

KINGS LAW REPORTS ALL SC

**(1996) 1 KLR PART 37 pp. I-150
JANUARY 1996**

INDEX OF CASES REPORTED

1. Onwugbufor v. Okoye p. 1
2. Theophilus v. The State p. 62
3. Ogunsola v. National Insurance Corporation of Nigeria p. 79
4. Anambra State Housing Development Corporation v. Emekwue p. 91
5. Hanare v. Nana p. 126
6. Atunrase v. Phillips p. 136

SUPREME COURT JUSTICES

Hon. Justice Muhammadu Lawal Uwais CJN
Hon. Justice Adolphus Karibi- Whyte
Hon. Justice Salihu Modibbo Alfa Belgore
Hon. Justice Abubakar Bashir Wali
Hon. Justice Idris Legbo Kutigi
Hon. Justice Michael Ekundayo Ogundare
Hon. Justice Emmanuel Obioma Ogwuegbu
Hon. Justice Uthman Mohammed
Hon. Justice Sylvester Umaru Onu
Hon. Justice Yekini Olayiwola Adio
Hon. Justice Anthony Ikechukwu Iguh

APPEALS - Findings of fact - Where supported by evidence-Appellate court cannot substitute its own views on the evidence. Onwugbufor Okoye p. 1

APPEALS - Error in judgment - Where Court of Appeal erroneously attributed respondent's grounds of appeal to the appellant - The judgment is in a confused state. Ogunsola v. NICON p. 79

APPEALS - Issues - New issues raised by the appellant - Where they are points that arose for the first time in the Court of Appeal - They can be raised without leave of court. Ogunsola v. NICON p. 79

APPEALS - Concurrent findings of fact - That are not perverse or insupportable - Will not be interfered with. Theophilus v. The State p. 62

APPEALS - Merit - Action to set aside a registered sublease - Refused by the two lower Courts - Appeal allowed for having great merit. ASHDC v. Emekwue p.91

APPEALS - Grounds of appeal - Where the ground is one of law - Preliminary objection against it will be overruled. ASHDC v. Emekwue p.91

APPEALS - Observation of lower court - Whether a misconception of plaintiffs' pleadings. Onwugbufor v. Okoye p. 1

APPEALS - Criticism - Court of Appeal's assertion - That trial judge relied on quantity rather than quality of witnesses' evidence - Held to be totally unjustified. Onwugbufor v. Okoye p. 1

APPEALS - Findings of fact - Made by the trial court - Whether rightly attacked. Onwugbufor v. Okoye p. 1

CONVEYANCING - Delivery - Executed title deeds _ Where not delivered for failure to fulfil a fundamental condition - Legal implication., ASHDC v. Emekwue p.91

CONVEYANCING - Registration - Where purport of executing and registering title documents - Is clear from the parties' agreement - The title deeds should not be given unjustified wider meaning. ASHDC v. Emekwue p. 91

COURTS - Accidental slip - Whether error committed by the lower court - Is mere accidental slip - Or will lead to ordering a rehearing. *Ogunsola v. NICON* p.79

CRIMINAL LAW - Intoxication - Murder - Where appellant alleged that he drank 2 bottles of beer according to his capacity - Defence of intoxication cannot avail him. *Theophilus v. The State* P. 62

CRIMINAL PROCEDURE - Witness – One credible prosecution witness if believed - Is enough to secure conviction. *Theophilus v. The State* p.62

CRIMINAL PROCEDURE - Proof beyond reasonable doubt - Lapses raised by appellant to show it was not attained - Whether maintainable - In view of concurrent findings of fact. *Theophilus v. The State* p. 62

EVIDENCE - Contradiction - Where appellant's evidence is contradictory - Court is bound to act on the more reliable evidence. *Hunare v. Nana* p. 126

EVIDENCE - Contradictions - Where the murder charge is proved beyond reasonable doubt - Other alleged contradictions are deemed immaterial. *Theophilus v. The State* p. 62

EVIDENCE - Evaluation - Where trial judge properly reviewed and evaluated the evidence - Court of Appeal cannot substitute the trial court's view of the facts. *Onwugbufo v. Okoye* p. 1

ISLAMIC LAW - Possession - Ten years peaceful possession of land - Is a bar to action against non blood related possessor. *Hunare v. Nana* p, 126

ISLAMIC LAW - Possession - Doctrine of long and undisturbed possession of land - Whether applicable unto extinguishing appellant's claim of ownership. *Hunare v. Nana* p. 126

ISLAMIC LAW - Ownership takes priority over undisturbed possession - Whether this principle is apposite - In the present case - Where appellant's evidence of ownership is contradictory. *Hunare v. Nana* p. 126

JUDGMENTS - Construction - Recitals s. 130 Evidence Act - Whether -trial court placed a different construction on this section - In its judgment. *Atunrase v. Phillips* p. 136

LAND LAW - Location of the land in dispute - Whether in issue and relevant - In the determination of ownership in the present case. Onwugbufor v. Okoye p. I

B LAND LAW - Possession - Exercise of acts of possession by the plaintiffs - Without any protest from the original owners - Supports the claim that plaintiffs have bought the land. Atunrase v. Phillips p. 136

C LAND LAW - Ownership - Whether ownership from time immemorial - Must be established - Before plaintiffs can lead evidence on their acts of possession - Where they did not rely exclusively on traditional evidence. Onwugbufor v. Okoye p. I

D LAND LAW - Title - reliance on acts of possession and ownership - Such acts must extend over a sufficient length of time - Must be numerous and positive enough - For claimant to succeed. Onwugbufor v. Okoye p.1

E LAND LAW - Salt: - Relying on other evidence of sale in finding for a party - That failed to produce document of title also pleaded - Whether proper. Atunrase v. Phillips p. 136

LAND LAW - Documents of title - Failure to produce document of title relied upon - Whether plaintiff's case must fail thereby. Atunrase v. Phillips p. 136

F LAND LAW - Ownership - Where not established based on traditional evidence - Whether evidence of various acts of ownership and possession- Are enough to warrant the inference that plaintiffs are exclusive owners. Onwugbufor v. Okoye p. I

G LEASES - Setting aside of lease - Though the lease has been executed and registered - Where the case has great merit - The lease will be set aside. ASHDC v. Emekwue p. 91

H LEASES - Surrender of lease - Though not intended by the respondent - Effect of his failure to fulfil a fundamental obligation under the contract. ASHDC v. Emekwue p. 91

PRACTICE & PROCEDURE - Court fees - Where not paid in respect of an amended claim - Whether court should entertain the relief claimed. Onwugbufor v. Okoye p. 1

PRACTICE & PROCEDURE - Competence of claim - Where no payment of court fee was made - In respect of appellants' new claim for forfeiture - Whether B that claim is competent. Onwugbufor v. Okoye p. 1

C

INDEX OF STATUTES

Constitution of the Federal Republic of Nigeria 1979 s. 213 (3) ASHDC v. Emekwue p. 91 **D**

Criminal Code ss. 319 (1), 29(1) Theophilus v. The State p. 62

Criminal Procedure Act s. 245. Theophilus v. The State p. 62 **E**

Evidence Act Cap 112 LFN, 1990 ss. 177, 27(2), 209 Theophilus v. The State p. 62

Evidence Act s. 130 Atunrase v. Phillips p. 136 Atunrase v. Phillips p. 136 **F**

G

H