

IN THE SUPREME COURT OF NIGERIA
HOLDEN IN ABUJA
ON FRIDAY THE 26TH DAY OF JUNE, 2026
BEFORE THEIR LORDSHIPS:

<u>TIJJANI ABUBAKAR</u>	<u>JUSTICE, SUPREME COURT</u>
<u>EMMANUEL AKOMAYE AGIM</u>	<u>JUSTICE, SUPREME COURT</u>
<u>CHIDIEBERE NWAOMA UWA</u>	<u>JUSTICE, SUPREME COURT</u>
<u>MOORE ASEIMO A. ADUMEIN</u>	<u>JUSTICE, SUPREME COURT</u>
<u>OBANDE FESTUS OGBUINYA</u>	<u>JUSTICE, SUPREME COURT</u>
<u>HABEEB ADEWALE O. ABIRU</u>	<u>JUSTICE, SUPREME COURT</u>
<u>MOHAMMED BABA IDRIS</u>	<u>JUSTICE, SUPREME COURT</u>

SC/481/2018

BETWEEN:

BEN MENE-EJEGI ESQ APPELLANT

AND

- 1. NIGERIAN BAR ASSOCIATION**
- 2. LEGAL PRACTITIONERS
DISCIPLINARY COMMITTEE**



JUDGMENT

(DELIVERED BY MOHAMMED BABA IDRIS, JSC)

This is an appeal against the direction of the Legal Practitioners Disciplinary Committee (LPDC), contained in its

decision delivered on the 22nd day of March, 2018 in Suit No. BB/LPDC/214/16, wherein the Committee found the two-count complaint against the Appellant proved and held him liable for infamous conduct in a professional sense, punishable under Section 12(1)(ii) of the Legal Practitioners Act (Revised), and made consequential directions.

The Appellant, a legal practitioner duly called to the Nigerian Bar, was arraigned before the Legal Practitioners Disciplinary Committee upon a two-count complaint dated the 20th day of October, 2016, filed before the Committee as follows:

- 1. That you, Ben Mene-Ejegi, Esq., a legal practitioner whose name is on the Roll of Legal Practitioners in Nigeria, adult male, and practising in Warri, sometime in October 2015, in your capacity as a legal practitioner, by false pretence received the sum of one million six hundred thousand naira only (₦1,600,000.00) from Tosan Olukpe as the purchase price for the land situate at Ajah-Etan Close, Warri, which does not belong*

to you, and thereby conducted yourself in an infamous manner contrary to Rule 1 of the Rules of Professional Conduct for Legal Practitioners 2007 and punishable under Section 12(1) of the Legal Practitioners Act, Cap. L11, LFN 2004 (as amended).

2. *That you, Ben Mene-Ejegi, Esq., a legal practitioner whose name is on the Roll of Legal Practitioners in Nigeria, adult male, and practising in Warri, sometime in October 2015, in your capacity as a legal practitioner, by false pretence received the sum of one million six hundred thousand naira only (N1,600,000.00) from Tosan Olukpe as the purchase price for the land situate at Ajah-Etan Close, Warri, which does not belong to you, and have refused to refund the said sum to Mr. Tosan Olukpe even after repeated demands, and thereby conducted yourself in an infamous manner contrary to Rule 1 of the Rules of Professional Conduct for Legal Practitioners 2007 and punishable under Section 12(1) of the*

Legal Practitioners Act, Cap. L11, LFN 2004 (as amended).

The case of the 1st Respondent was that it received a petition from one Mr. Tosan Olukpe, who alleged that sometime in 2010, he purchased a parcel of land situate in Warri, Delta State, from one Mr. Akuya. During the execution of the Deed of Conveyance for the said property, the Petitioner met the Appellant, who prepared the said Deed. Subsequently, the Appellant showed the Petitioner a fish pond and other parcels of land situate at Ajah-Etan close, Warri, which he represented as belonging to him and available for sale. The Petitioner agreed to purchase a specified parcel at the sum of ₦1,600,000.00, which he paid to the Appellant. The Appellant acknowledged receipt of the payment on the letterheaded paper of his law firm. However, when the Petitioner attempted to develop the land, he was informed that the Appellant was not the owner of the property and was forcibly ejected from the land and thereafter demanded a refund from the Appellant. The Appellant instead offered him an alternative parcel of land, which the Petitioner rejected.

Dissatisfied, the Petitioner lodged complaints with the Nigerian Police Force and the Nigerian Bar Association (NBA). Following investigation, the NBA found that a *prima facie* case of professional misconduct had been established against the Appellant, which led to the filing of the complaint before the LPDC.

In his defence, the Appellant contended that he had informed the Petitioner that the land in question was family land still undergoing survey and not yet fully available for sale and that despite this disclosure, the Petitioner chose to pay the purchase price. The Appellant further stated that the transaction was later disrupted when the land was reclaimed by the family. The Appellant claimed he made efforts to provide an alternative land, which the Petitioner refused and that he was not accorded fair hearing during the NBA investigation and admitted that the sum of ₦150,000.00 was refunded to the Petitioner by members of his family.

At the conclusion of the proceedings, the LPDC found both counts of the complaint proved and directed the Chief Registrar of the Supreme Court of Nigeria to strike out the name of the

Appellant off the Roll of Legal Practitioners maintained at the Supreme Court; and ordered the Appellant to refund the sum of ₦1,600,000.00 to the Petitioner through the NBA within 30 (thirty) days.

Dissatisfied with this decision, the Appellant has appealed to this Court vide a Notice of Appeal dated and filed the 16th day of April, 2018. The parties thereafter filed and exchanged their respective briefs of argument.

In Appellant's Brief of Argument dated and filed on the 6th day of November, 2023 settled by Frederick O. Olokor Esq., a sole issue was distilled for the determination of the appeal as follows:

Whether the panel of the 2nd Respondent that tried the Appellant was properly constituted when it heard and determined the complaint against the Appellant? Ground 1 and 2

On this issue, the learned counsel for the Appellant submitted that the LPDC was improperly constituted, contrary to Sections 10(1) and 10(2)(a) – (c) of the Legal Practitioners Act. It was argued that at the time the Appellant was tried, the

applicable law required that the Attorney-General of the Federation serve as Chairman of the LPDC. It was argued that the panel that tried the Appellant was headed by a private legal practitioner, which rendered the composition defective and robbed the Committee of jurisdiction. It was further submitted that the membership of the panel varied throughout the proceedings, and that some members who did not hear the evidence participated in the final decision. Reliance was placed on **MUYIDEEN VS. NBA (2012) ALL FWLR (PT. 111) 516 AT 530 – 531**, where it was held that a decision is liable to be set aside where those who heard the case are different from those who determined it and that such inconsistency amounts to a breach of fair hearing and renders the entire proceedings a nullity. Counsel emphasized that jurisdiction is fundamental and can be raised at any stage, even for the first time on appeal.

The Appellant also filed a supplementary brief of argument pursuant to the directive of this Court by a letter dated the 8th day of April, 2026, addressing the issue of whether this Court has the jurisdiction to entertain an appeal from the directions of the Legal Practitioners Disciplinary Committee. In the

Appellant's supplementary brief of argument dated the 10th day of April, 2026 and filed on the 13th day of April, 2026 by F. O. Olokor, Esq, a sole issue was also distilled for the determination of the appeal, to wit:

Whether or not the Supreme Court has jurisdiction to entertain an appeal from the directions of the Legal Practitioners Disciplinary Committee?

On this issue, the learned counsel for the Appellant submitted that jurisdiction is conferred by statute and traced the history of appeals under the Legal Practitioners Act and submitted that although earlier provisions provided for appeals to the Appeal Committee of the Body of Benchers, subsequent amendments, particularly the Legal Practitioners (Amendment) Decree No. 21 of 1994 restored the right of direct appeal to the Supreme Court. Reliance was placed on Charles **OKIKE VS. LPDC (2005) (No. 1) 3 – 4 SC 49**, where this Court held that it possesses the jurisdiction to hear appeals directly from the LPDC as the provisions of Section 233(1) of the 1999 Constitution (as amended) have not in any way ousted the

jurisdiction either expressly or impliedly of this Court to hear appeals from the Disciplinary Committee. It was argued that the omission of the 1994 amendment of the Legal Practitioners Act from the Laws of the Federation 2004 was inadvertent and does not amount to a repeal.

In the 1st Respondent's Brief of Argument dated the 5th day of July, 2024 and filed on the 8th day of July, 2024 by Yakubu S. Bawa Esq., a lone issue was also distilled for the determination of the appeal thus:

Whether the 2nd Respondent was properly constituted in law when it heard and determined the complaint against the Appellant?

On this issue, the learned counsel for the 1st Respondent submitted that the LPDC was properly constituted. It was argued that by virtue of Section 10(3) of the Legal Practitioners Act and paragraph 6 of the Second Schedule, proceedings of the LPDC are not invalidated by any irregularity in the appointment of its members. It was submitted further that the presence of the Chairman and requisite quorum at each sitting

satisfied the requirements of the law. Counsel maintained that variation in membership does not invalidate proceedings, provided the Chairman of the committee was consistent and quorum is maintained which was in tandem with Section 28 of the Interpretation Act and the decision of this Court in **NDUKWE VS. LPDC & ANOR (2007) LPELR – 1978 (SC)**. It was submitted that the Appellant failed to demonstrate how the alleged irregularities occasioned a miscarriage of justice.

The 1st Respondent also, pursuant to the directive of this Court by a letter dated the 8th day of April, 2026, addressing the issue of whether this Court has the jurisdiction to entertain an appeal from the directions of the Legal Practitioners Disciplinary Committee filed a second brief of argument dated the 13th day of April, 2026 and filed on the 21st day of April, 2026 settled by Yakubu S. Bawa Esq., wherein a sole issue was distilled for the determination of the appeal, to wit:

Whether the Honourable Court has jurisdiction to entertain an appeal from the direction(s) of the Legal Practitioner Disciplinary Committee?

On this issue, the learned counsel for the 1st Respondent referred to Sections 11 and 12(7) of the Legal Practitioners Act and submitted that prior to the amendments to the Act, appeals from the Legal Practitioners Disciplinary Committee lie to the Appeal Committee of the Body of Benchers, however, following the decision in **LPDC VS. FAWEHINMI (1985) 2 NWLR (PT. 7)**, several amendments were made to the Legal Practitioners Act, culminating in the Legal Practitioners (Amendment) Decree No. 21 of 1994 and by virtue of Section 10 of the said Amendment Decree, which amended Section 12(7) of the principal Act, a right of direct appeal from the LPDC to is Court was restored. Reliance was placed on **OKIKE VS. LPDC (2005) 3 – 4 SC 49**, wherein this Court considered the provisions of Section 12(7) of the Legal Practitioners Act, Section 10 of Decree No. 21 of 1994, and Section 233 of the Constitution, and held that this Court has the jurisdiction to entertain appeals directly from the LPDC. It was submitted that this Court has consistently exercised such jurisdiction in a plethora of cases.

The Court was urged to hold that it is vested with the requisite jurisdiction to entertain the instant appeal.

In the 2nd Respondent's Brief of Argument dated and filed on the 15th day of April, 2026 and settled by Monday Adjeh Esq., pursuant to the directive of this Court by a letter dated the 8th day of April, 2026, addressing the issue of whether this Court has the jurisdiction to entertain an appeal from the directions of the Legal Practitioners Disciplinary Committee, a sole issue was formulated for the determination of the appeal, to wit:

Whether or not this Honourable Court has jurisdiction to entertain an appeal from the direction(s) of the Legal Practitioners Disciplinary Committee.

On this issue, the learned counsel for the 2nd Respondent submitted that prior to 1975, appeals from the Disciplinary Committee lay directly to the Supreme Court and that the 1975 Legal Practitioners Act however, introduced an intermediate appellate body, namely the Appeal Committee of the Body of Benchers. It was further submitted that this intermediate layer

was subsequently removed by the Legal Practitioners (Amendment) Decree No. 21 of 1994, which restored the earlier position of direct appeals from the LPDC to this Court. Reliance was placed on **AKINTOKUN VS. LPDC (2014) 13 NWLR (PT. 1423) 1**, where this Court examined the legislative history of the Legal Practitioners Act and held that Decree No. 21 of 1994 has not been repealed and remains part of the extant laws of the Federation. It was argued that although the provisions of the said Decree were not incorporated into the Laws of the Federation of Nigeria 2004, such omission does not amount to repeal. Reference was made to Section 2 of the Revised Edition (Laws of the Federation of Nigeria) Act, 2007, which provides that any inadvertent omission or alteration of an existing statute shall not affect its validity or applicability. Reliance was further placed on **NWALUTU VS. NBA (2019) 8 NWLR (PT. 1673) 174 AT 192**, to the effect that an omission in a legislative compilation does not extinguish the legal force of a validly enacted statute that has not been expressly repealed. It was submitted that Decree No. 21 of 1994 remains operative and continues to govern appeals from the LPDC, thereby conferring jurisdiction

on this Court to entertain the instant appeal and the Court was urged to so hold.

RESOLUTION OF THE ISSUES

I have carefully read and provided a summary of the arguments contained in the briefs of argument filed by the learned counsel for the parties. I consider it necessary, in *limine*, to determine the issue of jurisdiction raised by this Court *suo motu* and upon which counsel for the parties were specifically invited to address the Court. The necessity for raising the issue arose from the judgment of this Court in **OSUJI VS. L.P.D.C. (2025) 17 NWLR (PT. 2014) 317**, delivered on the 4th day of July, 2025, wherein this Court held that an appeal does not lie directly from a decision of the Legal Practitioners Disciplinary Committee to the Supreme Court. Following that decision, considerable debate and divergent opinions emerged within the legal community, including amongst members of the Nigerian Bar Association, the Body of Senior Advocates of Nigeria, and the Body of Benchers. In view of the significance of the issue and its far-reaching implications for the legal profession and the administration of justice, this

Court considered it appropriate that the question be revisited at the earliest opportunity in order to settle the law with finality. It was for this reason that learned counsel for the parties were invited to address the Court specifically on whether this Court has the requisite jurisdiction to entertain an appeal directly from a decision of the Legal Practitioners Disciplinary Committee. Pursuant thereto, the parties filed their respective Supplementary Briefs of Argument, the substance of which has already been set out in this judgment.

It is pertinent to observe that the issue formulated by learned counsel for the Appellant in the Supplementary Brief, and those distilled by learned counsel for the Respondents, are substantially similar in substance and effect. I shall, therefore, proceed to resolve the jurisdictional question by adopting the issue as formulated by the Appellant. Thereafter, and only in the event that the circumstances so warrant, shall I proceed to consider the issue formulated for the determination of the substantive appeal.

SOLE ISSUE

Whether or not the Supreme Court has jurisdiction to entertain an appeal from the directions of the Legal Practitioners Disciplinary Committee?

Jurisdiction is the lifeblood of adjudication; it constitutes the very foundation upon which the authority of a court to entertain and determine a matter rests. Consequently, where a court embarks upon proceedings in the absence of jurisdiction, such proceedings, no matter how meticulously conducted or elegantly reasoned, are a nullity, for one cannot place something on nothing and expect it to stand. See generally, the cases of **UAC VS. MACFOY (1961) 3 ALL ER 1169; MUSACONI LIMITED VS. ASPINALL (2013) LPELR – 20745 (SC); PETROJESSICA ENTERPRISES LTD & ANOR VS. LEVENTIS TECHNICAL CO. LTD (1992) LPELR – 2915 (SC); SENI VS. ATTA & OTHERS (2023) LPELR – 59880 (SC); NDUKWE VS. AYU & OTHERS (2022) LPELR – 58905 (SC); IGBOKE VS. CHUKWU & OTHERS (2023) LPELR – 60104 (SC); ELEGBE & ANOR VS. HP INT’L SCHOOLS LTD & ORS (2026) LPELR –**

83245 (SC); and YALEWA VS. SHAFARMA (2025) LPELR – 83091 (SC).

On this issue, it is the submission of learned counsel for the parties herein that, by virtue of the Legal Practitioners (Amendment) Decree No. 21 of 1994, the right of appeal from the Legal Practitioners Disciplinary Committee to this Court was restored. I find considerable merit in that submission. The Legal Practitioners Act, originally enacted in 1975 and subsequently amended from time to time, is presently incorporated in the revised edition Cap. L11, Laws of the Federation of Nigeria, 2004, which embodies, *inter alia*, the provisions of the Legal Practitioners (Amendment) Decree No. 21 of 1994. The Act establishes the Legal Practitioners Disciplinary Committee, a statutory body constituted pursuant to Section 11 thereof and operating as a standing committee of the Body of Benchers. The Committee is charged with the duty of considering and determining any case in which it is alleged that a person whose name is on the Roll of Legal Practitioners has misbehaved in his capacity as a legal practitioner or should, for any other reason, be made the subject of proceedings under the Act. The disciplinary

framework established by the Act is designed to preserve the integrity of the legal profession and to ensure the maintenance of the high ethical and professional standards expected of legal practitioners.

Of particular relevance to the issue under consideration is Section 12(7) of the Legal Practitioners Act which provides as follows:

(7) The person to whom such a direction relates may, at any time within 28 days from the date of service on him of notice of the direction, appeal against the direction to the Supreme Court: and the Disciplinary Committee may appear as respondent to the appeal and, for the purpose of enabling directions to be given as to the costs of the appeal and of proceedings before the Disciplinary Committee, shall be deemed to be a party thereto

***whether or not it appears on the
hearing of the appeal. (1994 No. 21)***

At this juncture, it is necessary to address the propriety of this Court raising the issue of jurisdiction *suo motu*. The law is settled beyond peradventure that although a court is entitled, and indeed under a duty, to raise an issue for determination whenever the circumstances of a case so warrant, it ought not ordinarily to determine such issue without first affording the parties an opportunity to be heard thereon. The rationale for this principle is anchored on the constitutional guarantee of fair hearing. See **EAGLE SUPER PACK (NIG.) LTD VS. A. C. B. PLC (2006) LPELR – 980 (SC); EFFIOM & ORS VS. CROSIEC & ANOR (2010) LPELR – 1027 (SC); and AFRIMPEX ENTERPRISES LTD VS. NAL BANK PLC (2025) LPELR – 83132 (SC).**

However, the foregoing principle is not without exceptions. This Court has consistently held that there are certain exceptional circumstances in which a court may competently raise and determine an issue *suo motu* without necessarily inviting parties to address it. One such exception is

where the issue relates to the jurisdiction of the court itself. Other exceptions arise where the parties have ignored, or are unaware of, a relevant constitutional or statutory provision bearing directly on the matter before the court, or where a serious issue of procedural unfairness is apparent on the face of the record.

In **GBAGBARIGHA VS. TORUEMI & ANOR (2012) LPELR – 15535 (SC)**, this Court explained the principle and its exceptions in the following terms:

"When a judge raises an issue on his own motion, or raises an issue not in the contemplation of the parties, or an issue not before the court, the judge is said to have raised the issue suo motu. The well laid down position of the law is that when an issue is raised suo motu the parties should be heard before a decision is reached on the issue. This is what procedural fairness entails. See Kuti v. Balogun 1978 1 SC. p. 53; Ogiamen v. Ogiamen 1967 NMLR p. 246; Adeniji v. Adeniji

1972 4 SC p. 10; Irri v. Erhurhobara 1991 2 NWLR Pt. 173 p. 252. But there is an exception to this procedure. There would be no need to call on counsel to address the Court on an issue raised suo motu by the judge:

- 1. When the issue relates to the Court's own jurisdiction;*
- 2. When both parties are not aware or ignored a statute which may have bearing on the case; or*
- 3. When on the face of the Record serious questions of the fairness of the proceedings is evident. See Comptoir Commercial & Ind. S.P.R. Ltd v. O.S.W.C. (2002) FWLR Pt. 105 p. 839; M. O. Kolawole & Ors v. A. G. Oyo State & 3 Ors (2006) 3 NWLR (Pt. 966) p. 50."*

Similarly, in the recent case of **EDEDE VS. A – G FEDERATION & ANOR (2025) LPELR – 82109 (SC)**, this Court observed as follows:

"I am aware that the Court can raise an issue and determine it suo motu where it relates to an obvious issue of jurisdiction of the Court, or where the parties ignored or were not aware of a relevant constitutional or statutory provision; or where, looking at the record of appeal, a serious issue of unfairness of the proceedings is disclosed, without necessarily inviting the parties to be heard on it."

Notwithstanding the existence of these exceptions, this Court, in deference to the parties' constitutional right to fair hearing, specifically invited learned counsel for the respective parties to address it on the issue of jurisdiction, particularly as it relates to the appellate jurisdiction of this Court to entertain appeals arising from the directions or decisions of the Legal

Practitioners Disciplinary Committee. Learned counsel duly complied by filing supplementary briefs of argument.

It is, however, noteworthy that notwithstanding the opportunity so afforded, no substantial submissions were made concerning the constitutional implications of Section 12(7) of the Legal Practitioners Act or its compatibility with the appellate jurisdiction vested in this Court by the Constitution of the Federal Republic of Nigeria. It is trite that counsel owe a duty not only to their clients but also to the Court, as ministers in the temple of justice, to assist in the proper administration of justice by placing before the Court all relevant arguments, authorities and considerations necessary for the determination of issues arising for adjudication. Where, therefore, a court invites addresses on a specific issue and counsel elect, for whatever reason, not to canvass all available arguments thereon, the consequences of such omission cannot be visited upon the Court.

The constitutional requirement of fair hearing is satisfied once parties are afforded a reasonable and adequate opportunity to present their case and address the Court on

issues material to the determination of the dispute. It does not impose an obligation on the Court to ensure that such opportunity is fully utilised or exhaustively exploited by the parties. Having afforded learned counsel every opportunity to address the jurisdictional issue, any omission or failure on their part to advance arguments on any aspect thereof, cannot be attributed to the Court. Consequently, this Court is entitled to proceed to determine the issue of jurisdiction on the basis of the applicable law, of which judicial notice is taken.

It is settled that courts in Nigeria are creatures either of the Constitution or statute, and their jurisdiction is circumscribed by the enabling provisions creating them. See **MURTALA & ANOR VS. INEC & ORS (2024) LPELR – 79942 (SC)**. This Court has consistently maintained that it cannot assume jurisdiction not expressly conferred upon it.

In **ALAO VS. ACB LTD (2000) LPELR – 408 (SC)**, this Court held thus:

"Although this Court is the Court of last resort, it is nevertheless a Court of appellate jurisdiction. Its jurisdiction is

clearly laid down in the Constitution. And except for the original jurisdiction given it in Section 232 of the 1999 Constitution (See Section 212 of the 1979 Constitution), its jurisdiction is appellate only, with incidental original jurisdiction conferred by Subsection (6)(a) of Section 6 of the Constitution, for the purpose of exercising that appellate jurisdiction. The Court is statutory and cannot, therefore, for the sake of doing justice confer on itself a jurisdiction that is not given it by the Constitution or by any statute. Moreover, it is in the public interest that there should be an end to litigation.”

Guided by the foregoing, this Court has, in a plethora of cases, laid down principles guiding the interpretation of constitutional provisions. In **MARWA & ORS VS. NYAKO & ORS (2012) LPELR – 7837 (SC)**, this Court per Onnoghen, JSC, held that:

"Over the years the Supreme Court has devised guidelines to the interpretation of not only statutes but most importantly our constitutional provisions, including the now famous twelve (12) point rule of constitutional interpretation propounded by Obaseki, JSC in the case of Attorney-General of Bendel State v. Attorney-General of the Federation (1981) 10 SC. 1; (1981) 1 FNLR 179 as follows:

- (1) Effect should be given to every word used in the Constitution.*
- (2) A construction nullifying a specific clause in the Constitution shall not be tolerated, unless where absolutely necessary.*
- (3) A constitutional power should not be used to attain an unconstitutional result.*
- (4) The language of the Constitution, where clear and unambiguous must*

be given its plain and evident meaning.

(5) The Constitution of the Federal Republic of Nigeria is an organic scheme of government to be dealt with as an entirety hence a particular provision should not be severed from the rest of the Constitution.

(6) While the language of the Constitution does not change the changing-circumstances of a progressive society for which it was designed, it can yield new and further import of its meaning.

(7) A constitutional provision should not be construed in such a way as to defeat its evident purpose.

(8) Under the Constitution granting specific powers, a particular power must be granted before it can be exercised.

- (9) *Declaration by the National Assembly of its essential legislative functions is precluded by the Constitution.*
- (10) *Words are the common signs that men make use of to declare their intentions one to another, and when the words of a man express his intentions plainly, there is no need to have recourse to other means of interpretation of such words.*
- (11) *The principles upon which the Constitution was established rather than the direct operation or literal meaning of the words used should measure the purpose and scope of its provisions.*
- (12) *Words of the Constitution are, therefore, not to be read with "stultifying narrowness."*

However, in Ishola v. Ajiboye (1994) 7 - 8 SCNJ (Pt.1) 1 at 35, Ogundare, JSC after

adopting the twelve (12) point rule supra, gave his own four (4) point rule as follows:

- 1. Constitutional language is to be given a reasonable construction, and absurd consequences are to be avoided;*
- 2. Constitutional provisions dealing with the same subject matter are to be construed together;*
- 3. Seemingly conflicting parts are to be harmonized, if possible, so that effect can be given to all parts of the Constitution.*
- 4. The position of an article or clause in the Constitution influences its construction.*

It is settled law that the object of interpreting statute or the Constitution is to discover the intention of the legislature,

which intention is usually deduced from the language used.

The golden rule of interpretation of constitutional provisions is therefore that words of the Constitution must, prima facie, be given their ordinary meaning which means I must look closely at the words used in the provisions and assign them their ordinary meanings if the words are not ambiguous."

From the foregoing exposition, the governing principles of constitutional interpretation are settled and admit of no controversy. Where the language of the Constitution is clear and unambiguous, it must be accorded its plain, ordinary and grammatical meaning. The Court is neither at liberty to read into its provisions words which are not contained therein, nor to import into it notions not contemplated by its framers. The Constitution, being an organic instrument of governance, must be construed holistically; its provisions are not to be read in isolation but in harmony with the entire scheme it establishes.

Furthermore, under a constitution which confers specific powers, such powers must be expressly granted before they can be validly exercised. It is in the light of these settled principles that the question of the jurisdiction of this Court must be examined.

This Court is a creation of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), and its jurisdiction both original and appellate is circumscribed by the provisions thereof. Section 232 of the Constitution deals exclusively with the original jurisdiction of this Court and provides as follows:

"232

(1) The Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute between the Federation and a State or between States if and in so far as that dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends.

(2) In addition to the jurisdiction conferred upon it by subsection (1) of this section, the Supreme Court shall have such original jurisdiction as may be conferred upon it by any Act of the National Assembly. Provided that no original jurisdiction shall be conferred upon the Supreme Court with respect to any criminal matter."

By subsection (1), this Court is vested with original jurisdiction, to the exclusion of any other court, in disputes between the Federation and a State or between States, where such disputes involve questions on which the existence or extent of a legal right depends. Subsection (2) empowers the National Assembly to confer additional original jurisdiction on this Court by statute, subject only to the limitation that such jurisdiction shall not extend to criminal matters. It is manifest that the provision relates strictly to original jurisdiction and does not extend, either expressly or by implication, to appellate jurisdiction.

The appellate jurisdiction of this Court is, however, governed by Section 233 of the Constitution which provides:

(1.) The Supreme Court shall have jurisdiction, to the exclusion of any other court of law in Nigeria, to hear and determine appeals from the Court of Appeal.

(2.) An appeal shall lie from decisions of the Court of Appeal to the Supreme Court as of right in the following cases –

(a) where the ground of appeal involves questions of law alone, decisions in any civil or criminal proceedings before the Court of Appeal;

(b) decisions in any civil or criminal proceedings on questions as to the interpretation or application of this Constitution;

- (c) decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter IV of this Constitution has been, is being or is likely to be, contravened in relation to any person;***
- (d) decisions in any criminal proceedings in which any person has been sentenced to death by the Court of Appeal or in which the Court of Appeal has affirmed a sentence of death imposed by any other court;***
- (e) decisions on any question - (i) whether any person has been validly elected to the office of President or Vice-President under this Constitution, (ii) whether the term of office of President, Vice-President has ceased, (iii)***

whether the office of President or Vice-President has become vacant; (iv) whether any person has been validly elected to the office of Governor or Deputy Governor under this Constitution; (v) whether the term of office of Governor or Deputy Governor has ceased, (vi) whether the office of Governor or Deputy Governor has become vacant; and
(f) such other cases as may be prescribed by an Act of the National Assembly."

The language of subsection (1) is unequivocal. It vests in this Court jurisdiction, to the exclusion of any other court of law in Nigeria, to hear and determine appeals from the Court of Appeal. Subsection (2) proceeds to enumerate the categories of appeals that shall lie to this Court as of right. A careful and dispassionate reading of these provisions leaves no

room for doubt that the appellate jurisdiction of this Court is confined, strictly and exclusively, to appeals emanating from the Court of Appeal. No other court, tribunal, or body is contemplated by the Constitution as a source of appeals directly to this Court. See generally, the cases of **ADIO & ANOR VS. STATE (1986) LPELR – 183 (SC); KALU VS. ODILI & ORS (1992) LPELR – 1653 (SC); AFRICAN REINSURANCE CORPORATION VS. JDP CONSTRUCTION (NIG) LTD (2003) LPELR – 215 (SC); AG OYO STATE & ANOR VS. FAIRLAKES HOTEL LTD (1988) LPELR – 24926 (SC)** and **YARDUA & ORS VS. YANDOMA & ORS (2014) LPELR – 24217 (SC).**

The intention of the framers of the Constitution is further illuminated when Section 233 is read alongside Section 240 thereof and it provides:

"Subject to the provisions of this Constitution, the Court of Appeal shall have jurisdiction to the exclusion of any other court of law in Nigeria, to hear and determine appeals from the

Federal High Court, the National Industrial Court, the High Court of the Federal Capital Territory, Abuja, High Court of a State, Sharia Court of Appeal of the Federal Capital Territory, Abuja, Sharia Court of Appeal of a State, Customary Court of Appeal of a State and from decisions of a court martial or other tribunals as may be prescribed by an Act of the National Assembly.”

When this provision is placed side by side with Section 233 of the Constitution, it becomes manifest that, while the appellate jurisdiction of the Court of Appeal is expressly made subject to the provisions of the Constitution and extends to appeals from the courts and tribunals specifically enumerated therein, as well as such other courts or tribunals as may be prescribed by an Act of the National Assembly, the provision relating to the Supreme Court is distinctly and more restrictively couched. In other words, the Constitution clearly contemplates a broader and more flexible appellate jurisdiction for the Court

of Appeal, capable of statutory expansion, whereas the appellate jurisdiction of this Court is rigidly confined to appeals emanating from the Court of Appeal alone, with no corresponding constitutional allowance for enlargement by legislative intervention. That distinction was succinctly captured by this Court in **AG OYO STATE & ANOR VS. FAIRLAKES HOTEL LTD (1988) LPELR – 24926 (SC)**, where Karibi-Whyte, JSC observed that:

"It appears to me unambiguous that the exclusive jurisdiction to hear and determine appeals from the Court of Appeal is vested by Section 213(1) of the Constitution in the Supreme Court. This jurisdiction unlike that of the Court of Appeal under Section 219 is not made subject to the provisions of the Constitution. Thus, only the Supreme Court can exercise jurisdiction, to the exclusion of any other Court in Nigeria, over the decisions of the Court of Appeal. It does not appear that the provisions of Section 219

which makes the Court of Appeal, subject to the provisions of this Constitution leaves it in an equally strong position. It is conceded that as at present the Court of Appeal exercises jurisdiction over all other subordinate Courts named therein and those which may be conferred by statute, but this position can be altered by an amendment of the Constitution."

This pronouncement underscores, beyond peradventure, the deliberate constitutional design which insulates the appellate jurisdiction of this Court from statutory enlargement, while permitting a measure of legislative flexibility in respect of the jurisdiction of the Court of Appeal. The necessary implication of this scheme is that, whereas the legislature is empowered to expand the appellate jurisdiction of the Court of Appeal by statute, no such corresponding power is conferred in respect of the appellate jurisdiction of this Court. The omission is neither accidental nor inadvertent; it is deliberate, significant, and must be accorded its full constitutional effect.

It is a settled canon of constitutional interpretation that the express mention of one thing implies the exclusion of others not mentioned - "*expressio unius est exclusio alterius*".

It is not in doubt that the National Assembly derives its legislative authority from Section 4 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), particularly subsection (2) thereof, which empowers it to make laws for the peace, order and good governance of the Federation with respect to matters contained in the Exclusive Legislative List. Item 49 of that List brings within its purview professional occupations, including the legal profession, thereby providing the constitutional foundation for the enactment of the Legal Practitioners Act. Items 67 and 68 further extend legislative competence to matters incidental or supplementary to those expressly listed, including, by virtue of Part III, Item 2, matters relating to the jurisdiction, powers, practice and procedure of courts of law. However, these legislative powers, wide as they may appear, are not at large. They are circumscribed and controlled by the supremacy of the Constitution. The National Assembly cannot validly exercise its powers in a manner that derogates from, or is inconsistent with, any provision of the

Constitution. This position was emphatically reiterated by this Court in **INEC VS. MUSA (2003) LPELR – 24927 (SC)** where Tobi, JSC stated that:

"The supremacy of the National Assembly is subject to the overall supremacy of the Constitution. Accordingly, the National Assembly which the Constitution vests powers cannot go outside or beyond the Constitution. Where such a situation arises, the courts will, in an action by an aggrieved party, pronounce the Act unconstitutional, null and void. See A.-G., Abia State v. A.-G. Federation (2002) 6 NWLR (Pt. 763) 264."

Applying these principles to the instant case, it is evident that Section 233 of the Constitution neither made the appellate jurisdiction of this Court subject to any other provision of the Constitution in a manner that would permit legislative enlargement, nor does it confer, either expressly or by necessary implication, any power on the National Assembly to expand the sources from which appeals may lie to this Court.

The jurisdiction of this Court, in its appellate capacity, remains strictly confined to appeals from the Court of Appeal.

It follows, therefore, that any statutory provision, including Section 12(7) of the Legal Practitioners Act, which purports to confer a right of direct appeal from the Legal Practitioners Disciplinary Committee to this Court, must yield to the supremacy of the Constitution. By virtue of Section 1(3) of the Constitution, such a provision is null and void to the extent of its inconsistency.

This Court is not unmindful of its earlier decision in **OKIKE VS. LPDC (2005) 3 – 4 SC 49**, wherein the issue arose whether, notwithstanding the provisions of Section 233 of the Constitution, this Court possessed the jurisdiction to entertain appeals directly from the Legal Practitioners Disciplinary Committee. In resolving that issue, this Court observed thus:

"It seems to me the power mentioned under Section 232 subsection (2), enabling the National Assembly to increase the original jurisdiction of the Supreme Court, is not similarly mentioned

under Section 233 subsection (1) of the National Assembly to extend or increase the jurisdiction of the Supreme Court to hear appeals from the Court of Appeal. The reason is clear. The subsection has already given the Supreme Court the exclusive jurisdiction to hear appeals from the Court of Appeal. This provision is exhaustive. There is nothing more left, by way of appeal from the Court of Appeal that the National Assembly can increase or add to the jurisdiction of the Supreme Court. That is why the provision which appears under Section 232 subsection (2) cannot be found under Section 233 subsection (1). Therefore, to read into the latter the provisions of Section 232 subsection (1) is, in my opinion, to do violence to Section 233(1)."

Notwithstanding the foregoing observations, the Court ultimately assumed jurisdiction and proceeded to determine the appeal. With profound respect to the eminent Justices who constituted the panel in **OKIKE VS. LPDC (SUPRA)**, the constitutional implications of Sections 233(1) and 240 of the Constitution were not examined against the backdrop of the settled principles governing constitutional interpretation. In particular, the exhaustive nature of the appellate jurisdiction conferred upon this Court by the Constitution did not receive the detailed and holistic consideration which the issue demanded. Put differently, the constitutional architecture regulating appeals to this Court was not construed as a whole, nor were the relevant provisions interpreted in a manner that gave effect to the supremacy, coherence and internal harmony of the Constitution. Had the relevant provisions been considered together and in accordance with the established canons of constitutional interpretation, the conclusion reached may well have been different.

Be that as it may, this Court is conscious of the fact that it is the apex court of the land, whose decisions are final and binding. Consequently, it does not lightly depart from its

previous decisions merely because another view appears preferable. The doctrine of *stare decisis* remains a cardinal pillar of our jurisprudence, ensuring certainty, predictability and stability in the law. See **CARDOSO VS. DANIEL (1986) 2 NWLR (PT. 20) 1**. Nevertheless, while precedent is indispensable to the orderly administration of justice, it is not an inflexible dogma. Where adherence to a previous decision would perpetuate error or injustice, this Court has not hesitated to revisit its earlier pronouncements.

In **BUCKNOR-MACLEAN VS. INLAKS LTD (1980) 8 – 11 SC 1**, this Court, per Idigbe, JSC, approvingly adopted the statement of Lord Morris in **CONWAY VS. RIMMER (1968) AC 910**, thus:

"...I share the view of Lord Morris in Conway v. Rimmer that "though precedent is an indispensable foundation on which to decide what is the law there may be times when a departure from precedent is in the interest of justice and the proper

development of the law. [See (1968) 1 All E.R. 874 at 892 D - E]."

This Court has consistently held that although it will be wary of overruling itself, it will not hesitate to do so where compelling circumstances exist. See **AFRIBANK (NIG.) PLC VS. CBN (2025) LPELR – 80669 (SC)** and **AKINTOKUN VS. LPDC (2014) 13 NWLR (PT. 1423) 1**.

In **AKINTOKUN VS. LPDC (SUPRA)**, this Court, per Odili, JSC, relying on **NNUBIA VS. ATTORNEY-GENERAL, RIVERS STATE (2009) 40 NSCQR 90 AT 155 – 156**, restated the circumstances under which it may depart from its previous decisions, thus:

"...On this matter of overruling itself, the case of Nnubia v. Attorney General of Rivers State & 2 Ors (2009) 40 NSCQR 90 at 155 – 156 is instructive and I shall refer to it and thus I quote:

"It is trite that this Court as an Apex will be wary to overrule itself or depart from its previous decisions

on the persuasive and eloquent submission of counsel but will not hesitate to do so when there is urgent need to revisit the law. The need to depart from any previous decision of this Court must be strong and substantial and must be done in the interest of justice. They include the under mentioned instances:

- (1) Where it is shown that the previous decision is inconsistent with the Constitution or erroneous in law.*
- (2) Where the previous decision was given per in curiam.*
- (3) Where two decisions are in conflict.*
- (4) Where it is shown that the previous decision is occasioning a miscarriage of justice or*

appropriate circumstances: See Eperokun v. University of Lagos (1986) 4 NWLR (Pt. 34) 162 at 193." (Emphasis mine)

The law is not a fossil preserved in the museum of antiquity. It is a living and dynamic instrument designed to regulate an ever-changing society. As Lord Denning famously observed in **PACKER VS. PACKER (1954) 2 ALL ER 127**, if we never do anything which has not been done before, we shall never get anywhere. The law will stand still whilst the rest of the world goes on; and that will be bad for both. Equally instructive is the enduring observation of Roscoe Pound that Law must be stable and yet it cannot stand still. These statements encapsulate the delicate balance between certainty and justice. While this Court remains committed to the doctrine of *stare decisis*, it cannot permit fidelity to precedent to override fidelity to the Constitution. Where an earlier decision is shown to be inconsistent with the Constitution, the demands of constitutional supremacy outweigh the demands of precedent. The Constitution is immutable only in its

supremacy; judicial interpretation must remain responsive to its true meaning whenever that meaning is called into question.

Once it is accepted that fidelity to the Constitution must prevail over fidelity to precedent whenever the two come into conflict, the question that naturally arises is whether the exercise of this Court's power to depart from one of its previous decisions is dependent upon an invitation by counsel. In my respectful view, it is not.

It is not in dispute that under the erstwhile Supreme Court Rules, culminating in the Supreme Court Rules, 2014, any party desirous of inviting this Court to depart from one of its previous decisions was required to specifically and expressly notify the Court of that intention, however, the equivalent of Order 6 Rule 5(4) of the Supreme Court Rules, 2014 does not appear in the Supreme Court Rules, 2024. The omission is not without significance. It underscores the fact that the power of this Court to revisit and, where necessary, depart from its previous decisions is not dependent upon an invitation by counsel. Rather, it inheres in the constitutional status of this Court as the final judicial authority in the Federation. The invitation of

counsel may undoubtedly assist the Court, but it is not a condition precedent to the exercise of the Court's power. The authority to depart from an erroneous precedent resides in the Court itself and not in the parties. To hold otherwise would mean that this Court, having become aware of a constitutional error in one of its previous decisions, must nevertheless perpetuate the error merely because counsel failed to draw its attention thereto. Such a proposition is wholly untenable. Indeed, the judicial oath administered to every Justice of this Court requires fidelity to the Constitution above all else. Consequently, where it becomes apparent that an earlier decision of this Court is inconsistent with the Constitution, occasions manifest injustice, or purports to expand jurisdiction beyond constitutional limits, this Court cannot abdicate its constitutional responsibility by sheltering under procedural formalities.

Consequently, although this Court will ordinarily act upon an invitation by counsel when called upon to reconsider one of its previous decisions, however, nothing prevents it from raising the issue *suo motu* and departing from such decision where the interests of justice and constitutional fidelity so

demand, provided always that the parties are afforded a fair opportunity to address the Court on the issue. In the instant case, the issue of jurisdiction was specifically raised by the Court *suo motu*, and learned counsel on both sides were afforded ample opportunity to address the Court thereon. Having carefully considered their submissions and undertaken a fresh examination of the relevant constitutional provisions, I am satisfied that the decision in **OKIKE VS. LPDC (SUPRA)**, to the extent that it recognized a direct right of appeal from the Legal Practitioners Disciplinary Committee to this Court, cannot be reconciled with the clear provisions of Sections 233 and 240 of the Constitution.

The Constitution vests this Court with appellate jurisdiction principally over decisions of the Court of Appeal and does not constitute it as a court of direct appellate review over bodies exercising original jurisdiction, save in respect of decisions of the Court of Appeal rendered in the exercise of its original jurisdiction pursuant to Section 239 of the Constitution. The appellate structure established by the Constitution is deliberate, hierarchical and exhaustive. No Act of the National

Assembly can enlarge that jurisdiction beyond the limits expressly prescribed by the Constitution.

Consequently, I hold that Section 12(7) of the Legal Practitioners Act, to the extent that it purports to confer a direct right of appeal from the Legal Practitioners Disciplinary Committee to this Court, is inconsistent with Sections 233 and 240 of the Constitution and is therefore void by virtue of Section 1(3) thereof.

I further hold that the decision of this Court in **OKIKE VS. LPDC (2005) 3 – 4 SC 49**, in so far as it recognized and exercised such appellate jurisdiction, was reached without full consideration of the relevant constitutional framework and cannot be allowed to stand as a correct statement of the law and to that extent, the said decision is hereby overruled.

In the circumstances, I hold that this Court lacks the jurisdiction to entertain a direct appeal from the decision of the Legal Practitioners Disciplinary Committee. The only constitutionally recognised appellate route by which an appeal may reach this Court is through the Court of Appeal.

Consequently, this appeal is incompetent and same is therefore hereby struck out for want of jurisdiction.


MOHAMMED BABA IDRIS
JUSTICE, SUPREME COURT

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REGISTRAR
SUPREME COURT OF NIGERIA

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