

# **KINGS LAW REPORTS**

## **(ALL SC/NOVEL CA)**

**(2003) KLR VOL 4 PART 159 pp. 1131 - 1244**

**APRIL 2003**

**Dedicated to the King of kings**

**O. O. NOEL ESQ. Founder/Publisher**

C. L. Onwuegbuna Esq. Chief Editor

## **INDEX OF CASES REPORTED**

### ***APRIL CONTD.***

10. Iwuoha v. Nigerian Postal Services Ltd. p. 1131
11. Lakanmi v. Adene p. 1161
12. Morenikeji v. Adegbosin p. 1179
13. Ogbogu v. Ugwuegbu p. 1219

**ii INDEX OF SUBJECT MATTER IN (2003) 4 KLR**

**ACTIONS** - Pleadings - Binding nature - Parties and the court are bound by pleadings - And parties will not be allowed to set up cases different from their pleadings (H1) *Ogbogu v. Ugwuegbu* p. 1219

**APPEALS** - Courts - Evidence - Evaluation - Where evaluation by trial Judge is based on evidence in court - Appellate Judge cannot interfere - Save where such evaluation is perverse (H5) *Iwuoha v. Nigerian Postal Services Ltd.* p. 1131

**APPEALS** - Courts - Retrial order - Is made where there is an error in law - Which neither renders trial a nullity - Nor makes it impossible for appellate court to say - There has been no miscarriage of justice (H7) *Morenikeji v. Adegbosin* p. 1179

**APPEALS** - Document - Evaluation - Both trial and appellate Judges have equal right to evaluate document - And where finding of trial Judge is perverse - Appellate Judge can correct it (H4) *Iwuoha v. Nigerian Postal Services Ltd.* p. 1131

**APPEALS** - Grounds of Appeal - Basis - Grounds of Appeal should be based only on live issues in the appeal - As they are complaint of appellant on judgment of lower court (H1) *Iwuoha v. Nigerian Postal Services Ltd.* p. 1131

**APPEALS** - Issue - Meaning - An issue must be a proposition of law or fact - That a decision on it in favour of a party to the appeal - Will entitle him to the judgment of court (H2) *Iwuoha v. Nigerian Postal Services Ltd.* p. 1131

**APPEALS** - Issues - Formulation of - Basis - Issues for determination must be formulated from grounds of appeal - Whether or not they arise from appellant's or respondent's brief (H3) *Iwuoha v. Nigerian Postal Services Ltd.* p. 1131

**COURTS** - Appeals - Issues - Erroneous findings - Where trial court approaches evidence of parties wrongly - Appellate court will have no alternative but to allow the appeal (H6) *Morenikeji v. Adegbosin* p. 1179

COURTS - Perverse finding - Meaning - A finding is perverse where it is merely speculative - And not based on any evidence before the court (H6) Iwuoha v. Nigerian Postal Services Ltd. p. 1131

ESTOPPEL - Issue estoppel - Binding nature - Appellants are bound by issue estoppel - With regard to traditional history of the parties - Pleaded and upheld in suit no. HOR/47/75 (H2) Ogbogu v. Ugwuegbu p. 1219

EVIDENCE - Evaluation - Interference - Justification - Where trial court wrongly evaluated evidence - Appellate court can intervene - Moreso where credibility of witnesses is not involved (H3) Ogbogu v. Ugwuegbu p. 1219

JURISDICTION - Absence of - Effect - Where court lacks jurisdiction to entertain a matter - The proceedings therein are nullity - No matter how well conducted (H1) Lakanmi v. Adene p. 1161

JURISDICTION - Absence of - Proper order - Where court is satisfied that it has no jurisdiction in a matter - The matter should be struck out (H2) Lakanmi v. Adene p. 1161

LAND LAW - Evidence - Conflicting traditional histories - Test of such histories is by reference to facts in recent years as established by evidence - And not solely on demeanour of witnesses (H5) Morenikeji v. Adegbosin p. 1179

LAND LAW - Title - Traditional history - Sustainability - Evidence of such history can sustain claim for title - Where the history is not contradicted - And is found by court to be cogent (H4) Morenikeji v. Adegbosin p. 1179

LAND LAW - Title - Trespass - Actions - Where title is in dispute - Plaintiff must establish his title and legal possession of the land - In addition to defendants' alleged acts of trespass on such land (H3) Morenikeji v. Adegbosin p. 1179

iv **INDEX OF SUBJECT MATTER IN (2003) 4 KLR**

LAND LAW - Trespass - Actions - Basis - Only person in possession of land in dispute - Can maintain action for damages for trespass thereon (H1) *Morenikeji v. Adegbosin* p. 1179

LAND LAW - Trespass - Competing possession - Where possession is disputed - Trespass will lie at the suit of the person - Who can show that title to the land is in him (H2) *Morenikeji v. Adegbosin* p. 1179

PROPERTY LAW - Forfeiture - Statutes - Onus of proof - Appellant must prove that the law which took away his property - Was null and void (H3) *Lakanmi v. Adene* p. 1161

PROPERTY LAW - Forfeiture order - Validity - The order made in 1967 was validly made - Hence appellant was properly dispossessed of his property (H4) *Lakanmi v. Adene* p. 1161

## **INDEX OF STATUTES & RULES**

Constitution of the Federal Republic of Nigeria 1979, s. 6(6)(d)  
Lakanmi v. Adene p. 1161

Evidence Act, Cap. 112, Vol. VIII, Laws of the Federation of Nigeria,  
1990, s. 46 Ogbogu v. Ugwuegbu p. 1219

Forfeiture of Assets (Validation Decree) No. 45 of 1968, s. 2(1)  
Lakanmi v. Adene p. 1161

Interpretation Act Cap 192 LFN 1990, s. 6(1) Lakanmi v. Adene p.  
1161

Public Officers & Other Persons (Investigation of Assets) Edict No.5  
of 1967 Lakanmi v. Adene p. 1161

Supreme Court Rules 1990, O. 6 Iwuoha v. Nigerian Postal Services  
Ltd. p. 1131