**ADESIGIN**

**V.**

**M.G., LAGOS STATE**

SUPREME COURT OF NIGERIA

SC.68/2006

17TH DAY OF FEBRUARY 2017

**LEX (2017) - SC.68/2006**

OTHER CITATION

3PLR/2017/26 (SC)

**BETWEEN**

MRS. ESTHER I. ADESIGBIN

MAGISTRATE ADIO ADESIGBIN

L. B. AGUSTO

ALH. A. A. OJIKUTU

IMOH BRAIMOH

ALHAJA A. E. ELIAS

K. A. KOTUN

A. R. WILLIAMS

J. BALOGUN - Appellant

AND

1. MILITARY GOVERNOR OF LAGOS STATE

2. ATTORNEY-GENERAL OF LAGOS STATE - Respondent

**BEFORE THEIR LORDSHIP**

OLABODE RHODES-VIVOUR, JSC (Presided and Read the Lead Judgment)

MUSA DATTIJO MUHAMMAD, JSC

CLARA BATA OGUNBIYI, JSC

CHIMA CENTUS NWEZE, JSC

AMIRU SANUSI, JSC

**ORIGINATING COURT**

1. COURT OF APPEAL, LAGOS JUDICIAL DIVISION

2. LAGOS HIGH COURT (Agoro J., Presiding)

**REPRESENTATION/LAWYERS**

L. A. O. Nylander - For the Appellants.

A. Adeniji Kazeem, Hon. Attorney-General and Commissioner for Justice, Lagos State (with him, I. Oshodi, Assistant Director, Civil Litigation; O. Olarenwaju, Chief State Counsel; J. I. Jacob, Principal State Counsel; O. Osusanya, Senior State Counsel) - For the Respondents.

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

REAL ESTATE AND PROPERTY LAW - LAND – PUBLIC ACQUISITION OF LAND:- Judgment creditor seeking award of interest on judgment obtained as compensation for - Proper procedure to adopt.

REAL ESTATE AND PROPERTY LAW - LAND - PUBLIC ACQUISITION OF ACQUISITION:- Compensation for acquisition of land - Payment of compensation - Proper statutory body to preside over same - Public Lands Acquisition (Miscellaneous Provisions) Act, 1976, section 16 in review

REAL ESTATE AND PROPERTY LAW - LAND - LAGOS STATE LANDS TRIBUNAL AND LAGOS STATE HIGH COURT:- Status of – Whether both are courts of co-ordinate jurisdiction – Relitigation of same issues on both forums - Propriety of

**PRACTICE AND PROCEDURE ISSUES**

APPEAL - LAGOS STATE LAND TRIBUNAL:- Appeals from – Proper court to which appeals therefrom should lie

COURT - LAGOS STATE HIGH COURT AND LAGOS STATE LANDS TRIBUNAL:- Status of - Whether courts of co-ordinate jurisdiction – Appeals from Lagos State lands Tribunal – Where lies - Section 240 of the Constitution of the Federal Republic of Nigeria, 1999 and section 16 of the Public Lands Acquisition (Miscellaneous Provisions) Act, 1976 in review

JUDGMENT AND ORDER - LAGOS STATE LANDS TRIBUNAL:- Decisions of - When would be deemed to have become operational.

JUDGMENT AND ORDER - JUDGMENT CREDITOR:- Application for award of interest on judgment obtained as compensation for acquired land - Proper procedure to deploy in the enforcement of such judgment.

JUDGMENT AND ORDER - JUDGMENT NOT APPEALED AGAINST:- Validity of – Duty of Appellate court thereto

JURISDICTION - FUNDAMENTAL NATURE OF - Lack of - Effect on proceedings – Whether issue of can be raised at any stage of proceedings.

JURISDICTION - JUDGMENT DELIVERED BY COURT LACKING JURISDICTION:– Effect of.

INTERPRETATION OF STATUTE - PUBLIC LANDS ACQUISITION (MISCELLANEOUS PROVISIONS) ACT, 1976, SECTION 16 AND CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999, SECTION 240:- Proper construction of Lagos State High Court and Lagos State Lands Tribunal - Status of as courts of co-ordinate jurisdiction - Both re-litigating same issues - Impropriety of.

**CASE SUMMARY**

ORIGINATING FACTS AND CLAIMS

The government of Western Nigeria in 1958 acquired a vast area of land measuring 5000 acres for public purposes. In 1967 when Lagos State was created, about 929.6 acres of the total area of land acquired fell within the State.

The land compulsorily acquired was originally settled upon by 34 families is situated along Ilasamaja/Oshodi Expressway. Subsequently, the land was developed as Isolo Industrial Estate and Matori Industrial Estate. In 1979, the Lagos State Lands Tribunal decided the amount of compensation to be paid to the customary tenants, which includes the appellants, to be the sum of N1,141,631.20 (one million one hundred and forty-one thousand, six hundred and thirty-one naira twenty kobo) with no interest.

The government of Lagos State did not pay the compensation.

The failure to pay led twenty-four (24) families of the thirty-four (34) customary tenants, in 1985 to file an action against the respondents before the High Court, seeking amongst other reliefs, an order that the respondents pay the affected families, the judgment debt of N1,141,631.20 (one million one hundred and forty-one thousand, six hundred and thirty-one naira twenty kobo) with interest in the sum of N456,652.40 (four hundred fifty-six thousand six hundred and fifty-two naira, forty kobo) from 1981 to 1985.

The High Court ordered payment of the judgment sum in instalments but refused to accede to the prayer for interest. The appellants were dissatisfied with the decision of the court only on the issue of interest, and subsequently appealed to the Court of Appeal.

DECISION(S) APPEALED AGAINST

The trial Court entered judgment in favour of the Plaintiff/Appellant, for the settlement sum awarded them, but refused their claim for the interests on the said sum. Dissatisfied, the Plaintiff/Appellant appealed to the Court of Appeal. At the Court of Appeal, the decision of the High Court was affirmed. Dissatisfied still, the Plaintiff appealed to the Supreme Court.

ISSUE(S) FOR DETERMINATION ON APPEAL

*BY APPELLANT:*

1. Whether interest at the rate of 10% per annum is payable on the judgment debt of N1,141,631.20 (one million one hundred and forty-one thousand, six hundred and thirty-one naira twenty kobo) in the sum of N456,652.40 (four hundred and fifty-six thousand six hundred and fifty-two naira forty kobo) for a period of four (4) years from 1 December 1981 to the 30 November 1985.

2. Whether the use of an originating summons procedure at the High Court to seek the award and payment of interest was proper in the circumstances of this case.

3. Whether the preliminary objection of the respondents complied with Order 10 of the Rules of the Court of Appeal for the Court of Appeal to rely thereon.

4. Whether the judgments of the two lower courts are not a nullity.

*BY RESPONDENTS*

1. Whether interest at the rate of 10% per annum is payable on the judgment debt of N1,141,631.20 (one million one hundred and forty-one thousand, six hundred and thirty-one naira twenty kobo) in the sum of N456,652.40 (four hundred and fifty-six thousand six hundred and fifty-two naira forty kobo) for a period of four (4) years from the 1 December 1981 to 30 November 1985?

2. Whether the suit was competent having been commenced by way of originating summons?

*AS ADOPTED BY COURT*

[The Court adopted the Issue 4 formulated by the Appellant].

DECISION OF SUPREME COURT

1. The appellants are entitled to compensation assessed by the Lands Tribunal as N1,141,631.20 (one million one hundred and forty-one thousand, six hundred and thirty-one naira, twenty kobo).

2. The appellants are not entitled to interest.

3. The ruling of the Lagos High Court in suit No. M/ 250/85 delivered on 21 March 1986 and the judgment of the Court of Appeal in CA/L/300/99 delivered on 22 July 2002 are null and void.

**MAIN JUDGEMENT**

**RHODES-VIVOUR JSC** (Delivering the Lead Judgment):

In 1958, there were no States in Nigeria. Nigeria was divided into three (3) regions. The North, West, and East. The government of Western Nigeria acquired a vast area of land measuring five thousand (5000) acres for public purposes. The land acquired was within Badagry, Ikeja and the colony, that is, Lagos. The acquisition was gazetted in the Western Regional Notice of Nigeria Gazette No. 28 Vol. 7 of 24 April 1958.

Lagos State was created in 1967. The area of land acquired which fell within Lagos State was an area amounting to approximately 929.6 acres.

In 1979, the government of Lagos State filed all originating summons before the Lagos State Lands Tribunal (that is, suit No. LT/LS/IS/79). The issue was for the tribunal to decide the amount of compensation to be paid to the claimants and those of them entitled to it.

In a well considered judgment delivered on 10 November 1981, the tribunal considered evidence of valuers, experts and listened to submission of counsel and concluded that compensation for the 929.6 acres is N1,141,631.20 (one million one hundred and forty-one thousand, six hundred and thirty-one naira twenty kobo). The tribunal went on to say that the amount is to be paid to thirty-four (34) claimants. The amount to be paid to each of the 34 claimants can be seen on pages 23 and 24 of the record of appeal. No compensation was paid, by the Lagos State Government, and the government did not appeal against the judgment of the Lands Tribunal. So on 27 December 1985, the Akingbaiye family & 23 Ors. filed an originating summons against the Military Governor of Lagos State and the Attorney-General of Lagos State for the following reliefs:

1. Declaration that the defendants, that is, the Military Governor of Lags State and the Attorney-General of Lagos State have no legal justification for refusing or failing to settle, since 1 December 1981, the judgment debt of N1,141,631.20 (one million one hundred and forty-one thousand, six hundred and thirty-one naira twenty kobo) payable to the thirtyfour (34) successful claimants in suit No. LT/LS/IS/ 79 when the Lagos State Lands Tribunal had delivered judgment against them on 10 November 1981 in the said suit No. LT/LS/IS/79.

2. Declaration that the defendants, that is, the Military Governor of Lagos State and the Attorney-General of Lagos State have committed a contempt of court/ tribunal by refusing or failing to pay to the thirtyfour (34) claimants in suit No. LT/LS/IS/79, the judgment debt of N1,141,631.20 (one million one hundred and forty-one thousand, six hundred and thirty-one naira twenty kobo) contrary to the injunction in the judgment in the said suit No. LT/ LS/IS/79.

3. Declaration that the defendants, that is, the Military Governor of Lagos State and the Attorney-General of Lagos State are liable in law to pay to the thirty (34) claimants in suit No. LT/LS/IS/79, the sum of N456,652.40 (four hundred and fifty-six thousand six hundred and fifty-two naira forty kobo) being the interest payable on the judgment debt of N1,141,631.20 (one million one hundred and fortyone thousand, six hundred and thirty-one naira twenty kobo) for a period of four (4) years from 1 December 1981 to 30 November 1985 at the rate of 10% per annum pursuant to section 6 of the Public Lands Acquisition (Miscellaneous Provisions) Act, 1979 and the judgment in suit No. LT/LS/IS/79.

4. Declaration that the defendants, that is, the Military Governor of Lagos State and the Attorney-General of Lagos State are liable in law to pay to the thirtyfour (34) claimants in suit No.LT/LS/IS/79 as listed in exhibit B attached, the sum of N1,598,283.75 (one million five hundred ninety-eight two hundred and eighty-three naira seventy-five kobo) being the judgment debt of N1,141,631.20 (one million one hundred and forty-one thousand, six hundred and thirty-one naira twenty kobo) and interest thereon at the rate of 10% per annum payable from the 1 December 1981 to 30 November 1985 pursuant to the judgment in suit No. LT/LS/IS/79 and section 6 of the Public Lands Acquisition (Miscellaneous Provisions) Act, 1976.

5. Declaration that the defendants, that is, the Military Governor of Lagos State and the Attorney-General of Lagos State can be served with Form Nos. 48 and 49 pursuant to section 63 and Order 9, rule 13 of the Sheriffs and Civil Process Act, Judgment (Enforcement) Rules Cap. 127, Volume 7, Laws of Lagos State, 1973, respectively, in order to try them for contempt of court for disobedience to the mandatory injunction in the judgment in suit No. LT/ LS/IS/79 dated 10 November 1981 that the Lagos State Government should pay the judgment debt of N1,141,631.20 (one million one hundred and fortyone thousand, six hundred and thirty-one naira twenty kobo) without any further delay from 10 November 1981.

6. An order that the defendant, that is, the Military Governor of Lagos State and the Attorney-General of Lagos State should forthwith pay to the thirtyfour (34) claimants in suit No. LT/LS/IS/79 as listed in exhibit B attached to the affidavit in support of this originating summons, the judgment debt of N1,598,203.75 (one million five hundred and ninetyeight thousand two hundred and three naira seventyfive kobo) which includes the interest payable as at 30 November 1985 in the said suit No. LT/LS/IS/ 79.

7. Any further order or other orders that this honourable court may consider necessary to make in favour of the thirty-four (34) claimants in suit No. LT/LS/IS/ 79 as listed in exhibit B in the interest of justice. Affidavit and counter-affidavit were filed. Counsel addressed the court, and in a considered ruling delivered on 21 March 1986, Agoro J. (as he then was) of a Lagos High Court made the following orders:

1. It is ordered that all awards not exceeding N7,000.00 (seven thousand naira) shall be paid or settled in full by the defendants not later than 30 April 1986.

2. It is also ordered that fifty percentum (50%) of all awards exceeding N7,000.00 (seven thousand naira) shall be paid or settled by the defendants not later than 30 April 1985.

3. It is also ordered that the second set of payment being twenty-five percentum (25%) of each award exceeding N7,000.00 (seven thousand naira) shall be paid or settled by the defendants between the months of May and August 1986.

4. It is also ordered that the third set of payment being twenty,-five percentum (25%) of each award exceeding N7,000.00 (seven thousand naira) shall be paid or settled by the defendants between the months of September and December 1986.

5. It is further ordered that the instalment payments to be effected by the defendants to the plaintiffs shall be in accordance with the payment schedule attached to the counter-affidavit and marked exhibit C.

6. There will be no order as to costs. The plaintiffs/appellants were dissatisfied with the judgment only on the issue of interest, and so filed an appeal. The appeal was heard by the Court of Appeal, Lagos State Division. On July 2002, that court affirmed the decision of the Lagos High Court and dismissed the appeal with costs of N5,000 (five thousand naira) to the respondents.

This appeal is against that judgment. In accordance with rules of this court, both sides filed and served briefs of argument. The appellants’ brief filed on 31 May 2016 was deemed duly filed and served on 21 November 2016, while the respondents’ brief was filed on 28 June 2016. Learned counsel for the appellants formulated four (4) issues from the grounds of appeal. They are:

1. Whether interest at the rate of 10% per annum is payable on the judgment debt of N1,141,631.20 (one million one hundred and forty-one thousand, six hundred and thirty-one naira twenty kobo) in the sum of N456,652.40 (four hundred and fifty-six thousand six hundred and fifty-two naira forty kobo) for a period of four (4) years from 1 December 1981 to the 30 November 1985.

2. Whether the use of an originating summons procedure at the High Court to seek the award and payment of interest was proper in the circumstances of this case.

3. Whether the preliminary objection of the respondents complied with Order 10 of the Rules of the Court of Appeal for the Court of Appeal to rely thereon.

4. Whether the judgments of the two lower courts are not a nullity.

On the other side, learned counsel for the respondents’ formulated two (2) issues for determination of the appeal.

1. Whether interest at the rate of 10% per annum is payable on the judgment debt of N1,141,631.20 (one million one hundred and forty-one thousand, six hundred and thirty-one naira twenty kobo) in the sum of N456,652.40 (four hundred and fifty-six thousand six hundred and fifty-two naira forty kobo) for a period of four (4) years from the 1 December 1981 to 30 November 1985?

2. Whether the suit was competent having been commenced by way of originating summons?

At the hearing of the appeal on 21 November 2016, learned counsel for the appellants’, Mr. L. A. O. Nylander adopted the appellants’ brief filed on 31 May 2016 but deemed duly filed on 21 November 2016. He urged this court to allow the appeal for compensation and interest Learned counsel for the respondents, Mr. K. Kazeem adopted the respondents’ brief filed on 28 June 2016 and urged us to dismiss the appeal. To my mind, the only issue worth considering is issue No. 4 formulated by the appellant. It reads:

Whether the judgments of the two lower courts are not a nullity. In a bid to enforce the decision of the Lagos State Lands Tribunal, the appellants filed an originating summons before a Lagos High Court for reliefs earlier alluded to in this judgment but principally that the compensation awarded by the Tribunal at the rate of 10% per annual from 1 December 1981 to 30 November 1985 be paid to them. The High Court ordered that compensation be paid to the appellants but declined to order the payment of interest. The Court of Appeal agreed with the High Court.

In his submissions, learned counsel for the appellants observed that failure of the respondents to disclose at the trial court in suit No. M/260/85 before Agoro J. (as he then was) and also at the Court of Appeal that the Lands Tribunal made a mandatory order that the respondents should pay the judgment debt of N1,141,631.20 (one million one hundred and forty-one thousand, six hundred and thirty-one naira twenty kobo) without further delay amounted to suppression of facts which nullify the judgment of the High Court and Appeal Court. Reliance was placed on Vulcan Gases Ltd. v. G.F.I.G. (2001) FWLR (Pt. 53)1, (2001) 9 NWLR (Pt. 719) 610. Learned counsel for the respondents did not respond to the above. When a court conducts proceedings in which it has no jurisdiction over the cause of action, the judgment given at the end of proceedings has no legal consequence, it binds no one. It is void without effect, a nullity. See Okafor v. Attorney-General, Anambra State (1991) 6 NWLR (Pt. 240) 659; Kalu v. Odili (1992) 2 NWLR (Pt. 240) 130. Jurisdiction is thus fundamental. It is the authority which a court has to decide matters and it is well spelt out in the Constitution or a specific statute. Jurisdiction is simply the legal right by which the courts exercise their authority. Jurisdiction is so important in that it can be raised in the trial court, on appeal or in the Supreme Court for the first time and all that is necessary before it is heard on appeal is for the adverse party to be put on notice. I must emphasize once again that when a court delivers judgment when it does not have jurisdiction, the whole proceedings, no matter how well conducted and decided would amount to a nullity. See further Sen. Anyanwu v. Hon. Ogunewe & Ors. (2014) All FWLR (Pt. 738) 1012, (2014) 1- 2 SC (Pt. ii) 49; Yar’Adua & 9 Ors. v. Yandoma & 13 Ors. (2014)12 SC (Pt. III) 64; Jev v. Iyortyom & 2 Ors. (2014) All FWLR (Pt. 747) 749, (2014) 5 - 6 SC (Pt. III) 82.

On 10 November 1981, the Lagos State Lands Tribunal in its judgment, awarded the appellants the sum of N1,141,631.20 (one million one hundred and forty-one thousand, six hundred and thirty-one naira twenty kobo) for their land acquired by the respondents. The tribunal also ruled that the appellants were not entitled to interest. The Public Lands Acquisition (Miscellaneous Provision) Act, 1976 is the statute that confers exclusive jurisdiction on the Lands Tribunal to decide issues in respect of compensation payable on lands acquired by the government and the payment of interest on delayed compensation. It is the Lands Tribunal that has jurisdiction to determine the amount of compensation and those entitled to it.

Section 16 of the Public Lands Acquisition (Miscellaneous Provision) Act, 1976 states that:

“An appeal shall lie from the decision of any Lands Tribunal as if such decision were the decision of the High Court of a State.”

It is clear that the Public Lands Acquisition (Miscellaneous Provision) Act, 1976 confers exclusive jurisdiction on the Lands Tribunal to decide the issue of compensation payable to the appellants for their land acquired by the government, and also the payment of interest in deserving cases. It follows that the ruling of a Lagos High Court in suit No. M/250/85 delivered on 21 March 1986, was delivered without jurisdiction and the judgment of the Court of Appeal which affirmed that decision was also given without jurisdiction. You cannot put something on nothing and expect it to stand. Both judgments are null and void.

Appeals lie from the judgment of the Lagos State Lands Tribunal to the Court of Appeal. It is now over thirty-five (35) years since the tribunal delivered judgment. There was no appeal by any of the parties. Since there was no appeal, the judgment of the Lagos State Lands Tribunal delivered on 10 November 1981 in suit No. LJ/LS/IS/79 is inviolate until set aside. The judgment of the Lagos State Lands Tribunal, as with all courts of competent jurisdiction takes effect immediately upon delivery and the tribunal has inherent jurisdiction to proceed to enforce such judgment forthwith. This jurisdiction of the tribunal can only be suspended by a stay of execution provided there is an appeal. The appellants were wrong to come to a High Court to seek the award of interest on the judgment debt. They ought to have set in motion, the process to enforce the judgment and appeal for interest rather than come by way of originating summons. Filing a fresh action after judgment has been delivered to enforce the judgment and seek interest is unknown under any principle of law.

The land compulsorily acquired by the government in 1958 along Ilasamaja/Oshodi Expressway was over the years developed and is now Isolo Industrial Estate and Matori Industrial Estate. On 10 November 1981, the Lagos State Lands Tribunal ordered the Lagos State Government to pay the sum of N1,141,631.20k (one million, one hundred and forty-one thousand, six hundred and thirty-one naira, twenty kobo) to the appellants as compensation for their land compulsorily acquired by the government (the respondents).

The tribunal, also ruled that the appellants’ were not entitled to interest. Since there was no appeal from this judgment of the Lands Tribunal, it remains correct and the parties are satisfied with it. In the circumstances, both judgments of the Lagos High Court and the Court of Appeal are nullities.

Appeal dismissed.

For the avoidance of doubt, I must state that:

1. The appellants are entitled to compensation assessed by the Lands Tribunal as N1,141,631.20 (one million one hundred and forty-one thousand, six hundred and thirty-one naira, twenty kobo).

2. The appellants are not entitled to interest.

3. The ruling of the Lagos High Court in suit No. M/ 250/85 delivered on 21 March 1986 and the judgment of the Court of Appeal in CA/L/300/99 delivered on 22 July 2002 are null and void.

**MUHAMMAD JSC:**

Having read before now, the lead judgment of my learned brother, Rhodes-Vivour JSC just delivered, I agree with his lordship’s reasoning and conclusion that this appeal is incompetent and stands dismissed. I rely on the summary of the facts contained in the lead judgment to comment on the issue the appeal raises purely by way of emphasis. It is evident from the printed record of this appeal that the Lagos State High Court, being a court of co-ordinate jurisdiction with the Lands Tribunal in Lagos State which earlier determined the suit of the parties herein, lacks the jurisdiction of re-litigating the same matter. It is settled that no judge can or is entitled to reverse, vary or alter the order or decision by another judge of co-ordinate jurisdiction. See Amanambu v. Okafor (1966) 1 ANLR 205. The decision of the trial court in suit No. M/250/85 from which this appeal arose remains a nullity. Section 16 of the Public Lands Acquisition (Miscellaneous Provision) Act, 1976, disentitles the trial court from determining any matter earlier determined by the Lands Tribunal. The section provides:-

“An appeal shall lie from the decision of any Lands Tribunal as if such decision were the decision of the High Court of a State.”

My lords, by virtue of Section 240 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), read in conjunction with section 16 of the Public Lands (Miscellaneous Provision) Act (supra), any appeal from the decision of the Lands Tribunal is determinable by the lower court to the exclusion of any other court of law in Nigeria. The Court of Appeal exercises its appellate jurisdiction only in respect of valid decision from those courts and tribunals specified by the Constitution or any such law as the Public Lands (Miscellaneous Provision) Act. The lower court and by extension, this court lacks the jurisdiction of entertaining appeals from the decisionof the trial court given without jurisdiction. The instant appeal, therefore being incompetent, stands struck out. See Josiah Cornelius Ltd & Ors. v. Ezenwa (1996) 4 NWLR (Pt 443) 391 and Mustapha v. Governor of Lagos State (1987) 4 SCNJ 143. It is for the foregoing and the fuller reasons in the lead judgment of my learned brother, Rhodes-Vivour JSC that I alsostrike out the incompetent appeal.

**OGUNBIYI JSC:**

I read in draft, the lead judgment of my learned brother, Rhodes-Vivour JSC. I agree that the appeal is devoid of any merit and should be dismissed. The facts of the case are well spelt out in the lead judgment. Central to the determination of the appeal is section 16 of the Public Lands Acquisition (Miscellaneous Provision) Act, 1976, which reproduction is very revealing as follows: “An appeal shall lie from the decision of any lands Tribunal as if such decision were the decision of the High Court of a State.” A community reading of the foregoing provision is where the act confers an exclusive jurisdiction on the Lands Tribunal in matters of compensation as it is in the case at hand inclusive of interest.

For all intents and purposes, the jurisdictional power vested in the Lands Tribunal is equated squarely with the High Court of a State. Hence the two are deemed courts of co-ordinate jurisdiction for this purpose. As a consequence therefore, the subsequent originating summons filed at the Lagos High Court against the Military Governor of Lagos State and the AttorneyGeneral of Lagos State on account of interest, was clearly without any jurisdiction.

It is elementary to restate that without jurisdiction, the court acts in futility and any proceeding conducted without jurisdiction amounts to a nullity. In the case at hand, the absence of any jurisdiction vested in the High Court had automatically rendered the Court of Appeal also impotent to entertain any appeal arising therefrom. The judgment of the Court of Appeal which endorsed the trial High Court though concurrent in nature, are however without any foundation. It is unfortunate that the two courts are in great error as they both lacked the jurisdiction to adjudicate the subject matter placed before them. My learned brother, Rhodes-Vivour JSC has dealt exhaustively with the subject matter of this appeal. I adopt his judgment as mine. With the few words of mine and more particularly on the fuller reasoning and conclusion arrived at by my brother in his lead judgment, I will also dismiss this appeal and abide by all the orders made therein the lead judgment.

**NWEZE JSC:**

My lord, Rhodes-Vivour JSC, obliged me with the draft of the lead judgement just delivered now. I entirely agree with the reasoning and conclusion. I abide by the consequential orders in the said lead judgement.

**SANUSI JSC:**

I had a preview of the judgment just delivered by my learned brother, Rhodes-Vivour JSC. His lordship had ably and painstakingly considered and determined all the issues canvassed by parties’ learned counsel in this appeal before concluding that this appeal is bereft of merit and ought to be dismissed. I am at one with his reasoning and conclusion that the appeal lacks merit. While adopting his lordship’s reasons and conclusion as mine, I hereby also dismiss the appeal for want of merit. I abide by the consequential order(s) made.

Appeal dismissed