Defamation: How Oil Companies Spark Disputes in Nigeria: The Case of Energia Ltd. and Emu-Obodeti Community

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Abstract:
This paper is the third in a three-pronged study of the activities and effects of the marginal farm out by Elf Nigeria Ltd to Energia Ltd on the three critical communities hosting the farmee and more importantly on the negative impact that association with Energia Ltd has had on host-families in the three communities of Ogbole-Ogume, Emu-Ebendo and Emu-Obodeti. This study which adopts doctrinal method tries to survey the negative impacts through court litigation. The court processes are critically brought to the fore to demonstrate that even though Energia Ltd was not party to the cases, its presence and activities gave rise to the disputes. Of the three communities, it was in this particular study that many lives were lost and human security concerns were raised arising from the violent conflicts and factional approaches in which the disputes were fought outside the court. Energia Ltd has been unable to go into operations in Obodeti because nerves have been frayed. It was found that so much stock was placed on the beneficial expectations from the economic activities of Energia Ltd that members of the community became so fractious that the commensality associated with such micro communities before the advent of Energia Ltd was betrayed and took flight. Even family members became enemies on the eve of the coming of Energia Ltd to the extent that they began to eliminate one another in the night before dawn such that 'with the blood flowing on the street' before operation could even begin, Energia Ltd retreated. It was therefore concluded that not much blame could be apportioned to Energia Ltd. More had depended on the greed and violent dispositions of the factions identified in this study and it is recommended that formal and informal economies should grow outside the notions of oil and gas as the mainstay of the economy.

Keywords: Oil, Energia Ltd, Emu-Obodeti, Defamation, G. C. Ogwezzy, Dickson Egbuwe, Communal conflict.

Introduction
In the last two decades 2010 – 2023 the micro community of Emu-Obodeti on the fringes of Ukwuani space with Isoko land in Ndokwa West Local Government Area of Delta State, Nigeria was experiencing one of the several crises that usually crop up in communities with marginal fields. A Local Content Vehicle, Energia Ltd, had just acquired the Emu-Obodougwa oil location which was abandoned by Elf Nigeria Ltd of 35 Kofo Abayomi Street, Victoria Island, P. O. Box 97, Lagos since the 70s. When the first drilling on the Emu-Ebendo-Obodougwa axis proved commercial oil the entire Emu-Ogume landscape went agog. So many oil wells that were corked-up by Elf Nigeria Ltd and Shell in the region began to get the hope of being worked up to commercial oil. One of such oil wells was Obodeti -1 Location -1 at Azuodibo, Emu-Obodeti. It was drilled so many years ago and corked and abandoned. Evidence of payment
for the land acquisition under the Mineral Oil and Pipelines Acts precisely on 11/3/1978 bore the signature of a prominent Chief of the Emu-Obodeti community: High Chief G. C. Ogwezzy. He acted then as the representative of the native families namely Umu-Ozah family (represented by Nduka Uti), Umu-Ashimelu family (represented by Ubienu Ubiagba), Umu-Elum family (represented by Odozi Ermu) and Umu-Odilu family (represented by J. A. Osaewe) that owned the land from time immemorial and which incidentally happened to be natives of Ebendo community instead of Obodeti community.

In the recent history of Emu-Obodeti, High Chief Dickson Egbuwe (a road construction contractor) had also been noted to have contributed tremendously in community development: opening up community roads and engaging in other communal development initiatives and ex-President-General of the Community Development Committee. These two Chiefs also came to be associated with the credible group in the community before State authorities and had Engineer Parkinson Azagba (an ECOWAS and International diplomat based at Abuja, the Federal Capital Territory) as the National Chairman of the Community Development Committee of Emu-Obodeti. Credible natives all over the world seemed to identify with the group shortly before the Energia Ltd farm out cropped up in Emu clan.

But as it has come to be noticed in several studies connected with oil companies in the Niger Delta and particularly with Energia Ltd on the Ukwuani space, oil companies do not seem to find it easy or necessary working with the credible groups in the communities. They appear to prefer to work with those who do not seem to have the interest of the development of the communities at heart (a hypothesis that has not been dislodged by contrary evidence). If such groups are not readily available before their arrival (that is handy) they grow them up and use them to upstage the credible groups. In any case, they are prone to making their work ethics so foxy or feline that the credible and easy-going do not fit in. The rugged and dubious are preferable or so it seems in all the critical studies that have been carried out in the host communities and families that have been subjected to scrutiny and interrogation in the related studies.

In the light of the would-be-emerging contracts, employment opportunities and related social benefits (like scholarship for indigenes) that would be associated to the Obodeti well, a mini intra-native war erupted as to which faction should lead Emu-Obodeti community into negotiation with Energia Ltd and even Mid-Western Oil and Gas, another Local Content Vehicle at Kwale that proved commercial oil. One of the most prominent factions that had been the community’s militant wing before then was led by Chief Godday Mgbabego. In his faction is the most politically motivated wing also. In the prelude to the inauguration of the Community Development Committee (CDC) on 27 – 28 December, 2013 Annual Conference, arguments, gun-shooting and native war erupted within the internal workings of Emu-Obodeti community. The eventual happening led to uncountable deaths, looting and burning of over 56 houses, 10 cars and the sacking of Ogbehemikoku Street where Chief G. C. Ogwezzy had lived since his early days in the 30s, 40s and 50s. His Palace as the Onotu-Uku of Emu-Obodeti community was severally burnt down and rebuilt twice by one of his many prominent sons: Melody Diobodo Ogwezzy: an international agency worker and high flier.

It would be necessary to state perfunctorily that one of the critical turning points that accentuated the crises that engulfed Obodeti was the collusion of Barrister E. E. Ogwezzy with the Chief Godday Mgbabego faction. Son of Chief G. C. Ogwezzy, the prominent lawyer was later so soon thereafter to become a Senior Special Assistant to the Deputy Governor on Local Government and Chieftaincy Affairs and also Honourable Commissioner for Local Government and Chieftaincy Affairs and later, a Commissioner for Special Duties. While he was in Delta State Executive Council, his father’s house was being severally burnt down by the faction he was largely associated with and at a point, the father took refuge in the neighbouring Bayelsa State, Nigeria.
At another critical moment, the crises got murky to the extent that the Lawyer’s father, High Chief G. C. Ogwezzy, took out a writ of summons against his son (Barrister Ogwezzy) before the High Court of Justice, Kwale in HCK/8/2014 for declarative injunction restraining him from working with the Chief Godday Mgbabego faction claiming that his family and Ogbewemikoku Street which were later sacked, did not nominate him into the Community Development Committee. He resisted the claim virulently and filed tones of processes until he engaged a Senior Counsel, Chike Onyemenam, Senior Advocate of Nigeria (SAN) to extricate him from the battle lines but by then, several Judges had warned of the negative public image nature of the litigations against the astute legal luminary denying a spurious power of attorney purportedly granted to him by Obodeti community to represent it before Energia Ltd.

In the heat of the campaigns and native wars, all manners of weapons were deployed. One of the most vicious was newspaper publications against one another. Over fifty front page publications appeared in the local and national media. It would be necessary to state that in the case of Obodeti, Energia Ltd and Mid-Western Oil and Gas, two prominent Local Content Vehicles on Ndokwa terrain, were not openly and outwardly involved in the crises but it would be necessary to state that they were lying behind the stage to fuel the disputes and virulent publications. They do this largely by leaking documents and information regarding the activities of the one faction to the other and subsequently advising the one on what to do against the other in order to neutralize one another and in the end both are set up against one another in the courts and public opinion space while the drilling or the oil business goes on.

Another curious instrument which the oil companies have come to master its usage on the Ukwuani space is the instrument of litigation. Every little difference amongst the factions and even between family members is advised to be resolved before the court. The higher or lower the court, the better for the oil companies. This is essentially because the oil companies have come to realize and characterize ‘courts as dogs in Nigeria. They bark but they do not bite’. The roads to courts are interminable and their decisions are largely ineffectual and they are so prone to overruling themselves in appeals that sometimes ridicule and mockery is made of them by oil companies. ‘Come today, come tomorrow’ is the oil company’s refrain about Nigerian courts. This phenomenon is so useful and convenient for the type of persons and factions that oil companies like to work with because it is only the ‘foxy, feline and dubious’ that would opt for it and have all the time to engage in the use of such institutions in the management of their crises and disputes. The appellate system of such institutions is worse due to inordinate delays and far-flung adjournments. Currently, a good Court of Appeal in Nigeria may sit over a case on appeal twice a year which is great in the theory of delay of justice on the tables of oil companies!

Until recently when they have come to be lucid, court languages and judgments had been on the side of put-off for the uninitiated. Parties do not even appreciate the lengthy and voluminous contents of the decisions and the issues are so prodigious that the success of a judgment-creditor can be overridden by the antics of the judgment-debtor. Most importantly, lawyers have not helped matters. They would have known that a particular dispute is not worth the onions but they would drive it to the apex courts even as they would be taking the chiding of the appellate Judges along. Senior Advocates are sometimes to blame in the cases. They back the oil companies to the point of frivolity. They would want to win at all costs and be prepared to make new points of law to distinguish the case of the oil companies from earlier trite holdings of the Supreme Court.

A third pernicious instrument which the oil companies have come to master is their use of military security especially retired officers with their private security companies. Additionally, oil companies arm the Nigerian Army against the people. The oil company security has been elevated above Police conduct and action. All over the rigs, all over the terrains, oil companies have the strongest, fiercest security out-lay. To see a Chief Executive Officer of Energia Ltd or Mid-Western Oil and Gas for instance is like a
camel passing through the eye of a needle. It is easier to see Mr. President in the circumstances. Again, the disposition of oil companies to the civil populace is one of constant suspicion and alert if not alarm and over-policing. There is no doubt that the level of awareness of the civil population of the activities of oil companies is so high and negative that even their workers are kept in check for suspicion and constant screening for loyalty. Invariably therefore, the oil companies do not only have its secret army, police and Para-military, it helps to arm the official Nigerian Army and Police to give it security. It secretly arms the communities to defend it and its installations and attack perceived opponents of criminal oil exploration. These security activities and contractual relationships are not matters of the public domain but go to edify the nature of the neo-colonial relationship between the oil companies and the State on the one hand and the members of the communities on the other hand.

In many of the native wars that were fought at Emu-Obodeti, there was no doubt that the Nigerian Army and Police were aware of the workings and desires of the oil companies whether in the process of laying the pipelines or mounting of rigs or even the curbing of oil theft in the axis. Countless petitions were written to them to draft them into the crises and they even engineered a great majority of the petitions. In the prelude to the native wars they usually swooped on the communities to mop up the strength and arms of the credible factions by arrests and detentions such that when the ‘critical boys’ of the credible faction are held in custody, the ‘faction of the oil company allies’ are unleashed on their opponents in nights of terrifying fire. They go with pumping cans with which chemicals are usually used to spray farms. The cans are heavily loaded with petrol and are sprayed into the homes of the credible faction who must have been earlier raided by the police in the day time and firebombs are unleashed on their homes in the dead of nights and the entire community is lighted and agog with wild fires and tens of houses are burnt down while they run into exile in the neighbouring villages and settlements to the jubilation of their opponents who are proxies of the oil companies. In the aftermath, they would be unable to engage the oil companies in further negotiations and only the ‘foxy, feline and dubious’ faction is called in for negotiation. Importantly, in such set up and negotiations, peanuts and tokenism are the orders of the day for their proxies while the companies smile to their vaults.

Statement of the problem

The association of communal conflict with the presence of oil in a community like Obodeti is the hypothesis which this study is out to confirm and buttress or refute and confute. Emu-Obodeti community was hitherto the coming of Energia Ltd, a peaceful community with members living harmoniously without violence and litigation. But as soon as members of the community heard from the grapevine that its well which was corked since 1978 was about to be worked into commercial oil like Ebendo well, factions erupted and over night, all forms of offices of traditional leadership in the community were thrown up for disputation. The youths that manned Community Development Committee became divided, so the Chiefs of the community and the Elders: the Okpala-Uku-in-Council. The cracks and cleavages went up to the palace of His Royal Majesty, the Ezemu of Emu Kingdom. Factions started overreaching one another to gain the influence and support of the Palace. Letters became issuable depending on the depth of factional pockets.

Conceptual clarification

Identifying the factions

The first faction in this study is the Ogwezzy-Egbuwe faction. It is claimed to be the oldest leadership stump in Emu-Obodeti because its leader, High Chief G. C. Ogwezzy, a retired headmaster with a wealth of experience, can find his signatures in old documents relating to the oil well as far back as 1978 when the Emu-Ebendo families of Umu-Ashimelu, Umu-Oza, Umu-Odilu and Umu-Ellum were paid compensation for the Location by Elf Nigeria
Ltd which later farmed out the Location to Energia Ltd. As a matter of fact, the Obodeti Location 1 belongs to Emu-Ebendo community to which the four landlord families belong. It is only that the location is closer to Obodeti residential area or town than Ebendo. The group is also the most educated and influential in all ramifications in Emu-Obodeti. The history and traditional organization and structure of the community since its finding which is not distant in time (before 1900) are on its finger tips. Their members are thus part of the Palace of His Royal Majesty at Emu-Unor.

The second faction is the Mgbabego-Ogwezzy-Ozah faction. It is new-fangled and made up of younger men and the youths. Chief Godday Mgbabego is like a son just like Barrister Ogwezzy to High Chief G. C. Ogwezzy. The faction is the new generation of elites desiring to make it quick and would not bother displacing the old brigade or considering the old brigade as out-fashioned and irritant when it comes to having to meet with the proceeds of oil wealth. This faction of younger generation often galvanizes the rump of the traditional authority of the Okpala-Uku-in-Council as instrumental structure to dislodge both the Palace and the Palace Chiefs. The faction is more politically mobile and closer to the security agencies even though the army of youths under its control is sometimes involved in all manners of shady criminal activities like thugs in political campaign, hands in oil theft, kidnapping for ransom and gun running. For instance, the faction faced one of the fiercest public opprobrium when its leader, Chief Godday Mgbabego, was allegedly involved in carting away with a DAF Self-Loader truck an electricity transformer belonging to Obodeti community (for sale in Benin City but was intersected at Amukpe-Sapele roundabout) for which the Delta State Police Command declared him wanted and he went underground accounting for why he declined to appear in court throughout the trial of the two sister cases in defamation of character. In fact, the Obodeti crisis was triggered by the ‘murder’ of one Pius Aki who was then leader of the Obodeti community Vigilante militia which had the sympathy of the Ogwezzy-Egbuwe faction.

**Theoretical framework**

**Conflict theory**

It is Woff (2006, p. 2) who states that conflict is essentially a situation in which two or more actors or groups pursue incompatible goals yet believing and considering themselves as entirely justified from their individual perspectives. It is the struggle for space, power and material relevance by leaders and their supporters and followers and material value is the key point (Otitie, 1999). Rearticulating the resource curse thesis Sala-i-Martin and Subramanian (2003) postulate that minerals exert negative impact on the growth of countries (in this study, communities and families) they occur particularly if they are mismanaged or if they are found before the country attains democracy and this thesis is robust in the Nigerian context where waste and poor-long term economic performances prevail leading to unemployment of youths and under-employment of the adult strata.

**Community development theory**

It has been argued in *Assessing grassroots and politics and development* that political and economic interests at the grassroots have fostered innovative responses to development programmes in local communities and community development associations have promoted development in ways which consolidate existing political structures. But this thesis which has been well articulated by Olufemi (1995) has not been borne out by the associations confronted in this study rather, the reverse is the case. The factions and factional leaders of the community development associations have rather, scuttled the facilitation of the development of Emu-Obodeti community by the manner of unhealthy rivalries and infighting that led to the flight of Energia Ltd.
Literature review

In order to deal ruthlessly with Chiefs G. C. Ogwezzy and Dickson Egbuwe of Emu-Obodeti and bring their self-esteem to the nadir and put them out of circulation before Energia Ltd and well meaning public of Delta State, Nigeria, Chief Godday Mgbabego took to the Newspapers and published an article concerning them which did not go down well with them. They took out individually and separately two sister cases in defamation of character in Suit Nos. HCK/28/2017 High Chief G. C. Ogwezzy v. Godday Mgbabego and HCK/27/2017 High Chief Dickson Egbuwe v. Godday Mgbabego as follows:

1. ‘General damages in the sum of N100,000,000.00 for defamation of character in that in Grassroots Trumpet International of February, 2017 Vol. 8 No. 40 ISSN: 2350 -2398 circulating internationally and published by Glory of All Investment Limited of 8 Ashaka Road, kwale, Delta State the defendant published of and concerning the Claimant the following defamatory words at page 11 of the said Newspapers:

“The trouble in this community is as a result of Chief Ogwezzy’s quest and thirst for power and some of his collaborators. They want to rule this community and dictate the pace of what happens here in this town by force…The problem is that Chief Ogwezzy never knew that the law he has consistently used against people, will one day affect (him)…At a point…Ogwezzy, Dickson Egbuwe… started causing problem…Later Ojuma, the Onotu-Uku and Chiefs in this community withdrew their titles. Chief Ogwezzy now Mr. Ogwezzy and Chief Egbuwe now Mr. Egbuwe … are no longer Chiefs …the King, and the entire Emu Kingdom suspended them from being High Chiefs….Chief Ogwezzy wants to destroy himself and not this community because he cannot destroy this community. He wants to rule the community by force. I know with God on our side, the secret of Ogwezzy’s intention will be made known. Ogwezzy connived with some persons (the matter is in Court) that somebody is a regent, where have you seen our community operating regency, not in our history.

“What I can tell you is that Chief Ogwezzy was suspended from the palace because of this crisis…It is only themselves that are right, but the community knows that his views are self-centered and propelled by greed. He wants to be Onotu-Uku by force, some people are meeting at his place he claimed to be the Onotu-Uku, the Ugo, the Okpala Uku, the Odua, just one person… He should also go to the Okpala-Uku palace to appeal to the elders and Chiefs so that his title can be restored…Ogwezzy refused…Ogwezzy wants to be the Onotu-Uku but would not follow the normal process. As soon as you pronounce Ogwezzy the Onotu-Uku today everything will be over, but he would not follow the due process to achieve that…Ogwezzy should come to the community, humility is no crime you cannot lead people without being humble. How can Ogwezzy say Okpala-Uku should be removed because he wants to lead? Ogwezzy has taken everybody to court and he wants to rule, who is he going to lead? Only last week he brought a fresh suit against Chief Wayas who is the same father with his wife. And I am sure he has planned to sue more people because he has money to pay lawyers…”

2. Perpetual injunction restraining the defendant from further publication of the defamation.

3. Public apology to be published in two national newspapers.”...

The claim in HCK/27/2017 High Chief Dickson Egbuwe v. Godday Mgbabego was similarly couched except that High Chief Dickson Egbuwe who holds the traditional title of Eze Udo of Emu Kingdom while High Chief G. C. Ogwezzy holds the traditional title of Ugoichi of Emu Kingdom added that he was the personality referred to as the collaborator of Chief G. C. Ogwezzy in the publication. Both in their separate claims pleaded that the publication is defamatory in the extreme and the innuendos speak for themselves in volumes and that they are as follows: (a) that the claimants are troublesome and their views are self-centered and propelled by greed; (b) that they are dictators and foisting regency on the community; (c) that
they rule by force and want to be the Onotu-Uku, Ugo, Odua (all in one person) by force; (d) that they are greedy with a secret intention; (e) that they have a thirst and quest for power and want to destroy themselves and or the community; (f) that they are no longer Chiefs but Misters; (g) that they have been suspended by Obodeti community, the Chiefs and the King (having been ostracized); (h) that they are stubborn not humble, arrogant, intransigent, unrepentant, do not follow normal and due process and are litigious because they have the means to engage lawyers.

One of the principal issues that came to be identified in the publication which the defendant tackled in his statement of defence was regency. By regency it was being postulated that after the demise of an Okpala-Uku (the oldest male member of the community) a member of the deceased family was to become a regent for sometime (usually three years) before another succeeding Okpala-Uku can be installed. In other to debunked the claim, Chief Godday Mgbabego sought and got the favour of Honourable Ifeanyi Osakwe, the Executive Chairman of Ndokwa West Local Government Council to write an opinion to The Deputy Inspector General of Police, Force Headquarters, Abuja on KW/98/TS/31 dated 4th December, 2015 to the effect that ‘regency is not part of the custom and tradition of Emu-Obodeti community viz-a-viz the Ukwuani people’. In the mainstream of his defence, Chief Godday Mgbabego averred as follows:

‘The claimants instigated the heated atmosphere leading to the community crisis wherein they filed series of cases challenging the …Okpala-Uku throne and attempting to remove him …in Suit No. NWACC/12/2014 wherein they sort to install themselves as Onotu-Uku of the kingdom and further instituted Suit No. NWACC/4/2014 wherein they sort to dissolve the existing Community Development Committee (CDC) and installed a new one and also instituted Suit No NWACC/3/2014 wherein they attempted to install a new Ugo (the Speaker) of the community; and Suit No NWACC/14/2014 in which they attempted to instigate the son of the deceased Okpala-Uku to ascend to the throne of Regent of Obodeti community… All these never got the approval of the members and Chiefs of the community and thus the defamation suit be dismissed in its entirety as frivolous and unmeritorious.’

The two cases were heard before Honourable Justice V. I. Ofesi and were fixed for judgment on 23rd April, 2020 which date also happened to be the last sitting date of the learned trial judge before proceeding on retirement. However only the judgment in HCK/28/2017 High Chief G. C. Ogwezzy v. Chief Godday Mgbabego was ready and delivered. Delivering the judgment Honourable Justice V. I. Ofesi recapitulated the facts at the trial as follows:

‘This case had a checkered history caused by the defendant. In the beginning I. S. Ekeruche entered appearance for the defendant and filed necessary processes on his behalf; shortly after filing all the processes, he ceased to appear in court. (Prosecuting Counsel) on 13/6/2017 filed a motion before this court seeking order of court to enter judgment in favour of the claimant in default of pleadings and defence. This prompted the defendant’s Counsel to file a Motion on Notice seeking extension of time to file and serve his Statement of Defence and other originating processes on the claimant. It was filed on the 8/11/2017. Same was granted. Again, I. S. Ekeruche stopped coming to court and subsequently filed an application brought under Order 48 Rule 2 of the High Court Civil Procedure Rules 2009 to formally withdraw his legal representation of the defendant on the 23/1/2018. Upon his withdrawal, the Chambers of Ikhide Ebiagbe took over the case of the defendant. Several Motions/Applications were filed and of particular note is the Motion on Notice filed on the 19/6/2018 to recall for cross examination the Claimant and his only witness who had testified in this case due to unexplainable absence of the defendant and his Counsel on several occasions the case came up for hearing. It was granted on the 13/11/2018.

The Claimant on the 8/2/2018 testified before this court. He adopted his statements on oath made on 3/4/2017 and the additional statement made on the 21/12/2017 as his evidence and tendered Exhibits A, B, C, D, E, F, F1, F2 and F3. He was subsequently recalled for cross examination on the order of this Court by O. J. Obodaya Esq. The CW1 was the only witness. He adopted his statement on oath made on 3/4/2017.
All through the proceedings, the defendant did not for once appear in Court. O.J. Obodaya Esq also stopped appearing for the defendant after the last feeble attempt to cross examine the Claimant and continue with the case. Soon after Obodaya’s cross examination of the Claimant, their only noticeable effort to prosecute their defence was two different letters written for adjournment, the first was dated 12/12/2018 and the second was dated 22/1/2019. They however filed a written address.

The learned trial Judge ably summarized the proceedings above but hitching on technicality, O. J. Obodaya Esq introduced the issue whether Exhibit A which was the Newspaper publication was admissible in evidence as it was not certified and therefore had no probative value whatsoever citing Agbai v. INEC (2008) LPELR 3647 and Oneh v. Obi (1998) 7 NWLR (Pt. 611) 487. To Obodaya Esq, it did not matter that the Newspaper was an original copy which was tendered and admitted in his absence and that of the defendant. In so far as it was not certified, it did not meet the requirement of admissibility and once Exhibit A was expunged from the records the Claimant’s claim against the defendant will collapse. Obodaya’s submission came at an odd moment in which the Claimant had no window and the learned trial Judge decided to follow Obodaya wrongly as it later turned out to be. The trial Judge ruled as follows:

‘In the instant case, the words or statement complained of are capable of injuring the reputation of the Claimant in the eyes of the ordinary man. There is also no doubt that they are capable of lowering the reputation of the Claimant in the estimation of members of his community. However, Exhibit A relied on by the Claimant in which the said words were published is a public document which require certification in accordance with extant provisions of section 102 (b) of the Evidence Act 2011 as contended by Counsel to the defendant. It does not matter whether the defendant and Counsel were absent or present when it was tendered and admitted in the proceedings. The law cannot be waived by the absence or presence of the parties. Having failed to meet the requirement of the law as stated above, Exhibit A is hereby expunged. I observe that the Claimant had a very good case but poorly presented by his Counsel. Claimant’s Counsel cannot claim lack of knowledge of the provisions of section 102(b) of the Evidence Act 2011 and section 2(1), 2(a), 4(1) and 4(7)(c) of the National Library Act Cap. N56 Laws of the Federation of Nigeria 2004 and their effect in a case of defamation. The publication of the alleged defamatory words and proof of same is fundamental in an action such as the instant case. Having expunged Exhibit A from the proceedings, the Claimant’s case is therefore lacking the essential evidence to succeed in this case. Consequently, Claimant’s case failed not due to lack of substance per se but due to Counsel very poor presentation. It is hereby dismissed.

Swiftly, High Chief G. C. Ogwezzy appealed against the judgment of Justice V. I. Ofesi to the Court of Appeal, Asaba in a Notice of Appeal dated and filed on 27th May, 2020. In the Appellant’s Brief of Argument filed on 19th August, 2020 one of the principal issues raised by the appellant was that the learned trial court was wrong in excluding and expunging Exhibit A after it had been duly admitted in evidence without objection and participation of the respondents and his Counsel in the proceedings. Two other issues were whether the learned trial Judge erred in law in visiting the sin of Counsel on the litigant and whether the learned trial Judge erred in not non-suiting the appellant. Although the appeal is, up till the conclusion of this research yet to be determined, it is clear from available superior court authorities that Honourable Justice V. I. Ofesi could be utterly wrong in his judgment of 23rd April, 2020 and the vilification and denigration of the Counsel to High Chief G. C. Ogwezzy when His Lordship held as follows, ‘I observe that the Claimant had a very good case but poorly presented by his Counsel. Claimant’s Counsel cannot claim lack of knowledge of the provisions of section 102(b) of the Evidence Act 2011 and section 2(1), 2(a), 4(1) and 4(7)(c) of the National Library Act Cap. N56 Laws of the Federation of Nigeria 2004 and their effect in a case of defamation…. Consequently, Claimant’s case failed not due to lack of substance per se but due to Counsel very poor presentation.’

In the yet to be reported judgment in Appeal No CA/AS/265/2016 Onyekachi Ossai & 3 Ors v Moses Asuai Onowu & 2 Ors where the admissibility of a Vanguard Newspaper of 3rd March, 2012 that came up before Ignatius Igwe Agube, Misitura Omodere Bolaji-Yusuf and Abimbola Osarugwe Obaseki-Adejumo JCA on 14th December, 2022 for consideration, Bolaji-
Yusuf, JCA delivering the leading judgment held extensively as follows, ‘Section 4 (1) of the National Library Act provides that: “The publishers of every book published in Nigeria shall within one month after the publication, deliver at his own expense to the National Library three copies of the book, two of which shall be kept in the National Library for permanent preservation and one of which shall be sent to the Director of the Ibadan University Library”. Section 4 (7) (c) of the Act defines as follows: “a book” to include “collective works such as encyclopedias, dictionaries, year book or similar works, newspapers, magazines and similar periodicals.”

‘By a combined reading of sections 4 (1) and (7) (c) of the National Library Act and section 102 (b) of the Evidence Act, 2011, a newspaper, though a private document, becomes a public document once copies of the newspapers are deposited with the National Library by the publisher. Only an original or certified true copy is admissible. See Kubor & Anor v. Dickson & Ors (2012) LPELR-9817 at 51 (D-F) and Re: Glaxosmithkline Consumer Nig. Plc (2019) LPELR-47498 (CA). In the instant case, Exhibit E7 is not by any imagination a photocopy. It is an original. Section 86 (4) of the Evidence Act 2011 provides that: “Where a number of documents have all been made by one uniform process, as in the case of printing, lithography, photography, computer or other electronic or mechanical process, each shall be primary evidence of the contents of the rest.” See Goodwill & Trust Investment Ltd v. Witt & Bush Ltd (2011) LPELR – 1333 (SC); Uwua Udo v. The State (2016) LPELR – 42586 (SC). An original form of a public document is admissible in evidence by virtue of sections 85 and 86 of the Evidence Act 2011. Exhibit E7 (that is the Vanguard Newspaper of 3rd March, 2012) having been tendered in its original form is admissible as an exhibit. It does not need certification by the national Library.’

However, as soon as the faction of the duo of High Chiefs G. C. Ogwezzy and Dickson Egbufwe came out of the court with the unfavourable judgment in HCK/28/2017 it separated into two missions. One mission was to go to Asaba, Delta State and the other mission was to go to Port-Harcourt, Rivers State to get Grassroots Trumpet International of February, 2017 Vol. 8 No. 40 ISSN: 2350 -2398 certified by the National Library Asaba, Delta State and National Library, Port-Harcourt, Rivers State before the hearing of the sister Suit No HCK/27/2017 which was adjourned by Honourable Justice V. I. Ofesi to await the succeeding judge, Honourable Justice O. F Enemo. However, on presentation of the sister case before Enemo, J the defendant, Chief Godday Mgabego also failed to appear and despite the spirited attempts made by Learned Counsel, O. J. Obodaya, to pull all forms of technical strings, judgment was entered in the sum of N1,000,000.00 against the defendant on 29th May, 2023.

**Energia Ltd. connection**

In Judge joins King, oil company in epic battle against a Commissioner (Igbaji, 2016, p. 14) the Judge of the High Court of Justice, Kwale, Honourable Justice O. Jalagho-Williams (Mrs.) on 1st August, 2016 in a landmark ruling joined His Royal Highness Johnson Ekpechi Ulu, the Ezemu of Emu Kingdom and Energia Ltd in an epic legal battle that had been instituted against Barrister E. E. Ogwezzy the Commissioner for Arts and Culture which was filed by his father High Chief G. C. Ogwezzy. The suit prayed the High Court to compel the defendants to bring unto court, for the purpose of its nullification, the power of attorney purportedly granted to the Commissioner to represent Emu-Obodeti before Energia Ltd and restrain the Commissioner from parading himself before Energia Ltd as the donee of the power of attorney; and recognize the Committee set up on 18th February, 2014 headed by Engineer Parkinson Azagba and eight others as the Emu-Obodeti representative to Energia Ltd.

Amongst other allegations, the Claimants, who were High Chiefs G. C. Ogwezzy and Dickson Egbufwe, argued that the Commissioner had ‘exhibited perchance for the absurd by calling his biological father a criminal’ and the power was granted ‘surreptitiously and clandestinely.’ It was therefore fraudulent, dubious, and made
pendent lite Suit No. NWACC/12/2017 wherein they sort to challenge the Onotu-Uku of the kingdom; Suit No NWACC/4/2014 wherein they sort to dissolve the existing Community Development Committee (CDC) and install a new one and also Suit No NWACC/3/2014 wherein they attempted to install a new Ugo (the Speaker) of the community; and Suit No NWACC/14/2014 in which they claimed that the son of the deceased Okpala-Uku was the Regent of Obodeti community. They argued further that ‘a sole man power of attorney in oil matters was prone to opacity and against public policy of transparency and best practices in oil matters.’ They claimed further that neither his Ogbewemikoku Street nor the two landlords of Energia Ltd on the Location I, Umu-Ubiagha Ubiaenu and Umu-Oza families which were represented by the Commissioner’s father (High Chief G. C. Ogwezzy the first claimant) when the location was acquired by Elf Nigeria Ltd in 1978 were aware of the donation nor were they made signatories to the donation of the power. They argued conclusively that since the grant of the power, Emu-Obodeti community had been plunged into anarchy leading to loss of 56 lives and torching of houses including the Commissioner’s father’s house.

In an earlier letter framed and dated by Barrister E. E. Ogwezzy for the endorsement of Chief Godday Mgbabego and other crucial members of their faction in Emu-Obodeti community which was addressed to HRH Johnson Ekpechi Ulu, the Ezemu of Emu Kingdom and copied to the Managing Director, Energia Ltd, Plot 29, Block 95, Wing B, Prof. Kiumi Akingbehin Street, 2nd Roundabout, Marwa Bus Stop, Off Mike Adegbite Street, Off Ladipo Omotosho Cole Street, Lekki-Epe Expressway, Lekki Phase 1, Lagos, Lagos State, the ‘violent faction’ claimed that, ‘we are not unmindful of the fact that the acts of High Chief G. C. Ogwezzy, High Chief Dickson Egbuwe …constitute serious criminal offences ranging from conspiracy, forgery, impersonation, conduct likely to cause breach of peace and so on. But we are constrained not to make any formal report of their conduct to the Police as we still see them as our brothers irrespective of the situation on ground. But any attempt on their part to take a single step further in the furtherance or in the actualization of their proposed morbid plan will be reported to the Police for investigation…. It is for the above reason that the entire Emu-Obodeti community felt compelled …to report to you and to plead with you to use your exulted office as the King in charge of Emu-Kingdom to call them to order before lives will be lost and before your entire kingdom will be engulfed by the flame of fire that might be caused by High Chief G. C. Ogwezzy, High Chief Dickson Egbuwe…who incidentally are your Palace Chiefs…The conduct of these …Palace Chiefs in question is unbecoming and inimical to the well being of our community and not befitting of their status in Palace.’

Baying for blood was not ‘lip service’ to violence, it actually occurred and both sides of the divide suffered grievously from the collapse of law and order. Before anarchy descended on the community the Solicitor of the Ogwezzy-Egbuwe faction also alarmed the stakeholders: the Army, Police and Energia Ltd. For instance, in a letter to Energia Ltd dated 18th February, 2014 informing the oil company that its faction had constituted a community-wide committee to represent it in the emerging operations in the community, the Solicitor claimed that ‘it is very unfortunate that the said Attorney has gone astray and fired before aiming as a member of our client’s family and community. To err is human but to have acquired the power pendent lite underscores the predilection of the lawyers involved and the coterie of misguided natives.’

In yet another explosive letter to Energia Ltd from the Ogwezzy-Egbuwe faction dated 25th March, 2014 which was received by Ubaru Justice, Community Liaison Officer, on 25th March, 2014 it was claimed and stated as follows, ‘You may wish to recall that three cases have arisen in very recent times arising from your intended operations in Emu-Obodeti community, two at the Area Customary Court,
Kwale in which you are a party and one at the High Court of Justice, Kwale involving E. E. Ogwezzy Esq. Despite these three cases and the desire of any reasonable organization in the sector to have them resolved before operations are proceeded with, information has reached our client that you have started dealing with one of the factions to the extent of yielding to blackmail hence this letter. We are therefore to absorb ourselves and our clients from the foreseeable consequences of the choice which you have made and to inform you that you shall be held responsible for whatever untoward consequences your choice may have on both the human capital and material resources of your company, related organizations and the community.’

By 23rd June, 2014 the Ogwezzy-Egbuwe faction continued to hum the precarious balance of peace in Emu-Obodeti to the ears of the Managing Director of Energia Ltd. In a letter of the same date, the faction recalled the letter of 25th March, 2014 stating that it had absorbed itself from the consequences of the untoward choice of Energia Ltd. condescension into dealing with the unrecognized factional elements of the people of Emu-Obodeti community after warning that the seeming disputes between the two clear-cut factions should be reconciled to give Energia Ltd an enabling environment and level playing field for its operations. The faction went on to state, ‘now, the chicken has come home to roost with very devastating consequences on both the human lives and properties of the Obodeti people. In practical terms, apart from seven pending cases in various courts of law within a short period of six months, seven persons in detention for sundry non-bail-able offences of arson, robbery etc, the murder of Pius Aki for which the Inspector General of Police is investigating, destruction of two vehicles and uncountable number of houses, displacement of entire people, and injuries on them and their livelihoods, the psychological trauma on the people has become quite untold to the extent that it is beginning to be wished that you did not come upon their lives.’ Till the conclusion of this study, Energia Ltd has been unable to step into Emu-Obodeti community to work on the Azuodibo Obodeti Location 1.

**Midwestern Oil and Gas connection**

Perhaps it was with respect to Suit No HCK/29/2017 Emu-Obodeti Development Company Ltd & 4Ors v. Midwestern Oil and Gas Company Limited & 3ors that the existence of the two factions in Obodeti came to a bolder relief. The Ogwezzy-Egbuwe faction in anticipation of the huge beneficial economic relationship that the upcoming of the oil companies will have with the community led the faction to incorporate the 1st plaintiff in the action with the Corporate Affairs Commission, Abuja, in order to distinguish itself from the second faction led by Mgbabego-Ogwezzy-Ozah. In the Emu-Obodeti Development Company Limited suit, defence Counsel to Midwestern Oil and Gas Company Ltd, J. O. Ighariemu Esq of Thompson Okpoko SAN & Co., 7 Deco Road, Warri pleaded that sometime in February 2015 when Umugini Asset Company Ltd (the 2nd defendant in the case) wanted to commence transporting crude oil on behalf of Midwestern Oil and Gas Company Ltd through the Pipeline Right of Way that ran through Obodeti community, it found out ‘that there were two factions of Emu-Obodeti Development Committee as a result of leadership struggle … and because of the factional agitations of the committees’ the defendants ‘invited the two factions at a time when the matter was still in court’ separately.

The defendants resolved to share the right of way clearing contract into two for the two factions and paid N68,310.00 to the Ogwezzy-Egbuwe faction which incorporated the Emu-Obodeti Development Company Ltd. The faction failed to clear its portion of the right of way. The Magbego-Ogwezzy-Ozah faction executed its portion promptly and turned around to also execute the part given to the incorporated company. Yet, the incorporated company (the Ogwezzy-Egbuwe faction) sued the defendants which counter-claimed accusing the Ogwezzy-Egbuwe faction of breach of contract and refund of the sum of N68,310.00 for failure of consideration or the payment of the said sum
over to the Mgbabego-Ogwezzy-Ozah faction. Subsequently, the case was withdrawn by the Ogwezzy-Egbuwe faction without settling the defendants or its rival faction. The argument of the Ogwezzy-Egbuwe factional group was that it was not ready to brook the existence of two factions in the community. It was either its faction was recognized or none existed in the community and that attitude led it not only to sue even though it had received part-payment for the entire right of way (according to them) but also led them to decline the execution of the contract. The faction was utterly disappointed that while it was advised to incorporate a company before it could be awarded the paltry contract of right of way, the Mgbaebgo-Ogwezzy-Ozah faction was cozily treated without the requirement of an incorporated company and advised to swiftly execute their phase of the contract and that of the rival faction in order to win ‘the hearts of the management of the company’ and those were not circumstances disclosed to their rival and even if such a disclosure had been made, the rival faction considered itself not ‘a push around faction’ out to compete with ‘hustlers’.

The contract of clearing right of way revealed to the Ogwezzy-Egbuwe faction that oil companies are not a group to romance with. They are double-dealers. Midwestern Oil and Gas for instance fashioned out a contract and while it gave the older faction a part of the contract with the impression that it would execute the entire contract with the right hand, it offered with the left hand to the younger faction the second part or phase of the contract and engineered the younger faction to out-maneuver the older faction by swiftly executing the entire job observing that the younger group had the command of the youths of Obodeti community. Before the older faction realized what was up, it had been overridden; and in despair, it went to court only to be overridden by the nature of the company’s statement of defence. With the right of way contract incident the stage was set for a long walk into crises in Obodeti community between the two factions and the oil companies.

Conclusion

Exhibition of factionalism in communal response to the commencement of oil operations in communities like Emu-Obodeti has demonstrated its negative impact in this study. The role of Energia Ltd and Midwestern Oil and Gas Ltd as the causative organisms in the disputes that arose in Emu-Obodeti is largely insignificant. More had to do with the disposition of the factional leaders to the awareness that Energia Ltd was to commence operations in Obodeti Location 1. The instruments deployed by the factions in positioning themselves to corner the perceived economic benefits of the arrival of Energia Ltd at Obodeti were largely unconventional and incapable of yielding to peaceful atmosphere for the berthing of Energia Ltd. The response of Energia Ltd to the approaches adopted by the factions by withdrawing from activating the oil well into commercial oil for the time being was rational, safe and wholesome for the human security concern of the community. The Energia-Obodeti study demonstrates that court disputes cannot settle deep-seethed conflicts amongst a people with innate greed, bloodline jealousy and factional hatred. Most of the writs were churned out to check dispositions of natives who were all out to overreach others and could not be stopped except they were called out to face justice. Even as they were before the courts, they continued their agitations in other extra-judicial means that only induced native wars and factional violence.

Recommendation

1. Factional tendencies in Emu-Obodeti should all be pulled down.
2. Oil companies should be cautious in circumstances where factional tendencies have cropped up while dealing with communities.
3. Traditional institutions should be carefully understudied before they are transacted with by oil companies to carefully audit their traditional roles vis-à-vis those the companies want them to play.
4. Security details should be worked out by agencies constitutionally empowered to provide it.

5. More transparency should be emphasized in oil companies dealing with volatile communities.

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