

KINGS LAW REPORTS

(ALL SC/NOVEL CA)

(2007) KLR VOL 5 PART 236 pp. 2089 - 2234

MAY 2007

Dedicated to the King of kings

O. O. NOEL ESQ. Chief Editor

INDEX OF CASES REPORTED

1. African Reinsurance Corporation v. J.D.P. Construction Nig. Ltd. p. 2089
2. Edibo v. State p. 2109
3. Okoli v. Morecab Finance (Nig) Ltd. p. 2145
4. Salawu v. Yusuf p. 2177
5. Witt & Busch Limited v. Dale Power Systems Plc p. 2209

ii INDEX OF SUBJECT MATTER IN (2007) 5 KLR

ACTIONS - Contracts - Diplomatic immunity - Where the contract provided that any dispute - Could be litigated upon - Appellant cannot claim that it has not waived its immunity (H3) African Reinsurance Corp. v. J.D.P. Constr. Ltd p. 2089

ACTIONS - Diplomatic immunity - Exclusion of - Fantaye case - Immunity granted appellant excludes its commercial activities - Appellant successfully raised its immunity in Fantaye case - Because waiver was not proved (H2) African Reinsurance Corp. v. J.D.P. Constr. Ltd p. 2089

ACTIONS - Diplomatic immunity - How it was developed - State can sue in foreign courts - But cannot be sued there - Save they voluntarily submit to jurisdiction (H1) African Reinsurance Corp. v. J.D.P. Constr. Ltd p. 2089

APPEALS - Issues - Exhibits - That were not material to the determination of the case - Trial court was right - In not attaching evidential value to them (H4) Salawu v. Yusuf p. 2177

APPEALS - Preliminary objection - Criminal procedure - Defences - Where defences raised on appeal are supported by evidence - Objection against them is unfounded - Seeing that an accused is entitled to any available defence - Whether raised by him or not (H1) Edibo v. State p. 2109

APPEALS - Retrial - Criminal proceedings - Factors that justify order of retrial - Include that it will not be oppressive against appellant (H3) Edibo v. State p. 2109

CHIEFTAINCY MATTERS - Courts - Traditional history - Allegation that trial court - Wrongfully applied demeanour of witness - In consideration of acts in recent years - Is not correct (H2) Salawu v. Yusuf p. 2177

CHIEFTAINCY MATTERS - Evidence - Traditional history - When conflicting and inconclusive on both sides - Trial court should consider acts in recent years (H1) Salawu v. Yusuf p. 2177

CRIMINAL LAW - Arrest - Murder - Manslaughter - Where force used in effecting arrest was not excessive - But death occurred - Manslaughter would be the conviction to impose (H4) Edibo v. State p. 2109

CRIMINAL PROCEDURE - Appeals - Retrial - Propriety - Where order of retrial will be oppressive - Verdict of discharge will be made (H5) Edibo v. State p. 2109

CRIMINAL PROCEDURE - Arraignment - Plea - Propriety of - Where plea was taken in the judge's chambers - Instead of a public place prescribed by s.33 (3) 1979 Constitution - The proceedings are null and void (H2) Edibo v. State p. 2109

EVIDENCE - Contradictions - Chieftaincy - Where the contradictions are immaterial - To the fundamental issue - Court of Appeal rightly confirmed trial court's findings (H3) Salawu v. Yusuf p. 2177

JUDGMENTS - Foreign judgments - Appeals - Issues - Jurisdiction - Complaint against an obiter - Is of no value - Facts of this case - Precludes appellant from attacking the foreign court's jurisdiction (H4) Witt & Busch Ltd v. Dale Power Systems Plc p. 2209

JUDGMENTS - Foreign judgments - Registration of - Supreme Court - Urge on it to depart from its previous decisions - Is not substantiated - And appellant's complaint about applicable statute - Is baseless (H2) Witt & Busch Ltd v. Dale Power Systems Plc p. 2209

JUDGMENTS - Foreign judgments - Registration of in Nigeria - Applicable law - Is resolved vide Macaulay case - To be both the 1958 Ordinance and the 1990 Act - Thereby making the judgment of English court -

iv INDEX OF SUBJECT MATTER IN (2007) 5 KLR

Registerable in this case (H1) Witt & Busch Ltd v. Dale Power Systems Plc p. 2209

JUDGMENTS - Statutes - Foreign currency - Registration of foreign judgment - Being properly done under applicable statute - Cannot be attacked under inapplicable provision - For being in foreign currency (H3) Witt & Busch Ltd v. Dale Power Systems Plc p. 2209

UNDEFENDED SUITS - Affidavits - Intention to defend - Notice of - Depositions in the affidavit - Did not disclose any defence on the merit - Vide O.24 r. 9 - To justify transferring suit to general cause list (H1) Okoli v. Morecab Finance Ltd p. 2145

UNDEFENDED SUITS - Defence - Delay tactics - Purported defence - That amounts to a trick unto gaining time - Will not be accepted by the courts (H4) Okoli v. Morecab Finance Ltd p. 2145

UNDEFENDED SUITS - Defence - Fraud - To avail a defendant - It must be on matters relevant to plaintiff's case (H3) Okoli v. Morecab Finance Ltd p. 2145

UNDEFENDED SUITS - Defence - Fraud - Where not particularized or proved - Defendant's move to defend will fail (H5) Okoli v. Morecab Finance Ltd p. 2145

UNDEFENDED SUITS - Defence - Transaction between third parties - Dragging it in as a purported defence - Is not proper (H2) Okoli v. Morecab Finance Ltd p. 2145

INDEX OF STATUTES & RULES

Constitution of the Federal Republic of Nigeria 1979 ss. 33(3) and 216
Edibo v. State p. 2109; s. 12(1) African Reinsurance Corp. v. J.D.P.
Constr. Ltd p. 2089

Constitution of the Federal Republic of Nigeria 1999 s. 36(3) Edibo v. State
p. 2109

Evidence Act S. 150(1) Edibo v. State p. 2109

Foreign Judgments (Reciprocal Enforcements) Act Laws of the Federa-
tion of Nigeria, 1990 ss. 3(1), 4, 6 & 10 Witt & Busch Ltd v. Dale Power
Systems Plc p. 2209

High Court (Civil Procedure) Rules of Western Region O. 25 r. 3 Edibo
v. State p. 2109

High Court of Lagos State (Civil Procedure) Rules 1994 O. 17 r. 11 African
Reinsurance Corp. v. J.D.P. Constr. Ltd p. 2089

High Court Rules of Anambra State O.24 r. 9 Okoli v. Morecab Finance
Ltd p. 2145

Reciprocal Enforcement of Judgments Act Cap. 175 Laws of the
Federation of Nigeria, 1958 s. 3(1) Witt & Busch Ltd v. Dale Power
Systems Plc p. 2209

Revised Edition (Laws of the Federation of Nigeria) Act No. 21 Of 1990
ss. 3(2), 9 Witt & Busch Ltd v. Dale Power Systems Plc p. 2209

Supreme Court Rules 1985 (as amended) O. 6 rr. 3(1)(2), 9, O. 5 r. (1)
Edibo v. State p. 2109; O. 6 r 8(6) Okoli v. Morecab Finance Ltd p. 2145