

IN THE SUPREME COURT OF NIGERIA

HOLDEN AT ABUJA

ON FRIDAY, THE 8TH DAY OF MAY, 2026

BEFORE THEIR LORDSHIPS

UWANI MUSA ABBA AJI

JUSTICE, SUPREME COURT

TIJJANI ABUBAKAR

JUSTICE, SUPREME COURT

CHIOMA EGONDU NWOSU-IHEME

JUSTICE, SUPREME COURT

OBANDE FESTUS OGBUINYA

JUSTICE, SUPREME COURT

JAMILU YAMMAMA TUKUR

JUSTICE, SUPREME COURT

SC/CV/638/2025

BETWEEN:

1. THE GOVERNOR OF KOGI STATE
2. THE ATTORNEY GENERAL OF KOGI STATE
AND COMMISSIONER FOR JUSTICE APPELLANTS

AND

ELDER ACHUBA SIMON

.....

..... **RESPONDENT**

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Justice Abraham
REGISTRAR
Supreme Court of Nigeria

26/05/2026

Official

Hon. Justice U. M. Abba Aji, JSC

SC/CV/638/2025

JUDGMENT

(DELIVERED BY UWANI MUSA ABBA AJI, JSC)

My learned brother, **CHIOMA EGONDU NWOSU-IHEME, JSC**, availed me a draft copy of the judgment just delivered and I agree with his reasoning and conclusion that the appeal filed by the Appellants has merit to be allowed.

In Suit No.: NICN/ABJ//244/2019 filed by the Respondent as Claimant before the trial National Industrial Court, Abuja Judicial Division, he sought for these following reliefs:

- 1. A Declaration that the Claimant is entitled to all the rights and privileges of the office of the Deputy Governor of Kogi State of Nigeria including the prompt payment of all his travel allowances, monthly imprest, security votes and statutory allocations.*
- 2. A Declaration that the decision of the defendants to withhold the sum of N921,572,758.00 (Nine Hundred and Twenty-One Million, Five Hundred and Seventy-Two thousand, Seven Hundred and Fifty Naira) being the travel allowances, monthly imprest, security votes and other statutory allocations payable to the*

- Claimant as the Deputy Governor of Kogi State is discriminatory and amounts to unfair labour practice.*
- 3. An ORDER of this Honourable Court directing the Defendants to pay to the Claimant the sum of N921,572,758.00 (Nine Hundred and Twenty One Million, Five Hundred and Seventy-Two thousand, Seven Hundred and Fifty Naira) being the travel allowances, monthly imprest, security votes and other statutory allocations due to his office as the Deputy Governor of Kogi State.*
 - 4. An ORDER of this Honourable Court directing the Defendants to pay to the Claimant his monthly salary, travel allowance, monthly imprest, security votes and statutory allocations, due to him from August 2019 until the end of his tenure of office on the 29th of January 2020.*
 - 5. An ORDER of this Honourable Court directing the Defendants to pay to the Claimant 10% post judgment interest on the judgment sum per annum until the judgment sum is fully liquidated.*

The Appellants as Defendants denied the above claim in their entirety. After viva voice evidence and tendered documents, the NICN in its judgment on 4/11/2020, granted some of the reliefs sought by the Respondent.

Both dissatisfied, the Appellants appealed while the Respondent cross appealed. In the judgment of the lower court, the main appeal succeeded in part, while the cross appeal was dismissed in its entirety. The lower court thus affirmed the granting of reliefs A,B,C and D to the Respondent.

In order to enforce the judgment of the lower court, the Respondent carried out a computation of his Salaries, travel allowances and statutory allocations due to him in the 2017 and 2018 budget of Kogi State which was not paid to him by the State Government amounting to the sum of N1,070,860,138.00 (One Billion and Seventy Million, Eight Hundred and Sixty Thousand, One Hundred and Thirty Naira) which he instructed his Lawyers to write to the Appellants and demand that he should be paid. However, upon receipt of the letter, the Appellants replied that the

Honourable Court of Appeal did not award any judgment in favor of the Respondent to warrant them paying him.

In consequence, the Respondent, seeking for consequential orders to enforce its judgment, vide a Notice of motion sought for:

1. AN ORDER of this Honourable Court directing the Respondents to pay the Applicant His Monthly Salaries, Travel Allowances and Statutory Allocations due to the Applicant as provided for and approved in the 2017 and 2018 approved Budgets of Kogi State Government by virtue of the judgment of this Honourable Court CORAM:- Hon. Justice Mohammed Lawal Shaibu, Hon. Justice Hannatu Azumi Laja-Balogun and Hon. Justice Jane Esienanwan Inyang delivered on the 29th day of April, 2024 in APPEAL NO:-CA/ABJ/CV/30/2021 BETWEEN THE GOVERNOR OF KOGI STATE &ANOR V ELDER ACHUBA SIMON.
2. AN ORDER of this Honourable Court directing the Respondent to pay to the Applicant the sum of N1,070,860,138.00 (One Billion and Seventy Million, Eight Hundred and Sixty Thousand, One Hundred and Thirty Naira) as the Applicant's Monthly Salaries, Travel Allowances and Statutory Allocations due to the Applicant as provided for and approved in

the 2017 and 2018 approved Budgets of Kogi State Government.

3. *AN ORDER of this Honourable Court directing the National Industrial Court Abujato enforce the judgment of this Court in CORAM:-Hon. Justice Mohammed Lawal Shaibu, Hon. Justice Hannatu Azumi Laja-Balogun and Hon. Justice Jane Esienanwan Inyang delivered on the 29th day of April, 2024 in APPEAL NO:-CA/ABJ/CV/30/2021 BETWEEN THE GOVERNOR OF KOGI STATE & ANOR V ELDER ACHUBA SIMON wherein this Honourable Court ordered that the Applicant is entitled to payment of his monthly salaries, travel allowances and Statutory allocations as provided for in the 2017 and 2018 budget of Kogi State amounting to the total Sum of N1,070,860,138.00 (One Billion and Seventy Million, Eight Hundred and Sixty Thousand, One Hundred and Thirty Naira) only.*

While the Respondent submitted that the application before the lower court was meant to give effect to its own judgment, the Appellants contested same, insisting that the judgment of the Court of Appeal earlier delivered in Exhibit B did not indicate that the Appellants were indebted to the Respondent in sum of N1,070,860,138.00. Further, that the

Court of Appeal cannot review, vary or insert a new figure into its judgment, having become functus officio.

The Court of Appeal considered the Respondent's motion and granted all the reliefs sought. This triggered the present appeal by the Appellants.

No doubt, Exhibit B did not indicate that the Appellants were indebted to the Respondent in sum of N1,070,860,138.00. this figure is indeed concocted and did not form part of the original figure computed or which the Respondent sought against the Appellants. Having delivered same, the Court of Appeal cannot review, vary or insert a new figure into its judgment, having become functus officio.

Where the judgment is final and the court that enters it has no jurisdiction to set same aside having thereby become functus officio, the way to challenge it or remedy any defect therein is by appeal to a superior court. See Per ONNOGHEN, JSC, in **OGOLO V. OGOLO (2006) LPELR-**

2311(SC) (PP. 13 PARAS. A). Similarly, a Judge after making an order or giving judgment becomes functus officio. If errors are discovered in some judgment or order, the only remedy is to invoke the appellate jurisdiction of a higher Court to set aside the decision. See Per MOHAMMED, JSC, in **OYEFOLU & ORS V. DUROSINMI (2001) LPELR-2869(SC) (PP. 9 PARAS. E).**

The Appellants' appeal has merit and is hereby allowed.

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Uwani Musa Abba Aji
REGISTRAR
Supreme Court of Nigeria

26/05/2026
Official

Uwani Musa Abba Aji
**UWANI MUSA ABBA AJI
JUSTICE, SUPREME COURT**

APPEARANCES:

J.B. DAUDU, SAN. A.T. KEHINDE, SAN, ADEDAYO ADEDEJI, SAN, P. B. DAUDA, SAN (WITH THEM OLUFEMI O. ADEGBOYEGA, ESQ. C. E. OGBOZOR, ESQ.

EMMANUEL ONI, ESQ., PRECIOUS ANDREW, ESQ AND
A'ISHETU ISA, ESQ.), **FOR THE APPELLANTS.**

FEMI FALANA, SAN (WITH HIM, SAMUEL OGALA, ESQ.
AND EFE IYONU, ESQ.), **FOR THE RESPONDENT.**

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Yusuf Ibrahim
REGISTRAR
Supreme Court of Nigeria