

Amupitan and the Ruse of Law

By Chidi Anselm Odinkalu

In Nigeria, every act of political grubbiness sooner or later ends up before the courts. The kinds of things that come out of the courts in these disputes defy understanding. Colonial rule in Nigeria established a durable method of cleaning up dirty politics. It always found a judge or judicial order to give it the cover of law. Since the outset of the administration of President Bola Ahmed Tinubu in May 2023, the playbook has become a familiar script, turning Nigerian judges into what has been described as “authors of confusion”. It usually begins with an orchestrated internal leadership dispute in an opposition political party. Then “one faction goes to court, the court issues a vague interim order dressed in Latin, total confusion erupts, INEC is paralyzed, and the opposition party is crippled.” It’s the ruse of law. As the country hurtles supposedly towards national elections in 2027, the judges have become very busy indeed. The latest object of their attentions is the African Democratic Congress, (ADC). It all began with what looked like a routine playbook of diabolical political sorcery. By the middle of 2025, the former ruling party and then leading opposition platform, the People’s Democratic Party, (PDP) had all but been hollowed out.

The cause or actors in that will be the subject of separate treatment. Leading members of the party decided that it was no longer a viable vehicle for their ambitions. In a country where independent candidacy is precluded, control of a party is the lifeblood of political ambition. Those of them who desired to quit the PDP had two options. One was to register a new party. For this, they needed the sanction of the Independent National Electoral Commission (INEC) but they knew that an INEC under the control of the ruling party was not going to register a new party capable to making the 2027 elections interesting. So, they settled for the second option of entryism into an existing party. For this project, it appears, they did a deal with the then existing leadership of the ADC. On 2 July 2025, Ralph Nwosu, the founder and chairman of the ADC announced the resignation of the national executive of the party that he led and threw his support behind a new interim national leadership under former Senate President, David Mark and former Interior Minister, Rauf Aregbesola. Four weeks later, Nafiu Bala Gombe, who ran on the platform of the party in 2023 as governorship candidate in the Gombe State, proclaimed himself new interim chairman of the ADC. Nafiu Bala claimed that he took that step in his capacity as the Deputy National Chairman under Ralph Nwosu. In a release around 1 August 2025, he dismissed as “entirely false, deceptive, malicious, and fake” a letter dated 18 July 2025, in which he is said to have resigned from the position of deputy national chairman of the party. One month later, on 2 September 2025, Nafiu Bala initiated a court action at the Federal High Court in Abuja seeking to restrain INEC from recognizing the new leadership of David Mark and Rauf Aregbesola. The case was assigned to Emeka Nwite, a judge. Bala Nafiu followed up his case by applying to the judge to issue an order granting him the orders he sought without hearing the other parties sued. Those were Rauf Aregbesola, INEC, the ADC and Ralph Nwosu. Very importantly, David Mark was not party to that court case and no one applied to join him.

When the application came up for hearing around 4 September, the judge declined Bala Nafiu’s importuning and, instead, asked him to put all the defendants on notice to enable the court make an informed determination of the issues after granting all involved a hearing. Thereafter, the wheels appeared to come off the facts. Around 9 September 2025, INEC formally recognized David Mark and Rauf

Aregbesola as the new leaders of the party. This is important because it gave them access to the INEC’s portal for the purpose of certifying candidates on the platform of the party in elections. Thereafter, David Mark, who was not a party to the case at the High Court, lodged an appeal at the Court of Appeal in which he questioned the power of the court to issue the order inviting the parties to respond to Bala Nafiu’s case. My friends who think they know Nigerian law advise – and I verily believe them – that this had them all scratching their heads. Now, because he was not party to the original case at the High Court, David Mark could not appeal against the decision except with permission of the court. He did not seek nor did he receive one. Having not done so, the conditions for a competent appeal did not exist and the Court of Appeal had no business hearing the appeal. The only thing more inexplicable than the appeal itself is that it took the Court of Appeal over five months and nearly 60 pages to come to a decision on this case. Three Justices of the Court of Appeal heard the case. On 12 March, they issued their



decision. In a 40-page judgment, Uchechukwu Onyemenam, the senior Justice of Appeal, “dismissed” the appeal with costs assessed at two million Naira. Thereafter, the judge took initiative to “protect the integrity of the proceedings” before Emeka Nwite at the Federal High Court and ordered the parties to “maintain the status quo ante-bellum” and “refrain taking any step or doing any act capable of foisting a fait accompli on the court or otherwise rendering nugatory the proceedings before the trial court.” In his own judgement, Okon Abang, the junior Justice of Appeal on the panel whose text ran into 15 pages, initially said he concurred. In fact, he did not. He ruled that having not secured the permission required for him to appeal, David Mark’s appeal was incompetent. Indeed, Okon Abang described

the case “a nullity”. That means there was in fact no appeal. It is difficult, therefore, to understand how he could have “dismissed” an appeal that did not as a matter of law exist. The other Justice of Appeal on the panel was Mohammed Mustapha. To him belonged the privilege of the tie-breaker.

But if he issued any judgement, it is yet to be found. The parties to whom the Court of Appeal directed the order to respect the status quo ante-bellum included INEC. The Commission has a rich supply of senior lawyers on its payroll, both on staff and as external solicitors. Indeed, its chairman, Joash Amupitan, is both Senior Advocate of Nigeria (SAN) and professor of law. The Commission took all of three weeks to parse this judgment and, at the end of that, sent a journalist, Mohammed Haruna, to announce that out of respect for the order of the Court of Appeal, it had decided to withdraw its recognition of David Mark and Rauf Aregbesola as Chairman and Secretary of the ADC. The irony was lost on INEC and its leadership that it chose to issue this position on All Fools Day. Party primaries are to begin in three weeks. The parties must submit their membership register to INEC 21 days before their primaries. A party mired in manufactured court disputes cannot do either. That would disqualify it as a platform for the 2027 elections. Chairman Amupitan knows what he is doing. To drive that point home, he chose to shred the garb of a neutral umpire or the claim of respecting an order of the Court of Appeal that existed entirely in his imagination, threatening political Armageddon on the ADC if they proceed with a party congress. As if to confirm who the whisperer is, presidential spokesperson, Bayo Onanuga advised the ADC to “please listen to the INEC chairman. He is a professor of law.” Beneath the ruse of law, a malevolent design lurks in plain sight. Politics