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Dedicated to the King of kings

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ACTIONS - Commencement - Wrong procedure - Effect - An action wrongly commenced is incompetent - Accordingly it robs the court of jurisdiction to hear and determine the same (H2) Drexel Ltd v. Trans Inter Bank Ltd p. 3803

ACTIONS - Locus standi - Requirement - Plaintiff is required to have locus standi whenever he seeks to establish a private right - By showing sufficiency of interest - In the performance of the duty sought to be enforced (H1) Ojukwu v. Ojukwu p. 3941

APPEALS - Issues - Abatement - Where an issue subsequently becomes academic - By reason of resolution of other issues before it - A court will have no jurisdiction to hear and determine it (H4) Drexel Ltd v. Trans Inter Bank Ltd p. 3803

APPEALS - Issues - Basis of - Question of the proper order to make if an appeal is allowed - Cannot properly form the basis of an issue in an appeal - It is a matter within discretion of the appellate court (H1) Onyia v. State p. 3959

APPEALS - Issues - Not based on appellant's notice of appeal - Validity - It is invalid unless it is shown that the respondent filed a cross appeal - Or respondent's notice upon which it may be seen to be based (H1) Drexel Ltd v. Trans Inter Bank Ltd p. 3803

COURT MARTIAL - Finding & sentencing - Armed Forces Decree, s. 141 - What the trial General Court Martial did on 28th July complied with the provisions of the section - Therefore it lacked the jurisdiction to pronounce a subsequent sentence on 4th August (H2) Nigerian Army v. Iyere p. 3881

COURT MARTIAL - Sentences - Power to review - It would have such power if directed by the confirming authority - But even then it can not substitute a severer punishment than that already handed down (H3) Nigerian Army v. Iyere p. 3881

COURT MARTIAL - Sentences - Review that is ultra vires - Effect -

Such a review constitutes a fundamental defect in the proceedings - Which rendered the proceedings null & void (H4) Nigerian Army v. Iyere p. 3881

COURTS - Jurisdiction - Sources of - Ordinarily the Constitution and the statutes are the sources - But in a military regime it is the Decrees and Edicts - As a Decree was capable of suspending, modifying or abrogating the Constitution (H2) A-G Federation v. Abubakar p. 3983

CRIMINAL PROCEDURE - Interpreter - Necessity for - It is only necessary where a person charged with an offence - Does not understand the language used at the trial (H2) Onyia v. State p. 3959

DAMAGES - Quantum - Nonpecuniary loss - Principles of - It is assessed with a view to a fair and reasonable compensation - Depending on the nature of injury and circumstance of the plaintiff (H7) Iyere v. Bendel Feed & Flour Mill Ltd p. 3837

ESTOPPEL - By conduct - Applicability - The facts of this case particularly as they relate to exhibit A - Does not fall within the purview of s. 151 Evidence Act - As to make estoppel applicable (H3) Nwavu v. Okoye p. 3901

JUDGMENTS - Errors - Effect - It is not every error committed by a lower court that would lead to reversal of judgment - But the one resulting in a miscarriage of justice (H2) Nwavu v. Okoye p. 3901

JUDICIAL PRECEDENTS - Distinguishing - Trespass - Waiver - The facts of Adebajo v. Brown are inapplicable here - Unlike the instant plaintiff - Plaintiff in Adebajo actually came to an agreement with the trespasser - Which was partially implemented before the suit (H1) Chukwuma v. Ifeloye p. 3761

JURISDICTION - Functus officio - Import - Once a court gives a final decision it cannot thereafter review or vary same - Even if it realises afterwards that the decision is wrong - It no longer has jurisdiction to

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do so (H1) Nigerian Army v. Iyere p. 3881

JURISDICTION - Issues - Primacy of - As jurisdiction is the pillar of every adjudication - Issues thereon must be taken first - Before hearing the merits of the matter (H4) A-G Federation v. Abubakar p. 3983

JURISDICTION - Limits - Duty of courts - Is to expound the limits of their jurisdiction not to expand it - As jurisdiction is a matter of hard and rigid law (H3) A-G Federation v. Abubakar p. 3983

JURISDICTION - Ouster - Failed Banks & Financial Malpractices in Banks Decree, s. 1 (5) - The provision which takes away jurisdiction of courts over matters - In respect of which they had jurisdiction - Is an ouster clause (H1) A-G Federation v. Abubakar p. 3983

LANDLAW - Title - Onus of proof - It is on the party claiming exclusive ownership of family land - To prove that he is entitled to it - As against all other members of the family (H1) Nwavu v. Okoye p. 3901

LANDLAW - Trespass - Right of action - Waiver - Merely negotiating with trespasser is not enough evidence - To support the conclusion that plaintiff had waived the trespass committed on her land (H3) Chukwuma v. Ifeloye p. 3761

LOCUS STANDI - Sufficiency of interest - Assessment - It is a matter of judicial discretion - Which varies according to the remedy asked for - Plaintiff here has shown sufficient interest in view of the remedy he seeks (H2) Ojukwu v. Ojukwu p. 3941

NEGLIGENCE - Vicarious liability - Ingredients - It is necessary to prove that the servant has been guilty of a breach of duty - Towards the person injured - To make the master liable (H3) Iyere v. Bendel Feed & Flour Mill Ltd p. 3837

PRACTICE & PROCEDURE - Parties - Joint tort-feasors - Where several persons are jointly liable - The plaintiff is at liberty to select and sue anyone for the full claim - Issue of contribution is their internal

affairs (H5) *Iyere v. Bendel Feed & Flour Mill Ltd* p. 3837

TORTS - Liability - Employment relationship - Status - An employee is not merely an agent but a joint tort-feasor - With his employer for purposes of liability (H1) *Iyere v. Bendel Feed & Flour Mill Ltd* p. 3837

TORTS - Negligence - Proof - Ingredients - Plaintiff must prove some breach of duty owed to him by the defendant - And a resultant damage to him (H6) *Iyere v. Bendel Feed & Flour Mill Ltd* p. 3837

TORTS - Trespass - Waiver - Applicability - It will not apply so long as the trespasser be not misled into carrying out further developments - After discovery of the trespassory entry on the land (H2) *Chukwuma v. Ifeloye* p. 3761

TORTS - Vicarious liability - Extent - An employer can not escape liability on ground that he did not authorize the injurious manner - In which his employee did an otherwise lawful work (H2) *Iyere v. Bendel Feed & Flour Mill Ltd* p. 3837

TORTS - Vicarious liability - Limits of - Where the act of an employee is such that even if lawful - It would not have been within the scope of his employment - The employer is not bound - Unless he ratifies the act (H4) *Iyere v. Bendel Feed & Flour Mill Ltd* p. 3837

TRIBUNALS - Judgments - Time within which to deliver - Non-compliance - Unless a party shows a resultant miscarriage of justice - Judgment will not be vitiated on appeal (H5) *A-G Federation v. Abubakar* p. 3983

WRIT OF SUMMONS - Issuance & Service - Outside jurisdiction - Failure to obtain prior leave to issue and serve writ outside jurisdiction of court - Is a fundamental defect - Not mere irregularity which can be cured (H3) *Drexel Ltd v. Trans Inter Bank Ltd* p. 3803

INDEX OF STATUTES & RULES

Armed Forces Decree, No. 105 of 1993, ss. 103, 114, 141 & 150
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Constitution of the Federal Republic of Nigeria, 1979, s. 33 Onyia
v. State p. 3959; s. 39 Nwavu v. Okoye p. 3901

Constitution of the Federal Republic of Nigeria, 1999, s. 36 Nigerian
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Evidence Act, ss. 35, 36, 37, 46, 135, 137, & 151 Nwavu v. Okoye p.
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Firearms Act, Cap. 146, L.F.N; 1990, s. 9 Nigerian Army v. Iyere p.
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Oyo State High (Civil Procedure) Rules 1988, O. 5. rr. 6 & 14
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Supreme Court Rules 1999 (as amended), O. 6 r.7 Drexel Ltd v.
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