

**SUPREME COURT OF NIGERIA**  
2ND JULY, 2004. SC. 169/1999  
**CORAM:- U. MOHAMMED, S. U. ONU, N. TOBI,**  
**D. MUSDAPHER, D. O. EDOZIE, JJSC**

EMEKA NWANA ..... APPELLANT  
AND  
1. FEDERAL CAPITAL  
DEVELOPMENT AUTHORITY  
2. MINISTER FOR THE FEDERAL  
CAPITAL TERRITORY ..... RESPONDENTS  
3. MALLAMY YUSUF OBANSA  
4. YAKUBU OZIGIS  
5. A. A. IDRIS  
6. MOHAMMED ZARIA

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JUDICIAL PRECEDENTS - Supreme Court - Stare decisis - Concurring judgment - Weight of - Is equal with the leading judgment - Where it compliments it - And is relevant to the issues (H1)

JUDICIAL PRECEDENTS - Stare decisis - Obiter dictum - Meaning and relevance of - It is persuasive - And not binding as ratio (H2)

LANDLORD & TENANT - Trespass - Licensee - Stare decisis - Obiter dictum - Karibi-Whyte's concurring judgment in Dr. Chukwuma's case - Is not an obiter (H3)

LANDLORD & TENANT - Trespass - Licensee - Stare decisis - Dr. Chukwuma's case - Was rightly followed - In finding that a licensee - Cannot maintain an action in trespass against landlord (H4)

APPEALS - Issue - Suo motu raising of by Court of Appeal - If based on the grounds of appeal - Is not fatal (H5)

APPEALS - Courts - Issue - Suo motu raising of - Injustice must be shown - To ground a reversal (H6)

### **FACTS**

The plaintiff/appellant was a Principal Technical Officer with the 1st defendant/respondent. He was allocated a 2 bedroom flat at Area 2, Garki Abuja. On 11th. April 1989, his appointment was terminated. Following the termination, the 1st respondent and other persons acting on its behalf entered the house and took possession of same. The appellant was thereby deprived of the use of the premises. He claimed that his properties were damaged in the process. He filed an action before the High Court of Justice, Federal Capital Territory and claimed the sum of N250,000.00 exemplary damages against the respondents. The trial court found in favour of the appellant, and awarded him the sum of N120,264.00 special damages for trespass committed on the premises and goods.

The respondents' appeal to the Court of Appeal was upheld. That court relied on the Supreme Court's decision in *Dr. Chukwuma v. Shell Petroleum* (1993) 4 NWLR (Pt. 239) 512 in holding that at common law, a licensee has no estate in a property and for that reason cannot sue his employer in trespass. Being dissatisfied, the appellant has now appealed to the Supreme Court.

### **ISSUES FOR DETERMINATION**

*"1. Whether Chukwuma v. Shell Petroleum Development Company of Nigeria Limited (1993) 4 NWLR Pt. 289 truly decided that at common law a licensee has no estate in a property and can for that reason not sue his employer in trespass.*

*2. Whether the Court of Appeal was right to have formulated an issue suo motu and based its judgment on same without calling on the parties to address the court on the issue."*

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

### **Concurring judgment - Weight of**

1. Learned counsel for the appellant made two submissions in respect of the concurring judgment of Karibi-Whyte, JSC. The first one is that being a

concurring judgment, this court should not attach much to it. With respect, I am not carried along by counsel in this submission. A concurring judgment in my humble view, has equal weight with or as a leading judgment. A concurring judgment complements, edifies and adds to the leading judgment. It could at times be an improvement of the leading judgment when the Justices add to it certain aspects which the writer of the leading judgment did not remember to deal with. In so far as a concurring judgment performs some or all the above functions, it has equal force with or as the leading judgment in so far as the principles of stare decisis are concerned.

However, a concurring judgment is not expected to deviate from the leading judgment. A concurring judgment, as the name implies, must be in agreement with the leading judgment. A concurring judgment which does its own thing in its own way outside the leading judgment is not a concurring judgment but a dissenting judgment. The mere fact that a concurring judgment mentioned in a positive and correct way what is not contained in the leading judgment does not make it wear the appellation of dissenting judgment. In so far as what is contained there is relevant to the issues in the matter, the judgment is acceptable as a concurring judgment.

(p. 1832 D)

### ***Obiter dictum - Meaning and relevance of***

2. The next issue raised by learned counsel on the concurring judgment of Karibi-Whyte, JSC., is that it is an obiter. An obiter is a judge's passing remarks which have nothing to do with the live issues for determination in the matter. It is the statement of the judge by the way. In the principles of stare decisis an obiter is not binding. Unlike ratio it has no binding force but it has a persuasive force. See *Alhaji Yusuf v. Egbe.* (1987) 2 NWLR (Pt. 56) 341.

It is, however, good law that an obiter of the Supreme Court, could with time, and repeated a number of times, assume the status of a ratio decidendi. (p. 1833 A)

***Licensee - Stare decisis - Obiter dictum***

3. The issue before us is whether counsel is correct in saying that what karibi-Whyte, JSC., said in Dr. Chukwumah's case is obiter. One of the issues was trespass to the house in the respondent's premises at Warri. As a matter of fact, the main issue, like in this appeal, was whether the appellant was a tenant or a licensee in the premises which he occupied at No. 4 Benue Road Oguru Residential Area, Warri. The appellant sued when the respondent dispossessed him of the house. Like in this appeal, he sued for trespass and damages.

It is in the light of the above that Karibi - Whyte, JSC., said what he said above. Can what Karibi-Whyte, JSC., said be an obiter dictum? I think not. It is a clear ratio decidendi. The issue of trespass was involved which called for damages which the appellant claimed. (p. 1833 D)

***Dr. Chukwuma's case - Was rightly followed***

4. I must say straightaway that the facts of Dr. Chukwumah's case and those of the present case are generally similar. Both appellants were employees of the respondents. Both are licensees. In both cases, the respondents, their employers, terminated their appointments. Again, in both cases, after the termination of the appointments, the respondents the employers, forcibly took possession. Can we say seriously that the Court of Appeal was wrong in following Dr. Chukwumah's case in this case? I think not. In my view, the Court of Appeal was perfectly right in following the decision in Dr. Chukwumah's case. (p. 1834 B)

***Issue - Suo motu raising of by Court of Appeal***

5. Let me now take the issue in respect of the Court of Appeal raising issue suo motu. Order 6 of the Court of Appeal Rules does not provide for the formulation of issues by the court.

But in Labiyi v. Anretiola (1992) 8 NWLR (Pt. 258) 139, the Supreme Court approved the formulation of issues by the court. Karibi-Whyte, JSC., said at page 159:

*"The court below was free either to adopt the issues so formulated by leaned counsel or to formulate such issues that are consistent with the grounds*

*of appeal filed by the appellant. It is in the observance of this principle in pursuit of the proper administration of justice that the court below considered an appropriate formulation of the issue consistent with the grounds of appeal as filed when it was observed that although the grounds of appeal were inelegantly drafted, the complaints therein were clear and not misleading.”* (p. 1834 D) B

***Courts - Issue - Suo motu raising of - Injustice must be shown***

6. A party who complains about the formulation of issue or issues by the court must say what injustice has been done to him by such formulation. In the absence of such evidence, an appellate court cannot reverse the decision of the lower court. The formulation of the issue by the court must result in miscarriage of justice for this court to intervene in favour of the appellant. I have carefully examined the issue formulated by the court and I do not see the injustice done to the appellant. C D

In sum, this appeal fails and it is dismissed. (p. 1835 D)

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**NOTABLE POINT OF INTEREST**

**EDOZIE JSC**

***1. When former employee - May not remain in the employer's premises***

It is settled law that where an agent or servant is allowed to occupy premises belonging to his principal for the more convenient performance of his duties, he acquires no estate therein: See Woodfall's Law of Landlord and Tenant pages 294 - 295. He is merely a licensee and he has no right to continue to remain in the premises on the cessation of his employment. Consequently, he cannot maintain an action in trespass against his employer in the event of his eviction. (p. 1837 C) F G

**REPRESENTATION**

Chief Karina Tunyan, (with him, Emmanuel Ejiofor), for the Appellant. H  
P. Y. Okala, Director, Legal Services, Federal Capital Territory, (with him, Y. H. Wodi, Principal Legal Officer), for the Respondents.

**CASES REFERRED TO**

- Alhaji Yusuf v. Egbe. (1987) 2 NWLR (Pt. 56) 341  
 Torbett v. Faulkner (1952) 2 TLR 659  
 Maclean v. Inlaks Ltd. (1980) 8-11 S.C.1  
 B Aghai v. Okogbue (1991) 7 NWLR (Pt. 904) 39  
 Ugo v. Obiekwe (1989) 9 S.C. (Pt .II) 41  
 Bangboye v. University of Ilorin (1991) 8 NWLR (Pt. 207)  
 Labiyi v. Anretiola (1999) 8 NWLR (Pt. 958) 139  
 C Federal Republic of Nigeria v. Alhaji Anache (2004) 1 SCNJ, 1 pg 85  
 Dr. Chukwumah v. Shell Petroleum Development Company of Nigeria Limited (1993) 4 NWLR (Pt. 239) 512  
 Foreign Finance Corporation v. Lagos State Development and Property Corporation (1991) 5 SCNJ 54  
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**RULES REFERRED TO**

Court of Appeal Rules O. 6

**LEAD JUDGMENT BY TOBIJSC**

- E The appellant was a Principal Technical Officer with the 1st respondent. He was allocated a 2 bedroom flat at Area 2, Section 1, Block 41, Flat 2, Garki, Abuja. On 11th April, 1989, his appointment was terminated.  
 F Following the termination, the 1st respondent and other persons acting on its behalf as agents and servants entered the house and took possession of same. The appellant was thereby deprived of the use and enjoyment of the premises. He claimed that his properties were damaged in the process.  
 G He filed an action at the High Court of Justice, Federal Capital Territory. He claimed for N250,000.00 exemplary damages. Parties gave evidence at the trial. The learned trial Judge gave judgment in favour of the appellant. He awarded him N120,268.00 special damages for trespass committed on the premises and goods.  
 H Dissatisfied, the respondents appealed to the Court of Appeal as appellants. That court overturned the decision of the learned trial Judge. In allowing the appeal, the court dealt with an area of law. It is the position of the common law in respect of a licensee's right over estate in property.

Salami, JCA., delivered the leading judgment. Relying on *Dr. Chukwumah v. Shell Petroleum Development Company of Nigeria Limited* (1993) 4 NWLR (Pt. 239) 512, Salami, JCA., said at page 88 of the record:

*“I am bound by the decision of the Supreme Court which says that at common law a licensee has no estate in a property and can for that reason not sue his employer in trespass. The respondent’s claim is baseless. I also dismiss it. I allow the appeal and set aside the decision of the court below.”*

Dissatisfied, the respondent, as appellant, has come to this court. As usual, briefs were filed and exchanged. The appellant formulated two issues for determination as follows:

*“2.1 Whether Chukwuma v. Shell Petroleum Development Company of Nigeria Limited (1993) 4 NWLR Pt. 289 truly decided that at common law a licensee has no estate in a property and can for that reason not sue his employer in trespass.*

*2.2 Whether the Court of Appeal was right to have formulated an issue suo motu and based its judgment on same without calling on the parties to address the court on the issue.”*

It would seem to me that the respondents have adopted the issues formulated by the appellant. I say so because the position is not clear. The two issues formulated by the appellant are on page 1 of his brief. Respondents say in their brief that they will “*answer the two issues contained on pages 3 to 8*”. While the respondents did not say pages 3 to 8 of what document, I have taken the trouble to look at all the processes including the Record of Proceedings but I cannot place my hands on the issues formulated on any “*pages 3 to 8*”. In the circumstances, I take it that the respondents adopt the two issues formulated by the appellant.

Learned counsel for the appellant submitted on Issue No. 1 that the case of *Chukwuma v. Shell Petroleum Development Company of Nigeria Limited* (supra) is inapplicable, as the statement by Karibi-Whyte, JSC., relied upon by the Court of Appeal is an obiter dictum which is not binding on this court. Quoting the ratio of the case in the leading judgment of Ogundare, JSC., learned counsel cited the following cases as deciding similar point: *Foreign Finance Corporation v. Lagos State Development and Property Corporation* (1991) 5 SCNJ 54; *Governor of Lagos State v. Chief Ojukwu*

(1986) 1 NWLR (Pt. 118) 21; *Ihenacho v. Uzochukwu* (1997) 1 SCNJ 117 at 128; *Eliochin (Nig) Limited v. Mbadiwe* (1988) 1 NWLR (Pt. 14) 49 and *Calabar East Cooperation v. Ikot* (1999) 12 S.C. (Pt. 1) 133; (1999) 12 SCNJ 326 at 337.

B On Issue No. 2, learned counsel, reacting to the conclusion of the Court of Appeal that Issue No. 3 was formulated from ground 4, submitted that ground 4 of the respondents' grounds of appeal at the Court of Appeal was on fact not law. The issues formulated therein complained of interpretation placed on the allocation letter by the court of first instance, learned  
C counsel maintained. He argued that there is no way that the issue formulated by the Court of Appeal based on the interpretation of provision of the Recovery of Premises Act can be derived from Issue No. 3 and or ground 4 of the respondents' brief.

D It was the submission of counsel that where a court formulates an issue suo motu. The parties must react to it. He cited *Okonji v. Njokanma* (1999) 12 S.C. (Pt.II) 150; (1999) 12 SCNJ 259 at 273; *Umaru v. Abdul-Matallabi* (1998) 7 S.C. (Pt .II) 1; (1998) 7 SCNJ 203 at 220 and *Irom v.*  
E *Okimba* (1998) 1-2 S.C. 162; (1998) 2 SCNJ 1 at 5. Counsel urged the court to ignore totally the judgment of the Court of Appeal based on issue not raised by either of the parties.

Learned counsel for the respondents, Mr. P. Y. Okala, Director,  
F Legal Services, Federal Capital Development Authority, submitted that the case of *Chukwuma v. Shell Petroleum Development of Nigeria Limited* (supra) is relevant as it decided that at common law, a licensee has no estate in a property and can for that reason not sue his employer in trespass. He submitted that the statement of law by *Karibi-Whyte, JSC.*, is not his  
G opinion but a principle rooted deeply in our legal system. Counsel submitted that the appellant is a licensee. He cited *Oyekoya v. GB Olivant (Nig.) Ltd.* (1969) NSS (Vol. 6) 69 and *Mobil Oil (Nig.) Ltd. v. Johnson* (1961) 1 All NLR 93 at 101.

H On Issue No. 2, learned counsel submitted that the issue raised borders on technicality and urged the court to pursue justice. He cited *Akunyili v. Ejidike* (1996) 5 NWLR (Pt. 449) 381 at 390. He also submitted that a party cannot be allowed to take advantage of a benefit from his initial wrong.

He cited *Solanke v. Abed* (1962) NSCC (Vol. 2) 160 at 161. He urged the court to dismiss the appeal.

The fulcrum of this appeal is the decision of this court in *Dr. Chukwumah v. Shell Petroleum Development Company of Nigeria Limited* (supra). Let me state the facts of the case in full, particularly because of the submission of counsel for the appellant that the case is not applicable. The appellant, a medical practitioner, was offered employment by the respondent in October, 1975. His appointment was subsequently confirmed making him a member of the respondents' Contributory Pension Fund and entitled to other benefits enjoyed by the other employees of the company. While in the respondents' employment, the appellant was residing with his family in a house provided by the respondent within the respondent's premises at Warri. By a letter dated 18th August, 1981, the appellant's appointment was terminated with effect from the date of the letter. The company also gave him a month's notice to vacate the house in its premises. Aggrieved by the letter of termination, the appellant sued inter alia for compensation, damages and injunction restraining the respondents from disturbing his possession of the premises.

As the appellant failed in the High Court and the Court of Appeal, he came to the Supreme Court. The Supreme Court allowed the appeal in part. The court did not allow the issue for determination in this appeal and it is the issue of possession of the premises.

On the issue, *Karibi-Whyte, JSC.*, in his concurring judgment citing the English case of *Torbett v. Faulkner* (1952) 2 TLR 659 with approval, said at page 566:

*"Appellant in the instant case has no interest in the land even during his occupation of the premises. The licence to remain is automatically revoked on his retirement or for any cause ceasing to be employed. He cannot therefore be a tenant for the purposes of the housing arrangement made by respondent for its employees.... It is well settled law that a licensee cannot maintain an action in trespass against a landlord. There is therefore no legal basis for the claim in trespass. The court below was right to have dismissed the claim."*

The Court of Appeal relied on the above. *Salami, JCA.*, pungently

said at page 87:

*“The case applicable is the case of Dr. Ben. O. Chukwumah v. Shell Petroleum Development Company Nigeria Limited (1993) 4 NWLR (Pt. 289) 512. In that case, the leading judgment of Ogundare, JSC., found the appellant to be a licensee just as the respondent in the instant appeal had been found to be a licensee whose occupation was for arid on behalf of his employer. The other Justices who sat on appeal including Bello, CJN., except Karibi-Whyte, JSC., did not discuss the issue. But Karibi-Whyte, JSC., in his own judgment not only did he find that the appellant was a servant whose occupation of the premises was subservient and necessary to the services which was his duty to render to the master, he went to hold that he has no estate nor property whatsoever in the premises concerned save that of physical possession.... I am bound by the decision of the Supreme Court which says that at common law a licensee has no estate in a property and can for that reason not sue his employer in trespass.”*

**Learned counsel for the appellant made two submissions in respect of the concurring judgment of Karibi-Whyte, JSC. The first one is that being a concurring judgment, this court should not attach much to it. With respect, I am not carried along by counsel in this submission. A concurring judgment in my humble view, has equal weight with or as a leading judgment. A concurring judgment complements, edifies and adds to the leading judgment. It could at times be an improvement of the leading judgment when the Justices add to it certain aspects which the writer of the leading judgment did not remember to deal with. In so far as a concurring judgment performs some or all the above functions, it has equal force with or as the leading judgment in so far as the principles of stare decisis are concerned.**

**However, a concurring judgment is not expected to deviate from the leading judgment. A concurring judgment, as the name implies, must be in agreement with the leading judgment. A concurring judgment which does its own thing in its own way outside the leading judgment is not a concurring judgment but a dissenting judgment. The mere fact that a concurring judgment mentioned in a positive**

and correct way what is not contained in the leading judgment does not make it wear the appellation of dissenting judgment. In so far as what is contained there is relevant to the issues in the matter, the judgment is acceptable as a concurring judgment.

The next issue raised by learned counsel on the concurring judgment of Karibi-Whyte, JSC., is that it is an obiter. An obiter is a judge's passing remarks which have nothing to do with the live issues for determination in the matter. It is the statement of the judge by the way. In the principles of stare decisis, an obiter is not binding. Unlike ratio it has no binding force but it has a persuasive force. See Alhaji Yusuf v. Egbe (1987) 2 NWLR (Pt. 56) 341. B C

It is, however, good law that an obiter of the Supreme Court, could with time, and repeated a number of times, assume the status of a ratio decidendi. See Maclean v. Inlaks Ltd. (1980) 8-11 S.C.1; Aghai v. Okogbue (1991) 7 NWLR (Pt. 204) 39; Bamgboye v. University of Ilorin (1991) 8 NWLR (Pt. 207) 1. D

But that is not the issue before us. The issue before us is whether counsel is correct in saying that what Karibi-Whyte, JSC., said in Dr. Chukwumah's case is obiter. One of the issues was trespass to the house in the respondent's premises at Warri. As a matter of fact, the main issue, like in this appeal, was whether the appellant was a tenant or a licensee in the premises which he occupied at No. 4 Benue Road Oguru Residential Area, Warri. The appellant sued when the respondent dispossessed him of the house. Like in this appeal, he sued for trespass and damages. E F

It is in the light of the above that Karibi-Whyte, JSC., said what he said above. Can what Karibi-Whyte, JSC., said be an obiter dictum? I think not. It is a clear ratio decidendi. The issue of trespass was involved which called for damages which the appellant claimed. Perhaps the point I am smuggling to make will be clearer if I reproduce the third relief. H

*"3. The plaintiff also claims the sum N100,000 (One Hundred Thousand Naira) being damages for trespass in that the defendant on 17th September, 1981, invaded the residence of the plaintiff situate at 4 Benue*

*Road, Oguru, Warri vi et armis, which at all material times is occupied and is in possession of plaintiff and therein disconnected the electric power and water supply to the premises to the inconvenience of the plaintiff and generally committed sundry, wanton acts of trespass and annoyance in the*  
 B *said premises in the bid improperly and unlawfully to oust the plaintiff from possession.”*

**I must say straightaway that the facts of Dr. Chukwumah’s case and those of the present case are generally similar. Both appellants were employees of the respondents. Both are licensees. In**  
 C **both cases, the respondents, their employers, terminated their appointments. Again, in both cases, after the termination of the appointments, the respondents, the employers, forcibly took possession. Can we say seriously that the Court of Appeal was wrong in following**  
 D **Dr. Chukwumah’s case in this case? I think not. In my view, the Court of Appeal was perfectly right in following the decision in Dr chukwuma’s case.**

**Let me now take the issue in respect of the Court of Appeal**  
 E **raising issue suo motu. Order 6 of the Court of Appeal Rules does not provide for the formulation of issues by the court. See Nwokoro v. Onuma (1990) 3 NWLR (Pt. 136) 22; Anie v. Chief Uzorka (1993) 8 NWLR (Pt. 309) 1; Ugo v. Obiekwe (1989) 2 S.C. (Pt. 11)**  
 F **41; (1989) 1 NWLR (Pt. 99) 566; Adediran v. Interland Transport Limited (1991) 9 NWLR (Pt. 214) 155.**

**But in Labiyi v. Anretiola (1992) 8 NWLR (Pt. 258) 139, the Supreme Court approved the formulation of issues by the court. Karibi-Whyte, JSC., said at page 159:**

G **“The court below was free either to adopt the issues so formulated by leaned counsel or to formulate such issues that are consistent with the grounds of appeal filed by the appellant. It is in the observance of this principle in pursuit of the proper administration of justice that the court**  
 H **below considered an appropriate formulation of the issue consistent with the grounds of appeal as filed when it was observed that although the grounds of appeal were inelegantly drafted, the complaints therein were clear and not misleading.”**

See also Erhahon v. Erhahon (1997) 6 NWLR (Pt. 510) 667.

In Federal Republic of Nigeria v. Alhaji Anache In Re: Chief Olafisoye (2004) 1 SCNJ. I said at page 25:

*“Although Order 6 of the Supreme Court Rules does not provide that the court can suo motu formulate issues for determination, there could be compelling situations when there will be need for such an exercise. If such situations arise, there may be need to get the reaction of counsel, which could be brought to their notice during the hearing of the appeal. That will go in a big way to comply with the fair hearing principles in our law.”*

The issue formulated by the Court of Appeal reads:

*“The only issue in this appeal, is whether the leaned trial Judge rightly found that the respondent could not be ejected without faithful compliance with the provisions of Recovery of Premises Act.”*

**A party who complains about the formulation of issue or issues by the court must say what injustice has been done to him by such formulation. In the absence of such evidence, an appellate court cannot reverse the decision of the lower court. The formulation of the issue by the court must result in miscarriage of justice for this court to intervene in favour of the appellant . I have carefully examined the issue formulated by the court and I do not see the injustice done to the appellant.**

**In sum, this appeal fails and it is dismissed. I award N10,000.00 costs to the respondents.**

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### MOHAMMED JSC

I agree that the appellant was a licensee when he occupied the house allocated to him by the Federal Capital Development Authority. The respondent occupied the premises by virtue of the allocation paper, which was an exhibit before the trial court. The appellant is no longer under the employment of the 1st respondent and as such, he has no right to remain in the premises since the licence which permits him to stay in the house has expired by the termination of his employment.

I therefore entirely agree with my learned brother, Niki Tobi, JSC.,

that this appeal has no merit. For those reasons given in the lead judgment, I dismiss this appeal. I affirm the judgment of the Court of Appeal abide by the consequential orders made including the award of costs.

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B

**ONU JSC**

I have had the opportunity to read in draft the judgment of my learned brother, Niki Tobi, JSC., just delivered. I agree with him that the appeal is devoid of substance and therefore fails.

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In the result, I too dismiss it and make similar consequential orders, inclusive of costs as assessed therein.

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**MUSDAPHER JSC**

I have had the opportunity to read in advance the judgment of my Lord, Niki Tobi, JSC., just delivered with which I entirely agree. For the same reasons contained therein, which I respectfully adopt as mine, I too, E dismiss the appeal and abide by the consequential order as to costs.

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**EDOZIE JSC**

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The appellant, Emeka Nwana was on 13th May, 1982, employed as a Principal Technical Officer by the Federal Capital Development Authority, the 1st respondent. By virtue of that employment, the appellant was allocated a residential house where he lived with his family. About seven years later, precisely on 11th April, 1989, that employment was terminated on ground of misconduct in that he fraudulently converted the sum of N532.00 as medical expenses. Having unsuccessfully sued for nullification of the termination and re-instatement, he was asked to vacate the residential house but he refused to yield up possession and resisted being G ejected by obtaining an order of injunction. Notwithstanding that, on 21st September, 1989, the 1st respondent acting through the 3rd to 7th respondent, its servants and agents forcefully ejected the appellant and his family from the residential house aforesaid. In consequence thereof, the ap-

H

pellant sued the respondents claiming N250,000.00 as exemplary damages for trespass to the premises and his goods. The trial High Court in its judgment found in his favour and awarded him N 120,286.00 but the Court of Appeal thought differently and overturned that decision, hence the present appeal before this court.

The cardinal issue arising for determination in this appeal is whether the appellant's action against the respondents was maintainable. To answer this quest on, it is necessary to determine the status of the appellant, in regard to the house he was occupying, that is to say, whether he was a tenant thereof who could not be ejected therefrom without an order of court pursuant to the relevant Recovery of Premises Act or Law or whether he was merely a licensee liable to vacate the house on cessation of the employment. It is settled law that where an agent or servant is allowed to occupy premises belonging to his principal for the more convenient performance of his duties, he acquires no estate therein: See Wood fall's Law of Landlord and Tenant pages 294-295. He is merely a licensee and he has no right to continue to remain in the premises on the cessation of his employment. Consequently, he cannot maintain an action in trespass against his employer in the event of his eviction.

For the foregoing and the detailed analysis of the leading judgment of my learned brother, Niki Tobi, JSC., I dismiss the appeal with costs as awarded in the said judgment.