

CITATION (2005) 7 KLR

ISSN 1117-0530

KINGS LAW REPORTS

(ALL SC/NOVEL CA)

(2005) KLR VOL 7 PART 201 pp. 2125 - 2220

JULY 2005

Dedicated to the King of kings

O. O. NOEL ESQ. Chief Editor

INDEX OF CASES REPORTED

JULY CONTD.

4. Adewuyi v. Odukwe p. 2125
5. Daniel Holdings Ltd. v. United Bank for Africa Plc. p. 2145
6. Nigerian Advertising Services Ltd. v. United Bank for Africa Plc. p. 2163
7. Ogologo v. Uche p. 2181
8. Williams v. Mokwe p. 2201

ADMINISTRATIVE LAW - Constitution - Amendment of - In an autonomous community - Is by government - After the community has passed a resolution lawfully - Requiring the amendment (H2) Ogologo v. Uche p. 2181

ADMINISTRATIVE LAW - Constitution - Of a community - Amendment of - Is not a judicial function - But administrative (H1) Ogologo v. Uche p. 2181

ADMINISTRATIVE LAW - Power - Exercise of - Courts - Where the law gives a body exclusive prior power to determine some issues - Court cannot come in before that body - Has exercised that power (H3) Ogologo v. Uche p. 2181

APPEALS - Competence - Leave - Issues of mixed law and fact - Require leave of court - Where leave of court is not obtained - Such issues will be struck out for being incompetent (H1) Williams v. Mokwe p. 2201

APPEALS - Competence - Objection - Where Court of Appeal granted leave to appeal - And notice of appeal was properly filed - And no appeal is made against the orders - The objection to competence of the appeal will fail (H3) Williams v. Mokwe p. 2201

APPEALS - Concurrent findings of fact - Supreme Court will not interfere - Unless they are not justified by evidence - And have occasioned a miscarriage of justice (H1) Daniel Holdings Ltd. v. U.B.A. Plc. p. 2145

APPEALS - Concurrent findings of fact - May be disturbed - Where there is insufficient evidence - To support them - Or where there is glaring miscarriage of justice (H3) N.A.S. Ltd. v. U.B.A. Plc. p. 2163

APPEALS - Leave - Grounds of appeal - Application for leave to appeal - Where respondent's grounds of appeal appear to be substantial - It will be unjust to shut him up - And refuse the application for leave to appeal (H5) Williams v. Mokwe p. 2201

APPEALS - Leave to appeal - Extension of time for - Can be granted -

Where conditions which must be fulfilled - To justify the grant - Have been satisfied (H4) Williams v. Mokwe p. 2201

BANKING - Interest - Evidence - Customer/Banker relationship - Where plaintiff paid money into its account - Which the bank failed to credit - It must have lost interest on its money - But there was no evidence on this point (H4) Daniel Holdings Ltd. v. U.B.A. Plc. p. 2145

DAMAGES - Banking - Special damages - Pleadings - Claim based on shortfall in tellers - Must be specifically pleaded - And strictly proved - By plaintiff calling evidence to prove each shortfall (H2) Daniel Holdings Ltd. v. U.B.A. Plc. p. 2145

EVIDENCE - Proof - Civil cases - Requirement of proof - Where there is no evidence to put on one side of the imaginary scale - Minimum evidence on the other side - Satisfies the requirement of proof (H2) Adewuyi v. Odukwe p. 2125

LAND LAW - Proof - Onus of proof lies on plaintiff - And he must succeed on the strength of his case - Not on weakness of the defence - Except defendant's case supports plaintiff's case (H1) Adewuyi v. Odukwe p. 2125

LAND LAW - Title - Proof - Burden of proof - Is on the plaintiff who is claiming title - And it never shifts to the defendant throughout the trial (H3) Adewuyi v. Odukwe p. 2125

PLEADINGS - Averment - Admission - Where a party makes a statement - Which amounts to prior acknowledgment by him - That one of the material facts relevant to the issue - Is not as he now claims - Such fact admitted requires no further evidential proof (H1) N.A.S. Ltd. v. U.B.A. Plc. p. 2163

PLEADINGS - Proof - Averment - Must be proved by evidence - Except where they are admitted by the other party (H2) N.A.S. Ltd. v. U.B.A. Plc. p. 2163

PRACTICE & PROCEDURE - Appeals - Joinder of parties - Where one was not a party before the trial court - It cannot appeal as of right - Against that judgment to any higher court (H2) Williams v. Mokwe p. 2201

PRACTICE & PROCEDURE - Pleadings - Claims - Will be deemed abandoned - Where claim made on the writ of summons - Is not repeated in the statement of claim (H3) Daniel Holdings Ltd. v. U.B.A. Plc. p. 2145

PRACTICE & PROCEDURE - Rules of court - Statute of general application - Judgment debt - Interest thereon - Where Lagos High Court Rules was not yet applicable - Plaintiff should be awarded interest - Under s. 17 of the English Judgments Act of 1838 (H5) Daniel Holdings Ltd. v. U.B.A. Plc. p. 2145

INDEX OF STATUTES & RULES

Constitution of the Federal Republic of Nigeria, 1979 ss. 220(1) & 222(a)
Williams v. Mokwe p. 2201

Court of Appeal Rules 1981 (as amended) O. 3 r. 4(2) Williams v. Mokwe
p. 2201

Evidence Act s. 149(d) N.A.S. Ltd. v. U.B.A. Plc. p. 2163

High Court Law of Lagos State (Civil Procedure) Rules Cap. 61, 1994 O.
38 r. 7 Daniel Holdings Ltd. v. U.B.A. Plc. p. 2145

High Court Law of Lagos State s. 12 Daniel Holdings Ltd. v. U.B.A. Plc.
p. 2145

Judgments Act of England, 1838 s. 17 Daniel Holdings Ltd. v. U.B.A.
Plc. p. 2145

Traditional Rulers and Autonomous Communities Law of Imo State, 1981
ss. 5(1) & (2), 15(1) - (4) Ogologo v. Uche p. 2181