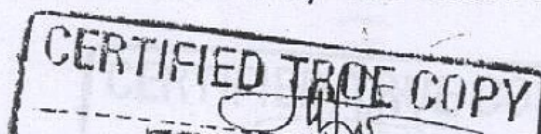


5<sup>th</sup> accused persons for lack of jurisdiction on the following grounds (i) That the charges against the 1<sup>st</sup>, 3<sup>rd</sup> & 5<sup>th</sup> accused persons are founded on a repealed law; the Corrupt Practices and Other Related Offences Act No. 5 of 2000 repealed by Section 55 of Corrupt Practices and Other Related Offences Act No. 6 of 2003 Cap C31 LFN 2004 (ii) That the alleged offences committed by the 1<sup>st</sup>, 3<sup>rd</sup> & 5<sup>th</sup> accused persons were committed after the abrogation of the Corrupt Practices and Other Related Offences Act No. 5 of 2000.

I began to deliver a ruling on the above on 12/11/2013 when it became necessary to stay the ruling and invite amici curiae to further address the court. Dr. A.I. Layonu, SAN and C.I. Onuogu Mrs., Director Legal, ICPC, graciously attended on 17/12/2013 and further addressed the court on the issue. Dr. A.I. Layonu, SAN, submitted amicus curiae brief dated 9/12/13 which he adopted in court on 17/12/2013, enumerating several legal authorities. C.I. Onuogu (Mrs.), Director Legal ICPC submitted amicus curiae brief dated 9/12/13 with list of authorities attached which she adopted in court on 17/12/13. The learned counsel for 1<sup>st</sup>, 3<sup>rd</sup> & 5<sup>th</sup> defendants, Ataguba Aboje Esq. filed a written address on points of law dated 22/1/14 in response to the brief of the amici curiae. The learned counsel for the 6<sup>th</sup> defendant filed a written address dated 21/1/14 in response to the amici curiae briefs. The learned Senior Counsel for the respondents in the notice of preliminary objection filed a late written address in response to the brief of the amici curiae.

I have perused the brief filed by Dr. A.I. Layonu SAN invited as amicus curiae to assist the court on this matter. I have perused the brief of Mrs. C.I. Onuogu Director Legal ICPC also invited by the court as amicus curiae to





assist in this matter. I have perused the further written address filed. I have perused the further brief filed in response to these briefs of the amici curiae by the learned counsel for 1<sup>st</sup>, 3<sup>rd</sup> & 5<sup>th</sup> defendants and 6<sup>th</sup> defendant respectively and by the learned Senior Counsel for the Complainant/Respondent.

The learned counsel for 1<sup>st</sup>, 3<sup>rd</sup> & 5<sup>th</sup> defendants/applicants opened by objecting to the consideration of the brief of C.I. Onuogu (Mrs.), Director of Legal of ICPC on the ground that she was not invited by the court and that she represent ICPC which is the prosecutor / complainant in this suit. First, ICPC on whose behalf C.I. Onuogu (Mrs.) filed the brief was invited by the court. The relevant part of the ruling of 12/11/13 read as follows and I quote "I hereby invite him (Dr. A.I. Layonu SAN) through the Chief Registrar of this court as amicus curiae to assist the court in finding an answer to this important question. It becomes necessary to also invite ICPC by name to attend court to assist". The thinking was to get the Commission which is directly affected by the application to contribute. In the illuminating reply brief filed by the learned Counsel for 6<sup>th</sup> defendant it could be suggested that besides ICPC the Hon. Attorney General of the Federation and perhaps the National Assembly ought to be involved too, deduction being that the court was right in involving ICPC and I am of the view that some head way would be achieved with more light now thrown on the matter by Dr. Layonu SAN and C.I. Onuogu (Mrs.) put side by side with the reply briefs of learned counsel for the complainant/respondent the 1<sup>st</sup>, 3<sup>rd</sup> & 5<sup>th</sup> defendants/applicants and the 6<sup>th</sup> defendant. Second, the Federal Government of Nigeria listed as the complainant/prosecutor is not

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synonymous with the Independent Corrupt Practices Commission. It just happens that the defendants/applicants are being tried under the CPC Act. The CPC Act is the subject matter of this preliminary objection. It behoves the court to hear from ICPC itself on the status of the Act instituting it, whether it is extant or repealed. The Business dictionary.com defines amicus curiae as follows and I quote "Individual who while not a party to a litigation provides expert testimony at the invitation of court. He or she may also argue in support of a public interest case (or a party to a case) not being adequately represented in a trial. Latin for friend of court". It went further to explain "public interest case" in the following words, quote, "welfare of the general public (in contrast to the selfish interest of a person, group or firm) in which the whole society has a stake and which warrants recognition, promotion and protection by government and its agencies" I think that C.I. Onuogu (Mrs.) is entitled to argue in support of a public interest case which clearly arises here as to which of two laws relating to the CPC is extant. The main reason to have invited amici curiae was the poor show of the counsel for the respondent in the application and in consideration of the far reaching consequences of the issues involved at that time which is reflected in the ruling as follows inter alia "Much as the learned counsel for the respondent has not done much to stem the avalanche of submissions in favour of the learned counsel for the 1<sup>st</sup>, 3<sup>rd</sup> & 5<sup>th</sup> accused/applicant I must warn myself that this is a weighty issue with far reaching implications which deserve proper scrutiny". So even where ICPC is the prosecutor it could on the principles of amicus curiae established above come in to argue further in this case on the public interest aspect only. I agree with the submissions of Dr

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Layonu SAN on definition of amicus curiae and I adopt with respect the dictum of Lord Salmon in *Allen V Sir Alfred McAlpine & Sons Ltd.* (1968) IALLER, 543 @ 560 as follows "I have always understood that the role of an amicus curiae was to help the court by expounding the law impartially or if one of the parties were unrepresented by advancing the legal argument in his behalf". I do not see that these definitions and legal authorities cited above are whittled down in any way by the case of *Agoro V Aromolaran & Anor* (2011) LPELR – CA/1/223/2003 cited by learned counsel for 1<sup>st</sup>, 3<sup>rd</sup> & 5<sup>th</sup> defendants/applicants. Therein the term "person who has strong interest in the subject matter" was used as also qualifying to appear as amicus curiae. I hold that the invitation of ICPC as amicus curiae was for good purpose and the court is bound to entertain their arguments in the brief presented by C.I. Onuogu (Mrs.) Director Legal Services.

I adopt the sole issue for determination as set out by Dr. A.I. Layonu SAN thus "whether the Corrupt Practices and Other Related Offences Act No. 5 of 2000 has been effectively repealed by section 55 of the Corrupt Practices and Other Related Offences Act No. 6 of 2003, Cap C31, Laws of Federation (LFN 2004)".

In the beginning there were many suits against the CPC Act 2000. The brief of C.I. Onuogu (Mrs.) shows as follows: The initial two challenges were in suit No. CR/1/2001 FRN V Mr. Andrew Tyem & 5 Ors and CR/2/2001 FRN Vs. Alhaji Muka Anache & 2 Ors. Both came before Oninyangi J. of the High Court of the Federal Capital territory who held in both that the CPC Act 2000 was valid. Chief F.R.A. Williams SAN appealed to the Court of Appeal in CR/1/2001 FRN V Alhaji Mika Anache & 2 Ors and while there convinced the

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Court of Appeal to refer the matter to the Supreme Court for determination which it did. The Supreme Court held the ICPC Act 2000 to be valid. See FRN V Anache (2013) Vol. 1 CPCLR 617 @ 634. In Attorney General of Ondo State V Attorney General of the Federation (2013) Vol. 1 ICPCR 254, Chief Rotimi Williams SAN further persuade the Supreme Court to revisit the matter of validity of the ICPC Act 2000. The Supreme Court again decisively held that the CPC Act No. 5 of 2000 was valid minus sections 26(3) and 35 which it struck down applying the blue pencil rule. I agree with the submissions of Dr. Layonu SAN that about two years after the case of AG Ondo V AG of the Federation (supra) the same issue came to the Supreme Court once more in the case Olafisoye V FRN (2004) 4 NWLR pt. 864 @ 580 wherein the Supreme Court once again stated at page 676 paragraph G-H as follows inter alia and I quote "In that case (Attorney General of Ondo State V Attorney General of the Federation supra) the Supreme Court pronounced that the Corrupt Practices and Other Related Offences Act 2000 was validly enacted within the powers conferred by the Constitution on the National Assembly... Thus that decision still remains as the relevant law" It would serve the direction of this ruling to state here that the National Assembly which had power to enact the CPC Act 2000 also has the constitutional powers to amend or even repeal same. There is no doubt in all that has been urged on the court by the 1<sup>st</sup>, 3<sup>rd</sup> & 5<sup>th</sup> defendants/applicants that the National Assembly on 8/5/2003 did manifest their intention to repeal the CPC Act 5 of 2000 as shown by the wordings of Section 55 of the CPC Act No. 6 of 2003. The sole issue now is was CPC Act No 5 2000 effectively repealed by Section 55 CPC Act No. 6 of 2003. The defence of the amici curiae and learned counsel for the

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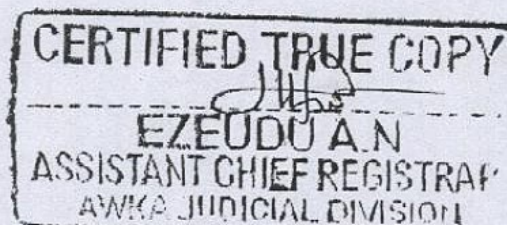


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complainant/respondent laid much store on the cases in Suit no. FHC/ABJ/C5/225/2003, Attorney General of the Federation V Chief Anyim Pius Anyim, Senate President Federal Republic of Nigeria & 3 Ors and Appeal No CA/A/7/C/2006, Senator Adolphus Wabara & 2 Ors V FRN and Yahaya V Federal Republic of Nigeria (2007) 23 WRN 127 @ 146. I have read with respect the judgement in AG Federation V Chief Anyim Pius Anyim & 3 Ors (supra) by R.N. Ukeje CJ (as she then was) of the Federal High Court. The said suit sought to declare the passage of the CPC Act No. 6 of 2003 by the National Assembly as unconstitutional, illegal, ultra vires, invalid, void and of no legal effect. See (Relief No. 1). The fulcrum of the challenge could be seen at relief no. 3 which read as follows "A declaration that the purported passage of the Private Members Bill titled "The Corrupt Practices and Other Related Offences Bill 2003" into law on 7<sup>th</sup> May 2003 and 8<sup>th</sup> May 2003 by the Senate and House of Representatives respectively whilst Suit no. FHC/ABJ/C5/93/2003 was pending and in spite of the Order of Court restraining the passage of the Bill is an unwarranted encroachment on the doctrine of separation of powers enshrined in the 1999 Constitution and therefore irregular, invalid, unconstitutional, void and of no effect". Of course suit no. FHC/ABJ/C5/93/2003 is the same ubiquitous Hon. Bala Kaoje & 4 Ors V The National Assembly of the Federal Republic of Nigeria & 13 Ors which came before Egbo-Egbo J (as he then was) of the Federal High Court to which I would return presently. In the final analysis R.N. Ukeje CJ (as she then was) of the Federal High Court in AG Federation V Chief Anyim Pius Anyim & 3 Ors held at page 32 as follows inter alia and I quote "I therefore reiterate that the ICPC Act 2003 passed on the 7<sup>th</sup> & 8<sup>th</sup> of May 2003 by the





Defendants respectively without observance of the relevant due process of Law is unconstitutional and void". In the case of Appeal no. CA/A/7/C/2006 Senator Adolphus N. Wabara & 2 Ors V FRN, Mary U. Peter-Odili JCA (as she then was) in delivering the lead judgment at pages 34-36 opened as follows and I quote "The 2003 Act having been declared void by the Federal High Court in the case of Attorney General of the Federation V. Chief Anyim Pius Anyim & 3 Ors..." The learned counsel for the 1<sup>st</sup>, 3<sup>rd</sup> & 5<sup>th</sup> defendants/applicant was steady and strident in raising the issue that the case of Attorney General of the Federation V Chief Anyim Pius Anyim & 3 Ors which was the legal authority on which Senator Nwabara's case was decided on the issue of validity of the CPC Act No. 6 2003 had been first set aside at the Court of Appeal and subsequently set aside by the Supreme Court which ordered that the matter be remitted to the court of trial which is the Federal High Court and there to be tried afresh on the merits. In my ruling on 12/11/2013 on this preliminary objection I did echo the yawning gap after the submissions of the parties and I asked "was there an appeal against the decision of Ukeje CJ (as she then was) in the Anyim's case supra which ran to the Court of Appeal and to the Supreme Court, which judgment was first set aside by the Court of Appeal in CA/A/195/2003 by the leading judgment of Bada JCA and further the decision of the Court of Appeal in striking out the originating summons was set aside and in its place the matter was remitted to the court of trial, there to be tried on the merits". My caution have yielded plenty harvest. I have before me the processes of the Supreme Court showing that Suit no. FHC/ABJ/C5/225/2003 AG Federation V Chief Anyim Pius Anyim & 3 Ors was in contemplation. However amongst the Supreme

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Court processes Suit no. FHC/ABJ/C5/93/2003 curiously appeared. Further, against the elementary known rule that parties remain as they started through the rungs of appeal except for interchanging as appellant and respondents respectively, the name Alhaji Umar Ghali Na'aba is put in no. 1 instead of no. 2. However in the body of the Notice of Appeal all arguments position him where he started in the Federal High Court at no. 2 on the list. That notwithstanding I am convinced that the appeal to the Court of Appeal and the Supreme Court emanated from Suit no. FHC/ABJ/225/2003 which proceeded to the Court of Appeal as Appeal No. CA/A/195/2003 and was in the Supreme Court as Suit no. SC/58/2010. I hold that in consequence of the ruling of the Supreme Court in SC/58/2010, AG Federation V Alhaji Ghali Umar Na'aba & Ors, the otherwise erudite judgment of R.N. Ukeje CJ (as she then was) of the Federal High Court is no longer good law on the unconstitutionality of the CPC Act No. 6 of 2003. It follows that any other case law which relied on that decision to reach the same conclusion is bad and would be discountenanced. The submission of Ataguba Aboje Esq. of Counsel for 1<sup>st</sup>, 3<sup>rd</sup> & 5<sup>th</sup> defendants/applicants has merit to that extent. Even at that it ought to be said the decision of R.N. Ukeje CJ (as she then was) of the Federal High Court nullify CPC Act No. 6 of 2003 was not original. It relied solely on the decision of Egbo-Egbo J (as he then was) in Hon. Bala Kaoje's case (supra). So even where the decision of R.N. Ukeje CJ (as she then was) of Federal High Court has been set aside and is not longer good case law, the principle of law in Hon. Bala Kaoje's case is still alive and good law. However, notwithstanding the mention of the Suit no. FHC/ABJ/C5/93/2003 in the process of the Supreme Court cited above I am sure it must have been a slip.

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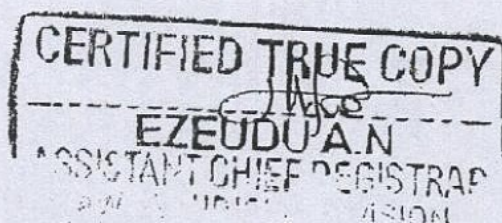
The parties in the real FHC/ABJ/C5/93/2003 are radically different from the parties in AG Federation V Chief Anyim Pius Anyim's case (supra) which came before R.N. Ukeje CJ (as she then was) of the Federal High Court. The suit FHC/ABJ/C5/93/2003 Hon. Bala Kaoje & 4 Ors V The National Assembly of FRN & 13 Ors came before Egbo-Egbo J (as he then was) with 5 plaintiffs and 14 defendants, whilst in the suit before R.N. Ukeje CJ (as she then was) of the Federal High Court, there were one plaintiff and four defendants. There is nothing before the court at this stage to show that there has been any appeal to the Court of Appeal or Supreme Court against Suit FHC/ABJ/C5/93/2003, Hon. Bala Kaoje & 4 Ors V The National Assembly of the Federal Republic of Nigeria & 13 Ors. I hold that decision of Egbo-Egbo J (as he then was) in FHC/ABJ/C5/93/2003, still subsists. Let me quote from page 20 which I consider germane as follows "... I am of the opinion just as the unauthorized step of erecting a fence round the land in dispute was ordered by that court to be removed and struck down so it is in this case that the Corrupt Practices and Other Related Offences Bill 2003 which was passed into an Act of the National Assembly in utter disregard and flagrant violation of the existing order of this court must be struck down to maintain the integrity of this court as a Court of Law... For reasons stated above I hereby declare that the said Act passed by the National Assembly null and void and of no effect whatsoever. It is struck down forthwith... Consequently the Corrupt Practice and Other Related Offences Act 2000 which came into effect on 13/6/2000 and was sanctioned by the Supreme Court of Nigeria in Attorney General of Ondo State V Attorney General of Federation & Ors in a judgement dated 7/6/2002 (sic) shall continue to operate in this country until amended c

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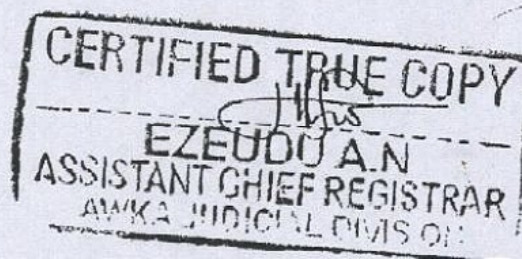
voided by a valid law made through due process of law by the National Assembly "The above dictum of Egbo-Egbo J, is the good case Law on the subject. I do not agree with Ataguba Aboje Esq. learned counsel for 1<sup>st</sup>, 3<sup>rd</sup> & 5<sup>th</sup> defendants/applicants that the above decision of Egbo-Egbo J (as he then was) could be whittled down on the ground that it emanated from a ruling. The ruling was based on live issues, which were canvassed and a final definitive decision was handed down. See S.318 of the Constitution of Nigeria 1999 on the interpretation of decision. See also Dike V Aduba (2000) 3 NWLR (pt. 647) 1. See S. 287(3) of the Constitution of Nigeria on emphasis about enforcement of decisions all over the Federation of Nigeria. The clear orders of Egbo Egbo J (as he then was) is still subsisting not having been set aside on appeal. In fact the ruling was delivered on 21/5/2003 when the purported override of the President's assent was consummated in the National Assembly on 7<sup>th</sup> and 8<sup>th</sup> May 2003. The decision being later in time mopped up all there was left of the passage of the CPC Act No. 6 of 2013. The total effect is that the CPC Act No. 6 of 2003 suffered a still birth and was never delivered. The apt analogy is that were the preliminary objection of the 1<sup>st</sup>, 3<sup>rd</sup> & 5<sup>th</sup> defendants to succeed the CPC Act No. 5 of 2000 would be knocked down and the CPC Act No. 6 of 2003 would be hoisted as the extant law on the matter and it would have the same permanent effect as the orders of Egbo Egbo J (as he then was) in Hon. Bala Kaoje's case (supra). Once orders are clear, definite, and relevant to issues judicially and judiciously canvassed it becomes a decision and the stage at which it emanated is of no moment.

The brief of the learned counsel for 6<sup>th</sup> defendant adopted by A.I. Hendah Esq. of counsel raise an issue which was also contained in my ruling





of 12/11/13 where I said inter alia "one wonders why the Corrupt Practices and Other Related Offences Act 2003 is contained in the Laws of the Federation of Nigeria volume 3 updated to the 31/12/10. It was prepared under the authority of the Revised Edition Laws of the Federation of Nigeria Act 2004 by the Law Revision Committee under the Chairmanship of Hon. Mr. Justice E.A. Ayoola, retired Justice of the Supreme Court of Nigeria. My Lord Justice E.A. Ayoola JSC (rtd) was a past Chairman of ICPC". The brief of the 6<sup>th</sup> defendant has added more flesh to that seeming self destruct. CPC Act No. 6 2003 was passed on 7<sup>th</sup> & 8<sup>th</sup> of May, 2003. The ruling in Suit no. FHC/ABJ/CS/93/2003 was delivered on 21/5/2003 by Egbo Egbo J (as he then was). The judgement in suit no. FHC/ABJ/CS/225/2003 was delivered by R.N. Ukeje CJ (as he then was) of the Federal High Court on 26/5/2003. The Hon. Attorney General of the Federation appeared in person in the one before Egbo Egbo J (as he then was) and was fully represented in the second before R.N. Ukeje CJ (as she then was) of Federal High Court. At paragraph 2.2 of the brief of the 6<sup>th</sup> defendant, it is submitted that the current Hon. Attorney General of the Federation and Minister of Justice, Mohammed Bello Adoke SAN wrote in the preface of the bound Laws of Nigeria which include CPC Act No. 6 of 2003 that "This bound format takes the Laws of the Federation of Nigeria to December 2010 from May 2007 where the last update ended. It contains all the Acts assented to by Mr. President within the period". This must be an acute embarrassment to the office of Hon. Attorney General of the Federation. It is mind boggling that such a mix up would find its way into the compiled Laws of the Federation of Nigeria. Be that as it is, the learned counsel for the 6<sup>th</sup> defendant left out a redeeming sentence from that write

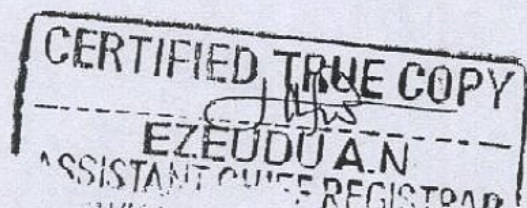




up by the Hon. Attorney General of the Federation as follows "As it is with any work of this magnitude, my Ministry will welcome useful observations on the publication". I intend to make the requisite recommendation in this application.

It is agreed that the President has done nothing required at S.58(4) of the Constitution of Nigeria 1999 to assent or withhold assent because there was disobedience of a court order at that time. Up till this moment there is no evidence in writing that the President has given his assent to CPC Act No. 6 2003.

The horrifying situation is that the Laws of the Federation of Nigeria 2010 omitted the CPC Act No. 5 of 2000 which the Supreme Court of Nigeria, the highest court in the land had adjudged the extant law on the matter. It had been said earlier that the National Assembly had the power to repeal that CPC Act No. 5 of 2000 if she had properly enacted CPC Act No. 6 of 2003 with the presence of S. 55 therein. It has been shown that the National Assembly did not get it right. See Hon. Bala Kaeje's case (supra). The decision of Egbo Egbo J (as he then was) on the matter preceded the compilation of the Laws of the Federation of Nigeria 2004. I repeat the Hon. Attorney General appeared in person in that case. Certainly there is no excuse for the same CPC Act No. 6 of 2003 to be included and the CPC Act No. 5 of 2000 which is valid excluded in the compiled laws of the Federation of Nigeria by the Hon. Attorney General of the Federation or the Law Revision Commission. I agree with Dr. Layonu SAN that the mere fact of such omission do not amount to a repeal of the omitted enactment. It is a cardinal principle of the law that statutes are not repealed by inference or implication but by direct provision of





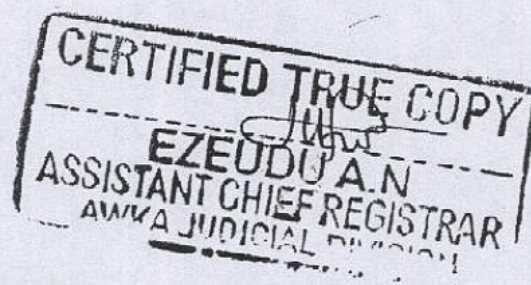
law. See *Ibidapo v Luthausa Airlines* (1994) 8 NWLR (pt 362) 355 per Iguh JSC (as he then was) relying on *Raleigh Ind. Ltd. v Nwaisu* (1994) 4 NWLR (pt 341) 760 @ 771. It is further held in the same *Ibidapo* case *supra* as follows inter alia "where it is intended to repeal a legislation this should be expressly so stated as the courts generally lean against implying the repeal of an existing legislation unless there exists clear proof to the contrary". Per Iguh JSC (as he then was) relying on the *Governor of Kaduna State & Ors v Lawal Kagoma* (1982) 65C 87 @ 106, S. 55 of CPC Act No. 6 of 2003 sought to repeal the CPC Act No. 5 of 2000 in clear terms but the attempt was stopped by the decision of Egbo Egbo J (as he then was) in Hon. Bala Kaoje's case and the CPC Act No. 5 of 2000 survived. Again it has been shown above that non-inclusion of the CPC Act No. 5 of 2000 in the Revised Laws of Federation 2010 does not amount to its repeal. It continues to exist. I also further agree with Dr. Layonu SAN that conversely, the mere fact that CPC Act No. 6 of 2003 is contained in the Laws of the Federal Republic of Nigeria 2004 does not stop it from being null and void as decided by Egbo Egbo J (as he then was) in Hon. Bala Kaoje's case (*supra*). It could not be overemphasized that there exist an untidy situation regarding which is the extant law on a subject of a necessary legislation in the Nigeria of today such as the CPC Act. There must be certainty of the law. See *NIMB Ltd. v UBN Ltd.* (2004) 12 NWLR (pt. 888) 599, per Pats-Acholonu JSC (as he then was) (of blessed memory). The President of Nigeria wrote to the National Assembly saying why he could not assent nor withhold assent on the bill leading to CPC Act No. 6 of 2003. There should be no talk then that the President later assented to the Bill. If the National Assembly claim that they overrode the

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President's veto, even where it has been shown that there could not have been a veto, and passed the CPC Act No. 6 of 2003 pursuant to S. 58(5) of the Constitution of Nigeria 1999, then the issue of the President's assent at a later date to validate the inclusion of CPC Act No. 6 of 2003 in the Laws of Federation of Nigeria 2004 falls on its face. I am not able to consider all the other submissions raised in the brief of the 6<sup>th</sup> defendant because they are all academic once it is agreed that the decision of Egbo Egbo J (as he then was) in Hon. Bala Kaoje's case (supra) effectively knocked down CPC Act No. 6 of 2003, to which I respectfully abide with.

From all I have said above I hold that the CPC Act No. 5 of 2000 is the extant law. See FRN V Anache (2013) 1 ICPC LR page 634; Attorney General Ondo V Attorney General Federation & Ors 2013 1 ICPC LR p. 254; Olafisoye V FRN 204 4 NWLR pt. 864 @ p. 580; Suit no. FHC/ABJ/CS/93/2003 Hon. Bala Kaoje & 4 Ors V The National Assembly of the Federal Republic of Nigeria & 13 Ors per Egbo Egbo J (as he then was). A look at both Acts would show that the composition of their membership are radically different. The CPC Act No. 6 of 2003 stipulates that the Chairman should be a serving Justice of the Court of Appeal which the current Chairman of ICPC functioning under the CPC Act No. 5 of 2000 is not. It is an irony therefore that CPC Act No. 5 of 2000 is not contained in the Laws of Federation of Nigeria 2004 while the CPC No. 6 of 2003 is. That anomaly should be corrected immediately. The surest pointer to the recognition of CPC Act No. 5 of 2000 by the Federal Government of Nigeria is that they continue to recognize and deal with the membership of the CPC Act No. 5 of 2000.





I further hold that the CPC Act No. 6 of 2003 has been voided and nullified and ought not to remain in the statute books. See Suit no. FHC/ABJ/CS/93/2003 Hon. Bala Kaoje & 4 Ors V The National Assembly of the Federal Republic of Nigeria & 13 Ors; Suit No. FCT/HC/CR/44/2010 FRN V. Dr. Aboki Zhawa & 2 Ors (unreported).

The preliminary objection of the 1<sup>st</sup>, 3<sup>rd</sup> & 5<sup>th</sup> defendants/applicant lacks merit and is dismissed. I hereby make the following orders:

- (1) The CPC Act No. 5 of 2000 is the valid and subsisting legislation on the matter and ought to be included in the compiled Laws of Federation of Nigeria.
- (2) The CPC Act No. 6 of 2003 is null void and of no effect and ought to be expunged from the compiled Laws of the Federation of Nigeria.
- (3) Pursuant to the meaning at Section 318 of the Constitution of Nigeria 1999 (as amended) I hereby make a recommendation that the Hon. Attorney General and Minister for Justice of Nigeria to (i) include the CPC Act No. 5 of 2000 in the compiled Laws of the Federation of Nigeria forthwith and (ii) to expunge the CPC Act No. 6 of 2003 from the compiled Laws of the Federation of Nigeria, forthwith.

**Signed:**

**Hon. Justice Peter N.C. Umeadi**

**Chief Judge**

**Anambra State**

**CERTIFIED TRUE COPY**

**A.N. EZEUDU**

**ASST. CHIEF REGISTRAR**

*Official*  
*Juf*  
*15/4/14*

**CERTIFIED TRUE COPY**  
**EZEUDU A.N.**  
**ASSISTANT CHIEF REGISTRAR**  
**ANAMBRA JUDICIAL DIVISION**

**HIGH COURT**

**AWKA**

**DATE 15/4/14**



**IN THE HIGH COURT OF ANAMBRA STATE OF NIGERIA**  
**IN THE HIGH COURT OF AWKA JUDICIAL DIVISION**  
**HOLDEN AT AWKA**

**BEFORE HIS LORDSHIP HON. JUSTICE PETER N.C. UMEADU**  
**CHIEF JUDGE ANAMBRA STATE**  
**ON THIS TUESDAY THE 4TH DAY OF MARCH, 2014**

**SUIT NO. A/1<sup>C</sup>/2013**

**BETWEEN:**

**THE FEDERAL REPUBLIC OF NIGERIA      -      Complainant/Respondent**

**AND**

- |   |   |                              |
|---|---|------------------------------|
| <b>1. DR. OKECHUKWU ODUNZE</b><br><b>2. ASUZU BENJAMIN OGOCHUKWU</b><br><b>3. ALH. Y.A. SULE</b><br><b>4. DR. IFEANYI OKOYE</b><br><b>5. BARR. BENJAMIN PASSA</b><br><b>6. HON. MOSES AKUHA TOR GBANDE</b><br><b>7. CHIEF MRS. R.O. DEREX-TANOR</b><br><b>8. A.N. NKWONTA</b> | } | <b>Defendants/Applicants</b> |
|   | } | <b>- - Defendants</b>        |

**RULING**

This is a notice of preliminary objection dated 20/3/13 and filed on 3/4/14 praying the following (1) an order striking out or quashing the charges contained in charge no A/1c/2013 levelled against the 1<sup>st</sup>, 3<sup>rd</sup> and 5<sup>th</sup> accused persons for being incurably defective. (2) an order striking out or quashing the charges contained in charge no A/1c/2013 levelled against the 1<sup>st</sup>, 3<sup>rd</sup> and 5<sup>th</sup> accused persons.

