

KINGS LAW REPORTS

(ALL SC/NOVEL CA)

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Dedicated to the King of kings

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ACCIDENTS - Speed - Pleadings - Binding effect - Parties are bound by their pleadings - Any evidence not supported by pleadings should be ignored - So also facts pleaded but not canvassed at hearing - Like the fact of excess speed herein (H2) Abubakar v. Joseph p. 2449

APPEALS - Appellate court - Findings of fact - Power to make - Under Court of Appeal Act s. 16 - Though the Court may make findings of fact based on evidence on record - It is not at liberty to reconstruct a party's case (H3) Abubakar v. Joseph p. 2449

APPEALS - Enlargement of time - Considerations - Once good reasons are shown - For failure to appeal within time - Court should grant the prayer - If there is prima facie good grounds of appeal - As right of appeal is constitutional - It should not be readily denied (H1) Ifekandu v. Uzoegwu p. 2553

APPEALS - Enlargement of time - Considerations - Once good reasons are shown - For failure to appeal within time - Court should grant the prayer - If there is prima facie good grounds of appeal - Unless there are compelling reasons to do otherwise (H1) N.I.W.A v. Shell Petroleum p. 2585

APPEALS - Further evidence - Admission of - Guiding principles - It must be shown that evidence sought to be admitted - Is credible, important and could not have been obtained for use at trial with reasonable diligence - Which was not the case herein (H1) Ehinlanwo v. Oke p. 2493

APPEALS - Grounds - Validity - Ground of appeal not arising from the judgment appealed against - Is invalid and liable to be struck out - As is the fate of 5th ground herein and 3rd issue arising therefrom (H1) Abubakar v. Joseph p. 2449

APPEALS - Grounds of appeal - Nature of - It does not depend on branding by counsel - It is to be determined by examining the ground - Together with its particulars - In the instant case only five grounds are of pure law (H3) Ehinlanwo v. Oke p. 2493

APPEALS - Scope - Points not appealed - Where there is an appeal on some points only of a decision appealed against - Other points not appealed against - Remain unchallenged and binding on Appellant (H1) Micheal v. State p. 2563

APPEALS - Validity - Absence of prior necessary leave - Whether cured by leave to amend - Leave to appeal initiates an appeal process where leave is required - Leave to amend grounds relates to and presupposes an existing valid appeal - One cannot take the place of other (H2) Ehinlanwo v. Oke p. 2493

COURTS - Abuse of process - Manifestations - Both proper and improper use of judicial process could amount to abuse of process - It is the inconvenience and inequities involved in the aims of an action - That constitute abuse of process (H1) Ojo v. Olawore p. 2645

CRIMINAL LAW - Murder - Conviction - Absence of corpus delicti - Accused can be convicted for murder - If there is strong unequivocal evidence that the victim is dead - Notwithstanding the absence of corpus delicti (H1) Ochemaje v. State p. 2605

CRIMINAL LAW - Offences - Culpable homicide punishable with death - Ingredients - Prosecution must prove human death caused by intentional or reckless act of accused - Cause and intention being inferred from surrounding circumstances - As in this case (H2) Micheal v. State p. 2563

CRIMINAL LAW - Offences - Liability - Common intention - Where two or more persons form common intention - To do an unlawful act such as armed robbery as in this case - And in furtherance of the intention a person is killed - None of them can deny liability for the killing (H3) Micheal v. State p. 2563

CRIMINAL PROCEDURE - Alibi - Failure to investigate - Effect - Not every failure of police to investigate an alibi raised - Is fatal to the case of prosecution - Court rightly rejected plea in this case - In view of eye

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witness accounts (H2) Ochemaje v. State p. 2605

ELECTIONS - Candidates - Nominations - Power of political parties - Whatever method adopted - Nomination of candidates to be sponsored by a political party - Remains within the absolute jurisdiction of respective parties - To the exclusion of courts (H4) Ehinlanwo v. Oke p. 2493

ELECTIONS - Candidates - Substitutions - Cogency of reason - Reason that a name was submitted "without enough information" is neither cogent nor verifiable - As such it does not satisfy statutory requirements (H6) Ehinlanwo v. Oke p. 2493

ELECTIONS - Candidates - Substitutions - Electoral Act 2006, s. 34 (2) - It is mandatory that party seeking substitution must provide cogent and verifiable reasons for it - It also has the burden of proving valid substitution when challenged (H5) Ehinlanwo v. Oke p. 2493

ESTOPPEL - Issue estoppel - Applicability - Conduct of Appellants amounts to re-litigating on issues already decided - Between the same parties in a court of competent jurisdiction - Neither party nor his agent or privy would be allowed to do so (H2) Ojo v. Olawore p. 2645

EVIDENCE - Proof - Contradictions - Resolution by court - It is a demonstration of proper evaluation of evidence before it - When court resolves apparent contradictions in testimony of witnesses - As done by the trial court herein (H3) Ochemaje v. State p. 2605

ORDERS OF COURT - Dismissal - Propriety of - Where a Plaintiff fails to prove his case as postulated on his pleadings - The proper order to make is an order of dismissal - As rightly made by the Court of Appeal (H4) Abubakar v. Joseph p. 2449

PLEADINGS - Statement of claim - Binding effect - Parties are bound by their pleadings - Any evidence not supported by pleadings should be ignored - So also facts pleaded but not canvassed at hearing - Like

the fact of excess speed herein (H2) Abubakar v. Joseph p. 2449

SUPREME COURT - Decisions - Effect - Finality of Supreme Court decisions in civil proceedings - Is absolute unless specifically set aside by later legislation - Which was not the case herein (H3) Ojo v. Olawore p. 2645

INDEX OF STATUTES & RULES

Constitution of the Federal Republic of Nigeria, 1999, s. 287 (1) Ojo v. Olawore p. 2645; s. 233 (3) Ehinlanwo v. Oke p. 2493

Constitution of the Federal Republic of Nigeria, 1979, s. 251(1) Ojo v. Olawore p. 2645

Court of Appeal Act, s. 16 Abubakar v. Joseph p. 2449

Electoral Act, 2006, ss. 32 (1), (2), 33 & 34 (2) Ehinlanwo v. Oke p. 2493

Evidence Act, cap 112, L.FN, 1990 ss. 138 & 144 (1) Ochemaje v. State p. 2605; s. 14 (d) Abubakar v. Joseph p. 2449

Penal Code Law, ss. 97(1), 221, 298(c) and 336 Micheal v. State p. 2563

Penal Code Laws, cap 89, Laws of Northern Nigeria, ss. 221, 246, & 307 Ochemaje v. State p. 2605

Supreme Court Rules, 1985, O. 2 r. 12 (1) Ehinlanwo v. Oke p. 2493

Supreme Court Rules, 1999, O. 2. r. 31(2), O. 6. r. 2(1)(b), (2) & (3) N.I.W.A v. Shell Petroleum p. 2585; O. 2 r. 31 Ifekandu v. Uzoegwu p. 2553