

**SUPREME COURT OF NIGERIA**  
FRIDAY 8TH FEBRUARY, 2002. SC. 180/1992  
**CORAM:- S. M. A. BELGORE, I. L. KUTIGI, A. I. IGUH,**  
**A. I. KATSINA-ALU, E. O. AYOOLA, JJSC**

1. PATRICK NZIWU  
2. AMOKE NWAEZE & ORS ..... APPELLANTS  
AND  
STEPHEN ONUORAH & ORS ..... RESPONDENTS

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COURTS - Findings of fact - Binding nature of - Unless special circumstances exist - No appellate court should substitute its own findings - For those of trial court (H1)

APPEALS - Findings of trial court - Interference - Justification - Appellate court will interfere - Where trial court failed to resolve conflicts in parties' evidence (H2)

APPEALS - Concurrent findings - Supreme Court will not interfere - Since there are no special circumstances warranting interference (H3)

***FACTS***

Plaintiffs/respondents commenced this action against defendants/appellants at the High Court of Enugu State, Nsukka seeking for a declaration of title to a piece of land situate at Nsukka. Respondents claimed that the land in question belonged to them exclusively having been in possession from time immemorial through their forefathers who first settled on the land.

At the end of hearing, the court preferred the testimony of respondents and held that the land belong to them. The court further held that appellants are respondents' tenants. Being dissatisfied, appellants appealed to the Court of Appeal, Enugu division. The court upheld the trial court's decision and dismissed the appeal. Aggrieved further, appellants have appealed to Supreme Court.

**HELD** (Unanimously dismissing the appeal per  
**BELGORE JSC)**

*COURTS - Findings of fact - Binding nature of*

**1. Unless special circumstance is clearly manifested in the record no appellate court should substitute its own findings of facts for those of the trial court. This court in several cases over the years has considered matters relating to bindingness of trial court's findings on fact that I need refer to only a few.**  
(p. 333)

*APPEALS - Findings of trial court - Interference - Justification*

**2. Special circumstances in this instance may be admission of inadmissible evidence, e.g. matters not pleaded and therefore not in issue being relied upon in the decision of the trial court, or where there was no evidence in support of the reasons for the findings crucial for the decision; or where the decision on all the evidence before the court is perverse or has led to a miscarriage of justice. The appellate court will also interfere with findings of fact by trial court where there are clear conflicts in the parties' evidence before it and that court fails to resolve those conflicts and merely relied on a party's evidence.**  
(p. 333)

*Appeals - Concurrent findings*

**3. These are concurrent findings of the High Court and Court of Appeal on the facts adduced in evidence. Despite the grounds of appeal alleging error in law, I find no law but only facts involved in this appeal. I have not found any special circumstance whereby I will interfere with findings of fact by trial Court and Court of Appeal. I therefore find no substance in this appeal and I dismiss it with N10,000.00 costs to respondent.** (p. 334 B)

## **REPRESENTATION**

Chief O. Ugolo for the appellants

Chief J.C. Ifebunandu with T. I. Dutse for the respondents

## **CASES REFERRED TO**

*Alakija v. Abdullahi* (1998) 6 NWLR (Pt. 552) 1

*Ngikari v. NICON* (1998) 8 NWLR (Pt. 560) 1

Agbabiaka v. Saibu (1998) 10 NWLR (Pt. 571) 534  
Okelola v. Boyle (1998) 2 NWLR (Pt. 539) 533  
Olepiri v. Jonah (1961) 1 SCNLR 174  
Udeh v. Chimbo (1998) 12 NWLR (Pt. 577) 169  
NICON v. Power & Ind. Engineering Co Ltd (1986) 1 NWLR (Pt. 14)  
Enang v. Adu (1981) 11-12 SC 25  
Igwego v. Ezengo (1992) 6 NWLR (Pt. 249) 561

### **LEAD JUDGMENT BY BELGORE JSC**

The respondents in this appeal were the plaintiffs at the trial court against the present appellants. The claim was for a declaration of title to a piece of land called Evurevu situate in Nsukka Judicial Division of former Anambra State. The plaintiffs got judgment at the trial court. The present appellant appealed to Court of Appeal which upheld the trial court's decision. A further appeal is now before Supreme Court. The appeal to this Court is on mixed ground of law and facts and it was filed with leave of this Court.

The declaration sought at the trial court, in a representative capacity, was that the land in question belonged to them exclusively having been in possession from time immemorial through their forefathers who first settled on the land. The whole evidence before the trial court indicated that the respondent, rather than appellants, proved they were entitled to the land. The entire evidence is not law but facts on which trial court relied. Court of Appeal found no reason to disturb the decision of trial court.

***Unless special circumstance is clearly manifested in the record no appellate court should substitute its own findings of facts for those of the trial court. Special circumstances in this instance may be admission of inadmissible evidence, e.g. matters not pleaded and therefore not in issue being relied upon in the decision of the trial court, or where there was no evidence in support of the reasons for the findings crucial for the decision; or where the decision on all the evidence before the court is perverse or has led to a miscarriage of justice. The appellate court will also interfere with findings of fact by trial court where there are clear conflicts in the parties evidence before it and that court fails to resolve those conflicts and merely relied on a party's evidence. This court in***

***several cases over the years has considered matters relating to bindingness of trial court's findings on fact that I need refer to only a few.*** See *Alakija v. Abdullahi* (1998) 6 NWLR (Pt. 552) 1; *Ngikari v. N.I.C.O.N* (1998) 8 NWLR (pt. 560) 1; *Agbabiaka v. Saibu* (1998) 10 NWLR (pt 571) 534; *Okelola v. Boyle* (1998) 2 NWLR (pt. 539) 533; *Olepiri v. Jonah* (1961) 1 SCNLR 174; *Udeh v. Chimbo* (1998) 12 NWLR (pt. 577) 169.

***These are concurrent findings of the High Court and Court of Appeal on the facts adduced in evidence. Despite the grounds of appeal alleging error in law, I find no law but only facts involved in this appeal. I have not found any special circumstance whereby I will interfere with findings of fact by trial Court and court of Appeal. I therefore find no substance in this appeal and I dismiss it with N10,000.00 costs to respondent.***

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### **KUTIGI JSC**

I read before now the judgment just delivered by my brother Belgore JSC I agree that the appellants have not shown any special circumstance why this court should interfere with the concurrent findings of the lower courts. The appeal therefore fails. It is dismissed with N10,000 costs in favour of the respondents.

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### **IGUH JSC**

I have had the privilege of reading in draft the judgment just delivered by my learned brother, Belgore, J.S.C. and I entirely agree with his reasoning and conclusion therein.

This land dispute over the piece or parcel of land known as Evurevu is between the plaintiffs of Amomu Ani village, Umabo Eha - Alumona and the defendants of Evurevu farm in Eha - Alumona. At the conclusion of hearing the learned trial Judge, Araka, J., as he then was, found for the plaintiffs, holding that they had conclusively established that they are the owners of the Evurevu land in dispute. In his judgment, the said plaintiffs own the land exclusively and not in common with the defendants whom he described as the plaintiffs' tenants on the land. These findings were affirmed on appeal by the

court below.

This court will not interfere with the concurrent findings of both the trial court and the Court of Appeal on essentially issues of fact except there is established a miscarriage of justice or a violation of some principles of law or procedure. See *National Insurance Corporation of Nigeria v. Power and Industrial Engineering Co. Ltd.* (1986) 1 N.W.L.R (Part 14) 1 at 36, *Enang v. Adu* (1981) 11-12 S.C. 25 at 42, *Igwego v. Ezengo* (1992) 6 N.W.L.R (Part 249) 561 at 574 etc. No such miscarriage of justice or a violating of any principles of law or procedure has been established by the appellants in this appeal. This appeal is without substance and I, too, dismiss it with costs as assessed in the leading judgment.

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**KATSINA-ALU JSC**

I have read in advance the judgment just delivered by my learned brother Belgore JSC. In this appeal. I agree with it. For the reasons he gives, I also dismiss it with costs as assessed by him.

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**AYOOLA JSC**

I agree that this appeal be dismissed for the reasons given in the judgment of my learned brother Belgore, JSC. I abide by the order for costs made by him.