Akwa Ibom Triumphs

Contributed by Anza Phillips
Sunday, 22 July 2012

Cross River State loses its bid to reclaim 76 oil wells which it lost through its declassification as a littoral state

For Godswill Akpabio, governor of Akwa Ibom State, and indigenes of the state, Tuesday, July 10, 2012 will ever remain a memorable day. After six years of fierce legal battle, the Cross River State government, on Tuesday, went down losing the disputed 76 oil wells to Akwa Ibom State in a landmark judgement by the Supreme Court. The apex court, in a unanimous decision, conferred the ownership of the oil wells located in the Atlantic Ocean on Akwa Ibom State. The case was instituted by Cross River State in the first place. In the lead judgement by Justice Olufunlola Oyelola Adekeye, the apex court held that Cross River State has lost its status of littoral state with the ceding of Bakassi to Cameroun by the federal government during the administration of former President Olusegun Obasanjo . The court also held that the agreement which initially allowed Cross River State to have the 76 oil wells had been frustrated by the handing over of the Bakassi Peninsula to Cameroun, following the ruling by the International Court of Justice ICJ in 2002. The court held that the 13 percent derivation revenue from the 76 oil wells between Akwa Ibom and Cross River states must continue to be attributed to the state on whose maritime territory they were found to be located by the relevant government agencies. Justice Adekeye said, Cross River State no longer had any maritime boundary as it is now landlocked. She held that the plaintiff, not being a littoral state and not having a maritime boundary or abutting the sea, the 76 oil wells which lie offshore and within a maritime territory, which were the subject matter of the suit, could not be attributed to it. The plaintiff has no maritime territory since the cessation of Bakassi Peninsula and the Cross River estuary which used to be part of the state prior to August 2008. The present position of the plaintiff cannot be blamed on any government agency, particularly the National Boundary Commission and the RMAFC. The two statutory bodies must perform their statutory duties based on facts and realities to compile the indices for the payment of the derivation revenues to the entitled states.” Adekeye ruled that the agreement upon which Cross River based its claim for entitlement to the oil wells had been discharged by frustration, that is, the handover of the Bakassi Peninsula to Cameroun. She said that the court could not close its eyes to the existing situation and declare that the plaintiff should continue to enjoy the benefits and privileges of a littoral state when it was no longer one by subsequent legal changes. This court cannot because of the influx of refugees from Bakassi into Cross River State give a legislative judgement. The government of Nigeria has a means of providing for the social needs of the people of Cross River State faced with the social problems thrust on the state due to the cessation of Bakassi peninsula to the Cameroun,” she added. Adekeye advised the government of Cross River State to explore the avenue of getting the federal government to provide for the social needs of the people of the state. Bakassi was, however, handed over to Cameroun on the orders of the International Court of Justice as the new owner of the oil rich area after its victory in a boundary legal battle with Nigeria. The Supreme Court ruled that Akwa Ibom, being a littoral state with its boundary directly touching the sea, remains the only state that can lay claim and remains the rightful owner of the 76 oil wells in line with the international law. The apex court held that there was nowhere in the World that a non-littoral state like Cross River can now make such claim to the oil wells ownership as it runs counter to the international law on maritime. The two states had before now been engaged in fierce legal battle on which state should be the rightful owner of the oil wells. Consequently, the suit of Cross River claiming the ownership of the oil well was dismissed for lacking in merit. At the last adjourned date, counsel to Cross River, Yusuf Ali (SAN), had asked the court to compel both the federal government and Akwa Ibom State governments to respect the sharing formula put in place by the former President Obasanjo on the 90 oil wells which had been a subject of dispute between Cross River and the Akwa Ibom State government. Cross River State had dragged the federal government and the Akwa Ibom State to court on the ground that some of the oil wells had been ceded to it by the agreement reached at a meeting called by the former president in 2006. Ali, in his argument, submitted that though, the oil wells in dispute are in Cross River, the former President, through a letter dated October 31,2006 shared the oil well between the two states giving 76 to Akwa Ibom and 14 to Cross River. In his own submission, counsel to the Akwa Ibom State government, Bayo Ojo (SAN), submitted that the issue before the court was whether Cross River State is a littoral state or not as at present. He further argued that the handing over of the western Bakassi to Cameroun on August 14, 2008 made Cross River not to be a littoral state and hence, cannot benefit from the oil well and urged the court to dismiss the case Reacting to the judgement, Akwa Ibom State governor, Godswill Akpabio, praised the judgement and said that he was ready to make peace with Cross River because of the common history which both states shared. He, however, said Cross River State would have to apologise for filling newspapers with stories that were capable of impugning the integrity of the Supreme Court justices and officials of the National Boundary Commission. His counterpart in Cross River, Governor Liyel Imoke, on the other hand, appealed to the indigenes of the state to remain peaceful, but dismissed the judgement as “merely a temporary triumph of falsehood.” But before dismissing the Cross River case, the court brushed aside an application filed by the state a week earlier, asking it not to deliver the judgement. Out of the 36 states of the Federation, Cross River is one of the seven least recipients of the monthly allocation from Abuja. It has also become the most disadvantaged among states in the South-South. In 2008, the maritime boundary between Cross River and Akwa Ibom states was redefined, leading to the ceding of the entire maritime territory of Cross River to Akwa Ibom. Cross River was also declassified as a littoral state and allegedly transferred some oil wells from it to Akwa Ibom. After failing to persuade RMAFC to reverse the decision, it took the matter to the Supreme Court for determination. Before the judgement, a group known as Cross River Forum of Local Government Chairmen had warned that ceding the 76 oil wells to Akwa Ibom might result in automatically ceding parts of the state to Cameroon, Equatorial Guinea and Sao Tome and Principe. Addressing journalists on the implications of

ceding the 76 oil wells to Akwa Ibom few days to the judgement, chairman of the forum, Emil Inyang, said the awaited judgement had created distrust between the two sister states “as to whether one is not the other’s Brutus”. Going down memory lane, Akpabio recalled that before 2005, the oil wells had belonged to Akwa Ibom State and said it was based on the assumption that Cross River State shall access the sea through the administration of Western Bakassi, which the Nigerian government had negotiated with Cameroun. “The issue of the 76 oil wells started in 2005 with a letter from the National Boundary Commission, where the president said that because he was negotiating to have Western Bakassi in Nigeria, the oil wells could be credited to Cross River State, and we had no objection to that because Cross River State is our sister state. “The issue is that in 2008, Bakassi together with Western Bakassi was finally handed over to Cameroun. After that unfortunate incident, Nigeria, without our prompting, did the right thing. The Supreme Court, in the lead judgement, said that since Cross River has lost its boundary with the sea, it has no right whatsoever to lay claim to the ownership of the disputed oil wells. With the execution of the judgement of the International Court of Justice, ICJ, especially, the ceding of Bakassi to Cameroun, the Cross River can no longer lay claim to any oil well in the high sea since its boundary with the sea had gone with Bakassi. The 76 oil wells had before the judgement of the International Court of in Justice in Hague belonged to Bakassi local government area of Cross River State.