

**HON. MUYIWA INAKOJU & OTHERS**

**V.**

**SENATOR RASHIDI ADEWOLU LADOJA & OTHERS**

SUPREME COURT OF NIGERIA

SC. 112/2006

ALOYSIUS IYORGYER KATSINA-ALU, J.S.C. (Presided and Read the  
Leading Ruling)

NIKI TOBI, J.S.C.

SUNDAY AKINOLA AKINTAN, J.S.C.

ALOMA MARIAM MUKHTAR. J.S.C.

IKECHI FRANCIS OGBUAGU. J.S.C

THURSDAY, 6<sup>TH</sup> JULY. 2000

*APPEAL - Stay of proceedings pending appeal - Where time is of  
essence regarding the res - Applicable principle - Whether  
stay will be ordered.*

*PRACTICE AND PROCEDURE - Stay of proceedings pending appeal -  
Where time is of essence regarding the res - Applicable  
principle - Whether stay will be ordered.*

*STAY OF PROCEEDING - Stay of proceedings pending appeal -  
Where time is of essence regarding the res - Applicable  
principle - Whether stay will be ordered.*

**Issue:**

Whether the application for stay of proceedings ought to  
be granted.

**Facts:**

The facts leading to this application arose from the  
impeachment of the 1st respondent as the Governor of Oyo State  
by the applicants. Proceedings were taken in the High Court,  
which led to an appeal to the Court of Appeal, which delivered a

ruling in favour of the respondents. The appellants appealed and sought a stay of further proceedings in the Court of Appeal pending the determination of their appeal by the Supreme Court.

**Held** (*Unanimously dismissing the application*)

On Principles governing stay of proceedings where time is of essence -

**Where time is of the essence of a case before a court of law, the court will be most reluctant to grant an application for a stay because such an application is antithesis to the speedy hearing of the case. In this case, from paragraphs 22 and 23 of the counter-affidavit, the res, the office of the Governor, was liable to time as it would be extinguished by 29 May, 2007. In the circumstance, it was not necessary to grant a stay as the continuation of the case in the Court of Appeal will not prejudice the case of the appellants or cause them any hardship. (P. 670, paras. B-C)**

**Application:**

This was an application for a stay of proceedings in the Court of Appeal pending the determination by the Supreme Court of the applicants' appeal against a ruling of the Court of Appeal. The Supreme Court, in a unanimous decision, dismissed the application.

**Editor's Note:**

The opinion of the Supreme Court in this application was delivered by only Katsina-Alu, J.S.C. and Tobi, J.S.C.

## History of the Case:

### *Supreme Court:*

Names of Justices that sat on the application:  
Aloysius Iyorgyer Katsina-Alu, J.S.C. (*Presided and Read the Leading Ruling*); Niki Tobi, J.S.C; Sunday Akinola Akintan, J.S.C; Aloma Man am Mukhtar, J.S.C; Ikechi Francis Ogbuagu. J.S.C.

Appeal No.: SC. 112/2006

Date of Ruling: Thursday, 6th July, 2006

Names of Counsel: L. O. Fagbemi, SAN (with him, Bambo Adesanya, SAN, M. Lana, O. A. Ogunniran (A.-G., Oyo State), H. O. Afolabi, K. O. O. Fagbemi, A. O. Popoola. O. O. Ogundele, O. O. Ogunmola, Bolanle Adekoya) -for the Applicants

Yusuf O. Ah, SAN (with him, A. Egbewole, S. A. Oke, J. J. Jacob, M. B. Kawu) for 1<sup>st</sup> Respondent  
Chief Wole Olanipekun, SAN, (with him, Oluwarotimi Akeredolu. SAN, Kola Awodein, SAN. Adeniyi Akintola, SAN, Prof. T. Osipitan, SAN, Adebayo Shittu, Mrs. Ala Abiodun-Alao, Fidelis Bisong, Dele Adesina, Wahab Gbadamosi, Kunle) - for 2<sup>nd</sup> and 3<sup>rd</sup> Respondents

Aare I. Abdulsalam (with him. S. Niyi Ajewole and Abiodun Adebayo) for 4<sup>th</sup> Respondent

### **Counsel:**

L. O. Fagbemi, SAN, (with him, Bambo Adesanya, SAN, M. Lana, O. A. Ogunniran (A.-G., Oyo State), H. O. Afolabi, K. O. O. Fagbemi, A. O. Popoola, O. O. Ogundele, O. O. Ogunmola, Bolanle Adekoya) - *for the Applicants*

Yusuf O. Ali, SAN (with him, A. Egbewole. S. A. Oke, J. J. Jacob, M. B. Kawu) *for 1<sup>st</sup> Respondent*

Chief Wole Olanipekun. SAN, (with him, Oluwarotimi Akeredolu, SAN, Kola Awodein, SAN, Adeniyi Akintola. SAN, Prof. T. Osipitan, SAN, Adebayo Shittu, Mrs. Ala

Abiodun-Alao, Fidelis Bisong, Dele Adesina, Wahab Gbadamosi, Kunle) -for 2<sup>nd</sup> and 3<sup>rd</sup> Respondents

Aare I. Abdulsalam (*with him*, S. Niyi Ajewole and Abiodun Adebayo) for 4<sup>th</sup> Respondent

**KATSINA-ALU, J.S.C. (Delivering the Leading Ruling):** I have carefully examined the motion for further stay of proceedings and have considered the submissions of learned senior counsel for the appellant-applicants and I do not see anyway in granting it, in the light of decided cases. Where time is of the essence of a case before a court of law, the court will be most reluctant to grant an application for stay because such an application is an antithesis to the speedy hearing of the case. It is clear from paras. 22 and 23 of the counter-affidavit that the *res* is very much liable to time as it will be extinguished by 29 May, 2007. The above apart, I do not see how continuation of the case in the court of appeal in any way prejudice the case of the appellants in the supreme court. I also do not see any hardship that will be caused to the appellants if the proceedings in the court of Appeal are not stayed.

In the result this application is refused. It is accordingly dismissed. I make no order as to costs.

**TOBI, J.S.C.:** I agree with the ruling of Katsina-Alu, J.S.C.

*Application dismissed*