

KINGS LAW REPORTS

(ALL SC/NOVEL CA)

(2005) KLR VOL 6 PART 199 pp. 1667 - 1850

JUNE 2005

Dedicated to the King of kings

O. O. NOEL ESQ. Chief Editor

INDEX OF CASES REPORTED

JUNE CONTD.

8. A-G Abia State v. A-G Federation p. 1667
9. Amusan v. Obideyi p. 1745
10. Edem v. Canon Balls Ltd. p. 1753
11. Ogba v. Onwuzo p. 1781
12. Okafor v. A-G Anambra State p. 1795
13. Thor Limited v. First City Merchant Bank Limited p. 1807

COURT OF APPEAL CASE

Oshiomhole v. F.G.N. 1825 CA

ii INDEX OF SUBJECT MATTER IN (2005) 6 KLR

ACTIONS - Courts - Summary Judgments - Defence - If court allows a defence - Upon an application that disclosed no actual defence - The object of summary judgment procedure will be defeated (H4) Thor Ltd v. First City Mer. Bank Ltd p. 1807

ACTIONS - Limitation - Land Law - Acquisition by State Government - Time began to run - When Government violated terms of the acquisition - So that this action is not statute barred (H2) Okafor v. A-G Anambra State p. 1795

ACTIONS - Limitation of - Torts - Where writ is issued beyond the time allowed - By the applicable limitation law - Action is statute barred (H1) Amusan v. Obideyi p. 1745

ACTIONS - Parties - Counter claim - Striking out - Where 30th defendant was struck out as a party - Its counter claim is accordingly struck out (H2) A-G Abia State v. A-G Federation p. 1667

ACTIONS - Parties - Preliminary objection - As to parties that have dispute with plaintiff - Where it succeeds partially - Other parties are struck out (H1) A-G Abia State v. A-G Federation p. 1667

ACTIONS - Striking out - Where application was withdrawn - Or appellant's counsel was not available - But application was argued on merit - The proper order is dismissal (H2) Amusan v. Obideyi p. 1745

ACTIONS - Summary judgments - Leave to defend - Counter claim - Where groundless - Judgment will be given to the plaintiff (H6) Thor Ltd v. First City Mer. Bank Ltd p. 1807

AFFIDAVITS - Summary Judgments - Nature of supporting affidavit - Need not set out all the particulars - Nor verify the facts - Except by reference to statement of claim (H2) Thor Ltd v. First City Mer. Bank Ltd p. 1807

AGENCY - Agency relationship - Exists where a person called agent - Has the right to act - On behalf of another called principal (H2) Edem v. Canon

Balls Ltd p. 1753

APPEALS - Courts - Issues - Where an issue was not raised in the court below - Such issue should not be raised in the appeal court - But where it is fundamental in nature - The appeal court will be disposed to give leave - For the issue to be raised (H1) Ogba v. Onwuzo p. 1781

APPEALS - Issues - Relevance of - Where issues raised are not relevant to questions in dispute - Such issues will be rejected (H1) Edem v. Canon Balls Ltd p. 1753

BANKING - Interest rate - Is deemed to be accepted by a party - Where he received from the bank periodic statements of account - But did not dispute the accounts (H7) Thor Ltd v. First City Mer. Bank Ltd p. 1807

CONSTITUTIONAL LAW - Revenue allocation - Where there is a default in payment of loan - Given for development - Guaranteed by the Federal Government - It has the duty to pay the debts (H6) A-G Abia State v. A-G Federation p. 1667

COURTS - Evidence - Where evidence is strong enough to support the conclusion reached by trial court - It would be out of place for court below - To tamper with such finding of fact (H2) Ogba v. Onwuzo p. 1781

CREATION OF STATES - Statutes - Properties and Chattels - Where a State is newly created - Benefit of properties and chattels lying within are transferred to it - Together with some liabilities (H4) A-G Abia State v. A-G Federation p. 1667

JUDGMENTS - Constituent parts - Of good judgment - In case of a trial court - Includes questions to be decided - Essential facts of the case of each party - Evidence led - Resolution of the issues - Conclusion - And verdict made by Court (H3) Ogba v. Onwuzo p. 1781

JUDGMENTS - Standard - Appeals - Where judgment satisfied the required standard - And contains the needed elements - An appellate court - Cannot interfere with such judgment (H4) Ogba v. Onwuzo p. 1781

JUDGMENTS - Summary Judgments - Purpose of - Enables a party obtain judgment - Without need for full trial - Where the other party has no defence (H1) Thor Ltd v. First City Mer. Bank Ltd p. 1807

PLEADINGS - Reply to averment - Where plaintiff did not file a reply - To put defendants defence in doubt - Amounts to admission of facts - Pleaded by the defendant (H5) A-G Abia State v. A-G Federation p. 1667

PLEADINGS - Statement of defence - Where defendant fails to substantiate its statement - With detailed particulars supported by documents - There is no good defence to the action (H5) Thor Ltd v. First City Mer. Bank Ltd p. 1807

PRACTICE & PROCEDURE - Demurrer - Quick dispensation of matters - Can be better achieved after issues are joined - Without following archaic demurrer procedure (H1) Okafor v. A-G Anambra State p. 1795

PRACTICE & PROCEDURE - Reliefs - Alternative reliefs - Where claim was not established - Non of the reliefs will be granted (H7) A-G Abia State v. A-G Federation p. 1667

PRACTICE & PROCEDURE - Summary Judgment - Application for - Where the claim disclosed a reasonable cause of action - And it is properly verified by plaintiff's affidavit - It is in compliance with the High Court Rules (H3) Thor Ltd v. First City Mer. Bank Ltd p. 1807

STATUTES - Interpretation - Words - Where ordinary meaning of the words used in a provision are clear - Effects must be given to the words - Without resorting to any extrinsic aid (H3) A-G Abia State v. A-G Federation p. 1667

COURT OF APPEAL

ACTIONS - Motions - Evidence - Cogency of - Strike moves - Affidavits - Where attached documents - Were not retracted - It goes to support

alleged disrespect - To court orders (H4) Oshiomhole v. F.G.N. p. 1825 CA

APPEALS - Preliminary objection - Abandonment of - Where the objection is not moved - It is deemed abandoned (H1) Oshiomhole v. F.G.N. 1825 CA

APPEALS - Preliminary objection - Service of notice of, O. 3 r. 15 (1) CA Rules - Where served instantly - Without 3 clear days notice - The court lacks jurisdiction - Even where no objection was raised by the other party - About the wrongful service (H2) Oshiomhole v. F.G.N. p. 1825 CA

COURTS - Judgments - Binding effect of - Strike action - Where there is a subsisting judgment - Restraining respondents from embarking on any strike - It remains binding until set aside (H3) Oshiomhole v. F.G.N. p. 1825 CA

COURTS - Orders - Rule of law - Strike action - Democracy - To ridicule a court's order - Is an onslaught on democracy - Such order's - remain binding - And must be obeyed (H7) Oshiomhole v. F.G.N. p. 1825 CA

TRADE UNIONS - Strike - Nigeria Labour Congress - Strike over increase in pump price of petroleum products - Though in good spirit - Is illegal - Dialogues will achieve more positive results (H8) Oshiomhole v. F.G.N. p. 1825 CA

TRADE UNIONS - Strike action - Nigeria Labour Congress - Is not authorized by the section of the Constitution - It relied upon - And other relevant laws - To embark on strike action (H5) Oshiomhole v. F.G.N. p. 1825 CA

TRADE UNIONS - Strikes - Definition - Under Trade Dispute Act - Strike is defined as cessation of work - By employed body of persons - To compel their employer accept terms of employment (H6) Oshiomhole v. F.G.N. p. 1825 CA

INDEX OF STATUTES & RULES

Constitution of the Federal Republic of Nigeria 1963, s. 3(1) A-G Abia State v. A-G Federation p. 1667

Constitution of the Federal Republic of Nigeria 1999, s.232(1) A-G Abia State v. A-G Federation p. 1667

Decree No. 36 of 1996, s. 7(1) A-G Abia State v. A-G Federation p. 1667

States Creation and Transitional Provisions Act Cap. 413 LFN, 1990 s. 1(1) A-G Abia State v. A-G Federation p. 1667

States Creation and Transitional Provisions Decree (No. 12)1976, s. 1 A-G Abia State v. A-G Federation p. 1667

States Creation and Transitional Provisions Decree (No. 14) 1967, s. 1(1) A-G Abia State v. A-G Federation p. 1667

States Creation and Transitional Provisions Decree No. 41 of 1991, ss. 1(1) & (2), 3-8 A-G Abia State v. A-G Federation p. 1667

Supreme Court Rules (as amended in 1999), O. 2 r. 9 A-G Abia State v. A-G Federation p. 1667

Supreme Court Rules, O. 6 r. 8(7) Amusan v. Obideyi p. 1745

COURT OF APPEAL

Constitution of Nigeria 1999, ss. 40, 38(1) Oshiomhole v. F.G.N. p. 1825 CA

Court of Appeal Rules 2002, O. 3 r. 15(1) Oshiomhole v. F.G.N. p. 1825 CA

Trade Disputes Act Cap. 432, LFN, 1990, s. 42 Oshiomhole v. F.G.N. p. 1825 CA

Trade Unions Act Cap. 437, LFN, 1990, s. 34 Oshiomhole v. F.G.N. p. 1825 CA