNTAYO vs. ADELAJA (2009) LPELR (2353) 1 at 43-44.** Ineluctably, this issue number two is resolved in favour of the Respondents.

ISSUE NUMBERS iii (THREE), iv (FOUR), v (FIVE), vi (SIX) AND vii (SEVEN)

iii. Whether the power of investigation vested in the House of Assembly of State under Section 128 of the Constitution of the FRN 1999 for the purpose, inter alia, of exposing corruption precludes the Powers of the Appellant under the EFCC Act 2004 to investigate allegations of corruption or economic and financial crimes against state officials involving public funds of the state.

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- iv. Whether the learned trial Judge erred in holding that the 1st Defendant's/Appellant's investigation of financial crimes against officials of Rivers State Government amounted to usurping or sharing the powers of impeachment under Section 188 of the Constitution of FRN 1999 vested in the State House of Assembly.*
- v. Whether the learned trial Judge erred in his interpretation of S. 7 of the EFCC Act by holding that 'person', 'Corporate body' or 'organisation' excludes 'Government' and thereby the powers of the Appellant to investigate corruption, financial or economic crimes did not extend to State Government agencies or its officials.*
- vi. Whether the investigation of corruption, economic or financial crimes by the Appellant amounted to meddling into the affairs of Rivers State Government or take-over of its legislative or executive arms contrary to the principles of Nigeria's Federal Constitution.*
- vii. Whether the learned trial Judge was right in granting declaratory and injunctive reliefs against the 1st Defendant nullifying its investigations and precluding it from carrying out further investigations or using the reports of its investigations when such reports had not been placed before him.*

SUBMISSIONS OF THE APPELLANT'S COUNSEL

The Appellant argued its issue numbers three (iii), four (iv) and six (vi) together, submitting that the lower court in arriving at its decision was confused in its application of the principles of separation of powers, federalism and the relationship between institutions established by the Federal legislature and State authorities. It was stated that the power of a State legislature to conduct investigation under Section 128 of the Constitution is not in the manner of an executive function or criminal investigation, but are powers given to enable the State legislature fully discharge its primary function of making laws. The case

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of **A-G, ABIA STATE vs. A-G, FEDERATION (2006) 16 NWLR (PT 1005) 265 at 379-380** was referred to on the nature and scope of the oversight functions of the legislature.

It was further stated that the power to impeach a Governor by the legislature and the powers of the Police to investigate a crime were mutually exclusive. The cases of **FAWEHINMI vs. IGP (2002) 7 NWLR (PT 767) [no page stated]**, **OKOLI vs. UDEH (2008) 10 NWLR (PT 1095) 213 at 277** and **INAKOJU vs. ADELEKE (2007) 4 NWLR (PT 1025) 423 at 588** were relied upon. It was consequently contended that the lower court was wrong to conclude that the Appellant was seeking to share the powers of the 3rd Respondent.

Still in argument, it was submitted that the lower court was wrong in its interpretation of Section 7 of the Economic and Financial Crimes Commission (Establishment) Act when it held that the power to investigate persons, corporate bodies or organisations conferred therein does not include Governments, a finding which was stated as negating the decisions of the Supreme Court on the constitutionality of the ICPC [*sic*] Act, which is similar to the Economic and Financial Crimes Commission (Establishment) Act *vide* **A-G, ONDO STATE vs. A-G, FEDERATION (2002) 9 NWLR (PT 772) 222.**

In argument of its issue number v (five), the Appellant stated that the interpretation of Section 7 of the Economic and Financial Crimes Commission (Establishment) Act by the lower court was flawed as there is nothing in the Act to suggest that the Appellant is only empowered to act only against private persons (natural or artificial) who commit financial or other crimes. It was asserted that the Economic and Financial Crimes Commission (Establishment)

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Act does not distinguish between public officials and private persons and is applicable to public officers whether Federal, State or Local who are involved in commission of crime and are investigated as such and not as Government. It was opined that the lower court interpreted Section 7 of the Economic and Financial Crimes Commission (Establishment) Act in isolation of the other Sections of the Act as a result of which it arrived at an incongruous interpretation by not reading the Act as a whole. The case of **EGOLUM vs. OBASANJO (1999) 7 NWLR (PT 611) 355 at 393** was called in aid.

The Appellant submitted that a dispassionate and clear reading of Sections 6, 7 and 8 (5) of the Economic and Financial Crimes Commission (Establishment) Act shows that the Appellant was conceived as a central agency with responsibility throughout the country to fight economic and financial crimes, and that the court ought to interpret the Act to give effect to the wordings of the statute. The case of **IBRAHIM vs. JSC (1998) 14 NWLR (PT 584) 1 at 34** was cited in support. It was further stated that by Section 18 of the Interpretation Act, person includes anybody corporate or unincorporated and therefore restricting Section 7 of the Economic and Financial Crimes Commission (Establishment) Act to only natural persons was erroneous and violated the provisions of the Interpretation Act, the application of which is not excluded by the Economic and Financial Crimes Commission (Establishment) Act. The case of **ADEFEMI vs. ABEGUNDE (2004) 15 NWLR (PT 895) 1 at 21** was referred to.

The Appellant's contention on issue number vii (seven) is that the lower court erred in law by granting declaratory and injunctive reliefs barring the Appellant from carrying out its statutory functions especially as declaratory

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reliefs are granted sparingly and with great caution *vide* **AGBAJE vs. AGBOLUAJE (1970) ALL NLR 21 at 26**. It was stated that Appellant's case contrary to the 1st Respondent's allegation was that it was not investigating the disbursing or administering or management of the funds of Rivers State, but that it was investigating economic and financial crimes allegedly committed by officials of Rivers State Government; and that without resolving this conflict in the affidavits, the lower court issued declarations and injunctive orders in respect of alleged investigation reports of the Appellant that were not placed before it. The case of **LEKWOT vs. JUDICIAL TRIBUNAL (1997) 8 NWLR (PT 515) 22** was relied upon.

SUBMISSIONS OF THE RESPONDENTS' COUNSEL

The 1st Respondent joined the Appellant in arguing issue numbers iii (three), iv (four) and vi (six) together, submitting that the action before the lower court was for the interpretation of Sections 128 and 188 of the Constitution vis-à-vis the investigative powers of the Appellant under Section 7 of the Economic and Financial Crimes Commission (Establishment) Act, in order to determine the constitutionality/validity *vel non* of the actions of the Appellant in interfering with the functions of the 2nd – 4th Respondents. It was stated that the lower court rightly held that the actions of the Appellant was a usurpation of the powers of the legislature. It was maintained that Sections 125 and 128 of the Constitution vests the auditing, investigation and inquiry into the disbursement, management and control of the public funds of a State in the Auditor-General of the State and the State House of Assembly. It was stated that the constitutional provisions were clear and unambiguous and so the duty of the court was one of application and not interpretation. The case of **M. V.**

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CAROLINE MAERSK vs. NOKOY INVESTMENT LTD (2002) 12 NWLR (PT 782) 472 was called in aid. It was posited that even if Section 7 of the Economic and Financial Crimes Commission (Establishment) Act conferred on the Appellant the powers it claims that it did, that the provision would be inconsistent with Sections 125 and 128 of the Constitution and so would be null and void. The case of **A-G, ABIA STATE vs. A-G, FEDERATION (2002) 6 NWLR (PT 763) 264 at 479** was cited in support.

It was further contended that the impeachment procedure under Section 188 of the Constitution is the exclusive preserve of the State legislature to the exclusion of any other body, save the judiciary; and therefore that the Appellant's attempt to pressurise the 3rd Respondent to commence impeachment proceedings against the 5th Respondent, as borne out by the newspaper publication, Exhibit HAG1, which the Appellant did not rebut, was unconstitutional, illegal, improper and unjustifiable.

It was further stated that the Appellant was silent on the purport of the judgment of the High Court of Rivers State, Exhibit HAG2, which is subsisting and was not appealed against, and must be given effect to by virtue of Section 287 (3) of the 1999 Constitution. It was opined that the lower court merely interpreted and gave effect to the said judgment of the High Court of Rivers State and that the Appellant cannot indirectly appeal against the said judgment by this present appeal.

On issue number v (five), the 1st Respondent submits that the provisions of Sections 6 and 7 of the Economic and Financial Crimes Commission (Establishment) Act are general provisions, and without conceding, it was stated that even if a State Government falls within persons, corporate bodies or

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organisations, that the specificity of the powers conferred on the Auditor-General and House of Assembly with reference to State Government funds takes precedence over the general provisions *vide* **ADEDAYO vs. PDP (2013) 17 NWLR (PT 1382) 1**. The Black's Law Dictionary was referred to on the definition of government and it was stated that none of the words persons, corporate bodies or organisations fit into the definition of government as *'the sovereign power in a nation or state'*; and so the Rivers State Government was not contemplated within Section 7 of the Economic and Financial Crimes Commission (Establishment) Act.

The 1st Respondent's argument on issue number vii (seven) is that the reliefs granted by the lower court flowed from the manner of resolution of the issues submitted before it for determination after duly considering the provisions of the Constitution and the relevant sections of the Economic and Financial Crimes Commission (Establishment) Act.

The 2nd – 4th Respondents made their submissions under their issue number three asserting that the lower court was correct in its decision that the 1st Respondent established its entitlement to the declaratory and injunctive reliefs it claimed since the undisputed fact is that the Appellant embarked on a wholesale arrest of top officials of Rivers State House of Assembly and Rivers State Government under the guise of investigation, thereby crippling the activities of Rivers State Government and a usurpation of the functions of the Rivers State Government which is unacceptable as found by the lower court. The case of **MOHAMMED vs. ABDULAZIZ (2008) LPELR-4496 (CA)** was referred to.

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It was further submitted that the Appellant made contradictory submissions, contending in one breath that it was not engaged in the usurpation of the role of the Rivers State House of Assembly and that the lower court was wrong to denounce and restrain such activities, while in another breath it argued that it was investigating individual officials of Rivers State Government for corruption and that the lower court was wrong in holding that its powers were limited to persons, corporate bodies and organisations. It was stated that the Appellant cannot be had to approbate and reprobate. The cases of **AJIDE vs. KELANI (1985) 3 NWLR (PT 12) 248 at 269** and **AKUNEZIRI vs. OKENWA (2000) 15 NWLR (PT 691) 526 at 551** were relied upon.

It was maintained that the lower court did not restrain the Appellant from exercising its statutory duties, but merely stated the lawful limits of those powers, and restrained the Appellant from exceeding the limits by usurping the duties, powers and functions of other arms or tiers of government as it relates to the power of control of public funds vested in the Rivers State House of Assembly. It was further submitted that the affidavit evidence of the 1st Respondent established its case and that the lower court rightly so held. The cases of **AZUH vs. UBN PLC (2004) 14 NWLR (PT 893) 402 at 418** and **OBI vs. INEC (2007) 11 NWLR (PT 1046) 565 at 632** were called in aid.

It was further contended that there is nothing in Section 7 of the Economic and Financial Crimes Commission (Establishment) Act which empowers the Appellant to usurp the powers, duties and functions of the Rivers State House of Assembly as it relates to the powers in respect of appropriated funds as conferred by Sections 128 and 188 of the Constitution. It was stated that statutes are interpreted in a way to give effect to the words employed by the

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legislature, and that a court cannot read into a provision words that are not there. The case of **AYENI vs. UNIVERSITY OF ILORIN (2000) 2 NWLR (PT 644) 290 at 305** was cited in support.

It was opined that the Federal structure of Nigeria has the States as sub-national entities and autonomous federating units with its own structures that are not subject to the Federal Government *vide* **PRESIDENT, FRN vs. NATIONAL ASSEMBLY (2022) LPELR-58516 (SC) at 22-23**. It was stated that Section 7 of the Economic and Financial Crimes Commission (Establishment) Act having listed persons, corporate bodies and organisations as those that the Appellant can investigate, means that other category of entities including Governments were excluded, based on the *expressio unis est exclusio alterius* rule. The case of **BUHARI vs. YUSUF (2003) LPELR-812 (SC) at 30** was referred to. It was further stated that Section 128 of the Constitution had covered the field in respect of State funds, vesting the powers on the State House of Assembly, and that the National Assembly lacked the vires to legislate on the said issue and vest the same powers on the Appellant pursuant to Section 7 of the Economic and Financial Crimes Commission (Establishment) Act, since the Constitution is supreme. The cases of **INEC vs. MUSA (2003) LPELR-24927 (SC) at 35-37** and **CBN vs. OCHIFE (2025) LPELR-80220 (SC) at 117-118** were relied upon.

The argument of the 5th Respondent in this regard are in his issue numbers iii (three) and iv (four). It was posited that the admitted facts disclose that functionaries of the Rivers State legislature and members of the State Executive were arrested and detained by the Appellant on account of the management of the funds of the Rivers State Government. It was submitted

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that by the combined effect of Sections 125 and 128 of the Constitution, the auditing, investigation and inquiry into the disbursement, management and/or control of Rivers State funds is the sole prerogative of the Auditor-General and the State House of Assembly.

It was opined that the constitutional provisions are clear and unambiguous and so the duty of a court is limited to application and not interpretation. The cases of **CALABAR CCC vs. EKPO (2008) 6 NWLR (PT 1083) 362 at 395** and **IBAMA vs. SPDC (2005) 17 NWLR (PT 954) 364 at 385** were called in aid. It was stated that the Constitution is supreme and any other law inconsistent with it will be null and void to the extent of the inconsistency. The cases of **A-G, ABIA STATE vs. A-G FEDERATION (2002) 6 NWLR (PT 763) 264 at 479**, **STABILINI VISINONI LTD vs. FBIR (2009) 13 NWLR (PT 1157) 200 at 229**, **CADBURY vs. FBIR (2010) 2 NWLR (PT 1179) 561 at 579** and **MIL. GOV., ONDO STATE vs. ADEWUNMI (1988) 3 NWLR (PT 82) 280 at 291** were cited in support. It was therefore stated that if Sections 7 and 8 of the Economic and Financial Crimes Commission (Establishment) Act conferred the powers claimed by the Appellant on it, that they would be inconsistent with Sections 125 and 128 of the Constitution, and to that extent null and void.

It was further submitted that the words inquiry and investigation used in Section 128 of the Constitution, is not qualified to support the Appellant's contention that such investigation is not criminal in nature. It was stated that words used in a statute should be construed in the literal sense *vide* **CALABAR CCC vs. EKPO (supra) at 392** and **UGWU vs. ARARUME (2007) 12 NWLR (PT 1048) 367 at 437**. It was asserted that the Constitution establishes a

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Federal system of government and that the Federal Government or its agencies cannot be had to undermine or interfere with the smooth operations of the units *inter se*. The cases of **A-G, OGUN STATE vs. A-G, FEDERATION (1982) 1-2 SC 13 at 15**, **UNONGO vs. AKU (1983) 2 SCNLR 332 at 361** and **A-G, BENDEL STATE vs. A-G, FEDERATION (1981) 10 SC 1 at 113-114** were referred to.

It was further submitted that against the background of the succinct, specific and direct provisions of Sections 125 and 128 of the Constitution, that Sections 6 and 7 of the Economic and Financial Crimes Commission (Establishment) Act are at best general provisions, and that specific provisions take precedence over general provisions. The cases of **INAKOJU vs. ADELEKE (2007) 4 NWLR (PT 1025) 423 at 629**, **APAPA vs. INEC (2012) 8 NWLR (PT 1303) 409 at 430**, **ADEDAYO vs. PDP (2013) 17 NWLR (PT 1382) 1 at 95** and **SALVADOR vs. INEC (2012) 7 NWLR (PT 1300) 417 at 442** were relied upon. The Black's Law Dictionary, 8th Edition, page 737, on the definition of government as '*the sovereign power in a nation or state*' was referred to, and it was submitted that the words, persons, corporate bodies and organisations used in Section 7 of the Economic and Financial Crimes Commission (Establishment) Act do not fit the description in the definition of government.

Still in argument, it was submitted that the impeachment procedure under Section 188 of the Constitution is the exclusive preserve of the state legislature and that the attempt by the Appellant to influence, induce and pressurise the 3rd Respondent to commence impeachment proceedings against the 5th Respondent is unconstitutional, illegal, improper and unjustifiable. Exhibit HAG1

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of the 1st Respondent's supporting affidavit was referred to and it was stated that by section 148 (c) of the Evidence Act, a presumption of genuineness inured in favour of the newspaper publication, which presumption was not rebutted.

It was asserted that the judgment of the High Court of Rivers State in **SUIT NO. PHC/114/2007: ATTORNEY GENERAL, RIVERS STATE vs. THE SPEAKER, RIVERS STATE HOUSE OF ASSEMBLY,** Exhibit HAG2 to the 1st Respondent's supporting affidavit, was not appealed against and so it remains subsisting and constitutes judicial precedent and must be given effect pursuant to Section 287 (3) of the Constitution. It was posited that the lower court merely interpreted and gave effect to the said judgment. It was maintained that based on the doctrine of covering the field, the constitutional provisions had covered the field and so no statute can replicate, duplicate or clarify the matters and that a public body or authority must act within the confines of its statutory powers, and must not exceed it. The cases of **A-G, ABIA STATE vs. A-G, FEDERATION (2002) 6 NWLR (PT 763) 264 at 367-369** and **AMASIKE vs. REGISTRAR-GENERAL, CAC (2010) 13 NWLR (PT 1211) 337 at 399** were cited in support.

The laconic submission of the 5th Respondent on his issue number iv (four) is that predicated on the answer to the two questions for determination in the originating summons, the lower court rightly exercised discretion by consequentially granting the reliefs claimed. The cases of **DANTSOHO vs. MOHAMMED (2003) 6 NWLR (PT 817) 457 at 489-490, INAKOJU vs. ADELEKE (2007) 4 NWLR (PT 1025) 427 at 708-709** and **AKINBOBOLA**

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vs. PLISSON FSKO [no reference supplied] at 288 were called in aid for the definition of consequential order.

APPELLANT'S REPLY ON LAW

In its separate Reply Briefs to the briefs of the 1st and 5th Respondents, the Appellant submits that all the questions regarding the validity and extent of the Appellant's statutory powers had been laid to rest by the apex court and that the said powers do not conflict with the powers of a State House of Assembly. The cases of **NWEKE vs. FRN LPELR-46946 [sic] (SC)** and **A-G, KOGI STATE vs. A-G, FEDERATION (2024) LPELR-63285 (SC)** were referred to.

RESOLUTION OF ISSUE NUMBERS iii (THREE), iv (FOUR), v (FIVE), vi (SIX) AND vii (SEVEN)

The disparate contention under these issues constitutes the nub of the disceptation in this appeal. The two questions which the 1st Respondent presented for determination at the lower court are as follows:

- i) *Whether upon a proper interpretation of the Judgment of the High Court of Rivers State in Suit No. PHC/114/2007: Attorney General, Rivers State V. The Speaker, Rivers State House of Assembly & Ors. delivered on 16th February 2007 interpreting the provisions of sections 120, 121, 122, 124, 125, 128 and 188 of the Constitution of the Federal Republic of Nigeria 1999 and indeed upon a proper interpretation of the said sections of the Constitution of the Federal Republic of Nigeria 1999, the 1st Defendant is entitled to share with the Rivers State House of Assembly in its powers or to participate in the exercise of the powers of control of public funds of Rivers State including the power to inquire into or investigate the disbursing, administering or*

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management of the funds of Rivers State or to prompt, instigate, coerce, induce or in any manner influence the 2nd and 3^d Defendants in the exercise of the powers of the Rivers State House of Assembly under S. 188 of the Constitution of the Federal Republic of Nigeria 1999?

ii) Whether upon a proper interpretation of section 7 of the Economic and Financial Crimes Commission (Establishment) Act, the 1st Defendant is vested with any power to investigate or cause to be investigated the disbursing, administering or management of funds of a State appropriated or to be appropriated by the House of Assembly of that State or in any manner howsoever investigate the account or financial affairs of a State government?

It is evident from the first question above, that there had been a decision of the High Court of Rivers State in **SUIT NO. PHC/114/2007: ATTORNEY GENERAL, RIVERS STATE vs. THE SPEAKER, RIVERS STATE HOUSE OF ASSEMBLY** delivered on 16th February 2007, wherein the provisions of Sections 120, 121, 122, 124, 125, 128 and 188 of the 1999 Constitution were interpreted. The lower court is a court of co-ordinate jurisdiction with the High Court of Rivers State so as it correctly identified at page 211 of the Records of Appeal, the action was not for it to review or sit on appeal over the decision of the High Court of Rivers State; the action was for it to ascertain if based on the interpretation placed on the said constitutional provisions by the High Court of Rivers State, the 1st Respondent would be entitled to the reliefs it claimed.

It is settled law that a declaration is not an auxiliary relief but is very often a foundation on which other reliefs can be claimed. See **DANTATA vs. MOHAMMED (2000) 7 NWLR (PT 664) 176 at 196**. So, the 1st Respondent anchored its reliefs before the lower court on the aforesaid judgment of the

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High Court of Rivers State which it sought its interpretation. The duty of the lower court was not to ascertain if the interpretation placed on the said constitutional provisions by the High Court of Rivers State was correct, but whether if based on the said provisions as interpreted, the effect will be that the 1st Respondent would be entitled to the reliefs claimed.

This being so, **the duty of the Court in this appeal is not to ascertain whether the decision of the High Court of Rivers State is correct, rather, it is to decide whether on the interpretation that the High Court of Rivers State placed on the said constitutional provisions, the lower court was correct that the effect of the interpretation entitled the 1st Respondent to the reliefs claimed. When thus properly contextualised, the contest in this appeal is not convoluted, as the decision of the High Court of Rivers State and its interpretation of the said constitutional provisions, whether right or wrong, is not the subject of this appeal.**

Let me hasten to state that the manner of resolution of the first question for determination set out above will impact on the way in which the second question will be answered. This is so because the first question dwells on the interpretation of the constitutional provisions and the interpretation placed on the said constitutional provisions will supersede and take precedence over whatever is provided in any other legislation. The Constitution is the *grundnorm* and by Section 1 (1) and (3), it is supreme and any other legislation inconsistent with the constitutional provisions will be null and void to the extent of the inconsistency. See **A-G, LAGOS STATE vs. A-G, FEDERATION (2024) LPELR (80160) 1 at 28-29, NPF vs. POLICE SERVICE COMMISSION**

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(2023) LPELR (60782) 1 at 59-60 and PDP vs. CPC (2011) LPELR (2909) 1 at 23.

Let me restate that this Court has not been invited in this appeal to decide if the interpretation placed on the constitutional provisions by the High Court of Rivers State is correct. Put differently, I remain conscious of the fact that this appeal is not against the decision of the High Court of Rivers State in SUIT NO. PHC/114/2007: ATTORNEY GENERAL, RIVERS STATE vs. THE SPEAKER, RIVERS STATE HOUSE OF ASSEMBLY delivered on 16th February 2007. In fact, it is important to state this vital marker at this outset. The said decision of the High Court of Rivers State was not challenged on appeal. Nineteen years after the said judgment was delivered, it remains valid, subsisting and binding since no appeal was filed to challenge the judgment: *ADEDAYO vs. BABALOLA* (1995) LPELR (85) 1 at 40, *SPDC NIG LTD vs. X. M. FED. LTD* (2006) LPELR (3047) 1 at 24 and *OLEKSANDR vs. LONESTAR DRILLING CO. LTD* (2015) LPELR (24614) 1 at 39.

Given this legal effect of this decision of the High Court of Rivers State which was not challenged on appeal, it becomes necessary to roentgenise the decision to clearly situate it within the decision of the lower court which based on its interpretation of the said judgment, granted the reliefs claimed by the 1st Respondent. This is what will now captivate our attention.

The said judgment of the High Court of Rivers State was attached as Exhibit HAG2 to the 1st Respondent's originating summons. It is at pages 12-31 of the Records of Appeal. The action subject of the judgment, Exhibit HAG2,

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was itself commenced by originating summons. The questions for determination therein are as follows:

- 1. whether upon a proper interpretation of the provisions of sections 120, 121, 122, 123, 124 and 125 of the constitution of the Federal Republic of Nigeria, 1999, any authority, person body or organization, other than the House of Assembly for Rivers State has the constitutional authority to exercise powers and control over the public funds of Rivers State.*
- 2. whether upon a proper interpretation of section 128 of the constitution of the Federation 1999, any other authority, person, body or organization, other than the House of Assembly for Rivers State, has the constitutional authority or power to conduct investigation into the disbursing or administering of money appropriated or to be appropriated by Rivers State House of Assembly whether the purpose for the investigation/inquiry is to expose corruption, inefficiency or waste of public funds or not.*
- 3. whether upon a proper interpretation of section 128 of the constitution of the Federation, the 36th and 37th Defendants or indeed any other bank or financial institution is entitled to submit, release, or in any manner whatsoever disclose any information, financial statement/records, statement of account, vouchers or cheque in respect of or relating to the Bank accounts of the Rivers State Government, to anybody, person, authority, organization or agency including the ICPC, EFCC or any other such body or organization, other than the Rivers State House of Assembly.*
- 4. whether upon a proper interpretation of the provisions of section 125 of the constitution of*

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Federal Republic of Nigeria, the power to receive financial statements and annual accounts of the Rivers State Government from Accountant-General is vested in any other authority, person, body or organization other than the Auditor-General for Rivers State.

5. *whether upon a proper interpretation of the provisions of section 125 of the constitution of the Federal Republic of Nigeria 1999, the power to audit, the public accounts of Rivers State, is vested in any authority, person, body or organization other than the Auditor-General, for Rivers State.*
6. *whether upon a proper interpretation of section 125 of the constitution, the Auditor-General for Rivers State can be subjected to any direction, or control of any authority, person body or organization.*
7. *whether upon a proper interpretation of section 188 of the constitution of the Federal Republic of Nigeria, 1999, the House of Assembly, for Rivers State, can exercise its powers to remove the State Governor or his Deputy at the behest, prompting, or advise of any authority, person, body, or organization or otherwise than in strict compliance with the provisions of the constitution of the Federation 1999.*

Upon the determination of the said questions, the following reliefs were claimed:

- i. *a declaration that the House of Assembly for Rivers State (now consisting of the 1st to 31st Defendants) is not entitled to surrender to any person, body or organization (including the Independent Corrupt Practices And other Related Offences Commission - I.C.P.C., the Economic and Financial Crimes Commission-EFCC or any other investigative body), is not entitled to share with any person or abdicate its*

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powers of control over the public funds of Rivers State as vested in it by the Constitution of the Federal Republic of Nigeria 1999.

- ii. A declaration that under the Constitution of the Federal Republic of Nigeria 1999, that only the House of Assembly for Rivers State is entitled to direct or cause to be directed an inquiry or investigation into the disbursing or the administering of moneys appropriated or to be appropriated under any appropriation bill passed by the House, (whether for the purpose of exposing corruption, inefficiency or waste) and that the said House of Assembly is not entitled to share, surrender, or abdicate the constitutional powers so vested in it with, or to any other person, body, agency or organization no matter how described.*
- iii. A declaration that under the constitution of the Federal Republic of Nigeria 1999 the power to audit the public account, of a state of all offices and all courts of Rivers State is vested in the Auditor-General for Rivers State and that the said Auditor-General in the exercise of the Constitutional duties is not subject to the direction or control of any authority or person and is not entitled to surrender its powers, abdicate or share its powers with any person, body authority or organization no matter how described.*
- iv. A declaration that under the constitution of the Federal Republic of Nigeria 1999 the Accountant General for Rivers State is the only person entitled to prepare and present the financial statement and annual accounts of Rivers State to the Auditor-General (who in turn presents the same to the House of Assembly) and, not any other authority, person, body or organization and accordingly the Accountant General of Rivers State is not entitled to submit financial statements, report of annual or other*

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accounts of Rivers State, documents, or vouchers or other financial records/statements of Rivers State to any other authority, person, body or organization (including the Independent Corrupt Practices And Other Related Offences Commission-I. C. P. C, the Economic and Financial Crimes Commission-EFCC or any other investigative body).

- v. *A declaration that the 35th and 37th Defendants or indeed any other bank or financial institution are not entitled to submit to, to release to, or in any manner whatsoever to disclose to any person, body or agency (including the Independent Corrupt Practices and Other Related Offences Commission- I. C. P. C., the Economic and Financial Crimes Commission-EFCC or any other investigative body) any document, financial statement/records, statement of Account, cheques, vouchers or any information relating to the Bank Account (s) of the Rivers State Government other than to the House of Assembly for Rivers State and in strict compliance with the Constitution of the Federal Republic of Nigeria 1999.*
- vi. *A declaration that the power of removal from office of a Governor or his deputy vested in the House of Assembly for Rivers State under the constitution of the Federal Republic of Nigeria 1999 is to be exercised independently by the House of Assembly and that the said House of Assembly and its members are not entitled to act in collusion with, or under coercion, inducement or influence of whatever nature from any authority, person, body or organization (including the Independent Corrupt Practices And Other Related Offences Commission-I. C. P. C, the Economic and Financial Crimes Commission- EFCC and other such related bodies.)*
- vii. *An order of injunction restraining the Defendants by themselves or by their servants, agents, and privies*

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from surrendering their constitutionally assigned roles, sharing their constitutionally assigned roles, including the power of control over the public funds of Rivers State, the duty to direct or cause to be directed the investigation of the disbursement and administration of moneys appropriated or to be appropriated under any appropriation bill passed by the House of Assembly or as enabled under the Constitution.

- viii. An order of injunction restraining the Defendants by themselves or by their servants, agents and privies from submitting to, surrendering to, or in any manner whatsoever disclosing to any authority, person, body, agency or organization (including the Independent Corrupt Practices And Other Related Offences Commission- I.C.P.C, the Economic and Financial Crimes Commission- EFCC) any document, financial statement or information relating to the public funds of the Rivers State other than in strict compliance with the Constitution of the Federal Republic of Nigeria 1999.*
- ix. An order of injunction restraining the 36th and 37th defendants by themselves or by their servants, and/or agents from disclosing any information relating to the bank account (s) of the Rivers State Government, from submitting any document, financial statement/record, statement of Account, cheque or voucher in respect of or relating to the bank accounts (s) of the Rivers State Government or in any manner whatsoever releasing or allowing access to any document or information relating to any bank accounts (s) of the Rivers State Government, to any person, body, authority, organization or agency (including the Independent Corrupt Practices and other Related Offences Commission-IC.P.C, the Economic and Financial Crimes Commission -EFCC and other such bodies) other than to the House of*

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Assembly for Rivers State and in strict compliance with the constitution of the Federal Republic of Nigeria 1999 or from acting on or continuing to act on the instruction of any other person, body or organization (including but not limited to the Economic and Financial Crimes Commission) other than the duly authorized signatories of the Rivers State Government in respect of all accounts of the Rivers State Government kept in the 36th and 37th Defendants Banks.

- x. *An order of injunction restraining the 1st and 33^d Defendants by themselves or by their servants, agents and privies from commencing, or continuing with any process or proceeding for the removal of the Governor of Rivers State or the Deputy Governor of Rivers State from office at the behest, prompting or advise of any authority, person, body, agency or organization (including the Police, the Independent Corrupt Practices And Other Related Offences Commission- I.C.PC, the Economic and Financial Crimes Commission-EFCC) other than in accordance with strict compliance with the constitution of the Federal Republic of Nigeria 1999.*

Now, how did the High Court of Rivers State resolve the questions for determination? We again turn to Exhibit HAG2. After expounding the law on constitutional interpretation and in recognition of the intricacies of the Federal system of Government operated in Nigeria, the High Court of Rivers State held as follows:

"With particular reference to issues [questions] 1, 4, 5 and 6 hereinabove formulated for determination by learned claimant's counsel, it will be necessary for me to examine and interpret sections 120, 121, 122, 123 and 124 of the constitution. These sections are contained in chapter 5 of the 1999

constitution. (Part 2, which is captioned 'Power and control over Public Funds')

This chapter made adequate provisions for the policing of funds belonging to the state Government. Section 120(1) establishes the consolidated revenue fund of a state, sections 120 (3) and 120 (4) provide as follows,...

... the claimant submitted with regards to these sections of the constitution, that it is clear that section 120 of the constitution intends to place the power and control of public funds whether ordinary revenue of the state or revenue in the consolidated revenue fund, of a state in the house of Assembly for the state, and not in the National Assembly or the Federal Government of Nigeria.

I agree and accept this submission, and I wish to add that sections 120(3) and 120 (4) in addition, give effect to the principle of Federalism as they expressly provide that only a state House of Assembly to the exclusion of the National Assembly or Federal Government of Nigeria, can authorize the withdrawal of money from a state public fund or consolidated revenue fund. Section 121(1) of the 1999 constitution states...

This section, in it's true meaning confers on the House of Assembly of a state, power to control the expenditure profile of a state government on annual basis, that is for each financial year. Sections 121, 122, 123 and 124 of the 1999 constitution, submitted for interpretation by the claimant, in their ordinary meaning and going by the canons of judicial interpretation of status, [statutes] in my view, simply provide for the method to be employed, by the state House of Assembly to authorize distribution of state funds, appropriated under the appropriation law of the state. These sections... [it was] submitted underscore the powers of the House of Assembly in

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relation to all public funds of the state including contingency funds and other funds in the consolidated revenue fund of the state.

I cannot agree more with this view. These sections bring out completely the intention of the law maker with regards to management and control of state funds. Those sections, apply strictly to the powers of a state House of Assembly, in matters connected with appropriation of public funds of a state. Equivalent powers with regards to public funds of the Federation, are vested in the National Assembly by virtue of sections 80 – 89 of the constitution. It follows therefore that going by these provisions neither the Federal Government nor the National Assembly can constitutionally be vested with powers to appropriate, or monitor how appropriated funds of a state are used and to what use or uses they have been put. To so do, will amount to an unconstitutional act, and a complete negation of the principles of Federalism.

Section 125 of the constitution vests the power to audit public funds of a state in the auditor – General of the state. Section 125 (2) specially provides that,...

Section 125 (5) goes on to provide that;...

Section 125(4) also confers on the Auditor-General power to conduct periodic checks and inspections of accounts of all statutory corporations, commissions, authorities, agencies of the state et cetera.

An interpretation of section 125 (2) and (5), simply put is to the effect,

1. That the House of Assembly of a state has the final say in respect of all public funds of the state since it is the body to which all reports, relating to the accounts of a state, must ultimately be submitted to.

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2. That the Auditor – General of the state has the constitutional responsibility to Audit all public accounts of a state and thereafter to submit the report to the House of Assembly.
3. That the Auditor – General is empowered to have access to all books of accounts, records returns and other documents in respect of public funds for the purpose of carrying out his duties. This power does not extend to his power to surrender, submit, handover or pass same over to other bodies or agencies or investigating bodies.
4. This section also commands the Accountant-General to submit to the Auditor-General, financial statements and annual accounts of the state and the Auditor-General shall in turn submit same to the House of Assembly.

Under section 125 (6) all these functions are to be exercised independently and without direction, dictation, control, manipulation, or control of any other authority or person. The constitution does not vest any of these functions on an investigating body like the Police or the EFCC. The Federal Government of Nigeria does not have powers to perform, direct or control the performance of these functions by the Auditor – General and Accountant – General of a state respectively.

From the foregoing, one cannot but conclude that the power to audit all accounts of the Rivers State Government, is vested solely in the State's Auditor-General. Learned claimant's counsel, in his concluding arguments in respect of question 1, 4, 5 and 6, as hereinabove formulated by him, urged this Honourable Court, to resolve questions, embodied in them in the negative. On my part, I wish to state that;

In the light of the arguments adduced..., and my interpretation and understanding of sections 121, 122, 123 and 125 of the 1999 constitution of the

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Federal Republic of Nigeria that those questions be resolved in the negative."

(underlining supplied)

In answering the other three questions presented for determination in the action, the High Court of Rivers State reasoned and held:

"In respect of questions 2 and 3 above, it is the submission..., that the provision of section 128 of the constitution are clear and unambiguous. This section he further submitted vests in the House of Assembly the power of investigation in respect of the 'disbursing or administering' of 'moneys appropriated or to be appropriated' by the House of Assembly. Such moneys... [it was] contended, include moneys in the consolidated Revenue Fund, and other funds, received by the state.

In order to appreciate and to interpret this section, (section 128) accurately, it will be necessary for me to reproduce verbatim, section 128 (b) (2) of the constitution. This section provides as follows;...

In order to grasp fully the real meaning of this provision, it will be necessary for me to also reproduce the provisions of section 129 of our constitution. That section reads as follows;...

The combined effect of sections 128 and 129 of the constitution is the power vested in State House of Assembly, to superintend or police all funds appropriated by it, to expose corruption and waste in the management of public and consolidated revenue funds of a state.

In his submission learned claimants counsel argued, that it is clear, that the framers of the constitution intended to leave the power of investigation relating to the public funds of a state, in the hands of the House of Assembly of a state. I

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agree with this interpretation of sections 128..., except to add that powers of the House of Assembly therein stated, are reserved exclusively for them. The Federal Government or any of its agencies does not share this power with the House of Assembly. Neither the Police, nor the EFCC is constitutionally empowered to share this power with the House of Assembly. It will amount to an unconstitutional Act for the EFCC or the ICPC to usurp this power of the House of Assembly. The House of Assembly cannot opt out or enter into a contract with any person, agency or an investigating agency of the Federal Government to do otherwise. Nobody or agency is expected to usurp this constitutional role of the House of Assembly. The House for its part should not abandon this role under any guise.

I shall in the light of the foregoing, also answer questions 2 and 3 as formulated..., in the negative.

The final question for determination is question No. 7.

This question is,...

In his argument, learned claimant's counsel, urged the court to hold that framers of the 1999 constitution, did not contemplate any form of external force or coercion, to be directed at the House of Assembly before they can commence impeachment proceedings aimed at removing the Governor or his Deputy. He concluded his arguments by submitting that upon a proper interpretation of section 188 of the constitution, the House of Assembly is not entitled to exercise its power, to remove the state Governor or his Deputy at the behest, prompting or advice of any authority or person. Learned SAN concluded by urging the court, to also answer question No. 7, in the Negative.

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I have gone carefully through the provisions of section 188 of the 1999 constitution of the Federation. That section speaks for itself. It treats in very minute details and clear terms the vexed issue of impeachment and removal from office of a state Governor or his Deputy.

The process of such a removal begins and ends with the House of Assembly. The constitution did not provide that this duty is to be carried out at the instance of any body or agency. This section does not permit or contemplate the element of coercion, arm twisting, intimidation, harassment or cajoling by any body or agency directed at the House of Assembly for it to carry out this function. For the purpose of impeachment of a Governor or his Deputy the House of Assembly is strictly on its own. Any external influence on it, to so act, will be an unconstitutional Act.

For this reason, therefore, I will also answer question Number 7 in the negative."

(underlining supplied)

Having so answered the questions for determination, the High Court of Rivers State granted all the reliefs claimed in the action. **It is instructive that among the reliefs granted by the High Court of Rivers State include the declaration that by the provisions of the Constitution, it is only the Rivers State House of Assembly and Auditor-General of Rivers State and Accountant General of Rivers State that can inquire into, investigate and have control over the funds of Rivers State as appropriated, and the financial records of the State; and that this constitutional power is not to be shared or surrendered to any other person, body, agency or organisation no matter how described.** Further declaratory order was made to the effect that the power of removal of the

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Governor from office is to be exercised by the Rivers State House of Assembly independently and that the Appellant herein cannot meddle in the exercise. **The High Court of Rivers State further granted injunctive reliefs to back up the declaratory orders.**

Forgive me for being circular and repetitive, but repetition helps to drive home the point. Besides, I have heard it said that repetition is the daughter of learning. So, though it may be prolix, **I iterate that there was no appeal against the said judgment of the High Court of Rivers State. The judgment remains conclusive, and binding and the constitutional interpretation made therein whether right or wrong is accepted as correct and it cannot be argued against since it was not challenged on appeal.** See *PILLARS NIG LTD vs. DESBORDES (2021) LPELR (55200) 1 at 11-12*, *PDP vs. INEC (2023) LPELR (60547) 1 at 39* and *OBE vs. ABUBAKAR (2023) LPELR (60408) 1 at 10*.

Having roentgenised the interpretation placed on the constitutional provisions by the High Court of Rivers State which remains unchallenged, the perduring question is whether the lower court was correct in its decision granting the reliefs claimed by the 1st Respondent, based on its interpretation of the said judgment of the High Court of Rivers State, by answering the questions for determination before it in the negative. I have already set out the two questions presented for determination before the lower court. Upon the determination of these questions, the following reliefs were claimed:

- i. *a declaration that the 1st Defendant is not entitled to share in the powers or to participate in the exercise of the powers or to prompt or instigate the 2nd and 3rd Defendants in the exercise of the powers of*

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control of public funds vested in the House of Assembly for Rivers State by the Constitution of the Federal Republic of Nigeria 1999 including the power to direct or cause to be directed any inquiry or investigation or to investigate into the disbursing or administering of moneys appropriated or to be appropriated by the Rivers State House of Assembly for any purpose including for the purpose of exposing corruption, inefficiency or waste.

- ii. a declaration that the purported investigation or inquiry carried out by the 1st Defendant or being carried out by the 1st Defendant into the disbursing, administering, or management of funds appropriated or to be appropriated by the Rivers State House of Assembly is unconstitutional, ultra vires the powers of the 1st Defendant and accordingly null and void.*
- iii. a declaration that the Defendants are not entitled to rely on, utilize or in any manner whatsoever put to any use any report, findings or conclusion produced or arrived at by the 1st Defendant as a result of the purported investigation or inquiry into the appropriation, disbursing, administering or management of funds of Rivers State.*
- iv. a declaration that under the Constitution of the Federal Republic of Nigeria 1999, the 1st Defendant is not entitled to share in the power of the House of Assembly for Rivers State, vested on it by virtue of section 188 of the Constitution of the Federal Republic of Nigeria 1999 and accordingly is not entitled to coerce, induce, intimidate or in any manner whatsoever influence the House of Assembly for Rivers State into removing or causing to be removed, or into taking any steps whatsoever towards removing the Governor of Rivers State or the Deputy Governor of Rivers State from office.*

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- v. *an order of injunction restraining the 1st Defendant by itself or by its servants or agents or in any manner howsoever from purporting to investigate or inquire into the appropriation, disbursing, administering, or management of the funds of Rivers State.*
- vi. *an order of injunction restraining the 1st Defendant by itself or by its servants or agents or in any manner howsoever from disseminating, publishing or circulating to any government, government agency, the news media, or members of the public or in any manner at all, the purported report or findings in respect of any investigation or inquiry into the appropriation, disbursing, administering or management of the funds of Rivers State or putting the said report or finding to any use whatsoever.*
- vii. *an order of injunction restraining the 2nd to 4th Defendants by themselves or by their servants, agents or privies from receiving or putting to any use whatsoever any report or finding arising from or purporting to be the result of any inquiry or investigation conducted by the 1st Defendant into the appropriation, disbursing, administering or management of the funds of Rivers State.*
- viii. *an order of injunction restraining the 1st Defendant by itself or by its servants or agents from inducing, coercing or in any manner whatsoever influencing the 2nd and 3rd Defendants or any member of the House of Assembly for Rivers State to commence proceedings for the removal or to remove the Governor or Deputy Governor of Rivers State from office.*

The lower court granted all these declaratory and injunctive reliefs. Now, was this the correct decision? **It must be remembered that the lower court, being a court of co-ordinate jurisdiction did not sit on appeal**

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over the decision of the High Court of Rivers State. Its task was not to determine if the interpretation of the constitutional provisions was correct. No, its task was to interpret the said decision, give an answer to the questions posed for determination before it, and then decide if the 1st Respondent was entitled to the reliefs, it claimed before it. In the same vein, our task in this appeal is to interrogate whether the decision of the lower court, against the background of the interpretation of the judgment of the High Court of Rivers State, is the correct decision. The law remains that an appellate court is concerned with whether the decision appealed against is the correct decision and not whether the reasons given for the decision are correct. See **NDAYAKO vs. DANTORO (2004) 13 NWLR (PT 889) 189 at 220, UZOHO vs. NCP (2022) LPELR (5768) 1 at 30-31, ORIOKE vs. ONAYEMI (2024) LPELR (61803) 1 at 23 and HASSAN vs. EFCC (2024) LPELR(62999) 1 at 33-34**. Therefore, irrespective of any reasoning on whether Section 7 of the Economic and Financial Crimes Commission (Establishment) Act is applicable to *Government*, the law remains that the reason given for a decision is immaterial, provided that the decision arrived at is the correct decision: **UBA vs. ACHORU (1990) 6 NWLR (PT 156) 254 at 273, DAIRO vs. UBN PLC (2007) 16 NWLR (PT 1059) 99 at 161, NIDB vs. KAN BISCUITS CO. LTD (2022) LPELR (57280) 1 at 17-18 and STANDARD ALLIANCE INSURANCE CO. LTD vs. FCMB LTD (2025) LPELR (81139) 1 at 48-49**.

In precis, the first question before the lower court was whether based on the interpretation of Sections 120, 121, 122, 124, 125 and 128 of the 1999 Constitution by the High Court of Rivers State, the Appellant can share with the Rivers State House of Assembly the

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powers of investigating into the public funds of Rivers State. I have set out the text of the interpretation of these provisions by the High Court of Rivers State, and the summation therein is that no authority, person, body or organisation other than the Rivers State House of Assembly has the constitutional authority to exercise powers and control over the public funds of Rivers State. Given this explicit interpretation done by the High Court of Rivers State, the lower court was correct to answer issue one before it in the negative to the effect that the Appellant cannot share with the Rivers State House of Assembly the powers of investigating into the public funds of Rivers State.

I restate that the manner of resolution of question one would impact on question two since the constitutional provisions which were interpreted in question one are supreme. Accordingly, since the interpretation of the constitutional provision under question one is that the powers of investigating the public funds of Rivers State vested in the Rivers State House of Assembly cannot be shared with the Appellant, the concomitance is that question two was rightly answered in the negative by the lower court, notwithstanding any reasons advanced therefor, since the Constitution takes precedence over any stipulations of the Economic and Financial Crimes Commission (Establishment) Act. The lower court was therefore correct when it granted the reliefs claimed by the 1st Respondent.

It is necessary to state that I gave due consideration to the submissions of the Appellant which I reviewed at some length in this judgment. It is translucent that the thrust of the submissions were aimed at achieving and

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attaining an interpretation of the constitutional provisions different from the interpretation arrived at by the High Court of Rivers State in its unchallenged decision. As earlier stated, this appeal is not against the judgment of the High Court of Rivers State. The Appellant having failed to appeal against the said judgment cannot in this appeal surreptitiously attempt to go back on the said decision which is conclusive and binding and which it has accepted by not appealing against it. See **OFUNNE vs. OKOYE (1966) LPELR (25364) 1 at 9**, **UGO vs. UGO (2017) LPELR (44809) 1 at 17** and **MEGAMOUND INVESTMENT LTD vs. AREOLA (2026) LPELR (83480) 1 at 1-2**.

The Appellant complains that the grant of the declaratory and injunctive reliefs bars it from carrying out its statutory functions. With due deference, the Appellant appears to be between and betwixt in its submission. It is running with the hares and hunting with the hounds. I will explicate. The reliefs granted by the lower court are to the effect that under the constitutional provisions interpreted in the judgment of the High Court of Rivers State the Appellant has no role to play in any investigation into the public funds of Rivers State or the removal of the Governor of Rivers State. The Appellant submitted as follows in paragraph 4.4.2 and 4.4.5 of its brief:

"...when public officers are involved in commission crimes they do not do so in their official capacity as such and when they are investigated, such investigation does not amount to investigation of the agencies per se... Conceptually, the State does not commit crime, at least under the notion of municipal law. Crimes are after all offences against the State..."

"It is important however to bear in mind our earlier submission that Government per se is not the target of investigation when its officers, agents or servants

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engage in crime. Those criminal activities remain the responsibility of the officers, agents or servants as individuals."

In the light of the above submission, how can the Appellant contend that the orders made bars it from carrying out its statutory powers. Be that as it may, the reliefs granted by the lower court flow from its correct interpretation of the decision of the High Court of Rivers State. The declaratory reliefs claimed having been granted, an injunction will lie to protect the declared rights: **GOLDMARK (NIG) LTD vs. IBAFON CO. LTD (2012) LPELR (9349) 1 at 65, AKAPO vs. HAKEEM-HABEEB (1992) LPELR (325) 1 at 26** and **ABOSELDEHYDE LABORATORIES PLC vs. UNION MERCHANT BANK LTD (2013) LPELR (20180) 1 at 22.**

In so far as the Appellant and the investigation of the public funds of Rivers State goes, the elephant in the room is the judgment of the High Court of Rivers State in SUIT NO. PHC/114/2007: ATTORNEY GENERAL, RIVERS STATE vs. THE SPEAKER, RIVERS STATE HOUSE OF ASSEMBLY & ORS. delivered on 16th February 2007. The Appellant failed to appeal against that judgment, and as the learned counsel for the 1st Respondent rightly observed, the Appellant has remained silent on the purport and effect of the said judgment. The said judgment remains an albatross around the neck of the Appellant. The Appellant should learn to accept and live with the consequences of having failed to appeal against the said judgment of the High Court of Rivers State. The judgment has unwittingly become a Weltschmerz.

The concatenation and conflating of the foregoing is that these issue numbers iii (three), iv (four), v (five), vi (six) and vii (seven) must be resolved

against the Appellant. The onus is on an appellant to satisfy the appellate court that the decision on appeal is wrong. Where he fails to do this, the decision appealed against will be allowed to stand: **MACAULAY vs. TUKURU (1881-1911) 1 NLR 35 at 40, AKINLOYE vs. EYIYOLA (1968) NMLR 92 at 95, OBISANYA vs. NWOKO (1974) 6 SC 69 at 80 and OBODO vs. OGBA (1987) 1 NSCC (VOL.18) 416 at 421.** The Appellant has not satisfied this Court that the decision it appealed against is wrong; the decision will therefore be allowed to stand. In a coda, all the issues for determination having been resolved against the Appellant, the appeal has no merit whatsoever and the same is dismissed. The decision of the lower court, *Coram Judice: I. N. Buba, J.*, delivered on 20th March 2007 is hereby affirmed. There shall be no order as to costs.



**UGOCHUKWU ANTHONY OGAKWU
JUSTICE, COURT OF APPEAL**

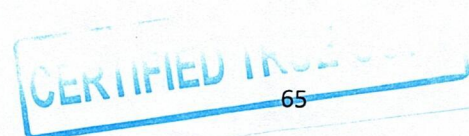
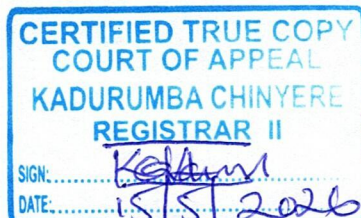
Appearances:

Sir Steve Odiase (with A. I. Arogha, Esq., Aminu Sadauki, Esq., Ifeanyi Agwu, Esq., Ms. K. A. Yunus & Ms. V. O. Ofesi) for the Appellant.

S. A. Somiari, Esq., SAN (with Ms. O. J. Ifejika, Ms. D. A. Ukuta & Ms. G. O. Batubo) for the 1st Respondent.

Chief Ferdinand Orbih, SAN (with T. T. Kuruye, Esq., I. D. Israel, Esq., I. Oke-Chinda, Esq. & S. C. Nwolisa, Esq.) for the 2nd-4th Respondents.

I. A. Adedipe, Esq., SAN (with Dr. Donald Atogbo & Ms. A. O. Edoigawere) for the 5th Respondent.



APPEAL NO. CA/PH/622/2008
ISAH BATURE GAFAI, JCA

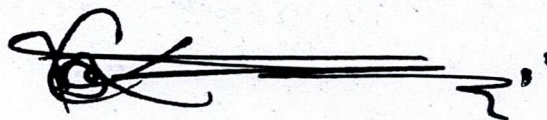
I agree entirely with and therefore adopt the reasonings articulated by my learned brother **Ugochukwu Anthony Ogakwu, JCA** in the lead Judgment on the resolution of both the Preliminary Objection and the Appeal itself. Clearly, the Preliminary Objection is hinged majorly on procedural formalities which, although presented as decisive points, have in my view failed to evince any merit significantly enough to warrant the termination of the entire Appeal in limine; in the line advocated by the Preliminary Objection.

More importantly, the Appeal itself, as comprehensively considered in the lead Judgment through the Issues presented by the Appellant, cannot attract any favourable outcome because the Appellant's arguments of the Issues are, with respects, neither meritorious nor even impressive. While the binding Judgment of the High Court of Rivers State delivered way back in February 2007 in Suit No. PHC/114/2007 continues to hold sway, rightly or wrongly, the Appellant is still seemingly unperturbed by it; pursuing instead the Issues in this Appeal which can in no way deplete the effect of the Orders made in the said Judgment. That Judgment should be the Appellant's nightmare; not the Judgment that is now the subject of this Appeal. Having ignored it, no secondary Appeals, including the one now before us, can attract any valuable outcomes in the underlying direction of this Appeal. It is sad enough that the Appellant has held on to this Appeal for eighteen years upon its underlying wrong notion of undoing the tall Orders made in Suit No. PHC/114/2007.

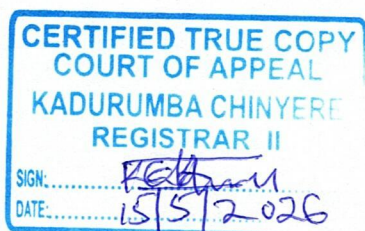


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For the reasons adequately expressed in the lead Judgment, I therefore join my learned brother in dismissing both the Preliminary Objection and the Appeal. In effect, I too affirm the Judgment of the lower Court.



HON. JUSTICE ISAH BATURE GAFAI
JUSTICE, COURT OF APPEAL

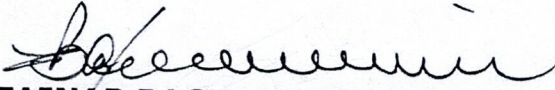


CA/PH/622/2008

ZAINAB BAGE ABUBAKAR, JCA

I have before now read in draft form the leading judgment just delivered by my learned brother, **UGOCHUKWU ANTHONY OGAKWU, JCA.**

His Lordship has satisfactorily dealt with all the issues that arose for determination of the appeal and I agree with the reasoning and conclusion reached therein in resolving all the issues against the Appellant. For the reasons stated in the leading judgment, I also find no merit in the appeal, and I dismiss it. The decision of the trial court delivered on the 20th March 2007, is hereby affirmed by me. I abide by the order on costs made in the leading judgment.


ZAINAB BAGE ABUBAKAR,
JUSTICE, COURT OF APPEAL

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COURT OF APPEAL
KADURUMBA CHINYERE
REGISTRAR II
SIGN: 
DATE: 15/5/2026

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