



COMMUNITY COURT OF JUSTICE, ECOWAS
COUR DE JUSTICE DE LA COMMUNAUTE, CEDEAO
TRIBUNAL DE JUSTICA DA COMUNIDADE, CEDEAO

**THE COMMUNITY COURT OF JUSTICE OF THE
ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)**

In the Matter of

**PRIETESS LOVINA AMINA ADONOR V FEDERAL REPUBLIC OF
NIGERIA**

Application No: ECW/CCJ/APP/61/22 - Judgment NO. ECW/CCJ/JUD/02/25

JUDGMENT

ABUJA

DATE: 13th February, 2025.

JUDGMENT NO. ECW/CCJ/JUD/02/25

PRIETESS LOVINA AMINA ADONOR

- APPLICANT

V.

FEDERAL REPUBLIC OF NIGERIA

-RESPONDENT

COMPOSITION OF THE COURT:

Hon. Justice Ricardo Cláudio Monteiro GONÇALVES

-Presiding

Hon. Justice Sengu Mohamed KOROMA

- Member/ Rapporteur

Hon. Justice Amoako Edward ASANTE

-Member

ASSISTED BY:

Dr. Yaouza OURO-SAMA

- Chief Registrar



REPRESENTATION OF PARTIES:

President AIGBOKAN Esq.

- Counsel for the APPLICANT

Maimuna Lami SHIRU (Mrs.)

- Counsel for the RESPONDENT

I.I. HASSAN



I. JUDGMENT

1. This is the judgment of the Community Court of Justice, ECOWAS (hereinafter referred to as 'the Court') delivered virtually in open Court pursuant to Article 8(1) of the Practice Direction on Electronic Case Management and Virtual Court Session, 2020.

II. DESCRIPTION OF THE PARTIES

2. The Applicant is Lovina Amina Adonor, a citizen of the Federal Republic of Nigeria.
3. The Respondent is the Federal Republic of Nigeria and a Member State of ECOWAS.

III. INTRODUCTION

4. The present claims, brought by the Applicant are grounded on the right of a woman to propagate her religion and belief, the right to security of persons, and the right of a woman to own property and not to be discriminated against. These allegations are premised on obligations under the basic texts of the ECOWAS community and the International Covenant on Civil and Political Rights, the African Charter on Human and People's Rights, International Covenant on Economic Social and Cultural Rights, Covenant on the Elimination of All Forms of Discrimination, which the Respondent has ratified.

IV. PROCEDURE BEFORE THE COURT

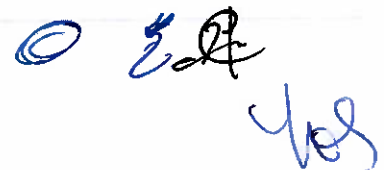
5. The Applicant filed her Initiating Application, electronically, on 2nd December 2022 at the Registry of the Court.

6. On 9th January 2023, the Respondent filed its Statement of Defence along with its Pleas in Law/Statement of Facts in Opposition to the Applicant's application, electronically, at the Registry of the Court.
7. The Respondent also filed a Motion to amend its Defence, electronically, on 9th June 2023 in the Registry of the Court. This motion was accompanied with the amended Statement of Defence, Pleas in law and Statement of Facts.
8. On 27th September 2024, the Court held a virtual session in which the Applicant was represented by Counsel and the Respondent was absent and not represented. The proceedings were adjourned to 4th November 2024, as the Applicant alleged that she did not receive the Respondent's documents and the Court obliged her the opportunity to put her house in order.
9. The Applicant subsequently filed a Reply to the Respondent's Statement of Defence and Pleas in Law, electronically, on 11th October 2024, at the Registry of the Court.
10. The Court held a virtual session on 14th November 2024, in which both parties were represented by Counsel. The case was heard by the Court on its merits and adjourned for judgment.

V. APPLICANT'S CASE

a) Summary of facts

11. The Applicant claims that she is a Priestess appointed by the Spirit of Iseh at Iseh ground Ikwator Weppa Kingdom, in Edo State, Federal Republic of Nigeria. She claims further that she is accepted by the Respondent and the people of Weppa since 2018 and was introduced to the representatives of the Edo Ministry of Culture and Tourism in 2021.
12. The Applicant describes herself as a reincarnation of the Spirit and as such mediates between the gods and the community by offering sacrifices on their



behalf, foretelling the future and trying to solve the problems of the community. It is her submission that she has worshipped on the grounds as a Priestess for four (4) years.

13. She claims further that a certain Chief Charles Inwumoh and Mr Arthur Aminu Momoh stormed her shrine with gangs and/or destroyed religious materials from the Iseh grounds, worth millions of Naira. The Applicant has itemised twenty-three (23) materials that she claims were carted away and she puts their value at Five Million and Eighty Four Thousand and Four Hundred Naira (N 5,084,400).
14. She claims that she reported the incidence which occasioned the destruction and loss of her property to the police at Agenebode Divisional Police Station and that they proceeded to invite Chief Charles Inwumoh and Mr Arthur Aminu Momoh for questioning. However, when the accused persons arrived at the station, they mobilized the youths of the community to cause unrest at the station and she had to escape, with the help of the Respondent's agents, via the back door for fear of being lynched.
15. The Applicant alleges that the Respondent failed to protect her for two weeks and she consequently, applied to the Edo State Commissioner of Police to transfer the case from Agenebode Police Station to the State Command, Sapele Road. She further petitioned the Edo State Ministry of Community and Chieftaincy Affairs citing discrimination and religion impinging practices of Chief Charles Inwuoh and Mr. Arthur Aminu Momoh and their thugs (sic). However, the Applicant claims that the Respondent refused take action.
16. Against this backdrop the Applicant recalls that the Edo State Traditional Medicine Board had previously visited the Iseh ground and approved same for the practice of traditional medicine and Spiritism. It is her claim that she has the right to practice Spiritism on the Iseh grounds, as she has been doing for decades. Thus, she claims that she is being chased out of the grounds, because she got

married in April 2022 to a man of her choice, and an indigene of the community contrary to Chief Charles Inwumoh and Mr. Arthur Aminu Momoh's desire to wed her to the latter, which she declined.

17. The Applicant claims that she was given land by Mr. Arthur Aminu Momoh, which she has since developed. However, following the incidence narrated above, the said Mr. Arthur Aminu Momoh has driven her out of the property. She claims to have been deprived of her cattle (seven cows and seventeen sheep)/, when Mr. Arthur Aminu Momoh and his gang drove her from the property.

18. Based on the facts narrated, the Applicant is seeking various reliefs from the Court and has relied on several pleas in law in support of her claims herein.

b) Pleas in law

19. The following pleas in law have been relied on by the Applicant in support of her claim:

- i. Article 33 of the Rules of the ECOWAS Community Court of Justice
- ii. Rule 11 of the ECOWAS Court Protocol
- iii. Article 59 of the ECOWAS Revised Treaty
- iv. Article 2 (2) of the International Covenant on Economic, Social and Cultural Rights, 1976
- v. Articles 7 (1) (a), 9, 14, 17 (2) & (3), 21 (2) & (5) of the African Charter on Human and People's Rights
- vi. Article 18 (1) & 30 of the International Covenant on Civil and Political Rights, 1966
- vii. Sections 38, 42 & 43 of the Constitution of the Federal Republic of Nigeria 1999



- viii. Article 8 of the General Comment No. 22 on the Right to Freedom of Thought, Conscience and Religion, Human Rights Committee, 30 July 1993
- ix. Article 6 (a) of the General Assembly Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, 1981
- x. Article 4 (1) of the Commission on Human Rights Resolution on the Elimination of all Forms of Intolerance and of Discrimination Based Religion or Belief , Resolution 2005/40 of 19 April 2005
- xi. Article 2 (2) of the international Covenant on Economic, Social and Cultural Rights, 1966
- xii. The Convention on the Elimination of All Forms of Discrimination against Women, 1979
- xiii. General Assembly Declaration on the Elimination of Violence against Women, Resolution 48/104 of 20th December 1993

c) Reliefs sought

20. The Applicant is seeking the following reliefs from the Court:

- i. A declaration that the illegal takeover, destruction of the Applicant's worship office, materials, building and animals is illegal, unlawful and infringes on the Applicant's right to acquire and own property anywhere in Nigeria as guaranteed by Section 43 of the Constitution of 1999.
- ii. A declaration that a woman can head a religious center, manage her followers and the obstruction of the claimant from worshipping at the Ise Ground situate and lying at Ikwator Weppa Kingdom of Etasako East Local Government Area of Edo State by the Respondent is




discriminatory and an infringement of her right to propagate her religion, belief in worship, teaching, practice and observance of her religious right as guaranteed in Section 38 of the Constitution of Federal Republic of Nigeria 1999.

- iii. A declaration that failure of the Respondent to investigate the heinous allegation of gender discrimination, destruction of property and working materials of the Applicant is an infringement on the Applicant's right to security as guaranteed by Sections 35, 41 and 42 of the Constitution of the Federal Republic of Nigeria 1999 and Articles 3, 6 and 12 (1) of the African Charter on Human and People's Rights (Ratification and Enforcement) Act, Laws of the Federation of Nigeria, 2004, Article 5 & 11 of the Universal Declaration of Human Rights of 1948 and Commission on Human Rights Resolution on Elimination of all forms of Intolerance and of Discrimination Based on Religion or Belief, Resolution 2005/40 of 19 April 2005.
- iv. An order that the Applicant enjoys her right to religion and belief in line with the right of women to own land and property as provided for in Article 2 (2) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966, Article 14 and 21 (5) of the Africa Charter on Human and People's Rights of 1966, Article 17 (1) of the Universal Declaration of Human Rights of 1948 and Section 38 of the 1999 Constitution.
- v. The sum of N 10, 000, 000, 00 (Ten Million Naira Only) being money claimed for the breach of the Plaintiffs rights as above.
- vi. Special damages of N5, 084, 400. 00 (Five Million Eighty Four Thousand Four Hundred Naira) for the unlawful destruction of claimant's property and materials of worship with interest of 10% per

annum from the date of Judgment until the entire Judgment Debt is paid.

- vii. General damages of N5, 000, 000. 00 (Five Million Naira) for the tort of Trespass onto the Claimant's property and the obstruction of her recognize right with interest of 10% per annum from the date of Judgment until the entire Judgment Debt is paid.
- viii. An order of perpetual injunction restraining the Respondent whether by themselves, servants, agents, assigns, privies or anyone from interfering with the activity of the claimant and property.

VI. RESPONDENT'S CASE

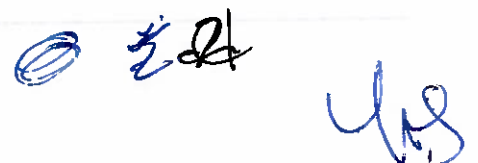
a) Summary of facts

- 21. The Respondent denies the facts as narrated by the Applicant and puts her to the strictest proof.
- 22. The Respondent specifically avers that it is not privy to the alleged priesthood claimed by the Applicant at Iseh Ground, nor is it aware of any appointment of the Applicant by the Spirits. It denies that any of its agents visited the Iseh grounds and was introduced to the Applicant which forms the Applicant's claim in paragraph 2 of her Initiating Application. It further denies paragraphs 2-3 of the same Initiating Application and claims that all facts therein are limited to the peculiar knowledge of the Applicant. It also denies paragraphs 9 & 10 and states that the said Chief Charles Inwomuoh and Mr. Arthur Aminu Momoh allegedly responsible for carting away her religious are not known to it and were at no point acting on its behalf.
- 23. The Respondent denies paragraphs 11 and 12 of the Initiating Application and states that the Nigerian Police is bound to investigate any complaint made to it but in doing so they are guided by the principles of fair hearing and an objective



investigation. Hence, they did not release Chief Charles Inwomuoh and Mr. Arthur Aminu Momoh until after they had conducted a thorough investigation. After which, they were released by the Police so as to curtail an imminent communal war between the parties.

24. The Respondent denies the Applicant's claim that it advised her to escape as it says that the Nigerian Police will not abandon a case due to fear or threat. It continues to deny several facts put forward by the Applicant and contends that an application to the Edo State Commissioner of Police is not an application to the attention of the Respondent as the Nigerian Police is statutorily empowered to work without interference of the Respondent. It also avers that the Edo State Traditional Medicine Board's visit to the Iseh ground and subsequent approval to the Applicant, was not done under the authority and supervision of the Respondent.
25. The Respondent further denies paragraphs 18 to 23 of the Initiating Application and states that they within the specific knowledge of the Applicant alone, puts her to strictest proof. It avers that no petition was submitted to it by the Applicant but rather a petition to the Nigerian Police Force who will investigate and prosecute where necessary. The Respondent also states that any officer of the Nigerian Police Force who acts beyond the scope of duty provided by its extant law will be held liable as an individual and not as its agent.
26. The Respondent contends that the Court has no jurisdiction as the claim put forward by the Applicant is tortious in nature, i.e. bordering on negligence and tort. It avers that the claim is not for the enforcement of her fundamental rights. The Respondent reiterates that the actions of Chief Charles Inwomuoh and Mr. Arthur Aminu Momoh were not authorised by it.
27. It is the contention of the Respondent that the Applicant has not stated any actionable wrong done to her that would warrant the Court to grant her the orders



sought in the Initiating Application. It avers however, that the Applicant's claims for damages are not substantiated with facts to support any assessment of damages. It contends that the assessment of damages should be based on facts before the Court and puts the Applicant to the strictest proof.

28. In conclusion, the Respondent urges the Court to dismiss the claims and reliefs sought by the Applicant as the same has not been substantiated before it.

b) Pleas in law

29. The Respondent has submitted the following jurisprudence and statutory provisions as pleas in law in support of its defence:

- Protocol on the Community Court of Justice (A/P1/7/91) as amended by the Supplementary Protocol (A/SP.1/01/05);
- CHIEF FRANK C. UKOR & ANOR. V MR. RICHARD LALEYE AND THE GOVERNMENT OF BENIN (2004-2009) CCJELR;
- AFOLABI OLAJIDE V FEDERAL REPUBLIC OF NIGERIA (2004) CCJELR;
- PETER DAVID V AMBASSADOR RALPH UWECHE (2010) CCJELR;
- BEARD V LONDON GENERAL OMNIBUS COMPANY (1900) 2 QB 530;
- CENTURY INSURANCE V NORTHERN IRELAND ROAD TRANSPORT BOARD (1942) AC 590
- R. O. BENDELE F. V F. MILL LTD (2009) VOL. 168 LRCN PG 143 AT 148;
- MOUSSA LEO KEITA V REPUBLIC OF MALI (2007) CCJELR;



- FAJEMIROKUN V CB (C.I.) NIGERIA LTD (2002) 10 NWLR [PT 774] 95;
- FESTUS A. O. OGUCHE V FEDERAL REPUBLIC OF NIGERIA, JUDGMENT NO: ECW/CCJ/JUD/02/18 (Unreported);
- MOUKHTAR IBRAHIM V GOVERNMENT OF JIGAWA STATE & 2 ORS (2014).

c) Reliefs sought

30. The Respondent urges the Court to dismiss the suit for want of jurisdiction, lack of merit and unsubstantiated claims against it.

VII. REPLY TO RESPONDENT'S DEFENCE

31. The Applicant rebuts the defence put forward by the Respondent and states firstly that Exhibit A, which is the letter of transfer, kept the case alive. Secondly, she contends that she did not write another letter requesting for a transfer from State CID, and puts the Respondent to the strictest proof.
32. The Applicant maintains that the Respondent is delinquent in investigation and did not act in her interest.
33. She avers that the act of an agent is the act of the Respondent under international law. Hence, her claim is not tortious as put forward by the Respondent but one for the violation of her fundamental human rights.
34. The Applicant dismisses all the contentions of the Respondent as hearsay and submits that the entire defence is worthless.

VIII. JURISDICTION

35. The Court has traditionally considered its competence as a pre-condition before taking a step towards the determination of issues. This preliminary move is

grounded in law as competence is bestowed by law, and the Court is vested with the same by virtue of Article 9 of the Protocol of the Court as amended (supra). Thus, where a claim before the Court is premised on allegations of human rights violations, the Court looks to its jurisprudence and the law to wit Article 9 (4) of Protocol of the Court (A/P1/7/91) as amended by the Supplementary Protocol (A/SP.1/01/05) (hereinafter referred to as the Protocol of the Court): “*The Court has jurisdiction to determine cases of violation of human rights that occur in any Member State.*”

36. In BAKARY SARRE & 28 ORS. V REPUBLIC OF MALI (2011) CCJELR at page 57 the Court held that “*Human rights protection constitutes a cardinal and fundamental value for the community. The Court in the exercise of this function of protection, may not by virtue of excessive formalism arising from the quality of the application, decline to exercise that jurisdiction.*” The import of this was articulated more recently in HIS EXCELLENCY, VICE-PRESIDENT ALHAJI SAMUEL SAM-SUMANA V. REPUBLIC OF SIERRA LEONE (2017) CCJELR at page 281 that “*The African Charter on Human and Peoples’ Rights and other international instruments invoked by the Applicant are indeed legal instruments the Court refers to when considering cases of human rights violations that occur in any Member State. Once the Plaintiff has raised an element of Human Rights Violation, which falls within any human right protection instruments in any ECOWAS Member State, it suffices for the Court to establish its jurisdiction which shall not be tied to whether the allegations are true or otherwise.*”

37. Thus, the Court will assume jurisdiction for claims bordering on human rights violations *ab initio* without delving into the merits or whether the claim is admissible.



38. Hence in the present claims, where the Applicant is claiming that several violations have been perpetrated against her and the Court recalling that she has relied on key fundamental treaties ratified by the Respondent, the Court declares without more that it possesses the jurisdiction to hear and determine the claims before. However, the Court recalls the Respondent's defence that it lacks the competence to determine the claim.

39. The Respondent avers that the Court lacks jurisdiction under Article 9 of the Protocol as amended and contends that the facts submitted by the Applicant shows that two individuals were responsible for the acts claimed. It disassociates itself from these persons and states that they are not its agents therefore, relying on Article 9 (4) for competence is flawed following its jurisprudence in PETER DAVID V AMBASSADOR RALPH UWECHÉ (2010) CCJELR 213. Furthermore, the Respondent states that the Court has no jurisdiction as the claim is tortious in nature as such the claim is not one for the violation of human rights and robs the Court of competence.

40. The Court finds the jurisprudence submitted by the Respondent, PETER DAVID (supra), as good law for establishing the proper party to a claim for human rights violations. However, it is noted that the claim of the Applicant has been made against the Respondent and not against individuals. Hence, there is no dispute that the jurisprudence is irrelevant in the instance of the Respondent as a proper party. Furthermore, Article 9 (4) of the Protocol as amended literally clothes the Court with the competence to determine claims of human rights violations occurring in Member States. The Court, having laid the foundation earlier that claims for human rights violations which have occurred in Member States are automatically within its competence, dismisses the Respondents contentions.



IX. ADMISSIBILITY



41. Procedurally, the Court will look at the admissibility criteria of a claim after it has determined its competence. In considering whether the application is admissible, the Court is inclined to do so pursuant to Article 10 (d) of the Protocol of the Court which provides that:

“Access to the Court is open to... d) Individuals on application for relief for violation of their human rights; the submission of application for which shall: i. Not be anonymous; nor ii. Be made whilst the same matter has been instituted before another International Court for adjudication;

42. It is imperative that the Court should emphasise that this provision requires that an Applicant establishes capacity as a victim; either as a direct or indirect one. Furthermore, the application must not be anonymous nor must it be pending before another international Court. These are cumulative requirements which once established grants an Applicant access for the Court, or will make the application admissible.

43. The Court has consequently looked at all three criteria for admissibility and finds that the Applicant has established herself as a victim and has clearly identified herself in the claims before the Court. Also, the Court finds no evidence that the claims before it are pending before another international Court which leaves it to declare that the cumulative requirements for admissibility have been met. Consequently, the Court declares the application admissible and grants the Applicant access before it.

X. MERITS

44. In the determination of the merits, the Court must instruct that all claims centred on human rights violations must be evidence based. What this means is that to

successfully seek for any relief/s for the violation of human rights, the claim must be backed by evidence, whose overwhelming probative value is sufficient to sway the Court in its favour. This is essential as all the guarantees proffered in various human rights treaties have elements that need to be adequately proved before any Court or tribunal to determine that there has been a violation.

45. It is inconceivable that a Court will rely solely on the spatial representation of facts presented by a claimant. Thus, in determining the claim before it, the Court has formulated the following issues:

- Whether the Court can make a declaration based on the claims regarding Section 43 of the Constitution 1999;
- Whether the Court can make a declaration based on the claims regarding Section 38 of the Constitution of the Federal Republic of Nigeria 1999;
- Whether the Court can make a declaration based on the claims regarding Sections 35, 41 and 42 of the Constitution of the Federal Republic of Nigeria 1999 and Articles 3, 6, 12 (1) of the African Charter on Human and People's Rights;
- Whether the Court can make an order regarding the claims under Articles 14 and 21 of the African Charter on Human and People's Rights;
- Whether the Court can make an order for reparations;
- Whether the Court can make an order of perpetual injunction as sought by the Applicant.

46. The Court has coined these issues from the reliefs sought by the Applicant and will determine same in the order in which they have been sought.



i. Whether the Court can make a declaration based on the claims regarding of Section 43 of the 1999 Constitution of the Federal Republic of Nigeria.

47. The Applicant is seeking a relief from the Court which requires that it declares the takeover and destruction of the Applicant's worship office, materials, building and animals illegal, unlawful and an infringement of her right to own property anywhere in Nigeria as guaranteed by Section 43 of the Constitution of 1999.
48. In the exercise of its jurisdiction on claims of human rights violations occurring in Member States, the Court relies on treaties ratified by the Member States under which they have accrued obligations. It is the failure or omission to discharge these obligations that forms the basis of the competence of the Court. It is no gainsaying that states have their extant laws regarding the promotion and protection of human rights however, the Court has concurrent jurisdiction when it concerns the possible violation of a fundamental right.
49. What is outside the Court's jurisdiction though, are claims of human rights brought pursuant to extant laws of Member States, like a constitution. The Court held in *MESSRS ABDOULAYE BALDE & ORS V REPUBLIC OF SENEGAL* (2013) CCJLR at page 75 that it has no mandate to examine the national laws of Member States. This position remains good law in the determination of claims for human rights violations as extant laws do not form part of international law. Article 19 (1) of the Protocol of the Court state that *"The Court shall examine the dispute before it in accordance with the provisions of the Treaty and its Rules of Procedure. It shall also apply, as necessary, the body of laws as contained in Article 38 of the Statutes of the International Court of Justice."* In this instance, which is the determination of claims for human rights violations, the Court uses the body of laws contained in Article 38 of the Statute of the International Court of Justice which reads:



1. *The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:*

- a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;*
- b. international custom, as evidence of a general practice accepted as law;*
- c. the general principles of law recognized by civilized nations;*
- d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.*

50. In the confluence of laws to be applied by the Court when determining human rights violations, national laws do not form part of Article 38 of the ICJ Statute. Consequently the Court dismisses the Applicants relief for a declaration under Section 43 of the 1999 Constitution as it falls outside the scope of applicable laws.

51. Following this analysis, the Court declines to make an order in this regard and dismisses the Applicant's relief sought under Article 38 of the 1999 Constitution as it falls outside the scope of applicable laws.

ii. Whether the Court can make a declaration based on the claims regarding Sections 35, 41 and 42 of the Constitution of the Federal Republic of Nigeria 1999 and Articles 3, 6, 12 (1) of the African Charter on Human and People's Rights.

52. Following its analysis in paragraph X (i) above, the Court dismisses the claims under Section 35, 41 and 42 of the 1999 Constitution as it falls outside the

applicable laws on which it bases its competence. However, it will consider the claims regarding Article 3, 6, 12, (1) of the African Charter on Human and People's Rights (hereinafter ACHPR).

- *Article 3 of the ACHPR*

53. The Applicant alleges that the Respondent has violated her right guaranteed under Article 3 of the ACHPR which reads: "*Every individual shall be equal before the law. Every individual shall be entitled to equal protection before the law.*" Her claim is centred on the alleged failure of the Respondent, as the primary guarantor of rights, to investigate and prosecute the incident involving the destruction and vandalism of her shrine, and the failure of the police to provide protection.
54. The Court notes that in the Applicant's narration of facts, the two aforementioned individuals and their gangs destroyed her office and carted away valuable items. It recalls the Applicant's claims to have reported this incident to the police, who proceeded to invite the suspects for questioning. The questioning by the Police was disrupted by youths believed to have acted in favour of the suspects (the aforementioned individuals) which resulted in the Applicant being asked by the Police to escape via the back door. The Court also recalls Annexure I submitted by the Applicant which states that she made a statement on the 5th September 2022, at the Agenegbode Divisional Police Headquarters, and went back on the 9th September 2022 to report the damage to her daughter's phone and confiscation of her sheep. The letter states that after making her statement to the Police the youths demonstrated at the station and demanded for the release of the suspects who were subsequently released. She claims that after their release, she was told to vacate the community for her safety.



55. The Court notes that these allegations are rebutted by the Respondent who avers that the complaint was received by the Nigerian Police Anti-Robbery Section and they commenced the investigation promptly. It continues its averment by stating that its agent invited the suspects for questioning and the documents showing the opening of the case file is submitted as Exhibit FGN 01. The Respondent further submits FGN 02 which is evidence that suspects were released on bail after investigations; this piece of evidence is a report of the investigation conducted by the Respondent. It contains testimony of the Applicant, and other witnesses which includes her husband, both suspects, the investigator at Agenebode. The findings of the investigation are that the Applicant and her family were assaulted by the suspects and forced out of the Iseh grounds and depriving her of her right to religious worship. The report concludes with a recommendation for arrest of the suspects, who were at the time at large, and for them to be prosecuted. The Respondent avers that the suspects were released on bail as detaining them beyond the period allowed by law would have resulted in an infringement of their fundamental rights.

56. Having thoroughly canvassed the claim and the rebuttal to same, the Court must first state that reverts to its ratio in *ABDOULAYE BALDE & ORS. V REPUBLIC OF SENEGAL* (2013) CCJELR at page 96, 136 §41, 65 where it stated that *"The violation of equality before the law would therefore result from the performance of discriminatory acts against a citizen by an administration or any person in authority, which acts could be based on his sex, race, origin, nationality, ethnicity, religion... The principle of equality of citizens before the law implies that citizens are made to go through the same mode of application of the law by a particular judicial institution, in the sense that citizens coming before the Court to seek justice and finding themselves in the same situation shall be tried by the same Court or Tribunal and according to the same legal rules of*



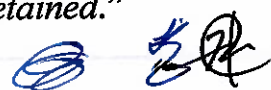
procedure.” It is then faced with the question of whether Article 3 of the ACHPR was contravened.

57. In guiding its determination, the Court views FN O1 and FGN 02 which are submitted by the Respondent in support of their rebuttal of the Applicant’s claim, as potent pieces of evidence that contains sufficient probative value. From the facts and evidence, it is undisputed that there was an incident that resulted in a report to the Respondent’s agent. The incident itself was perpetrated by private citizens who were subsequently detained for investigation and released on bail. The key element in a claim for contravention of Article 3 of the ACHPR is that the act must be attributed to the Respondent. It is imperative that the Court identifies the persons that the act is attributed to delve into whether the Respondent has breached its obligation under Article 1 of the ACHPR. In this instance, it is evident the perpetrators of the act are not agents of the Respondent, neither were they acting on its instructions or the scope of a prescribed duty. The evidence, FGN 02, reports that the complaints of the Applicants were directed at two private citizens and this was established in FGN 01 which is the document opening the case file.

58. Having regard to the apparent lack of connection of the act to the Respondent, the Court declines to make an order in this regard and dismisses the Applicant’s claims and reliefs for violation of Article 3 of the ACHPR.

- *Article 6 of the ACHPR*

59. The Applicant alleges that her rights pursuant to Article 6 of the ACHPR was violated by the Respondent. The said Article 6 provides that “*Every individual shall have a right to liberty and the security of person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.*”



60. It is the Applicant's claim that the Respondent "...is to ensure that no one within their jurisdiction is deprived of the right to life, liberty of security of persons because of religion or belief (sic)." Her argument in support of this claim is that the Respondent failed to investigate the allegation against private citizens and this has affected her right to access her worship centre and business activities. However, she alleges that the Respondent's failure to act on acts perpetrated by state or public persons is actionable. She concludes that the Respondent failed to foster a mechanism to protect her from embarrassment, intimidation and frustration which impinges on her right to security and liberty.
61. The Court finds it imperative to instruct that Article 6 of the ACHPR guarantees the right to liberty therefore, the deprivation of liberty must form the basis of a claim for the breach of this guarantee. It is noted that the Applicant in her paragraphs 1.11 and 1.12 of the Initiating Application has not been able to clearly demonstrate her understanding of this guarantee. In paragraph 1.11, the Applicant erroneously denotes Article 5 of the ACHPR but reproduces Article 6 of the same; while in paragraph 1.12 her reference to the proper denotation of Article 6 of the ACHPR, contains the words "...that no one within their jurisdiction is deprived of the right to life, liberty or security of persons because of religion or belief."
62. Ordinarily, the Court will *su motu* determine the claim under the proper provision as it will not be prejudicial to the other party given facts and evidence pointing to the proper provision. However, in the present case the Applicant has not only denoted conflicting provisions, she has submitted arguments grossly at variance with the provisions relied on, which prevents the Court from exercising its inherent powers. Consequently, the Court is forced to reprimand the Applicant for failing to appreciate that Article 6 of the ACHPR concerns the deprivation of liberty contrary to law. Therefore, in seeking for a breach thereunder it is



imperative that the claim exhibits the act of deprivation of liberty. To say that a failure to investigate certain acts which causes alleged “...*embarrassment, intimidation and frustration*...” impinges the right to security and liberty of person is a long shot.

63. Based on the foregoing, the Court, having regard to the Exhibits FGN 01, 02 submitted by the Respondent, finds that the Respondent carried out an investigation of the Applicant’s complaint. From the evidence, the said complaint which has been brought before the Court, is lacking of facts and evidence depicting a breach of Article of the ACHPR. The Court finds that the Applicant has failed to canvass the claim and relief sought before it. Without more, the Court dismisses the claims and reliefs sought regarding Article 6 of the ACHPR and declines to make a declaration thereunder.

- *Article 12 (1) of the ACHPR*

64. The Court notes that while the Applicant has sought relief for the violation Article 12 (1) of the ACHPR. She has neither presented any facts or evidence, nor has she canvassed the claim by way of adumbration before it. The Court finds it necessary to state that a relief sought without supporting facts or evidence is a complete waste of its time. Consequently, it summarily dismisses the relief sought under Article 12 (1) of the ACHPR and declines to make an order thereunder.

iii. Whether the Court can make an order regarding the claims under Articles 14 and 21 of the African Charter on Human and People’s Rights;

65. The Court will consider the claims hereunder, which are those pertaining to Articles 14 and 21 of the ACHPR seriatim.

Article 14 of the ACHPR

66. The Applicant states in paragraph 1.22 of the Initiating Application that:

"Most acts of land confiscation follow a similar process involving the frequently arbitrary nature of land acquisition with little or no effort to find alternatives to reduce or preclude the need for subsequent displacement. A long-term conspiracy between government and business interest to fraudulently enrich the duo at the expense of ordinary people is the nucleus of land grabbing. Land disputes are a major national problem with rising discontent over displacement."

67. The Court notes that this is the crux of her claim and her argument pursuant to Article 14 of the ACHPR. While she restates the provision as guaranteeing the right to property she has not submitted before the Court how the Respondent has breached this right. The Court recalls her submission of CHIDOLUE V EFCC (2012) 5 NWLR (PT1292) 160 at page 180 paras B-C, yet it finds no fact/s or pieces of evidence that the Respondent has violated this right.

68. It behoves the Court to state that while facts bordering on the destruction, and/or theft of property was submitted in the body of facts, those claims fall squarely on private citizens. The Court finds no evidence linking the Respondent or its agents to the destruction or theft which will enable it make a determination for the violation of Article 14 of the ACHPR. Article 14 of the ACHPR is a guarantee to citizens from the state who has ratified the ACHPR, and only states can be held liable for a derogation. Thus, having found no act or omission depicting contravention of Article 14 of the ACHPR by the Respondent, the Court declines to make an order in this regard and dismisses the claims and reliefs sought forthwith.



Article 21 of the ACHPR

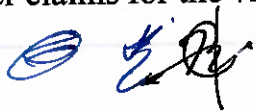
69. The Court once again finds no facts, evidence or arguments that support the relief sought under Article 21 of the ACHPR. The said provision reads:

“All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it...”

70. This provision in its entirety is a replica of the United Nations Resolution on the Permanent Sovereignty of Peoples over their Natural Resources as well as the International Covenant on Economic, Social and Cultural Rights. Article 21 of the ACHPR protects the rights of individuals and communities to access and use their land, fauna and flora. Essentially, such protection is against activities that would otherwise impede citizens' access to natural resources such as extractive industries or other commercial ventures. The act/s for which the relief is being sought hereunder cannot be attributed to the Respondent who has been charged with affording citizens this protection. The conclusion of the Court is that the facts and evidence put forward by the Applicant are devoid of any direct claim with the relief sought under this rubric. Consequently, the Court finds no merit in the relief sought hereunder and declines to make an order while dismissing the claims and reliefs sought under Article 21 of the ACHPR.

iv. Whether the Court can make an order for reparations;

71. As to the question of whether the Court can make an order for reparations; it is evident that the Applicant has not properly canvassed her claims and reliefs sought, and has instead usurped the valuable time of the Court. The Court has dismissed the reliefs sought by the Applicants and therefore, finds no reason to order for reparations. Thus, the Court declines to make an order for reparations as the Applicant has failed to sustain her claims for the violation of human rights.



v. ***Whether the Court can make an order of perpetual injunction as sought by the Applicant.***

72. Once again, the Court finds that while the Applicant is seeking for a relief before it, she has not taken the time to properly canvass the relief. There is no fact or evidence in support of the Court to enable it determine the Applicant's eligibility for this relief. Accordingly, it declines to make an order for perpetual injunction and dismisses the relief.

73. In conclusion, the Court finds it necessary to state that it has considered the allegations based on the reliefs sought by the Applicant; in doing so, all references to the Universal Declaration of Human Rights have been considered as peripheral soft law, as it has no binding powers on the Respondent. Furthermore, references to other fundamental human rights have been considered under similar provisions of the African Charter on Human and People's Rights already submitted by the Applicant.

XI. COSTS

74. Article 66 (1) of the Rules of the Court provides that "[A] decision as to costs shall be given in the final judgment or in the order which closes the proceedings."

Furthermore, Article 66 (2) states that "The unsuccessful party shall be ordered to pay the costs if they have been applied for in the successful party's pleadings."

75. However, the Court having found no relief for costs from the Respondent in its record, orders that the parties shall bear their own costs.

XII. OPERATIVE CLAUSE



For the reasons stated above the Court sitting virtually in public after hearing both parties:

As to jurisdiction:

- i. **Declares** that it has jurisdiction.

As to admissibility

- ii. **Declares** the application admissible

As to merits of the case:

- iii. **Declines to make an order** for a violation pursuant to Sections 43, 38, 35, 41, & 42 of the 1999 Constitution of the Federal Republic of Nigeria and dismisses the claim thereunder.
- iv. **Declines to make an order** for a violation pursuant to Article 3 of the African Charter on Human and People's Rights and dismisses the claims thereunder.
- v. **Declines to make an order** for a violation pursuant to Article 6 of the African Charter on Human and People's Rights and dismisses the claims thereunder.
- vi. **Declines to make an order** for a violation pursuant to Article 12 (1) of the African Charter on Human and People's Rights and dismisses the claims thereunder.
- vii. **Declines to make an order** for a violation pursuant to Article 14 of the African Charter on Human and People's Rights and dismisses the claims thereunder.
- viii. **Declines to make an order** for a violation pursuant to Article 21 of the African Charter on Human and People's Rights and dismisses the claims thereunder.
- ix. **Declines to make an order** and dismisses the claim for reparation and perpetual injunction.

- x. **Dismisses** all claims for lack of proof.

COSTS:

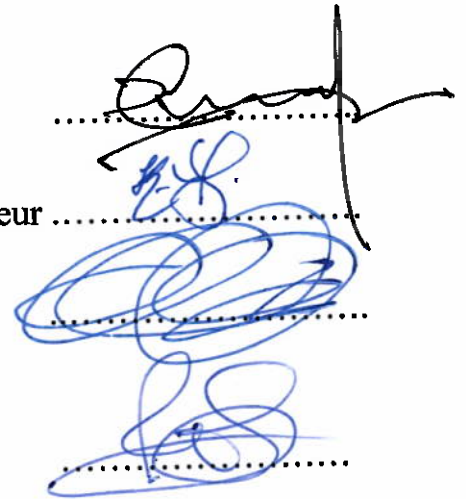
- i. **Orders** that the Parties bear their own costs pursuant to Article 66 (2) of the Rules of the Community Court of Justice.

Hon. Justice Ricardo Cláudio Monteiro GONÇALVES

Hon, Justice Sengu Mohamed KOROMA/ Judge Rapporteur

Hon. Justice Amoako Edward ASANTE

Dr Yaouza OURO-SAMA - Chief Registrar



Done in Abuja, this 13th day of February 2025, in English and translated into French and Portuguese.

