

**SUPREME COURT OF NIGERIA**

24TH SEPTEMBER, 1999. SC. 18/1993

**CORAM:- S. M. A. BELGORE, E. O. OGWUEGBU, A. I. IGUH,  
A. I. KATSINA-ALU, E. O. AYOOLA, JJSC**

OYIBO MADUBUONWU & 7 ORS. .. DEFENDANTS/APPELLANTS  
(For themselves and on behalf of All other  
elders and members of Ero-Onyia Ore-Nja quarter  
of Omor, Uzo-Uwani Local Government Area)

**AND**

ANUMUDU NNALUE & 3 ORS. .... PLAINTIFFS/RESPONDENTS  
(For themselves and on behalf of all other  
elders and members of Isi-Nkakwu, Aturia  
Quarter of Omor, Uzo-Uwani Local Government Area)

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***LAND LAW** - Title - Evaluation of evidence of witnesses and exhibits -  
Was meticulously done by the trial court - And confirmed by the Court of  
Appeal - In finding for the plaintiffs.*

***LAND LAW** - Title - Proof - Plaintiff not to rely on weakness of defendant's  
case - But he is entitled to take advantage of defence evidence - Which  
tends to support his case.*

***LAND LAW** - Title - Pleadings and admissions - Plaintiffs proved their  
title - Vide evidence of traditional history - In the light of the pleadings  
and admissions.*

***LAND LAW** - Traditional evidence - Findings of the courts below thereon  
- Is justified.*

**FACTS**

Before the Nsukka High Court the plaintiffs/respondents filed an  
action against the defendants/appellants claiming declaration of title in  
respect of the land in dispute, damages for trespass and perpetual injunc-

tion. The plaintiffs and defendants are from Omor town in the then Uzo-Uwani Local Government Area of Anambra State. The town is made up of 4 quarters and each quarter is made up of various families/units. The plaintiff relied on evidence of traditional history. The trial court had to determine whether the land in dispute falls within the plaintiffs' quarter or defendants' quarter since it is common ground that the various quarters that make up Omor town own distinct portions of land.

The trial court found in favour of the plaintiffs and granted all the reliefs claimed by them. The defendants' appeal to the Court of Appeal was dismissed. Being dissatisfied, the defendants have further appealed to the Supreme Court.

### **ISSUES FOR DETERMINATION**

(i) *Was the court below in error when it upheld the judgment of the trial court which preferred the traditional evidence of the plaintiffs/ Respondents to that of the Defendants/Appellants.*

(ii) *Did the trial court and the court below misconceive the nature of the case of the parties thus occasioning a miscarriage of justice.*

(iii) *Whether the plaintiffs / Respondents succeeded in their pleading and evidence in establishing the identity and extent of the land in dispute.*

(iv) *Whether the courts below properly evaluated the evidence adduced by both parties to the dispute before arriving at the conclusion that plaintiffs/Respondents claim was more probable.*

**HELD** (Unanimously dismissing the appeal per lead judgment of **KATSINA-ALUJSC**)

### ***Title - Proof***

1. It is settled law that in an action for declaration of title to land the onus is on the plaintiff to satisfy the court that he is entitled on the evidence brought by him to a declaration of title. In the discharge of this onus, the plaintiff must rely on the strength of his own case and not on the weakness of the defendant's case and if the onus is not discharged, the proper judgment will be for the defendant: See Kodilinye v. Odu (1935) 2 WACA

336; Piaro v Tenalo (1976) 12 S.C. 31. A plaintiff is entitled however to take advantage of any evidence adduced by the defence which tends to support his case - Joseph Akinola & Anor. v. Olunso & Ors. (1962) 1 All NLR 224 at 225. The present case quite clearly falls into the category where the defendants' case lends support to the case of the plaintiffs in view of the admission of the historical structure of Omor as pleaded by the plaintiffs. There is also the definite finding by the learned trial judge that the plaintiffs were the indigenes of Omor town and the defendants the immigrants. See Unchendu v. Ogboni (1999) 5 NWLR (pt. 603) 337. (p. 2636 F)

### ***Land law - Traditional evidence***

2. The findings by the learned trial judge were confirmed by the court of Appeal. In the course of its judgment, the court of Appeal at p. 460 said:

*"I have examined closely the plans exhibits A and B tendered by the parties and given close consideration to the evidence of tradition called by the parties. I am satisfied that the conclusion of the lower court on the evidence of tradition is justified. The trial court made a proper use of the plans tendered."*

I agree. There is ample justification for the findings of the learned trial judge. This court will not disturb the concurrent findings of fact of the trial court and the court of Appeal unless they are perverse and occasion a miscarriage of justice. See Ogbechie v. Onochie (1988) 1 NWLR (PT. 70) 370. (p. 2637 B)

### ***Title - Pleadings and admissions***

3. In a situation such as this, I think the court below was right in its observation that the dispute was more or less in the nature of a boundary dispute. In the light of the pleadings and admissions therein made by the defendants, coupled with the uncontradicted evidence of the boundary men, the two courts below were correct in their evaluation and conclusion that the plaintiffs proved their title to the land in dispute by evidence of traditional history. It has been pointed out on numerous occasions that once the evidence of tradition called by one of the parties is accepted

and that acceptance is not faulted on appeal, that is the end of the matter. See Odife v. Aniemeka (1992)7 NWLR (pt.251) 25 at 40-41. I am satisfied that the trial court and the Court of Appeal rightly accepted the traditional evidence of the plaintiffs. I find no conflict in the evidence.

B (p. 2639 G)

***Title - Evaluation of evidence***

4. I find no substance in this complaint. PW2 and PW5 together with  
C PW3 and PW4 testified as boundary men of the plaintiffs. As I have  
already stated the defendants did not counter them by calling their own  
boundary men. As such there was nothing on the other side of the  
imaginary scale to tilt the balance. The trial court, in my view, meticu-  
D lously evaluated the evidence of these witnesses and other pieces of evi-  
dence including exhibits 'A' and 'B' and came to the conclusion that the  
plaintiffs are the owners of the land in dispute verged red in both plans.  
The Court of Appeal also after a thorough review confirmed the conclu-  
E sions of the trial court. This court will not disturb concurrent findings of  
fact by the two courts below in favour of the plaintiffs unless those  
findings are shown to be perverse, not supported by the evidence and  
they occasion a miscarriage of justice. See Igwego v. Ezeugo (1992)4  
NWLR (pt.249) 561. (p. 2640 D)

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**REPRESENTATION**

Chief Philip Umeadi, SAN with T. E. Williams for the appellants  
A. O. Amene with G. M. Nwagbogu & S.C. Amene for the respondents

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**CASES REFERRED TO**

Kodilinye v. Odu (1935) 2 WACA 336  
Piaro v Tenalo (1976) 12 S.C. 31  
Akinola v. Olunso (1962) 1 All NLR 224 at 225  
H Unchendu v. Ogboni (1999)5 NWLR (pt. 603) 337  
Ogbechie v. Onochie (1988) 1 NWLR (PT. 70) 370  
Odife v. Aniemeka (1992)7 NWLR (pt.251) 25 at 40-41  
Igwego v. Ezeugo (1992)4 NWLR (pt.249) 561

**LEAD JUDGMENT BY KATSINA-ALU JSC**

The plaintiffs in this action represent the Isi-Nkakwu Family in Aturia quarter of Omor in Uzo-Uwani Local government area of the then Anambra State. The defendants represent Ero-Onyia Family in Ore-Nja quarter of Omor. In the action filed at the Nsukka High Court, the plaintiffs claimed declaration of title to the land shown in their Survey Plan MEC/2081/83 dated 1st September, 1983, damages for trespass and perpetual injunction to restrain further acts of trespass. By a judgment dated 15th June, 1990 the learned trial judge Nweje J. granted the plaintiffs all the reliefs claimed by them. The defendants' appeal to the court of Appeal was dismissed in a judgment delivered by that court dated 8th June, 1992. The defendants have further appealed to this Court.

The facts of this case are simple and straightforward. The plaintiffs and the defendants are from Omor Town in the then Uzo-Uwani Local government Area of Anambra state. Omor Town itself is made up of four (4) quarters. Each quarter is further made up of various families/units. The four (4) quarters are:

(i) Ore-Nja quarter - made up of Isiokwe, Umu - Okpanta and Ero - Onyia families.

(ii) Akanato quarter - made up of Uwali, Amaukwu, Agbaja, Oyi, Isinkwa and Umuatum families.

(iii) Aturia quarter - made up of Ituku, Isiekenabo, Isiofe, Umuagbala, Isadi, Isi - Nkakwu and Isiokpaya families.

(iv) Amikwe quarter - made up of Umuegbu, Amikwe-Etiti and Akara families.

The plaintiffs hail from Isi - Nkakwu family in Aturia quarter while the defendants are from Ero - Onyia family in ore -Nja quarter having migrated thereto from Agbaja subsection in Akanato quarter. Their kith and kin still remain in their original homestead at Agbaja in the said Akanato quarter.

It is common ground that the various quarters constituting Omor H town own distinct portions of land.

The defendants who are appellants filed their brief of argument on 20th February 1995. At page 2 of their brief of argument they formu-

lated the following questions for determination in this appeal:

(i) *whether the court below gave due weight or consideration to the presumption (which arose on the evidence) that the defendants are the true owners of the land in dispute.*

B (ii) *Was the court of Appeal correct in affirming the finding of the High Court on the plaintiffs' traditional evidence.*

(iii) *Whether the court below was correct in describing the dispute between the parties to this action as being "more or less in the nature of a boundary dispute between two villages".*

C (iv) *Whether the court below was correct in regarding the question "whether or not the land in dispute fell within the Aturia village of the plaintiffs" as the basis of the rival contentions of the parties to this action.*

D (v) *Whether there was a proper evaluation of the evidence of PW5 and PW2 by the court below.*

(vi) *whether the plaintiffs succeeded in proving the Northern Boundary of the land in dispute.*

E *The plaintiffs also filed their respondents' brief of argument on 8th December, 1995. At page 5 of the brief they raised the following issues for determination:*

(i) *Was the court below in error when it upheld the judgment of the trial court which preferred the traditional evidence of the plaintiffs/ Respondents to that of the Defendants/Appellants.*

(ii) *Did the trial court and the court below misconceive the nature of the case of the parties thus occasioning a miscarriage of justice.*

G (iii) *Whether the plaintiffs / Respondents succeeded in their pleading and evidence in establishing the identity and extent of the land in dispute.*

(iv) *Whether the courts below properly evaluated the evidence adduced by both parties to the dispute before arriving at the conclusion that plaintiffs/Respondents claim was more probable.*

H *The plaintiffs' issue 1 covers defendants' issue 2. The point here is whether the court of Appeal was right in affirming the finding of the High Court on the plaintiffs' traditional evidence. The defendants*

contend in their brief of argument that there were serious conflicts in the evidence of tradition relevant to the ownership of the land in dispute. The defendants however, have not shown what conflicts there are in the evidence of traditional history of the parties. Nonetheless they went on to submit that in the light of the pleadings and the evidence before the trial court, the evidence of tradition ought to have been treated as inconclusive.

I am unable to accept this submission. The reason is this. In paragraphs 4,5,6, and 7 of the statement of claim the plaintiffs pleaded C

4. *The plaintiffs will show that their said Town Omor consists of four main villages; to wit:-*

(a) *Ore - Nja - made up of Isi-Okwe, Umu-Okpanta and Ero - Onyia families. (3 families).*

(b) *Akanato - made of Uwali, Amaukwu, Agbaja Oyi, Isiukwa, and umuatum (6 families).* D

(c) *Aturia - made of Ituku, Isiekenabo, Isiofe, Umughala, Isadi, Isi - Nkakwu and Isiokpaya families (7 families).*

(d) *Amikwe - made up of Umuogbu, Amikwe - Etiti and Akara E families (3 families).*

5. *The plaintiffs will show that each of the said villages is quartered in and over a distinct area of land, quite separate from the other. Within the area of land occupied by each village, the constituent families cluster together and around each other over a specific portion of its own entire area of land* F

6. *The plaintiffs aver that from time immemorial, their said Isi - Nkakwu family of Omor has been and still is the owner - in - possession of all that parcel of land situate at Isi - Nkakwu area of Aturia village in their said Town of Omor, within jurisdiction. The entire parcel of the said area is as particularly shown, delineated and verged PINK in the survey plan No. MEC/2081/83 dated 1st September, 1983 attached hereto and filed with this statement of claim.* G H

7. *The plaintiffs aver that the defendants as a group originated from one Ero - Onyia a member of Agbaja family of Akanato village omor. The said group is commonly known as umu - Ero - onyia of Agbaja*

*from Akanato village, Omor. Because of population explosion, a detachment of that group at one stage of their history, went to live with the families of Ore - Nja village, Omor.*

The defendants on the other hand pleaded in paragraphs 5, 6, 7, 8, and 9 as follows:

5. *The defendants admit that omor Town as stated in paragraph 4 of the statement of claim consists of four main villages as was described in same.*

6. *The defendants admit that each of the 4 quarters has a distinct area where the quarter is located. The defendants however maintain that constituent villages that make up each quarter do not always cluster together in an area of land where their quarters are located as is stated in paragraph 5 of the statement of claim.*

7. *The defendants deny paragraph 6 of the statement of claim. In answer thereto the defendants say that the land in dispute is their own that they have been in undisturbed and continuous possession of the said land in dispute since they inherited it from their forefathers, who enjoyed the said land many many centuries ago before the land finally devolved on them by inheritance.*

8. *The said land in dispute is more particularly shown and described in the defendants' plan No MEC/2912/83 filed with this statement of defence and not as shown in plaintiffs plan MEC/2081/83. The defendants will at the trial of this case rely on their said plan No. MEC/2912/83 aforementioned.*

9. *The defendants admit as is stated in paragraph 7 of the statement of claim to this extent they are the descendants of Ero - Onyia of Agbaja Town. The defendants further say that Ero - Onyia the original founder of the land in dispute was the first king of Agbaja. The defendants also add that Ero - Onyia exercised all acts of ownership over the land in dispute without let or hindrance from any body whatsoever including plaintiffs ancestors before the said land devolved from generation to generation until it finally got to the defendants*

Although the parties filed copious pleadings, a close perusal thereof reveals that the issues for determination before the court of trial fell within



a narrow compass. It is this. It is whether the land in dispute falls within the plaintiffs' Aturia quarter or defendants Ore - Nja quarter since it is common ground that the various quarters that make up omor town own distinct portions of land.

The plaintiffs led evidence in line with their pleadings. So did the defendants. The learned trial judge believed the evidence of the plaintiffs and their witnesses. In the course of his judgment he made many findings of fact in line with the traditional evidence of the plaintiffs. For example at p. 252 to 253 of the record the learned trial judge found as follows:

*"This story of the plaintiffs' contained in paragraphs 4 to 10 of their statement of claim was confirmed by the testimonies of their witnesses - PW's 2, 3, 4, 5, 6, 8, and 9.*

*On their own part, the defendants admitted, by paragraphs 5 and 6 of their statement of Defence, that Omor town is made up of four quarters as stated by the plaintiffs, and that each quarter occupied a distinct locality. They however contended that the constituent villages of each quarter ' do not always cluster together inside the area of land where their own quarter is located- as claimed by the plaintiffs.'*

In paragraph 9 of the statement of Defence, the defendants admitted that -

*'they (defendants) are the descendants of Ero - onyia of Agbaja town.' They said that this Ero - Onyia was the first king of Agbaja aforesaid and the original founder of the land in dispute which he held, enjoyed without disturbance by plaintiffs' ancestors, and passed on to his descendants - the defendants who have since similarly held and enjoyed the land as owners. The defendants denied the rest of paragraph 7 of the statement of claim, i.e. the portion that said the defendants migrated from Agbaja to Orenja and got settled there at the sufferance of Isiokwe family of Orenja. In oral evidence, the defendants continued to deny this migration.*

*This denial however appears to me like an ostrich hiding by burying his head in the sand while the rest of the giant body stands out exposed. The defendants had admitted the composition of Omor town as*

stated by the plaintiffs. As shown therein, Agbaja is a village or one of the 6 villages of Akanato quarter of omor. Defendants are the descendants of Ero - Onyia, 'the first king of Agbaja' according to them. How then did they come to now be in Orenja, which is a different quarter to omor, if there had been no migration.

The defendants were unable to skip that hurdle and their answers under cross - examination that Agbaja is in orenja simply contradicts their earlier admissions and so fails to make any substance. In fact their own survey plan, Exhibit B, tends to lend credence to the plaintiffs story. That plan shows the Ero - Onyia settlement completely outside the land in dispute, neatly sandwiched between Umuaghara (in Aturia) and Isiokwe (in orenja) just as PW3 had stated."

At p. 255 of the record he said:

"Probability is very heavily tilted in favour of the plaintiffs' claim that they are the indigenes on the land and the defendants came from Agbaja, in Akanator quarter, to settle in Orenja quarter as a separate and third village or family thereof, thereby becoming neighbours to the plaintiffs and others who were already there on their own lands before the migrants came over..... I believe the plaintiffs that they were indigenes and the defendants the immigrants."

Moreover the evidence of DWI supported the pleadings and evidence of the plaintiffs. Under cross - examination this witness said:

"I am a native of Omor. I know Omor very well. It is true that there are 4 villages in Omor ..... The 4 villages have their separate areas from time. Isinkakwu is in Aturia as Eronyia is in Orenja"

**It is settled law that in an action for declaration of title to land the onus is on the plaintiff to satisfy the court that he is entitled on the evidence brought by him to a declaration of title. In the discharge of this onus, the plaintiff must rely on the strength of his own case and not on the weakness of the defendant's case and if the onus is not discharged, the proper judgment will be for the defendant: See Kodilinye v. Odu (1935) 2 WACA 336; Piaro v Tenalo (1976) 12 S.C. 31. A plaintiff is entitled however to take advantage of any evidence adduced by the defence which tends to support his case -**

Joseph Akinola & Anor. v. Olunso & Ors. (1962) 1 All NLR 224 at 225. The present case quite clearly falls into the category where the defendants' case lends support to the case of the plaintiffs in view of the admission of the historical structure of Omor as pleaded by the plaintiffs. There is also the definite finding by the learned trial judge that the plaintiffs were the indigenes of Omor town and the defendants the immigrants. See Unchendu v. Ogboni (1999)5 NWLR (pt. 603) 337. B

The findings by the learned trial judge were confirmed by the court of Appeal. In the course of its judgment, the court of Appeal at p. 460 said: C

*"I have examined closely the plans exhibits A and B tendered by the parties and given close consideration to the evidence of tradition called by the parties. I am satisfied that the conclusion of the lower court on the evidence of tradition is justified. The trial court made a proper use of the plans tendered."* D

I agree. There is ample justification for the findings of the learned trial judge. This court will not disturb the concurrent findings of fact of the trial court and the court of Appeal unless they are perverse and occasion a miscarriage of justice. See Ogbechie v. Onochie (1988( 1 NWLR (PT. 70) 370; Iri v. Erhurhobara ( 1991) 2 NWLR (PT. 173) 252 at 263. E

I now turn to plaintiffs' issues 2 and 3 which relate to the defendants' issues 3 and 4. Essentially these issues are about the nature of dispute before the court. In this respect, the defendants submit that the court of Appeal seriously misconceived the true nature of the controversy before it when it held at p.449 line 38 to p. 450 line 3 of the record: F

*"A close perusal of the pleadings of parties reveal that the issues for adjudication before the lower court fell within a very narrow compass notwithstanding the copiousness of the pleadings filed by parties. It was more or less in the nature of a boundary dispute between two groups of villages."* G

The defendants point out that the villages connected with this case were Aturia to which plaintiffs of Isinkakwu Family belong, Agbaja from which H

defendants of Ero onyia family originated and Orenja in which quarter of Omor town the defendants reside. They further point out that the actual parties to the case were the aforementioned Isinkakwu Family (plaintiffs) and Ero onyia Family (Defendants). It is the contention of the defendants that there is no land dispute raised in this case as between any of the aforementioned villages of Aturia, Akanato and Orenja. The dispute raised is as between Isinkakwu Family on the one hand and Ero Onyia Family on the other and it concerns a piece of land which lies between Amikwe to the south and Ore Onyia family or Agbaja Akinato Family land to the North. It was stressed that this dispute is not a boundary dispute.

For the plaintiffs it was said that the land in dispute together with its boundaries was in issue. It was pointed out that the plaintiffs and the defendants filed their plans which were admitted as exhibits A and B respectively in these proceedings. It was further pointed out that the plaintiffs called 4 boundary witnesses - PW2, PW3 PW4 and PW5. It was the submission of the plaintiffs that having regard to the pleadings and admissions therein made by the defendants their quarrel with the observations of the Court of Appeal that the entire dispute was more or less a boundary dispute is misplaced.

Earlier in this judgment I reproduced certain of the paragraphs of the Statement of Claim and the Statement of defence. In paragraph 4 of the Statement of Claim the plaintiffs pleaded that their said town of Omor consists of 4 main villages - Ore-Nja, Akanato, Aturia and Amikwe. The defendants admitted this historical structure of Omor town. The plaintiffs also averred in paragraph 5 of their pleadings that each of these villages has its distinct area of land. This was also admitted by the defendants both in their statement of defence and testimony in court. The 4th defendant Paul Obodoeze testified as DW1. Under cross-examination this witness said:

*"I know Omor very well. It is true that there are 4 villages in Omor ..... The 4 villages have their separate areas from time ..... If the land in dispute is in Aturia it will not belong to us. If it is in Orenja then it belongs to us."*

The learned trial judge found as a fact that the land in dispute is outside the Orenja village land. It goes without argument that as between the plaintiffs and the defendants the land in dispute must either fall within Aturia or Orenja villages to enable either of them to lay claim thereto.

As I indicated earlier on, the plaintiffs called 4 boundary witnesses. PW2 gave evidence of northern boundary and in particular that the defendants were originally from Agbaja family in Akanato quarter of Omor town. PW3 on the other hand testified that his Umuaghara family in Aturia quarter were the plaintiffs neighbours on the northeast of the land in question. PW4 gave evidence to the effect that his people of Isiokwe in Anaku a neighbouring town were the plaintiffs' neighbours to the south-west of the land in dispute. PW5 completed the picture when he testified that his Amikwe people, a separate quarter in Omor town, were the plaintiffs neighbours on the south-east end of the land in dispute.

The defendants on the other hand did no call any boundary witness nor did they lead any credible evidence to counter or contradict the evidence of the plaintiffs in relation to the identity, location and ownership of the land in dispute. The learned trial judge after reviewing the evidence before him came to this conclusion.

*"My impression is that the Defendants had no real presence inside the land before the entries that constituted the cause of action."*

Similarly, the Court of Appeal after reviewing the evidence concluded at P.458 thus:

*"If as the Defendants asserted the land in dispute belonged to them, their natural neighbours would be the people of Anaku and Amikwe to the south of the land in dispute and the people of Ituku, Umuaghara and Isiofe to the north-east of the land in dispute. At the trial, the Defendants could not produce one single boundary witness from any of these places."*

**In a situation such as this, I think the court below was right in its observation that the dispute was more or less in the nature of a boundary dispute.**

**In the light of the pleadings and admissions therein made by the defendants, coupled with the uncontradicted evidence of the**

boundary men, the two courts below were correct in their evaluation and conclusion that the plaintiffs proved their title to the land in dispute by evidence of traditional history. It has been pointed out on numerous occasions that once the evidence of tradition called  
B by one of the parties is accepted and that acceptance is not faulted on appeal, that is the end of the matter. See Odife v. Aniemeka (1992)7 NWLR (pt.251) 25 at 40-41.

I am satisfied that the trial court and the Court of Appeal  
C rightly accepted the traditional evidence of the plaintiffs. I find no conflict in the evidence.

I now come to issue iv in the plaintiffs brief which relates to issues i and v in the defendants brief of argument. The complaint here is that there was no proper evaluation of the evidence of PW5 and PW2.

D I find no substance in this complaint. PW2 and PW5 together with PW3 and PW4 testified as boundary men of the plaintiffs. As I have already stated the defendants did not counter them by calling their own boundary men. As such there was nothing on  
E the other side of the imaginary scale to tilt the balance.

The trial court, in my view, meticulously evaluated the evidence of these witnesses and other pieces of evidence including exhibits 'A' and 'B' and came to the conclusion that the plaintiffs  
F are the owners of the land in dispute verged red in both plans. The Court of Appeal also after a thorough review confirmed the conclusions of the trial court. This court will not disturb concurrent findings of fact by the two courts below in favour of the plaintiffs unless those findings are shown to be perverse, not supported by the  
G evidence and they occasion a miscarriage of justice. See Igwego v. Ezeugo (1992) 4 NWLR (pt.249) 561; Nwadike v. Ibekwe (1987) 4 NWLR (pt.67) 718.

In the result this appeal fails and accordingly I dismiss it. I  
H affirm the judgment of the court below dated 8th June 1992. The plaintiffs are entitled to costs assessed N10,000.00.

**BELGORE JSC**

My learned brother, Katsina-Alu, JSC., has set out clearly the facts of this case on appeal and I agree with his conclusions on those facts. The appeal is entirely based on the facts in evidence on the pleadings of the parties. Learned trial judge, in a very admirable review of evidence before him found for the plaintiffs on all their claims. The Court of Appeal found no fault in the judgment of the trial court. From the concurrent findings of the Courts below the appellants have not advanced any credible reasons why they should be interfered with by this Court.

I therefore find no merit in this appeal and I also dismiss it with N10,000.00 costs to the plaintiffs/respondents.

**OGWUEGBU JSC**

I have had a preview of the judgment just delivered by my learned brother Katsina-Alu, J.S.C. I agree entirely with the reasoning and conclusion that this appeal be dismissed.

The plaintiffs who are the respondents in this court established their title to the land in dispute by traditional evidence and acts of ownership and possession. The learned trial judge after evaluating the whole evidence adduced by the parties came to the conclusion that the defendants/appellants failed to dislodge the case established by the plaintiffs. His conclusion was based on the findings of fact he made on the material issues raised and canvassed before him.

The court below affirmed the decision of the learned trial judge and held as follows:

*"The lower court carefully and meticulously evaluated the evidence. It accepted the evidence of the plaintiffs and their witnesses. This court will not and ought not interfere with the findings of fact made by the court of trial....."*

*The evidence accepted by the trial court was certainly strong enough to sustain the conclusion that the plaintiffs established their case on a balance of probabilities. ....*

*The plaintiffs in this case were by the judgement of the*

*lower court pronounced the true owners of the land in dispute. To be able to justify their presence on the land, the defendants need to show the licence or approval of the plaintiffs. As it turned out they had none. They are therefore trespassers ab initio."*

B This appeal is against concurrent findings of fact by the two lower courts. The Court will not lightly interfere with those findings. I will therefore dismiss the appeal and affirm the decision of the court below. There will be N10,000,00 costs in favour of the plaintiffs.

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**IGUH JSC**

I have had the privilege of reading in draft the judgment just delivered by my learned brother, Katsina-Alu, JSC and for the reasons fully  
D set out therein, I also dismiss this appeal. I subscribe to the orders including those as to costs therein made.

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E **AYOOLA JSC**

I have had the privilege of reading in draft the judgment delivered by my learned brother, Katsina-Alu, JSC. This is an appeal from concurrent findings of facts by the trial court and the Court of Appeal. My  
F learned brother Katsina-Alu, JSC has, exhaustively, given consideration to all the issues raised on this appeal and found no substance in the appeal. For the reasons he gives, I too would dismiss the appeal with N10,000.00 costs to the respondent.

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H