

CITATION (2004) 5 KLR

ISSN 1117-0530

KINGS LAW REPORTS

(ALL SC/NOVEL CA)

(2004) KLR VOL 5 PART 178 pp. 1255 - 1364

MAY 2004

Dedicated to the King of kings

O. O. NOEL ESQ. Chief Editor

INDEX OF CASES REPORTED

MAY CONTD.

5. Kwajaffa v. Bank of the North p. 1255
6. Obisi v. Chief of Naval Staff p. 1291
7. Arinze v. First Bank p. 1319
8. Jikantoro v. Dantoro p. 1331

ii **INDEX OF SUBJECT MATTER IN (2004) 5 KLR**

ACTIONS - Court Martial - Waiver - Appellant's failure to object - To composition of the court - Is a waiver of that right (H3) Obisi v. Chief of Naval Staff p. 1291

ACTIONS - Declaratory reliefs - Admission - Witnesses - Where witnesses were called in spite of the admission - Trial court's satisfactory evaluation - Will not be disturbed (H5) Jikantoro v. Dantoro p. 1331

ACTIONS - Declaratory reliefs - Grant of - By trial court - Shall not be based on default of defence - Or on admission (H4) Kwajaffa v. Bank of the North p. 1255

ACTIONS - Declaratory reliefs - Principle that guides grant of - Relevance of - Does not apply to this case - By reason of nature of the declaration claimed (H4) Jikantoro v. Dantoro p. 1331

APPEALS - Concurrent findings - Chieftaincy matters - Where injustice or perverseness was not shown - Concurrent findings will not be disturbed (H2) Jikantoro v. Dantoro p. 1331

APPEALS - Judgment appealed against - Whether it is right - Is appellate court's concern - Not the reasons for the judgment (H11) Jikantoro v. Dantoro p. 1331

APPEALS - Jurisdiction of Supreme Court - To hear appeals - Is not extended to decision of the High Court - But restricted to that of the Court of Appeal (H3) Kwajaffa v. Bank of the North p. 1255

APPEALS - Leave - Ground of appeal - Ground or issue - That was not raised before Court of Appeal - Is not competent before the Supreme Court - Without leave (H1) Kwajaffa v. Bank of the North p. 1255

BANKING - Loan account - Concurrent findings - Pleadings and evidence

- Did not show how appellants paid the loan they were owing - As rightly found by the courts below (H5) Kwajaffa v. Bank of the North p. 1255

CHIEFTAINCY MATTERS - Council of chiefs - Order of court - Does not derogate from the law - That requires Governor - To consult the council - Before approving an Emir elect (H7) Jikantoro v. Dantoro p. 1331

CHIEFTAINCY MATTERS - Selection of Emir - Validity of - Governor's directive in exhibit NB/2 - Was not violated - In the selection of 1st respondent as Emir (H1) Jikantoro v. Dantoro p. 1331

CHIEFTAINCY MATTERS - Vested right - Selection of 1st respondent by the kingmakers - Though Governor's approval was not acquired - He has a vested right in the emirate (H6)

COURT MARTIAL - Composition of - Armed Forces Act 1993 s. 129 - Liaison officer - Meaning of - Absence of Liaison officer and waiting member - Does not nullify the trial (H1) Obisi v. Chief of Naval Staff p. 1291

COURT MARTIAL - Oath taking - By members before commencement of trial - Is not in respect of every case - As oath taking at commencement of daily proceedings - Is enough (H4) Obisi v. Chief of Naval Staff p. 1291

COURT PROCESSES - Service of process - Proof - Affidavit of service - Is best evidence of proof - Under normal circumstance (H10) Jikantoro v. Dantoro p. 1331

COURTS - Evidence - Valuation of evidence by trial court - Is through imaginary scale for weighing evidence - Based on quality - And observation of demeanour of the witnesses (H6) Kwajaffa v. Bank of the North p. 1255

CRIMINAL PROCEDURE - Court Martial - Confessional statement - Trial within trial - As to examine a confessional statement - Will not arise - As the witness failed to show use of force (H6) Obisi v. Chief of

iv **INDEX OF SUBJECT MATTER IN (2004) 5 KLR**

Naval Staff p. 1291

CRIMINAL PROCEDURE - Court Martial - Conviction - Restitution of stolen property - Does not apply to appellant - As he was not convicted of stealing (H7) Obisi v. Chief of Naval Staff p. 1291

EVIDENCE - Admission - Chieftaincy matters - Quorum for selection - Two exhibits in this case - Show that appellants admitted - That 3 kingmakers constitute a quorum - And what is admitted needs on further proof (H3) Jikantoro v. Dantoro p. 1331

EVIDENCE - Witnesses - Statement in writing - Found to be an admission - Was not shown to be obtained under duress - By the witness (H5) Obisi v. Chief of Naval Staff p. 1291

JUDGMENTS - Validity of - Exparte order - Until set aside - A judgment of the court is binding - Whether it is null or not (H12) Jikantoro v. Dantoro p. 1331

MASTER & SERVANT - Irresponsibility - Concurrent findings - Of acts of irresponsibility against appellant - Is the case here (H1) Arinze v. First Bank p. 1319

MASTER & SERVANT - Judicial precedent - Garba's case - Has been misconstrued by many - The employer can dismiss - In all case of gross misconduct (H2) Arinze v. First Bank p. 1319

PRACTICE & PROCEDURE - Waiver - Claim - Amendment of - Without leave, and without payment of court fees - Not being raised before trial court - The issues are deemed to be waived (H9) Jikantoro v. Dantoro p. 1331

PRACTICE & PROCEDURE - Writ of summons - Pleadings - Statement of claim - As it supersedes the writ - Complaint against the amended writ and claim - Is not well founded (H8) Jikantoro v. Dantoro p. 1331

SUPREME COURT - Fresh point - Where sought to be raised - Leave must be obtained - The issues must be substantial - And further evidence will not be required (H2) Kwajaffa v. Bank of the North p. 1255

WORDS & PHRASES - “Liaison officer”- Meaning of - Court Martial - Composition of - Liaison officer - Is one that coordinates - An intercommunicating officer (H1) Obisi v. Chief of Naval Staff p. 1291

WORDS & PHRASES - “Waiting” - Meaning of - Court Martial - The waiting officer is not a member of the court (H2) Obisi v. Chief of Naval Staff p. 1291

INDEX OF STATUTES

Armed Forces Decree No. 105 of 1993 ss. 129, 133(1), 57(1), 138 Obisi v. Chief of Naval Staff p. 1291

Chiefs (Appointment and Deposition) Law Cap. 19, Laws of Niger State 1989, ss. 3, 7 Jikantoro v. Dantoro p. 1331

Criminal Procedure Act s.270(1) Obisi v. Chief of Naval Staff p. 1291

Land Use Act ss.22, 26, 7 Kwajaffa v. Bank of the North p. 1255