

IN THE HIGH COURT OF OGUN STATE
IN THE AIYETORO JUDICIAL DIVISIO
HOLDEN AT ILARO

BEFORE THE HON. JUSTICE A. O. ASENUGA – JUDGE
ON THURSDAY THE 26TH DAY OF MARCH, 2015

BETWEEN:

SUIT NO. HCL/07/2006

THE REGISTERED TRUSTEES OF CELESTIAL CHURCH
OF CHRIST (NIGERIA DIOCESE)

CLAIMANT

AND

MR. GODWIN BOLANLE SHONEKAN

DEEFENDANT/COUNTER CLAIMANT

AND

1. THE REGISTERED TRUSTEES OF CELESTIAL CHURCH OF CHRIST (NIGERIA DIOCESE)
2. EMMANUEL MOBIYINA OSHOFFA (BY THE COUNTER/CLAIMANT)

Claimant is present represented by Sup. Evang. S.O. Banjo.

Defendant/Counter/claimant is present.

2nd defendant is absent.

Mr. O. Fabunmi appears for the claimant and 1st Defendant to the Counter/Claimant.

Mr. Terem Inyambe holds the brief of Mr. G. Oguntade for the Defendant/Counter/Claimant.

Mr. O. Ojutalayo appears for the 2nd defendant to the Counter/Claim.

JUDGMENT

The Claim of the Claimant against the Defendant is as follows:

- (A) DECLARATION that the Defendant is not the duly recognized Pastor and Spiritual Head of Celestial Church of Christ Worldwide and that his declaration, representation, designation and holding out as such is illegal, unconstitutional, null and void and contrary to the provisions of the Constitution of the Church.
- (B) DECLARATION that the declaration, representation designation and holding out of the Defendant as head of Nigeria Diocese of Celestial Church of Christ is illegal, unconstitutional, null and void and contrary to the Constitution of Celestial Church of Christ.
- (C) DECLARATION that his eminence Rev. Pastor Emmanuel Mobiyina Oshoffa is the duly appointed and recognized Pastor and spiritual head of Celestial Church of Christ worldwide and entitled to perform his functions as such.
- (D) AN ORDER OF PERPETUAL INJUNCTION restraining the defendant whether by himself, servants, agents or privies from parading himself as Pastor and Spiritual Head of Celestial church of Christ.

RECEIVED
JUDICIAL
OFFICE
JANUARY 2015

- (E) AN ORDER OR PERPETUAL INJUNCTION restraining the Defendant whether by himself, heirs, agents, servants, privies, assigns or howsoever called from interfering, tampering or meddling with the efficient and effective administration and governance of the Celestial Church of Christ.

The Defendant filed a Counter Claim as follows:

- (a) A Declaration that the current and subsisting Constitution of the Celestial Church of Christ Nigeria Diocese is the 1980 Constitution.
- (b) A Declaration that under the 1980 Constitution of Celestial Church of Christ Nigeria Diocese the power to amend that constitution was extinguished when the Pastor/Founder of the Church died without naming his successor.
- (c) A Declaration that the trustees of Celestial Church of Christ Nigeria Diocese (the Claimant) have no power to appoint a Pastor for celestial Church of Christ worldwide without the concurrence and consent of all other dioceses of the world and in consonance with the provisions of the extant 1980 Constitution that binds them all.
- (d) A declaration that the purported appointment of the 2nd Defendant as Pastor and Spiritual head of celestial church of Christ vide the purported Amended Constitution of Celestial Church of Christ Nigeria Diocese on 22nd of December 2000 is unconstitutional, illegal, null and void.
- (e) A declaration that the purported amendment of the Constitution of Celestial Church of Christ (Nigeria Diocese) on 22nd of December 2000 or any amendment whatsoever to the extant 1980 Constitution of Celestial Church of Christ in the absence of a Pastor authorizing same is unlawful, wrongful, illegal, null and void.
- (f) A declaration that all the Properties of Celestial Church of Christ Nigeria Diocese belong to all Celestial members worldwide and same is held in trust by the trustees for themselves and for the benefit of all members of Celestial Church of Christ and not for their personal benefits.
- (g) A Declaration that the trustees of Celestial Church of Christ have no personal proprietary interest different from that of all other members of Celestial Church of Christ Worldwide who are joint beneficial owners of the properties.
- (h) A declaration that the 2nd defendant to the Counterclaim has no constitutional powers under the provisions of the extant 1980 Constitution of Celestial Church of Christ Nigeria Diocese or the purported amended Constitution of

Celestial church of Christ Nigeria Diocese on 22nd of December 2000 to excommunicate the Defendant/Counterclaimant vide the purported letter of the 16th of January 2004.

- (i) A declaration that the properties and/or assets acquired by the 2nd Defendant to the Counter-claim and his Personal Assistant, evangelist Tosho Oshoffa and their Agents since December 24th 2002 to date, be it movable or immovable shall be reverted to the duly constituted incorporated Trustees of the Celestial church of Christ for proper custody and ownership by the Church.
- (j) An injunction restraining the 1st defendant to the Counterclaim from holding out the 2nd Defendant as the Pastor and Supreme Head of Celestial church of Christ worldwide and from interfering with the Counterclaimant in the performance of his functions as the Pastor and supreme Head of Celestial Church of Christ Worldwide.
- (k) An injunction restraining the 2nd defendant to the Counterclaim from acting or continuing to act and parading himself as the Pastor and Spiritual head of Celestial church of Christ worldwide and/or being addressed as Pastor and Spiritual Head of celestial church of Christ Worldwide whether by himself, his agents, privies, followers persons or groups of persons however described.

The suit was contested on the Statement of Claim of the Claimants dated 20th February, 2006, the Amended Statement of Defence and Counter Claim of the defendant and Counter/Claimant filed on 29th July 2013, the defence of the 2nd Defendant to Counter/Claim dated 9th January 2014 and the Claimants Amended Reply filed on the 27th November, 2013.

The Claimants in this case called three witnesses, the Counter Claimant called two witnesses, the 2nd Defendant to the Counter claim called one witness.

The 1st witness for the Claimant is Superior Evangelist Christopher Adebisi Oyetade, his evidence is contained in his written Statement on Oath dated 16th July, 2009. He is a retired Police officer, he has the responsibility of overseeing the Security issues and details relating to the Church worldwide. He stated that the present Pastor and Head of the Church is the 2nd Defendant to the Counter/Claim who was duly appointed on the 25th of July 2002, he is the son of the founder, that the Defendant was involved in a visa scam in the Church in which he promised about 2,000 youths of the Church that he would obtain United States of America visas for them, that the

Defendant/Counter/Claimant also shuttles from one parish of the Church to another within Nigeria & abroad to cause confusion, disturbance and general embarrassment to the headship of the Church and the members in general. That on 24th of December, 2005, the Defendant with his associates and some miscreants armed with gun and other dangerous weapons entered the holy land of the Church at its world Headquarters at Imeko and made straight for the gate to the altar which was under lock in the presence of a large number of the Church members who had assembled at Imeko from all over the world for the congregation of all members for the Christmas service. The Defendant went onto the altar and declared himself as the Pastor of the Church, that he (the witness) caused the defendant to be arrested, that the Church was planning its annual workers retreat/Anointment service scheduled for Monday 20th February to Saturday 11th March, 2006, the Defendant granted an interview to Vanguard Newspapers on Wednesday the 15th of February at page 35 that he had vowed to hold his own anointment service in February at the same venue, that the Claimant wrote a petition to the AIG (Zone 2), Onikan Lagos on 15th February, 2006 and asked for Police Protection during the workers retreat, that the Police advised them to obtain an order of injunction from the Court.

Under Cross Examination, the witness stated that he was not informed that the Defendant was charged to the Magistrate Court on the 6th of February, 2006, that the Defendant was denounced by all the over 3,000 parishes in Nigeria, that the Defendant has been ex-communicated from the Church.

The 2nd witness for the Claimant is Ven. Most Senior Evangelist Ekundayo B. Opaleye, his evidence is that he is a trustee and a member of the Pastor – in – Council of the Celestial Church of Christ, International Headquarters, Ketu, Lagos which Church is Registered as No. 489 under the land perpetual succession Act of the Laws of the Federal Republic of Nigeria on 24th November, 1958, that the Defendant was a former member of the Church who was ex-communicated from the church on the 16th day of February, 2004, that the overall machinery of the operation and administration of the Church by virtue of the Constitution of the Church is vested in the Pastor and the Pastor-in-Council, that the present Pastor and head of the Church is the 2nd Defendant to the Counter/Claim who was duly appointed in accordance with the Constitution of the Church and through divine guidance and fervent prayer on the 25th December 2002, that sometimes in 2005 he was shown a Constitution titled. “The spiritual Constitution of Celestial Church of

Christ worldwide" published by Celestial Church of Christ, United State Diocese of the America, the Constitution was prepared by the 1st Defendant for Celestial Church of Christ United States Diocese of the America, his name i.e. the name of the witness was listed as one of the incorporated Trustees in the Constitution, that his name was included in the Constitution without his authority and consent, sometime in 2006, he swore to an affidavit disclaiming the said Constitution, that almost all the people listed in the Constitution disclaimed it, he tendered the Constitution which was admitted as Exhibit 'A'.

Under Cross Examination, he mentioned the names of the other Trustees of the Church, that he stopped being a member of the Trustees last year 2013, that the first Constitution of the Church was made in 1958 and it was amended in 1980, the 2nd Defendant was appointed in accordance with the 1980 Constitution. Rejected Exhibit AA was admitted through the witness under Cross Examination by the Counsel to the 2nd Defendant, he confirmed that his evidence is that there was a Constitution of the 1958 and 1980 and a subsequent one in year 2000, he was involved in the appointment, of the 2nd Defendant, that Mr. Shonekan was never appointed to that office.

The 3rd witness for the Claimant is Superior Evangelist Samson Olatunde Banjo he adopted his two statements on oath dated 16th July, 2009 and 17th November, 2013, his evidence is that the National Headquarters of the Church is at Makoko, Yaba, Lagos, the International Headquarters is at Imeko Ketu, Lagos and the World Headquarters is at Imeko city, Ogun State, that the last amendment of the Constitution of the Church was made on the 22nd day of December, 2000 with the approval of the Corporate Commission, Abuja, that the present head of the Church is the 2nd Defendant to the Counter claim, he was duly appointed in accordance with the Constitution of the Church on the 25th December, 2002, the appointment was recently given Judicial backing by the Federal high Court, Abuja in suit No FHC/ABJ/CS/277/2005 on the 20th day of December, 2005, he is the 4th Pastor of the Church, that the Church caused a Public Notice to be published in the Saturday Champion Newspaper of August, 13, 2005 on the fraudulent activities of the Defendant concerning the Visa scam, that all diocesan Constitutions take affect from the Nigerian Constitution of the Celestial Church of Christ by order of the Pastor founder, they only vary in respect of specific legal requirements of each Country, that all the Dioceses of the Church throughout the world are under the authority of the Pastor in Nigeria, that all overseas Constitutions cannot operate without the Pastor's authority. Most of the evidence of this witness are the same as the

evidence of the 1st Defendant in respect of the activities of the Defendant to destabilize the Church.

The witness gave evidence of the Major Institutions in the Church and stated that there is no position of Administrator and Supreme Head in the Church. He also gave evidence on how the 2nd Defendant to the Counter Claim rose from his first appointment at age 16 to become the Pastor of the Church, he stated further that the Defendant fraudulently manipulated the Registration of the American Diocese in his name, as the original Constitution that was presented to the Defendant was later altered by him with the inclusion of different names not approved by Pastor Bada and the Claimant, that the Defendant was excommunicated from the Church in the U. S. A for anti-Church activities, the letter of Ex communication was signed by the trustees of the Church including himself (the witness) and the 2nd Defendant to the Counterclaim as the Pastor and Spiritual Head of the Church, that the year 2000 Constitution was amended by the majority of the Church members who have the legal right to do so in the absence of a Pastor, the appointment of the 2nd Defendant to the Counterclaim was made by the Pastor – in – Council/Trustees in accordance with the Constitution of the Church, that it was the Secretary to the Board of Trustees, who was also the Secretary to the Pastor – in – council that was saddled with the responsibility of signing the Proclamation meant for the public while all members of the Pastor – in – Council was present at the meeting in which the 2nd Defendant to the Counter/Claim was appointed as a pastor, at which a quorum was formed, that they signed the document to show their unanimous decision. He further stated that the 1st Defendant is owing one late Superior Evangelist Ogunlesi the sum of \$65,000.00 being balance due on a loan of #70,000.00 granted to the Defendant by a Bank on the personal guarantee of the late elder which the Defendant failed to repay up till today. The witness tendered Exhibit B – Z.

Under Cross Examination by the Counsel to the Defendant/Counterclaimant, the witness stated that he was appointed as a Trustee in April 1974, he is still a member as at the time of giving evidence, he mentioned the names of other trustees, that the 2nd Defendant to the Counterclaim is the Chairman Board of Trustees, that the Secretary to the Board is Most Senior Evangelist Bola Akintehinwa, that Exhibit G was made in 2004, that 16th January, 2004 was a typographical error, that the decision was made on 16th February, 2004. The issues which led to the decision were made in January, that the 1980 Constitution was amended on the advice of the Supreme Court, the purpose was to circumvent the lacuna in the 1980 Constitution, that the Supreme Court by its

Judgment invalidated the appointment of Rev. Bada, the appointment was made and approved by the corporate affairs commission. Oshoffa was appointed as pastor in 2002, there must have been about 30 members of Pastors-in-Council at the meeting appointing him, the

appointment was guided by Section 111 (a) (b) (c) & (d), it was made by a Simple majority, everything that was necessary under the Constitution was done, that simple majority did not even arise, it was a unanimous decision.

Under Cross Examination by the Counsel to the 2nd Defendant to the Counterclaim, the witness stated that apart from Exhibit G, a proclamation was made and sent to all parishes, a Newspaper publication was also made, that Pastor Oshoffa's appointment was made pursuant to the 1980 Constitution as amended by the year 2000 Constitution, that the two Constitution one described as Blue Book, that almost all the Diocese outside Nigeria are off shots of the Nigeria Diocese apart from the Republic of Benin, the heads of the diocese were appointed by the pastor in Nigeria, all the diocese are subordinate to the Nigeria Diocese that Exhibit L was issued by Evangelist Ogunlesi and countersigned by the Pastor.

The 1st Defendant and Counter Claimant gave evidence as the 1st witness for the Defendant/Counterclaimant he stated that upon the death of the pastor and founder of the Church, a leadership vacuum was created as a result of failure to fulfill the provisions of the Constitution of the Church as regards succession, that this rendered the Constitution unworkable and inoperable, that any purported amendment to the Constitution is null and void vis-a-vis the Constitution itself because the Constitution made no provision for amendment in the absence of a Pastor, that the purported Amended Constitution in 2000 was authorized by the late Rev. Bada whose appointment was subsequently nullified by the Supreme Court in suit No. SC/126/1995 J.K Owodunni Vs. Registered Trustees of Celestial Church of Christ, that the extant Constitution of Celestial Church of Christ (Nigeria Diocese) is the one amended on the 29th of March, 1980 under the auspices of the Pastor founder S.B.J Oshoffa and the same has never been validly altered since the death of the founder, that Celestial Church of Christ worldwide has many dioceses all over the world, each Diocese has its own trustees and Constitution under the respective laws of their home countries, the provisions of all these laws are in-pari-material with that of the Nigeria Diocese particularly the succession provision, that the purported amendment of Section 111 of

the 1980 Constitution of the Nigeria Diocese did not automatically amend the provisions of the other dioceses, he denied over holding out himself or parading himself as Head of the Nigeria Diocese, as he did not belong to the Nigeria Diocese, rather the Diocese of America but by virtue of his position as the Supreme Head and Pastor of Celestial Church of Christ all Dioceses of the world are his constituency, that he is presently a registered member of the Board of Trustees of the Celestial Church of Christ, United States Diocese of the America, that he is the authentic and recognized Pastor and Supreme Head of the Celestial Church of Christ worldwide, he was so appointed by the majority of the members of the Church worldwide on the 12th day of June 2004 pursuant to Celestial Church of Christ of United States Diocese of the Americas within the guidelines of its Articles of Incorporation and by the Bye laws as established, executed and registered on the 2nd of November 1992 in the states of Florida, U.S.A, he has been discharging the functions of that office without any let or hindrance, that the letter of 10th January, 2004 accused him of having committed an offence at a future date of 29th January, 2004, that the Claimants have no power to amend the Constitution, the amendment is a subject of litigation in various Courts, that the appointment of the 2nd Defendant to the Counter/Claim is illegal as the Claimants have no power to make such appointment, that there are three sets of proclamations of the 2nd Defendant to the Counterclaim as the Pastor of the Church, two were signed by the Secretary of the Pastor –in – Council while the third Proclamation was signed by twenty-three signatories which is at variance with the fifty – seven (then alive) members of the Pastor – in – Council as shown in the 2002 Christmas convocation pamphlet, this action caused unrest in the Church worldwide and this threw a challenge at him to rise to the occasion to move the Church forward in accordance with the power vested in him by the Claimant and all other past leaders of the Church in a resolution dated 3rd day of June 2002 and which was re-affirmed in another resolution dated 12th day of November, 2002 and he embarked on re-organizing the whole Church including Europe and America, he assumed the leadership of the Church worldwide on December, 27, 2003 as Administrator and Supreme Head after due consultation with elders, workers and shepherds of Celestial Church of Christ worldwide and pursuant to the two resolutions aforementioned and executed by the Claimants; he denied the Claim that he exploited the Youths on a Visa scam but rather that he was engaged in various Economic Development Programs, he further stated that the names of some trustees in the 1980 Constitution of the Church was not among those who took part in the appointment of the 2nd defendant to the Counter Claim and also that the names of the duly constituted members of the Celestial Board of Trustees as contained on page 1 of the 1980

Constitution were missing in the Certificate of Registration purportedly Registered by the 2nd Defendant to the Counter claim at the Corporate Affairs Commission Abuja on 6th January 2011. The documents tendered by the witness were marked as Exhibit AS – YS8.

Under Cross Examination by the Claimant's Counsel, the witness stated that Exhibit A is not the Constitution that was handed over to him in 1991, that Exhibit E is also not the American Constitution, that he was proclaimed Pastor of the Church by a duly Constituted Authority under the Constitution of the Celestial Church of Christ Registered in the USA, that the committee that selected him was elected by the head of Diocese who was posted to the U.S by the founder of the Church, Rev. S. B. Joshua that the name of the person is Antony Iremire, his investiture took place in Florida, he stated that the last Exhibit J was falsified, that pages 1 & 2 of Exhibit J are correct, Exhibit G was served on him in the U.S in February 2004, it was back dated, he stated that he borrowed #500,000.00 from Senior Evangelist Ogunlesi not U.S Dollars, that he ought to have been installed by the Claimants but due the loan issue of Senior Evangelist Ogunlesi.

Under Cross examination by the Counsel to the 2nd Defendant, he stated that he derived authority for his appointment from Exhibit B5, that Exhibit B5 is subordinated to the 1980 Constitution of Celestial Church of Christ, it was signed by Pastor Bada.

The 2nd witness for the Defendant Counter/Claimant is shepherd Enoch Olaolu Adepoju the witness tendered Exhibit ZS, AAS, ABS, rejected Exhibits AB & AC. The evidence of the witness as contained in his Statement on Oath is practically the same as that of the Defendant Counter Claimant on the unworkable 1980 Constitution, that the amendment of Section III of the 1980 Constitution does not automatically amend the Constitution of other dioceses, that the Proclaimant of the 2nd Defendant to the Counter Claim is contrary to the wishes of the Church members, that there was crisis in the Church and this threw a Challenge to the Defendant Counter/Claimant to move the Church forward, who assumed leadership of the Church on December 27th 2003 as an Administrator & Supreme Head, that there were also spiritual injunction & divine messages that supported his appointment, he also denied that the Defendant/Counter/Claimant caused any trouble at Imeko on 24th December, 2005.

Under Cross Examination by the Counsel to the Claimant, the witness stated that on learning of the appointment of the Defendant/Counter/Claimant as head of the Church, they took him to the Secretary Board of Trustees Baba Ogunlesi, that the Secretary confirmed that the Defendant/Counter/Claimant is the man that the spirit had chosen but money caused problem in the Church, that the Secretary stated that the Defendant Counter Claimant had repayed the money, and he showed them the document. He further stated that the appointment of the Counter/Claimant as head of Church did not follow the 1980 and 2000 Constitution, it follows the 1991 Constitution which was Registered in 1992 by the Trustees in America Exhibit B.

The 1st witness for the 2nd Defendant to the Counter Claim is the Most Senior Evangelist Michael O. Shodunke, his evidence is that he is a member of the Pastor-in-Council of the Celestial Church of Christ and that the 2nd Defendant to the Counter/Claim is the Supreme head and Pastor, that after the demise of the Pastor/Founder of the Church, successive Pastors had been appointed by the Claimants in due and proper manner, that the Supreme Court Judgment advised that amendment is needed to be made to the Constitution of the Celestial Church of Christ of 1980 in order to cure the Lacuna contained therein, sequel to this on the 22nd day of December, 2000, Section 111 of the 1980 Constitution was amended and the Amended Constitution was duly registered with the Corporate Affairs Commission, the aforesaid amendment has been upheld in suit No. AFHC/ABJ/CS 277/2005, Judgment was confirmed by the Court of Appeal in Appeal No. CA/A/107/06, that the 2nd Defendant to the Counter/Claim was appointed as the Supreme Head and Pastor of Celestial Church of Christ pursuant to the said amendment, that there is nothing like American Diocese of Celestial Church of Christ but rather the United States of America Diocese which is subordinate and totally submissive to the Pastor-in-Council and the Board of Trustees of the Celestial Church of Christ, that the Defendant Counter/Claimant has been duly ex-communicated from the Church, that the proclamation of the Counter/Claimant as Pastor was signed by the person authorized to do so in the person of the Secretary to the Board of Trustees who also doubles as the Secretary to the Pastor-in-Council, all the Pastors present formed a quorum, that the Counter/Claimant did not meet any spiritual and Constitutional requirement for the appointment as successor to the office of the Pastor and spiritual leader of the Church, also that he was never appointed as the head of the America diocese.

Under Cross examination, the witness stated that amendment of the Constitution was ordered by the Supreme Court, that they first of all validated the appointment of Pastor Bada post humously, they then appointed Pastor Ajose as Pastor using the normal procedure, they also used the same procedure to appointment Rev. Emmanuel Mobiyina Oshoffa, in 2002, that there were about fifty two member of the Pastors – in – Council as at 2002, when the witness was shown Exhibit CS he stated that it was the 2002 Convention pamphlet, it has about sixty one members as Pastors – in – Council, the witness stated that as at 2002 Nos. 3, 8, 31 and 57 were deceased, some might have been indisposed and might not have been attending meetings or they were not functional, that the evidence of PW could be true that thirty members of Pastor-in-Council were present at the appointment of Rev. Oshoffa, he admitted that he was the twelfth signatory in Exhibit Z5, there twenty five signatories on the Exhibit ZS i.e 25 people appointed Oshoffa, the witness further gave evidence on how the Constitution was amended, also that Exhibit G was made on 16th February 2004 and not 16th January, 2004, that the 2nd Defendant Counter/Claimant is visually impaired, that there was the meeting of the Electoral College before the Proclamation and everybody in attendance approved the appointment, Oshoffa was appointed based on divine guidance, the Pastors-in-Council that appointed Oshoffa formed a quorum of 25% of 52 members, he further stated that when the 2nd Defendant to Counter/Claim was appointed they did not receive any protest letter from the Counter/Claimant also the Counter/Claimant did not institute any action against the appointment of the 2nd Defendant to the Counter Claims, he also stated that heads of Church are usually appointed from the Church workers who are members of the Clergy, that the Counter-Claimant is not a member of the Clergy of the Church, that the Counterclaimant proclaimed himself as the Pastor of the Church in a publication in This Day Newspaper of 1st April 2006, he applied for the certified true copy of the document, it was Exhibit “ABT”. Other publications in the Guardian Newspaper on the fraud issue was tendered and admitted as Exhibits “ABV”, he further stated that an individual cannot declare himself as a Spiritual Head and Pastor of the Church without going through the Pastor in Council and the Board of Trustees.

All the learned Counsel in this case filed written addresses. I will refer to their addresses in the course of the Judgment. At the Pre-Trial Conference, all the counsel in this case agreed that the following issues are the issues for consideration in this case –

1. Whether his Eminence Rev. Pastor Emmanuel Mubiyina Oshoffa is the duly appointed and recognized Pastoral Spiritual Head of Celestial Church of Christ (C.C.C.) World/wide and entitled to perform his functions as such.
2. Whether the appointment of Rev. Pastor Emmanuel Mubiyina Oshoffa as Pastor Celestial Church of Christ (C.C.C.) Worldwide by the Claimant is valid on the congregants of Celestial Church of Christ (C.C.C.) Worldwide including the Defendant.
3. Whether or not the 1980 Constitution of Celestial Church of Christ (C.C.C.) Nigeria Diocese in operation before the death of the Pastor Founder, Pastor S.B.J. Oshoffa is still operative after his death and whether same can be amended unilaterally by the Claimant without the consent or concurrence of the congregants of Celestial church of Christ (C.C.C.) Nigeria diocese in the absence of a Pastor, in view of the provisions of the 1980 Constitution.
4. Whether the Claimant have separate proprietary interest in the properties of the Church to the general exclusion of other members including the Defendant by virtue of being members of the Board of Trustees of the Church.
5. Whether the appointment of the 2nd Defendant (by the Counter-claim) as the Head of the Celestial Church of Christ (C.C.C.) Worldwide was done in conformity with the Constitution of the Celestial Church of Christ (C.C.C.) and is thereby valid and subsisting.

The Defendant Counter-Claimant however formulated four issues different from that agreed upon at the Pre-Trial Conference stage, the issues are however subsumed in the issues adopted by the parties at the Pre-Trial Conference stage except for issue (ii) which is –

Whether the Defendant was validly excommunicated by the Claimant.

The Court will decide on whether or not the issue is part of the Defendant/Counter/Claimant's case later on in this judgment.

This Court will take a decision on issues 3 and 4 first as the decision taken on these two issues will impact greatly on issues 1 2 & 5.

Issue 3 has to do with whether the 1980 Constitution of the Nigeria Diocese is still operative after the death of the founder and whether same can be amended unilaterally by the Claimant in the absence of a Pastor.

All the parties in this case have a common standpoint on the following:

1. There is a lacuna in the 1980 Constitution as it cannot validly be used to appoint a successor to the founder in view of the failure of the founder to name a successor before his death.
2. The Supreme Court had given a Judgment on the inadequacy of the 1980 Constitution to appoint a successor to the founder after his death.
3. The Church needed to find a solution to the problem.

The solution found by the Claimant to the problem is the promulgation of the year 2000 Constitution which amended section III of the 1980 Constitution and this was used to appoint the 2nd Defendant to the Counter/Claim.

It is obvious that the Celestial Church of Christ has the duty to fill in the gap in the 1980 Constitution, as there has to be a law on the ground that will back up any appointment of a Pastor for the Church. The question that arises is whether Exhibit D i.e year 2000 Constitution of the Church was validly made. Exhibit D is an Amendment – it is titled “CONSTITUTION INCORPORATING FIRST AMENDMENT. The first page reads “AMENDED THIS 22ND DAY OF DECEMBER 2000”

The schedule at the last page also indicated that it is an amendment. It reads

“SCHEDULE OF AMENDMENT
FIRST AMENDMENT

1. Inclusion of new Section III (iii) (a) (b), (c) & (d) made pursuant to a resolution of the Church.

.....
Signed

.....
Signed

.....
Signed

} (Signatories of Trustees including that of
Rev. Bada).

Board of Trustees of the Church"

Exhibit D is no doubt an amendment to the 1980 Constitution, there is no provision in the year 2000 Constitution that repealed the 1980 Constitution and substituted it with the year 2000 Constitution. Exhibit AS is the Supreme Court Judgment delivered on the 30th day of June, 2000, Exhibit D was made on 22nd December, 2000. Exhibit D confirmed the Judgment of the trial Court which declared the appointment of Rev. Alexander A Bada as null and void and of no effect. Exhibit D was made by Rev. A. Baba as Pastor – in – council on the 22nd day of December, 2000. Rev. Baba whose appointment had been declared null and void and of no effect by the Supreme Court definitely Cannot sit as Pastor – in – Council to make the year 2000 law which is an Amendment to the year 1980 law, in fact the Claimant in paragraph 6 of its Statement of Claim admitted that Exhibit D is an amendment.

The Claimant and the 2nd Defendant to the Counter Claim submitted that Exhibit D cannot be challenged on two grounds;

- (i) It has been registered by the Corporate Affairs Commission therefore only the Federal High Court has the Jurisdiction to hear any case challenging Exhibit D.
- (ii) It was made on the advice of the Supreme Court as Contained in Exhibit AS.

It is trite that it is the Writ of Summons and Statement of Claim of the Claimant that confers jurisdiction on the Court. Paragraph 6 of the Statement of Claim states that there was an amendment to the Constitution of the Church and that the 2nd Defendant to the Counter Claim was duly appointed in accordance with the Constitution of the Church (Paragraph 8) of the Statement of Claim. These are the Claims of the Claimant in this case. The State High Court has the jurisdiction to look into the procedure that culminate into the amendment of the Constitution of the Church and also whether or not the 2nd Defendant to the Counter/claim was validly appointed. I agree with all the submissions of the learned counsel to the Defendant/Counter claimant on this issue especially on the point that:-

- (a) The parties or a party must be the Federal Government or its agency.
- (b) The subject matter of the litigation.

The decision of the Court of Appeal in the case of TAWREWA (NIG) LTD V. PLASTIC FAIR LTD (2003) 14 NWLR (PT 840) 353 PG 376 parg B – C is helpful in this case, there the Court of Appeal held.

"But where the dispute does not involve the control or administration of a company and deals with ordinary routine business of the Company, a state High court and not the federal High Court has Jurisdiction to entertain and determine the matter. That is to say, any matter that can be decided without recourse to the Companies and Allied Matters Act, or any enactment regulating the operation of companies under the said Act belongs to a State High Court."

No Federal Government Agency is a party in this case also all the issues raised in this case can be decided without recourse to the Companies and Allied Matters Act.

The second point is that the amendment was advised by the Supreme Court. In truth the Supreme Court Pa. Ogundare JSC gave an advice that the Constitution of the Church should be amended, but the Trustees of the Church did not follow the advice. I reproduce the advice hereunder –

"Chief Ajayi has submitted that the amendment advised by the learned trial Judge would be impossible as the Constitution of the Church provides for the consent of the Founder Pastor to any amendment, a consent that could no longer be forthcoming as the said founder Pastor is dead. I regret I do not accept this submission. The word "amendment" includes rewriting the whole Constitution and substitute the new for the old. (underling mine). The existing Constitution was written around the founder Pastor. With his death, an impasse has been created in the affairs of the Church and it is only by writing a new Constitution that the log jam can be over come. Afterall, the present Constitution of the Church is a replacement of a previous one."

The summary of the advice of the Supreme Court is that the only valid amendment which the Church could make is to "re write the whole Constitution and substitute the new for the old". The Supreme Court was however quick to point out that it is not the duty of the Court to advise the Church on what to do, that the above was only a reaction to the submission of the learned Senior Advocate Chief Ajayi and to show that the position is not as hopeless as it seems. I am therefore of the view that it is very wrong of the Claimant to hold out that they have acted on the advice of the Supreme Court, indeed they have not acted on the advice of the Supreme court as they did not fully understand it as shown in the steps they took.

Having held that this Court has the jurisdiction to look into how the year 2000 Constitution of the Celestial Church of Christ came into being, I hereby resolve issue

three in favour of the Defendant/Counter Claimant that the 1980 Constitution of the Celestial Church of Christ has not been validly amended.

On issue 4, no evidence was led on it by either side so the Court will not take any decision on it i.e. whether the Claimant has proprietary interest in the property of the Church.

On issues 1, 2 & 5, it is the Claimants case that the 2nd Defendant to the Counter Claim was appointed pursuant to the amendment made to Section 111 (iii) (a) (b) & (d) of the year 2000 Constitution. See the evidence of the 2nd & 3rd witnesses to the Claimant and the 3rd witness to the Defendants (i.e. the only witness to the 2nd Defendant to the Counterclaim see also paragraphs 6 & 8 of the Statement of Claim.

This Court having resolved on issue 3 that the 1980 Constitution of the Church has not been validly amended to take care of the lacuna in the 1980 Constitution, it follows therefore that any appointment made by the Claimant under the year 2000 Constitution of the Church has not been validly made.

I earlier on stated that the Defendant Counter Claimant raised two issues which were not part of the issues adopted for consideration by the parties at the PTC stage, I will allow the issues as it was raised in paragraph 40 of the Defendant/Counter Claimant's Statement of Defence and Counter claim and also evidence was led on the point.

The Defendant/Counter Claimant challenged his excommunication from the Church and alleged that it was not lawfully made. In his evidence, he stated that he is the head of the Celestial Church of Christ worldwide, that he was so appointed by the majority of the members of the Church worldwide on the 12th day of June 2004 pursuant to the Celestial Church of Christ of the United States Diocese of the America within the guidelines of its Articles of incorporation and by the bye laws as registered on 2nd November 1992 and that however by a letter of 16th January, 2001 he was accused of having committed an offence at a future date, that the Claimant has no power to amend the Constitution. I agree with the point made by the Defendant Counter/claimant that his excommunication letter was not validly made, as the appointment of the Pastor that signed the letter has been declared null and void by the Supreme Court, however his own self appointment and self proclamation as the Head of the Church or appointment under the America diocese is illegal and void as it has been established that no valid appointment can be made by the Celestial Church of Christ worldwide to the post of the Pastor of the Church until there is a valid Constitution in place to take care of the

appointment of a Pastor for the Church, his self declaration as head of the Church is contrary to the 1980 Constitution of the Church. I hereby hold that both Defendants in this case have not been validly appointed, as head of the Celestial Church of Christ, their appointments are hereby declared null and void.

The Claim of the Claimant partly succeed, the Counter Claimant also party succeeds. I hereby find for the Claimant as follows.

The claims A, B & D of the Claimants claim succeed, while Claims C, & E are hereby dismissed.

I find as follows on the Counterclaim. (a) (d) (h) & K of the Counterclaimant succeed, all other Counterclaims are hereby dismissed.

(Sgd)

A. O. ASENUGA

JUDGE

26/3/15

P.S

This Judgment was to have been delivered on the 20th day of January 2015 but the JUDICIAL SERVICE UNION OF NIGERIA (JUSUN), Ogun State Branch embarked on an indefinite strike from 2nd January, 2015 to 16th March 2015 hence the Judgment could not be delivered within three months.

(Sgd)

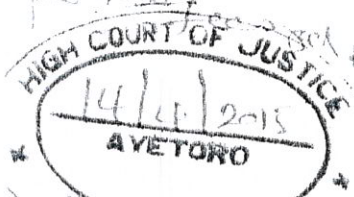
A. O. ASENUGA

JUDGE

26/3/15

CERTIFIED TRUE COPY

Oma.
O. Y. KUJORE-APAPA (MRS.)
ASST. CHIEF REGISTRAR



CERTIFIED TRUE COPY