

KINGS LAW REPORTS

(ALL SC/NOVEL CA)

(2007) KLR VOL 7 PART 243 pp. 3437 - 3704

JULY 2007

Dedicated to the King of kings

O. O. NOEL ESQ. Chief Editor

INDEX OF CASES REPORTED

JULY CONTD.

8. Chevron Nigeria Limited v. Lonestar Drilling Nigeria Limited p. 3437
9. Ladoja v. Independent National Electoral Commission p. 3461
10. Obi v. Independent National Electoral Commission p. 3515
11. Okonkwo v. Ngige p. 3613
12. Omnia Ltd v. Dyktrade Limited p. 3635
13. Orunengimo v. Egebe p. 3681

ii INDEX OF SUBJECT MATTER IN (2007) 7 KLR

ACTIONS - Cause of action - Meaning of - It is the aggregate of legally recognized facts - That give plaintiff right to seek the remedy (H1) Chevron Ltd v. Lonestar Drilling Ltd p. 3437

ACTIONS - Cause of action - Validity of - Contracts - Averments in the statement of claim - Show a breach of contract - Which is a valid cause of action to be heard - Even if the action may fail (H3) Chevron Ltd v. Lonestar Drilling Ltd p. 3437

ACTIONS - Jurisdiction - Admiralty - Contracts - Plaintiff's claim is for breach of contract - And has nothing to do - With Federal High court's admiralty jurisdiction (H5) Chevron Ltd v. Lonestar Drilling Ltd p. 3437

ACTIONS - Jurisdiction - Elections - Declaratory order - Nature - Plaintiff who intends to have an enforceable legal right - Must also seek injunctive order and or Damages - High Court can entertain this action (H4) Obi v. INEC p. 3515

ACTIONS - Jurisdiction - Federal High Court - Ss. 180 & 285 of 1999 Constitution - Looking at the claim which is predicated on s. 180 (2) (a) - Reliefs Sought are within Federal High Court's jurisdiction - Court of Appeal was wrong in holding otherwise (H2) Ladoja v. INEC p. 3461

ACTIONS - Jurisdiction - Tenure of Governor's office - Where appellant seeks Constitutional pronouncement - As to his tenure in office - Federal High Court has jurisdiction - Lower courts' contrary decision is set aside (H7) Obi v. INEC p. 3515

ACTIONS - Reliefs - Declaratory reliefs - Plaintiff must have necessary standing to sue - Judgment which is discretionary - Will only be granted to a party - Fully entitled to exercise of Court's discretion (H3) Obi v. INEC p. 3515

APPEALS - Court of Appeal - Powers - Court of Appeal Act s. 16 - Nature of power conferred on the Court - Conditions precedent to application of the section - Include that trial court must have jurisdiction (H8) *Obi v. INEC* p. 3515

APPEALS - Justice - Supreme Court - Powers - Supreme Court Act s. 22 - Purpose and when to be invoked - Is where Court of Appeal fails to apply s. 16 C A Act - And all necessary materials for determination of the case - Are before the Court (H9) *Obi v. INEC* p. 3515

APPEALS - Supreme Court - Issue - Necessity of - Where findings on prior issues - Make consideration of an issue futile - Need to deal with it becomes obviated (H5) *Omnia Ltd v. Dyktrade Ltd* p. 3635

CONSTITUTIONAL LAW - Election petitions - Appeal - Where ruling of Court of Appeal appealed against - Relates to Governorship election under s.246(3) 1999 Constitution - The matter terminates at the lower court - Leaving no spill over room to the Supreme Court (H2) *Okonkwo v. Ngige* p. 3613

CONSTITUTIONAL LAW - Elections - Appeal - Character of - Is not changed - By section of Constitution relied upon - Though appellant comes under s. 243 (a) - The matter relates to elections under s. 246 1999 Constitution (H1) *Okonkwo v. Ngige* p. 3613

CONSTITUTIONAL LAW - Governor's four-year term - Calculation of vide s. 180 (2) (a) of 1999 Constitution - For a person first elected as Governor - Begins to run from date of his taking Oath of Office (H11) *Obi v. INEC* p. 3515

CONSTITUTIONAL LAW - Governor's tenure of office - Actions - Expeditious hearing - Extension of appellant's fixed four year tenure under s. 180 (2) (a) 1999 Constitution - Cannot be done by any court (H4) *Ladoja v. INEC* p. 3461

CONSTITUTIONAL LAW - Interpretation - Elections - Governor's four-year term of office - Court's application of s. 180 (2) (a) of 1999 Constitution - Will not truncate election time table - Judge is to declare what the law is - Not what it ought to be (H12) *Obi v. INEC* p. 3515

CONSTITUTIONAL LAW - Jurisdiction - Court of Appeal erred - In linking present case - To class of matters that should be tried - By Election Tribunals under s. 285 (1) (b) 1999 Constitution - Unto denial of its and trial court's jurisdiction (H3) *Ladoja v. INEC* p. 3461

CONSTITUTIONAL LAW - Jurisdiction - Federal High Court - S. 251 (1) (q) & (r) of 1999 Constitution empowers the court - With duty of interpreting the Constitution - And the phrase notwithstanding - Is meant to preserve and not fetter the section (H6) *Obi v. INEC* p. 3515

CONSTITUTIONAL LAW - Tenure of Governor's Office - Election Tribunals - S. 184 of 1999 Constitution - Question of appellant's four year term as Governor - Is not for Election Tribunal to determine - Given the circumstances of this case (H5) *Obi v. INEC* p. 3515

COURTS - Actions - Hearing - Ought not be denied a party - Save where the action is devoid of all merits - Even on the supposition that the statement of claim is admitted (H4) *Chevron Ltd v. Lonestar Drilling Ltd* p. 3437

COURTS - Federal High Court - Jurisdiction of - Is widened by ss. 251 (1) (f) & 315 of the 1999 Constitution - As that court is within legislative power of the National Assembly (H1) *Omnia Ltd v. Dyktrade Ltd* p. 3635

COURTS - Jurisdiction - Appeals - Fair hearing - Issue of jurisdiction - Raised towards tail end of appeal proceedings - Was properly taken - Save that Court of Appeal ought to have heard all the parties (H1) *Ladoja v. INEC* p. 3461

COURTS - Jurisdiction - Appeals - Grounds of appeal - Reference to Court of Appeal - Where a court declines jurisdiction - Striking out the suit is the only step to take - Grounds seeking different step - Were rightly struck out by lower court (H1) *Obi v. INEC* p. 3515

COURTS - Jurisdiction - How examined - Definition - When a court is said to have original or appellate jurisdiction - A decision without jurisdiction is tantamount to nothing (H2) *Obi v. INEC* p. 3515

ESTOPPEL - Issue estoppel - Trademark - Subsequent registration of - Is a new event that has made present circumstances different - From issues considered in earlier matter that went up to the Supreme Court (H4) *Omnia Ltd v. Dyktrade Ltd* p. 3635

LAND LAW - Issues - Identity of land - Where known to the parties - And no issues were joined on it before lower courts - It cannot be made an issue before the Supreme Court (H1) *Orunengimo v. Egebe* p. 3681

LAND LAW - Pleadings - Purpose - Sale of family land - Under customary law - Ingredients of - That need be pleaded - Were copiously pleaded in the statement of defence (H2) *Orunengimo v. Egebe* p. 3681

LAND LAW - Sale - Evidence - Findings of lower courts - That outright sale of land in dispute - Was made to defendants - Will not be disturbed (H5) *Orunengimo v. Egebe* p. 3681

LAND LAW - Sale - Proof - Family land - There is overwhelming evidence - That an authorized member of plaintiffs' family - Sold the land to defendants (H4) *Orunengimo v. Egebe* p. 3681

PLEADINGS - Cause of action - Proposition - That plaintiff has no reasonable cause of action - Can only be based on the statement of claim - Irrespective of defendant's defence (H2) *Chevron Ltd v. Lonestar Drilling Ltd* p. 3437

PLEADINGS - Statement of claim - Where filed already - It supersedes the writ of summons - And becomes the basis for any application in the suit (H3) *Omnia Ltd v. Dyktrade Ltd* p. 3635

PLEADINGS - Sufficiency of - Issue - Complaints about lack or insufficiency of pleadings - Is unfounded - As that issue was not raised at the lower courts (H3) *Orunengimo v. Egebe* p. 3681

STATUTES - Interpretation - Constitution - Principles of interpreting - Demand that Judges give no colouration to clear provisions - In line with intention of the Legislature (H10) *Obi v. INEC* p. 3515

SUPREME COURT - Jurisdiction - Appeal - Where right of appeal is not constitutionally conferred - The court has no jurisdiction to entertain the appeal (H3) *Okonkwo v. Ngige* p. 3613

TRADE MARKS - Passing off - Federal High Court has jurisdiction - Even in a case of unregistered trade mark - But the unregistered trade mark in this suit - Has been registered at time of filing statement of claim (H2) *Omnia Ltd v. Dyktrade Ltd* p. 3635

INDEX OF STATUTES & RULES

Constitution of Nigeria 1979 s. 230 (1) (f) as amended by decree 107 of 1993 *Omnia Ltd v. Dyktrade Ltd* p. 3635

Constitution of Nigeria 1999 ss. 180 (2) (a), 178 (1) & (2), 285 (1) (b) - (d), 251 (1) (q) (r), 240, 144, 189, 1 (2), 19 (1), 305, 191, *Ladoja v. INEC* p. 3461; ss.180 (2) (a), 251 (1) (r) & (q), 178, 184, 285, 189, 139, 318, 144, 68, 69, 109, 110, 135 (2) (a) *Obi v. INEC* p. 3515; ss. 251 (1) (f),

315 Omnia Ltd v. Dyktrade Ltd p. 3635

Constitution of the Federal Republic of Nigeria 1999 ss. 246 (1), (2) & (3),
233, 243 (a), 232 Okonkwo v. Ngige p. 3613

Court of Appeal Act s. 16 Obi v. INEC p. 3515

Decree 107 of 1993 s. 230 (g) & (o) Chevron Ltd v. Lonestar Drilling Ltd
p. 3437

Evidence Act ss. 99, 100, 107 Orunengimo v. Egebe p. 3681

Federal High Court (Amendment) Decree No. 60 of 1991 ss. 2, 7 (1) (f)
Omnia Ltd v. Dyktrade Ltd p. 3635

Federal High Court Act 1973 s. 7 (1) Omnia Ltd v. Dyktrade Ltd p. 3635

High Court Rules of Eastern Nigeria O. 33 r. 5 Orunengimo v. Egebe p.
3681

Supreme Court Act s. 22 Ladoja v. INEC p. 3461; Obi v. INEC p. 3515

Supreme Court Rules O. 2 r. 9 Okonkwo v. Ngige p. 3613

Trade Marks Act, Cap 436, LFN 1990, ss.22(2) & (4), 3 Omnia Ltd v.
Dyktrade Ltd p. 3635