

ARTICLE SERIES

LEGALITY OF MARRIAGES CONDUCTED

AT THE FEDERAL MARRIAGE REGISTRY, IKOYI –

THE CASE OF ETI-OSA LOCAL GOVERNMENT & ORS. V MINISTER OF INTERIOR & ANOR.



INTRODUCTION

In December 2021, it was widely reported that the Lagos Division of the Federal High Court had declared marriages conducted at the Federal Marriage Registry in Ikoyi illegal.

Despite the reassurances of the Federal Government that marriages conducted at the Federal Marriage Registry in Ikoyi are legal, the conflicting news reports left many in doubt about the legality of marriages conducted at the Federal Marriage Registry, Ikoyi.

This article seeks to analyse the judgment and clarify the confusion that has arisen in various quarters.

BACKGROUND

In 2018, Eti-Osa Local Government and three other Plaintiffs instituted an action against the Honourable Minister of Interior and Attorney General of the Federation listed as Defendants, seeking amongst other reliefs, an order of the court restraining the Honourable Minister of Interior from further contracting marriages under the Marriage Act within the Plaintiffs' Local Government Councils Area.

The foundation of this action was to seek an interpretation of the Judgments of the Federal High Court in **Prince L. Hasstrup & Anor. v Eti-Osa Local Government Council and 2 Ors**[1], delivered on the 8th day of June 2004 (**the 2004 judgement**), and **Egor Local Government Edo State and Ors. v The Hon. Minister of Interior and Ors**[2] (**the 2018 judgment**), vis-à-vis the respective powers of the parties to contract, celebrate, register marriages, and issue marriage certificates in Nigeria.

In the 2004 judgment, the court held that registration of marriages is within the exclusive authority of the registrar of marriages within the local government. The court further held that the only bodies authorised to celebrate or contract marriages are:

- a) Registrars in places designated as an office for the celebration of marriages;
- b) Recognized ministers of religion in a licensed place of worship; and
- c) Marriages contracted under the licence granted by the Director-General of the Ministry of Internal Affairs (now Ministry of Interior), Director-General of a State Government in charge of marriages, any officer in the afore-stated ministries and the Minister of Internal Affairs.

Subsequently, the Honourable Minister of Interior established Federal Marriage Registries in the Plaintiffs' Local Government Council, and the Plaintiffs instituted suit FHC/L/CS/1760/17., to challenge the action of the Minister. The court however struck out the suit for lack of jurisdiction (the 2018 judgement).

[1] FHC/L/870/2002
[2] FHC/L/CS/1760/2017

The Plaintiffs thereafter instituted this action to seek the interpretation of the 2014 and 2018 judgements, as well as to obtain injunctive relief against the Defendants. In addition, the Plaintiffs questioned the legality of the Defendants' establishment of Federal Marriage Registries in Local Government Areas, and the legality of declaring marriage certificates issued by the Local Government Areas as illegal.

SALIENT ARGUMENTS

The Plaintiffs argued that registration of marriages under the Marriage Act is within the exclusive preserve of the registrars of the Marriage District (Local Government Councils in Nigeria), while contracting and/or celebrating marriages can be done by either the Registrar of Marriage District (local Government Councils in Nigeria) or recognized religious ministers of some religious denominations.

In response, the 2nd Defendant argued that no law gives exclusive authority to the registrar to contract and celebrate marriages in Nigeria and that parties (intending couples) have the option of where to celebrate and contract their marriage.

The 3rd Defendant also argued that the suit was an abuse of court process as the matter had already been decided in the 2004 judgment and that the suit was caught-up with the doctrine of res judicata.

RELEVANT STATUTORY PROVISIONS

Section 13 of the Marriage Act empowers the Minister of Interior to issue licences for the celebration of marriages, while a marriage can be celebrated in a licensed place of worship or in the office of the registrar of marriages[3]. **On the other hand**, the registrar of marriages in the district, is empowered to register marriages[4] as provided by **Section 7(5) Constitution of the Federal Republic of Nigeria (CFRN)1999 (as amended)[5]**

Specifically, Para 1(i) IV Schedule CFRN 1999 also provides that *“the main functions of a local government council are as follow... registration of all births, deaths and marriages.”*

THE JUDGMENT

The above provisions, touted as the basis for the authority of a local government to conduct marriages, clearly do not grant local governments the exclusive powers to conduct marriages.

Furthermore, contrary to the concerns raised in various news reports, the 2021 judgment did not declare marriages conducted in the Federal Ikoyi Marriage Registry invalid.

[3] Section 29 of the Marriage Act
[4] Section 30(1) Marriage Act
[5] C23-1 LFN 2010

The Federal High Court in its judgment, distinguished between the power to contract/celebrate marriages, the power to issue licences to celebrate marriages, and the power to register marriages

In respect of the power to register marriages, the court held that “...*only the Local Government have the exclusive responsibility of registration of marriages*”[6].

In respect of the power to contract or celebrate marriages, the court held that “the conducting of marriages is not an exclusive duty of the Plaintiff”[7]. The power of the Minister of Interior to conduct marriages is however limited to the Federal Marriage Registries in the former capital territory of Lagos and the present capital territory of Abuja as they were not abrogated by the constitution. The court, therefore, restrained the minister from conducting marriages in marriage registries outside of the past and present capital territories.

The court decision is particularly interesting with respect to “Relief 7.”

Relief 7 sought by the Plaintiffs stated as follow;

“AN ORDER of this honourable court sealing all the Federal Marriage Registry established by the 1st Defendant in the Applicants local government in Nigeria or alternatively restricting the 1st defendant Marriage Registry or agencies or officer to only issue ‘LICENSES’ to places of public worship for the celebration of marriage or to contract marriage under the Act at the Local Government Registrar’s office or to celebrate marriage in a licensed place of worship”

However, in granting relief 7 , the court held that “*relief 7 (is) granted to the extent that there shall be no Federal Marriage Registry in the Marriage Districts (local government councils) save Ikoyi and Abuja Federal Marriage Registry predating the 1999 constitution without prejudice to 1st defendant exclusive powers to issue license to places of public worship to celebrate marriages all over the federation.*”

[6] Paragraph 3, page 13 of the judgment.

[7] Paragraph 4 page 13 of the judgment

ANALYSIS OF THE JUDGMENT

The 2021 Federal High Court has remarkably identified the roles of the parties to the suit in the licensing, registration and celebration of marriages, and the geographical limitations of their roles and powers.

The judgement is best understood by examining its implication outside Lagos and Abuja before examining its implication within Lagos and Abuja.

Outside Lagos and Abuja, the local government can register marriages, contract marriages, celebrate marriages and issue Marriage certificate. Within Lagos and Abuja, the local governments can register marriages, contract marriages, celebrate marriages and issue Marriage certificates while the Ministry of Interior can only do the same for marriages conducted in the Federal Marriage Registries in Ikoyi, Lagos and FCT, Abuja. For example, even within Lagos, the Ministry cannot register marriages that were not conducted in the Federal Marriage Registry in Ikoyi.

Furthermore, all over the federation, licensed places of worship can celebrate and contract marriages and the Minister of Interior can issue licenses to prospective licensed places of worship and intending couples.

In any case, marriages conducted and celebrated in the Federal Marriage Registry in Ikoyi, Lagos and the Federal Capital Territory, registry are valid and subsisting.

It is worthy of note that the action was instituted by four (4) Plaintiffs seeking interpretation of the 2004 decisions and injunctive reliefs. The action was neither a class action nor a representative action. Nevertheless, the scope of relief 7 of the suit granted by the Federal High Court extends to all local governments of the federation, including local government councils who are not parties to the decision. This can be contrasted against the other reliefs which were restricted to the plaintiffs' local government council areas.

Therefore, this raises a question: *“whether an order can be made in favour of or against persons or entities who are not parties to an action”*

The law is clear that any order/decision made against a person not joined as a party in a suit is a nullity and of no effect (See OYEYEMI & ORS V OWOEYE & ANOR (2017) LPELR – 41903 (SC)).

It remains to be seen whether the judgment of the Federal High Court would be upheld or overturned, on Appeal.

ÁELEX



Oluwaseun Philip-Idiok



Agboola Al-Mubarak Dosunmu

ÁELEX is a full-service commercial and dispute resolution firm. It is one of the largest law firms in West Africa with offices in Lagos, Port Harcourt and Abuja in Nigeria and Accra, Ghana. A profile of our firm can be viewed [here](#). You can also visit our website at www.aelix.com to learn more about our firm and its services.'

COPYRIGHT: All rights reserved. No part of the publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means without the prior permission in writing of ÁELEX or as expressly permitted by law.

DISCLAIMER: This publication is not intended to provide legal advice but to provide information on the matter covered in the publication. No reader should act on the matters covered in this publication without first seeking specific legal advice.

CONTACT DETAILS

LAGOS, NIGERIA

4th Floor,
Marble House
1, Kingsway Road, Falomo
P. O. Box 52901, Ikoyi
Lagos, Nigeria

Telephone: (+ 234 1) 2793367; 2793368
4736296, 4617321-3;
E-mail: lagos@aelex.com

PORT HARCOURT, NIGERIA

2nd Floor,
Right Wing UPDC Building
26, Aba Road
P.O. Box 12636, Port Harcourt
Rivers State, Nigeria

Telephone: (+234 84) 464514, 464515
574628, 574636
E-mail: portharcourt@aelex.com

ABUJA, NIGERIA

4th Floor,
Adamawa Plaza
1st Avenue, Off Shehu Shagari Way
Central Business Area
FCT Abuja, Nigeria

Telephone: (+234 9) 8704187, 6723568,
07098808416
E-mail: abuja@aelex.com

ACCRA, GHANA

7th Floor, Suite B701
The Octagon
Accra Central, Accra
P.M.B 72, Cantonment Accra, Ghana

Telephone: (+233-302) 224828, 224845-6
E-mail: accra@aelex.com