

PROFESSOR R ASHEED IJAODOLA**V.**

- 1. UNIVERSITY OF ILORIN GOVERNING COUNCIL**
- 2. PROF. ABDUL GANIYU AMBALI**
- 3. ALHAJI SAKA SAADU**
- 4. REGISTRAR AND SECRETARY TO COUNCIL UNIVERSITY OF ILORIN**
- 5. PROF. MUSBAU AKANJI**
- 6. PROF. LUKE AYORINDE**
- 7. PROF. TIMOTHY OPOOLA**
- 8. PROF. HASSAN SALIU**
- 9. PROF. IS-HAQ OLOYEDE**
- 10. MURITALA BALOGUN**
- 11. PRESIDENT OF THE FEDERAL REPUBLIC OF NIGERIA**
- 12. ATTORNEY-GENERAL OF THE FEDERATION & MINISTER OF JUSTICE**
- 13. MINISTER OF EDUCATION**
- 14. THE EXECUTIVE SECRETARY NATIONAL UNIVERSITIES COMMISSION**
- 15. PROF. N. Y. S. IJAIYA**
- 16. PROF. M. A. FAJEMIDAGBA**
- 17. HON. BABATUNDE A. ESUOLA**
- 18. MR. T. A. ODEDELE**

SUPREME COURT OF NIGERIA

SC.170/2015

OLABODE RHODES-VIVOUR, J.S.C. (Presided and Read the Leading Judgment)

MARY UKAEGO PETER-ODILI, J.S.C.

JOHN INYANG OKORO, J.S.C.

AMIRU SANUSI, J.S.C.

SIDI DAUDA BAGE, J.S.C.

FRIDAY, 13TH JULY 2018

ACTION - Academic issue - Academic suit - What amounts to - Where suit is academic - Attitude of courts thereto.

ACTION - Issues for determination - Duty on courts to decide live issues between parties in litigation.

ACTION - Lis - Need to exist between two parties - Absence of - Effect of.

COURT - Academic exercise - Duty on courts not to engage in.

COURT - Academic issue - Academic suit - What amounts to - Where suit is academic - Attitude of courts thereto.

COURT - Issues for determination - Duty on courts to decide live issues between parties in litigation.

COURT - Lis - Need to exist between two parties - Absence of - Effect of.

PRACTICE AND PROCEDURE - Academic exercise - Duty on courts not to engage in.

PRACTICE AND PROCEDURE - Academic issue - Academic suit – What amounts to - Where suit is academic - Attitude of courts thereto. PRACTICE AND PROCEDURE - Issues for determination - Duty on courts to decide live issues between parties in litigation.

PRACTICE AND PROCEDURE - Lis - Need to exist between two parties -Absence of - Effect of.

WORDS AND PHRASES - Academic suit - What amounts to.

Issue:

Whether any of the reliefs claimed by Professor Rasheed Ijaodola (the appellant) can be granted or refused or even considered.

Facts:

The term of office of a Vice-Chancellor of the University of Ilorin is 5 years. Professor Ishaq Oloyede was Vice-Chancellor of the University of Ilorin from 2007 to 2012. In 2012 the University of Ilorin went in search for a new Vice-Chancellor. The appellant, Professor R. J. Ijaodola, the 2nd respondent, Professor A Ambali and a few other professors signified their interest in the post. After the selection committee and the Council of the University of Ilorin concluded the exercise to choose a Vice-Chancellor for the institution, the 2nd respondent, Professor Abdul Ganiyu Ambali was successful. He emerged as the choice of the Council. On 16 October 2012, he was appointed Vice-Chancellor of the University of Ilorin. His five-year term in office as Vice-Chancellor came to an end in 2017. The Vice-Chancellor of the University of Ilorin now is Professor Sulyman Abdulkareem. His term of office is for five years from 2017 to 2022.

The appellant as plaintiff sued the defendants/respondents on an originating summons filed on 28 August 2012, but subsequently amended on 17 October 2012 wherein he asked fourteen questions and sought seventeen reliefs. In support of the amended originating summons, the following were filed: A 54-paragraph affidavit deposed to by the appellant. Annexed to it were documents marked exhibits 1, 2, 3, 4, 5, 6A, B, and 7A, B, C. Five further affidavits but two were abandoned at the trial (the first two affidavits). A written address was filed on 5 March 2013. A reply on points of law to the address filed by the 1st to 6th, 9th, 15th to 18th respondents. A reply on points of law to the address of the 11th and 12th respondents. A reply on points of law to the

address of the 14th respondent. The 1st to 6th, 9th, 15th to 18th respondents filed a 4-paragraph counter-affidavit on 31 January 2012. It was deposed to by Mansur Adeleke Alfa Nla, a Senior Assistant Registrar at the University of Ilorin. Annexed to it were documents marked exhibits Unilorin 1, 2, 3, 4, 5, 6. A written address was also filed on 16 April 2013. The 7th respondent filed a 9-paragraph counter-affidavit on 28 January 2013. The 7th respondent, Professor Timothy

Opoola deposed to his counter-affidavit. A written address was also filed on 22 March 2013. The 8th respondent deposed to a 6-paragraph counter-affidavit filed on 11 December 2012. The 11th and 12th respondents filed a 6-paragraph counter-affidavit on 27 February 2013. It was deposed to by Olatubosun Kajogbola, a senior litigation officer in the firm of Abdullahi Ibrahim & Co., counsel for the 11th and 12th respondents. A written address was also filed. The 14th respondent filed a 12-paragraph counter-affidavit on 18 January 2013. It was deposed to by Oriabure Iyayi, legal officer in the legal department of the National Universities Commission. A written address was also filed. In a considered judgment delivered on 24th June 2013, the learned trial judge, Faji J. dismissed the appellant's claim.

Dissatisfied with the judgment of the trial court the appellant appealed to the Court of Appeal which affirmed the decision of the Federal High Court (the trial court).

Still dissatisfied, the appellant appealed to the Supreme Court.

Preliminary objections to the hearing of the appeal were filed by learned counsel for the 1st - 6th, 9th, and 15th - 18th respondents, and learned counsel for the 11th and 12th respondents. Learned counsel for the 1st - 6th, 9th, 15th - 18th respondents Y. Dauda Esq. later withdrew his preliminary objection. It was accordingly struck out. Learned counsel for the 11th and 12th respondents, A.A. Olatunji Esq. adopted his preliminary objection, urged the court to uphold the preliminary objection and dismiss the appeal.

Held (*Unanimously dismissing the appeal*):

1. On What amounts to academic issue or suit and attitude of courts there to –
Courts should not engage or indulge in an academic exercise. Courts are constituted to determine live issues. Black's Law Dictionary defines the word "Academic" as an issue, which does not require answer or adjudication by a court of law because it is not necessary.

A suit becomes academic when the questions placed before the court for determination are no longer live issues in the subject matter of the suit, because it is spent and the successful party cannot obtain any right or benefit. Courts deal with live issues, which will have bearing in one-way or the other on any of the parties or all the parties. In the instant case, the term for which the appellant contested for the office of Vice-Chancellor for the University of Ilorin commenced in 2012 and came to an end in 2017. Hearing an appeal in

2018 to determine whether the appellant was qualified, or ought to have been the Vice-Chancellor for the term 2012 to 2017 was clearly an academic exercise. All the seventeen reliefs if resolved in favor of the appellant would not confer any right or benefit on him and this was simply because the term for which he wanted to be Vice-Chancellor expired in 2017. Since no purpose would be served by the appeal it was a mere academic exercise. [Plateau State v. A.-G. Fed. [NWLR\(Pt. 967\) 346](#); *Odedo v. INEC (2008)* 17 [NWLR \(Pt.1117\) 554](#); *Bhojwani v. Bhojwani (1996)* 6 [NWLR \(Pt.457\) 661](#); *Adelajav. Alade (1999)* 6 [NWLR \(Pt. 608\) 544](#); *Mamman v. Salaudeen(2005)* 18 [NWLR \(Pt.958\) 478](#); *A.-G., Fed. v. A.N.P.P. (2003)*18 [NWLR \(Pt. 851\) 182](#); *Ogbonna v. President, F.R.N. (1997)* 5 [NWLR \(Pt. 504\) 281](#) referred to.] (P. 45, paras. B-G) On Duty on courts to decide live issues between parties in litigation and effect of lack of lis between two parties

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All courts established under section 6 of the Constitution are constituted to decide issues between parties in litigation. It follows that under the Constitution, there must be a lis between any of the persons named in section 6 of the Constitution, before any court can invoke its judicial power. When, as in the instant case there is no lis between two parties the court has no jurisdiction and it cannot or ought not to spend judicial time in granting advisory opinion no matter how beneficial it may appear to legal scholars and the profession. It would therefore be wrong in the instant appeal to comment on whether the exercise which resulted in the appointment of the 2nd respondent as Vice-Chancellor of the University of Ilorin in 2012 was valid, when the said 2nd respondent's tenure expired in 2017 and a new Vice-Chancellor has been appointed and has commenced his own five years term of office. None of the seventeen reliefs claimed by the appellant can be granted or are worth considering. It would be unthinkable and bizarre in the extreme to even

contemplate granting any of the reliefs in 2018 for a term of office that came to an end in 2017. The lis or controversy between the parties no longer requires an answer or adjudication by the court because it is no longer a live issue. It is spent. The lis is irrelevant when there is no remedy known to law. The appellant's claims had faded into insignificance. (Pp. 45-46, paras. H-C)

2. On What amounts to academic issue and attitude of courts to academic exercise -

When a particular point is said to be academic, it means that it has no real relevance or effect. Stated differently it means the act has become spent and no longer of any benefit or value and it is not worth spending time or dissipating energy on it since it is merely theoretical. Where an action or an appeal has no practical or utilitarian value to the appellant, any judgment given in his favour will certainly render such an appeal or action merely academic which venture should not be embarked upon. When as in the instant case there is an absence of any live issue, the appeal has become extinct and outside the jurisdiction of the court for it is a matter best handled in the realm of the academic institutions for dissertations and discourse. In the instant case, the grouse of the appellant was that 2nd respondent was appointed Vice-Chancellor on the 16th July 2012, a position to which the appellant aspired. The tenure for the position is a period of five years which was extinguished by effluxion of time on 15th July 2017. So, no useful purpose would be achieved in going into the full discourse of the processes leading to and upon which the appointment by the 1st respondent and its officials were based. Therefore, what the Supreme Court was being called upon to attend to was an academic exercise which is not the duty of court but rather of such institutions as the University of Ilorin and it's like. Therefore, appellant's claims were spent. They were no more grantable. [*Okev. Mimiko (No.1) (2014) 1 NWLR (Pt.1388) 225; Odedo v.Oguebego (2015) 13 NWLR (Pt.1476) 229; Agbaje v. INEC(2016) 4 NWLR (Pt.1501) 151; Odom v. PDP (2015) 6 NWLR(Pt.1456) 527; Salik v. Idris (2014) 15 NWLR (Pt.1429) 36; Plateau State v. A.-G., Fed. (2006) 3 NWLR (Pt. 967) 346; Ugba v. Suswan (2014) 14 NWLR (Pt. 1427) 264; Odom v.PDP (2015) 6 NWLR (Pt. 1456) 527; Olafisoye v. F.R.N. (2004)4 NWLR (Pt. 864) 580 referred to.] (Pp. 54, paras. C-F; 55, paras. B-D) Per PETER-ODILI, J.S.C at page 54, paras. G-H:*

“What I am attempting to communicate is that assuming this court were to go ahead and consider all the issues canvassed, the court would not be in a position to make a meaningful order since assuming the appeal were to be allowed, it cannot place the appellant in the position he seeks, since that position had been overtaken by the event of someone having occupied the

position and it ended last year and a new tenure has begun. The court would be placed in a situation of helplessness and making a futile order in the prevailing circumstances. The dignified exit point is to pause and reverse at this stage. Therefore, in line with the better articulated lead judgment, this appeal is dead and contains no live issue. It is dismissed.”

A.-G., Bayelsa State v. A.-G., Rivers State (2006) 18 [NWLR \(Pt. 1012\)596](#)

A.-G., Kwara State v. Olawale (1993) 1 [NWLR \(Pt.272\) 645](#)

Adelaja v. Alade (1999) 6 [NWLR \(Pt. 608\) 544](#)

Agbaje v. INEC (2016) 4 [NWLR \(Pt.1501\) 151](#)

Agbakoba v. INEC (2008) 18 [NWLR \(Pt.1119\) 489](#)

Ajibulu v. Ajayi (2004) 11 [NWLR \(Pt. 885\) 458](#)

Balonwu v. A.-G., Anambra State (2009) 18 [NWLR \(Pt.1172\) 13](#)

Bamgboye v. Unilorin (1999) 10 [NWLR \(Pt.622\) 290](#)

Bello v. Adamu (2012) 3 [NWLR \(Pt.1287\) 286](#)

Bhojwani v. Bhojwani (1996) 6 [NWLR \(Pt.457\) 661](#)

Chukwuma v. F.R.N. (2011) 13 [NWLR \(Pt. 1264\) 391](#)

F.R.N. v. Osahon (2006) 5 [NWLR \(Pt.973\) 361](#)

Odedo v. INEC (2008) 17 [NWLR \(Pt.1117\) 554](#)

Odedo v. Oguebego (2015) 13 [NWLR \(Pt.1476\) 229](#)

Odom v. P.D.P. (2015) 6 [NWLR \(Pt.1456\) 527](#)

Oke v. Mimiko (No.1) (2014) 1 [NWLR \(Pt.1388\) 225](#)

Olafisoye v. F.R.N. (2004) 4 [NWLR \(Pt. 864\) 580](#)

Plateau State v. A.-G., Fed. (2006) 3 [NWLR \(Pt. 967\) 346](#)

Salik v. Idris (2014) 15 [NWLR \(Pt.1429\) 36](#)

State v. Okpala (2012) 3 [NWLR \(Pt.1287\) 388](#)

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Ugba v. Suswam (2014) 14 [NWLR \(Pt. 1427\) 264](#)

Ukachukwu v. P.D.P. (2014) 17 [NWLR \(Pt.1435\) 134](#)

Nigerian Statutes Referred to in the Judgment:

Constitution of the Federal Republic of Nigeria, 1999, S. 6

Universities (Miscellaneous Provisions) (Amendment) Act, 2003

Universities (Miscellaneous Provisions) Act, No. 11 of 1993, Ss. 1, 2A, 2AA, 2AAA, 2(1), 3(2)(a)(i) (ii),

University of Ilorin Act, 2010, Ss. 7, 22(1)(a)

Book Referred to in the Judgment:

Black's Law Dictionary

Appeal:

This was an appeal against the judgment of Court of Appeal wherein It affirmed the decision of the trial High Court which had dismissed the appellant's claim. The Supreme Court, in a unanimous decision, dismissed the appeal.

History of the Case:

Supreme Court:

Names of Justices that sat on the appeal: Olabode Rhodes-Vivour, J.S.C. (Presided and Read the Leading Judgment); Mary Ukaego Peter-Odili, J.S.C.; John Inyang Okoro, J.S.C.; Amiru Sanusi, J.S.C.; Sidi Dauda Bage, J.S.C

Appeal No.: SC/170/2015

Date of Judgment: Friday, 13th July 2018

Names of Counsel: Appellant appeared in person

Y. Dauda - (with him, T. Shogo; P. Ikpegbu; A. A. Mustapha; M. A. Saliman) - for the 1st to 6th, 9th, 15th to 18th Respondents

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1 October 2018

A. Shuaibu - for the 7th and 10th Respondents

A. I. Yusuf - for the 8th Respondent

A. A. Olatunji - (with him, O. Alabi; Y. Goodluck; H. A. Haruna) - for the 11th and 12th Respondents

D. Akpata, Solicitor-General of the Federation - (with him, O. Koleosho, State Counsel, Federal Ministry of Justice; B. Naiyeju, State Counsel, Federal Ministry of Justice) - for the 13th Respondent

O. Gbadeyan - for the 14th Respondent

Court of Appeal:

Division of the Court of Appeal from which the appeal was brought: Court of Appeal, Ilorin

Names of Justices that sat on the appeal: Hussein Mukhtar, J.C.A. (Presided); Chidi Nwaoma Uwa, J.C.A. (Read the Leading Judgment); Musa Hassan Alkali, J.C.A.

Appeal No.: CA/IL/83/2013

Date of Judgment: Friday, 19th December 2014

Names of Counsel: Appellant in Person

I. O. Atofarati, Esq. (with him, T. E. Akintunde, A. F. Isau and M. A. Saliman) – for the 1st – 6th, 9th and 15th Respondents

A. A. Olatunji (with him, O. O. Ogunleye) – for the 11th -12th Respondents

*Oladele Gbadeyan, Esq. (with him, Babawala Gbadeyan, Esq.) – for the 14th Respondent
7th, 8th, 10th and 13th Respondents served but absent*

High Court:

Name of the High Court: Federal High Court, Ilorin

Name of the Judge: Faji, J.

Suit No.: FHC/IL/CS/34/2012

Date of Judgment: Monday, 24th June 2013

Names of Counsel: Plaintiff in person

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Yakub Dauda, Esq. (with him, I. O. Atofarati, Esq.; S. O. Babakebe, Esq. and A. F. Isau, Esq.) – for the 1st – 6th, 9th, 15th – 18th Defendants

J. O. Alabi, Esq. - for the 7th Defendant

O. O. Ogunleye, Esq. – for the 11th and 12th Defendants

I. T. David – for the 14th Defendant

No counsel for 10th and 13th – Defendants

8th Defendant Unrepresented

Counsel:

Appellant appeared in person

Y. Dauda - (with him, T. Shogo; P. Ikpegbu; A. A. Mustapha; M. A. Saliman) - for the 1st to 6th, 9th, 15th to 18th Respondents

A. Shuaibu - for the 7th and 10th Respondents

A. I. Yusuf - for the 8th Respondent

A. A. Olatunji - (with him, O. Alabi; Y. Goodluck; H. A. Haruna) - for the 11th and 12th Respondents

D. Akpata, Solicitor-General of the Federation - (with him, O. Koleosho, State Counsel, Federal Ministry of Justice; B. Naiyeju, State Counsel, Federal Ministry of Justice) - for the 13th Respondent O. Gbadeyan - for the 14th Respondent

RHODES-VIVOUR, J.S.C. (Delivering the Leading Judgment): The appellant as plaintiff sued the respondents', the defendants' on an originating summons filed on 28 August 2012, but subsequently amended on 17 October 2012 wherein he asked fourteen questions and sought seventeen reliefs. The questions are:

1. Whether in view of section 2 of the Universities (Miscellaneous Provisions) Act No.11 of 1993 as amended by the Universities (Miscellaneous Provisions) (Amendment) Act, 2003, the selection and appointment of a new Vice-Chancellor for the University of Ilorin can be put into process when the position

of the Pro-chancellor and Chairman of Council is vacant and another person is yet to be appointed to fill the vacancy by the President of the Federal Republic of Nigeria who is a Visitor to the University of Ilorin and the appointing authority for the position of Pro-Chancellor and Chairman of Council of the University?

2. Whether in view of section 3 and of the University (Miscellaneous Provisions) Act 1993 that provides for the function of the Council of a University, where a vacancy occurs in the post of a Vice-Chancellor, a five-member board of council can perform the duty of selecting persons qualified for interview for the post of Vice-Chancellor after the expiration of the date contained in the advertisement

for the vacant position of the Vice Chancellor in and Federal University in Nigeria or in the University of Ilorin?

3. Whether in view of sections 1, 2 and 3 of the University (Miscellaneous Provisions) Act No. 11 of 1993 as amended by the University (Miscellaneous Provisions) (Amendment) Act No.25 of 1996, the Council of University of Ilorin complied with the laws and procedures governing, the selection and appointment of a new Vice-Chancellor for University of Ilorin?
4. Whether in view of section 1-3 of the Universities (Miscellaneous Provisions) Act No. 11 of 1993 as amended by the Universities (Miscellaneous Provisions) (Amendment) Act No. 25 of 1996 and the Universities (Miscellaneous Provisions) (Amendment) Act, 2003 a person who was never appointed as a Chairman of Council and Pro-Chancellor and who was never inaugurated as a Pro-Chancellor for the University of Ilorin Council can perform the functions of the Pro-Chancellor of Ilorin in the selection and appointment of a new Vice-Chancellor?

5. Whether Alhaji Saka Sa'adu has the competence to be chairman or acting chairman of the board concerned with the process for the selection and appointment of a new Vice-Chancellor for the University of Ilorin when Prof. Abdulganiyu Ambali who has been appointed as the new Vice-Chancellor of the University of Ilorin hails from the same Oke-Imale Area of Ilorin, which falls in to the same ward in Ilorin West Local Government Area?
6. Whether in view of section 2 of the Universities (Miscellaneous Provisions) Act No. 11 of 1993 and section 2A, 2AA and 2AAA of the Universities (Miscellaneous Provisions) (Amendment) Act 2003, the Council of the University of Ilorin acted competently and without corruption for the good

management, growth and development of the university in the selection and appointment of Prof. Abdulganiyu Ambali as the new Vice-Chancellor of the University of Ilorin.

7. Whether in view of section 3 of the Universities(Miscellaneous Provisions) Act 1993 as amended and paragraph 1 of the requirement expected from the ideal candidate for the post of Vice-Chancellor of University of Ilorin contained in the Punch Newspaper of May 14, 2012, Prof. Abdulganiyu Ambali can be said to be a distinguished Professor of not less than 10 years in one of the disciplines offered in the University of Ilorin when veterinary medicine which is the discipline of Prof Abdulganiyu Ambali is a discipline just introduced in the University of Ilorin during the 2010/2011 academic session and which has not been accredited by the National University Commission?
8. Whether the procedure put in place for the selection of a new Vice-Chancellor for University of Ilorin after the placement of advertisement is proper, regular and transparent?

9. Whether in view of paragraph 1 of the vacancy advertisement placed by the University of Ilorin for the vacant post of Vice-Chancellor, as contained in the Punch Newspaper of May 14, 2012, the discipline of Veterinary Medicine which is the discipline of Prof. Abdulganiyu Ambali is a leading existing discipline in the University of Ilorin when the National Universities Commission has not approved or accredited it?
10. Whether Prof. Abdulganiyu Ambali is qualified to be the Vice-Chancellor of University of Ilorin in view of paragraph 1 of the advertisement for the vacant post of Vice-Chancellor of University of Ilorin contained in the Punch

Newspaper of May 14 2012, when his discipline, veterinary medicine is not discipline in the University of Ilorin for the past ten years?

11. Whether in view of section 3 of the Universities (Miscellaneous Provisions) Act, 1993 No. 11 as amended, a board made up of the following persons; Alhaji Saka Sa'adu, Prof (Mrs) N.Y.S. Ijaiya, Prof. M.A. Fajemidagba, Hon. Babatunde A Esuola and T.A. Odedele has the competence to draw up a list of suitable candidates for the post of Vice-Chancellor in consequence of the advertisement placed by the council of the University of Ilorin for the vacant post of Vice-Chancellor as contained in the Punch Newspaper of May 14, 2012?

12. Whether the claimant is entitled to be considered for the vacant post of Vice-Chancellor of University of Ilorin by the Council of the University of Ilorin in line with section 3 of the Universities (Miscellaneous Provisions) Act 1993 No. 11 as amended after responding to the advertisement placed by the University of Ilorin for the vacant post of Vice-Chancellor contained in the punch newspaper of May 14, 2012?

13. Whether the claimant was considered by the Governing Council of University of Ilorin in order to determine his suitability to be shortlisted by the council in line with section 3 of Universities (Miscellaneous Provisions) Act No. 11 of 1993 as amended?

14. If answers to questions in paragraph 12 and 13 above are positive, whether the principles of Natural Justice and fair play have not been breached by the Governing Council of University of Ilorin by its failure to determine whether or not the claimant is entitled to be shortlisted as a candidate for the post of Vice-Chancellor, University of Ilorin?

The reliefs are for:

1. A declaration that it is the council of the University of Ilorin that must draw up a shortlist of suitable candidates for the vacant post of Vice Chancellor for consideration by a board of council in view of section 3 and of the Universities (Miscellaneous Provisions) Act No.11 of 1993 as amended.
2. A declaration that a board made up of Alhaji Saka Sa'adu, Prot. (Mrs.) N.Y.S. Ijaiya, Prof. M.A. Fajemidagba, Hon. Babatunde A Esuola and Mr. T.A. Odedele lacks the competence to draw up and shortlist suitable candidates for the post of Vice-Chancellor, University of Ilorin.
3. A declaration that the shortlisting of the 2nd, 5th, 6th, 7th and 8th defendants by the Board made up of the following defendants, Alhaji Saka Sa'adu, Prof. (Mrs.) N.Y.S. Ijaiya, Prof. M.A.Fajemidagba, Hon. Babatunde A Esuola and Mr. T.A

4. Odedeleas suitable candidates for the post of Vice-Chancellor for the University of Ilorin in irregular, unlawful, null and void.
5. A declaration that the procedure put in place for the short listing, selection and appointment of Prof. Abdulganiyu Ambali, the 2nd defendant herein, as the new Vice-Chancellor of the University of Ilorin is unlawful, null and void.
6. A declaration that Prof. Abdulganiyu Ambali, the 2nd defendant herein, is not qualified to be shortlisted, selected and appointed as the new Vice-Chancellor of the University of Ilorin in view of paragraph one of the requirements contained in the advertisement placed by the Governing Council of University of Ilorin for the post

of Vice-Chancellor appearing in the Punch Newspaper of May 14, 2012.

7. A declaration that Alhaji Saka Sa'adu lacks the competence to perform the duties of the Chairman of Council and Pro-Chancellor of University of Ilorin in the shortlisting, selection and appointment of a new Vice Chancellor for the University of Ilorin.
8. A declaration that it is most wrongful, improper and irregular for Alhaji Saka Sa'adu to perform the duties of the Chairman of Council and Pro-Chancellor of the University of Ilorin in the short-listing, selection and appointment of a new Vice-Chancellor for University of Ilorin when Prof. Abdulganiyu Ambali who has been appointed as the new Vice-Chancellor hails from the same Oke-Imale Area in the same ward in Ilorin West Local Government Area of Kwara. State with Alhaji Saka Sa'adu.

9. A declaration that Alhaji Saka Sa'adu is not a fit and proper person to perform the duties of the chairman of Council and Pro-Chancellor of University of Ilorin in the short-listing, selection and appointment of a new Vice-Chancellor for the University of Ilorin when he was never appointed and inaugurated as chairman of Council and Pro-Chancellor of University of Ilorin by the President of the Federal Republic of Nigeria who is the appointing authority and visitor to the University.
10. A declaration that the short-listing, selection and appointment of Prof. Abdulganiyu Ambali as the new Vice-Chancellor of the University of Ilorin are irregular, improper, unlawful, null and void.

11. A declaration that the claimant as an applicant for the post of Vice-Chancellor of the University of Ilorin is entitled to have the Council of the University of Ilorin to consider his suitability for the post of the Vice-Chancellor before drawing up a short list of suitable candidates for the post.
12. A declaration that the interview conducted by a Board chaired by Alhaji Saka Sa'adu on 23 July, 2012 for the following persons: Prof. Abdulganiyu Ambali, Prof. Musbau Akanji, Prof. Luke Ayorinde, Prof. Timothy Opoola and Prof. Hassan Saliu for the post of Vice-Chancellor of the University of Ilorin is irregular, improper, wrongful, unlawful, null and void.
13. A declaration that the announcement made by the Registrar and Secretary of Council, University of Ilorin, the 4th defendant herein, conveying the appointment of Prof. Abdulganiyu Ambali, the 2nd defendant, as the new Vice-Chancellor of the University of Ilorin on

26 July, 2012 is irregular, improper, wrongful, unlawful, null and void.

14. A declaration that the principles of natural justice and fair play have been breached by the failure of the governing council of University of Ilorin to consider the suitability of the claimant for short-listing as a candidate for consideration for the vacant post of Vice-Chancellor, University of Ilorin.
15. An order of perpetual injunction restraining Prof. Abdulganiyu Ambali, the 2nd defendant herein from parading himself as the new Vice-Chancellor of University of Ilorin.

16. An order of injunction restraining the governing council of University of Ilorin from recognizing Prof. Abdulganiyu Ambali, the 2nd defendant herein, as the new Vice-Chancellor of the University of Ilorin.
17. An order of injunction restraining the President of the Federal Republic of Nigeria, the Minister of Education and the Executive Secretary, National Universities Commission from recognizing or treating Prof. Abdulganiyu Ambali, the 2nd defendant herein, as the new Vice-Chancellor of University of Ilorin.
18. An order restraining Prof. Ishag Oloyede, the 9th defendant herein, from recognizing Prof. Abdulganiyu Ambali the 2nd defendant herein as the new Vice-Chancellor of the University of Ilorin.

In support of the amended originating summons, the following were filed. A 54-paragraph affidavit deposed to by the plaintiff. Annexed to it are documents marks exhibits 1, 2, 3, 4, 5, 6A, B, and 7A, B, C.

Five further affidavits but two were abandoned at the trial (the first two affidavits). A written address was filed on 5 March 2013. A reply on points of law to the address filed by the 1st to 6th, 9th, 15th to 18th defendants. A reply on points of law to the address of the 11th and 12th defendants. A reply on points of law to the address of the 14th defendant.

The 1st to 6th, 9th, 15th to 18th defendants filed a 4-paragraph counter-affidavit on 31 January 2012.

It was deposed to by Mansur Adeleke Alfa Nla, a Senior Assistant Registrar at the University of Ilorin. Annexed to it are documents marked exhibits UniIlorin1, 2, 3, 4, 5, 6. A written address was also filed on 16 April 2013.

The 7th defendant filed a 9-paragraph counter-affidavit on 28 January 2013. The 7th defendant, Professor Timothy Opoola deposed to his counter-affidavit. A written address was also filed on 22 March 2013.

The 8th defendant deposed to a 6-paragraph counter-affidavit filed on 11 December 2012. The 11th and 12th defendants filed a 6-paragraph counter-affidavit on 27 February 2013. It was deposed to by Olatubosun Kajogbola, a senior litigation officer in the firm of Abdullahi Ibrahim & Co., counsel for the 11th and 12th respondents. A written address was also filed.

The 14th defendant filed a, 12-paragraph counter-affidavit on 18 January 2013. It was deposed to by Oriabure Iyayi, legal officer in the legal department of the National Universities Commission. A written address was also filed.

Preliminary objections to the hearing of this appeal were filed by learned counsel for the 1st - 6th, 9th, and 15th - 8th respondents, and learned counsel for the 11th and 12th respondents.

In a considered judgment delivered on 24 June 2013, the learned trial judge, Faji J dismissed the plaintiffs claim.

Dissatisfied with the judgment of the trial court the plaintiff lodged an appeal. It was heard by the Court of Appeal Ilorin Division. On 19 December, 2014 that court affirmed the decision of the Federal High Court (the trial court).

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Still dissatisfied, the plaintiff/appellant appealed to this court. Briefs were filed and exchanged Professor Rasheed Jimoh Ijaodola, the appellant, appeared in person. He filed the appellant's brief on 29 April 2015 and Reply briefs on 10 October 2016 and 7 November 2016.

Learned counsel for the 1st - 6th, 9th, 15th - 18th respondents Y. Dauda Esq., filed a brief for the said respondent's on 11 July, 2016, but deemed duly filed and served on 25 September 2016.

Learned counsel for the 7th and 10th respondents, A. Shuaibu esq, and learned counsel for the 8th respondent, A.I. Yusuf Esq., did not file briefs.

Learned counsel for the 11th and 12th respondents A.A. Olatunji, Esq filed a brief for the said respondents on 3 June 2016, while learned counsel for the 13th respondent, D. Akpata Esq, the Solicitor General of the Federation filed the 13th respondents brief on 1 November 2016, but deemed properly filed and served on 7 November 2016.

Finally, O. Gbadeyan Esq, learned counsel for the 14th respondent, filed the 14th respondents brief on 17 October 2016, but deemed properly filed and served on 7 November 2016.

At the hearing of the appeal on 24 April 2018, Professor Rasheed Jimoh Ijaodola adopted his three briefs and urged the court to allow the appeal. He observed that the 1st - 6th, 9th, 15th - 18th respondents did not have a valid statement of defence (counter-affidavit in the trial).

Learned counsel for the 1st -6th, 9th, 15th - 18th respondents Y. Dauda Esq withdraw his preliminary objection. It was accordingly struck out. Learned counsel adopted the brief of the said respondents' and urged the court to dismiss the appeal.

Learned counsel for the 11th and 12th respondents, A.A. Olatunji Esq adopted his urged the court to uphold the preliminary objection and dismiss the appeal.

Learned counsel for the 13th and 14th respondents D. Akpata Esq, and O.Gbdeyan Esq., adopted their briefs and urged the court to dismiss the appeal.

The facts as relevant to the conclusion I shall come to are these. The term of office of a Vice-Chancellor of the University of Ilorin is 5 years. Professor Ishaq Oloyede was Vice-Chancellor of the University of Ilorin from 2007 to 2012. In 2012 the University of Ilorin went in

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search for a new Vice-Chancellor. The appellant, Professor R. J. Ijaodola, the 2nd respondent, Professor A Ambali and a few other professors signified their interest in the post. After the selection committee and the Council of the University of Ilorin concluded the exercise to choose a Vice-Chancellor for the institution, the 2nd respondent, Professor Abdulganiyu Ambali was successful. He emerged as the choice of Council.

On 16 October 2012, he was appointed Vice-Chancellor of the University of Ilorin. His five-year term in office as Vice-Chancellor came to an end in 2017. The Vice-Chancellor of the University of Ilorin now is Professor Sulyman Abdulkareem. His term of office is for five years from 2017 to 2022.

The burning question for determination is

Whether any of the reliefs claimed by Professor Rasheed Ijaodola (the appellant) can be granted or refused or even considered.

It has been said in a plethora of cases that courts should not engage or indulge in an academic exercise. Courts are constituted to determine live issues.

Black's Law Dictionary defines the word "Academic" as an issue, which does not require answer or adjudication by a court of law because it is not necessary.

A suit becomes academic when the questions placed before the court for determination are no longer live issues in the subject matter of the suit, because it is spent and the successful party cannot obtain any right or benefit. Courts deal with live issues, which will have bearing in one way or the other on any of the parties or all the parties. All the seventeen reliefs if resolved in favour of the appellant would not confer any right or benefit on him and this is simply because

the term for which he wanted to be Vice-Chancellor expired in 2017. Since no purpose will be served by this appeal it is a mere academic exercise.

In *Plateau State v. A.-G., Federation* (2006) 5 [NWLR \(Pt. 967\) p.346](#) at p.419, paras. F-G this court said that:

“A suit is academic where it is thereby theoretical, makes empty sound and of no practical utilitarian value to the plaintiffs even if judgment is given in his favour. A suit is academic if it is not related to practical situation of human nature and humanity.

In *Odedo v. INEC* (2008) 17 [NWLR \(Pt.1117\) p. 554](#) at p. 600, paras. C-D, this court, per Tobi JSC said that:

“An academic issue or question is one which does not require answer or adjudication by a court of law because it is not necessary, does not relate to live issues in the litigation because it is spent as it will not ensure any right or benefit on the successful party”.

See also, *Bhojwani v. Bhojwani* (1996) 6 [NWLR \(Pt.457\) p.661](#); *Adelaja & Ors v. Alade & Anor* (1999) 6 [NWLR \(Pt. 608\) p.544](#); *Mamman v. Salaudeen*(2005) 18 [NWLR \(Pt.958\) p.478](#); *A.-G. Fed. v. ANPP* (2003) 13 SC (Pt. ii) p.146;(2003) 18 [NWLR \(Pt. 851\) 182](#); *Ogbonna v. President, FRN* (1997) 5 [NWLR\(Pt. 504\) p.281](#).

The term for which the appellant contested for the office of Vice-Chancellor for the University of Ilorin commenced in 2012 and came to an end in 2017. Hearing an appeal in 2018 to determine whether the appellant was qualified, or ought to have been the Vice-Chancellor for the term 2012 to 2017 is clearly an academic exercise.

All courts established under section 6 of the Constitution are constituted to decide issues between parties in litigation. It follows that under the Constitution, there must be a lis between any of the persons named in section 6 of the Constitution, before any court can invoke its judicial power. When, as in this case there is no lis between two parties the court has no jurisdiction and it cannot or ought not to spend judicial time in granting advisory opinion no matter how beneficial it may appear to legal scholars and the profession. It would therefore be wrong in this appeal to comment on whether the exercise which resulted in the appointment of the 2nd respondent as Vice-Chancellor of the University of Ilorin in 2012, when the said 2nd respondent's tenure expired in 2017 and a new Vice-Chancellor has been appointed and has commenced his own five years term of office. None of the seventeen reliefs claimed by the appellant can be granted or are worth considering.

It would be unthinkable and bizarre in the extreme to even contemplate granting any of the reliefs in 2018 for a term of office that came to an end in 2017. The lis or controversy between the parties no longer requires an answer or adjudication by this court because it is no longer alive issue. It is spent. The lis is irrelevant when there is no remedy known to law.

The appellant's claims fade into insignificance.

In the end this appeal is dismissed. Parties shall bear their own costs.

PETER-ODILI, J.S.C.: I agree with the decision delivered by my learned brother, Olabode Rhodes-Vivour, JSC in dismissing the appeal and to underscore that support in the reasonings from which the judgment came about, I shall make some comments.

This appeal arose from the decision of the Court of Appeal, Ilorin Division, Coram Hussein Mukhtar, Chidi Nwaoma Uwa, Musa Hassan Alkali JJCA on the 19th day of December 2014 dismissed the appeal.

The facts leading to this appeal are well captured in the lead judgment and there is no need repeating them except for when a reference to any part thereof is called for.

On the 24th day of April 2018 date of hearing, the appellant who appeared in person adopted his brief of argument filed on 29th April, 2015 and raised eight (8) issues for determination, which are thus: -

Issue One

Whether the Court of Appeal was right when it held that the search team considered the suitability of the appellant for shortlisting and found that he was not qualified for post of a Vice-Chancellor for University of Ilorin in view of the Provisions of the Universities (Miscellaneous Provisions) Act No.11 of the 1993 (as amended)? (Ground 13 of the notice of appeal, pages 1439 of the record. (Volume 11).

Issue Two

Whether the Court of Appeal was right in holding that the Governing council of University of Ilorin followed due process in the short listing, selection and appointment of a new Vice-Chancellor for University of Ilorin as provided by the Universities (Miscellaneous Provisions) Act No.11 of 1993 (as amended) or that the council considered the suitability for short listing of the appellant and other applicants for the post of the Vice-Chancellor, which is a pre-condition before the selection and appointment of a Vice-Chancellor for University of Ilorin? (Grounds 15 & 16 of the notice of appeal, pages 1441-1442 of the record. Volume 11).

Issue Three

Whether the Court of Appeal was right when it held that the appellant was not qualified for the post of the Vice-Chancellor when the matter was not a relief or an issue brought by any of the parties before the Court of Appeal or at the trial court? (Ground 1 & 2 of the notice of appeal, pages 1433 & 1434 of the record). (Volume 11).

Issue Four

Whether the Court of Appeal was right when it held that the shortlisting in respect of the post of a new Vice-Chancellor could be delegated to a committee in view of section 22 of

the University of Ilorin Act 2010 when section I of the Universities (Miscellaneous Provisions) Act No. II of 1993 as (amended) expressly excludes the application of “any other law” contrary to the requirements of the said law in respect of issues concerning the appointment of a Vice-Chancellor and when section 7 of the Act expressly excludes a Board of a University from the appointment of a Vice-Chancellor (Grounds 5, 4 & 14 of the notice of appeal, pages 1424, 1435, 1439 & 1440 of the record. (Volume 11).

Issue Five

Whether the Court of Appeal was right in not considering the issues placed before it or matters that formed part of the issues before it in respect of the following;

- a. The implications of the 2nd and 3rd respondents coming from the same ward and place in Ilorin in view of section 2 AAA (I) of the Universities (Miscellaneous Provisions) (Amendment) Act, 2003 which enjoins Council to act for the good governance and management of a university.
- b. The 1st, 6th, 9th, 15th -18th respondents not having a valid defence at the trial court having amended and filed a counter-affidavit on 31st January 2013 without leave of court (Grounds 3 & 6 of the grounds of appeal, pages b.1434-1436 of the record. (Volume II); and
- c. The matter concerning the lack of a decision by the trial court on reliefs 10 & 11 before that court and which was also before the Court of Appeal, but for which the Court of Appeal did not arrive at a decision.

Issue Six

Whether the Court of Appeal was right when it held that the 3rd respondent, properly exercised the powers of a Pro- Chancellor and Chairman of Council of the University of Ilorin when he was never appointed or inaugurated as such by the 11th respondent? (Grounds 7, 8, 9 & 10 of the notice of appeal, pages 1436-1437 of the record. (Volume 11).

Issue Seven

Whether the Court of Appeal was right when it held that the 2nd respondent was qualified for the post of a new Vice-Chancellor when as at the time of the advertisement of 14th May, 2012, veterinary medicine which is the 2nd respondents' discipline was not offered by the University of Ilorin for 10 years prior to the said advertisement and when the said discipline did not exist in law at the University on

account of its not being accredited? (Ground 11 of the notice of appeal, page 1438 of the record. (Volume II)

Issue Eight

Whether the Court of Appeal was right when it held that the discipline of Veterinary Medicine was being offered by the university of Ilorin prior to the advertisement of 14th May, 2012 for the vacant post of Vice-Chancellor when at the time, veterinary medicine was not accredited discipline in University of Ilorin and when no facility was on ground for the training of Veterinary Doctors by the University? (Ground 12 of the notice of the appeal, page 1438 of the record). (Volume II).

Yakubu Dauda Esq., learned counsel for the 1st, 6th, 9th and 15th - 18th respondents adopted their brief of argument filed on 30th October 2017 and deemed filed on 25th September 2016 and in it argued a preliminary objection however leaving room in the event that it was overruled to distil a single issue for determination, which is as follows: -

Whether this honorable court possesses the requisite jurisdiction to countenance, entertain and or hear the appellant's appeal having regard to the fact that same has become academic exercise.

Learned counsel for the 11th and 12th respondents Abiodun Olatunji Esq., adopted the brief of argument filed on 3rd June 2016 and in it argued the preliminary objection and leaving open an option in the event of the objection failing raised six (6) issues for determination as follows: -

1. Whether having regards to extant laws, the Court of Appeal was right in holding that the governing council of the university of Ilorin followed due process in short listing, selection and appointment of a new Vice-Chancellor for the University. (Grounds 15 and 16 of notice of appeal).
2. Whether the finding of the Court of Appeal that the selection body found the appellant unqualified for the post of Vice-Chancellor of the University of Ilorin can be faulted. (Grounds 1 and 2 of the notice of appeal).

3. Whether the Court of Appeal was not right in holding that the short listing in respect of the post of a new Vice-Chancellor could be delegated to a committee. (Ground 4, 5, and 14 of the notice of appeal).

4. Whether having regard to the nature of the case submitted by the parties and the reliefs sought in the case, the court below needed to engage in consideration of place where the 2nd and 3rd respondents come from, the validity or otherwise of the defence of 1st – 6th, 9th, 15th - 18th respondents and or the fate of reliefs 10 and 11 of the amended originating summons. (Grounds 3 and 6 of notice of appeal).
5. Whether the Court of Appeal’s finding that the 3rd respondent properly exercised his powers of Pro-Chancellor and Chairman of council of the University of Ilorin can be faulted, in view of the evidence before it. (Ground 7, 8, 9, and 10 of the notice of appeal).
6. Whether the 2nd respondent was qualified to be appointed and was rightly appointed Vice-Chancellor of the University of Ilorin at the time he was appointed as such. (Ground 11 and 12 of the notice of appeal).

Learned counsel for the 13th respondent, Dayo Apata Esq, also Solicitor General of the Federation adopted the brief of argument filed on the 1st of November, 2016 and in it raised five issues for determination, viz: -

- a. Whether the governing council followed due process in the selection and appointment of a new Vice-Chancellor (Distilled from grounds 4, 5, 7, 8, 9, 10, 13, 14, 15, and 16 of the notice of a. appeal)?
- b. Whether the 2nd respondent was qualified for the post of a new Vice Chancellor, in light of his discipline and the advertisement published on the 14th May, 2012 (Distilled from grounds 11 and b.12 of the notice of appeal)?
- c. Whether the Court of Appeal was right when it held that the appellant was not qualified for the post of Vice Chancellor when the matter was not a relief or issue

brought by any of the parties before the Court of Appeal or at the trial court (Grounds 1 and 2c. of the notice of appeal)?

- d. Whether the Court of Appeal was right in not considering the issues placed before it or matters that formed part of the issues before it (Distilled from grounds 3 and 6 of the notice of appeal)?

- e. Whether this honorable court can depart from the concurrent decisions of the two lower courts, having not been canvassed to be perverse?

Oladele Gbadeyan Esq, learned counsel for the 14th respondent identified three issues for determination which are thus: -

- 1) Whether the court below was not right when it affirmed the decision of the trial court that due process was followed in the process leading up to the appointment of the 2nd respondent as the Vice-Chancellor of the University of Ilorin. (Distilled from grounds 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, and 16 of the notice of appeal).
- 2) Whether the court below was right when it held that the appellant did not meet the requirement for qualification to apply for the post of Vice-Chancellor of the University of Ilorin. (Distilled from grounds 1 and 2 of the notice of appeal)
- 3) Whether the court below was not right when it affirmed the decision of the trial court that the 2nd respondent was qualified for appointment as the Vice-Chancellor of the University of Ilorin. (Distilled from grounds 11 and 12 of the notice of appeal). It needs to be placed on record that the appellant filed respective reply briefs to each of the respondents.

I shall of course tackle the preliminary objection first before anything else and in this utilize that as raised and argued by the 11th and 12th respondents.

11th and 12th respondents' notice of preliminary objection

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Take notice that the 11th and 12th respondents shall at the hearing of this appeal raise the following objection, to wit, that:

Grounds 1, 2 and 13 of the appellant's notice of appeal are incompetent.

Ground in Support of the Objection

1. Ground 1 of the notice of appeal is incompetent being a challenge against a mere obiter dictum of the court below.

2. Ground 2 and 13 of the notice of appeal are incompetent in that the said ground did not arise from the decision of the Court of Appeal appealed against.

RELIEFS SOUGHT

1. An order striking out or dismissing ground 1, 2 and 13 of the appellant's notice of appeal as well as issues 1 and 3 of the appellant's brief of argument and all argument canvassed in respect of the said issues at pages 5 - 12 and 12 - 14 of the said brief respectively.
2. And such order or further orders as the honourable court may deem fit to make in the circumstances of this case.

Learned counsel for the 11th and 12th respondents contended that the appellant promised his ground 1 on an obiter dictum and grounds 2 and 13 on matters outside what was decided in the court below. He cited in support several judicial authorities. That issue 1 and 3 of these incompetent grounds should be struck out.

The appellant urged the court to discountenance the objection as it stemmed from a misconception by the respondents/objectors.

What I see in this preliminary objection is to utilize it to have the appeal determined without the dispute between the parties be considered on the merit and for no justifiable reason as the main thrust of the appeal is a question of an error of law. Also the court should be allowed to deal with the meat of the matter and not be distracted with minute technical issues, which go to no purpose. In all, I see no merit in this preliminary objection and I dismiss it.

Main Appeal

I shall concentrate on the first issue of the 14th respondent as in it all the issues as raised by the appellant and the other respondents are subsumed, since in answering the said issue 1 of the 14th respondents, the appeal would be determined.

Issue One

Whether the court below was not right when it affirmed the decision of the trial court that due process was followed in the process leading up to the appointment of the 2nd respondent as the Vice-Chancellor of the University of Ilorin.

Canvassing his position in the appeal, the appellant, Prof. Rasheed Ijaodola contended that the appeal court as well as the trial court in not accepting that the irregularities were proved in relation to the actions of the University of Ilorin Governing Council and that the Joint Council/Senate Selection Committee chaired not by the Pro-Chancellor as Chairman but by the 3rd respondent Alhaji Saka Saadu. That the mandatory provision in sections 1 & of the Act No. 11 of 1993 (as amended) was not complied with. He cited the cases of *The State v. Nathaniel Okpala* (2012) 3 [NWLR \(Pt.1287\) 388](#) at 402; *Bello v. Adamu* (2012)3 [NWLR \(Pt.1287\) 286](#) It was further submitted by the appellant that his right to fair hearing was breached by the Court of Appeal when that court made a pronouncement on the qualification of the appellant when the issue was not before the Court of Appeal. He relied on the case of *Ukachukwu v. PDP* (2014) 17 [NWLR \(Pt.1435\) 134](#).

Learned counsel for 1st – 6th and 15th – 18th respondents, Yakub Dauda submitted that a court of law is enjoined to decide or adjudicate on live issues placed before the said court and not act in vain as in this case cited *Odom v. PDP*(2015) [NWLR \(Pt.1456\) 527](#) at 567; *Ugba v. Suswam* (2014) ALL FWLR(Pt.748) 825 at 855; (2014) 14 [NWLR \(Pt. 1427\) 264](#); *Agbakoba v. INEC* (2008)18 [NWLR \(Pt.1191\) 546-547](#).

Abiodun A. Olatunji of counsel for the 11th and 12th respondents submitted that the 1st respondent complied with the first of the three steps prescribed in the Universities (Miscellaneous Provisions) Act, 2003 (as amended). Sections 3 and of the Act precisely that the law is settled that where the words used in a statutory provision are clear and unambiguous, they must be given their natural

and ordinary meaning as in this case. He referred to *FRN v. Osahon* (2006) 5 [NWLR \(Pt.973\) 361](#) at 436; *Balonwu v. A.-G., Anambra State* (2009) 18 [NWLR\(Pt.1172\) 13](#); *A. -G. Bayelsa State v. A.-G. Rivers State* (2006) 18 [NWLR \(Pt.1012\) 596](#).

That the court below was right in holding that the governing council of the University of Ilorin followed due process in the shortlisting, selection and appointment of a new Vice-Chancellor for the University that the lower court's finding that the 3rd respondent properly exercised his powers

to Pro-Chancellor and chairman of council of the University cannot be faulted in view of the evidence before it. He cited relevant authorities in support of the points raised.

Learned Solicitor General of the Federation, Dayo Apata for the 13th respondent submitted that the court below did not err in stating that the appellant's application was considered and the Governing Council found that he did not qualify for the position of Vice-Chancellor while the 2nd respondent was qualified for the said position that there is no basis for the interference of the

Supreme Court in the concurrent findings of the two courts below. He cited judicial authorities in support of the various points advanced such as *A.- G. Kwara State & 2 Ors v. Raimi Olawale* (1993) 1 [NWLR \(Pt.272\) 645](#); *Ajibulu v. Ajayi* (2004) 11 [NWLR \(Pt. 885\) 458](#); *Chukwuma v. F.R.N.* (2011) 13 [NWLR \(Pt. 1264\) 391](#).

Learned counsel for the 14th respondent, Oladele Gbadeyan contended that there is an express power given to the 1st respondent to further delegate power delegated to it in line with the University of Ilorin Act section 22 there of referred to. He cited *Bamgboye v. University of Ilorin* (1999) 10 [NWLR \(Pt.622\)290](#) at 329.

The appellant had taken out an originating summons at the trial court on 28th August 2012 for the determination of certain questions and for some of the reliefs set out in the said initiating process.

The questions are thus: -

1. Whether in view of section 2 of the Universities (Miscellaneous Provisions Act No.11 of 1993 as amended by the Universities (Miscellaneous Provisions) (Amendment) Act 2003, the section and appointment of a new Vice-Chancellor for the University of Ilorin can be put into process when the position of the Pro-Chancellor and Chairman of council is vacant and another person is yet to be

appointed to fill the vacancy by the President of the Federal Republic of Nigeria who is a visitor to the University of Ilorin and the appointing authority for the position of Pro-Chancellor and Chairman of Council for the University?

2. Whether in view of section 3 and of the Universities (Miscellaneous Provisions) (Amendment) Act 1993, that provides for the function of the council of a University, where a vacancy occurs in the post of a Vice-Chancellor, a five-member

Board of Council can perform the duty of selecting persons qualified for interview for the post of Vice-Chancellor after the expiration of the date contained in the advertisement for the vacant position of the Vice-Chancellor in any Federal University in Nigeria or in the University of Ilorin.

3. Whether in view of sections 1, 2, and 3 of the Universities (Miscellaneous Provisions) (Amendment) Act 1993 as amended by the Universities (Miscellaneous Provisions) (Amendment) Act No. 25 of 1996, the Council of University of Ilorin complied with the laws and procedures governing the selection and appointment of a new Vice-Chancellor for University of Ilorin?
4. Whether in view of sections 1-3 of the Universities (Miscellaneous Provisions) (Amendment) Act 1993 as amended by the Universities (Miscellaneous Provisions) (Amendment) Act No. 25 of 1996 and the Universities (Miscellaneous Provisions) (Amendment) Act 2003, a person who was never appointed as chairman of council and Pro-Chancellor and who was never inaugurated as a Pro-Chancellor of University of Ilorin Council can perform the functions of the Pro-Chancellor of University of Ilorin in the selection and appointment of a new Vice-Chancellor?
5. Whether Alhaji Saka Sa'adu has the competence to be Chairman or Acting Chairman of the Board concerned with the process for the selection and appointment of a new Vice-Chancellor for the University of Ilorin when Prof. Abdulganiyu Ambali who has been appointed as the new Vice-Chancellor of the University of Ilorin hails from the same Oke-Imale Area of Ilorin which falls into the same ward in Ilorin West Local Government Area?

6. Whether in view of section 2 of the Universities (Miscellaneous Provisions) (Amendment) Act 1993 and section sections 2A, 2AA and 2AAA of the Universities (Miscellaneous Provisions) (Amendment) Act 2003, the council of the acted competently and without corruption for the good management, growth and development of the University in the selection and appointment of Prof. Abdulganiyu Ambali as the new Vice Chancellor of the University of Ilorin?

7. Whether in view of section 3 of the University (Miscellaneous Provisions) (Amendment) Act 1993 as amended and paragraph 10 the required expected from the ideal candidate for the post of Vice-Chancellor of University of Ilorin contained in the punch newspaper of May 14, 2012, Prof. Abdulganiyu Ambali can be said to be a distinguished Professor of not less than 10 years in one of the disciplines offered by the University of Ilorin when veterinary medicine which is the discipline of Prof. Abdulganiyu Ambali is a discipline just introduced in the University of Ilorin during the 2010/2013 academic session and which has not been accredited by the National Universities Commission.
8. Whether the procedure put in place for the selection of a new Vice-Chancellor for University of Ilorin after the placement of advertisement is proper, regular and transparent?
9. Whether in view of paragraph 1 of the vacancy advertisement placed by the University of Ilorin for the vacant post of Vice-Chancellor, as contained in the punch newspaper of May 14, 2012, the discipline of veterinary medicine which is the discipline of Prof. Abdulganiyu Ambali is a legally existing discipline In the University of Ilorin when the National Universities Commission has not approved or accredited it?
10. Whether Prof. Abdulganiyu Ambali is qualified to be the Vice-Chancellor of University of Ilorin in view of paragraph 1 of the advertisement for the vacant post of the Vice-Chancellor of University of Ilorin contained in the punch newspaper of

May 14, 2012 when his discipline, veterinary medicine is not a discipline in the University of Ilorin for the past ten years?

11. Whether in view of section 3 of the Universities (Miscellaneous Provisions) Act 1993 No.11 as amended, a Board made up of the following persons: Alhaji Saka Sa'adu, Prof. (Mrs.) N. Y.S. Ijaiya, Prof M. A. Fajemidagba, Hon. Babatunde A. Esuola and Mr. T. A. Odedele has the competence to draw up a list of suitable candidates of the advertisement placed by the council of the University of Ilorin for

the vacant post of Vice-Chancellor as contained in the punch newspaper of May 14, 2012?

12. Whether the claimant is entitled to be considered for the vacant post of Vice-Chancellor of University of Ilorin by the council of the University of Ilorin with section 3 of the Universities (Miscellaneous Provisions) Act 1993 No. 11 as amended after responding to the advertisement placed by the University of Ilorin for the vacant post of Vice-Chancellor contained in the punch newspaper of May 14, 2012?
13. Whether the claimant was considered by the governing council of the University of Ilorin in order to determine his suitability to be shortlisted by the council in line with section 3(2) of the Universities (Miscellaneous Provisions) Act No.11 of the 1993 as amended?
14. If answers to questions in paragraphs 12 and 13 above are positive, whether the principles of natural justice and fair play have not been breached by the governing council of University of Ilorin by its failure to determine whether or not the claimant is entitled to be shortlisted as a candidate for the post of Vice-Chancellor, University of Ilorin?"

See pages 225-227 Of Vol. I of the record.

In a nutshell, the grouse of the appellant is that 2nd respondent was appointed Vice-Chancellor on the 16th July 2012, a position to which the appellant aspired. Of note is that the tenure for the position is a period of five years and by extrapolation means that the tenure was

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extinguished by effluxion of time by 15th July 2017 and so no useful purpose would be achieved in going into the full discourse of the processes leading to and upon which the appointment by the 1st respondent and its officials were based.

What I see confronting the court is whether any gain would be derived in a declaration either way. That is if the appeal had not become academic.

When a particular point is said to be academic, it means that it has no real relevance or effect. Stated differently it means the act has become spent and no longer of any benefit or value

and it is not worth spending time or dissipating energy on it since it is merely theoretical. When as in the instant case there is an absence of any live issue, the appeal has become extinct an outside the jurisdiction of the court for it is a matter best handled in the realm of the academic institutions for desertations and discourse. See *Oke v. Mimiko* (No.1) (2014) 1 [NWLR \(Pt.1388\) 225](#); *Odedo v. Oguebego* (2015)13 [NWLR \(Pt.1476\) 229](#); *Agbaje v. INEC* (2016) 4 [NWLR \(Pt.1501\) 151](#); *Odom v. PDP* (2015) 6 [NWLR \(Pt.1456\) 527](#); *Salik v. Idris & Ors* (2014) 15 [NWLR \(Pt.1429\) 36](#). Therefore, what this court is being called upon to attend is an academic exercise which is not the duty of court but rather of such institutions as the University of Ilorin and its like.

What I am attempting to communicate is that assuming this court were to go ahead and consider all the issues canvassed, the court would not be in a position to make a meaningful order since assuming the appeal were to be allowed, it cannot place the appellant in the position he seeks, since that position had been overtaken by the event of someone having occupied the position and it ended last year and a new tenure has begun. The court would be placed in a situation of helplessness and making a futile order in the prevailing circumstances. The dignified exit point is to pause and reverse at this stage.

Therefore in line with the better articulated lead judgment, this appeal is dead and contains no live issue. It is dismissed.

OKORO, J.S.C.: I agree with my learned bother, Olabode Rhodes-Vivour, JSC in his lead judgment just delivered that this appeal is devoid of merit and deserves to be dismissed.

Apart from the fact that the appellant was not qualified to be made Vice-Chancellor of the University of Ilorin in 2012, having been Professor for six years only, whereas one of the

conditions for candidates to that office was a minimum of 10 years as Professor, this matter has become academic and spent the term of office he sought for having been served and another Vice-Chancellor appointed and in his second year in office. The new Vice-Chancellor is not a party to this case and even if the appellant wins this case, no order can be made against the new Vice-Chancellor who is not before this court.

The law is well settled that where an action or an appeal has no practical or utilitarian value to the appellant, any judgment given in his favour will certainly render such an appeal or action merely academic which this court had warned consistently without

mincing words, that such venture should not be embarked upon. See Plateau State of Nigeria v. A.-G. of the Federation (2006) 3 [NWLR\(Pt. 967\) 346](#); *Professor Steve Torkuma Ugba & Anor v. Gabriel Torwua Suswan & Ors* (2014) LPELR-22882 (SC); (2014) 14 [NWLR \(Pt. 1427\) 264](#); *Odom & Ors v. Peoples Democratic Party & Ors* (2015) LPELR - 24351 (SC); (2015) 6 [NWLR \(Pt. 1456\) 527](#); *Olafisoye v. Federal Republic of Nigeria* (2004) 4 [NWLR\(Pt. 864\) 580](#), (2004) LPELR - 2553 (SC).

In summary, appellant's claims are spent. They are no more grantable. Accordingly, this appeal is hereby dismissed. I make no order as to costs.

SANUSI, J.S.C.: I read before now the draft of the judgment just delivered by my learned brother Rhodes-Vivours, JSC. All the issues, which call for determination as canvassed by the learned counsel to the parties had been ably and painstakingly addressed in the leading judgment. I have nothing to add except to also dismiss the appeal for being lacking in substance. I accordingly dismiss the appeal with no order on costs.

BAGE, J.S.C.: I have had the benefit of reading in draft the lead judgment of my learned brother Olabode Rhodes-Vivour, JSC, just delivered. I agree entirely with the reasoning and conclusion reached. I do not have anything useful to add. The appeal lacks merit, and it is accordingly dismissed by me. I abide by all the orders contained in the lead judgment.

Appeal dismissed.