

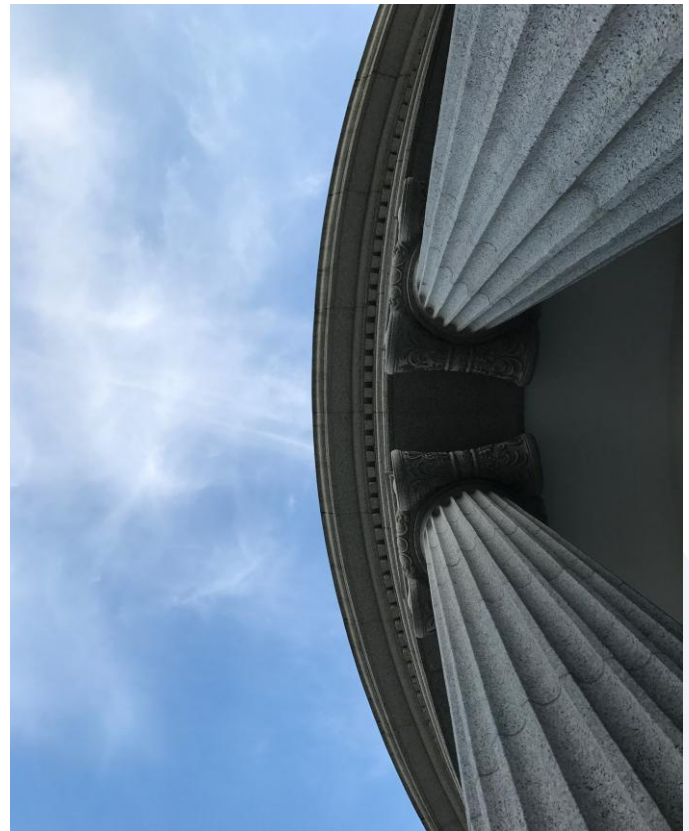
**OALP**  
**DISPUTE**  
**RESOLUTION**  
**PRACTICE**  
**NEWSLETTER**

2ND QUARTER 2025

# INTRODUCTION

Building on the significant judicial decisions and legal developments highlighted in our first quarter newsletter, this second quarter edition continues to monitor the evolving legal landscape across Nigeria and key international jurisdictions. Over the past three months, several notable judgments have been delivered and reported, offering fresh precedents and guidance on critical areas of law.

Domestically, the Supreme Court and the Court of Appeal handed down decisions signalling important doctrinal shifts and clarifications. These include a departure from established precedent regarding the applicability of limitation laws to employment contracts, the invocation of the doctrine of necessity to maintain an unconstitutional status quo, and a definitive interpretation of the admiralty jurisdiction of the Federal High Court. The courts also revisited the scope of the Public Officers Protection Act in employment disputes and delivered noteworthy decisions on matrimonial property rights and the award of pre-judgment interest.



Internationally, courts addressed pivotal legal controversies. In the United States, the Court of International Trade held that certain executive-imposed tariffs exceeded constitutional authority. In the United Kingdom, the Supreme Court delivered a precedent-setting judgment interpreting statutory references to “sex,” “man,” and “woman” under the Equality Act 2010 as referring exclusively to biological sex, a decision with far-reaching social and legal implications.

In this edition, we provide a detailed analysis of these landmark decisions, elucidating their practical implications and broader jurisprudential significance. We hope you find this compilation both instructive and analytically valuable.

# OUTLINE

01

**H.I.R. Ltd. v. Accor (Societe Anonyme) [2025] 8 NWLR (Pt. 1992) 395**

A party who institutes an action is legally entitled to raise the question of jurisdiction at either the trial or appellate court.

02

**Central Bank of Nigeria v. Adani Mega System Limited - Suit No: CA/ABJ/1300/2023**

The Federal High Court has jurisdiction to entertain matters on contract with statutory flavour.

03

**Sopetro Marine Ltd. v. Nepal Oil & Gase Services [2025] 7 NWLR (Pt 1988) 75**

Supreme Court Clarifies Limits of Admiralty Jurisdiction: Simple Contract Disputes Fall Outside Federal High Court's Scope.

04

**F.A.A.N. v. Bi-Courtney Ltd. [2025] 7 NWLR (Pt. 1989) 305**

No appeal without standing: the constitutional prerequisite of leave for interested parties.

05

**Okoronkwo v. INEC [2025] 8 NWLR (Pt. 1991) 131**

The provision of the Public Officers Protection Act applies to Contract of Employment/Service.

06

**Unity Bank Plc v. Tambuwal Constr. & Trading Co. Ltd. [2025] 8 NWLR (Pt. 1992) 211**

A director or managing director is personally liable for the debt of the Company where it has been alleged in the statement of claim and established by evidence that such director or managing director acted as a surety or guarantor in the debt transaction with the creditor.

07

**Rivers State House of Assembly v Govt of Rivers State [2025] 7 NWLR (Pt. 1990) 591**

The Doctrine of Necessity cannot be invoked to justify the continued existence of a deliberately contrived illegal or unconstitutional status quo.

# OUTLINE

08

**Aguolu v. Aguolu [2025] LPELR-80269 (CA)**

A spouse is not automatically entitled to an equal share of matrimonial property upon dissolution of marriage without credible evidence of contribution.

09

**Danladi v. State [2025] LPELR-80672 (SC)**

The doctrine of mercy killing does not constitute a recognised defence under Nigerian criminal law.

10

**V.O.S. Selections v. United States Court No. 25-00066**

Tariffs imposed by President Trump under the International Emergency Economic Powers Act on imports from China, Mexico, and Canada etc., are ultra vires the powers conferred on the President by the Act and therefore illegal.

11

**H.W. v. France (Application No. 13805/21)**

The decision of the French Court of Appeal, which held the applicant solely responsible for the breakdown of her marriage due to her refusal to engage in sexual relations, violates the applicant's rights to private life, bodily autonomy, and sexual freedom under the European Convention on Human Rights.

12

**For Women Scotland Ltd. v. The Scottish Ministers [2025] UKSC 16**

"Man" and "Woman" under the Equality Act 2010 refer exclusively to biological sex and not gender identity.

# RECONDITE CASES



# A PARTY WHO INSTITUTES AN ACTION IS LEGALLY ENTITLED TO RAISE THE QUESTION OF JURISDICTION AT EITHER THE TRIAL OR APPELLATE COURT – **H.I.R. LTD v. ACCOR (SOCIETE ANONYME)** [2025] 8 NWLR (PT. 1992) 395

## Facts of the Case

The Respondent as the Claimant before the High Court of Lagos State (the trial Court), initiated legal proceedings against the Appellant. The Respondent claimed that the Appellant's utilization of the trademarked word "IBIS" constituted an act of passing off. Consequently, the Respondent sought declaratory reliefs, injunctive orders, and damages against the Appellant. In defence, the Appellant contested the claims brought by the Respondent. Upon the conclusion of trial proceedings, the trial Court dismissed the Respondent's action in its entirety.

Dissatisfied with the judgment of the trial Court, the Respondent filed an appeal at the Court of Appeal and questioned the jurisdiction of the trial Court it had approached, asserting that the Federal High Court possessed exclusive jurisdiction to adjudicate on matters of passing off. The Appellant, in rebuttal, contended that the Respondent's belated jurisdictional objection amounted to an abuse of court process, particularly given that the Respondent had voluntarily instituted the action before the trial Court. The Court of Appeal, however, aligned with the respondent's contention, holding that jurisdiction is a fundamental issue that any party to a proceeding is entitled to raise at any stage. Thus, the Court of Appeal allowed the appeal holding that the trial Court lacked jurisdiction to entertain the Respondent's claims. Aggrieved, with the decision of the Court of Appeal, the Appellant appealed to the Supreme Court.



## Issues for Determination

The main issue implicated in the appeal is whether a party who instituted an action at the trial court is precluded from raising the issue of jurisdiction at either the trial or appellate court.

## Decision of the Court

The Appellant’s primary argument was that the Respondent, having initiated the suit at the trial court, was estopped from later challenging the court’s jurisdiction. The Appellant viewed the respondent’s conduct as both procedurally abusive and morally questionable, particularly as it resulted in significant hardship for the appellant.

The Supreme Court, however, rejected this argument. Citing binding precedent, the Court emphasized the primacy of jurisdiction in judicial proceedings. Thus, the Respondent’s action in raising the jurisdictional issue on appeal was not only permissible but compelled by law. The Court further clarified that no rule of estoppel, waiver, or procedural conduct can override the requirement that a court must be properly vested with jurisdiction before it can adjudicate a matter. While the respondent’s conduct may warrant moral disapproval, it cannot legalize proceedings conducted without jurisdiction.

As the appellant had not challenged the Court of Appeal’s substantive finding that the trial court lacked jurisdiction and given the Supreme Court’s position that jurisdictional defects cannot be cured by consent or conduct, the Court held that the lower court rightly allowed the respondent’s appeal. In conclusion, the Supreme Court dismissed the appeal, upheld the decision of the lower court, and reiterated that jurisdictional competence is a threshold issue that renders all acts taken without it null and void – irrespective of how or when the issue is raised.



## Brief Comments

The Supreme Court’s decision reaffirms the long-established principle that jurisdiction is fundamental and cannot be conferred by consent, waiver, or procedural conduct. By rejecting the Appellant’s argument based on estoppel and alleged procedural abuse, the Court underscored that a defect in jurisdiction is a fatal flaw that renders all proceedings a nullity, regardless of the stage at which the objection is raised or the conduct of the parties.

While the Respondent’s procedural posture may raise ethical or strategic concerns, the Court rightly prioritized the legal sanctity of jurisdiction over perceived procedural impropriety. The ruling is consistent with judicial precedents and serves as a clear reminder that jurisdictional competence remains a non-negotiable threshold issue in litigation.

# THE FEDERAL HIGH COURT HAS JURISDICTION TO ENTERTAIN MATTERS ON CONTRACT WITH STATUTORY FLAVOUR – CENTRAL BANK OF NIGERIA v. ADANI MEGA SYSTEM LTD – CA/ABJ/CV/1300/2023.

## Facts of the Case

The Respondent entered into a contract with the Appellant (**Appellant or CBN**) through the Technical Committee of the Comprehensive Import Supervision Scheme (CISS) to provide scanning infrastructure for inbound and outbound cargo at Nigerian ports. The contract, documented in a “Build, Operate and Own” agreement dated 20.03.2017, was based on statutory instruments such as the Pre-Shipment Inspection of Import and Export Acts and included a certificate of no objection from the Bureau of Public Procurement.

The Respondent sued at the Federal High Court, Abuja Division (**the trial court**), seeking declaratory reliefs and compensation. The Respondent claimed that it had been executing the project and as a result, incurred significant costs, claiming additionally that the Appellant, citing unauthorised outsourcing, wrongfully terminated the contract. The Respondent denied any such breach by unauthorised outsourcing and claimed that the CBN re-awarded the contract to another party without lawful justification. The trial court in its final decision granted some of the Respondent’s claims.

CBN appealed, arguing that the Federal High Court lacked jurisdiction, since the dispute arose from a simple contract and should have been filed at the High Court of the Federal Capital Territory.




## Issues for determination

Although eight issues were formulated for the determination of the appeal, the focus of this review is whether the Federal High Court had jurisdiction to entertain a suit founded on a simple contract in the circumstance.

## Decision of the Court

The Court of Appeal affirmed that the Federal High Court had jurisdiction to entertain the matter. The Court of Appeal held that although the dispute involved contractual terms, the contract in question was regulated by statutory provisions, specifically, the Pre-Shipment Inspection of Import Act and the Pre-Shipment Inspection of Export Act. These Acts, being legislation of the National Assembly, explicitly conferred jurisdiction on the Federal High Court through provisions like Section 20(3) of the Export Act and Section 9(c) of the Import Act.

The Court of Appeal found that the agreement between the parties was not merely a simple contract, but one with statutory underpinning. It highlighted that both the project engagement letter and the certificate of no objection were anchored on statutory authorities. The Court of Appeal dismissed the Appellant's contention that the claim was contractual simpliciter and emphasized that where legislation confers additional jurisdiction to the Federal High Court, such must be respected.



***By reinforcing this distinction, the Court's reasoning provides clarity for parties to public-private partnerships and similar arrangements grounded in statute.***

## Brief Comments

This decision affirms that the principle restricting the Federal High Court's jurisdiction in matters of simple contract is not absolute. Where a contractual dispute arises under, or is integrally linked to, statutory provisions enacted by the National Assembly, donating jurisdiction to the Federal High Court in line with its constitutional powers enshrined in section 252(2) of the Constitution of the Federal Republic of Nigeria 1999 (As Amended), the Federal High Court may rightly exercise jurisdiction, even if the claim appears, on its face, to sound in contract.

The Court of Appeal's analysis clarifies that agreements deriving authority from legislation, such as the Pre-Shipment Inspection of Import and Export Acts, cannot be treated as mere private arrangements. In such cases, statutory context transforms what would otherwise be a simple contract into a statutory-regulated engagement within the Federal High Court's exclusive jurisdiction.

By reinforcing this distinction, the Court's reasoning provides clarity for parties to public-private partnerships and similar arrangements grounded in statute. It also precludes technical objections aimed at undermining jurisdiction where the legislature has expressly conferred it. The judgment ultimately promotes legal certainty in regulatory and concession-related contracting, particularly in sectors governed by specific statutory frameworks.

# SUPREME COURT CLARIFIES LIMITS OF ADMIRALTY JURISDICTION: SIMPLE CONTRACT DISPUTES FALL OUTSIDE FEDERAL HIGH COURT'S SCOPE – **SOPETRO MARINE LIMITED v. NEPAL OIL & GAS SERVICES LIMITED AND SORTIES LOGISTICS LIMITED [2025] 7 NWLR (PT. 1988) 75**



## Facts of the Case

Nepal Oil & Gas Services Ltd and Sorties Logistics Limited (**the Respondents**), customers of Sopedro Marine Limited (**the Appellant**), engaged its services under various contracts for transporting petroleum products and chartering vessels. In April 2013, the Respondents paid ₦15 million to the Appellant to transport 5,000 metric tonnes of kerosene to their tank farm in Oghara. Later, the Respondents discovered that of the 5,000 metric tonnes, only 2,500 metric tonnes belonged to them, and could be transported on their instruction. They demanded a refund of ₦7.5 million, which the appellant refused.

In September 2013, the Respondents paid \$200,000 to the Appellant to charter the vessel S.P. Brussels for another shipment. The Appellant failed to remit the payment to the vessel owner, forcing the Respondents to pay an additional \$200,000 directly. The initial \$200,000 was never refunded. In October 2013, the Respondents paid ₦12 million to fuel the appellant's vessel M.T. Sea Tiger, with an agreement for repayment within 30 days or interest at 7.5% per month. The Appellant defaulted.

After failed attempts to recover the various sums of monies, the Respondents sued at the High Court of Lagos State (the trial Court) for the sums and interest. Despite being served, the Appellant failed to defend the suit initially. The trial Court granted summary judgment for the amounts claimed, deferring a decision on interest.

The Appellant subsequently filed a defence and raised a jurisdictional objection, contending that the dispute was maritime in nature and exclusively within the purview of the Federal High Court. The trial Court dismissed the objection, finding that the matter arose from a simple contractual relationship. This position was affirmed by the Court of Appeal. Still dissatisfied, the Appellant appealed to the Supreme Court.

## Issues for determination

Whether the Respondent's action fell within the admiralty jurisdiction of the Federal High Court.

 **Decision of the Court**

In resolving the appeal, the Supreme Court highlighted the scope of the Admiralty Jurisdiction Act. It held that for a matter to be situated under admiralty jurisdiction, the cargo or goods in issue must still be physically onboard the vessel and that the admiralty jurisdiction is only triggered while the goods remain on the vessel. Simply put, that the admiralty jurisdiction of the Federal High Court covers the period from when goods are placed on a ship for shipping until they are delivered to the consignee. It also extends to any agreement relating to the carriage of goods by sea, regardless of whether a formal contract was executed.

However, the Court clarified that this jurisdiction ends once the goods are discharged at the port or delivered to their destination. In this case, the dispute did not involve any cargo still in transit or undelivered. Rather, the claims were for monetary refunds based on simple contractual arrangements: loans given for bunkering a vessel, funds meant for chartering a third-party vessel (which were not remitted), overcharges on freight, and accrued interest.

The Court found no evidence; oral or documentary; of an admiralty contract or vessel hire agreement between the parties. Accordingly, it held that the Respondents' claims arose purely from simple contract dealings. It affirmed that the High Court of Lagos State had jurisdiction to hear the case, as rightly decided by both the trial court and the Court of Appeal.

 **Brief Comments**

The Supreme Court's decision in *Sopetro Marine Ltd. v. Nepal Oil & Gas Services Ltd. & Sorties Logistics Ltd.* affirms that the mere involvement of vessels or marine operations does not, without more, transform a dispute into an admiralty matter within the exclusive jurisdiction of the Federal High Court. The Court restated a critical threshold principle: admiralty jurisdiction is triggered only where the dispute is intrinsically connected to the carriage of goods by sea, specifically, while the goods remain onboard the vessel or are in the course of being delivered.

This judgment brings necessary clarity to a commonly misunderstood jurisdictional boundary. It serves as a reminder that jurisdiction is determined by the substance of the claim, not merely the maritime setting in which the dispute arose. For commercial actors and practitioners in shipping, logistics, and marine services, the decision underscores the importance of accurate contract classification and reinforces that not all vessel-related transactions automatically invoke admiralty jurisdiction.

# NO APPEAL WITHOUT STANDING: THE CONSTITUTIONAL PREREQUISITE OF LEAVE FOR INTERESTED PARTIES –

## F.A.A.N. v. BI-COURTNEY LTD. [2025] 7 NWLR (PT. 1989) 365




### Facts of the Case

The Federal Government of Nigeria entered into a Build, Operate, and Transfer (BOT) concession agreement with Bi-Courtney Limited (**Bi-Courtney or 1st Respondent**) and Stabilini Visioni Ltd, for the redevelopment and operation of the fire-razed Murtala Mohammed Airport Terminal 2 (**MMA2**) in Lagos. Under the terms of the agreement, Bi-Courtney was to finance, design, build, and operate MMA2 for 36 years, starting from 07.05.2007. The Appellant together with the Minister of Aviation made the following guarantee and representations to the 1st Respondent as follows: (i) the concession agreement conferred exclusive rights to Bi-Courtney, prohibiting the construction or significant improvement of any competing domestic terminal in Lagos during the concession period; (ii) the 1st Respondent has the right of first refusal in case of expansion needs; (iii) all scheduled domestic flights in and out of FAAN's Airport in Lagos State shall during the concession period operate from the terminal; and (iv) no inconsistent or conflicting concession rights would be granted to third parties.

Despite these guarantees and representations contained in the agreement, the Federal Government allowed domestic flights to operate from terminals other than MMA2, thereby depriving Bi-Courtney of revenue, including levies and surcharges from fuel marketers. The Government also failed to deliver vacant possession of the General Aviation Terminal as required and granted an approval in principle for the construction of a new airport by the Lagos State Government, further breaching the exclusivity clause. Further to the concession agreement, Bi-Courtney notified the 2nd Respondent of five disputes, and a 7-member coordinating committee was inaugurated by the 2nd Respondent to address the issues. The committee resolved all five issues in favour of Bi-Courtney, directing the Federal Government to: (i) Move all domestic flight operations to MMA2; (ii) Render an account of revenues earned from operations outside MMA2 and remit same to Bi-Courtney and (iii) Recognize Bi-Courtney's exclusive right to collect levies from fuel marketer.

The Federal Government and its agencies, including the appellant (**Federal Airports Authority of Nigeria - FAAN**), failed to comply with the committee's recommendations. Bi-Courtney consequently filed **Suit No. FHC/ABJ/CS/50/2009** against the 2nd Respondent, without the Appellant being joined as a party to the suit. The Federal High Court delivered judgment in favour of Bi-Courtney. Subsequently, the Appellant filed a motion at the Court of Appeal seeking (i) Extension of time to apply for leave to appeal as a party interested; (ii) Leave to appeal as party interested and (iii) Extension of time to file the appeal. FAAN claimed ignorance of the suit and judgment until March 2010, citing delay due to the need for ministerial authorization. Bi-Courtney opposed the motion, filing a 19-paragraph counter-affidavit. The Court of Appeal dismissed the application, holding that it was incompetent and that FAAN had failed to provide sufficient justification for the delay. Dissatisfied with the ruling, FAAN appealed to the Supreme Court.



*This ruling underscore the strict procedural thresholds that govern appellate intervention by non-parties. The ruling reaffirms that a party not originally joined to a suit cannot assume appellate standing without first securing the court's leave to appeal as a party interested.*

## Issues for Determination

Although four issues were formulated for the determination of the appeal, its core dispute centred on whether the Court of Appeal ("lower Court") was right in dismissing the appellant's application for leave and extension of time to appeal and holding that the appellant is not a party interested, capable of appealing against the decision of the trial Court which grossly affected the appellant's interest

 **Decision of the Court**

The Supreme Court unanimously dismissed the appeal and upheld the ruling delivered by the lower Court. The Court articulated a clear and multi-layered rationale for dismissing the appellant's appeal given that the decision rests primarily on procedural law, principles of locus standi (legal interest) and compliance with constitutional and statutory appellate requirements. The Court started its decision by reiterating that for a party seeking to appeal against a judgment which he was not originally a party to the decision complained of, but now seeks to appeal as an interested party, the first prayer he must make is to seek the leave of court to appeal as a party interested. It is further to the grant of the relief ab initio admitting the applicant to participate in the proceedings that he would then be required to comply with the prescriptions of the law, viz; time for filing appeals. The Court also reiterated that there is no period prescribed within which an interested party may bring an application for leave to appeal as an interested party.

Hence, the Court held that the appeal was procedurally incompetent due to the appellant's failure to obtain leave to appeal as an Interested Party before the application entailing the trinity prayers. The apex Court found that the requirement to seek leave as an interested party is a condition precedent to the exercise of appellate jurisdiction by the Court of Appeal. Hence, the Court of Appeal had no jurisdiction to hear FAAN's motion, since it did not satisfy this constitutional threshold and that the proper procedure was to first establish legal interest through a stand-alone application, before appealing. Thus, the motion was fundamentally incompetent.

 **Brief Comments**

This ruling underscores the strict procedural thresholds that govern appellate intervention by non-parties. The ruling reaffirms that a party not originally joined to a suit cannot assume appellate standing without first securing the court's leave to appeal as a party interested. This threshold is not a mere formality but a constitutional prerequisite under Section 243(a) of the 1999 Constitution.

The appellant's procedural misstep was not only irregular but fundamentally incompetent. The Court's insistence on procedural sequence reflects the principle that appellate jurisdiction cannot be assumed by implication or blended into omnibus prayers. It must be grounded in clear procedural compliance.

For public institutions and regulatory agencies, this decision carries strategic implications. It emphasizes that being "affected" by a judgment does not equate to having locus to appeal. Without proper joinder or leave, agencies, even if operationally impacted, remain legal strangers to the proceedings. The ruling thus reinforces both the integrity of procedural law and the finality of judgments rendered in suits with defined parties.

# THE PROVISION OF THE PUBLIC OFFICERS PROTECTION ACT APPLIES TO CONTRACT OF EMPLOYMENT/SERVICE – OKORONKWO v. INEC [2025] 8 NWLR (PT. 1991) 131



## Facts of the Case

The Appellant, Mr. Okoronkwo, was employed by the Respondent, the Independent National Electoral Commission (INEC) in 1989 as an Administrative Officer. In January 1997, he was appointed as an Electoral Officer and posted to Anambra State. However, by a letter dated 13th September 1997, the Appellant was suspended from duty. Almost three years later, on 25th April 2000, the Appellant commenced an action at the Federal High Court, Enugu, seeking declarations that the suspension was wrongful, ultra vires, null and void, and that he remained entitled to his salary, promotions, and other entitlements. He also sought N1,000,000.00 as damages for wrongful suspension.

In response, the Respondent denied the claims and raised a preliminary objection, arguing that the suit was statute-barred under the provisions of the Public Officers Protection Act, having been commenced more than three months after the cause of action arose. The Appellant countered that the limitation statutes were inapplicable to his case, as it was founded on breach of contract and not in tort. At the trial, the Federal High Court dismissed the preliminary objection and entered judgment in favor of the Appellant, granting all the reliefs sought. The Respondent appealed to the Court of Appeal, which overturned the trial court's decision, holding that the suit was statute-barred by reason of Section 2(a) of the Public Officers Protection Act. Dissatisfied, the Appellant appealed further to the Supreme Court.

## Issues for Determination

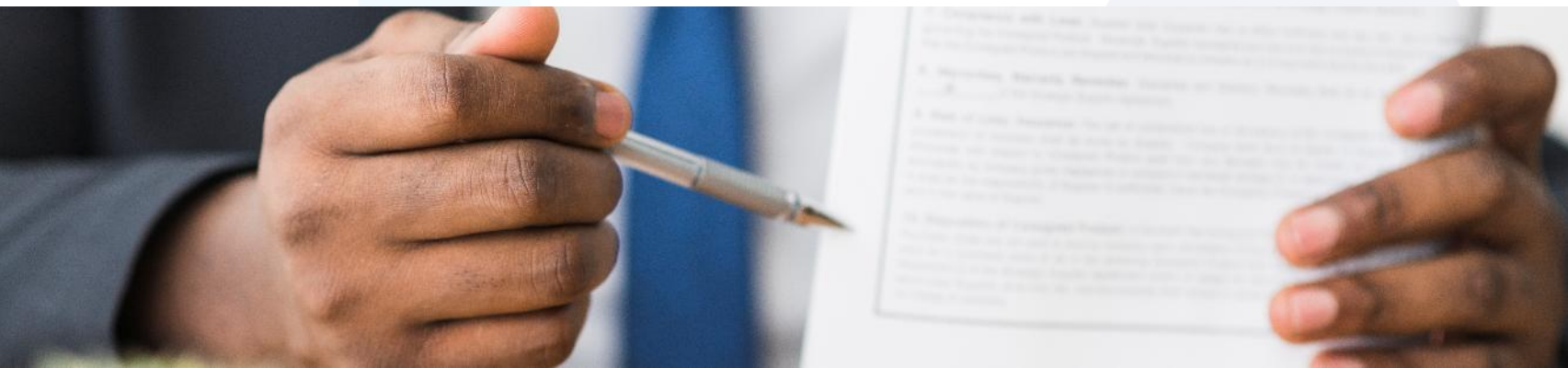
The core issue before the Supreme Court was whether the Public Officers Protection Act, Cap. 379, Laws of the Federation of Nigeria 1990 applies to a cause of action founded on breach of contract of employment/service.

## Decision of the Court

The Supreme Court upheld the decision of the Court of Appeal, affirming that the Appellant's suit was statute-barred under Section 2(a) of the Public Officers Protection Act, Cap. 379, LFN 1990 ("POPA"). In arriving at its decision, the Court held that the cause of action arose on 13th September 1997, when the appellant was suspended from service, but the suit was not filed until 26th April 2000, well beyond the three-month limitation period provided under POPA. The Court rejected the Appellant's argument that the suit was founded on breach of contract of service, which would exempt it from the limitation provisions of POPA. It clarified that the nature of the appellant's claim, seeking declarations that his suspension was wrongful, ultra vires, and void, indicated that the case was essentially one challenging the exercise of statutory powers by a public authority, and thus fell within the ambit of POPA.

The Supreme Court further held that the Appellant's employment had statutory flavour, being regulated by the Civil Service Rules, and that the Respondent acted under statutory authority in suspending the Appellant. As such, the suit was subject to the limitation period prescribed in POPA. The Court also addressed the issue raised as to the failure of the trial judge to make a specific finding on the POPA argument, holding that no miscarriage of justice occurred, as the facts clearly showed the suit was time-barred. It emphasized that where the issue of limitation is apparent from the pleadings, the court is duty-bound to consider it.

In conclusion, the Court resolved the issue against the Appellant, held that the suit was statute-barred, and dismissed the appeal.



## Brief Comments

The Supreme Court's decision is significant as it clarifies the scope of the Public Officers Protection Act. The Court affirms that the Act applies to civil actions, particularly those related to contracts of employment or service, unless they fall under specific exceptions. Furthermore, this ruling marks a departure or exception to the applicability of the Court's previous decision in **N.R.M.A. & F.C. v. Johnson** [2019] 2 NWLR (Pt. 1656) 247 at Page 270, Para. F, where it was held that the provisions of the Public Officers Protection Act do not apply to cases involving contracts of employment or service.

Furthermore, this case underscores how crucial limitation laws are, especially regarding their effects on the right of a litigant to institute an action. Importantly, this case draws a clear boundary for litigants pursuing redress against public bodies or officials, as failure to act within the statutory three-month period, even in certain employment-related cases, may result in a loss of the right to be heard unless bad faith, fraud, or continuing injury is established.

**A director or managing director is personally liable for the debt of the Company where it has been alleged in the statement of claim and established by evidence that such director or managing director acted as a surety or guarantor in the debt transaction with the creditor – **Unity Bank Plc V. Tambuwal Constr. & Trading Co. Ltd. [2025] 8 NWLR (Pt. 1992) 211****

### Facts of the Case

The Appellant, Unity Bank Plc (“Unity Bank” or “Appellant”), instituted an action at the High Court against the Respondents, Tambuwal Construction & Trading Company Ltd (1st Respondent) and its Managing Director (2nd Respondent), seeking the sum of N61,214,693.11, along with interest and costs. The claim was premised on an overdraft facility originally granted by Bank of the North Ltd to the 1st respondent in 1992 and 1993, for which the 2nd respondent provided a personal guarantee and mortgaged his land as collateral.

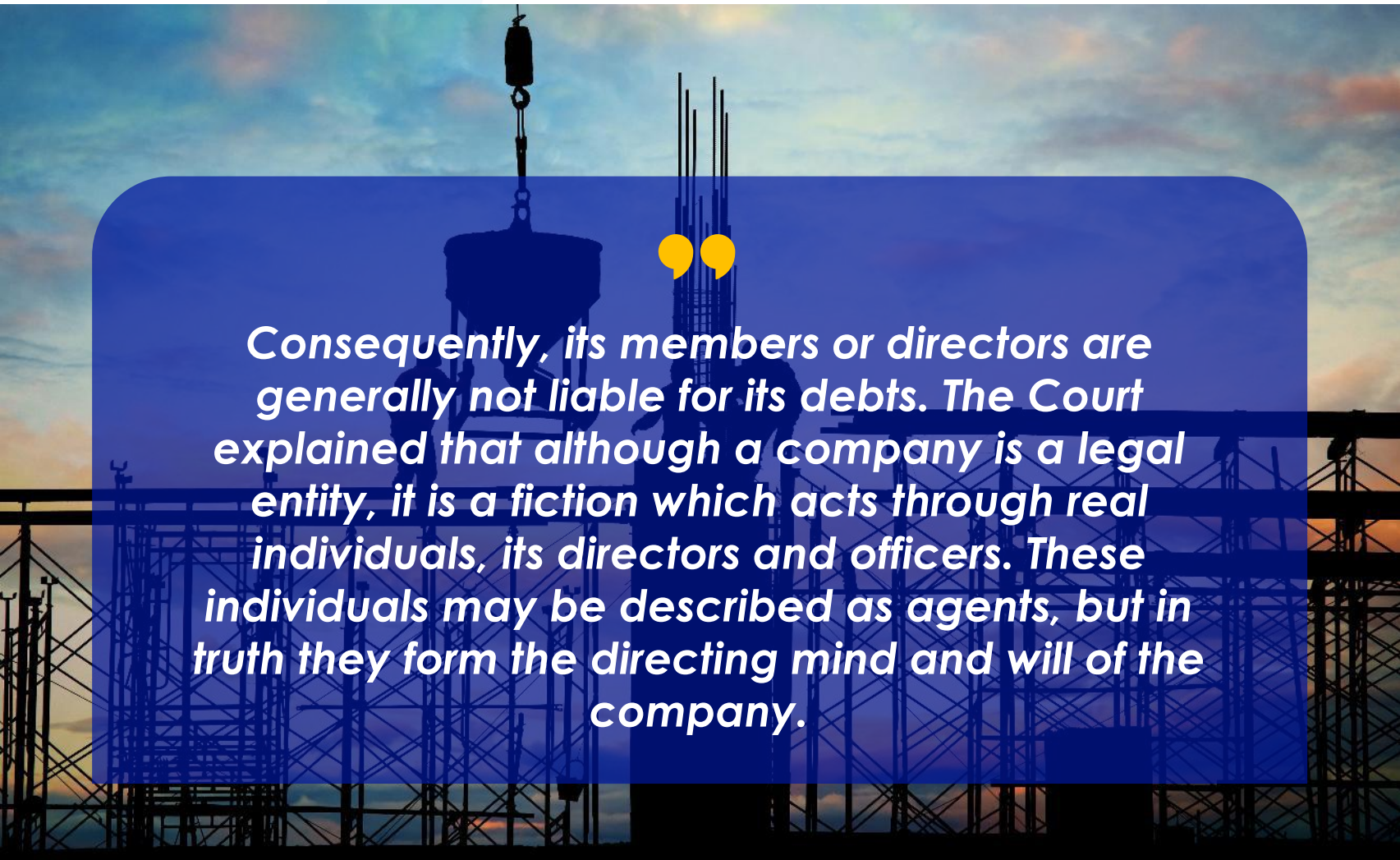
Unity Bank asserted that it inherited the loan following a merger between Bank of the North Ltd and other banks, culminating in the formation of Unity Bank, a merger approved by the Federal High Court pursuant to the Central Bank of Nigeria’s bank consolidation policy. The Respondents denied ever obtaining a loan from Unity Bank, stating that they only maintained an account with Bank of the North Ltd. They also challenged the Appellant’s legal standing (*locus standi*) on the grounds of discrepancies in the company name and the absence of documentary evidence proving the merger. The 2nd Respondent further denied personally guaranteeing the loan; however, under cross-examination, he admitted to mortgaging five landed properties to secure the facility granted to the 1st Respondent by Bank of the North Ltd.



The High Court took judicial notice of the Federal Government’s bank consolidation policy, notwithstanding that the enabling statute or court order was neither cited nor tendered. The Court held that Unity Bank Plc was the lawful successor to bank of the North Ltd and thus had the *locus standi* to recover the debt. It found the Respondents liable based on their admissions and the documentary evidence before it, and consequently entered judgment in favour of the Appellant, granting all the reliefs sought.

Dissatisfied, the Respondents appealed. The Court of Appeal overturned the decision, holding that the Appellant failed to tender documentary evidence such as the Federal High Court's judgment approving the merger to substantiate the alleged succession. The appellate Court held that the judicial notice could not be taken of a specific scheme of merger between particular banks; such must be strictly proven. It further ruled that Exhibit P6, the bank statement, ought not to have been admitted due to discrepancies in the company name (i.e., Tambuwal Construction Company Ltd & Tambuwal Construction & Trading Company Ltd). It held that the trial Court erred in admitting and relying on Exhibit P6, that did not correspond with the parties named in the suit, in determining the liability of the Respondents.

The Appellant then appealed to the Supreme Court and was granted leave to tender additional evidence, including the Federal High Court judgment approving the merger. Both parties raised similar issues in their briefs. The central questions were whether the Appellant had locus standi to bring the suit, whether the 2nd Respondent (as Managing Director of a limited liability company) could be held personally liable for the company's debt, and whether the lower Court was right to reject Exhibit P6 (a statement of account) as evidence.



*Consequently, its members or directors are generally not liable for its debts. The Court explained that although a company is a legal entity, it is a fiction which acts through real individuals, its directors and officers. These individuals may be described as agents, but in truth they form the directing mind and will of the company.*

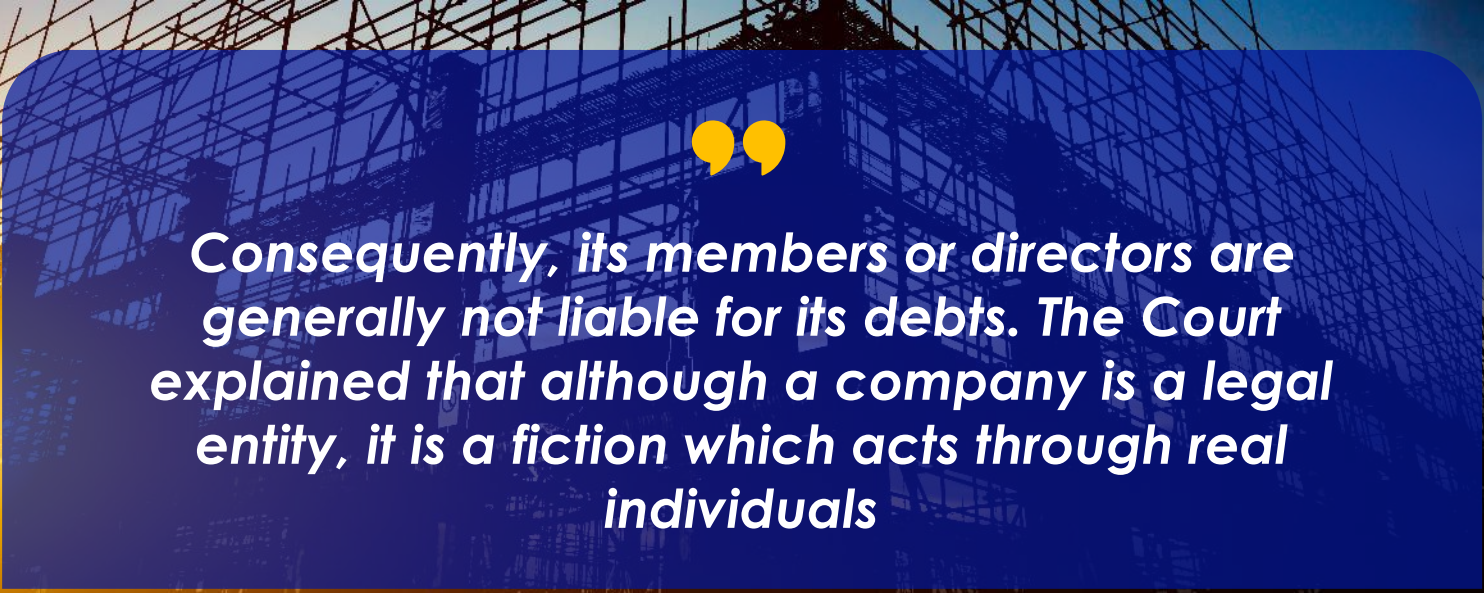
## Issues for Determination

For our focus, the relevant issue is whether the 2nd Respondent as the Managing Director of the 1st Respondent (a limited liability company), could be personally held liable for the company's debt to the Appellant, Unity Bank Plc.

## Decision of the Court

In addressing this issue, the Supreme Court reaffirmed the long-established legal principle that a company duly incorporated is a separate legal entity distinct from its shareholders and directors. This principle, first articulated in *Salomon v. Salomon & Co. Ltd* (1897) A.C. 22 and now codified in Section 42 of the Companies and Allied Matters Act (CAMA) 2020, means that upon incorporation, a company can sue and be sued in its own name, own property, and is solely responsible for its liabilities. Consequently, its members or directors are generally not liable for its debts. The Court explained that although a company is a legal entity, it is a fiction which acts through real individuals, its directors and officers. These individuals may be described as agents, but in truth they form the directing mind and will of the company. As such, when acting within the scope of their authority, directors and managing directors are not personally liable for acts done on behalf of the company.

However, the Court made it clear that a director can be personally liable for the debts of the company where it is specifically alleged and proven that the director stood as a surety or guarantor for the company's obligations. The Court affirmed that unless such a personal guarantee or suretyship is established, liability does not arise. In the present case, the Appellant, as the plaintiff at the trial Court, claimed that the 2nd Respondent, as the Managing Director of the 1st Respondent company, personally guaranteed loan facilities granted to the 1st Respondent. It was alleged that the 2nd Respondent even secured the loan with his personal landed properties, which were identified in paragraph 12 of the Appellant's statement of claim.



***Consequently, its members or directors are generally not liable for its debts. The Court explained that although a company is a legal entity, it is a fiction which acts through real individuals***

The Respondents, on their part, denied that the 2nd Respondent provided any such guarantee. The Supreme Court noted that, to prove its case, the Appellant tendered an application for a loan of ten million naira (₦10 million) written on the 1st Respondent's letterhead and signed by the 2nd Respondent. Although there was no direct document showing the 1st Respondent accepted the loan, upon consideration of the Exhibits admitted in the trial Court, it revealed that the loan was accepted and utilized. Particularly, Exhibit P4 indicated that the 2nd Respondent provided assurances for repayment. In paragraph 3 of Exhibit P4, it was stated that the Respondents had made efforts to redeem the loan account and had even consented to the sale of warehoused goods to repay the bank, suggesting an acknowledgment of liability.

Based on this, the Court found sufficient evidence to conclude that the 2nd Respondent not only acted in his official capacity but also provided a form of guarantee for the loan, thereby creating a basis for personal liability. The general rule of separate corporate personality therefore did not shield him in this instance, since his conduct satisfied the condition for personal liability under the law. The Supreme Court thus upheld the principle that while directors are ordinarily not liable for company debts, they may be held personally liable where they expressly guarantee such debts or act as sureties.



## Brief Comments

The Supreme Court's decision reaffirms the foundational doctrine of corporate personality, that a company is distinct from its directors and shareholders, and its debts are its own. However, the Court was careful to restate that this principle is not absolute. Where a director voluntarily assumes personal responsibility for the company's obligations, whether through a written guarantee, mortgage of personal property, or other unequivocal acts, personal liability may validly attach.

What distinguishes this case is the Court's careful assessment of the evidence to determine whether the 2nd Respondent merely acted in a representative capacity or crossed the threshold into personal assumption of liability. While no formal guarantee document was tendered, the Court found that the 2nd Respondent's conduct, particularly the use of personal property to secure the facility and written assurances of repayment, amounted to a personal undertaking.

The judgment underscores two key takeaways for commercial practice: first, the corporate veil remains intact unless there is clear, cogent evidence of a personal guarantee or other conduct that justifies lifting it; second, company officers must exercise caution when negotiating corporate finance, as blending personal and corporate commitments may expose them to unintended liability.

In reaffirming both the sanctity and the limits of separate corporate personality, the Supreme Court provided valuable guidance for commercial actors, lawyers, and lenders alike. The ruling strikes a pragmatic balance between shielding directors from corporate debt and preventing them from using the corporate form to evade expressly assumed obligations.

# THE DOCTRINE OF NECESSITY CANNOT BE INVOKED TO JUSTIFY THE CONTINUED EXISTENCE OF A DELIBERATELY CONTRIVED ILLEGAL OR UNCONSTITUTIONAL STATUS QUO –

## **R.S.H.A. v. Govt., Rivers State [2025] 7 NWLR (Pt. 1990) 591**

### Facts of the Case

The Rivers State House of Assembly (**RSHA** or the **Appellants**) filed an Originating Summons on 15.07.2024, at the Federal High Court, Abuja, against several defendants, including the Governor of Rivers State, Central Bank of Nigeria (**CBN**), and various banks and state officials. The suit challenged the legality and constitutionality of withdrawals and disbursements of Rivers State funds without a valid Appropriation Law for the 2024 financial year. The RSHA argued that the Governor (5th Defendant), acting alone or through agents, continued to authorize withdrawals from the Consolidated Revenue Fund of Rivers State, FAAC allocations, and other revenues after 30.06.2024, even though there was no Appropriation Law duly passed by a validly constituted House of Assembly as required by the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

The RSHA contended that (y) the purported Appropriation Bill for 2024, passed by only four members of the House and assented to by the Governor, was unconstitutional and invalid, having violated Sections 91 and 96 of the Constitution (minimum membership and quorum requirements); and (z) without a constitutionally valid Appropriation Law, any release or withdrawal of state funds after 30.06.2024 was unconstitutional, illegal, and a subversion of the Constitution. They relied on a Federal High Court judgment setting aside the actions of the four-member assembly; Court of Appeal decisions affirming the invalidity of the purported legislative acts; and a resolution dated 08.07.2024 where the RSHA reaffirmed their position as the legitimate House of Assembly.

On 30.10.2024, the Federal High Court agreed with the RSHA's position, declared the 2024 Appropriation Law invalid, and ruled that all fund withdrawals made without compliance with constitutional provisions were illegal. Following the decision of the Court, the Governor of Rivers State appealed to the Court of Appeal. In its judgment, the Court of Appeal held that the Federal High Court lacked the jurisdiction to entertain the suit. However, it did not set aside the substance of the trial court's conclusions regarding the illegality of the Governor's actions in presenting the 2024 Appropriation Bill to an unconstitutionally constituted House.

Dissatisfied with the Court of Appeal's ruling, the RSHA further appealed to the Supreme Court. Eight other appeals and cross-appeals followed from the decision of the Court of Appeal, all of which were consolidated under the main appeal filed by the RSHA.

### Issues for Determination

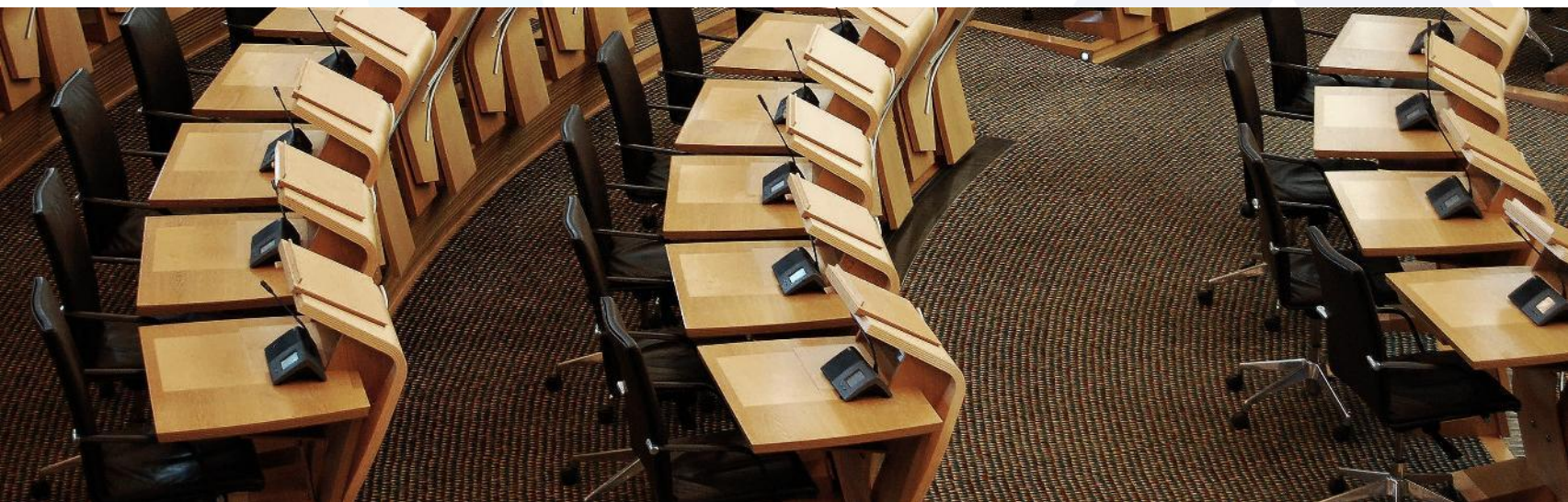
One of the pivotal issues raised before the Supreme Court was whether the doctrine of necessity can be lawfully invoked to justify the presentation and passage of an Appropriation Bill by an unconstitutionally constituted legislative assembly, and the consequent disbursement of state funds without adherence to constitutional processes.

## Decision of the Court

In a unanimous decision, the Supreme Court allowed the appeal. It held that the Court of Appeal was wrong to have dismissed the suit for want of jurisdiction. The apex court reasoned that the Federal High Court was competent to hear the matter, particularly since the case involved the enforcement of its own prior orders and touched on issues within its constitutional mandate. Accordingly, the Supreme Court set aside the judgment of the Court of Appeal and reinstated the decision of the Federal High Court in its entirety.

On the issue of the doctrine of necessity, the apex court addressed the misuse of the doctrine to justify unconstitutional governance structures. In the specific case, the Rivers State Governor had presented the 2024 Appropriation Bill to a factional and improperly constituted assembly, despite prior judicial declarations affirming that the Rt. Hon. Martin Amaewhule-led House remained the lawfully constituted legislative arm of the state. The Governor attempted to justify this action under the cover of necessity, arguing that governance must continue in the absence of cooperation from the other faction.

The Supreme Court rejected this argument, stating that necessity cannot become a cloak for illegality. The court held that the doctrine of necessity cannot be invoked to justify the continued existence of a deliberately contrived illegal or unconstitutional status quo. According to the Justices, the doctrine is meant to preserve the rule of law and ensure continuity of governance only in exceptional and unforeseen circumstances where no legal or constitutional alternative exists. It is not a license for public officials, particularly governors or executives, to deliberately subvert constitutional order or manipulate the legislature for political expediency.



The court emphasized that public officials must operate strictly within the bounds of the Constitution and existing laws, no matter how inconvenient or politically difficult that may be. To accept the invocation of necessity in this case would be to sanction a constitutional breach and encourage impunity. Justice Emmanuel Agim, who delivered the leading judgment, stressed that permitting such reasoning would erode democratic norms, embolden executive overreach, and reduce the judiciary to a passive observer of constitutional violations. The judgment therefore reaffirmed the supremacy of the Constitution and ruled that governance actions taken under an unconstitutional framework, no matter how necessary they may seem, are void and must be reversed.



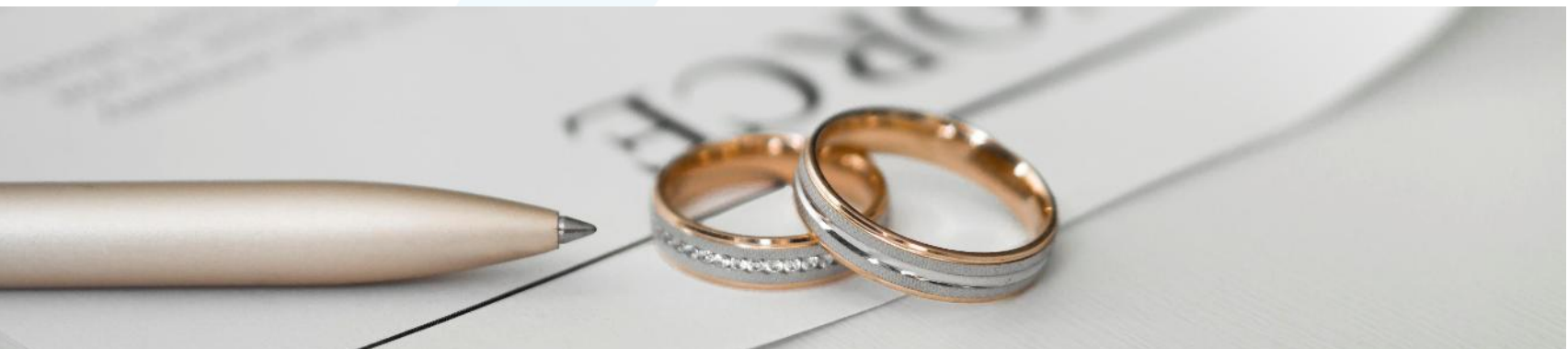
*The Court correctly observed that the doctrine cannot be used as a convenient cover for political manipulation or executive overreach. If allowed, it would embolden elected officials to sidestep the law in pursuit of personal or partisan goals, thereby setting dangerous precedents that undermine the rule of law.*

## Brief Comment on the Decision

The Doctrine of Necessity is an exceptional legal principle invoked only in rare, unavoidable situations where adherence to the law would result in greater harm or a breakdown of public order. It is not a permanent fix, nor a substitute for constitutional governance. Its purpose is to preserve legality not to override it. In light of this, the Supreme Court rightly observed that the doctrine cannot be used as a convenient cover for political manipulation or executive overreach. If allowed, it would embolden elected officials to sidestep the law in pursuit of personal or partisan goals, thereby setting dangerous precedents that undermine the rule of law.

The Court's decision reiterated the position that adherence to constitutional provisions is not optional. There is no emergency so grave that it justifies the deliberate creation or maintenance of an unconstitutional structure, especially when such a structure is contrived to marginalize legitimate institutions. Upholding the law may sometimes be politically inconvenient, but convenience cannot replace constitutionality. In agreeing with the Court, one must commend its insistence that necessity is not a license for lawlessness.

## A spouse is not automatically entitled to an equal share of matrimonial property upon dissolution of marriage without credible evidence of contribution – **Aguolu v. Aguolu [2025] LPELR-80269 (CA)**



### Facts of the Case

The appeal arose from the judgment of the High Court of Lagos State in Suit No. ID/1899HD/2015, delivered on 22 June 2021. The Respondent, Petitioner at the trial court, had sought the dissolution of his marriage to the Appellant on the grounds that the parties had lived apart for 22 years and that the Appellant had behaved in a manner that made cohabitation intolerable. He sought only a decree of dissolution.

The Appellant, in her response and cross-petition, also sought a decree of dissolution on the ground of the Respondent's adultery and prolonged separation. Additionally, she sought a wide range of reliefs, including custody of children, payment of arrears of maintenance totalling ₦79,600,000, ongoing financial support, and an equal division (50/50) of alleged matrimonial properties located across Lagos, Anambra, and Rivers States.

In reply, the Respondent counter-claimed for ₦177,600,000 in alleged converted rents and properties and opposed the Appellant's entitlement to any settlement, asserting she had already converted most of his properties. Both parties gave oral testimony and filed written addresses. The trial court dissolved the marriage and, in relation to property settlement, awarded only one property at Rumuokwuta, Port Harcourt, Rivers State, to the Appellant under Section 72 of the Matrimonial Causes Act.

Dissatisfied with this limited settlement, the Appellant appealed to the Court of Appeal.

### Issues for Determination

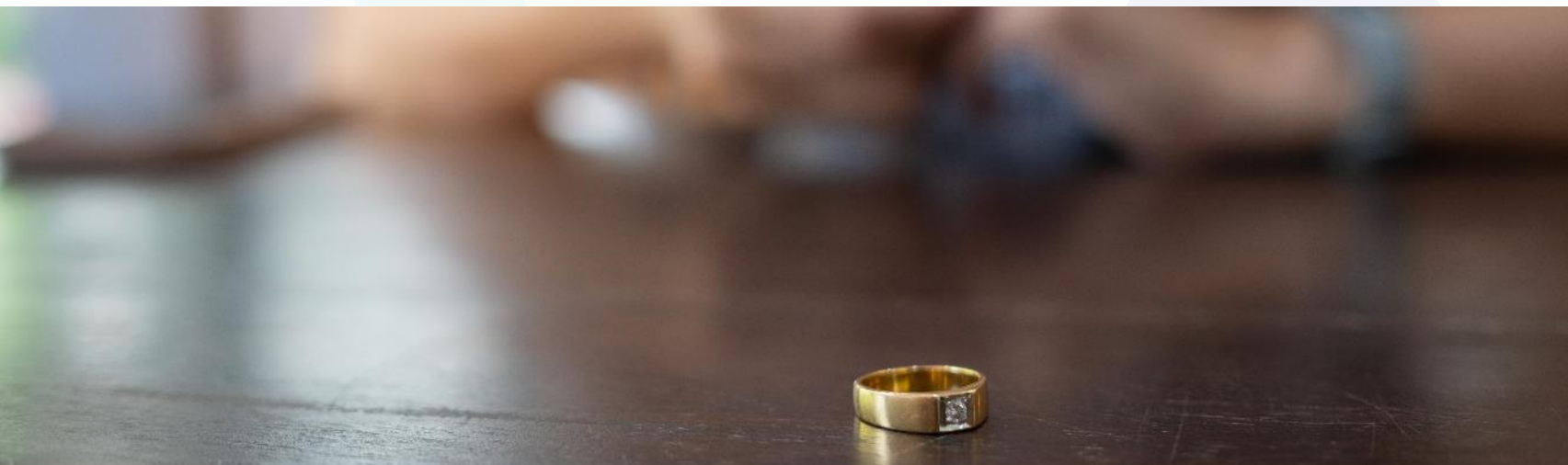
The Court of Appeal in determining this appeal adopted the sole issue raised by the Appellant which is: *"Whether the learned trial Judge was right in law and in equity, under the facts and circumstances, in settling only one of the several matrimonial properties on the Appellant, thereby leaving the rights of the parties to all other matrimonial properties unresolved?"*

 **Decision of the Court**

The Court of Appeal in dismissing the appeal and affirming the decision of the trial Court held that a spouse is not automatically entitled to equal share of the matrimonial property solely by virtue of the marriage. The Court emphasized that the burden lies on the party seeking settlement to: (x) establish that the property is matrimonial property; (y) demonstrate their contribution (financial or otherwise) to its acquisition; and (z) show that a proposed settlement would be fair, just and equitable.

In this case, the Appellant failed to adduce credible evidence of her contributions to the acquisition or improvement of the properties listed. The Court held that asserting a blanket 50-50 division without placing material facts before the court was insufficient and unsupported by law. Particularly, the Court stated that settlement of property under matrimonial cause is a matter that involves the exercise of the Court's discretion. Hence, it reiterated the principle of law that for a discretionary power of a Court to be adequately exercised, the party who seek to invoke the discretion must place sufficient materials before the Court demonstrating why such discretion ought to be exercised in its favour. However, the Court found that the Appellant failed to provide sufficient materials that would justify the settlement of property in the manner sought.

The Court acknowledged the principle in **Kafi v. Kafi [1986] 3 NWLR (Pt. 27) 175**, that contribution need not be financial, but stressed that such contribution must still be proved. The Court concluded that the Appellant's mere status as a spouse, especially after 22 years of separation, could not entitle her to a blanket claim to the Respondent's properties.

 **Brief Comments**

This decision reinforces the settled principle that property settlement upon dissolution of marriage under Nigerian law is not based on automatic entitlement. It must be anchored on credible evidence of contribution and the broader context of fairness and equity. While *Kafi v. Kafi* permits non-financial contributions to suffice, they must still be demonstrable.

The judgment also affirms the discretionary power of courts under Section 72 of the Matrimonial Causes Act 1973, which is to be exercised judicially and judiciously. Importantly, the decision cautions against speculative or presumptive claims over matrimonial property and underscores the need for spouses to keep records or be able to establish their interest in any property sought for settlement.

# THE DOCTRINE OF MERCY KILLING DOES NOT CONSTITUTE A RECOGNISED DEFENCE UNDER NIGERIAN CRIMINAL LAW – DANLADI v. STATE [2025] LPELR-80672 (SC)



## Facts of the Case

The Appellant entered one Lami Danladi's room and administered a poisonous substance, commonly known as Otapiapia, to her baby. Shortly afterwards, the baby began to cry, and the Appellant brought the baby and handed him to his mother. Lami Danladi attempted to breastfeed her baby, but he refused to suckle. The baby was rushed first to a local chemist and then to the General Hospital in Kafin Koro, where he was confirmed dead. The Appellant later confessed to Lami Danladi's husband, Danladi Shaba ("the Complainant") that she had poisoned the child. The Complainant reported the incident to their village head, who subsequently brought the matter to the attention of the Police at Kafin Koro. After investigations, the Appellant was charged with culpable homicide punishable with death, contrary to Section 221(a) of the Penal Code Law (as revised), Cap. 94, Laws of Niger State, 1989 at the High Court of Niger State (the trial Court).

At trial, the Appellant pleaded not guilty to the charge. However, following a full trial, the trial court found her guilty, convicted her, and sentenced her to death. Dissatisfied with the judgment of the trial Court, the Appellant appealed to the Court of Appeal (the lower Court), which subsequently dismissed the appeal. Still aggrieved, the Appellant further appealed to the Supreme Court.

## Issues for Determination

At the Supreme Court, the Appellant raised three issues for determination which were adopted by the Court in arriving at its decision. However, the issue at the core of our review is Issue 2 as formulated to wit: *Considering the entire circumstances and evidence led at the trial, whether the lower Court was right to hold that there was no need for the prosecution to prove by medical evidence that the deceased died from the effect of a poisonous substance called "otapiapia" and whether the conviction and sentence of the Appellant should not be set aside for lack of medical evidence establishing the cause of death of the deceased.*

## Decision of the Court

The Apex Court after considering the argument of both parties held that medical evidence is not always necessary to prove homicide, particularly where the cause of death is apparent, death occurs instantaneously or nearly so, and surrounding circumstances clearly establish the cause.

On the Appellant's significant emphasis on the fact that the deceased was suffering from anaemia, the Supreme Court held that within the context of Nigeria's criminal law, this cannot serve as a justification for deliberately ending the life of the child. Further, the Court reasoned that the defence being advanced by the Appellant bears the unmistakable characteristics of euthanasia or mercy killing which is not recognized as a valid defence under Nigerian criminal law.

The Court also noted that a fundamental principle of criminal law is that an offender must take the victim as they find them. This means that the accused cannot rely on the physical infirmity or pre-existing medical condition of the victim to avoid liability. As long as the death of the victim is a direct result of the accused's act, the accused remains criminally responsible, even where the victim may have been vulnerable or in a weakened state.

Consequently, the Court affirmed the decision of the lower Court which upheld the decision of the trial Court and dismissed the appeal.

## Brief Comments

The Supreme Court's decision in this case reinforces core principles of Nigerian criminal jurisprudence, particularly in relation to the prosecution of homicide offences. First, the Court reaffirmed that medical evidence is not an indispensable requirement in proving the cause of death in a culpable homicide charge, particularly where the cause of death is obvious, instantaneous, or can be clearly inferred from the surrounding circumstances.

Second, the apex Court made it clear that the deliberate termination of life (euthanasia or mercy killing) regardless of the victim's health condition or perceived suffering, does not constitute a defence to the intentional taking of a person's life and cannot be excused under the guise of compassion. This decision further reinforces the importance that the law places on the sanctity of human life. It affirms that the intentional taking of life, regardless of the motive whether out of malice, compassion, or mercy is a criminal act and remains punishable under Nigerian law.

Third, the Court reaffirmed the established common law principle of "eggshell skull rule" which means that an offender must "take their victim as they find them." This principle underscores that an accused person bears full criminal responsibility for a victim's death, even where the victim had a pre-existing medical condition. The judgment clarifies that such vulnerabilities do not excuse or diminish culpability when the death is a direct consequence of the accused's actions.

# TARIFFS IMPOSED BY PRESIDENT TRUMP UNDER THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT ON IMPORTS FROM CHINA, MEXICO, AND CANADA ETC., ARE ULTRA VIRES THE POWERS CONFERRED ON THE PRESIDENT BY THE ACT AND THEREFORE ILLEGAL – V.O.S SELECTIONS v. UNITED STATES.

## Facts of the Case

The Plaintiffs filed an action on 14.04.2025, against the United States, the President of United States, and various government agencies and officials (**the Defendants**). The suit challenged the legality of the Executive Orders 14257 and 14266, through which the President imposed sweeping import tariffs. Specifically, Executive Order 14257 invoked the International Emergency Economic Powers Act 1977 (**IEEPA**) to implement a 10 percent ad valorem duty on all imports, with increased rates ranging from 11 percent to as high as 50 percent for 57 designated countries. The challenged tariffs, dubbed “Liberation Day” tariffs, were imposed on a wide range of products from countries including China, Canada, and Mexico via Executive Order 14257 announced on 02.04.2025.

The Plaintiffs contended that IEEPA does not authorize the President to impose tariffs at all, arguing that the statute’s language specifically the phrase “regulate importation” is too vague and lacks the clear legislative mandate necessary to delegate such sweeping economic power. They further argued that interpreting IEEPA to allow the President to unilaterally impose tariffs would violate two foundational constitutional principles: the nondelegation doctrine and the major questions doctrine.

In response, the Defendant argued that the authority to “regulate importation” under IEEPA includes the power to impose tariffs. They referenced statutes such as the Trading with the Enemy Act (**TWEA**), which had been interpreted to allow for such executive action. Moreover, the Defendant emphasized that IEEPA includes safeguards such as requiring a formal declaration of a national emergency, limiting the duration of emergency powers to one year unless renewed, and restricting the scope of action to foreign interests or property.

The Plaintiffs sought a temporary restraining order (**TRO**), a preliminary injunction, and summary judgment. Although the court initially denied the TRO, it proceeded to evaluate the case on its merits.


## Issue for Determination

The major issue that was determined by the United States Court of International Trade was whether IEEPA granted the President the authority to impose broad, long-term tariffs in response to economic concerns such as trade deficits.

 **Decision of the Court**

In its decision, the Court rejected the Defendants' arguments and agreed with the Plaintiffs. The Court held that the phrase "regulate importation" in IEEPA does not authorize the President to impose tariffs of any magnitude at will. It emphasized that interpreting IEEPA to confer such broad powers would amount to an unconstitutional delegation of legislative authority. Citing authorities such as *Yoshida II*,<sup>1</sup> the Court concluded that any such contrary interpretation would undermine the constitutional separation of powers by allowing the executive branch to exercise legislative functions without clear congressional direction.

The Court further noted that IEEPA was enacted in 1977 precisely to narrow the President's emergency economic powers, especially in contrast to the broader powers once granted under TWEA and this legislative history reinforced the conclusion that Congress intended to limit, not expand, executive authority over international trade.




***The Court also clarified that the concept of a "balance-of-payments deficit" refers not to an overall imbalance but to deficits in specific components, such as the trade of goods.***

Significantly, the Court pointed to Section 122 of the Trade Act of 1974 and held that by enacting this statute, Congress made clear that even substantial trade imbalances do not warrant emergency powers under IEEPA, instead must be addressed through the limited procedures outlined in Section 122. The Court also clarified that the concept of a "balance-of-payments deficit" refers not to an overall imbalance but to deficits in specific components, such as the trade of goods. Since trade deficits fall squarely within this category, the President's actions—imposing indefinite tariffs in response to a trade deficit—should have been governed by Section 122, not IEEPA.

Ultimately, the Court found that the President's imposition of the Worldwide and Retaliatory Tariffs exceeded the authority granted under IEEPA and failed to comply with the statutory framework of Section 122. The tariffs were, therefore, deemed ultra vires beyond the scope of lawful authority and unlawful. Consequently, the Plaintiffs' Motion for Summary Judgment were granted, and their Motions for Preliminary Injunction were denied as being moot.

1. *United States v. Yoshida Int'l. Inc.*, 526 F.2d 560, 584 (C.C.P.A. 1975)



*It reinforces the principle that the imposition of tariffs especially on a broad and indefinite scale falls within Congress's exclusive legislative competence and cannot be justified under a general emergency statute like IEEPA.*

## Brief Comments

This decision affirms the constitutional limits of executive power in U.S. economic governance, particularly in the context of international trade. It reinforces the principle that the imposition of tariffs especially on a broad and indefinite scale falls within Congress's exclusive legislative competence and cannot be justified under a general emergency statute like IEEPA. By invoking both the nondelegation and major questions doctrines, the Court signalled that sweeping economic policies require explicit congressional authorisation and cannot rest on vague statutory language or executive discretion.

For observers in jurisdictions like Nigeria, the case serves as a compelling comparative precedent on the judiciary's role in preserving the constitutional separation of powers, especially in economic regulation. Nigerian courts have also shown readiness to invalidate executive action that exceeds constitutional or statutory limits, as seen in *A.G. Federation v. A.G. Abia State & Ors* [2024] LPELR-62576.

## The decision of the French Court of Appeal, which held the applicant solely responsible for the breakdown of her marriage due to her refusal to engage in sexual relations violates applicant's rights to private life, bodily autonomy, and sexual freedom under the European Convention on Human Rights – **H.W. v. France (Application No. 13805/21).**

### Facts of the Case

On 09.07.2015, H.W., a French woman born in 1956 (the “**Applicant**”) summoned her husband for divorce on the ground of fault. She argued that her husband had prioritized his professional career to the detriment of their family life, and he had been irascible, violent and hurtful. Her husband counterclaimed that the divorce should be pronounced solely on the grounds that the Applicant had evaded marital duty for several years and that she had breached the duty of mutual respect between spouses by making slanderous accusations against him. In the alternative, he filed for divorce on the grounds of permanent alteration of the marital bond.

In a judgment delivered on 13.07.2018, the family affairs judge of the Versailles Regional Court held that none of the complaints alleged by the spouses was substantiated and that the divorce could not be pronounced for fault. As regards, in particular, the alleged breach of marital duty, it considered that the Applicant's health problems were such as to justify the long-term absence of sexuality within the couple. The Judge pronounced the divorce on the grounds of permanent alteration of the marital bond after noting that the cohabitation between the spouses had ceased for more than two years on the date of the divorce summon. The Applicant appealed against that judgment. This decision was later overturned by the Versailles Court of Appeal, which deemed her refusal of “intimate relations” as the sole fault justifying divorce, a position upheld by the French Court of Cassation. The Applicant then approached the European Courts of Human Right.



### Issue for Determination

At the core of the case was the question of ***whether to hold a woman legally at fault in divorce proceedings for declining to engage in sexual relations with her husband – is not a violation of her right to privacy guaranteed under Article 8 of the Convention***

 **Decision of the Court**

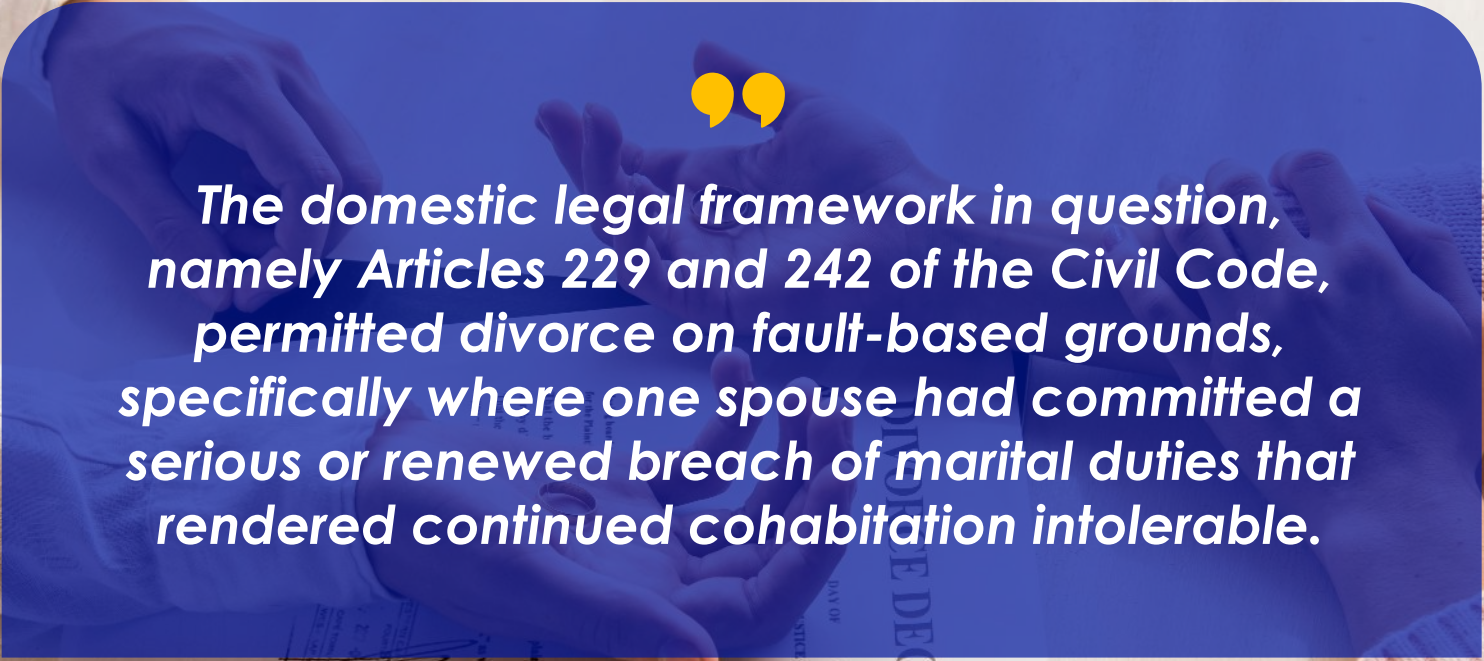
The European Court of Human Rights (ECHR) affirmed that the concept of “private life” under Article 8 of the European Convention on Human Rights is broad in scope, including the physical and psychological integrity of a person, gender identification, name, and sexual life. It highlighted that the notion of personal autonomy is a core component of the protections afforded by Article 8. In the context of sexual life, the Court emphasized that sexual freedom and bodily autonomy are essential aspects of an individual’s identity and dignity. Importantly, it noted that Article 8 not only protects individuals against arbitrary interference by public authorities but also places positive obligations on the State to secure respect for private life even in relationships between private individuals.

According to the Court, any interference with an individual’s private life must meet three essential conditions under the Convention: it must be “in accordance with the law”, pursue one or more legitimate aims set out in Article 8(2), and be “necessary in a democratic society”. The ECHR clarified that the requirement that Interference be “in accordance with the law” encompasses not only the existence of a legal basis in domestic law but also the quality of that law: it must be accessible to the person concerned, foreseeable as to its effects, and compatible with the rule of law. Furthermore, the list of legitimate aims justifying interference with private life is exhaustive, and any such interference must be interpreted narrowly and justified convincingly. The principle of proportionality and the need for a fair balance between individual rights and societal interests are central to the assessment of necessity. The ECHR explained that while states enjoy a “margin of appreciation” in such matters, the breadth of that discretion varies with context—being wider when the matter involves sensitive moral or ethical judgments or balancing of conflicting Convention rights, and narrower when intimate, personal freedoms such as sexual autonomy are at stake.



***The principle of proportionality and the need for a fair balance between individual rights and societal interests are central to the assessment of necessity***

Turning to the facts, it noted that the Applicant did not object to the granting of the divorce itself—indeed, she had also sought a divorce—but took issue with the legal reasoning and grounds used to justify the decision. Specifically, the finding that her refusal to engage in sexual relations constituted a grave breach of marital duty. The ECHR observed that the domestic courts’ reliance on the Applicant’s sexual conduct as the basis for attributing fault and granting the divorce necessarily interfered with her right to sexual autonomy and bodily integrity. Even if the financial consequences of divorce are now largely detached from fault-based considerations in many jurisdictions, the symbolic and moral weight of such judicial findings still has a profound impact.



***The domestic legal framework in question, namely Articles 229 and 242 of the Civil Code, permitted divorce on fault-based grounds, specifically where one spouse had committed a serious or renewed breach of marital duties that rendered continued cohabitation intolerable.***

The fact that the Court of Appeal explicitly characterized the Applicant's refusal to engage in sexual relations as a "serious and renewed violation" of marital obligations that made cohabitation intolerable was particularly concerning. This reasoning reinforced traditional, patriarchal expectations about spousal duties and imposed a form of state-sanctioned judgment on private and highly personal conduct. The ECHR found that this amounted to an interference with her Article 8 rights attributable to the state's negative obligations.

However, the crucial question remained whether the interference with the Applicant's rights was necessary and proportionate in the specific circumstances of the case. Here, the Court emphasized that matters relating to intimate sexual conduct fall within the most personal and private sphere of human life and are entitled to the highest level of protection under the Convention. The narrower margin of appreciation applied in this context meant that the State bore a heightened responsibility to justify any interference with those rights. In assessing the proportionality of the interference, the Court balanced the Applicant's right to sexual autonomy against her spouse's right to divorce. While it accepted that a legal framework that enables individuals to seek divorce for lack of intimacy may serve legitimate purposes, it found that the specific reasoning of the domestic courts unduly prioritized outdated notions of spousal duty over modern understandings of consent and bodily integrity. The ECHR ultimately concluded that the imposition of a legal duty to engage in sexual relations within marriage, even implicitly, and the attribution of fault based on non-compliance with such a duty, failed to respect the applicant's right to physical and psychological integrity.

The ECHR reiterated that any legal interpretation or judicial reasoning that disregards the principle of voluntary and mutual consent in sexual matters is incompatible with the values enshrined in the Convention. Therefore, that the grounds on which it was granted—relying on a perceived sexual obligation—violated Article 8. The Court thus found that the interference with the Applicant's right to respect for her private life was neither justified nor proportionate, and accordingly, a violation of the Convention had occurred.



## Brief Comments

The judgment of the ECHR marks a pivotal affirmation of bodily autonomy, consent, and sexual freedom within the institution of marriage, rejecting antiquated interpretations of “marital duty” that are incompatible with contemporary human rights standards. By overturning the domestic courts’ fault attribution based on sexual conduct, the ECHR rejected the notion that marriage imposes implicit obligations that compromise an individual’s autonomy. The Court raised concerns about patriarchal biases in legal reasoning and stressed the need for any legal framework to prioritise voluntary consent and mutual agreement in intimate relationships.

Under Nigeria’s Matrimonial Causes Act, a spouse may file for divorce on fault grounds such as unreasonable refusal to consummate, cruelty, desertion, adultery, etc. A Nigerian court, however, would scrutinize whether the refusal was reasonable, considering factors like health issues, abuse, or welfare needs, similar to French domestic consideration in H.W.’s case. While Nigerian courts acknowledge marital obligations, constitutional protections particularly sections 34 (Human dignity) and 35 (personal liberty) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) reinforce bodily autonomy. In an abusive context, compelling non-consensual sex may conflict with these protections.

# “MAN” AND “WOMAN” UNDER THE EQUALITY ACT 2010 REFER EXCLUSIVELY TO BIOLOGICAL SEX, AND NOT GENDER IDENTITY – FOR WOMEN SCOTLAND LTD v. THE SCOTTISH MINISTERS [2025] UKSC 16

## Facts of the Case

The Appellant, For Women Scotland Ltd, a feminist advocacy organization, challenged revised statutory guidance, issued by the Scottish Ministers under the Gender Representation on Public Boards (Scotland) Act 2018. The guidance stated that “woman” under the Act includes not only biological women but also trans women with a Gender Recognition Certificate (GRC), based on the interpretation of section 9 of the Gender Recognition Act 2004 (GRA) and sections 11 and 212 of the Equality Act 2010.

The Appellant argued that this interpretation unlawfully redefined “woman” and exceeded devolved competence, as “sex” and the terms “man” and “woman” under the Equality Act 2010 refer to biological sex. The Appellant sought a declaration that the guidance was unlawful and an order for its rescission. The Scottish Ministers, supported by the Equality and Human Rights Commission, argued that a person with a GRC legally changes their sex for all purposes under section 9 of the GRA 2004 and is therefore a woman under the Equality Act.

The Appellant challenged the lawfulness of the Respondent’s statutory guidance in the Outer House (one part of Scotland’s Court of Session). On 13.12.2022, the Outer House dismissed the Appellant’s petition. The Appellant appealed. On 01.11.2023, the Inner House (Scotland’s appellate court) upheld the decision of the Outer House and dismissed the Appellant’s appeal. The Appellant then appealed to the Supreme Court.



## Issue for Determination

Whether the words “man” and “woman” in the Equality Act 2010 refer to a person’s “biological sex” or whether they also include a person’s “acquired gender” under the Gender Recognition Act 2004 following the grant of a GRC.



## Decision of the Court

The Supreme Court on 16.04.2025 found that references to “sex”, “man”, and “woman” in the Equality Act 2010 refer to biological sex and not to an individual’s acquired gender through a GRC under the GRA 2004. The Supreme Court interpreted the Equality Act 2010 as designed to protect individuals based on biological sex and found no sufficient basis to override this through section 9(1) of the GRA 2004, particularly in the context of provisions specifically aimed at advancing equality for women.

The Court noted that section 9(1) GRA 2004 states that a person’s gender becomes their acquired gender “for all purposes”, but this is subject to any contrary provision in other legislation. It emphasized the importance of interpreting statutes in a way that provides clarity and predictability, especially where protected characteristics are involved. It also found that extending “sex” to include acquired gender would create confusion and undermine the Equality Act’s purpose, including areas such as single-sex spaces, sports, and privacy-based services.

The Court concluded that the statutory guidance was unlawful to the extent it required that trans women with a GRC be treated as women for the purposes of the 2018 Act, as this misrepresented the meaning of “woman” in the Equality Act 2010 and thus exceeded the Scottish Ministers’ powers.



## Brief comment on the Decision

This decision provides a definitive judicial interpretation of “sex,” “man,” and “woman” under the Equality Act 2010 as referring exclusively to biological sex, not acquired gender. It underscores the constitutional boundary between executive interpretation and legislative intent, particularly in socially contested areas. It also illustrates how courts may balance inclusion with statutory coherence, especially where redefining legal categories could compromise existing rights.

This decision serves as a comparative reference point for future legal or legislative debates around sex, gender, and the reach of equality protections.

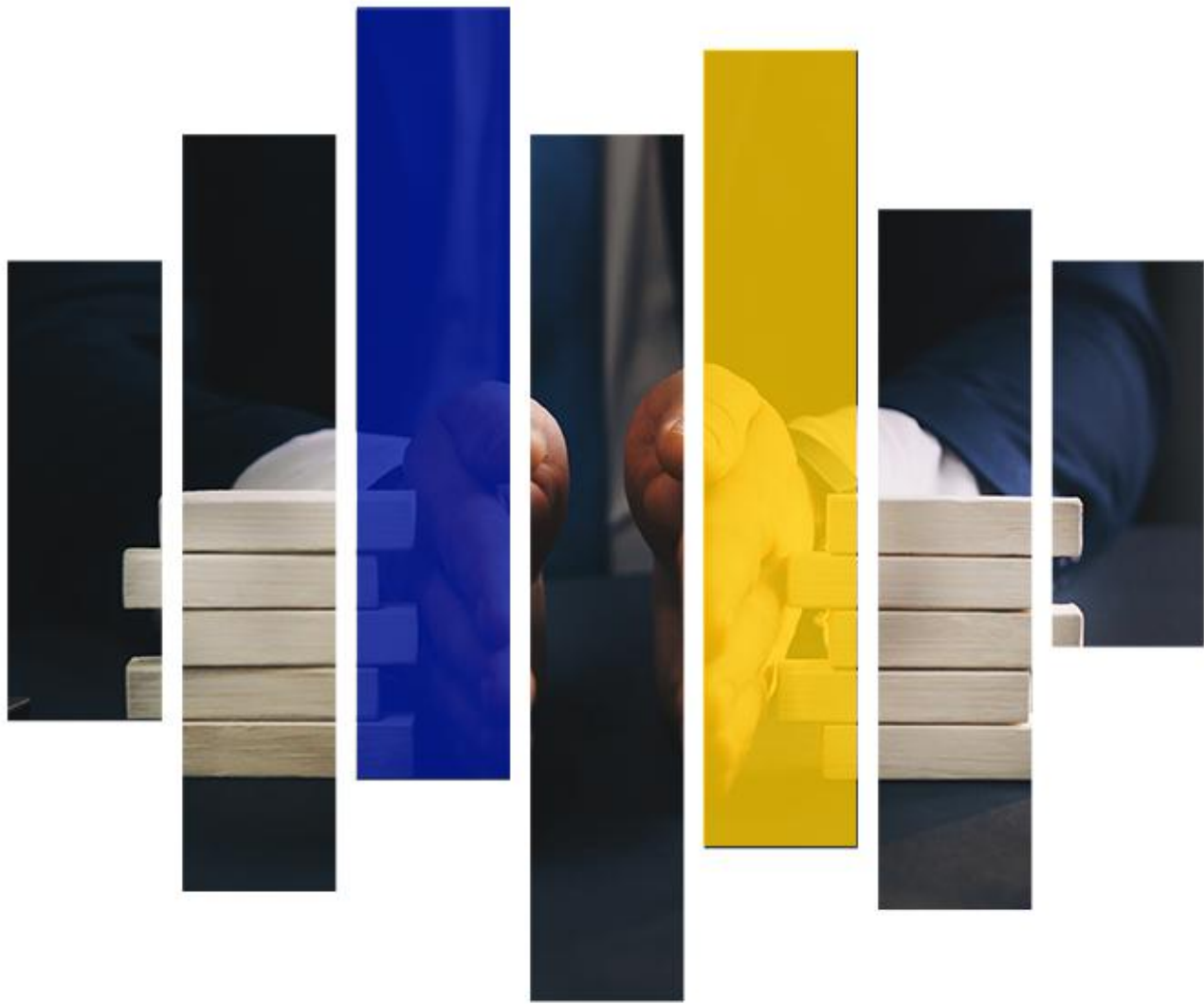


## Conclusion

The second quarter of 2025 has seen courts, both domestic and international wrestle with critical questions of jurisdiction, legal identity, institutional accountability, and the limits of executive power. The judgments reaffirm the centrality of jurisdiction, statutory interpretation, and evidentiary rigour in shaping procedural and substantive justice.

Beyond Nigeria, foreign decisions illustrate how courts globally are navigating sensitive socio-political terrain, from the boundaries of presidential economic authority in the United States to the legal meaning of sex and gender in UK equality law. These decisions not only influence public policy but also serve as instructive comparators for jurisdictions like Nigeria, where similar legal and constitutional questions may emerge.

As always, we hope this compilation offers meaningful insight, practical value, and forward-looking analysis. We welcome your thoughts and encourage ongoing engagement with the evolving landscape of dispute resolution.



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