

# **KINGS LAW REPORTS**

**(ALL SC)**

**(1993) KLR VOL 4**

**Dedicated to the King of kings**

**O. O. NOEL ESQ. Chief Editor**

## **INDEX OF CASES REPORTED**

- (1) National Bank of Nigeria Ltd v. Guthire  
(Nig.) Ltd and others (1993) 4 KLR (P. 1) S.C.
- (2) Chief Kalu igwe and others v. Chief Okuwa  
Kalu and others (1993) 4 KLR (P. 33) S.C.
- (3) Alhaji Mohammed Layinka and others v. Alhaji  
Baba Agba Gegele (1993) 4 KLR (P. 51) S.C.
- (4) Co-operative and Commerce Bank Ltd v. Emeka  
Ogwuru (1993) 4 KLR (P.75) S.C.
- (5) Ibrahim Kano and others v. Gbadamosi  
Oyelakin and others (1993) 4 KLR (P. 93) S.C.
- (6) Taylor Woodrow of Nigeria Ltd v. Suddeutsche  
Etna-Werk Gmbh (1993) 4 KLR (P. 139)  
S.C.

SUPREME COURT JUSTICES

Hon. Justice Mohammed Bello - CJN

Hon. Justice Muhammed Lawal Uwais

Hon. Justice Adolphus Godwin Karibi-Whyte

Hon. Justice Saidu Kawu

Hon. Justice Modibbo Alfa Belgore

Hon. Justice Abubakar Bashir Wali

Hon. Justice Olajide Olatawura.

Hon. Justice Uche Omo

Hon. Justice Idris Legbo Kutigi

Hon. Justice Michael Ekundayo Ogundare

Hon. Justice Emmanuel Ogwuegbu

Hon. Justice Usman Mohammed (DECEASED)

Hon. Justice Philip Nnaemeka- Agu (Retired in February 1993)

APPEALS - Appeal on decision in consolidated suits - Appellant need not file two notices of appeal. *Igwe v. Kalu* (P. 33) S.C.

APPEALS - Concurrent findings of two Lower Courts - Supreme Court would not interfere - save in exceptional circumstances. *Layinka v. Gegele* (P. 51) S.C.

APPEALS - Failure to appeal within statutory period - when extension of time will be granted - whether good reasons for delay avails - whether proposed grounds of appeal show good cause  
*CCB (Nig) Ltd v. Ogwuru* P. 75) S.C.

ARBITRATION - where the award is good on the face whether the parties can object - powers of the Court - where arbitrator has mis-conducted himself. S.C.

ARBITRATION - what amounts to a misconduct - prima facie error of law - when the court will not interfere - refusal of arbitrator to consider matter outside his reference - effect thereof  
*Taylor Woodrow of Nig. Ltd. v. Suddeutsche Etna-Werk GmbH* (P.139) S.C.

CIVIL PROCEDURE - practice and procedure - when Court's discretion will be exercised in favour of an applicant  
*CCB (Nig) Ltd v. Ogwuru* (P. 75) S.C.

CIVIL PROCEDURE - failure to serve writ of summons court lacks jurisdiction - whether cured by entrance of appearance.  
- *National Bank of Nig. Ltd v. Guthrie (Nig.) Ltd.* (P. 1) S.C.

CUSTOMARY LAW - transaction relating to land held under customary law - may be subject to statute law where parties agree - how to prove customary tenancy - incidents attached to customary tenancy  
*Kano v. Oyelakin* (P. 93) S.C.

EVIDENCE - burden of proof - rests on the Plaintiff to prove his

iv **INDEX OF SUBJECT MATTER IN (1993) 4 KLR**

case - must rely on the strength of his case - not on the weakness of the defence Kano v. Oyelakin (P. 93) S.C.

EVIDENCE - failure to tender agreement specifically relied upon - alleged admission by defence - whether sufficient Kano v. Oyelakin (P. 93)

INTERLOCUTORY INJUNCTIONS - application for - granted where necessary to preserve the res pending appeal Igwe v. Kalu (p. 33) S.C.

JUDGMENT - motion for judgment - ground for success - specific admission - of liability by defendant National Bank (Nig) Ltd v. Guthrie (Nig) Ltd (P. 1) S.C

LAND LAW - sale of family land by family head - without consent of - null and void Layinka v. Gegele (P. 51) SC.

LANDLORD & TENANT - failure to pay rents - claim for arrears of rent - action for forfeiture - what a landlord must prove so as to succeed. Kano v. Oyelakin. (P. 93) S.C.

LIMITATION - when the defence can be raised by a party - where not pleaded implications thereof. Kano v. Oyelakin. (P. 93) SC.

LOCUS STANDI - member of family - whether principal member or not - has locus to institute action in respect of wrongdoing to his family land. Layinka v. Gegele (P. 51) S.C.

PLEADING - illiteracy - existence of oral customary agreement prior to document - whether to be pleaded - or merely speculated upon Kano v. Oyelakin. (P. 93) S.C.

REMEDIES - interlocutory injunction to preserve Res - special circumstances must be shown. Igwe v. Kalu (P.33) S.C.

REMEDIES - whether court can grant relief not sought. Layinka v.

Gegele (P. 51) S.C.

**INDEX OF STATUTES & RULES**

1. Arbitration Law Cap 10 Laws of Lagos State ss. 11(1), 12(2) - Taylor Woodrow v. Suddeutsche Etna-Werk GmbH (P. 139) S.C.

2. Common Law Procedure Act 1854 s. 8 Taylor Woodrow v. Suddeutsche Etna-Werk GmbH (P. 139) S.C.

3. Constitution of the Federal Republic of Nigeria - 1979 s. 258 (2) Layinka v. Gegele (p. 51) SC CCB Ltd v. Ogwuru (p. 75) SC Ibrahim Kano v. Oyelakin (p. 93) SC

4. Evidence Ordinance ss. 131 (1) and (3) Ibrahim Kano v. Oyelakin (P. 03) S. C

5. Halsbury's Laws of England 4th Edition - Volume 2 paragraph 622 pp 330-331 paragraph 623 p 334 Taylor Woodrow v. suddeutsebe - Etna-Werk GmbH (P.139) S.C

6. Land Instruments Registration Law Cap 56. s. 16 Ibrahim Kano v. Oyelakin (p. 93) S.C.

7. Land Registration Ordinance s. 2 Ibrahim Kano v. Oyelakin (P. 93) S.C

8. Limitation Law of Oyo State Cap 64 s. 6 (2) Ibrahim Kano v. Oyelakin (p. 93) S.C

9. Property and conveyancing Law Cap. 100 Laws of Western Region of Nigeria 1959. ss. 1 (2) and (3). 161 (3) Ibrahim Kano v. Oyelakin (p. 93) S.C

RULES

vi **INDEX OF STATUTES & RULES IN (1993) 4 KLR**

(1) Court of Appeal Rules 1981 order 3 rule 4 (2) CCB Ltd v. Ogwuru (P.75) S.C.

(2) High Court of Lagos State (Civil Procedure Rule) Cap. 52 Laws of Lagos State 1973 Order 28 rule 6. Order 35 rule 1 National Bank (Nig) Ltd. v. Guthrie Ltd (P. 1) S.C

(3) Kwara State High Court (Civil Procedure Rules) 1975 order 34 rule 1 Layinka v. Gegele (P. 51) S.C

(4) Supreme Court Rules 1985, order 6 rule (2) CCB Ltd v. Ogwuru