

RE-EXAMINING CITIZENSHIP: A CRITICAL ANALYSIS OF FOLAKEMI ADEOSUN VS. ATTORNEY GENERAL OF THE FEDERATION

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ABSTRACT

*This case review critically examines the landmark judgment of **Folakemi Adeosun vs. Attorney General of the Federation**, which sparked intense debate on Nigerian citizenship law. The case centered on Mrs. Folakemi Adeosun's citizenship status, specifically whether she held Nigerian citizenship as of 1989. While the court's decision that Mrs. Adeosun was not a Nigerian citizen in 1989 is well-founded, her automatic re-acquisition of citizenship under the 1999 Constitution is contestable. This analysis underscores the need for clarity on citizenship principles in Nigeria, highlighting complexities surrounding citizenship acquisition and forfeiture. It argues that Mrs. Adeosun, having forfeited her Nigerian citizenship, cannot regain it without undergoing a formal process, contrary to Justice Taiwo's conclusion. The review calls for future legal developments to address critical concerns, providing clarity on citizenship principles and reacquisition processes.*

Keywords: Citizenship, Nigerian Citizenship Law, Folakemi Adeosun, Attorney General of the Federation, Federal High Court.

1. INTRODUCTION:

On the 7th of July 2021, the Federal High Court delivered a landmark judgment in **Folakemi Adeosun vs. Attorney General of the Federation**,¹ a case that sparked intense debate on the intricacies of Nigerian citizenship law.² At its core, the dispute centered on the citizenship status of Mrs. Folakemi Adeosun, the former Minister of Finance, and specifically whether she held Nigerian citizenship as of 1989. The court's decision has significant implications for the understanding and application of citizenship principles in Nigeria.

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This case review undertakes a critical examination of the court's ruling on Mrs. Adeosun's citizenship status, with particular emphasis on its implications for the interpretation of relevant statutory provisions and the broader consequences for Nigerian citizenship law. By interrogating the court's reasoning and conclusions, this analysis aims to contribute to the ongoing discourse on citizenship, nationality, and the rule of law in Nigeria.

¹ Suit Nos: FHC/ABJ/CS/303/2021

² See for instance: Unini .C "Adeosun Vs AGF. A Review of the Decision of the Federal High Court, Abuja," available at <https://thenigerianlawyer.com> accessed on February 14, 2024; Chukkol O.G, "Kemi Adeosun's NYSC Controversy: Where the Federal High Court Got It Right and Wrong." available at LinkedIn accessed on February 14, 2024

2. BRIEF FACTS OF THE CASE RELATED TO MRS. KEMIADEOSUN' CITIZENSHIP.

Kemi Adeosun, born in London to Nigerian parents, served as Nigeria's Finance Minister from 2015 to 2018. She resigned amid allegations of not participating in the National Youth Service Corps (NYSC) scheme. Adeosun argued in court that as a UK citizen by birth, she lost her Nigerian citizenship at 21 (in 1988) under Section 28 of the 1979 Constitution.³ The court ruled in her favor, stating that as a UK citizen at graduation (1989), she was not eligible for NYSC. Her Nigerian citizenship was reinstated with the 1999 Constitution, which repealed the 1979 Constitution. In the *ipsisima verba* of the court, "*the Plaintiff was born in London, United Kingdom as a result of which she became citizen of the UK. She studied in the UK from primary school up till the University level when she graduated at the age of 22 in 1989 ... If she was a citizen of Nigeria and she graduated outside the country at the age of 22 years, she would have been eligible for NYSC. But the facts on ground is that she was a citizen of the United Kingdom*".⁴

3. ANALYSIS OF THE COURT' DECISION

A critical examination of Hon. Justice Taiwo O. Taiwo's judgment in the case reveals that the learned judge's finding that Mrs. Adeosun was a UK citizen at the time of her university graduation in 1989 lacks explicit reasoning. Instead, the decision appears to rely on Chief Olanipekun's argument that Mrs. Adeosun was not a Nigerian citizen due to Section 26 of the 1979 Constitution, which prohibits dual citizenship.

For context, Section 23(1)(c) of the same Constitution⁵ states that individuals born outside Nigeria to Nigerian parents are Nigerian citizens by birth. Given Mrs. Adeosun's parents were Nigerians, she automatically acquired Nigerian citizenship. The case of **Ahmed vs Minister of Internal Affairs**⁶ supports this interpretation. Section 26(1) of the 1979 Constitution, however, stipulates that acquiring or retaining foreign citizenship results in forfeiture of Nigerian citizenship. Nonetheless, Section 26(3)⁷ provides an exception for citizens by birth, allowing renunciation of foreign citizenship within 12 months of the Constitution's enactment or upon reaching 21 years. Since no evidence was presented indicating Mrs. Adeosun renounced her UK citizenship within the specified timeframe, she forfeited her Nigerian citizenship by birth. Therefore, Justice Taiwo's decision that Mrs. Adeosun was not a Nigerian citizen in 1989 is well-founded and defensible.

However, we beg to differ with His Lordship's conclusion that Mrs. Adeosun automatically re-acquired Nigerian citizenship, and respectfully submit an alternative view. The judgment raises critical concerns regarding the reinstatement of Mrs. Adeosun's Nigerian citizenship. His Lordship posits that Section 26 of the 1979 Constitution, which led to Mrs. Adeosun's forfeiture of Nigerian citizenship, was repealed and is no longer part of the 1999 Constitution. Consequently, he asserts that Mrs. Adeosun regained her citizenship under Section 25(1)(c) of the 1999 Constitution.⁸

³ Note 1

⁴ Ibid.

⁵ Constitution of the Federal Republic of Nigeria, 1979.

⁶ (2017) LPELR – CA/K/199/2014.

⁷ Note 5.

This conclusion is, however, contestable. Section 25 of the 1999 Constitution governs citizenship by birth via descent, stipulating eligibility for individuals born outside Nigeria with Nigerian parents or grandparents. Crucially, this provision does not automatically restore citizenship to those who previously forfeited it. We argue that Mrs. Adeosun, having forfeited her Nigerian citizenship, cannot regain it without undergoing a formal process. The notion of 'dormant citizenship' that can be unilaterally reactivated is unfounded. Justice Taiwo's decision fails to address the specific point at which Mrs. Adeosun regained citizenship and the process she followed to reacquire it.

The Nigeria Visa Policy 2020⁹ introduces Permanent Residence Visas (PRV) for Nigerian citizens by birth who renounced their citizenship and their spouses. This policy underscores the necessity of a formal process for reacquiring citizenship. In light of this, Justice Taiwo's conclusion that Mrs. Adeosun automatically regained her citizenship under the 1999 Constitution without undergoing such a process is, with respect, erroneous. We respectfully submit that the judgment overlooks the imperative of a deliberate, formal process for reinstating citizenship, instead implying an automatic reinstatement that finds no basis in the 1999 Constitution or subsequent policies.

4. CONCLUSION:

The **Folakemi Adeosun v. Attorney General of the Federation**¹⁰ case has sparked intense debate on Nigerian citizenship law, highlighting the complexities surrounding citizenship acquisition and forfeiture. While Justice Taiwo's decision that Mrs. Adeosun was not a Nigerian citizen in 1989 is well-founded, his conclusion that she automatically re-acquired citizenship under the 1999 Constitution is contestable. In conclusion, this case analysis underscores the need for clarity on citizenship principles in Nigeria. The judgment's implications on the interpretation of relevant statutory provisions and the broader consequences for Nigerian citizenship law warrant further examination. To advance the discourse on citizenship, nationality, and the rule of law in Nigeria, future legal developments should address these critical concerns, providing clarity on citizenship principles and reacquisition processes.

³ Note 1

⁴ Ibid.

⁵ Constitution of the Federal Republic of Nigeria, 1979.

⁶ (2017) LPELR – CA/K/199/2014.

⁷ Note 5.

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