

**OSAIGBOVO
V.
USIFOH & 18 ORS**

COURT OF APPEAL — BENIN · CA/B/196/2024 ·

8 APR 2026 · NIGERIA

CORAM

**LATEEF ADEBAYO GANIYU, J.C.A. YUSUF ALHAJI BASHIR,
J.C.A. ASMAU OJ UOLAPE AKANBI, J.C.A.**

Summary of Facts

This appeal arose from the Edo State High Court's decision granting the claimants/respondents' reliefs and dismissing the defendant/appellant's counterclaim regarding the traditional and administrative headship of constituent communities within Ewohimi Kingdom, Edo State.

The dispute centered on whether Okaigben Community is an autonomous entity with its own traditional ruler (as claimed by the appellant) or a subordinate constituent of Ewohimi Kingdom under the overlordship of the 1st respondent.

Both parties presented documentary and oral evidence, including Intelligence Reports (Exhibit C) and various letters/agitations for autonomy submitted by the appellant to state authorities, which evidenced ongoing, but unresolved, agitation for Okaigben's autonomy.

The crux of the appeal was the alleged failure of the trial court to properly evaluate evidence, particularly whether admissions that Okatu founded Okaigben necessarily conferred autonomous traditional status separate from Ewohimi.

The Court of Appeal found that the Intelligence Report showed Okaigben as a constituent clan of Ewohimi Kingdom, not an autonomous community, and that the appellant's own documentary evidence and testimony regarding pending autonomy requests amounted to admissions against interest.

The Court held that the trial court's evaluation of evidence was proper, especially given that Government recognition for Okaigben's autonomy had not been granted, rendering claims of autonomy speculative and unsubstantiated.

The Appeal was dismissed and the trial court's judgment was affirmed, concluding that Okaigben remains subordinate to Ewohimi Kingdom with the 1st respondent as the duly recognized traditional head.

LATEEF ADEBAYO GANIYU, JCA (DELIVERING THE LEADING JUDGMENT): This appeal emanated from the judgment of the Edo State High Court of Justice sitting in Benin City, delivered on the 29th day of February, 2024, *Coram: P.A. Akhiero J.* (hereinafter referred to as "the TRIAL COURT"), wherein the trial Court granted the claim of the Claimants who are the Respondents in this appeal and dismissed the counter-claims of the Defendant who is the Appellant in the present appeal.

Piqued by the said decision, the Appellant lodged an appeal against the judgment of the trial Court vide his Notice of Appeal filed on 23/5/2023, setting out a sole ground of appeal which, without its particulars, reads thus:

"GROUND ONE:

The learned trial Judge erred in failing to properly evaluate the evidence before Court."

Brief Statement of Facts

The instant appeal is an offshoot of a chieftaincy tussle between the Respondents, who were the Claimants before the trial Court and shall henceforth be referred to as the Respondents, and the Appellant, who was the Defendant before the trial Court but shall henceforth be referred to as the Appellant. The bone of contention between the parties herein is that the Respondents contended that several communities constitute Ewohimi kingdom and that the 1st Respondent is the paramount ruler of the Ewohimi Community with its administrative headquarters at Eguare community where the overall traditional ruler for the whole kingdom or Enogie resides and has his palace. Among the communities within Ewohimi kingdom over which the 1st Respondent is the overlord is Idumu-Odu quarter, where the Appellant allegedly hails from, and according to the Respondents, Idumu-Odu quarter is a little village that forms part and parcel of Ewohimi kingdom.

However, the Appellant denies the overlordship claim of the Respondents over him, as he contended that his own Okaigben community, even though a neighbouring Page 3 community to Ewohimi Community, is an independent Community on its own, with several quarters under it, which the Appellant oversees. Thus, the personality clashes between the Appellant and the Respondents were instrumental to the commencement of the lawsuit before the trial Court which ignited the initiation of the present appeal.

In view of the above, the Respondents in their Further and Further Amended Joint Statement of Claim, which is contained at pages 342 to 349 of the record, aver as follows:

"a. A DECLARATION that the 1st Claimant is the sole Traditional Ruler and Administrative Head of the constituent seven (7) Communities of Ewohimi Community in Esan South-East Local Government Area, Edo State, namely, Agadaga, Okede, Oghu, Ikeken, Iselu, Okaigben, and Eguare respectively.

b. A DECLARATION that Ewohimi Kingdom in Esan South-East Local Government Area of Edo State is made up of seven (7) villages, namely, Agadaga, Okede, Oghu, Ikeken, Iselu, Okaigben, and Eguare, and that Eguare is the Traditional Administrative Headquarters of Ewohimi Kingdom being the village wherein the traditional ruler called Enogie resides.

c. A DECLARATION that for administrative convenience, the traditional ruler of Ewohimi Kingdom administers the stated seven (7) constituent Communities through the village heads called "Odionwere" and Chiefs, all of whom report to him periodically.

d. A DECLARATION that none of the seven (7) constituent Communities of Ewohimi Kingdom is independent, in any way whatsoever, of Ewohimi Kingdom; rather, they are all subordinate in fact and law to the said Kingdom.

e. A DECLARATION that the Defendant is an indigene of Ewohimi Kingdom, having hailed from Idumu-Odu quarter in Okaigben Community.

f. A DECLARATION that Okaigben Community is not an autonomous community of its own, contrary to the Defendant's claim.

g. A DECLARATION that Okaigben Community was not established in any way whatsoever by a man called Okatu, a Benin Prince who migrated from the then Benin Province to settle at Okaigben Community.

h. A DECLARATION that the stated Okatu neither lived nor settled at any part of the large expanse of land belonging to the constituent stated Communities of Ewohimi Kingdom, let alone reigning as a traditional ruler of Okaigben Community.

i. A DECLARATION that the Defendant's forebears, namely Messrs Ilegbedion, Ijebor, and Osaigbovo, were never traditional rulers in Okaigben Community in Ewohimi Kingdom.

j. A DECLARATION that the Defendant is an impostor, impersonator, and a pretender to the throne of the 1st Claimant by arrogating to himself the traditional rulership of Okaigben Community, parading

and giving himself out to be paraded ^{Page 4} as the traditional ruler, that is, Enogie of Okaigben Community.

k. AN ORDER OF PERPETUAL INJUNCTION restraining the Defendant, either by himself, his servants, privies, or by whatsoever name(s) called, from further impersonating the 1st Claimant either by calling or addressing himself as the traditional ruler of Okaigben Community or allowing himself to be so addressed or referred to, or parading himself as such either in private or public, or doing anything whatsoever to undermine or challenge the throne and authority of the 1st Claimant; in addition to being restrained from parading himself as the Chief Priest of Odu Shrine and/or celebrating a non-existent Odu New Yam Festival.

l. AN ORDER granting the sum of ₦50,000,000.00 (Fifty Million Naira only) in favour of the 1st Claimant following the deliberate mental and physical anguish the Defendant foisted on him (1st Claimant) to public ridicule and odium by parading and giving himself out to be paraded in paraphernalia of a traditional ruler in public places especially within Ewohimi Communities as the traditional ruler or Enogie of Okaigben Community (which community the Defendant knows too well forms an integral part of the communities constituting Ewohimi Kingdom) over which the 1st Claimant reigns as Enogie."

In his reaction to the Respondents' claim, the Appellant in his proposed Amended Statement of Defence, which is contained at pages 363 to 371 of the record, vehemently denied the Respondents' claim and went further to counterclaim against the Respondents as follows:

"49. The Defendant avers and repeats paragraphs 1–48 of his Statement of Defence and shall rely on same for his counterclaim.

WHEREOF, the Defendant counter-claims against the Claimants jointly and severally as follows:

a. A declaration that Okaigben Community was founded by Okatu, a half-brother of Alah, in 1642 A.D.

b. A declaration that Okaigben, since its foundation, has been and is still a separate and autonomous Community.

c. A declaration that the Defendant is the present Traditional Head of Okaigben Community, separate from Ewohimi.

d. A declaration that the Ukpe-Odu annual festival is the exclusive preserve of Okaigben Community and the priesthood is by inheritance and not by appointment by anybody.

e. A perpetual injunction restraining the Claimants, by themselves, their agents, servants, privies, from disrupting and/or preventing the Defendant, the priest of Odu, and Okaigben people from celebrating the Ukpe-Odu festival or any ceremonies associated with it.

f. The sum of ₦10,000,000.00 (Ten Million Naira) as general damages for malicious prosecution or initiating this suit against the Defendant."

During the trial of the case before the trial Court, both parties called two witnesses each to prove their respective cases. The Respondents called the 13th Claimant — Chief John Osagie Aimiele — and the 8th Claimant — Mathew Imhontume Enohumhan — through whom Exhibits A, B, C, D, D1, and E respectively were tendered and admitted in evidence, while the Appellant testified for himself and also called Akhabue Eromosele (DW2) to prove his case. Through the Appellant, Exhibits F, G, H, and I respectively were tendered and admitted in evidence.

Submission by Learned Counsel

In compliance with the extant Rules of this Court, both parties filed and exchanged their respective Briefs. The Appellant's Brief of Argument was filed on 9/12/2024 but deemed as being properly filed and served on 13/1/2026; the Respondents' Brief of Argument was filed on 29/4/2025 but deemed as being properly filed and served on 13/1/2026; while the Appellant's Reply Brief was filed on 7/10/2025 but deemed as being properly filed on 13/1/2026.

In his Brief of Argument filed on behalf of the Appellant, Dr. Osagie Obayuwana of counsel to the Appellant, distilled a sole issue for the determination of this appeal as follows:

"Whether from the evidence on record, the learned trial Judge properly evaluated the evidence based on which the reliefs sought by the Respondents were granted."

On the other hand, the Respondents' Counsel, Chief M.I. Ukpebor, adopted the sole issue for determination of this appeal as formulated by the Appellant as follows:

"Whether from the evidence on record, the learned trial Judge properly evaluated the evidence based on which the reliefs sought by the Respondents were granted."

Submission by Appellant's Counsel

In his argument of the sole issue donated for determination of the appeal, learned Counsel to the Appellant refers this Court to the Appellant's averments in paragraphs 9 and 11 of his Statement of Defence, which is captured at pages 364–365 of the record, as well as the depositions in the Appellant's deposition filed on 22/7/2016 before the trial Court, particularly paragraphs 8 and 9 thereof, to the effect that Okaigben community was established by Okatu as could be gleaned from page 263 of the record. In addition, Counsel refers this Court to the testimony of the Appellant's witness before the trial Court, particularly paragraphs 8 and 10 of DW2's deposition, wherein he maintained that Okaigben was founded by Okatu.

Furthermore, Counsel refers this Court to the testimony of the 13th Respondent, who, according to him, gave evidence under cross-examination that Alah came from Benin with his brother called Okatu, who settled and founded Okaigben, and that the 8th Respondent, Chief Mathew Imhontume Enohumhan, who testified as CW2, also admitted Page 6 under his cross-examination that Okatu founded Okaigben.

Therefore, learned Counsel submits that admission is the best form of evidence and that facts admitted need no further proof. Hence, a Court can accept facts admitted as being proved. See **SALAWU & ANOR. v. YUSUF & ANOR (2007) LPELR-2988(SC) AT PAGE 28, PARAS. A–D; ADUSEI v. ADEBAYO (2012) LPELR-7844(SC) @ PAGES 16–17, PARAS. F–A.**

Moreover, learned Counsel submits that the evaluation of evidence by the trial Court on the establishment of Okaigben Community was faulty and thereby reached a conclusion that is at variance with the evidence. On this, learned Counsel submits that the conclusion of a Court must be supported by credible evidence on record. See **ISAAC v. IMASUEN (2016) LPELR-26066(SC)**. Thus, Counsel submits that despite the evidence of the 13th and 8th Respondents before the trial Court that Okatu founded Okaigben, the trial Court in its judgment, particularly at pages 28–29 of the record, went ahead to dismiss the counterclaim of the Appellant, which makes its judgment perverse. See **OKHUAROBO & ORS. v. AIGBE (2002) LPELR-2449(SC) @ PAGES 79–80, PARAS. F–B.**

On the status of Okatu as the founder and first traditional head of Okaigben, learned Counsel refers this Court to paragraphs 11, 13, 14, 15, 25, 26, and 27 of the Appellant's Amended Statement of Defence, which is reproduced at pages 365–367 of the record, as well as the Appellant's averment in paragraphs 10, 12, 13, 14, 25, 26, 27, and 28 of his Statement on Oath filed on 22nd July, 2016, which are captured at pages 263–265 of the record of Appeal, and which are corroborated by the Appellant's witness — Akhabue Eromosele in paragraphs 10, 11, 12, 13, 23, 24, and 25 of his statement on oath filed on 4th February, 2019, which are reproduced at pages 383–385 of the record of Appeal.

Thus, Counsel submits that both the Appellant and the Respondents agreed that four Princes who migrated from Benin, namely Alah, Oron/Atto, Oisa, and Okatu, migrated from Benin Kingdom to establish Ewohimi, Ewatto, Ewosa, and Okaigben respectively.

On the Appellant's contention that the evidence of the 8th and 13th Respondents was discredited under cross-examination, learned Counsel submits that both the 8th and 13th Respondents, who testified on behalf of the Respondents, are unreliable witnesses because their pieces of evidence were discredited under cross-examination. Thus, Counsel refers this Court to the pieces of evidence of these witnesses. For instance, he refers this Court to the deposition of the 8th Respondent in his witness statement on oath which was allegedly demolished under his cross-examination, recorded at page 470, lines 17–19 thereof, and the testimony of the 13th Respondent in paragraph 6 of his witness statement on oath filed on 22nd September, 2016, which is reproduced at page 313 of

the record, wherein the 13th Respondent maintained the same position as the 8th Respondent. Learned Counsel therefore urges this Court not to believe the 8th and 13th Respondents that Okatu was never a traditional ruler of Okaigben. See **NNAJIOFOR v. UKONU (1986) 4 NWLR (PT. 36) 505 AT 521, PARA. G, RATIO 2.** Also, **DAGGASH v. BULAMA (2014) 14 NWLR (892) 144 @ PAGE 250, PARAS. D-E, RATIO 42.**

Again, Counsel submits that a Court cannot pick and choose out of the contradictory evidence of a party; rather, the evidence will be rejected. See **ZAKARAI v. MOHAMMED (2017) 17 NWLR (PART 1594) 181 @ 243, PARAS. B-C, RATIO 14; IKPEAZU v. OTTI (2016) 8 NWLR (PART 1513) 38 @ 107, PARAS. D-F, RATIO 18.** Therefore, based on the above, Counsel urges this Court to discountenance the evidence of both the 8th and 13th Respondents.

On the other hand, learned Counsel refers this Court to paragraphs 7, 8, and 10 of the deposition of the Appellant filed on 22/7/2016, which is contained at page 263 of the record of Appeal, as well as the Appellant's witness deposition, which is contained at page 383, paragraphs 7, 8, and 10 thereof of the record of appeal, which he submits is credible evidence and appears more logical than that of the Respondents' witnesses who gave evidence to the effect that Okatu founded Okaigben but never ruled it.

On the burden of proving when and how Okaigben, founded by Okatu, became part of Ewohimi, learned Counsel submits that the Appellant's witnesses' testimonies are to the effect that Okatu founded Okaigben as his other brothers founded Ewohimi, Ewatto, and Ewossa, whereas the Respondents' position is that Okaigben is part of Ewohimi, but they failed to prove when and how Okaigben founded by Okatu became part of Ewohimi and thereby failed to discharge the burden of proof placed on their shoulders. See **OLOWU v. BUILDING STOCK LTD. (2018) 1 NWLR (PART 1601) 343 AT 397, PARA. E, RATIO 23; ADENIRAN & ORS. v. ADIO & ORS (2024) LPELR-62723(SC).**

On the area that the trial Court allegedly erred, learned Counsel submits that assuming the trial Court had taken cognisance of the testimonies of the 8th and 13th Respondents that Okatu founded Okaigben but failed to give evidence on how Okaigben became part of Ewohimi, His Lordship would not have granted the declaratory reliefs sought by the Respondents.

On the origin of the Odu Shrine and Annual Ukpe-Odu Festival, learned Counsel submits that both the Appellant and the Respondents agreed that the Odu Shrine is located at Okaigben Community and went further to refer this Court to paragraph 24 of the Respondents' Further Amended Statement of Claim at page 344 of the Record.

Again, Counsel submits that the Appellant and his witness gave evidence that an Iroko tree sprouted on the grave of Okatu, their forebear. Hence, the burial ground of Okatu is being used as a shrine as pleaded in paragraphs 15, 16, 17, 18, and 19 of the Appellant's statement on oath at page 264 of the record of Appeal, and the Appellant's witness — Mr. Akhabue Eromosele gave evidence to prove these assertions in paragraphs 14–19 of his witness statement on oath filed on 4/2/2019 at page 384 of the record.

Furthermore, Counsel submits that the Appellant's witness's assertion in paragraphs 15–20 of his witness statement on oath were not seriously contested by the Respondents, who evasively denied same in paragraphs 24, 25, and 26 of their Further Amended Statement of Claim without asserting any contrary position to that of the Appellant. Therefore, Counsel submits that a bare denial is no denial at all. See **BUHARI v. INEC & ORS. (2008) LPELR-814(SC) @ PAGE 278, PARAS. A-F.**

On successive Chief Priests of the Odu Shrine, learned Counsel submits that the Appellant pleaded and led evidence on ascendancy to the position of Odu Shrine Chief Priest, which, according to him, from inception, the 1st Chief Priest was produced by the Iriri Eselomon family, and up till date that family has always assumed the position of Chief Priest by primogeniture and not by appointment as the Respondents contend. He went further to refer this Court to paragraphs 19, 20, 21, 22, 23, 24, and 28 of the Amended Statement of Defence of the Appellant, which is captured at pages 365–367 of the record of Appeal, and paragraphs 18, 19, 20, 21, 22, 23, and 24 of the Appellant's statement on oath filed on 22/7/2016, which is reproduced at pages 264–265 of the record of appeal. That being the case, Counsel submits that had the trial Court properly evaluated the evidence before it, it would not have had any difficulty in granting reliefs (iv) and (v) of the Appellant.

Finally, learned Counsel prays this Court to allow the appeal and set aside the judgment of the trial Court.

Respondents' Counsel's Submission

In his argument of the sole issue formulated for the determination of this appeal, learned Counsel submits that the Respondents had led credible and cogent evidence that Okaigben was founded by Okatu within Ewohimi

Community and that Okaigben forms part and parcel of Ewohimi Community, as it is one of the sub-clans or villages that make up Ewohimi village, namely: Agadaga, Okede, Oghu, Ikeken, Uselu, Okaigben, and Eguare respectively.

On that, he refers this Court to paragraphs 3, 4, 5, 6, 7, 12, 12(a), 12(b), 12(d), 17, 19, 20, and 35 of the Respondents' Further Amended Joint Statement of Claim, paragraphs 2, 3, 4, 8, 9, 10, 11, 15, 16, 17, 20, and 21 of the evidence tendered by the 8th and 13th Respondents.

Again, Counsel refers this Court to page 104 of Exhibit C, paragraph 5 thereof, which is captured at page 241 of the record, which has to do with Intelligence Reports on Ishan Division of Benin Province kept at the National Archives of Nigeria, Ibadan, which buttressed how Okaigben was founded within Ewohimi community.

Furthermore, Counsel refers this Court to page 105 of Exhibit C, paragraph 6 thereof, which is reproduced at page 242 of the record, where Okaigben is shown to be an integral part of Ewohimi Community. Thus, Counsel submits that by virtue of Exhibit C, Okaigben, founded by Okatu, is demonstrably shown to be under Ewohimi Community but never had dominion or control over the land, nor did Okatu act as the Okaigben Traditional Head.

On admission as the best form of evidence, learned Counsel submits that truly the Respondents' witnesses — CW1 and CW2 gave evidence to the effect that Okatu founded Okaigben within Ewohimi Community, but there is no evidence in Exhibit C, which both the Appellant and the Respondents relied on heavily as their source of historical evidence, that shows that Okatu ever acted as the traditional head or ruler of Okaigben Community, let alone passing the title of head or ruler of Okaigben to his ^{Page 9} alleged forebears, to wit: Ogun, Akbuybeya Obaze, Ebhodaghe, Aigbe, Edobor, Osagie, Osadolor, Ilegbedion, Osaigbovo, and Ugbegun Anthony Osaigbovo, respectively.

Moreover, learned Counsel refers to the Defendant's testimony under cross-examination, where he relied on the "Intelligence Report on Ishan Division of Benin Province" compiled by the National Archives of Nigeria, as could be gleaned from page 479, lines 16 and 17 of the Record. In addition, Counsel refers to the Appellant's and his sole witness's testimony under cross-examination that some of the Respondents that is, the 9th, 11th, 12th, 15th, and 16th Respondents joined Ewohimi Community to challenge and/or contest the claim that Okaigben Community is an independent/autonomous Community from Ewohimi Community and that Okatu was the first Okaigben Traditional Ruler.

He went further to submit that the Appellant admitted that Okaigben is not an independent Community from Ewohimi Community when he stated *inter alia* in response to a question at the trial Court that:

"Exhibits F, G, H, and I are a compendium of our attempts to liberate Okaigben from Ewohimi. The Government of Edo State has not granted our request for autonomy; they are still on it.... I filed a Counter-Claim so that the Government can correct the mistake and grant Okaigben an autonomous status."

Related to that is the reference made to DW2's testimony under cross-examination, when he testified that he wants the Court to declare Okaigben as a separate Community and that his Community has written several letters to the Edo State Government to recognise Okaigben as an autonomous Community.

Therefore, Counsel submits that the pieces of evidence of the Appellant and his witness amount to admission, which is the best form of evidence. On that, he refers this Court to the case of **SALAWU & ANOR. v. YUSUF (2007) LPELR-2988(SC) @ PAGE 28, PARAGRAPHS A–D; ADUSEI v. ADEBAYO (2012) LPELR-7844(SC) PAGES 16–17, PARAS. F–A**. That being the case, Counsel urges this Court to hold that facts admitted need no further proof.

On whether the trial Court's evaluation of the evidence on the establishment of Okaigben Community was faulty and the conclusion reached was at variance with the evidence, learned Counsel in his argument on this point answers same in the negative. He submits further that the conclusion of the Court must be supported by credible evidence on record. See **ISAAC v. IMASUEN (2016) LPELR-26066(SC); OKHUAROBO & ORS. v. AIGBE (2002) LPELR-2449(SC) PAGES 79–80, PARAS. F–G**.

Therefore, Counsel submits that the conclusion of the trial Court based on Exhibit C placed before it is not perverse.

Finally, Counsel urges this Court to hold that the trial Court properly evaluated the evidence before it and arrived at a just decision. Hence, he prays this Court to dismiss the appeal and affirm the judgment of the trial Court.

Submission on Appellant's Reply Brief

In his Reply Brief, learned Counsel to the Appellant refers this Court to paragraphs 1.4 and 1.6 of the Respondents' Brief of Argument, wherein he submitted that the Respondents admitted that Okatu founded Okaigben, which, according to him, the admission is binding on the party. See **OKESUJI v. LAWAL (1991) LPELR-2447(SC) AT PAGE 17, PARAS. B–D.**

On the crucial admission by the Respondents that supported the fact that Okatu was the founder and traditional ruler of Okaigben, it is to be pointed out that the submissions of learned Counsel in this regard are a mere rehearsal of facts earlier alluded to in his main Brief of Argument and are not borne out of law *stricto sensu*, which is the purpose that the Appellant's Reply Brief is meant to serve. Thus, in order not to unnecessarily waste precious judicial time, I am constrained to restrain myself from reviewing the facts for the second time in this judgment.

On the duty of counsel not to mislead the Court, learned Counsel refers this Court to paragraph 3.20 of the Respondents' Brief of Argument, that Okatu the founder of Okaigben was never its Traditional Ruler, and as such, Counsel submits that the Respondents' Counsel's submission is contrary to the evidence on record and is clearly aimed at misleading the Court.

Furthermore, learned Counsel's submissions in paragraphs 1.16, 1.17, and 1.19 of his Reply Brief, touching on inferences that could be deduced from the evidence of the Appellant, do not represent the purpose that the Appellant's Reply Brief is meant to serve. See **CITEC (INT'L) ESTATE LTD. v. EYIBOH (2018) LPELR-44458(CA)**, where it was held that: "The appellant's reply brief is a repetition of what has been canvassed in the main brief, which should not be the case. The essence of a reply brief is to respond to fresh issues raised by the respondent in his brief. It is not meant for re-arguing the case. The reply brief is therefore discountenanced." Per HASSAN, JCA (Pp. 10–11, paras. F–A).

Therefore, Counsel's submissions in those paragraphs are hereby discountenanced.

On the Appellant's Counsel's contention that there was no admission against interest by the Appellant, learned Counsel refers this Court to paragraphs 3.10 to 3.16 of the Respondents' Brief, where it was argued that the Appellant had admitted the Respondents' case against interest, and submits that there is nothing of such in the Appellant's case in this appeal and that the Respondents' Counsel's submission in this regard is misconceived because, according to him, for there to be an admission against interest, the admission must vindicate or reflect on material evidence as well as the legal position. See **ODUTOLA & ANOR. v. PAPERSACK NIG. LTD. (2006) LPELR-2259(SC) PAGES 29–30, PARAS. E–E**; Also, **ADEMOYE & ORS. v. NIMASA & ORS. (2013) LPELR-20825(CA) @ PAGES 23–24, PARAS. F–A.**

On the alleged faulty evaluation of evidence by the trial Court, learned Counsel refers this Court to paragraph 3.19 of the Respondents' Brief that Okatu founded Okaigben but went further to justify the alleged faulty finding of the trial Court by adding that Okatu founded Okaigben on Ewohimi land, which, according to Counsel, is self-contradictory, and it is upon this faulty evaluation that the trial Court granted the reliefs claimed by the Page

¹¹ Respondents; as such, that finding should not stand because it is perverse. See **UDENGWU & ORS. v. UZUEGBE & ORS. (2003) LPELR-3293(SC) @ PAGES 14–15, PARAS. G–C.**

On the Court's duty to set aside a perverse decision, learned Counsel refers this Court to the case of **NWITE v. PDP & ORS. (2022) LPELR-59192(SC) @ PAGES 52–53, PARAS. A–A.**

Finally, learned Counsel urges this Court to discountenance the arguments in the Respondents' Brief and allow this appeal.

Resolution

The foregoing analysis sums up the respective cases of both parties to the present appeal before this Court, and from the totality of materials placed before this Court, the sole issue formulated by the Appellant, which is adopted by the Respondents, is to my calm mind apt for the determination of this appeal. It runs thus:

"Whether from the evidence on record, the learned trial Judge properly evaluated the evidence based on which the reliefs sought by the Respondents were granted."

To start with, the reliefs being claimed by the Respondents and the counterclaim of the Appellant had earlier been reproduced in this judgment. In order to ascertain whether the trial Court properly evaluated the evidence placed before it, allusion must be made to the claims of the parties and the evidence on record.

It is to be placed on record that the crux of the matter in the present appeal has to do with the claim of overall headship of Ewohimi Community and village/sub-clans in its environs by the 1st Respondent against the agitation for autonomous entity of Okaigben community being sought by the Appellant. In order to establish their respective claims, both parties called the aforementioned witnesses and tendered the above-mentioned exhibits.

It is to be borne in mind that, both in their respective pleadings and evidence on the record of this Court, parties are *ad idem* that one Prince Alah founded Ewohimi Community while Okatu founded Okaigben Community, which the Respondents considered as being part and parcel of Ewohimi Community. Paragraphs 5 and 6 of the Respondents' Further and Further Amended Joint Statement of Claim, which is contained at pages 342–349, particularly at page 343 of the record, is illustrative in this regard, whilst the Appellant's averment in paragraphs 8 and 9 of his Statement of Defence, which is contained at pages 228–234, particularly at page 228 of the record, attests to the origin of the two Communities as earlier mentioned in this judgment. Again, both parties agree on the purport of Exhibit C, which is the original copy of the Intelligence Reports on Ishan Division of Benin Province authored by the National Archives of Nigeria, Ibadan, while the Certified True Copy of same was admitted as Exhibit A, and it can be found at pages 238–242 of the record.

During the trial of the case before the trial Court, CW1 — Chief John Osagie Amiele after adopting his witness statement on oath, which is in tandem with the Respondents' claims before the Court, went ahead under his cross-examination to *inter alia* give evidence which is captured at pages 463 to 465 as follows:

"It is not true that one Pa Ikhimi founded Ewohimi. One Alah founded Ewohimi. The 1st Claimant is the Onojie of Ewohimi ... the 1st Claimant ascended the throne in 1997 ... Since 1997, when the Defendant started to arrogate himself as the Onojie of Okaigben, the 1st Claimant has not been removed from office. Alah came from Benin with his brother Ato and Oisa to found Ewohimi. ... As a Claimant, my position is that Ewohimi has only one traditional ruler; we do not want any other traditional ruler for Ewohimi. I have a claim against the Defendant; he should not be allowed to be the Onojie of Okaigben."

Furthermore, CW2 — Mathew Imhontume after adopting his witness statement on oath, gave evidence under cross-examination which is captured at page 471, lines 17–19 of the record, to the effect that:

"From 1997 till date, the 1st Claimant has been the Onojie of Ewohimi. The stipends of the Onojie of Ewohimi have not been stopped because the Defendant has proclaimed himself the Onojie of Okaigben."

Again, the Appellant in his cross-examination before the trial Court, which is captured at pages 479 to 480 of the record, *inter alia* gave evidence that:

"I am relying on the intelligence on Ishan Division as compiled by the National Archives of Nigeria in this case. One Alah founded Ewohimi. Alah migrated from Benin to found Ewohimi. ... Okaigben is not one of the seven quarters in Ewohimi. Okaigben has some sub-clans like Uzebu, Ikeken, Urelu, Idumhungukha, Idinnhinio, and others. The 9th Claimant is from Uzebu. The 11th Claimant is from Idinnhinio, Okaigben. I know the 12th Claimant; he is from Idumuango, Okaigben. The 15th Claimant is from my quarters. The 16th Claimant is from Idinnhinio, Okaigben. ... Exhibits F, G, H, and I are a compendium of our attempts to liberate Okaigben from Ewohimi. The Government of Edo State has not granted our request for autonomy; they are still on it. ... I filed a Counter-Claim so that the Government can correct the mistake and grant Okaigben an autonomous status."

It is noteworthy that the 9th and 11th Claimants, which the Appellant identified as being from clans/villages that are part of the clans he contended belong exclusively to Okaigben Community — in respect of which he is claiming autonomous entity and headship — are co-authors of Exhibit B, who dissociated themselves from the Appellant's claim of separate or autonomous status from Ewohimi. This goes a long way to strengthen the Respondents' contention that those villages/clans are part and parcel of Ewohimi Community.

In essence, by identifying the 9th, 11th, 12th, 15th, and 16th Claimants as members of the Community that he (the Appellant) contended are part of his Okaigben Community, when in actual fact they (the 9th, 11th, 12th, 15th, and 16th Claimants) have dissociated themselves by virtue of Exhibit B from the Appellant's claim, it goes without Page 13 saying that he has admitted the claims of the Respondents that the various communities from which the 9th, 11th, 12th, 15th, and 16th Claimants come truly form part and parcel of Ewohimi Community as claimed by the Respondents.

That being the case, the Appellant's erroneous identification of the 9th, 11th, 12th, 15th, and 16th Claimants as members of Okaigben community, which negates the purpose of Exhibit B that was tendered and admitted in evidence during trial without objection by the Appellant, is an admission against the Appellant's interest; and the

Appellant cannot at this stage renege on what he has admitted as the correct position of the authors of Exhibit B that the various communities they represent are not subject to the control and rulership of the Appellant. See **JOHN v. STATE (2017) LPELR-48039(SC)** where the apex Court held thus:

"There is no evidence from the record of this appeal that the appellant had objected to the admissibility of Exhibit I at the trial Court. It remains a cardinal rule of evidence and practice in civil and criminal cases that an objection to the admissibility of a document sought to be tendered in evidence is immediately taken when the document is offered in evidence. It is part of the inviolate rule that where objection has not been raised by the opposing party to the reception in evidence of a document, the document would be admitted and the opposing party cannot afterwards be heard, except where the law specifically renders the document inadmissible, to complain about its reception in evidence." Per MUHAMMAD, JSC (Pp. 54–55, para. C).

Moreover, DW2 — Akhabue Eromosele in his cross-examination before the trial Court, *inter alia* gave evidence that:

"The process for recognition of Okaigben as an autonomous community is on. The documents to establish the fact that the Defendant is the traditional ruler of Okaigben are before this Court. My community has written several letters to the Edo State Government to recognise Okaigben as an autonomous community. The former Governor of Edo State, Adams Oshiomhole, acknowledged the receipt of one of our letters. Since the founding of Okaigben community, we have been on our own. The process is on course for the Government to grant us autonomy. We have a traditional head who has been ruling us in Okaigben. I am aware that some of the Claimants are from Okaigben community."

From the pieces of evidence of both parties reproduced above, it could be deduced as follows:

- a. Ewohimi was founded by Alah while Okaigben was founded by Okatu;
- b. The incumbent Enogie of Ewohimi has ascended the throne of his forebear since 1997 and has been enjoying the perquisites of office from his appointor;
- c. Both parties to this suit are *ad idem* on the genuineness of the Intelligence Report on Ishan Division of Benin Province (i.e. Exhibit C), which in its paragraph 5 at page 104 and paragraph 7 at page 105, reproduced hereunder, confirms the superiority and overlordship of Ewohimi over every other village/sub-clan in its environs, which *inter alia* includes Okaigben, which is considered to be the largest clan under Ewohimi. They read thus:
"27. Paragraph 5 of page 104 — Turning to the Ewohimi villages, the largest of these is OKAIGBEN. This adjoins Egwarre and has 6 Idumus. The first settlement was made by a man called OKATU, who came with Alah from Benin and is said by some to have been a half-brother of his. His sons and descendants founded the various Idumus. One of his grandsons was one Omi, who after getting into very serious trouble at Ewohimi escaped to Uromi Village Group and founded a Quarter there. (See Uromi Report for details). Although the whole of Okaigben is one clan and the Idumus are exogamous, intermarriage is allowed between them. The people stated that this unclan-like characteristic originated in time of war, when the young men could not get wives outside. Okaigben means 'a strong and obstinate man' and may originally have been the description of Okatu.
"34. Paragraph 7 of page 105 — Ewohimi is thus shown to be a sort of federation of clans, with one large central clan descended from the royal house. But intermarriage has destroyed any definite differences and the fact that they all acknowledge the Enogie and live on his land, and were in the past very much under his control, makes it convenient to regard the whole as one clan at the present time."

A cursory look at the above-reproduced portions of Exhibit C will reveal that Ewohimi is recognised as the overall head of all the clans within and/or around its environs and that Okaigben is never considered or indicated therein as an autonomous community with its own separate Enogie. Exhibit C, having been silent on the autonomous entity of Okaigben, it will be an affront to common sense and the long-established position of the law to read into the document (Exhibit C in the instant appeal) what it does not contain therein. See **AMOBİ v. NZEGWU (2018) LPELR-21863(SC)**, where it was held that:

"The Court and indeed learned counsel are not entitled to read into a provision what it does not contain nor to interpret the provision in such a way as to conform with the Court's or counsel's view of what they consider the law should be. See: A.G. FEDERATION v. GUARDIAN NEWSPAPERS LTD. (1999) 9 NWLR (PT. 618) 187 @ 264; Adewunmi v. A.G. Ekiti State & Ors. (2002) 1 SCNJ 27 @ 50." Per KEKERE-EKUN, JSC (P. 36, paras. B–D).

Also, in **OGWE & ANOR. v. I.G.P. (2015) LPELR-24322(SC)**, where it was held that: "An appellate Court has no jurisdiction to read into the Record what it does not contain or to read out of the Record what it contains. It must read, interpret, and apply the exact content of the record without more." Per MUHAMMAD, JSC (P. 16, paras. E–F).

d. Final decision is yet to be taken on the agitation of the Okaigben for autonomy vide several letters written to the concerned authorities, such as:

i. Exhibit D, which is a letter dated 20th October, 2008, written by the Appellant's solicitor to the Permanent Secretary, Directorate of Local Government and ^{Page 15} Chieftaincy Affairs, Benin City, Edo State, titled: Application for the creation of Okaigben Autonomous Community/Chiefdom;

ii. Exhibit D1, which is a letter dated 19th April, 2012, written by the Ministry of Local Government and Chieftaincy Affairs, addressed to the Law Firm of Daniel Akhidenor & Co., titled: Re: Demand for the creation of Okaigben from the present Ewohimi clan;

iii. Exhibit F, which is a letter dated 6th November, 2009, titled: Re: Creation of Okaigben Autonomous Clan, addressed to the Law Firm of Daniel Akhidenor & Co.;

iv. Exhibit G, which is a letter dated 27th March, 2012, written by the Ministry of Local Government & Chieftaincy Affairs, addressed to the Law Firm of Daniel Akhidenor & Co.;

v. Exhibit H, which is a letter dated 19th April, 2012, titled: In Re: Demand for the creation of Okaigben from the present Ewohimi clan.

In view of the fact that a final decision is yet to be taken on the status of Okaigben Community by the Government of Edo State of Nigeria, the agitation by the Appellant as the traditional ruler of Okaigben Community can be said to be speculative and premature.

See **SALIK v. IDRIS & ORS. (2014) LPELR-22909(SC)** where it was held that:

"The question is, what do we mean by an academic, speculative and hypothetical action/question. For an answer, see **Attorney-General of Plateau State v. Attorney-General of the Federation (2006) 3 NWLR (PT. 967) 346 AT 419** where TOBI, JSC, stated the law as follows: 'A suit is academic where it is merely theoretical, makes empty sound, and of no practical utilitarian value to the plaintiff even if judgment is given in his favour. A suit is academic if it is not related to the practical situation of human nature and humanity. A suit is speculative if it is based on speculation. A suit is speculative if it is not supported by facts or is very low on facts but very high on guesses. As Courts of law are not established to adjudicate on guesses but on facts, such actions are struck out. A suit is hypothetical if it is imaginary and not based on real facts. A suit is hypothetical if it looks like a "Mirage" to deceive the defendant and the Court as to the reality of the course of action. A suit is hypothetical if it is a semblance of the actuality of the cause of action or relief sought.' Per ONNOGHEN, JSC (P. 30, paras. A–E)."

Also, in **TOPBA v. FRN & ANOR. (2019) LPELR-49222(CA)**, where it was held that:

"Regarding issue 2 (two) which is whether the action is academic and speculative — with the striking out of the action on grounds of absence of locus standi on the part of the applicant/appellant to initiate the said action in the first place, which in turn condensed into a lack of jurisdiction on the part of the lower Court to deal with same, it follows that the issue had become otiose and no longer of any moment. I lean on the decision of this Court in the case of **UKPANAH v. AYAYA (2011) 1 NWLR PT. 1227, PG. 61 AT 79, PARAS. E–G**, where it was held that: It is not the ^{Page 16} function or indeed the duty of the Court to embark on abstract or academic exercise or speculation. The Court has no jurisdiction to do that because Courts are established to determine live issues. Therefore, a plaintiff coming before a Court must show the existence of a dispute between him and the defendant in every action filed in Court. He must show that he is not merely seeking for an answer to hypothetical questions or an opinion on a matter in which there is yet no dispute. To all intents and purposes, the appellant was merely out to exercise his academic prowess and not that he had any axe to grind with the respondents. Issue 2 (two) being a dead issue is accordingly resolved in favour of the respondents and against the appellant." Per JOMBO-OFO, JCA (Pp. 13–14, para. E–E)."

Suffice it to say that the Appellant in his cross-examination gave evidence, which is captured at page 480, lines 13 to 15, to the effect that Exhibits F, G, H, and I are a compendium of their attempts to liberate Okaigben from Ewohimi, which presupposes that the Appellant's pleading that Okaigben had all along been an autonomous Community on its own with its separate headship is unbelievable and unfounded. Why do I say so? If truly Okaigben had all along been recognised as an autonomous community with its own separate traditional ruler, why

is it that the Okaigben community is still seeking the Edo State Government's approval for its recognition as an autonomous community? To my calm mind, the Appellant is blowing hot and cold at the same time, which the law frowns at, because no soul can enjoy the best of two worlds at the same time. In other words, no party can approbate and reprobate at the same time. See **SHIDDI v. JIMKUTA & ORS. (2023) LPELR(SC)** where the apex Court, per NWEZE, JSC of blessed memory, held that:

"The third respondent is not allowed to approbate and reprobate, cannot blow hot and cold at the same time, as they seek to do. Ajuwon and Ors v. Governor of Oyo State and Ors (2021) LPELR-55339(SC), Nasko and Anor v. Bello and Ors (2020) LPELR-52530(SC)." Per NWEZE, JSC (P. 38, para. A).

It therefore goes without saying that the Appellant's claim before this Court is unfounded and misconceived.

Besides, the combined effect of Exhibits F, G, H, and I strengthened the Respondents' contention that the Appellant's testimony in this regard amounts to admission against interest, which the Respondents can rely on in support of their case before this Court. See **ABALAKA v. AKINSETI & ORS. (2023) LPELR(SC)**, where it was held that:

"Learned 3rd Respondent's Counsel argued that by the Appellant's own evidence, the 3rd Respondent used his cure/treatment/vaccination but remained HIV/AIDS positive. This was an admission against interest, which remains fatal to the Appellant's case. See IPINLAIYE v. OLUKOTUN (1996) 6 NWLR PT. 453 PG. 148, where this Court held that a defendant is entitled to rely upon the admission against interest made by the other party to defeat the other party's claim." Per OGUNWUMIJU, JSC (Pp. 26–27, paras. F–B).

Also, in **A.G. RIVERS STATE v. A.G. FEDERATION & ANOR. (2022) LPELR-57708(SC)**, where it was held that:

"A litany of documents was presented before this Honourable Court to prove the entitlement of the Plaintiff to the said oil wells in Rivers State, ranging from Exhibit AGR 1 to Exhibit AGR 19. Corroboratively and reinforcingly, the 1st and 2nd Defendants conjunctively pleaded and relied on some of the Exhibits already being relied upon by the Plaintiff, which include Exhibits AGR 1, AGR2, AGR3, and AGR 4. It is my firm opinion that this amounts to documentary admission or admission against interest. See Per TOBI, JSC, in AKANINWO ORS v. NSIRIM & ORS (2008) LPELR-321(SC) (PP. 75–76 PARAS. E). Where there are admissions by a party against his interest, such admissions will be admissible against the person. This is not to say, however, that admission per se is conclusive proof of the entire matter in litigation, but it stands firmly on the subject of the admission against the person making it. Also, it must be viewed in relation to the entire evidence before the Court to know the weight to attach to it. See Per BELGORE, JSC, in KAMALU & ORS v. UMUNNA & ORS (1997) LPELR-1657(SC) (PP. 27 PARAS. C)." Per ABBAJI, JSC (Pp. 139–140, para. A–A).

The pleadings and evidence of the parties before the Court are as alluded to in this judgment. Thus, in order to determine whether the trial Court properly evaluated the evidence before it as analysed above, it is imperative to ascertain the connotation of evaluation of evidence by the Court. In doing so, allusion will be made to decided judicial authorities on the matter. Readily comes to mind at this juncture is the unreported judgment of this Court in Appeal No: CA/B/126/2023 between **EJELE ESELE & ANOR. v. MR. ANDREW EHIDIAMEN**, delivered on Wednesday, the 3rd day of December, 2025, particularly at pages 22–25 thereof, quoted hereunder, where I borrowed leave from the judgments of the apex Court in resolution of a similar issue to the one at hand in the instant appeal.

Thus, in **WACHUKWU ANOR. v. OMWANNE & ANOR. (2011) LPELR-3466(SC)**, where the apex Court in **ODOFIN & ORS v. MOGAJI & ORS (1978) NSCC 275 AT 277**, this Court per Fatayi Williams stated the procedure to be followed in the evaluation of evidence in the following terms:

"In other words, the totality of the evidence should be considered in order to determine which has weight and which has no weight at all. Therefore, in deciding whether a certain set of facts was given in evidence by one party in a civil case before a Court in which both parties appear is preferable to another set of facts given in evidence by the other party, the trial Judge, after a summary of all the facts, must put the two sets of facts on an imaginary scale, weigh one against the other, then decide upon the preponderance of credible evidence which weighs more, accept it in preference to the other, and then apply the appropriate law to it." In my view, the evaluation procedure adopted by the trial Court was in consonance with the above principle on evaluation. After all, civil cases are decided on the preponderance of evidence, and unless a Plaintiff's case is so patently incredible and unreasonable, a trial Court is bound to carefully consider the competing evidence of the parties to determine in whose favour the evidence preponderates. On the guiding principles of evaluation, see WOLUCHEM v. GUDI (1981) 5 SC 291; DURU v. NWOSU (1989) 4 NWLR (PART 113) 24; CHUKWU v. NNEJI (1990) 6 NWLR (PART 156) 363, AKINTOLA v. BALOGUN (2000) 1 NWLR (PART 642) 532.

Again, in the course of its evaluation, the trial Court expressed its impression about the truthfulness or otherwise of witnesses." Per TABAI, JSC (Pp. 47–48, paras. D–C).

Similarly, in **BUHARI v. INEC (2008) LPELR-814(SC)**, the apex Court held that:

"A trial Judge should take into consideration the following principles in the evaluation of evidence:

"1. In the evaluation of evidence, the trial Judge should only be concerned with the issues joined by the parties, which are live in the sense that they will determine the merits of the case. In other words, the trial Judge should only take into consideration what he regards as the likely winning evidence and the likely losing evidence. Again, in other words, relevancy, the heartbeat of the Law of Evidence (see Part II of the Evidence Act), is the goal of evaluation and the trial Judge must have it in view in his evaluation exercise.

2. The trial Judge can begin or commence with the evidence of any of the parties. That is, he can begin or commence from the evidence of the plaintiff or the defendant as he deems fit. Although the general practice is to begin or commence with the evidence of the plaintiff, there is no hard and fast rule. It is a question of choice or style. The important thing is whether, at the end of the day, the learned trial Judge gave equal and compassionate consideration to the evidence of both parties?

3. The trial Judge should give equal strength to the case of the parties in the evaluation exercise. He should not project the case of one of the parties more than the other. That will lead to the charge of bias or likelihood of bias, depending on the depth and impact of the evaluation as it relates to the party put at a disadvantage by the evaluation or who has suffered the discrimination.

4. The result of the evaluation should not leave an appellate Court in doubt that the trial Judge heard the evidence before him to the last sentence and the last word.

5. The trial Judge, in the course of the evaluation of evidence, takes into consideration evidence that violates the provisions of the Evidence Act and rejects or expunges or jettisons the evidence. One example is hearsay evidence. If the trial Judge wrongly admitted it at the trial, he can expunge or jettison it at the evaluation stage.

6. The trial Judge should take into consideration the demeanour of witnesses in the evaluation of evidence. Demeanour, which is the outward or overt behaviour or manner of a witness, is the exclusive domain of the trial Judge. It includes all open habits and mannerisms of the witness. These ooze out from the body of the witness spontaneously and not tutored. Some of such body movements include a spontaneous positive or negative reaction to a question; shouting at a particular moment or the opposite action of a pretentious mum conduct; movement of part of the body, particularly the hands and the sudden change in the face arising either from anger or happiness, the latter resulting in either a smile or laughter. Another ^{Page 19} is a sudden remorse on the part of the witness, usually exhibited by refusal to look at the Judge or counsel, or others in the Court, but a sudden drop of the face in the witness box. There are quite a number of behaviours in the determination of demeanour which cannot be exhausted. I can stop with the above as the major conducts of witnesses. I should complete the picture by saying that as appellate Judges are deprived of watching the demeanour of witnesses, trial Judges owe the administration of justice a big duty to arrive at the correct conclusion. Of course, appellate Judges are not completely hopeless or helpless. They can watch the evaluation of demeanour by the Judge in the cold records.

7. Ipso facto, there is not much in the trial Judge believing the evidence of one of the parties and disbelieving the evidence of the other party. There is everything in whether the belief or disbelief is borne out from the record. I say this because in a number of judgments, trial Judges use the two expressions randomly. Inappropriate use of the two expressions may result in an appellate Court holding that the findings are perverse. I will take the principles as they relate to the appellate Courts, anon.

8. The trial Judge should take into consideration the totality of the evidence (inculpatory and exculpatory) before the Court and not only aspects of the evidence. In other words, the trial Judge cannot pick evidence of some witnesses and ignore others.

9. After the evaluation of evidence, the final function of the trial Court is to place the totality of the evidence on an imaginary scale to see where and at what point the pendulum tilts. It is where the pendulum tilts in favour that has judgment. In other words, where the pendulum tilts in favour of the plaintiff, he has judgment. Where the

pendulum tilts in favour of the defendant, the plaintiff's case is dismissed." Per TOBI, JSC (Pp. 147–150, para. A–A).

Thus, it is manifestly clear that the outcome of the juxtaposition of the testimonies of both parties before the trial Court will determine whether the trial Court rightly evaluated the evidence before it. Now, with reference to the case at hand, it is crystal clear from the record that the trial Court arrived at its decision giving judgment in favour of the Respondents after considering the pleadings of both parties on the live issues in the case as highlighted in the judgment in controversy, and having perused the judgment of the trial Court, I am of the well-considered view that the trial Court, in its judgment, appreciated the issue joined by the parties, afforded both parties equal opportunity in its appraisal of the evidence adduced to support their respective cases, and afforded them the opportunity to present their respective cases before the Court.

Based on the above-cited judgment of this Court, it is pertinent to now examine the judgment of the trial Court with a view to determining whether His Lordship properly evaluated the evidence placed before the Court. A cursory look at the judgment in controversy, particularly page 512, the third to the last paragraph thereof to page 515, the last three paragraphs thereof of the Record of Appeal, quoted *infra*, will reveal how the trial Court evaluated the evidence placed before it in order to arrive at its decisions Page 20 granting the reliefs of the Respondents but dismissing the Counterclaim of the Appellant. It reads *infra*:

"From the evidence of the Claimants and the Defendant, it is apparent that there is a sharp conflict in the material aspect of whether Okaigben Community is an autonomous Community independent of Ewohimi Community.

After adopting his deposition, the Defendant was cross-examined by the Claimants' Counsel and some salient facts emanated from the cross-examination.

Under cross-examination, the Defendant maintained that Okaigben is not one of the seven quarters in Ewohimi.

However, he admitted the fact that some of the Claimants are members of Okaigben community. He identified the 9th, 11th, 12th, 15th, and 16th Claimants as members of Okaigben Community. This admission on the part of the Defendant that five of the Claimants are members of Okaigben, his alleged autonomous community, appears to be an admission against his interest. It is settled law that when the evidence of a witness supports the case of the opponent against whom he purports to give evidence, that opponent is entitled to take advantage of the evidence to reinforce his case. That will be an admission against the interest of the party that called the witness and the admission is relevant and admissible evidence. See the case of **Onisaodu v. Elewaju (2006) 13 NWLR (PT. 998) 517 AT 529–530**.

Furthermore, in the case of **MARAF & ORS v. DAN ALHAJI & ORS (2019) LPELR-47012(CA)** (PP. 79 PARAS. E), the Court of Appeal restated the position thus:

"The law is well settled that where there are admissions against interest, such admissions will be admissible against a person; such evidence shall be viewed in relation to the entire evidence before the Court."

See also the case of **KAMALU & ORS v. DANTEL NWAKUDU UKA UMUNNA & ORS (1997) LPELR-1657(SC)**. Furthermore, the Defendant himself, while testifying in chief, admitted that in their attempts to get the Government to recognise Okaigben as a separate and distinct Community from Ewohimi, they wrote several letters to the Esan South-East Traditional Rulers Council, Ubiaja, and the Edo State Government. At the trial, the Defendant tendered the letters as Exhibits "F", "G", "H", and "I" respectively. He admitted that up till now the Government has not granted the autonomy which they requested.

This is a further admission against interest. In the case of **ONYENGE v. EBERE (2004) 13 NWLR PART 889 PAGE 1 AT 39 PARA F–G**, the Supreme Court, per NIKI TOBI, JSC, held an admission against interest to be "the best evidence" of the opponent.

At the trial, the Claimants tendered a publication of the National Archives of Nigeria titled "INTELLIGENCE REPORTS ON ISHAN DIVISION OF BENIN PROVINCE" as Exhibits "A" and "C" in a bid to prove their claim.

Unfortunately, beyond tendering the said publication, the learned Counsel did not make any attempt to relate the document to the specific area of his case for which the document was tendered. It is settled law that where a party decides to rely on documents to prove his case, he must relate each document to the specific area of his case for which the document was tendered, as it is not the duty of the Court to embark on cloistered justice by making enquiry into the case of a party in chambers by an examination of documents not demonstrated by a witness in Court. See the case of **ACN v. NYAKO (2015) 18 NWLR (PT. 1491) 352, 452, D–E**.

However, upon a juxtaposition of the case of the Claimants with that of the Defendant, it is apparent that the evidence adduced by the Claimants is more credible than that of the Defendant. The preponderance of the evidence is to the effect that the Defendant is a member of Okaigben community, which is a constituent community within the Ewohimi community. It is also an incontrovertible fact that the 1st Claimant is the undisputed Traditional Head of Ewohimi Community. The Defendant appears to be spearheading a secessionist movement to enable Okaigben community to break away from the larger Ewohimi community, but it is evident that he has not succeeded in his secessionist bid. Incidentally, some members of the Okaigben community are not in agreement with the radical moves being made by the Defendant; this is apparent by the fact that five of the Claimants in this suit are of the Okaigben community. Thus, members of the Defendant's community are divided on this quest for autonomy. It is axiomatic that a house that is divided against itself cannot stand. Worse still, the Local Government and the State Government, who are expected to grant the autonomy to Okaigben, have failed to grant the autonomy despite several applications made to them.

The net effect of the foregoing is that the Defendant and his community are still under the authority of the 1st Claimant who is the undisputed Traditional Head of Ewohimi. According to the Claimants, the various shrines and ancestral locations in Ewohimi are manned and controlled by Chief Priests appointed by the 1st Claimant. This includes the Odu Shrine located around the Odu river in Idumu-Odu quarters in Okaigben Community. They maintain that although the Defendant hails from Idumu-Odu quarter, he was never at any point in time appointed as a Chief Priest over the said shrine.

From the evidence adduced by the Claimants, which I find to be very credible and consistent, I hold that the Defendant who hails from Idumu-Odu quarters of Okaigben Community has no right to parade himself under a non-existent traditional title in Esan land. Moreover, the Defendant did not adduce any credible evidence of how he acquired the traditional title of the Chief Priest of any shrine or that of the Obaname of Esanland.

Essentially, I hold that on the preponderance of evidence, the evidence adduced by the Claimants is more credible than that of the Defendant. Consequently, the Claimants are entitled to the reliefs which they seek in this suit and issue one is resolved in favour of the Claimants....

From the evidence adduced by the Defendant, it is apparent that his Counterclaim is mainly predicated upon the fact that Okaigben Community is an autonomous community separate from Ewohimi Community.

Thus, upon a careful consideration of the above reliefs, it is apparent that in view of my findings of facts under issue one, the Defendant's Counter-Claim is no longer viable. I therefore hold that the Defendant is not entitled to the reliefs claimed in his Counter-Claim. Issue two is therefore resolved against the Defendant.

Having resolved the two issues, I hereby dismiss the Counter-Claim and grant the Claimants' Claims as follows..."

An appraisal of the findings of the trial Court reproduced above will reveal that the trial Court painstakingly identified the issue joined by the parties to this appeal before it, afforded them equal opportunities to present their respective cases, heard the evidence, and weighed them before arriving at its decision granting the reliefs claimed by the Respondents but dismissing the Counterclaim of the Appellant.

In the circumstance, I am of the well-considered view that, based on the evidence on record, the trial Court properly evaluated the evidence placed before it based on the reliefs sought by the parties herein. Accordingly, this issue is resolved against the Appellant but in favour of the Respondents.

In the circumstance, this appeal is bereft of merit; it is liable to be and is hereby dismissed. The judgment of the trial Court in Suit No. HCU/5/2016 is hereby affirmed.

Parties shall bear their respective costs.

YUSUF ALHAJI BASHIR, JCA: I have had the privilege of going through this judgment in draft, having been duly served by my Lord LATEEF ADEBAYO GANIYU, JCA.

I agree with the reasoning and conclusion that the appeal is bereft of merit; it must be and same is hereby dismissed. I equally abide by the order as to cost.

ASMAU OJUOLAPE AKANBI, JCA: I read in advance the judgment just delivered by my learned brother, LATEEF ADEBAYO GANIYU, JCA. I also dismiss the appeal for the full reasons advanced in the leading judgment.

APPEARANCES

***DR. O.O. OBAYUWANA FOR THE APPELLANT T.O. UMORU, ESQ. (HOLDS THE BRIEF
FOR CHIEF M.I. UKPEBOR) FOR THE RESPONDENTS***