

**IN THE SUPREME COURT OF NIGERIA**  
**HOLDEN AT ABUJA**  
**ON FRIDAY THE 3RD DAY OF MARCH 2023**  
**BEFORE THEIR LORDSHIPS**

**JOHN INYANG OKORO**

**AMINA ADAMU AUGIE**

**MOHAMMED LAWALGARBA**

**IBRAHIM MOHAMMED MUSA SAULAWA**

**ADAMU JAURO**

**TIJJANI ABUBAKAR**

**EMMANUEL AKOMAYE AGIM**

**JUSTICE, SUPREME COURT**

**JUSTICE, SUPREME COURT**

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**JUSTICE, SUPREME COURT**

**JUSTICE, SUPREME COURT**

**SC/CV/162/2023**

**BETWEEN**

1. ATTORNEY GENERAL OF KADUNA STATE
2. ATTORNEY GENERAL OF KOGI STATE
3. ATTORNEY GENERAL OF ZAMFARA STATE
4. ATTORNEY GENERAL OF ONDO STATE
5. ATTORNEY GENERAL OF EKITI STATE
6. ATTORNEY GENERAL OF KATSINA STATE
7. ATTORNEY GENERAL OF OGUN STATE
8. ATTORNEY GENERAL OF CROSS RIVER STATE
9. ATTORNEY GENERAL OF LAGOS STATE
10. ATTORNEY GENERAL OF SOKOTO STATE

**PLAINTIFFS**

**AND**

1. ATTORNEY GENERAL OF THE FEDERATION
2. ATTORNEY GENERAL OF EDO STATE
3. ATTORNEY GENERAL OF BAYELSA STATE

**DEFENDANTS**

## **JUDGMENT**

### **(DELIVERED BY EMMANUEL AKOMAYE AGIM, JSC)**

On 26-10- 2022, the Governor of the Central Bank of Nigeria by Press Remarks during a special press briefing at the Central Bank of Nigeria announced that the President of the Federal Republic of Nigeria has given the Central Bank of Nigeria the approval to redesign, produce, release and circulate new series of bank notes at N200, N500 and N1000 levels and to call in or withdraw from circulation existing bank notes of the same levels, that in line with the approval, the Central Bank of Nigeria has finalized arrangements for the new currency to begin circulation from 15-12-2022 after its launch by the President, that the new and existing currencies shall remain legal tender and circulate together until 31-1-2-23 when they shall cease to be legal tender, that this naira redesign policy would in addition to ensuring that our legal tender is strong and effective, deepen our drive to entrench cashless economy, help rein in the huge currency outside the banking system, thereby making monetary policy more efficacious and help minimize incidents of terrorism and kidnapping through the reduction or elimination of the large volume of money outside the banking system used as source of funds for ransom payments.

The Central Bank of Nigeria wrote a letter dated 6-12-2022 headed **"Naira Redesign Policy – Revised Cash Withdrawal Limit"** to all Deposit Money Banks (DMBS), other Financial Institutions (Payment Service Banks (PSBS), Primary Mortgage Banks (PMBS) and Microfinance Bank (MFBS) directing them that the:

- "1. The maximum cash withdrawal over the counter (OTC) by individuals and corporate organizations per week shall henceforth be ₦100,000 and ₦500,000 respectively. Withdrawals above these limits shall attract processing fees of 5% and 10% respectively.**
- 2. Third party cheques above ₦50,000 shall not be eligible for payment over the counter, while extant limits of ₦10,000,000 on clearing cheques still subsist.**
- 3. The maximum cash withdrawal per week via Automated Teller Machine (ATM) shall be ₦100,000 subject to a maximum of ₦20,000 cash withdrawal per day.**
- 4. Only denominations of ₦200 and below shall be loaded into the ATMs.**
- 5. The maximum cash withdrawal via point of sale (POS) terminal shall be ₦20,000 daily.**

6. In compelling circumstances, not exceeding once a month, where cash withdrawals above the prescribed limits is required for legitimate purposes, such cash withdrawals shall not exceed ₦5,000,000.00 and ₦10,000,000.00 for individuals and corporate organizations, respectively, and shall be subject to the referenced processing fees in (1) above, in addition to enhanced due diligence and further information requirements".

It stated therein that this is further to the naira redesign policy and in-line with the Central Bank of Nigeria cashless policy.

The apex Bank again wrote a letter dated 21-12-2022 headed **"RE: NAIRA REDESIGN POLICY – REVISED CASH WITHDRAWAL LIMITS"** to the same addressees stating that following its letter of 6-12-2022 on the naira redesign policy and revised cash withdrawal limits and based on the feed backs it has received from stake holders, it has reviewed the cash withdrawal limits as follows:

- "1. The maximum weekly limit for cash withdrawal across all channels by individuals and corporate organizations shall be ₦500,000.00 and ₦5,000,000.00 respectively.**

- 2. In compelling circumstances where cash withdrawal above the limits in (1) above is required for legitimate purposes, such requests shall be subject to a processing fee of 3% and 5% for individuals and corporate organizations, respectively.**
- 3. Further to (2) above, the financial institution shall obtain the following information from the customer, at the minimum, and upload same on the CBN portal created for the purpose.**
- 4. Third party cheques above N100,000 shall not be eligible for payment over the counter, while the extant limit of N10 million on clearing cheques shall subsist."**

By 15<sup>th</sup> December, 2022, the new naira notes were not available despite the assurances of the Federal Government that they would be introduced on that date. Most people had rushed to pay their existing currencies into their banks ahead of the dateline in the expectation that the new notes would be available by mid-December 2022. Their expectations were dashed as the new notes were scarcely available. The Central Bank of Nigeria admitted in its press statement of 19-1-2023 that since the call in or withdrawal of the old

bank notes started, the bank has received 1.9 trillion naira but did not state the amount of the new redesigned bank notes it has printed and made available to banks and other institutions to pay to persons that had returned or were still returning the old currencies. However, it is not in dispute that none of the banks country wide had received enough new bank notes from the Central Bank of Nigeria to pay their customers the prescribed maximum amount of withdrawable cash of N5000 for individual and N500,000 for corporate organizations per week. For days running into weeks, many customers go to the banks or ATM machines and remain in long queues from early morning till evening and go back home empty handed. In the few cases of payments being made, customers are paid as little as N1000, N2,000, N5,000, N20,000 irrespective of their huge bank deposits. While it remained very difficult to obtain or access the new naira notes in the banks, the old bank notes had ceased to be legal tender after the 31-1-2023.

Claiming that without consulting or seeking the advise of the National Council of States and the National Economic Council, which are bodies to which the Governors of the plaintiff States belong, and without prior notice or reasonable notice to the public, the President issued the directive or approval for the implementation of the redesign, production, release and circulation of the new bank notes

and withdrawal of the old bank notes, that no Federal Executive Council or National Security Council meeting was called by the President to discuss the economic and security implications of the policy before his approval of the policy and that no consultation whatsoever took place between Federal Government of Nigeria and all stakeholders in the Nigerian economy, including state Governments, Federal and State legislatures, financial institutions, civil societies, professional bodies and other concerned persons before the President directed or approved the redesign production, release and circulation of the new bank notes and withdrawal of the old bank notes, that the implementation of the production, release and circulation of the new bank notes and withdrawal of the old bank notes has punished and inflicted pain and huge losses on their citizens, massively disrupted trades and businesses generally, particularly small and medium enterprises and the rural economies in their states, grinding to a halt all economic activities, made impossible the functioning of the State governance structures that require cash, the 1<sup>st</sup> to 3<sup>rd</sup> plaintiffs on 3-2-2023 commenced Suit No. SC/CV/162/2023 by originating summons praying for the determination of the following questions –

- 1. Whether the demonetization directive/policy by the President of the Federation to wit: withdrawal of the old 200,**

- 500 and 100 Naira notes is consistent with the provisions of the Constitution of the Federal Republic of Nigeria 1999 (as amended) which make provision for the Executive Powers of the President of the Federation and the extant laws on the subject matter?
2. Whether the 3-month notice given for the implementation and completion of the said demonetization policy by which time the old N1000, N500 and N200 Naira notes shall cease to be legal tender satisfies the condition set out in Section 20(3) of the CBN Act 2007?
  3. Whether the President can unilaterally give a directive to embark on the demonetization policy pursuant to Section 20(3) of the CBN Act, 2007, in view of Nigeria's fiscal federalism, the economic interests of the constituents of the Federation and without consultation with, and advice from the plaintiffs individually, and in their capacity as members of the National Council of States and National Economic Council, and also whether such a Directive can be given without consultation with, and advice from the Cabinet, the National Security Council and other stakeholders?
  4. Whether in issuing the directive for demonetization policy pursuant to Section 20(3) of the CBN Act, 2007 on behalf of the Federation of Nigeria, the President is not under an obligation to ensure that adequate structures are put in place

for the plaintiffs and Nigerian citizens prior to the implementation of the said directives.

5. Whether the demonetization directive/policy by the President of the Federation to wit: withdrawal of the old 200, 500 and 1000 Naira notes does not unlawfully impede the exercise of the Executive Powers of the plaintiffs' States and other obligations to facilitate and protect the welfare of the citizens of the said States pursuant to Section 5(2) and other provisions of the Constitution of the Federal Republic of Nigeria (as amended) as well as other extant laws?
6. Whether, the directive given by the President pursuant to Section 20(3) of the CBN Act 2007 limiting the amount that can be withdrawn and the charges therein is Constitutional and binding on the plaintiffs?
7. Whether, the directive given by the President pursuant to Section 20(3) of the CBN Act 2007, imposing a timeline for redeeming at face value the said old Naira notes is not contrary to the provisions of the said section 20(3) of the CBN Act and the Constitution of the Federal Republic of Nigeria 1999 (as amended)?
8. Whether the power the President of the Federation exercised is expropriatory against the plaintiffs' States?

The reliefs claimed for in the originating summons are as follows—

- "1. A DECLARATION that the demonetization directive/policy by the President of the Federation to wit: withdrawal of the old 200, 500 and 1000 Naira notes is not consistent with the provisions of the Constitution of the Federal Republic of Nigeria 1999 (as amended) which make provision for the Executive Powers of the President of the Federation and the extant laws on the subject matter.**
- 2. A DECLARATION that the 3-month notice given for the implementation and completion of the said demonetization policy by which time the old N1000, N500 and N200 Naira notes shall cease to be legal tender does not satisfy the condition set out in Section 20(3) of the CBN Act 2007.**
- 3. A DECLARATION that the President cannot unilaterally give a directive to embark on the demonetization policy pursuant to Section 20(3) of the CBN Act, 2007, in view of Nigeria's fiscal federalism, the economic interests of the constituents of the Federation and without consultation with, and advice from the plaintiffs individually, and in their capacity as members of the National Council of States and National Economic Council, and that the Directive cannot be given without consultation with, and advise from the Cabinet, the National Security Council and other stakeholders.**

4. A DECLARATION that in issuing the directive for demonetization policy pursuant to Section 20(3) of the CBN Act, 2007 on behalf of the Federation of Nigeria, the President is under an obligation to ensure that adequate structures are put in place for the plaintiffs and Nigerian citizens prior to the implementation of the said directives.
5. A DECLARATION that the demonetization directive/policy by the President of the Federation to wit: withdrawal of the old 200, 500 and 1000 Naira notes unlawfully impedes the exercise of the Executive powers of the plaintiffs' States and other obligations to facilitate and protect the welfare of the citizens of the said States pursuant to Section 5(2) and other provisions of the Constitution of the Federal Republic of Nigeria 1999 (as amended) as well as other extant laws.
6. A DECLARATION that the directive given by the President pursuant to Section 20(3) of the CBN Act 2007 limiting the amount that can be withdrawn and the charges therein is unconstitutional and not binding on the plaintiffs'.
7. A DECLARATION that the directive given by the President pursuant to Section 20(3) of the CBN Act 2007, imposing a timeline for redeeming at face value

**the said old Naira notes is contrary to the provisions of the Constitution of the Federal Republic of Nigeria 1999 (as amended).**

- 8. A DECLARATION that the Power the President of the Federation exercised is expropriatory against the plaintiffs' States.**
- 9. A DECLARATION of this Honourable Court directing the immediate suspension of the demonetization policy of the Federation as ordered by the President pursuant to the provisions of Section 20(3) of the CBN Act.**
- 10. AND FOR SUCH FURTHER ORDER OR OTHER ORDERS as this Honourable Court may deem fit or expedient to make in the interest of justice.**

The 4<sup>th</sup> to 10<sup>th</sup> plaintiffs were joined as plaintiffs in this suit by order of this court made on 15-2-2023 upon their application. The 2<sup>nd</sup> and 3<sup>rd</sup> defendants were joined as defendants in this suit by the order of this court made on 15-2-2023.

Suits Nos. SC/CV/222, Attorney General Rivers State v Attorney General of the Federation, SC/CV/197/2023, Attorney General Ondo State V. Attorney General of the Federation, SC/CV/200/2023, Attorney General Kano State V. Attorney general of the Federation, SC/CV/210/2023 Attorney General Niger State V. Attorney General of

the Federation and SC/CV/229/2023, Attorney General Nasarawa State v Attorney General of the Federation were consolidated with this Suit No. SC/CV/162/2023 to be heard and determined together.

The suits consolidated with this suit raise substantially similar questions for determination and claim for basically similar reliefs. Any difference in the questions raised and the reliefs claimed shall be considered and determined.

The 1<sup>st</sup> defendant on 20-2-2023 filed a notice of preliminary objection praying for this suit to be dismissed or struck out for want of jurisdiction on the following grounds –

- "1. The plaintiffs' suit challenges the authority of the Federal Government of Nigeria through its agency, the Central Bank of Nigeria, to call in its old notes and issue a new ones.**
- 2. The Central bank of Nigeria, by virtue of its establishment Act is independent in the exercise of its powers under the Central Bank of Nigeria Act.**
- 3. The Plaintiffs' suit challenges the power vested in the Central bank of Nigeria by the Central Bank of Nigeria Act, 2007, to call in any of its notes and issue new ones and does not constitute a dispute between the Federation and the States.**

4. The Suit, as presently constituted and no matter how couched, falls within the exclusive jurisdiction of the Federal High Court, as provided under Section 251 (1), (d), (p), (q) & (r) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) by virtue of the subject matter and the party whose statutory power is being challenged.
5. The claims and reliefs sought are against an agency of the Federal Government, the Central Bank of Nigeria.
6. The Suit is not justiciable under the present circumstances.
7. The Plaintiffs have no locus standi to institute this action as the right alleged to have violated are those of individuals and not of the Plaintiffs.
8. The Suit discloses no dispute that invokes the original jurisdiction of the Supreme Court as constitutionally defined and constitutes an abuse of judicial process.
9. This Honourable Court lacks the jurisdiction to entertain this suit against the Applicant, as the suit was wrongly commenced at the Supreme Court.
10. The suit cannot be effectively determined in the absence of the Central Bank of Nigeria, as it borders

on the exercise of its powers as provided under Section 20(3) of the Central Bank of Nigeria Act, 2007.

11. The suit has not shown any legal rights of the plaintiffs that can be enforced against the Defendant”.

The 2<sup>nd</sup> defendant also filed a notice of preliminary objection praying for this suit to be struck out or dismissed for want of jurisdiction on the following grounds –

- “1. By an originating Summons filed on 3<sup>rd</sup> February, 2023, the Plaintiffs/Respondent are seeking declaratory and injunctive reliefs against the 1<sup>st</sup> Defendant.
2. The Plaintiffs/Respondents’ Suit challenges the demonetization, cashless and cash-limit policy implemented or being carried out by the Federation, i.e the Federal Government of Nigeria, intended to redesign and withdraw old N200, N500 and N1000 Naira notes and introduce the redesigned N200, N500 and N1000 Naira notes.
3. That this policy was enunciated and is being executed by the Central bank of Nigeria under the directive of the President of the Federal Republic of Nigeria in

on the exercise of its powers as provided under Section 20(3) of the Central Bank of Nigeria Act, 2007.

11. The suit has not shown any legal rights of the plaintiffs that can be enforced against the Defendant”.

The 2<sup>nd</sup> defendant also filed a notice of preliminary objection praying for this suit to be struck out or dismissed for want of jurisdiction on the following grounds –

- “1. By an originating Summons filed on 3<sup>rd</sup> February, 2023, the Plaintiffs/Respondent are seeking declaratory and injunctive reliefs against the 1<sup>st</sup> Defendant.
2. The Plaintiffs/Respondents’ Suit challenges the demonetization, cashless and cash-limit policy implemented or being carried out by the Federation, i.e the Federal Government of Nigeria, intended to redesign and withdraw old N200, N500 and N1000 Naira notes and introduce the redesigned N200, N500 and N1000 Naira notes.
3. That this policy was enunciated and is being executed by the Central bank of Nigeria under the directive of the President of the Federal Republic of Nigeria in

7. This Suit as presently constituted is not within the ambit of the original jurisdiction of this Honourable Court.
8. By Section 52(1) of the Central Bank of Nigeria Act, 2007, and Section 51 of the Bank and other Financial Institutions Act, 2020, neither the Federal Government nor the Central bank of Nigeria nor an

5. There is a dispute between the Federal

Republic of Nigeria and the President of the Federal Republic of Nigeria or President of the Federal Republic of Nigeria.

The Plaintiffs/Respondents' Suit principally seeks an interpretation of Section 20(3) of the Central Bank of Nigeria Act, 2007.

6. The Plaintiffs/Respondents' Suit principally seeks an interpretation of Section 20(3) of the Central Bank of Nigeria Act, 2007.
7. This Suit as presently constituted is not within the ambit of the original jurisdiction of this Honourable Court.

8. By Section 52(1) of the Central Bank of Nigeria Act, 2007, and Section 51 of the Bank and other Financial Institutions Act, 2020, neither the Federal Government nor the Central bank of Nigeria nor an

accordance with the Constitution of the Federal Republic of Nigeria 1999 (as amended) and the Central Bank of Nigeria Act, 2007.

4. The claims/reliefs being sought by the Plaintiff/Respondents are against the Federal Government of Nigeria and its agency, the Central Bank of Nigeria and not the Federation and thus cannot form the basis for invoking the original jurisdiction of this Honourable court.
5. There is distinction between the Federation or the Federal Republic of Nigeria and the Federal Government of Nigeria or President of the Federal Republic of Nigeria.
6. The Plaintiffs/Respondents' Suit principally seeks an interpretation of Section 20(3) of the Central Bank of Nigeria Act, 2007.
7. This Suit as presently constituted is not within the ambit of the original jurisdiction of this Honourable Court.
8. By Section 52(1) of the Central Bank of Nigeria Act, 2007, and Section 51 of the Bank and other Financial Institutions Act, 2020, neither the Federal Government nor the Central bank of Nigeria nor any

officer of the Government or CBN can be subject to any action, claim or demand by or liability to any person in respect of anything done or omitted to be done in good faith in pursuance or in execution of, or in connection with the execution or intended execution of any power conferred upon that the government or CBN or such officer, by this Act.

9. Section 2 (2) of the Public Officer's Protection Act, CAP p41, LFN 2004 mandates any person who intends to commence any proceedings against any Public Officer for any act done in pursuance of execution or intended neglect or default in the execution of any such act, law, duty, or authority, to bring such action within three months next after the ceasing of the default or neglect thereof.
10. That the 1<sup>st</sup> Defendant is a Public Officer within the contemplation of the Public Officers' Protection Act.
11. The Plaintiffs/Respondents Suit is an action challenging the demonetization/Naira redesign, cashless and cash-limit policy and directive of the 1<sup>st</sup> Defendant as public officer.
12. This suit challenging the acts, laws or policies of the 1<sup>st</sup> Defendant/Applicant, as public officer, ought to be

**filed within three months of the acts complained of and should have been filed on 25<sup>th</sup> January, 2023.**

**13. This Suit is statute barred.**

**14. This Suit is speculative.**

**15. This Honourable Court therefore lacks jurisdiction to determine this suit as presently constituted."**

The preliminary objections to the consolidated suits are basically similar to the above two. There is therefore no need to set them out here separately. I will also consider and determine them.

Upon the 1<sup>st</sup> to 3<sup>rd</sup> Plaintiff's application by motion ex parte, this Court on 8-2-2023 made an interim order of injunction that the existing 200, 500 and 1000 naira notes remain legal tender side by side the new and redesigned naira notes pending the determination of their pending application by motion on notice for interlocutory injunction. On 15-2-2023, when the suit came up for hearing, Learned SAN for the 1<sup>st</sup> to 3<sup>rd</sup> plaintiffs informed this court that they have filed an affidavit deposing to the facts of the 1<sup>st</sup> defendant's non-compliance with the interim order of this court, as the 1<sup>st</sup> defendant has through the Central Bank of Nigeria repeatedly released statements in the electronic and print media that the old notes had ceased to be legal tender on 10-2-2023. Learned SAN for

the 1<sup>st</sup> respondent, argued in reply that the allegation is mere rumor and that they will respond to the said affidavit. By a motion on notice filed on 17-2-2023, the 3<sup>rd</sup> plaintiff applied for an order setting aside the directive contained in the Special and Presidential Media Broadcast on Thursday, 16<sup>th</sup> February, 2023 by the President for being an unconstitutional overreach and usurpation of the judicial power of this court on a matter pending before it and in respect of which there subsists an order of interim injunction binding all parties including the President on the grounds that the President in the said Broadcast directed that the old 200 naira note be released back into circulation as legal tender alongside the new banknotes for 60 days from 10-2-2023 to 10-4-2023 and that existing 500 and 1000 naira notes remain redeemable at CBN and designated points and that this directive varies and disobeys the subsisting interim order of this court made on 8-2-2023.

The 1<sup>st</sup> and 2<sup>nd</sup> defendants filed counter affidavits supported by written addresses in opposition to the motion on notice to set aside the 16-2-2023 directive of President and contend that the directive did not contradict or disobey the 8-2-2023 interim order of this court and did not prejudice the pending suits before this court on the naira redesign directive.

The 5<sup>th</sup> plaintiff by motion on notice filed on 20-2-2023 applied for an order of this court that the 1<sup>st</sup> defendant should no longer be heard in this case and that the case be adjourned sine die until the 1<sup>st</sup> defendant complies with the 8-2-2023 interim order of this court.

The defendants had also applied by motion on notice on 20-2-2023 for an order dismissing or setting aside the Form 48 filed by the plaintiffs to commence committal proceedings against the 1<sup>st</sup> defendant.

For clarity, let me restate that the matters before this court for its determination are the challenge to its jurisdiction to entertain the plaintiffs' suits, the alleged disobedience of the 8-2-2023 interim order of this court and the merit of the suits.

Let me determine first the question of the jurisdiction of this court to entertain these suits.

I have carefully considered all the arguments in the respective written addresses on this issue.

Let me consider the arguments of Learned SANs for the defendants that this court cannot exercise the original jurisdiction given to it by S.232(1) of the 1999 Constitution to entertain these suits because they challenge the act of the President as head of the

executive arm of the Federal Government of Nigeria and not the act of the Federation or the Federal Republic of Nigeria, that the suits involve disputes between the plaintiff states and the Federal Government of Nigeria and not the Federation of Nigeria and that such jurisdiction can only be exercised in respect of dispute between the Federation and a State or between States.

The directive by the President by virtue of his office as such President and head of Government of the Federation is in exercise of the executive powers of the Federation vested on him or her by virtue of S.5(1) of the 1999 Constitution which provides that:

**"5(1). Subject to the provisions of this Constitution, the executive powers of the Federation –**

**(a) shall be vested in the President and may, subject as aforesaid and to the provisions of any law made by the National Assembly, be exercised by him either directly or through the Vice-President or Ministers of the Government of the Federation or other officers in the public service of the Federation; and**

**(b) shall extend to the execution and maintenance of this Constitution, all laws made by the National Assembly and to all matters with respect to which the National Assembly has, for the time being, power to make laws."**

The Government of Nigeria is therefore an agent of the Federation of Nigeria as it exercises the executive powers of the Federation on behalf of the Federation or Federal Republic of Nigeria for its benefit and wellbeing. In *AG Federation V AG Abia State*(2001) LPELR-24862(SC) this court stated that the Federal Government of Nigeria represents all the constituent states of the federation and exercises the powers of the Federation as trustee for and on behalf of the Federation. This court restated in **A-G Lagos State v. A-G Federation (2014) 9 NWLR (Pt. 1412) 217 at 280**, that the Federal Republic of Nigeria (or the Federation) is the repository of the sovereignty of the people of Nigeria, whereas the Federal and State Governments in contradistinction are donees of the power and authority of the people.

Being an agent of the Federation, the act of the President as head of Government of Nigeria is therefore the act of the Federation. It is an

established principle of hallowed antiquity that *quit facit per alium facit per se* (one who acts by another acts himself).

So much heavy weather is made about the distinction between the Federation and the Government of Nigeria that exercises its executive powers. That distinction no doubt has constitutional basis. But since the Government of the Federation exercises the executive powers of the Federation, there is, legally and practically speaking, hardly a dividing line between the acts of the Government of the Federation and the acts of the Federation. The distinction does not exist to the extent of turning the Government of the Federation into a sovereign that can act without regard to the Federation. The Government of the Federation is not a sovereign. It is a creation of the Constitution for the purpose of exercising the executive powers of the Federation. The Federation is inherently the sovereign and its sovereignty is further established by S.2(1) and (2) of the 1999 Constitution which provides that-

- (1) Nigeria shall be one indivisible and indissoluble sovereign state to be known by the name of the Federal Republic of Nigeria.**
- (2) Nigeria shall be a Federation consisting of States and the Federal Capital Territory, Abuja.**

The sovereignty enjoyed by the Federation is owned by the several individual persons constituting the people of the Federation of Nigeria who own the lands that together form the territory of Nigeria. S.14(2) of the 1999 Constitution acknowledges this ownership by declaring that-

- (a) Sovereignty belongs to the people of Nigeria from whom government through this Constitution derives all its powers and authority.**
- (b) The security and welfare of the people shall be the primary purpose of government; and**
- (c) The participation by the people in their government shall be ensured in accordance with the provisions of this constitution.**

The plaintiffs in their suits contend that since they are constituents of the Federation and that since the executive power of the Federation is vested in the President and the Government of Nigeria, to be exercised on behalf of the Federation, then the executive act or decision of directing or approving a measure that obviously would have far reaching disruptive impact on the public governance and economic and social order of the constituent states such as introducing redesigned naira notes into circulation, withdrawing the old bank notes and limiting cash withdrawals from banks to reduce

the money in circulation and increase the money in the banks, should have been made after due consultation with the constituents of the Federation through the National Council of States and the National Economic Council and in such a manner as to avoid the massive disruptions of the governance of the constituents and disruptions of trades and all economic activities and the pervasive hardship its hasty and haphazard implementation has unleashed on people in the constituent states.

This is clearly a dispute between the Federating units and Federation and other federating units over the exercise of the executive powers of the Federation by the President without regard to the Constituents of the Federation. The dispute is between the plaintiff states on one hand and the Government of the Federation and two other states on the other hand.

It is a dispute within the original jurisdiction of this court vested on it by S.232(1) of the 1999 Constitution which provides that-

**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."**

Let me consider the argument that the non-joinder of the Central Bank of Nigeria as a defendant in this suit robs this court of the jurisdiction to try the suit.

This argument is invalid for the following reasons.

It is the action or decision of the President and not the action or decision of the Central Bank of Nigeria or its Governor that is challenged by this suit. The suit challenges the constitutional validity of the President's directives or approval given to Central Bank of Nigeria to introduce redesigned naira notes into circulation and withdraw old bank notes without first consulting or seeking the advise of the National Council of States and the National Economic Council, which are bodies to which the Governors of the plaintiff States belong, without prior notice or reasonable notice to the public, without first meeting with the Federal Executive Council or National Security Council to discuss the economic and security implications of the policy and without any form of consultation whatsoever with all stakeholders in the Nigerian economy, including state governments, federal and state legislatures, financial institutions, civil societies, professional bodies and other concerned persons.

The Central Bank of Nigeria was carrying out the directive of the President in keeping with S.20(3) of the C.B.N. Act 2007 which provides that " **Notwithstanding sub-sections (1) and (2) of this section, the Bank shall have power, if directed to do so by the President and after giving reasonable notice in that behalf, to call in any of its notes or coins on payment of the face value thereof and any note or coin with respect to which a notice has been given under this sub-section, shall, on the expiration of the notice, cease to be legal tender, but, subject to section 22 of tis Act, shall be redeemed by the Bank upon demand.**"

It is glaring from this provision that the Central Bank of Nigeria or its Governor has no power to introduce new naira notes into circulation or withdraw existing ones, if there is no directive of the President of Nigeria to do so. The 16<sup>th</sup> February 2022 national broadcast by the President of Nigeria on the challenges facing the implementation of his directive, admit clearly that the he directed the change of currency and the manner it is being implemented. I have chosen to reproduce the full text of that broadcast here for ease of reference. It reads thusly-

NATIONAL BROADCAST BY HIS EXCELLENCY MUHAMMADU BUHARI,  
PRESIDENT, FEDERAL REPUBLIC OF NIGERIA ON THE CHALLENGES OF THE  
CURRENCY SWAP AND STATE OF THE NATION, ON 16<sup>TH</sup> FEBRUARY, 2023.

1. I have found it necessary to address you today, on the state of the nation and to render account on the efforts of our administration to sustain and strengthen our economy, enhance the fight against corruption and sustain our gains in the fight against terrorism and insecurity which has, undoubtedly, been impacted by several internal and external factors
2. Particularly, I am addressing you, as your democratically elected President, to identify with you and express my sympathy, over the difficulties being experienced as we continue the implementation of new monetary policies, aimed at boosting our economy and tightening of the loopholes associated with money laundering.
3. Let me re-assure Nigerians, that strengthening our economy, enhancing security and blockage of leakages associated with illicit financial flows remain top priority of our administration. And I shall remain committed to my oath of protecting and advancing the interest of Nigerians and the nation, at all times.
4. In the last quarter of 2022, I authorized the Central Bank of Nigeria (CBN) to redesign the N200, N500, and N1000 Nigerian banknotes.
5. For a smooth transition, I similarly approved that the redesigned banknotes should circulate concurrently with the old bank notes, till 31 January 2023, before the old notes cease to be legal tender.
6. In appreciation of the systemic and human difficulties encountered during implementation and in response to the appeal of all citizens, an extension of ten days was authorized till 10<sup>th</sup> February, 2023 for the completion of the process, Alltheses activities are being carried out within the ambit of the Constitution, the relevant law under the CBN Act 2007 and in line with global best practices.

7. Fellow citizens, while I seek your understanding and patience during this transient phase of implementation, I feel obliged to avail you a few critical points underpinning the policy decision. These include:
- a. The need to restore the statutory ability of the CBN to keep a firm control over money in circulation. In 2015 when this administration commenced its first term, currency-in-circulation was only N1.4trillion.
  - b. The proportion of currency outside banks grew from 78% in 2015 to 85% in 2022. As of October 2022, therefore, currency in circulation had risen to N3.23 trillion; out of which only N500 billion was within Banking System while N2.7 trillion remained permanently outside the system; thereby distorting the financial policy and efficient management of inflation.
  - c. The huge volume of Bank Notes outside the banking system has proven to be practically unavailable for economic activities and by implication, retard the attainment of potential economic growth;
  - d. Economic growth projections make it imperative for government to aim at expanding financial inclusion in the country by reducing the number of the unbanked population; and
  - e. Given the prevailing security situation across the country, which keeps improving, it also becomes compelling for government to deepen its continuing support for security agencies to successfully combat banditry and ransom-taking in Nigeria.
8. Notwithstanding the initial setbacks experienced, the evaluation and feedback mechanism set up has revealed that gains have merged from the policy initiative.
9. I have been reliably informed that since the commencement of this program, about N2.1 trillion out of the banknotes previously held outside the banking system, had been successfully retrieved.

10. This represents about 80% of such funds. In the short to medium and long terms, therefore, it is expected that there would be:
- a. A strengthening of our macro economic parameter;
  - b. Reduction of broad money supply leading to a declaration of the velocity of money in the economy which should result in less pressures on domestic prices;
  - c. Lowering of inflation as a result of the accompanying decline in money supply that will slow the pace of inflation;
  - d. Collapse of Illegal Economic Activities which would help to stem corruption and acquisition of money through illegal ways;
  - e. Exchange Rate stability;
  - f. Availability of Easy Loans and lowering of interest rates; and
  - g. Greater visibility and transparency of our financial actions translating to efficient enforcement of our anti-money laundering legislations.
11. I am not unaware of the obstacles placed on the path of innocent Nigerians by unscrupulous officials in the banking industry, entrusted with the process of implementation of the new monetary policy. I am deeply pained and sincerely sympathize with you all, over these unintended outcomes.
12. To stem this tide, I have directed the CBN to use all legitimate means to ensure that our citizens are adequately educated on the policy, enjoy easy access to cash withdrawal through availability of appropriate amount of currency; and ability to make deposits.
13. I have similarly directed that the CBN should intensify collaboration with anti-corruption agencies, so as to ensure that any institution or person(s) found to have impeded or sabotaged the implementation should be made to bear the full weight of the law.
14. During the extended phase of the deadline for currency swap, I listened to invaluable pieces of advice from well meaning citizens and institutions across the nation.

15. I similarly consulted widely with representatives of the State Governors as well as the Council of State. Above all, as an administration that respects the rule of law, I have also noted that the subject matter is before the courts of our land and some pronouncements have been made.
16. To further ease the supply pressures particularly to our citizens, I have given approval to the CBN that the old N200 bank notes be released back into circulation and that it should also be allowed to circulate as legal tender with the new N200, N500, and N1000 bank notes for 60 days from February 10, 2023 to April 10 2023 when the old N200 notes ceases to be legal tender.
17. In line with Section 20(3) of the CBN Act 2007, all existing old N1000 and N500 notes remain redeemable at the CBN and designated points.
18. Considering the health of our economy and the legacy we must bequeath to the next administration and future generations of Nigerians; I admonish every citizen to strive harder to make their deposits by taking advantage of the platforms and windows being provided by the CBN.
19. Let me assure Nigerians that our administration will continue to assess the implementation with a view to ensuring that Nigerians are not unnecessarily burdened. In this regard, the CBN shall ensure that new notes becomes more available and accessible to our citizens through the banks.
20. I wish to once more appeal for your understanding till we overcome this difficult transient phase within the shortest possible time.
21. Fellow citizens, on the 25<sup>th</sup> of February, 2023 the nation would be electing a new President and National Assembly members. I am aware that this new monetary policy has also contributed immensely to the minimization of the influence of money in politics. (Underlining mine).

In any case, the Central Bank of Nigeria is an agency of the Government of Nigeria. Therefore, whatever it does is deemed to

have been done under the general directives of the President who is the repository of the executive powers of the Federation, which he exercises in the making and execution of monetary policies for the country, through the agency of the Central Bank of Nigeria and its Governor, an officer in the public service of the Federation. So, the Central Bank of Nigeria need not be joined in the suit as a defendant when its disclosed principal, the Government of Nigeria is named as the 1<sup>st</sup> defendant. The law is settled by a long line of decisions of this court that an agent of a revealed or known principal is an unnecessary party to an action. See for example **Osigwe V PSPLS Management Consortium Ltd &Ors(2009) LPELR- 2807(SC) and Carlen V University of Jos(1994) 1 SCNJ 72.**

The suit as constituted can be fairly, effectually and conclusively tried and determined in respect of the rights and interest of the parties before it without the joinder of the Central Bank of Nigeria. The law is settled that the non joinder of a person who can be a party to an action, as a party to the action, would not defeat it, if the action as constituted as to parties, their rights and interests and the issues raised or arising for determination in the suit, can be fairly, effectually and conclusively tried and determined without joining such a person as a party to the action. See **Okoye V NCF Co Ltd &Ors(1991) All**

**NLR 328, Bello V INEC(2010) LPELR-767(SC) and Green V Green(1987)LPELR-1335(SC)**

This suit is not an action between banks or against the CBN and therefore is not within the exclusive jurisdiction given to the Federal High Court by S.251(1)(d) of the 1999 Constitution which provides that-

**"251(1) Notwithstanding anything to the contrary contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the Federal High Court shall have and exercise jurisdiction to the exclusion of any other court in civil cases and matters –**

**(d) connected with or pertaining to banking, banks, other financial institutions, including any action between one bank and another, any action by or against the Central Bank of Nigeria arising from banking, foreign exchange, coinage, legal tender, bills of exchange, letters of credit, promissory notes and other fiscal measures."**

As I had held herein, it is a dispute between some states on one hand and the Federation and some states on the other over the manner the President exercised the executive powers of the Federation in his directive to the CBN to carry out the change of currency. The named parties herein are the plaintiffs states against the Government of the Federation and two states of the Federation as defendants. A suit with this subject matter and between the parties named herein can be entertained only by this court in its original jurisdiction and cannot come within the exclusive original jurisdiction given to the Federal High Court by S.251(1) of the 1999 Constitution.

Let me now consider the argument that the plaintiffs have no *locus standi* to bring the suit because the questions raised for determination and the reliefs sought for in the originating summons and the affidavit in support thereof do not show any dispute of facts or law on which the existence or extent of their legal right depends. It is correct that S.232(1) of the 1999 Constitution provides that the dispute between the Federation and a State or between States, over which this court can exercise original jurisdiction, must be one that involves any question of law or fact on which the existence or extent of a legal right depends. In other words, the dispute must arise over the plaintiffs claim or assertion of the existence or extent of a right created or recognized and enforceable by law. This is the right, the

breach of which entitles the plaintiff to remedy and gives him a right of action and a cause of action. The rights they assert in this suit are the right to be first consulted by the President as constituents of the Federation and the right to reasonable notice as such constituents before the President gave the directive or approval to the CBN to implement the change of currency notes, the right to protection of their states' governance, economic and social order against massive disruptions and hardships that has resulted from the hasty and not well thought through and organized implementation of the change and the right to the establishment of adequate infrastructure and measures to prevent the said disruptions and hardships.

It is obvious that the directive has been carried out. The fact is common knowledge, is not reasonably open to question and does not require proof, that the implementation of the directive has continued to deprive all persons and the plaintiffs access to a substantial part of their funds in banks, thereby forcefully and illegally depriving them their rights of ownership and use of the said funds for state functions. The President's national broadcast of 16-2-2023 confirms this.

Inherent in their status as constituents of the Federation under a democratic constitution, is their right to be consulted by the President before the exercise of any executive power of such

magnitude as can have far reaching affect on the governance, economic and social order of each constituent of the Federation. Such right is inherent in the idea of a Federation in a democracy. Without it, the Federation losses its sovereignty and the President becomes the sovereign and the Government of Nigeria a dictatorship.

Let me also consider the argument that by virtue of S.52 of the CBN Act, 2007 and S.51 of BOFIA this Court lacks the jurisdiction to entertain this suit.

S.52(1) of the CBN Act, 2007 provides that-

- "(1) Neither the Federal Government nor the Bank nor any officer of that Government or Bank shall be subject to any action, claim or demand by or liability to any person in respect of anything done or omitted to be done in good faith in pursuance or in execution of, or in connection with the execution or intended execution of any power conferred upon that Government, the Bank or such officer, by this Act."**
- (3) "For the purposes of this section, the Minister or any officer duly acting on his behalf shall be deemed to be an officer of the Federal Government and Governor, any**

**Deputy Governor of the Bank or other employee shall be deemed to be an officer of the Bank.” (Underlining ours for emphasis)**

**In the same vein, Section 51 of Banks Other Financial Institutions Act, 2020 (BOFIA) provides**

**“Neither the Federal Government nor the bank nor any officer of that Government or bank shall be subject to any action, claim or demand by or liability to any person in respect of anything done or omitted to be done in good faith in pursuance or in execution of, or in connection with the execution or intended execution of any power conferred upon the Government, the bank or such officer by this Act”.**

These provisions cannot be applied to prevent the exercise by this court of the exclusive original jurisdiction given to it by S.232(1) of the 1999 Constitution. To do so will render them inconsistent with S.232(1) of the Constitution and void to the extent of the inconsistency by virtue of S.1(1) and (3) of the 1999 Constitution. This is because there is nothing in S.232(1) of the Constitution

limiting the exclusive original jurisdiction it has given this court to any subject matter or excluding any subject matter from it. At the risk of repetition, I reproduce here again the provisions of S.232(1) of the Constitution for ease of reference. The exact text reads thusly - **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."**

The scope of the original jurisdiction is over "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." It did not exclude some type of such disputes. The Constitution having used such general words as "any dispute" and "any question" to vest this court an unlimited subject matter exclusive original jurisdiction, no court including this court has the power to exclude from the original jurisdiction of this court disputes between states and the Government of the Federation over the exercise by the President of a power given to it by the Central Bank Act or other legislation. As this court held in **Obayuwana vs. Governor of Bendell State &Anor (1982) 12SC (Reprint) 67** per Nnamani JSC, Where **the Constitution states a word or phrase generally or without any limiting words, it is**

**obvious that it intends that the word or phrase should have a general meaning and application, unless other provisions in the Constitution state or suggest the contrary. If there are no other provisions of the Constitution requiring or suggesting the contrary, the Court must apply the word or phrase generally, and will have no power to restrict its application to specific situations.**

In the light of the foregoing, I hold that all the preliminary objections lack merit and are hereby dismissed. I hold that this court has the jurisdiction to entertain and determine all these suits.

Let me now determine the merits of Suit No. SC/CV/162/2023.

Let me consider the issue of whether the President of Nigeria was legally bound to consult or seek the advice of the National Council of States, National Economic Council, Federal Executive Council, National Security Council and other stakeholders before directing the Governor of the Central Bank of Nigeria to introduce new naira notes and withdrew existing naira notes.

It is not in dispute that the President of Nigeria did not consult or seek the advice of the National Council of States, National Economic Council, Federal Executive Council, National Security Council and other stakeholders before directing the Governor of the Central Bank of Nigeria to introduce new naira notes and withdraw existing naira notes. The constituent states are members of the National Council of

States and National Economic Council and are each represented in the Federal Executive Council. Since they are constituents of the Federation and since the executive power of the Federation is vested in the President and the Government of Nigeria, to be exercised on behalf of the Federation, then the executive act or decision of directing or approving a measure that obviously would have far reaching disruptive impact on the public governance, economic and social order of the constituent states such as introducing redesigned naira notes into circulation, withdrawing the old bank notes and limiting cash withdrawals from banks to reduce the money in circulation and increase the money in the banks, should have been made after due consultation with the constituents of the Federation through the National Council of States and the National Economic Council and in such a manner as to avoid the massive disruptions of the governance of the constituents and disruptions of trades and all economic activities and the pervasive hardship its hasty and haphazard implementation has unleashed on people in the constituent states. As I had held herein, it is obvious that the directive has been carried out and the fact is common knowledge, is not reasonably open to question and does not require proof, that the implementation of the directive has continued to deprive all persons and the plaintiffs access to a substantial part of their funds in banks,

thereby forcefully and illegally depriving them their rights of ownership and use of the said funds for state functions.

The Constitution did not expressly require the President to make such consultations with the constituent states or seek advice from the bodies mentioned above before issuing the directive in question here or before exercising any executive powers of the Federation. The duty is implicit in the provisions of S.5(1) of the 1999 Constitution that makes the President an agent of the Federation. As held herein, it is inherent in their status as constituents of the Federation under a democratic constitution, is their right to be consulted by the President before the exercise of any executive power of such magnitude as can have far reaching affect on the governance, economic and social order of each constituent state of the Federation. Such right is inherent in the idea of a Federation in a democracy. Without it, the Federation losses its sovereignty and the President becomes the sovereign and the Government of Nigeria a dictatorship.

The identifying character of democratic constitutional governance is the wide consultations and broad consensus behind the exercise of executive powers through bodies established for that purpose by the Constitution. Such bodies include the Federal Executive Council that is required by the Constitution to have at at-

least one indigene of each of the 36 State of the Federation and the Federal Capital Territory and the National Economic Council which consists of 36 States Governors elected by their people and the Governor of the Central Bank of Nigeria, an appointee of the President, as members, with Vice President as Chairman of the Council who is also a member of the Federal Executive Council and the National Council of State. Good governance and economic prosperity cannot thrive in a plural society like ours if executive power of the Federation with far-reaching impact is exercised without inputs from the constituent states on how it affects them.

The 1<sup>st</sup> defendant realized belatedly the need to consult the National Council of States on the matter and invited the Governor of Central Bank to brief the Council in its meeting in February 2023. Acknowledging the widespread problems generated by the implementation of the President's directive, the National Council of States intervened and advised that more new naira notes be printed and made available or the already withdrawn old notes be recirculated.

Let me now consider the argument that the President's said directive or approval was given without provision for reasonable notice to the public.

There is nothing to show any formal public notice to the constituent states or the public by way of a national broadcast or an official gazette of the notice or National Newspaper publication of the notice of the change of currency. The notice was given by way of Press Remarks by the Governor of the Central Bank during a special press briefing at the Central Bank on 26-10-2022. It is these Press Remarks that the 1<sup>st</sup> defendant relied on as the 3 months notice it gave prior to the 31-1-2023, when it said existing naira notes would cease to be legal tender. These press remarks cannot qualify as notice under S.20(3) of CBN Act 2007. They are mere press remarks and not a notice to the public.

The 1<sup>st</sup> defendant's reliance on the said press remarks as the notice of its plan to introduce new naira notes and withdraw the existing ones show its disregard of the importance of the giving of reasonable notice as a foundation for a valid Presidential directive to change the naira notes. Where a statute requires notice to validate or precede an official act, the failure to give a valid notice will vitiate the resulting act. In any case, for the exercise of the power given by a statute to be valid, it must comply with conditions prescribed by that statute for the exercise of that power. So, the directive given by the President to withdraw existing naira notes

and introduce redesigned ones without notice to the constituents of the federation is invalid.

Assuming the press remarks can be treated as notice as the 1<sup>st</sup> defendant has done, it cannot be regarded as 3-month notice from 26<sup>th</sup> October 2022 to 31<sup>st</sup> January 2023. Having regard to the timeline of implementation of the demonetization policy, the new naira note was only launched by the President on 23<sup>rd</sup> November, 2022; at which time the Central Bank of Nigeria(CBN) never had even close to enough printed new naira notes to replace the old notes. It was for this reasons that the CBN had announced on the 26<sup>th</sup> October, 2022 that the new notes will be made available to banks around the middle of December, 2022. Even at that, the new notes were not available for use by citizens. Thus, in essence, even going by the CBN's implementation timeline, the period of notice could only have started counting from the period the new naira notes were to be made available for use in mid-December, 50 days after announcement of the policy on 26<sup>th</sup> October, 2022.

So, the notice period ought to exclude the initial 50 days from 26<sup>th</sup> October to 15<sup>th</sup> December, 2022, when the new notes had not been issued and made available for cash swap with old notes simultaneously. This yawning gap had the effect of making imposition of 31<sup>st</sup> January or grace period of 10<sup>th</sup> February, 2023 as

further approved by the 1<sup>st</sup> Defendant unreasonably short. Had the notice been correctly construed, the three months would have commenced by 15<sup>th</sup> December, and ran out at about 20<sup>th</sup> March, 2023. The time misalignment led to logjam that has grounded the entire economy and governance in the plaintiffs' respective states across the country.

The President in his 16<sup>th</sup> February 2023 national broadcast reproduced in pages 27 to 31 of this judgment admitted that the policy is fraught with several difficulties such as lack of enough new naira notes to meet public demand and the resulting lack of cash to meet daily needs that require cash transactions that has continued to persist. The plaintiffs herein contend that the implementation of the President's directive has brought untold hardship to their governments and people. Their states are struggling to run the operations of governance smoothly as it needs cash to do certain things. The Banks in the urban areas are not dispensing the new notes in the required amount, while they have mopped up most of the old notes in the states. This pales in comparison with what the people in the rural areas are going through, as a lot of them have not even seen the new notes and this has led to some people trading by barter in this modern age and time. As a matter of fact, there are hardly any banks in the rural areas.

The President in his 16<sup>th</sup> February broadcast admitted thusly-

22. I am not unaware of the obstacles placed on the path of innocent Nigerians by unscrupulous officials in the banking industry, entrusted with the process of implementation of the new monetary policy. I am deeply pained and sincerely sympathize with you all, over these unintended outcomes.
23. To stem this tide, I have directed the CBN to use all legitimate means to ensure that our citizens are adequately educated on the policy, enjoy easy access to cash withdrawal through availability of appropriate amount of currency; and ability to make deposits.
24. I have similarly directed that the CBN should intensify collaboration with anti-corruption agencies, so as to ensure that any institution or person(s) found to have impeded or sabotaged the implementation should be made to bear the full weight of the law.
25. During the extended phase of the deadline for currency swap, I listened to invaluable pieces of advice from well-meaning citizens and institutions across the nation.
26. I similarly consulted widely with representatives of the State Governors as well as the Council of State. Above all, as an administration that respects the rule of law, I have also noted that the subject matter is before the courts of our land and some pronouncements have been made.
27. To further ease the supply pressures particularly to our citizens, I have given approval to the CBN that the old N200 bank notes be released back into circulation and that it should also be allowed to circulate as legal tender with the new N200, N500, and N1000 bank notes for 60 days from February 10, 2023 to April 10 2023 when the old N200 notes ceases to be legal tender.

The President stated in his said broadcast that his directives on this naira change is in keeping with global best practices. But the practices in countries such as Australia, United Kingdom, USA and even the European Union show that the decision to change currency notes results from wide consultations with stakeholders and a broad consensus of opinion in accordance with established democratic processes and not just handed down by the President after a personal engagement with the Governor of the Central Bank.

The decision and its implementation is preceded by prior preparations over a period of time and the population are informed and educated on the processes well in advance. In all these countries the new and old versions of the currencies are allowed to co-exist for not less than one year. In 2016, the Indian government had a plan to stop corruption and reduce the amount of money in circulation by withdrawing and reintroducing the 500 and 1000 denominations of the Indian rupee within six months. In 2018, a Bloomberg report stated that the scheme froze "agriculture and small businesses with a liquidity shock, put people through unnecessary hardship, disrupted supply chains and destroyed demands for everything from autos to property". Net savings in India reduced by 50% a year after the policy was implemented. The currency in circulation also increased to 20 trillion rupees from 18 trillion rupees before the policy. A 2018

report by the International Monetary Fund titled "Article IV Consultation Report on India", also provided that the disruption caused by the cash shortages dampened consumer and business sentiments. The abruptness of the policy and the consequent shortage of cash led to the policy's poor performance. In India a 6 month's timeline proved to be wholly short-sighted and ineffective and achieved none of its grand objectives. I agree with the views expressed by the Learned writer, Anthonia Ochei(Naira Redesign- the Law and Global best practices, Business Day, Nov.18,2022) that successful currency redesign projects are actualized with the partnership of the public, not handed down. This involves an educational and informational campaign on the steps to be taken both by the issuing authority and the stakeholders as well as the expected outcomes of such a project. It also includes strategies to mitigate and maneuver any temporary hardships that may be occasioned by the exercise. None of these practices to the knowledge of the public, has been calculated into the pace of this naira redesign and withdrawal of existing naira notes. Nigeria's economy continues to be informal even after various redesigns of the currency with the dependence on cash for many transactions. Holding cash is still very popular amongst traders and farmers in rural areas.

In the light of the foregoing, I hold that no reasonable notice was given as required by S.20(3) of the CBN Act 2007 before the President gave the directive or approval in question. Therefore, the directive and its implementation is invalid. Even though the directive and its implementation is invalid, since the new naira notes have already been introduced and the old ones massively withdrawn, for practical purposes, in the face of the situation as it is, the President should direct the recirculation of the withdrawn old 200, 500 and 1000 naira notes and the two versions should continue as legal tender till 31-12-2023, by which time the redesigned ones would have been printed enough to completely replace all the old notes.

Let me consider the argument that the President's directive has deprived the owners of withdrawn old naira notes their right of ownership and use of the funds without an enabling law.

It is obvious that the directive has been carried out. The fact is common knowledge, is not reasonably open to question and does not require proof, that the implementation of the directive has continued to deprive all persons and the plaintiffs access to a substantial part of their funds in banks, thereby forcefully and illegally depriving them their rights of ownership and use of the said funds for state functions. The President in his 16<sup>th</sup> February 2023 broadcast admitted this situation but attributed it to the

unscrupulous officials in the banking industry. The exact text of that portion of the broad cast reads thusly- **I am not unaware of the obstacles placed on the path of innocent Nigerians by unscrupulous officials in the banking industry, entrusted with the process of implementation of the new monetary policy. I am deeply pained and sincerely sympathize with you all, over these unintended outcomes.**

**To stem this tide, I have directed the CBN to use all legitimate means to ensure that our citizens are adequately educated on the policy, enjoy easy access to cash withdrawal through availability of appropriate amount of currency; and ability to make deposits**

The President's broadcast was silent on their inability to print new naira notes to meet the demands of the people. Many who returned their old notes have not been able to receive even the little amount prescribed as what can be withdrawn per day or week as the case may be.

The imposition of withdrawable cash limits after collection of the old notes, amount to a scheme to entrap and not allow much of such funds come out of the banking system. My attention has not been drawn to any law that permits a bank not to pay cash to a customer on demand on the ground that the 1<sup>st</sup> defendant has not been able to print enough new naira notes or that permits the 1<sup>st</sup> defendant to direct the imposition of limits on the cash to be paid from a customer's account after deposit of the old naira notes. To the extent that the directive has continued to deprive all persons and the plaintiffs access to a

substantial part of their funds in banks in form of cash , it forcefully and illegally interferes with their rights of ownership and use of their said funds. Such restriction on an owner's right to freely use his or her property is illegal unless provided for by a law.

Let me consider the issue of the President's disobedience of the 8-2-2023 interim order that the new and old versions of naira notes continue to circulate as legal tender until the determination of the pending application for interlocutory injunction. It is not in dispute that the 1<sup>st</sup> defendant refused to obey the said order. The President's 16-2-2023 national broadcast reproduced here in pages 27-31 demonstrates this disobedience. In disobedience of the order, he directed that only the old N200 naira notes be recirculated. Interestingly, there is nothing to show the implementation of even that directive. I agree with the 9<sup>th</sup> plaintiff, that the 1<sup>st</sup> defendant should not have been heard by this court when it has refused to respect the authority of this court and the authority of law from which the authority of the President and the Government of Nigeria derives. The rule of law upon which our democratic governance is founded becomes illusory if the President of the country or any authority or person refuses to obey the orders of courts. The disobedience of orders of courts by the President in a

constitutional democracy as ours is a sign of the failure of the constitution and that democratic governance has become a mere pretension and is now replaced by autocracy or dictatorship.

In the light of the foregoing, I hold that this suit has merit. Questions 1,2,3,4,6,7 and 8 are hereby answered in the affirmative. Accordingly, the following reliefs are hereby granted –

1. **A DECLARATION that the demonetization directive/policy by the President of the Federation to wit: withdrawal of the old 200, 500 and 1000 Naira notes is not consistent with the provisions of the Constitution of the Federal Republic of Nigeria 1999 (as amended) which make provision for the Executive Powers of the President of the Federation and the extant laws on the subject matter.**
2. **A DECLARATION that the 3-month notice given for the implementation and completion of the said demonetization policy by which time the old N1000, N500 and N200 Naira notes shall cease to be legal tender does not satisfy the condition set out in Section 20(3) of the CBN Act 2007.**
3. **A DECLARATION that the President cannot unilaterally give a directive to embark on the demonetization policy pursuant to Section 20(3) of the CBN Act, 2007, in view of Nigeria's fiscal federalism, the economic interests of**

the constituents of the Federation and without consultation with, and advice from the plaintiffs individually, and in their capacity as members of the National Council of States and National Economic Council, and that the Directive cannot be given without consultation with, and advice from the Cabinet, the National Security Council and other stakeholders.

4. A DECLARATION that in issuing the directive for demonetization policy pursuant to Section 20(3) of the CBN Act, 2007 on behalf of the Federation of Nigeria, the President is under an obligation to ensure that adequate structures are put in place for the plaintiffs and Nigerian citizens prior to the implementation of the said directives.
5. A DECLARATION that the demonetization directive/policy by the President of the Federation to wit: withdrawal of the old 200, 500 and 1000 Naira notes unlawfully impedes the exercise of the Executive powers of the plaintiffs' States and other obligations to facilitate and protect the welfare of the citizens of the said States pursuant to Section 5(2) and other provisions of the Constitution of the Federal Republic of Nigeria 1999 (as amended) as well as other extant laws.

6. **A DECLARATION** that the directive given by the President pursuant to Section 20(3) of the CBN Act 2007 limiting the amount that can be withdrawn and the charges therein without an enabling law is unconstitutional and not binding on the plaintiffs'.
7. **A DECLARATION** that the directive of the President of the Federation exercised is illegal to the extent that it restricts, without an enabling law, the rights of the plaintiffs to freely use their money in various bank accounts.
8. **An order** that the old version of 200, 500 and 1000 naira notes shall continue to be legal tender alongside with the new or redesigned version until 31-12-2023.
8. **An order** that that the reception of old 200, 500 and 1000 naira notes and the swapping of same with new naira notes shall continue till 31<sup>st</sup> December, 2023

All the consolidated suits listed in pp 12-13 of this judgment shall abide this judgment.

**EMMANUEL AKOMAYE AGIM  
JUSTICE, SUPREME COURT**

### **APPEARANCES:**

A. U. Mustapha SAN, Abdulwahab Muhammed SAN, Chief A. A. Adeyemi, SAN, M. Y. Abdullahi, SAN with Ademola Aderemi Esq for **1<sup>st</sup> and 2<sup>nd</sup> Plaintiffs**

A.J Owonikoko SAN with Ossy Ehikioya Esq; and M. K. Fidelis, Esq **for 3<sup>rd</sup> Plaintiff/Appellant.**

S. T. Oloqunorisa, SAN with Patrick Abah, Esq, Kamal O. Fagbemi, Esq, and Bolaji Oyun, Esq, **for 4<sup>th</sup> Plaintiff**

Moyosore J. Onigbanjo, SAN, A. G Lagos State with Ahmed Raji SAN, M. A. Abubakar SAN, A. B. Sulu-Gambari SAN and Adebayo, Haroun DID, DIR. **For 5<sup>th</sup> Plaintiff.**

Shaibu Enejoh Aruwa, SAN with Emmanuel Akomaye, Esq, and Divine I. Davies Esq **for 6<sup>th</sup> Plaintiff.**

Tunde Afe-Babalola SAN; Attorney General Ogun State), with Ademola Abimbola Esq, Olamide Adekunle Esq, Tunde Ahmed Adejumo Esq, and Esther Jesudunmo Longe Esq**for 7<sup>th</sup> Plaintiff**

Olasoji O. Olowolafe SAN,with Lukman Fagbemi, SAN, Adetunji Osho Esq, Lookman Alawaye, Esq and Bolade Akinlawon Esq **for 8<sup>th</sup> Plaintiff**

Sir Chales Titiloye, SAN,(Attorney General Ondo State) With H.M Falowo, AD, DPP; K. Salami (DIR, ADR MOJ, ONDO STATE); **for 9<sup>th</sup> Plaintiff.**

Georgina Ude Esq; with Adah Usman Esq **for the 10<sup>th</sup> Plaintiff.**

Chief Kanu G. Agabi. SAN, and Mahmud Abubakar Magaji, SAN, O. M. Atoyebi SAN, Tijjani Gazali, SAN and Dr. Tukur Galadima Esq **for 1<sup>st</sup> defendant.**

Audu Anuga SAN with Patrick Okoh Esq, Ginika Ezeoke Esq, Chimezie Ndubuisi Esq and Ibrahim Abdulsalam **for 2<sup>nd</sup> defendant.**

Kenneth Mozie SAN, Emeka Etiaba SAN, Echezona Etiaba SAN Prof. Faith Osadolor (S.G MOJ Edo State) and Joy Etiaba **for 3<sup>rd</sup> defendant.**

Emmanuel C. Ukala SAN, K.C.O Njemanze SAN, Ahmed Raji SAN, O.J. Onoja SAN with O.J. Iheko Esq **for plaintiff in SC/CV/222/2023**

T.A. Gazali SAN, AG DIR, CIVIL APPEAL with B.C Udo ESQ; T.D Agbe Esq and O.D. Okoronkwo SC in **SC/CV/222/2023,**

Sir Charles Titiloye, (Attorney General, Ondo State) with H.M Falowo ADD/DPP and F.K. Salami, DIR, ADR **for plaintiff in SC/197/2023.**

T. A. Gazali SAN, AD, CIVIL APPEALS with B.C Udoh, Esq; T.D. Agbe Esq and O.D Okoronkwo **State Counsel for the defendant**

Sunusi Musa SAN, Michael Jonathan Numan SAN, with Aliyu Ibrahim Nasarawa, Esq; Abdul Adamu, Esq and Abdusalam M. Saleh **for Plaintiff in SC/CV/2000/2023**

Oladupo Opeseyi SAN, T.A Gazali SAN, Christian Nevo, Esq; Abimbola Akintola (Miss) Esq; and Jeremiah Agala, Esq **for defendant**

