**GODFREY IFEDIORA & ORS**

**v.**

**EUGENE OKAFOR & ORS.**

IN THE SUPREME COURT OF NIGERIA

ON FRIDAY, THE 12TH DAY OF JULY, 2019

SC.166/2010

**LEX (2020) - SC.166/2010**

**OTHER CITATIONS**

3PLR/2020/21 (SC)

(2019) LPELR-49518 (SC)

**BEFORE THEIR LORDSHIPS**

IBRAHIM TANKO MUHAMMAD, JSC

OLUKAYODE ARIWOOLA, JSC

JOHN INYANG OKORO, JSC

PAUL ADAMU GALUMJE, JSC

UWANI MUSA ABBA AJI, JSC-end!

**BETWEEN**

1. GODFREY IFEDIORA

2. OKEKE ICHEKE

3. ELEAZAR ONUORAH - Appellant(s)

AND

1. EUGENE OKAFOR

2. AUGUSTINE ANAZO

3. UCHECHUKWU OKAFOR - Respondent(s)-end!

**ORIGINATING COURT(S)**

**1.** OBA CUSTOMARY COURT, ANAMBRA STATE

2. HIGH COURT OF ANAMBRA STATE.

3. COURT OF APPEAL -end!

**REPRESENTATION**

J. R. Nduka, Esq., with him, R. E. Nduka. - For Appellant

AND

Emeka Anyaenetu, Esq. - For Respondent-end!

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

REAL ESTATE AND PROPERTY LAW - PROOF OF TITLE TO LAND:- Root of title of vendor of land – Failure to establish same – Implication for title of anyone who acquires title through such a vendor

REAL ESTATE AND PROPERTY LAW - PROOF OF TITLE TO LAND:- Competing evidence - Proof of title to land relying on possession of connected or adjacent land and evidence of traditional title/history – Whether one is subordinate to the other

REAL ESTATE AND PROPERTY LAW - PROOF OF TITLE TO LAND:- Proof of title to land – Five established ways by which ownership/title to land may be proved – Where a party asserts title through multiple ways - Whether a party needs to prove all to secure a declaration of title

REAL ESTATE AND PROPERTY LAW - PROOF OF TITLE TO LAND: Proof of ownership of connected or adjacent land is a way of proving title to land – Adequacy as proof of title to land – When can be displaced

REAL ESTATE AND PROPERTY LAW - PROOF OF TITLE TO LAND:- Application for declaratory relief over land – Burden of proof required to succeed – Whether Court does not make declarations of right either on admission or in default of defence without having evidence and being satisfied by such evidence to the plaintiffs entitlement to such a right

REAL ESTATE AND PROPERTY LAW - PROOF OF TITLE TO LAND:- Application for declaratory relief over land – Where evidence of the defendant tends to establish the title of the plaintiff and supports his case – Whether plaintiff is entitled to take advantage of such evidence to establish his title.

AGRICULTURE AND FOOD LAW:- Access to land – Land leased for cultivation purposes – Legally void way of converting such interest into ownership – Implications for agricultural operations-end!

**PRACTICE AND PROCEDURE ISSUES**

APPEAL - INTERFERENCE WITH CONCURRENT FINDING(S) OF FACT(S): Attitude of appellate court to invitation to interfere therewith – What a party needs to show to succeed

EVIDENCE - BURDEN OF PROOF/ONUS OF PROOF: Burden of proof on a plaintiff in a claim for declaration of title to land - Whether a plaintiff can rely on the weakness in the case of the defendant to prove his case - When the plaintiff is allowed to take advantage of the evidence of the defendant

EVIDENCE - UNCHALLENGED/UNCONTROVERTED EVIDENCE:- Unchallenged/uncontroverted evidence which is material and credible – Duty of Court to act thereon

EVIDENCE - PROOF OF TITLE TO LAND: Ways by which ownership/title to land may be proved – Onus on plaintiff – Relative superiority of proof of ownership of adjacent land and title by way of traditional history

JUDGMENT AND ORDER – DECLARATORY RELIEFS:- Principle that declaratory reliefs are not granted even on admission – Rule that plaintiff seeking declaratory relief must prove and succeed on the strength of his case and not rely on the weakness of the defence – Burden of proof that a claimant must satisfy-end!

**CASE SUMMARY**

ORIGINATING FACTS AND CLAIMS

The Respondents as plaintiffs sued the Appellants in Oba Customary Court of Anambra State for a declaration of title to the disputed land and perpetual injunction to restrain the first and second Defendants/Appellants from further trespassing on the land. The Plaintiffs/Respondents' case in the customary Court was that the land in dispute is in Umuogbu Umuogali village, Oba and originally belonged to their grandfather, Mgbeafulukwe. The land was inherited by their fathers and subsequently by them. Their grandfathers Anaso Mgbeafulukwe and Okafor Mgbeafulukwe gave the land part of which is now in dispute to one Ezeukwu, the father of Sampson Ezeukwu of Umuogbu, Umuogali village, Oba for farming purposes only. Sampson Ezeukwu gave portions of the land to his brothers and also to the father of the 1st defendant/appellant for cultivation. When the father of the 1st defendant/appellant died, the 1st defendant/appellant continued to cultivate the land. Sometime in 1994, the Appellant erected survey pillars on the land claiming that the 2nd appellant, Okeke Icheke from Aboji village, Oba, had sold the land to him. That in spite of customary arbitration and other efforts to get the 1st Appellant out of the land, the 1st Appellant persisted in laying claim over the land. The Respondents (as plaintiffs) thereafter instituted this action in the Customary Court, Oba.

The 1st defendant/appellant on the other hand claimed that the land in dispute was given to their father Odili by Onuora Nwangwu and Icheke Nwangwu to cultivate on payment of tribute. He cultivated the land until their elder Ezeukwu called him and told him that the land was for sale. He bought the land from the 2nd and 3rd defendants/Appellants and an agreement was prepared. The agreement was admitted in evidence as Exhibit "M". The 1st defendant also applied for and was issued a Customary Certificate of Occupancy tendered in evidence as Exhibit "L". At the conclusion of trial, the Customary Court delivered its Judgment in favour of the plaintiffs and granted the reliefs sought. The High Court affirmed the judgment of the Customary Court and the defendants/appellants further appealed to the Court of Appeal which also affirmed the trial court’s decision.-end!

DECISION(S) APPEALED AGAINST

The Court of Appeal dismissed the appeal against the decision of the High Court of Anambra State.-end!

ISSUE(S) FOR DETERMINATION ON APPEAL

*BY APPELLANT:*

1. Whether the principle that ownership of land can be proved by proof of possession of connected or adjacent land in circumstances rendering it probable that the owner of such connected or adjacent land would in addition be the owner of the land in dispute applies to this case.

2. Whether the age-long rule in Kodilinye V. Odu (1935) 2 WACA 336 requiring that the plaintiff must succeed on the strength of his own case is applicable to this case.-end!

*BY RESPONDENTS*

1. Whether on the facts of this case, the Court of Appeal was right when it upheld the decision of the High Court that the Respondents proved tilted to the land in dispute by "Proof of possession of connected or adjacent land in circumstances rendering it probable that the owner of such connected or adjacent land would in addition be the owner of the land in dispute".

2. Whether the principle in the case of Kodilinye V. Odu (1935) 2 WACA 336 requiring that the plaintiff must succeed on the strength of his own case is applicable to his own case is applicable to this case and whether the weakness in the Appellants' case does not support the plaintiffs/Respondents' case.-end!

*AS ADOPTED BY COURT*

*[Appeal* determined based on the two similar issues donated by both parties.]-end!

DECISION OF SUPREME COURT

Issues 1 and resolved against the appellants. Appeal is devoid of merits and is accordingly dismissed. Judgment of the Court of Appeal delivered on 19th June, 2006 affirmed. Costs of N200,000 awarded to the Plaintiffs/Respondents to be paid by all the Appellants.-end!

**MAIN JUDGMENT**

**JOHN INYANG OKORO, J.S.C.** (Delivering the Leading Judgment):

The Respondents as plaintiffs sued the Appellants in Oba Customary Court of Anambra State for a declaration of title to the disputed land and perpetual injunction to restrain the first and second Defendants/Appellants from further trespassing on the land.

The suit was initiated on the 15th of April, 1996. The Plaintiffs/Respondents' case in the customary Court was that the land in dispute is in Umuogbu Umuogali village, Oba and originally belonged to their grandfather, Mgbeafulukwe. The land was inherited by their fathers and subsequently by them. Their grandfathers Anaso Mgbeafulukwe and Okafor Mgbeafulukwe gave the land part of which is now in dispute to one Ezeukwu, the father of Sampson Ezeukwu of Umuogbu, Umuogali village, Oba for farming purposes only. Sampson Ezeukwu gave portions of the land to his brothers and also to the father of the 1st defendant/appellant for cultivation. When the father of the 1st defendant/appellant died, the 1st defendant/appellant continued to cultivate the land.

Sometime in 1994, the Appellant erected survey pillars on the land claiming that the 2nd appellant, Okeke Icheke from Aboji village, Oba, had sold the land to him. That in spite of customary arbitration and other efforts to get the 1st Appellant out of the land, the 1st Appellant persisted in laying claim over the land. The Respondents (as plaintiffs) thereafter instituted this action in the Customary Court, Oba.

The 1st defendant/appellant on the other hand claimed that the land in dispute was given to their father Odili by Onuora Nwangwu and Icheke Nwangwu to cultivate on payment of tribute. He cultivated the land until their elder Ezeukwu called him and told him that the land was for sale. He bought the land from the 2nd and 3rd defendants/Appellants and an agreement was prepared. The agreement was admitted in evidence as Exhibit "M". The 1st defendant also applied for and was issued a Customary Certificate of Occupancy tendered in evidence as Exhibit "L".

At the conclusion of trial, the Customary Court delivered its Judgment in favour of the plaintiffs and granted the reliefs sought.

The defendants/appellants being dissatisfied with the decision of the Customary Court appealed to the High Court. The High Court affirmed the judgment of the Customary Court and the defendants/appellants further appealed to the Court below. After hearing the said appeal, the Court of Appeal dismissed the appeal.

This appeal is therefore against the judgment of the Court below delivered on 19th June, 2006. Notice of appeal was filed on 20th April, 2010 presumably by the order of the Court of appeal.

At the hearing of this appeal on 30th April, 2019, learned counsel for the Appellants, J. R. Nduka, Esq. adopted the brief of the Appellants settled by him and filed on 29th October, 2012. In the said brief, two issues are distilled for the determination of this appeal as follows:

1. Whether the principle that ownership of land can be proved by proof of possession of connected or adjacent land in circumstances rendering it probable that the owner of such connected or adjacent land would in addition be the owner of the land in dispute applies to this case.

2. Whether the age-long rule in Kodilinye V. Odu (1935) 2 WACA 336 requiring that the plaintiff must succeed on the strength of his own case is applicable to this case.

The brief of the Respondents was settled by Emeka Anyaenetu, Esq. and filed on 29th January, 2013. In it, the Respondents have formulated similar issues as the appellant but couched differently thus:

1. Whether on the facts of this case, the Court of Appeal was right when it upheld the decision of the High Court that the Respondents proved tilted to the land in dispute by "Proof of possession of connected or adjacent land in circumstances rendering it probable that the owner of such connected or adjacent land would in addition be the owner of the land in dispute".

2. Whether the principle in the case of Kodilinye V. Odu (1935) 2 WACA 336 requiring that the plaintiff must succeed on the strength of his own case is applicable to his own case is applicable to this case and whether the weakness in the Appellants' case do not support the plaintiffs/Respondents' case.

I shall determine this appeal based on the two similar issues donated by both parties.

ISSUE ONE:

Under this issue, the learned counsel for the appellants submitted that the rule that ownership of land can be proved "by proof of possession of connected or adjacent land in circumstances rendering it probable that the owner of such connected or adjacent land would in addition be the owner of the land in dispute" applies to all Courts under the doctrine of Stare Decisis and that the above principle applies to this case is not disputed. According to him, what is however disputed is that on the facts of this case, the principle ought not to apply.

He contended that by the plaintiffs' survey plan tendered at the trial, it shows that both the appellants and the 2nd and 3rd Respondents have land adjoining the land in dispute. In the circumstance, he asked if the principle can apply where the two disputants' to a land in dispute also have land adjoining the said disputed land. He submitted that the principle, in the circumstance, cannot apply. He urged the Court to resolve this issue in favour of the appellants.

In response, the learned counsel for the Respondents submitted that the Court below was right to uphold the decision of the appellate High Court which held that the principle of ownership of adjacent land applies in this case. He opined that the Court below was not only right in its statement of the law but also appreciated the complaint of the appellant on the issue before it. That on the fact of this case, the principle applied perfectly, relying on the case of Onwugbufor v. Okoye (1996) 1 SCNJ 1 at p. 4 (ratio 4).

Learned Counsel contended that in Exhibit 'M' Deed of Transfer of Customary Right of Occupancy tendered by the defendants and by which the 2nd and 3rd defendants transferred the land in dispute to the 1st defendant, the land is described as situate at Umuagu Umuagali Village Oba. That no explanation was given as to how the 2nd and 3rd defendants both of whom are from Aboji village Oba came to own land in Umuagali Oba another village- whether by conquest, inheritance, purchase, gift or otherwise. According to him, this is a pointer to the fact that the 2nd and 3rd defendants/Appellants cannot own the land in dispute.

Learned counsel submitted that the Court below was right when it held that both the customary Court and the High Court made concurrent findings on the issue.

It is his contention that the argument of the appellant that their land adjoin the land in dispute on one side falls flat in the face of the fact that the land in dispute, by their own documentary evidence Exhibit 'M' in the customary Court is in another village (Umuogali Village Oba) which is the plaintiff/Respondents' village while they, the 2nd and 3rd Appellants are from Aboji Village Oba. He urged this Court to hold that the principle applies to the facts of this case. He urged the Court also to resolve this issue against the appellant.

The law is trite that title to land can be proved by the following five grounds:-

1. Proof by traditional history or traditional evidence.

2. Proof by grant or the production of document of title.

3. Proof by acts of ownership extending over a sufficient length of time numerous and positive enough to warrant the inference that the persons exercising such acts are true owners 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 Idundun & Ors V. Okumagba (1976) 10 SC 277, lseogbekun & Anor v. Adelakun & Ors (2013) 2 NWLR (Pt 1337) 140, Madu V. Madu (2008) 6 NWLR (Pt 1083) 296, Odunze & Ors V. Nwosu & Ors (2007) 13 NWLR (Pt 1050) 1, Duru V. Nwosu (1989) 4 NWLR (Pt 113) 24. A plaintiff seeking declaration of title to land does not need to plead and prove all the five methods stated above. He only needs to prove one of such method. lf he pleads and/or relies on more than one method to prove his title, he merely does so ex abundante cautela as proof of one simple root of title is sufficient to sustain a plaintiff's claim for declaration of title to land. See Onwugbufor V. Okoye (1996) 1 SCNJ 1.

On this, the Court of first instance i.e. the Customary Court of Oba made the following findings/decision on page 116 line 5 - 11 of the record of appeal thus:

"Both 1st defendant and 3rd defendant failed to lead a convincing evidence how the land of Aboji people is situate at Umuagu Umuogali Village, Oba, whether through conquest, purchase, gift or in exchange, convincing evidence ought to be led to marry the assertion of owning a land in a different village, history ought to be led to establish such a right."

At the High Court sitting as an appellate Court, the learned appellate Judge made the following profound findings on page 230 of the record, to wit:

"I am of the view and I agree with counsel for the Respondents that the Respondent's established their title to the land in dispute through this 5th method, that is by proof of possession of connected or adjacent land in circumstances rendering it probable that they also own the land in dispute. In survey plan No TLS/AN/1/153/95 attached to Exhibits 'M' and 'L' tendered in evidence by the defendants, the land immediately adjacent to the land in dispute on the far right was clearly marked as belonging to the Anazo Anolue family - the plaintiffs family. On the opposite side of the survey plan, at the tail end of the left side of the land in dispute, you have the compound of Anthony Ezeukwu... PW7 Anthony Ezeukwu’s wife testified that the plaintiffs’ grandfather gave to them the land at the back of their compound where they dug their pit toilet. That was indeed the only issue she gave evidence about. The defendants who cross-examined her at length did not put even a single question in cross examination relating to the main issue of her examination -in- chief. Furthermore, in exhibit 'M', Deed of Transfer of Customary Right of Occupancy by which the 2nd and 3rd defendants transferred the land in dispute to the 1st defendant, the land was described as situate at Umuagu, Umuogali Village Oba. No explanation was given as to how the vendors Okeke lcheke - 2nd defendant and Eleazer Onuora - 3rd defendant, both of Aboji village, Oba could own land at Umuagu, Umuogali village, Oba.

It is my view therefore, that proof of possession of adjacent land to the land in dispute with the bulk of the disputed land in between, coupled with evidence that the land in dispute is in Umuogali Village render it probable that the plaintiffs are the owners of the disputed land."

Based on the above findings of the customary Court and the High Court, the Court below agreed with them in the following words recorded on page 296 of the record of appeal:

"Both the Customary Court Oba and the High Court of Anambra State sitting in Ogidi have made concurrent findings of fact in favour of the respondents that they own the land. It is not for this Court to interfere with such findings of fact unless they are shown to be perverse and that is not the case here. See Aigbobahi V. Aifuwa (2006) 6 NWLR (Pt 976) 270. I have read the record of appeal and there is abundant evidence to justify the conclusion of the High Court that the respondent were entitled to judgment."

I have no difficulty in agreeing with the three Courts below that the respondents proved the title to the disputed land by possession of connected or adjacent land in circumstances rendering it probable that the owner of such connected or adjacent land would in addition be the owner of the land in dispute. Now, come to think of it. The appellants’ great grand fathers were given the land for cultivation only and the land devolved on the 1st defendant/appellant. Suddenly, a total stranger from another village (2nd and 3rd appellants) appeared, claimed ownership of the land and sold it to the 1st appellant. I think the 1st appellant and members of his family were not wise enough. They ought to have referred the matter to the Respondents and/or question the root of title of the 2nd and 3rd Appellants. Failure to do so is fatal to his case.

Secondly, the 2nd and 3rd appellants failed woefully to prove to the Court how they came about the disputed land. They are from Aboji Village while the land situates at Umuagali village. As observed by the trial customary Court, did they acquire the land through conquest, purchase, gift or in exchange for another land? They ought to have led evidence to show how they owned the land in the Respondents' village. This they failed to do. The three Courts below have found that the Respondents own other lands adjacent to the land in dispute and this has not been challenged. The law is trite that unchallenged evidence, if believed, ought to be acted upon. See Okike V. Legal Practitioner Disciplinary Committee (2005) 15 NWLR (Pt 949) 471, Kayili V. Yilbuk & Ors (2015) LPELR - 24923 (SC).

The appellants, i.e. 2nd and 3rd, having failed to prove how they came by any land in the Respondents' village, this does not negate the application of this principle to this case. Accordingly, I resolve this issue against the appellants.

ISSUE 2:

In this issue, the learned counsel for the appellants made a summary of the evidence of the plaintiffs/Respondents at the trial Court, analyzed and criticized same and came to the conclusion that "it will be tantamount to grave injustice to allow the principle of concurrent findings of fact to deprive the appellate Court of the right to look at these contradictory claims over the same land and find that the plaintiff must succeed on the strength of his own case is applicable in this case." That is all.

Conversely, the learned counsel for the Respondents also reviewed the evidence and submitted that the principle in Kodilinye V. Odu (1935) 2 WACA 336 requiring that the plaintiff must succeed on the strength of his own case applies in this case and that the weaknesses and inconsistencies in the defendants' case naturally strengthened the plaintiffs' case. He urged the Court to resolve this issue against the appellant.

Since the decision of Webber, C.J. in Kodilinye V. Odu (1935) 2 WACA 366 and a plethora of subsequent decisions by this Court, it is now trite that in an action for declaration of title to land, the onus is on the plaintiff to satisfy the Court that he is entitled on the evidence adduced by him to a declaration by the Court. The law is very clear that he must rely and succeed on the strength of his own case and not on the weakness of the case of the defendant. Again if the plaintiff fails to discharge the onus of proof of his case, the weakness of the defendant's case will not support the case of plaintiff. See Efetiroroje & Ors V. Okpalefe II & Ors (1991) 5 NWLR (Pt 193) 517, Elufisoye V. Alabetutu (1963) NMLR 298, Oladimeji V. Oshode (1968) 1 AU NLR 417.

The law is also settled that where however, the evidence of the defendant tends to establish the title of the plaintiff and supports his case, the plaintiff is entitled to take advantage of such evidence to establish his title. See Piaro V. Tenalo (1976) 12 SC 31, Egonu V. Egonu (1978) 11/12 SC.111, Nkanu V. Onun (1977) 5 SC 13, Idundun V. Okumagba (1976) 9/10 SC 227, Momoh & Ors V. Umoru & Ors (2011) 15 NWLR (Pt 1270) 217, Civil Design Construction Nig Ltd V. SCOA Nig. Ltd. (2007) 6 NWLR (Pt 1324) 538 Oyinloye V. Esinkin & Ors (1999) 5 SCNJ 278.

In the instant case, the three Courts below agree that the plaintiff/Respondents not only proved their case with credible evidence, but also that the Respondents took advantage of the appellants' case which supports their title to the land in dispute.

The record of appeal shows that at the trial, the plaintiffs called witnesses who testified in their favour. Apart from witnesses, they tendered documents. In Exhibit B, survey plan tendered by the plaintiffs/Respondents and in their evidence the plaintiffs stated that they own the land in dispute at one end in which land they plant cocoyam and cassava which land is not in dispute. At the opposite end of the survey plan to the west, the plaintiffs state that their fathers granted the land to Anthony Ezeukwu on which he built his house. PW7, Mrs. Elizabeth Ezeukwu, senior wife of Anthony Ezeukwu, testified that the plaintiff's father gave them the land behind their house on which they built their pit latrine. It is on record that this piece of evidence was never challenged or controverted by the defendants either during cross examination or during their evidence in chief.

By the above evidence of the plaintiffs/Respondents, they have shown that they own parcels of land adjoining or adjacent to the disputed land. Therefore, when both oral and documentary evidence by the Respondents are put together, it is clear they have proved their case to the satisfaction of the Court. In other words, they can succeed clearly on the strength of their case as espoused in Kodilinye V. Odu (supra).

That notwithstanding, the defendants by their own evidence also supported the case of the Respondents. In their Exhibit 'M' - Deed of customary Grant of land made in 1993 before the dispute arose, state that the land in dispute is in Ummogali, Oba while the vendors i.e. 2nd and 3rd Appellants, are from Aboji Village. The survey plan also showed land belonging to the respondents bordering the land in dispute.

By the Appellants' evidence, there is no nexus between the vendors from Aboji village and the land in dispute situate in the Respondents' viilage Umuogari. As the judges of the trial customary Court observed, both the 2nd and 3rd appellants as defendants failed to lead convincing evidence how the land of Aboiyi people came to be situate at Umuagu Umuagali Oba, whether through conquest, purchase, gift, or in exchange. That convincing evidence ought to be led to marry the assertion of owning a land in a different village and that history ought to be led to establish such a right.

From the totality of evidence led by both parties, it is obvious that though the plaintiffs/Respondents could succeed on the strength of their own case alone, the weakness in the defendants/appellants' case has strengthen the Respondents' case and this has been the position of the three lower Courts. I agree that the plaintiffs/Respondents succeeded clearly on the strength of their case. The case of the defendants/Appellants clearly supported the case of the Plaintiffs/Respondents, I resolve this issue against the appellants.

Having resolved the two issues against the appellants, I am satisfied that this appeal is devoid of any scintilla of merits. It deserves an order of dismissal. Appeal is accordingly dismissed. I affirm the judgment of the Court of Appeal delivered on 19th June, 2006. I award costs of N200,000 to the Plaintiffs/Respondents to be paid by all the Appellants.

**IBRAHIM TANKO MUHAMMAD, AG. C.J.N.:**

I have the advantage of reading before now the Judgment of my learned brother Okoro, JSC. For the reasons set out in the lead Judgment, I have nothing to add to my Lord's reasoning and conclusion. There is no merit in the appeal and it ought to be dismissed. I too, hereby dismiss the appeal.

**OLUKAYODE ARIWOOLA, J.S.C.:**

I had the opportunity of reading in draft the lead judgment of my learned brother, Okoro, JSC just delivered. I agree entirely with the reasoning and conclusion that the appeal is unmeritorious and should be dismissed. I too will dismiss the appeal.

Appeal dismissed.

I abide by the consequential order in the leading judgment including the order on costs.

**PAUL ADAMU GALUMJE, J.S.C.:**

I have had the privilege of reading in draft, the judgment just delivered by my Learned brother, John Inyang Okoro JSC and I agree with the reasoning contained therein and the conclusion arrived thereat. The 1st issue for determination of this appeal, as set out in the lead judgment is just one of the five ways of proving title to land. The issue of possession of adjacent land is subordinate to solid evidence of traditional title. Once a party has laid solid and unbroken chain of traditional history of how he acquired the land, evidence of possessing adjacent land is clearly displaced.

The appeal herein attacks the concurrent findings of facts by three Courts. The Appellant has not shown any exceptional reason why this Court should interfere with those findings. For these few words and the more elaborate reasoning in the lead judgment, this appeal shall be, and it is hereby dismissed.

I abide by the consequential orders made in the lead judgment, including order as to costs.

**UWANI MUSA ABBA AJI, J.S.C.:**

I had a preview of the judgment just delivered by my learned brother, John Inyang Okoro, JSC and I agree with his reasoning and conclusion arrived thereat.

This appeal is a fall out of the decision of the lower Court which dismissed the suit of the Appellants. The Respondents initiated the suit in 1996 at the Customary Court of Anambra State for a declaration of title to the disputed land and perpetual injunction restraining the 1st and 2nd Appellants from further trespass to the land. The facts are as contained in the lead judgment. The Court of 1st instance, the Customary Court, considered the facts of the case and gave judgment against the Appellants. On appeal to the High Court, the case was dismissed for lacking in merit. At the lower Court, same was dismissed. My learned brother, John Inyang Okoro, JSC, considered same and has dismissed the case of the Appellants.

The issues for determination formulated by the Appellants, learned Counsel are:

1. Whether the principle that ownership of land can be proved by proof of possession of connected or adjacent land in circumstances rendering it probable that the owner of such connected or adjacent land would in addition be the owner of the land in dispute applies to this case.

2. Whether the age-long rule in Kodilinye V. Odu (1935) 2 WACA 336 requiring that the Plaintiff must succeed on the strength of his own case is applicable to this case.

The Appellants' great grand fathers were given the land for cultivation only and the land subsequently devolved on the 1st Appellant. All of a sudden, a total stranger from another village (the 2nd and 3rd Appellants) claimed ownership of the land and sold it to the 1st Appellant. The proof of ownership of the disputed land must be done either (1) By traditional evidence (2) By document of title (3) By various acts of ownership and possession numerous and positive to warrant inference of ownership (4) By acts of long possession and enjoyment of land (5) By proof of possession of adjacent land in dispute in such circumstances which render it probable that the owner of the adjacent land is the owner of the land in dispute. See IDUNDUN V. OKUMAGBA (1976) 9-10 SC 227, OGUNNAIKE V. OJAYEMI (1987) 1 NWLR (PT. 53) 760.

It is now well established principle of law that a party claiming declaration of title to a statutory or customary right of occupancy to land does not need to plead more than one of the prescribed methods of proof of title to land to succeed. See Per ADEREMI, J.S.C in YUSUF V. ADEGOKE & ANOR (2007) LPELR-3534 (SC).

In the instant appeal, the Respondents' claim and proof of the title to the land in dispute is predicated on their proof of possession of adjacent land in dispute. This was abundantly proved against that of the Appellants that made strange and unproved claims unknown in law.

It has long been settled that proof of title to land where the root of title is traced to ancestors, are entirely questions of fact to be established by evidence. Where there are specific findings of fact in the Court of trial in respect of such issues, a Court on appeal will be most reluctant and indeed seldom will interfere with such findings. See Per KARIBI-WHYTE, JSC in AJAO & ORS V. ALAO & ORS (1986) LPELR-285 (SC).

It is true that one of these five methods or ways of proof of title is by proof of possession of connected and adjacent land in circumstances rendering it probable that the owner of such connected and adjacent land would also be the owner of the land in dispute. See Per OPUTA, JSC in DURU & ANOR V. NWOSU (1989) LPELR- 968 (SC).

The Appellants woefully failed to prove another method of proving title to the land in dispute, making their case so weak and improbable. It is settled and well established that declaratory reliefs are not granted even on admission. The plaintiff who sought for such relief must prove and succeed on the strength of his case and not rely on the weakness of the defence. The burden of proof on the plaintiff in establishing declaratory relief to the satisfaction of the Court is quite heavy in the sense that such declaratory reliefs are not granted even on admission by the defendant where the plaintiff fails to establish his entitlement to the declaration by his own evidence. The Court does not make declarations of right either on admission or in default of defence without having evidence and being satisfied by such evidence to the plaintiffs entitlement to such a right, See Per OGUNBIYI, JSC in MOHAMMED V. WAMMAKO & ORS (2017) LPELR- 42667 (SC).

The stance of the 3 lower Courts and that of my learned brother on the facts and principles established in this case must not be tampered with and remains sacrosanct. I abide fully with their decisions that this appeal grossly lacks merit and is hereby dismissed. The costs awarded are agreeable by me.-end!