**ALHAJI HASSAN MODU GOBA**

**V.**

**MUSA ALGONI**

IN THE COURT OF APPEAL OF NIGERIA

ON WEDNESDAY, THE 19TH DAY OF FEBRUARY, 2020

CA/J/375/2017

**LEX (2020) - CA/J/375/2017**

**OTHER CITATIONS**

3PLR/2020/2 (CA)

(2020) LPELR-49489(CA)

**BEFORE THEIR LORDSHIPS**

ADZIRA GANA MSHELIA, JCA

MUDASHIRU NASIRU ONIYANGI, JCA

BOLOUKUROMO MOSES UGO, JCA

**BETWEEN**

ALHAJI HASSAN MODU GOBA - Appellant(s)

AND

MUSA ALGONI - Respondent(s)

**ORIGINATING COURT**

HIGH COURT OF JUSTICE, BORNO STATE (Hon. Justice A. Z. Musa, Presiding)

**REPRESENTATION/LAWYERS**

J. O. Oroko Godwin Haruna, with him, S. N. Yakubu brief of Habu WaziriFor Appellant

AND

T. A. Lengkat holding brief of S. BadagubiFor Respondent

**ISSUES FROM THE CAUSE(S) OF ACTION**

REAL ESTATE AND PROPERTY LAW - LAND – DECLARATION OF TITLE TO LAND:- Standard of proof required of plaintiff –Rule that Plaintiff must succeed on the strength of its own case and not on the weakness of the defence but that any evidence adduced by the defence which is favourable to the plaintiffs case will go to strengthen the case for the plaintiff – Whether applicable to claims for declaration of title to land

REAL ESTATE AND PROPERTY LAW - LAND – DECLARATION OF TITLE TO LAND:- Proof of ownership to land – Five recognized methods – Proof of any one of them – Whether adequate

REAL ESTATE AND PROPERTY LAW - LAND – DECLARATION OF TITLE TO LAND:- Evidence adduced thereto – Where not contradicted – Where establishes any of the judicially recognized methods for proof title to land – Where includes sufficient identity of land – Duty of court thereto

REAL ESTATE AND PROPERTY LAW - LAND - EQUITABLE INTEREST IN LAND: Part or full payment of purchase price coupled with possession of land - Whether entitles a buyer to an equitable title in property

REAL ESTATE AND PROPERTY LAW - LAND – DECLARATION OF TITLE TO LAND:- Proof of - Hearsay evidence – Attitude of court thereto

AGRICULTURE AND FOOD LAW:- Access to farm land - Proof of longstanding farming activity on contested land – When would be deemed material for proof of title to land –Implications for sustainability of farming operations

**PRACTICE AND PROCEDURE ISSUES**

APPEAL - INTERFERENCE WITH EVALUATION OF EVIDENCE:- evaluation of evidence made by a trial court – Attitude of appellate court to invitation to interfere therewith

APPEAL - REPLY BRIEF: Purpose of a reply brief - Effect of failure to comply with rules of court therewith – Rule that a reply brief is not a repair kit for the short comings in the appellant's brief of argument – Meaning and legal effect of

EVIDENCE - BURDEN OF PROOF/STANDARD OF PROOF: Burden and standard of proof in an action for declaration of title to land - Whether a plaintiff can rely on the weakness of defence to prove case - Evidence adduced by the defence which is favourable to the plaintiff's case – Proper treatment of by court

EVIDENCE - PROOF OF TITLE TO LAND: Five judicially recognized ways by which ownership/title to land may be proved - Whether a claimant is required to prove all five ways top succeed

EVIDENCE - UNCHALLENGED/UNCONTROVERTED EVIDENCE:- Where evidence is unchallenged/uncontroverted – Duty of court thereto

**CASE SUMMARY**

ORIGINATING FACTS AND CLAIMS

The Respondent who was the plaintiff before the trial Court claimed to have purchased plots of land in dispute at a place described as Alidawari village in Jere Local Government Area of Borno State in 2003 and 2004 at a cost of N20,000.00 and N40,000.00 respectively from Alhaji Audu. He also claimed to have farmed on the land for 5 years. Then Respondent put a third party named Lawan Musa on the land to farm on it for about two years after which the land was handed back to the Respondent. When militant insurgency broke out in Borno State, claimant left the farm land with intent to resume farming when relative peace returned. However, when he came back to clear the said land for farming, he noticed the appellant trespassing into the land by demarcating it into various plots. When challenged, the appellant refused to yield and leave the land.

On his part the Defendant/Appellant asserted that that he inherited the farm land from his father. However, his father never told him that he purchased any land, but it was one Bazanna, who showed the land to him in 1993 or 1994 after the demise of his father.

The Respondent thereupon approached the trial court with the following claims:

“a. A declaration that he is the lawful owner of the parcel of land situate at Alidawari village.

b. An Order of perpetual injunction restraining the defendant by himself or his privy or agent and servant from any act of trespassing in or above the aforesaid land.

c. Cost of the suit."

DECISION(S) APPEALED AGAINST

The trial Court entered judgment in favour of the Plaintiff/Respondent, hence the appeal by the Defendant/Appellant.

ISSUE(S) FOR DETERMINATION ON APPEAL

*BY APPELLANT:*

“1) Whether the Trial Court was correct in declaring title to the Respondent when he did not prove his case.

2) Whether the trial Court was correct to have held the Respondents claim was based on traditional title.

3) Whether the Respondent has established identity of the land in dispute.”

*BY RESPONDENTS*

“Whether or not the Respondent has proved his title to the land in dispute.”

*AS ADOPTED BY COURT*

[The Court adopted the Issues presented by the Appellants]

**MAIN JUDGMENT**

MUDASHIRU NASIRU ONIYANGI, J.C.A. (Delivering the Leading Judgment):

The Appellant, Alhaji Hassan Modu Goba, is not happy with the judgment of the High Court of Justice, Borno State delivered by Hon. Justice A. Z. Musa on the 26th day of May, 2016, where the learned trial judge in his considered judgment after a full trial concluded as follows (See page 72 of the Records of Appeal):

In view of the above, I am of humble view that the claimant acts of recent possession and ownership to the farm land at Alidawari village neigbouring from the North a bush area, from the East one Goroma, from the West a tree called Sowo by Kanuri language and from the South a bush area appears more probable in favour of the claimant.

(1) Therefore, I hereby declared (sic) that, the claimant is in title (sic) to the aforementioned farmland situated at Alidawari village neighouring from the North a bush area, from the East one Goroma, from the West a Tree called Sowo by Kanuri language and from the south a bush area.

(2) That perpetual injunction restraining the defendant, his agent, privies or any person claiming through them from entering, claiming, erecting or selling whole or any part of the land, hereby granted; and

(3) Cost of the suit: parties to bear their costs.

The foregoing is predicated on the claim of the Respondent as Plaintiff before the trial Court against the Appellant as defendant contained in paragraph 16 of the statement of claim. The claim goes thus:

“PARAGRAPH 16

Whereof the Claimant is claiming for the following:

a. A declaration that he is the lawful owner of the parcel of land situate at Alidawari village.

b. An Order of perpetual injunction restraining the defendant by himself or his privy or agent and servant from any act of trespassing in or above the aforesaid land.

c. Cost of the suit."

The fact of the case as can be garnered from the record of Appeal is that the Respondent who was the plaintiff before the trial Court claimed to have purchased plots of land at a place described as Alidawari village in Jere Local Government Area of Borno State in 2003 and 2004 at a cost of N20,000.00 and N40,000.00 respectively from Alhaji Audu. He claimed to have farmed on the land for 5 years. After he gave the land to Lawan Musa to farm on it. Musa used it for two years and handed back the land to him. When insurgence broke out in Borno State, he left the land because he could no longer farm on the land till when there is relative peace. He started clearing the said land and he noticed the appellant trespassing into the land by demarcating the land and dividing it into various plots. He challenged the appellant and when he noticed that the appellant would not yield and leave the land and was insisting that he inherit the land from his father, the Respondent decided to approach the Court claiming those reliefs vide paragraph 16 of his statement of claim herein before reproduced.

Miffed by the outcome of the trial wherein the trial Court entered judgment in favour of the Respondent/Plaintiff hence this appeal which is predicated on the notice of appeal dated 29th day of June 2016 and filed on same date.

The grounds of appeal minus the particulars are

1) The learned trial Court erred in law in granting judgment to the Respondent when he could not prove ownership by sale.

2) The learned trial Court erred in law in holding that the Respondent was claiming his title through traditional evidence.

3) The learned trial Court erred in law in granting judgment to the Respondent when he could not establish identity of the land.

Upon the transmission of the Record of Appeal on 30th October, 2017 and which was deemed as properly compiled and transmitted on 31st October, 2018 vide the order of this Court, respective Counsel filed and exchanged their brief of argument.

The Appellants brief of argument dated 7th January, 2019 was filed on 8th day of January 2019. Same was deemed as properly filed and served on 6th day of May, 2019.

In the said brief, the following issues were presented for the determination of the Appeal:

APPELLANT'S ISSUES FOR DETERMINATION

1) Whether the Trial Court was correct in declaring title to the Respondent when he did not prove his case.

2) Whether the trial Court was correct to have held the Respondents claim was based on traditional title.

3) Whether the Respondent has established identity of the land in dispute.

On behalf of the Respondent, the following lone issue was presented for the determination of this Appeal.

Whether or not the Respondent has proved his title to the land in dispute.

I have carefully read and compared the issues presented by respective Counsel for the determination of this Appeal. In my candid view, the three issues formulated by the Appellant are contending whether or not the Respondent has proved his case and whether the learned trial judge has properly considered and evaluated the evidence before it in coming to the conclusion reached. In the light of the foregoing, I consider the lone issue presented by the respondent more probable in the circumstance, even though it has its short comings. For that reason, I will adopt the issue formulated by the Respondent but redrafted thus:

Whether or not the Respondent has proved his title to the disputed land and whether the learned trial judge has properly evaluated the evidence adduced before coming into the conclusion reached.

The argument of the Appellant is that the claim of the Respondent before the trial Court is based on ownership by way of sale. He contended that in a declaration of title to land, the duty is squarely on the Respondent as claimant to discharge the burden of proof placed on him. He added that the burden of proof is on the claimant and where he is able to establish his case by way of credible evidence, only then will he be entitled to the declaration of title sought. He relied on the following cases: NIKAGBATSE v. OPUYE (2010) 14 NWLR (PT. 1213) 51 at 62 63, KODILINYE V. ODU (1935) 3 WACA 336 reiterating the fact relied upon by the Respondent that he purchased the land in dispute in 2003 and 2004 respectively, and the agreements to the transaction tendered as Exhibits PW1A and PW1B. He contended that in identifying the land, the Respondent pleaded that the land is situate at Alidawari but Exhibit PW1A and PW1B shows that the land is in Maina Bukarti and Femari. By this, he argued that the Respondent has not identified the land he is claiming. Further to the forgoing, he argued that the agreements on the land at Alidawari were never tendered. He also contended that the Respondent failed to call Lawan Musa and Assu Sulamanti whom he claimed he gave the land to farm, even though he filed their respective witness statement on Oath. He also referred to page 70, lines 1- 16 of the judgment of the trial Court where he claimed the Court held that Exhibit PW1A, PW1B and PW1C do not support the Respondents case. He submitted that the law is that where there is no evidence in proof of declaration of title to land, the claim must fail. He relied on the case of OLADIPO V. MOBA (2010) 5 NWLR (PT.1186) 117 at 126. He argued further that a party who relies on a document in proof of his title to land must tender the document in evidence. He relied on the case of ADELAJA V. ALADE (1999) 6 NWLR (PT.608) 544, JIAZA V. BAMGBOSE (1999) 7 NWLR (PT. 610) 182. For the forgoing he argued that the case of the Respondent ought to have been dismissed but rather the Court made a U-turn and relied on evidence of traditional history. He referred to page 71 lines 24 - 25 of the record of Appeal. He submitted that there is no issue or claim of declaration of title based on traditional history of the case of the Respondent that he purchased the land in dispute. He relied on the case of AKOMAH V. EKE (1966-1979) VOL 6 Oputa Law Reports (Oputa L. R.) Pg 1 at 7 para B D. He contended that the time the Respondent purchased the land which is about 10 or 11 years before he instituted the action does not quality as one of traditional history or evidence. He relied on the case of AKOMAH V. EKE (SUPRA).

For traditional history to suffice, the claimant must narrate the genealogical tree from the Original owner, the ancestor, in generations appurtenance to his, down the line to the Plaintiff. The Respondent merely stated in paragraph 11 of his statement of claim that the land originates from one Bulama Kachalla who sold the land to Alhaji Audu and or sold same to Musa. He argued that the Respondent failed to prove or adduce evidence on how Bulama Kachalla came to own the land. He relied on the following cases: ODI V. IYALA (2004) 8 NWLR (PT.875) 283, EWO V. ANI (2004) 3 NWLR (PT. 861) 610, EZINWA V. AGU (2004) 3 NWLR (PT. 861) 431. IRAWO V. ADEDOKUN (2005) 1 NWLR (PT. 906) 199.

He submitted further that where a partly relies on the traditional evidence, it is not enough for him to plead that he and his predecessor in title had owned or possessed the land from time immemorial, he must indeed go further to plead and prove the following:

1) Who founded the land?

2) How the land was founded and

3) The particulars of the intervening owners through whom he claims.

He relied on the following cases: EZEOKONKWO V. OKEKE (2002) 11 NWLR (PT. 777) 1, DIKE V. OKONKWO (2008) ALL FWLR (PT.404) at 1586 A - D. He argued that all the forgoing requirements are lacking in the Respondents case. He added that it further shows that the claim of the Respondent has nothing to do with traditional evidence and hence the trial Court was wrong to have even considered the issue let alone to be the basis of its judgment. Further he argued that traditional history is one of the ways of establishing title to land. A claimant must plead and show who were his ancestors how he came to own and possess the land and how it devolved on him. He relied on the cases of IBIKUNLE V. LAWANI (2007) 3 NWLR (PT.1022) 580 OKOKO V. DAKOLO (2006) 14 NWLR (PT.1000) 401. It is his contention that where a party pleads traditional evidence and fails to prove, he cannot turn around to rely on act of ownership and possession to prove his title to the land. It will also implies that due to his failure there would be nothing on which to found acts of ownership. In such a situation, the Court is bound to dismiss the claim. But in this case the trial Court did exactly the opposite and granted the Respondents claim. He added that the holding of the Court based on acts of recent possession and ownership of the farmland at Alidawari village are faulty, because the evidence adduced and pleaded by the Respondent has nothing to do with traditional history. He argued that the respondent has failed woefully to prove same and therefore this Court has a duty to set aside the judgment of the lower Court.

On whether the Respondent has identified the land in dispute, he argued that in a claim of declaration of title to land, the claimant is to prove the area being claimed so that the land can be identified with reasonable certainty. He submitted that there are two basic requirements in declaration of title:

1) To establish title through one of the five (5) known ways of establishing title.

2) To define an area to which the declaration can be attached.

It is his argument that the claimant must give the exact extent and identity of the land he is claiming and failure to do this will lead to the suit being dismissed. He cited the cases of GBADAMOSI V. DAIRO (2007) 3 NWLR (PT. 1021) 282, ARABE V. ASANLU (1980) 5 -7 SC 78, ADENIRAN V. ASHABI (2004) 4 NWLR (PT.857) 375, OTANMA V. YOUDUBAGHA (2006) 2 NWLR (PT. 964) 337.

He added that the Respondent as the claimant was relying on a plan of his land which he attached in his statement of claim. He added that the said plan was tendered and marked as Exhibit PW1C. But when the Court came to judgment, the Court refused to make use of the said plan, but expunged it. It is his contention that the Court was right to have expunged the plan from the record. He relied on the case of BROSSETE NIG. LTD V. ILEMOBOLA LTD (2007) 30 N.S.C.D.R. 1169, EBENIGHE V. ACHI (2011) 2 NWLR (PT.1230) 65 at 69. He argued that the Respondent gave a description of the land which he pleaded at paragraph 8 of the statement of claim and also his evidence before the Court courtesy of his statement on Oath (para 8 ). He added that his description that the land was located at Alidawari and that to the East of the land is a farm belonging to one Goroma, to the West a farm called Sowo in Kanuri language, to the South a bush and to the North also bush. He argued that the dimension of the land is not given, the length or width is also not given and the features on the land is also not given. He submitted that the description given by the Respondent is not sufficient because a surveyor taking the record of those descriptions cannot produce a plan that will show accurately the land to which title is sought to be given. He relied on the following cases. ONWUEGBUNE V. EZE (1966 1979) VOL.6 OPUTA LAW REPORTS Pg. 124 AT 127 PARA D E, ARE KWADZO V. ADJEI (1944) 10 WACA 24. It is his argument that even where a plan was filed, it must not be in conflict with the description given. He cited the case of AMATA V. MODEKWE (1954) 14 WACA. Pg 580. It is his case that in the present case the plan filed by the Respondent which was admitted as Exhibit PW 1C was later disregarded by the Court. He added that the description given by the Respondent has no semblance with the plan. The Respondent said he bought the land but did not say that the two plots were merged and therefore, leaving the Court with whether to speculate or not.

According to him, speculation is not the function of a Court of law, Courts deal with hard credible evidence. He relied on the cases of OWE V. OSHINBAJO (1965) 1 ALL NLR 72 at 75.

He urged the Court to allow the appeal, set aside the decision of the trial Court and dismiss the claimant/ Respondents claim before the trial Court.

The Respondent in his reaction to the three issues submitted on the 1st issue that the trial Court was right to hold that he preferred the evidence of the Respondent to that of the Appellant.

He argued that in traditional title, if the identity of the land was established to be his and aver that the origination of the land is from Bulama Kachala who sold the land to Alhaji Audu who also sold same to Musa from whom he acquired title having bought the land from the said Musa who confirmed the root of the originator and which was not contradicted, the Respondent has established his source to the land. On issue of the identity of the land, he referred to his averment that the land was further as attached in the site allocation plan, an annexure (1a) which from the North is a bush area and nobody is farming there, from the east is Goroma's farming, from the west a tree called Sowo by Kanuri Language and by the South is also a bush with nobody farming on it too. He referred to page 4 lines 6 - 11 of the record of proceedings and at page 7 paragraph 8 and page 8 line 1 2 of PW1 deposition on Oath which is not challenged.

In view of all the foregoing, he urged the Court to resolve the Issues formulated by the Appellant in favour of the Respondent.

Further to the foregoing, he referred to the testimony of the Defendant as PW1 before the trial Court that he bought the land in 2003 - 2004 and how he farmed on the land for 5 years before he gave it to Lawan Musa who also farmed on it for two years and also to Suleimanti who also farm on the land. (See pages 3 lines 20-23 and page 7 para 5 of the PW 1 statement on Oath. He added that the amount he purchased the land remain unchallenged. He referred to the case of OYEMI V. ADELEKE ALL FWLR PT. 476 at 1920 para b-d (year of Law report not provided). He argued that the Appellant who claimed that the land belong to his father did not establish how the land was purchased by his father. Rather the Respondent as claimant before the trial Court established the source of his ownership and the particulars and names of successive owners. He relied on the case of DIKE V. OKONKWO (2008) ALL FWLR PT.404 at P. 1586 Para A - D. OYOVBIARE V. OMAMURHOMU (1999) 10 NWLR (PT.621) P.23 at 32.

It is his contention that the Appellant testified and called 4 witnesses. The Appellant in his testimony as DW1 posited that it was Bazanna that showed him the land in 1993 or 1994 after the demise of his father. This he said took place in about 12years from 1994. At that time, Appellant was about 40 years. At that age he never knew that his father owned the land. Until he was told that his father bought the land in 1968. He added that when the Appellant was asked under cross examination whether his late father bought the land through an agent he declined. He submitted that most of the evidence of the Appellant before the trial Court did not support his defence hence the defence goes to no issue. He submitted that where there is a conflict of traditional history, the best way to test the traditional history is by reference to acts in recent years as established by evidence and by seeing which of the two competing histories is more probable. He referred to the case of ERINLE AND ORS V. ALUKO AND ORS (2013) LPELR - 22157 where it was held that where the evidence of traditional history adduced by both sides are conflicting or divergent as in the instant case, the best approach for the Court to follow is to test the traditional history by reference to the facts in recent years so as to know which of the two conflicting histories is more probable. He rely on the case of KOJO V BONSIE II (1951) 1 WLR P.1223 at 1226. He added that the case of the Respondent is more probable and hence the issue should be resolved in favour of the Respondent. On that note, he urged the Court to dismiss the appeal with cost.

The Appellant filed a reply to the argument of the respondent on 3rd April, 2019. Same was deemed as properly filed on 6th May, 2019. I have read through the said reply brief. It is in violation of the provision of Order 19 Rule 5 of the Rules of this Court. Rather for the said reply brief to reply to new issues, if any, as prescribed by the Rules, it is a further argument on the main brief by the appellant, it is trite that the purpose of a reply brief under the Rules of this Court is not to give another or second opportunity to the appellant to argue or provide additional argument in support of the appeal but only to answer or reply new issues raised by the respondent in his brief of argument. It is not a repair kit for the short comings in the appellants brief of argument. See OJO V OKITIPUPA OIL PALM PLC (2001) 9 NWLR (PT.719) P.679 AT 693, POPOOLA V ADEYEMO(1992) 8 NWLR 267, ADEBIYI V SORINMADE (2004) ALL FWLR (PT.239) 933, BASINCO MOTORS LTD V WOERMANN LINE AND ANOR (2009)13 NWLR (PT.1157) 140 BERNARD OJEIFO LONGE V FIRST BANK OF NIGERIA PLC (2010) NWLR (PT.1189) 1. A reply brief is also not an opportunity to re-emphasize the arguments in the Appellants brief. See NWANKWO OGUANUHU AND ORS v. DR. EMMANUEL I. CHIEBOKA (2013) LPELR 1980, ALHAJI SANI ABUBAKAR DANLADI V. BARR. NASIRU AUDU DANGIRI AND ORS. (2014) LPELR -24020. Therefore, the reply brief by the Appellant is discountenanced.

Having said these, I will proceed with my consideration of the issue formulated. It is the law that in a claim for a declaration of title to land the standard of proof required of the plaintiff is on a balance of probabilities, see ADEREMI V ADERIBE (1960) N.M.C.R 400 at 402, PAUL NWADIKE & ORS V CLETUS IBEKWE & ORS (1987) NWLR (PT.67) 718. It is also the law that in a claim for declaration of title, the plaintiff must succeed on the strength of its own case and not on the weakness of the defence even though any evidence adduced by the defence which is favourable to the plaintiffs case will go to strengthen the case for the plaintiff. See RABIATU ADEBAYO AND ORS V RASHEED SHOGO (2005) 7 NWLR (PT.925) 467, FRIDAY ELEMA & ANOR V PRINCESS CHRISTY A. AKENZUA (2000) LPELR 1112, LAMULATU SHASI AND ANOR V MADAM SHADIA SMITH & ORS (2009)18 NWLR (PT.1173) 330, SHITTU V FASHAWE (2005) 14 NWLR (PT.946) 671, THOMAS NRUAMAH AND ORS V REUBEN EBUZOEME AND ORS (2013) LPELR -19771, ADEKANMBI V JANGBON(2007) ALL FWLR (PT.383) 152 at 160.

In the light of the foregoing, the pertinent question is whether or not the Respondent as plaintiff before the trial Court has established his claim. In order to answer this question, recourse has to be made to the available evidence by the respondent before the trial Court. The evidence of the plaintiff as posited by PW1, the Respondent is that he purchased the land in 2003 and 2004 respectively at the cost of N20,000.00 and N40,000.00 respectively from Musa who also purchased the land from Alhaji Audu. It is his case that Alhaji Audu purchased the land from Alhaji Bulama Kachalla. See page 17 line 17-19 and page 8 paragraphs 12 of the record of appeal. For the description of the land, see annexure 1(a) page 4 lines 6-11, page 7 paragraph 8 and page 8 lines 1-2 of the record. It is the evidence of the respondent before the trial Court that the said land is bounded from the North by bush area and nobody is farming there, to the east, one Goroma is farming. To the West, there is a tree called Sowo by Kanuri language and to the South is also a bush. (See page 4 lines 6-11, page 7 paragraph 8, page 8 lines 1-2), it is also the case of the Respondent that he farmed on the land for 5 years and gave the land to Lawan Musa who also farmed on the land for 2 years and Suleimanti to farm. These pieces of evidence are not debunked by the Appellant. It is trite that an unchallenged and uncontradicted evidence should be accepted and acted upon by the Court. See the cases of LAWAL V. UTC (NIG) PLC (2005) 13 NWLR (PT.934) P. 601, APROFIM ENG CONST. LTD v. SIDOV LTD (2006) 13 NWLR (PT.996) P. 73, LEADWAY ASSURANCE COMPANY LIMITED V. ZECO NIG. LTD (2004) 11 NWLR (PT.884) 316, MOSHOOD ADELAKUN V. NURUDEEN ORUKU (2006) 11 NWLR (PT.992) PG.625, MILITARY GOVERNOR OF LAGOS STATE AND ORS V. ADEBAYO ADEYIGA AND ORS. (2012) LPELR 7836.

It is the law that to proof ownership to land there exists five recognized methods. They are:

1) Proof by traditional evidence

2) Proof by production of document of title.

3) Proof by act of ownership extending over a sufficient length of time, numerous and positive enough as to warrant the inference that the person exercising such acts are the owner of the land.

4) Proof by acts of long possession.

5) Proof by possession of connected or adjacent land in circumstances rendering it probable that the owner of such land would in addition be the owner of the land in dispute.

See the following cases: IDUNDUN V. OKUMAGBA (1976) 9 AND 10 SC 277, at 246 - 250, SUNDAY PIARO V. CHIEF TENALO AND ORS (1976) 12 SC 31 at 41 - 43, MOSES UZOCHUKWU AND ORS V. MADAM AMAGHALU ERI AND ORS. (1997) LPELR- 3454, LASISI MORENIKEJI AND ORS V. LALEKE ADEGBOSIN AND ORS. (2003) LPELR-1911. It is also the law that proof of any of the five ways will suffice, see CHIEF ADEYEMI LAWSON V. CHIEF AYO AJIBULU (1997) LPELR 1766, OSAYEMWENRE AMAYO V. OSAYANDE ERINMWINGBOVO (2006) 11 NWLR (PT.992) 699, EWO V. ANI (2004) 17 NSCQR 36,NDUKUBA V. IZUNDU (2007) 1 NWLR (PT. 1016) PG. 432, FRANCIS ADESINA AYANWALE V. OLUMUYIWA OLUMIDE ODUSAMI (2011) LPELR- 8143.

It is on record that the Appellant through his evidence and pleading asserted that he purchased the land in 2003 and 2004 and named his vendor to be Musa. He went further that Alhaji Audu sold the land to Musa and that Alhaji Audu purchased same land from Bulama Kachala.

It is also the case of the Respondent that he purchased the land for N20,000.00 and N40,000.00 respectively. Where land is sold, money is paid and receipt are issued, the purchaser has an equitable interest having gone into possession. What I am saying is that payment of purchase price coupled with being in possession confers an equitable title, see L. B. FOLARIN V. OYEWOLO DUROJAIYE (1988) NWLR (PT. 70) 351, ALHAJA MORIYAMO ADESANYA V. ADETAYO OLAITAN OTUEWU & ORS (1993) 1 NWLR (PT.270) 414, GODWIN NSIEGBE AND ANOR V. OBINNA MGBEMENA AND ANOR (2007) LPELR 2065.

There is that unchallenged evidence of the Respondent that he purchased the land from a named person and for a disclosed amount of money, comparing all the foregoing with the evidence of the Appellant which in the main is to the effect that his father never told him that he purchased any land, but it was one Bazanna who showed the land to him in 1993 or 1994 after the demise of his father. These pieces of evidence suggests to me that the fact relied upon by the Appellant is that as related to him by Bazanna. To me, the piece of evidence is contaminated by the virus of an hearsay which cannot be relied upon. For the foregoing therefore, I have no option than to come to the irresistible conclusion that the Respondents evidence before the trial Court on ownership of the land in dispute is preponderant. This also buttress the fact that the trial Courts reasoning for coming into the conclusion reached is a product of proper evaluation of evidence placed before the trial Court. It is not the business of this Courts having regard to the fact of this case as disclosed in the record of Appeal to substitute its own view for that of the trial Court. I accordingly so hold. See JOHN ONISILE V. OJO APO (2013) LPELR- 22330, CONGRESS FOR PROGRESSIVE CHANGE V. INDEPENDENT NATIONAL ELECTORAL COMMISSION AND ORS. (2011) LPELR- 8257., ATOLAGBE V. SHORUN (1985) 1 NWLR 360, AGBONIFO V. AIWEREOBA (1988) 1 NWLR at 325, AGBI V. OGBEH (2006) 11 NWLR (PT.990) 65, CHITRA KNITTING AND WEAVING MANUFACTURING COMPANY LIMITED V. G. O AKINGBADE (2016) LPELR- 40437.

For all the foregoing, I resolve the lone issue against the Appellant and in favour of the Respondent. Hence this appeal is devoid of any merit and it is accordingly dismissed.

In consequence, the judgment of the High Court of justice, Borno State delivered on the 26th day of May, 2016 coram Hon. Justice A. Z. Musa is hereby affirmed.

Parties to bear their respective costs.

**ADZIRA GANA MSHELIA, J.C.A.:**

I have had the advantage of reading in draft the Judgment just delivered by my learned brother, Oniyangi, J.C.A, I agree that this appeal lacks merit and should be dismissed. I accordingly dismiss it. I endorse all the consequential orders made therein, including order as to costs.

**BOLOUKUROMO MOSES UGO, J.C.A.:**

I am of the same opinion with my learned brother MUDASHIRU NASIRU ONIYANGI, J.C.A. I also dismiss the appeal for lacking in merit.

Parties shall bear their costs.