

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. AMOKE NWAEZE
2. EMMANUEL ELEJE
3. ENWE NWAMOKE
4. PATRICK NZIWU

..... APPELLANTS

For themselves and on behalf of
other defendants at Evurevu farm
Eha Alumona, Isi-Uzo Division

AND

1. STEPHEN ONUORAH
2. UGWUKWO UGWUEZE
3. PETER EZEAKU
4. ONA NWAUGWUANYI

..... RESPONDENTS

For themselves and on behalf of the
people of Amonu Ani Village, Umaba
Eha Alumona, Isi-Uzo Division

COURTS - Appeal - Findings of facts - Interference - Unless special circumstance such as a perverse decision - Is clearly manifested in the record - Appellate court should not substitute its own findings for those of trial court (H1)

APPEALS - Concurrent findings - No special circumstance exists to interfere with findings made by the HC & CA - Based on facts adduced in evidence (H2)

FACTS

Plaintiffs/respondents instituted this action against defendants/appellants at the High Court of former Anambra (now Enugu) State, Nsukka Judicial Division. The claim was for a declaration of title to a piece of land. Respondents contended that the land in dispute belonged to them exclusively; having been in possession from time immemorial through their forefathers who first settled on the land.

After hearing in the matter, the court found on facts presented

and evidence adduced that respondents proved they are entitled to the land. Judgment was therefore given for respondents by the court. Appellants not being satisfied with the decision of the court, appealed to Court of Appeal. The court upheld the findings made by the trial High Court. Aggrieved further, appellants with leave filed appeal on mixed ground of law and facts in Supreme Court.

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

Appeal - Findings of facts - Interference

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. 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. 2535)

APPEALS - Concurrent findings

2. 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 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. (p. 2536 B)

REPRESENTATION

Chief O. Ugolo for the Appellant

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

CASES REFERRED TO

Alakija v. Abdullahi [1998] 6 NWLR (pt. 552) 1
 Ngikari v. N.I.C.O.N. [1998] 8 NWLR (pt. 571) 543
 Okelola v. Boyle [1998] 2 NWLR (pt. 539) 533
 Olepiri v. Jonah [1961] 1 SCNLR 174
 Ude v. Chimbo [1998] 12 NWLR (pt. 577) 169
 NICON v. Power & Ind. Eng. Co. Ltd. [1986] 1 NWLR (pt. 14) 1
 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 the Court of Appeal which upheld the trial court's decision. A further appeal is now before the 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 respondents, rather than appellants, proved they were entitled to the land. The entire evidence is not law but facts on which the 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 par-

ties' 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 N.W.L.R. (pt. 552) 1: Ngikari v. N.I.C.O.N. [1998] 8 N.W.L.R. (pt. 571) 543; Okelola v. Boyle [1998] 2 N.W.L.R. (pt. 539) 533; Olepiri v. Jonah [1961] 1 S.C.N.L.R. 174; Ude v. Chimbo [1998] 12 N.W.L.R. (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 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 respondents.

KUTIGI JSC

I read before now the judgment just delivered by my learned brother, Belgore, J.S.C. 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 N10,000.00 costs in favour of the respondents.

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. (pt. 14) 1 at 36, *Enang v. Adu* [1981] 11 - 12 S.C. 25 at 42, *Igwego v. Ezengo* [1992] 6 N.W.L.R. (pt. 249) 561 at 574 etc. No such miscarriage of justice or a violation 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.

KATSINA-ALU JSC

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

AYOOLA JSC

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