

KINGS LAW REPORTS

(ALL SC/NOVEL CA) Parts 202 & 203 July 2005

(2005) KLR VOL 7 PART 202 pp. 2221 - 2386

JULY 2005

Dedicated to the King of kings

O. O. NOEL ESQ. Chief Editor

INDEX OF CASES REPORTED

JULY CONTD.

9. Ebhota v. P.I.P.D.C. Ltd. p. 2221
10. The Honda Place Ltd. v. Globe Motors p. 2245
11. Iderima v. Rivers State Civil Ser. Comm. p. 2273
12. Okposin v. Assam p. 2309
13. Owoseni v. Faloye p. 2331
14. Shittu v. Fashawe p. 2365

ii INDEX OF SUBJECT MATTER IN (2005) 7 KLR

ACTIONS - Chieftaincy matters - Right to sue - An appellant is entitled to sue - And seek declarations - Where the prescribed authority in charge of Chieftaincy matters - Neglects to exercise power (H3) Owoseni v. Faloye p. 2331

ACTIONS - Res judicata - Where relied upon by defendant - Is made out - Where issues in previous suit are the same - With issues in the present suit (H3) Okposin v. Assam p. 2309

AFFIDAVITS - Facts - Where they remain unchallenged - Court is bound to accept those facts as established - And they are deemed to have been admitted (H1) The Honda Place Ltd. v. Globe Motors p. 2245

APPEALS - Courts - Jurisdiction - Supreme Court - Has no jurisdiction to hear appeals - From the decisions of the High Court - Its jurisdiction - Is limited to a complaint - On decision of the Court of Appeal (H2) Shittu v. Fashawe p. 2365

APPEALS - Cross Appeal - Dismissal of - Is wrong - Where court did not consider it on the merits - On the ground that the trial of the matter was premature (H4) Owoseni v. Faloye p. 2331

APPEALS - Disposal of - Issues - Where a resolved single issue disposes an appeal - Academic consideration of the other issues is not necessary (H5) The Honda Place Ltd. v. Globe Motors p. 2245

APPEALS - Grounds of Appeal - Issues for determination - Must fall within the scope of grounds of appeal - Where issues fall outside it - Appeal is incompetent (H1) Shittu v. Fashawe p. 2365

APPEALS - Objection - Notice of Appeal - Ground of appeal - Application for leave - Notice of appeal is valid and proper - Where appellant filed both old and amended grounds of appeal together (H1) Okposin v. Assam p. 2309

APPEALS - Pleadings - Finding of lower court - Contention that it was not pleaded - Is not of any moment - Where the finding was properly raised from facts pleaded (H4) Ebhota v. P.I.P.D.C. Ltd. p. 2221

CHIEFTAINCY MATTERS - Access to court - Where appellant has satisfied prescribed steps - In determination of minor dispute - And prescribed authority does not do what is required of them - Then appellant has no option than to go to court (H2) Owoseni v. Faloye p. 2331

CONTRACTS - Agreements - Sub-dealership agreement - Abrogation of it in the parties' terms of settlement - When not made subject to anything - It is not subsisting and is dead for all purposes (H4) The Honda Place Ltd. v. Globe Motors p. 2245

COURTS - Appeals - Reversal - Evidence - Admissibility - Where inadmissible evidence is admitted - Court should reject the evidence - And consider if there is any remaining legal evidence to sustain the claim (H6) Shittu v. Fashawe p. 2365

COURTS - Judgments - Res judicata - Decision - Is final - Where it finally disposes of the rights of the parties - So that consent judgment - Pursuant to parties' terms of settlement - Is a final decision (H3) The Honda Place Ltd. v. Globe Motors p. 2245

COURTS - Justice - Issues before the court - Lack of understanding of the case by the court - May lead to total failure of justice (H4) Iderima v. Rivers State Civil Ser. Comm. p. 2273

ESTOPPEL - Res judicata - To succeed - Must follow certain conditions - And a party must not be allowed to relitigate a matter - That has been settled - By a court of competent jurisdiction (H2) The Honda Place Ltd. v. Globe Motors p. 2245

iv INDEX OF SUBJECT MATTER IN (2005) 7 KLR

EVIDENCE - Admissibility - Objection - Where a party fails to object to the admission of an inadmissible evidence - He cannot be allowed to raise an objection - At the appeal stage - Unless the evidence - Was absolutely legally inadmissible (H5) Shittu v. Fashawe p. 2365

EVIDENCE - Appeals - Documents - Admissibility - Where court wrongly admits inadmissible evidence - And such evidence is acted upon - Appellate Court has the duty to exclude such evidence (H4) Shittu v. Fashawe p. 2365

LAND LAW - Title - Proof - Burden of proof - In civil matters - Is always on the party who makes an assertion - And he must satisfy the court - That he is entitled to the declaration sought (H3) Shittu v. Fashawe p. 2365

LANDLORD & TENANT - Sub-lease - Increase in rent - Use of the phrase “subject to” - Has the effect of making increase in rent - Subject to the approval of the Federal Government - Where appellant obtains such approval - Then increase in rent is properly done (H3) Ebhota v. P.I.P.D.C. Ltd. p. 2221

LEASES - Documents - Parties to an agreement - Tenants’ contention that they have priority of interest - To buy government houses occupied by them - Is not tenable - As they are not parties to Exh. 2 sought to be relied upon (H5) Ebhota v. P.I.P.D.C. Ltd. p. 2221

LEGAL DRAFTING - Leases - “Subject to” used in a sub-lease - Has same effect as when used in a Statute - As a phrase which introduces a condition or limitation (H2) Ebhota v. P.I.P.D.C. Ltd. p. 2221

MASTER & SERVANT - Appeals - Civil Servant - Appointment that has statutory flavour - Where terminated wrongfully - The servant will be restored to his post (H5) Iderima v. Rivers State Civil Ser. Comm. p. 2273

MASTER & SERVANT - Civil servant - Investigation - Where query did not emanate from the Commission - Which is the appropriate authority - It is improper that the investigation was not done by the Commission - And reliance on it is improper (H2) Iderima v. Rivers State Civil Ser. Comm. p. 2273

MASTER & SERVANT - Civil Service Rules - Discipline of officers - Should be strictly in accordance with the provision of the Rules - So that disciplinary steps against appellant - By an unauthorized body or person - Is of no effect (H1) Iderima v. Rivers State Civil Ser. Comm. p. 2273

MASTER & SERVANT - Employment - Termination of - Where employment has statutory backing - It can only be terminated in the way and manner - Prescribed by the relevant statute (H3) Iderima v. Rivers State Civil Ser. Comm. p. 2273

PLEADINGS - Germane facts - Though parties are bound by their pleadings - It is not expected that all facts germane to a party's case - Must be pleaded - And pleaded facts that raise a reasonable inference of law - Cannot be exclude from the consideration of the court (H1) Ebhota v. P.I.P.D.C. Ltd. p. 2221

PLEADINGS - Res judicata - Sustenance of - Party pleading it must satisfy certain conditions - Failure to satisfy the conditions - Means failure of the plea in its entirety (H2) Okposin v. Assam p. 2309

PRACTICE & PROCEDURE - Parties - Evidence - Appearance of a party - In court to give evidence - Is not necessary - Where the claims are proved to the satisfaction of the court (H7) Shittu v. Fashawe p. 2365

PRACTICE & PROCEDURE - Right to sue - Statutes - Where statute prescribes a legal line of action - In administrative, chieftaincy or taxation matters - Aggrieved party must exhaust all remedies in the law before going

to court (H1) Owoseni v. Faloye p. 2331

INDEX OF STATUTES & RULES

Chiefs Law of Ondo State, 1984 s. 13(4), (5), (6) & (7) Owoseni v. Faloye p. 2331

Constitution of the Federal Republic of Nigeria 1979 ss. 33(1) & 236
Iderima v. Rivers State Civil Ser. Comm. p. 2273

Evidence Act s. 54 The Honda Place Ltd. v. Globe Motors p. 2245

Evidence Act, 1990 ss. 76 & 132 Shittu v. Fashawe p. 2365

Land Instrument Registration Law, Laws of Lagos State, 1994 ss. 2 & 26
Shittu v. Fashawe p. 2365

Land Use Act Cap. 202 LFN, 1990 ss. 22 & 26 Shittu v. Fashawe p. 2365

Rivers State Civil Service Rules rr. 04104, 04106(e) & 04107 Iderima
v. Rivers State Civil Ser. Comm. p. 2273