**CHIEF J. L. E. DUKE**

**V.**

**REV. (DR.) PETER ETIM DUKE**

COURT OF APPEAL

27TH DAY OF MARCH, 2014

CA/C/170/2010

**LEX (2014) - CA/C/170/2010**

OTHER CITATIONS

2PLR/2014/42 (CA)

(2014) LPELR-23095(CA)

**BEFORE THEIR LORDSHIPS:**

UZO I. NDUKWE-ANYANWU, J.C.A.

CHIMA CENTUS NWEZE, J.C.A.

ONYEKACHI A. OTISI, J.C.A.

**ORIGINATING COURT**

HIGH COURT OF CROSS RIVER STATE SITTING IN CALABAR

**REPRESENTATION**

G. ANUJULU Esq. for Appellant

F. E. EKANEM Esq. for Respondent

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

ESTATE ADMINISTRATION - GRANT LETTERS OF ADMINISTRATION:- How properly exercised

CONSTITUTIONAL LAW:- Legitimacy of children and the Constitution – Relevant considerations

CHILDREN AND WOMEN LAW: Estate administration – Multiple claims on estate arising from assertions of multiple marriages contracted by deceased person – Succession to interest in property – Claim that deceased person had a monogamous marriage – How proved or controverted - Rights of illegitimate children in the estate of their deceased father – Other relevant considerations

**PRACTICE AND PROCEDURE ISSUES**

COURT:- What applicant must do to enable the court exercise its discretion in his favour - When court of Appeal will not interfere with a proper exercise of discretion of a lower court

EVIDENCE:- Oral and documentary evidence – Proper treatment of

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| Other issue(s) |  |
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**MAIN JUDGMENT**

**UZO I. NDUKWE-ANYANWU, J.C.A. (Delivering the leading judgment):**

This is an appeal against the judgment of the High Court of Cross River State sitting in Calabar delivered on the 11th June, 2010.

Appellant applied for Letters of Administration on the 26th November, 2006 at the probate Registry to administer the Estate of his late father, Chief Moses Etim Okon Inyang Duke, who died intestate on 20th of August, 1975.

On the 8th of January, 2007, Respondent filed a caveat to the application. After the hearing, the Probate Registry gave judgment in favour of the Appellant. Aggrieved by that decision, the Respondent applied for a Review as provided in Ord. 46 Rule 86 of the CRS High Court (Civil Procedure) Rules 2008.

On the 11th of June, 2010, the High Court set aside the judgment of the Probate Registry. Dissatisfied with the High court's judgment, the Appellant filed a notice of appeal with nine (9) grounds.

In his brief of argument, the Appellant distilled 4 issues for determination as follows:

1. Whether the lower court was right in reversing the judgment of the trial court on the ground that it was based on inadmissible evidence.

2. Whether the Respondent (caveator) has proved his right to the estate of late Chief Moses Etim Okon Inyang Duke who died intestate in 1975 to warrant the granting of administration of his estate to him (caveator).

3. Whether a court can presume the existence of facts.

4. Whether the lower court was right by suo moto raising a fresh point in this matter and then resolving same in the course of the review exercise in favour of the Respondent.

The Respondent filed his brief of argument on the 11th of September, 2012 but deemed properly filed and served on the 10th of April, 2013. In its brief, the Respondent articulated four (4) issues for determination as follows:

1. Whether there is any competent records of Appeal before this Honourable court to sustain the appeal, and if not, whether the Appeal Court has jurisdiction to entertain an appeal without the records and should the appeal not be dismissed in the circumstance.

2. Whether the lower court was right in reversing the decision of the Probation Court Registry on the available evidence and materials which the Probation Court ignored, to make the appellant the sole administrator, to the total exclusion of the respondent and other beneficiaries who have interest in the estate of their late father, Chief Moses Etim Okon Inyang Duke.

3. Whether the Respondent had proved and shown his interest in the estate of late Chief Moses Etim Okon Inyang duke to qualify him for the administration or joint administration of the estate of his father alongside the appellant in the circumstance as ordered by the lower court.

4. Whether the lower court was wrong to make use of the laws applicable to the facts of the case while writing its judgment even though the parties did not specifically refer to them and can this be regarded as raising fresh/point in favour of the Respondent

The first issue in the respondents brief is on jurisdiction; whether there is a competent appeal as the Record of Appeal was filed out of time. The learned counsel to the Respondent in this issue submitted that under Order 8 Rule 18 of the Court of Appeal Rules 2011 which provides.

"If the registrar has failed to compile and transmit the record under rule 1 and the Appellant has also failed to compile and transmit the record in accordance with rule 4, the Respondent may by notice of motion move the court to dismiss the appeal"

It is true that where the Registrar of the lower court fails to compile and transmit record within 60 days, the Appellant has 30 days to compile and transmit. The Records of Appeal has been transmitted to this court since the 20th of October, 2010 and the appeal entered in this court. It is also true that the court graciously granted the Appellant an order on the 9th of November, 2010 to compile and transmit the Records of Appeal. However, it would be recalled that the 2011 Rules were not in operation at the time of compilation and transmission of the Records of Appeal. The order made on the 9th of November, 2010 was even granted before the 2011 Rules took effect. Be that as it may, this is purely a procedural defect. The Records of Appeal are already in the courts' file and forms part of the Record of this appeal.

The Supreme Court in its wisdom has warned on following the law strictly to engender hardship to the parties. The records are before the court. The parties have filed their briefs. The irregularity is procedural rather than substantive.

The court would deem the already compiled and transmitted Record of Appeal as properly compiled and transmitted to this court.

I will therefore deal with the issues of law as articulated by the parties to determine this case, as it has suffered a lot of delays. This case has been pending since 2006 when the Appellant applied for letters of administration in the Probate Registry of the High Court of Cross River State.

**ISSUE 1:**

In arguing issue 1 covered by grounds 3, 4, 5 & 7 of the Notice of Appeal, Appellant's Counsel referred the court to the case of ***AJAYI v. OLU FISHER*** (1956) INSCC 82, where the Supreme Court laid down the principles of procedure when the Court of Appeal can interfere with respect to wrongly admitted evidence at trial.

He stated that this is reinforced by S.227 of the Evidence Act. He contended that the probate Court in its judgment after analyzing the evidence before it relied on Exh. C. and granted the administration of the estate of late Chief Duke to the Appellant. Exh. C is a certified True Copy of the Deed of Grant made on the 8th of July, 1974 by late Chief Duke to the Appellant.

Whereas the High Court came to the conclusion that the judgment was based on Exh. A which was inadmissible evidence, learned Counsel to the Appellant reiterates that the High Court erred in its judgment by this conclusion. The Respondent could not produce any material or legal evidence to prove his right to the estate as required by sec. 22(1) of the Administration of Estates Law CAP A2, Laws of CRS 2004. See ***INAKOJU v. ADELEKE (2001) 4 NWLR (Pt. 1025) 427 @ 479 H. 22.***

In responding to issue 1, Counsel for the Respondent stated that the Probate Registry arrived at a wrong decision.

Respondent's Counsel maintained that the court ignored the affidavit of interest filed by the Respondent which disclosed his interest in the estate of his father. The High Court rightly stated in its judgment that the Respondent showed that he is a person interested in the estate See pg. 140-141 of the record of appeal.

Counsel further stated that the Probate Registry wrongly relied on Exh. C (the Deed of Grant) in granting the letters of administration of the estate to the Appellant.

He submitted that the judgment of the High Court was not solely predicated on Exh. A - The Affidavit of loss, but on the facts and evidence of the case. Exh. A only formed part of the judgment.

The Record of Appeal is incomplete as the oral argument made in objection to the tendering of Exh. A was not included. The court cannot properly know what transpired at the probate court when Exh. A was tendered. See ***OLORUNYOLEMI v. AKHAGBE (2010) ALL FWLR (Pt. 252) P. 246.***

Respondent's counsel concluded that the lower court properly reviewed the Probate Registry decision and set it aside. The lower court jointly granted the administration of the estate of Late Chief Moses Etim Okon Inyang Duke, to the Appellant and Respondent. Judgment therefore, cannot be reversed. Rather, this appeal should be dismissed as unmeritorious.

The learned High Court Judge had assessed the evidence of the Probate Registry and the documents received. The Appellant argued that the High Court Judge disposed of Exhibit A, the affidavit deposing to the loss of his parent’s marriage certificate. What is the impact of the marriage certificate to the issue at hand? The Appellant would want the court to believe that, their father had a monogamous marriage with his mother. For the court to believe this, the Appellant ought to produce credible evidence in support of this assertion. From the evidence available to the court, their father had two (2) female children before the marriage to the Appellant's mother.

The Respondent in his evidence stated that his father altogether had eight (8) wives. The deponent responded to these facts in paragraphs 6 of his Counter Affidavit which reads:

My father married deponent's mother, Madam Theresa E. Duke (2) The mother of Mrs. Inyangette Ukpong (3) Mother of Madam Nkoyo Etim Duke (4) Mother of Madam Bassey Etim Duke (5) Mother of Mrs. Alice Akanibo (6) Mother of Mrs. Mboneyen Ekpenyong Edem ad three other women who had no child/children for my father and altogether my late father had 8(eight) wives.

The Appellant inadvertently acknowledged the existence of his brothers and sisters from other women. See paragraph 6 of his further Counter Affidavit of the Appellant.

That, still in further answer to paragraph 3 of the affidavit, I state categorically that Peter Etim Duke, Emmanuel Etim Duke, Mary E. Ene, Rita V. Ita and Inyang E. Etim were born out of adulterous and void relationship their mother might have had with my late father. Consequently, they remain illegitimate and unknown to my father's estate until they can produce a proper and acceptable document to me to show that my late father actually personally legitimated them.

From the above, it just means that what is agreed needs no further proof. All along, the Appellant wanted the court to believe that his father enjoyed a monogamous marriage with his mother.

These two paragraphs from the Appellant and the Respondent go to prove that in spite of the Appellant's insistence, his father had other children from other women other than his mother. This conflict could have been resolved by authentic documentary evidence which supports one of the affidavits in conflict with another. If the appellant had provided a certified true copy of the marriage certificate it may have supported his claims Eimskip Ltd v. Exquisite Ind. Ltd (2003) 4 NWLR (Pt. 809) page 88, Dana Impex Ltd v. Awukam (2006) 3 NWLR (Pt. 968) page 544, Bawa v. Phemas (2007) 4 NWLR (Pt. 1024) page 251.

The High Court Judge perused all the affidavit evidence and the documents tendered in the probate Registry to come to its conclusion. The Appellant and the Respondent are both children of their father. What is the justice of this case? The Appellant is the oldest son of their father which the Respondent also acknowledged. The Respondent is one of the children of their father who represents most of the other children. I believe the High Court Judge was right when he granted the letters of administration to both the Appellant and the Respondent. This issue is, therefore, resolved against the Appellant.

**ISSUE 2:**

The Appellant's Counsel submitted that the lower court's judgment did not dispute the findings of the trial court on the paternity of the Respondent. Consequently, they remain binding on the parties and are valid. See ***ASHIRU v. OLUKOYA (2006) 11 NWLR (Pt. 990) 1 @ 10 H. 13.***

The Respondent did not produce any document such as a birth certificate to show that the late Chief Duke had acknowledged paternity of him before his death. See ***BOB-MANUEL v. WOJI (2010) 8 NWLR (Pt. 1196) 2060 @ 273*** such acknowledgment by law is done by a natural father who is subject to customary law. See ***COLE v. AKINYELE (1960) 5 FSC. 84.***

Under sec. 3(1) of the Cross River State Legitimacy Law CAP L. 12 of 2004, only acknowledged/Legitimate persons, spouse & children are entitled to take any interest in the estate of one who died intestate.

Though Section 22 of the Administration of Estates Law allows the exercise of discretion as to whom administration is granted, the exercise of that discretion must be done judiciously; upon materials and evidence necessary for proper exercise of the discretion. See ***OSUJI v. EKEOCHA (2009) 16 NWLR (Pt. 1166) 81 @ 93 H. 20.***

Appellant's Counsel further submitted that the trial court found that the Respondent's evidence of his relationship with the Appellant was unreliable. On the 6th of November, 2007, he had told the court that the Appellant was not his brother. Appellant corroborated this evidence on the 19th of August, 2008 in his own evidence.

The Respondent cannot, therefore, use the Appellant to step into the estate of late Chief Duke. Appellant cannot declare the Respondent a son of the late chief Duke. The findings of the lower court were contrary to the legal evidence given at the trial court. See ***OFU OSADIM v. CHIEF E. E. TAWO (2010) 6 NWLR (Pt. 1189) 155 @ 177 FIRST BANK OF NIG PLC v. SONGONUGA (2007) 3 NWLR (Pt. 1021) 230 @ 258 G.M.O. NWORAH & SONS CO. LTD v. AKPUTA (2010) NWLR (Pt. 1200) 443-456 H. 24.***

In response, Respondent's Counsel at pages 61 - 63 of the Record of Appeal where it stated and leaves no one in doubt that the Respondent has interest in the estate of his late father. The marriage between Appellant's mother and father was a customary marriage which entitled their father to a multiplicity of wives.  
The Lower Court in its judgment looked into the case and properly declared who has the interest as stated in ***OKON v. ADMINISTRATOR GENERAL OF CROSS RIVER STATE (1992) 6 NWLR (Pt. 248). ASERE v. ASERE (1991) 6 NWLR (Pt. 197) 316 @ 329.*** The Court made the proper order in its judgment by setting aside the probate Court's decision and granting joint administration of the Estate of the late Chief Duke.

I had earlier re-iterated in issue one that both parties had interest in the estate in question. The matter is not about paternity of the parties. I had earlier on in this judgment quoted where both parties acknowledged each other to be children of their deceased father. The Appellant acknowledged the Respondent and the other siblings though he referred to them as children from the adulterous union of their father and their various mothers. This assertion needs no further proof as to the relationship of the Respondent to their deceased father. There was no need for this to be proved by birth certificates.

Section 22 of the Administration of Estates Law allows the court to exercise its discretion on whom the letters of administration may be granted. See Osuji v. Ekeocha (supra)

The High Court Judge had exercised his discretion judicially and judiciously. The High Court Judge had painstakingly gone through the evidence and, from what he got, exercised his discretion judiciously and judicially in granting the letters to both parties.

Offordile v. Egwuatu (2006) 1 NWLR (Pt. 961) page 421

The High Court Judge exercised his proper discretion accordingly to law. Discretion must be exercised upon facts and circumstances presented to the court, from which it must draw a conclusion governed by law. See UBN PLC v. Adjarho (1997) 6 NWLR (Pt. 507) page 112, In Re Alase (2002) 10 NWLR (Pt. 776) page 553.

The Court of Appeal will not ordinarily interfere with a proper exercise of discretion of a lower court. However, where the exercise of discretion tends to do injustice to one of the parties, the Appeal Court must employ its judicial sledge hammer to salvage the situation Guda Vs. Kitto (1999) 12 NWLR (Pt. 629) page 21, Imani & Sons Ltd. Vs. Bill Construction Co. Ltd (1999) 12 NWLR (Pt. 630) page 254, Mahammed Vs. Court of Appeal (1999) 12 NWLR (Pt. 630) page 331, Ehidimhem v. Musa (2000) 4 SC (Pt. II) page 166, Oyekanmi v. NEPA (2000) 12 SC pt. 1 page 70, Kuda Holdings (2000) 12 SC pt. 1 page 139.

The grounds upon which the judgment or order based on the discretion of a trial court can be interfered with are as follows:

(a) where the trial court acted under a misapprehension of the law;

(b) where the trial court acted under a misapprehension of the facts in that it gave weight to irrelevant or unproved matters;

(c) where the trial court omitted to take into account matters that are relevant;

(d) where the discretion of the trial court is exercised on wrong or inadequate materials; and

(e) where it is in the interest of justice to interfere to prevent miscarriage of justice. Offordile v. Egwuatu (2006) 1 NWLR (pt. 961) 421 CA.

The Appellant has not shown that the High Court Judge breached any of the foregoing grounds. I, therefore, hold that the High Court Judge exercised his discretion judicially and judiciously in granting the letters of administration to the Appellant and Respondent as sons of the deceased.

This issue is also resolved against the Appellant.

**ISSUE 3 AND 4**

On issues, Appellant's counsel submitted that no material or credible evidence was placed before the trial court that could have led the Lower Court to come to the conclusion that the Respondent clearly showed that he is a person interested in the estate of Late Chief Duke. It was, therefore, mere speculation and Courts are not allowed to speculate. See ***KATUN v. OLASE WERE (2010) 1 NWLR (Pt. 1175) 411 @ 417 H. 9 OMIDIORA v. FED. CIVIL SERV. COMMISSION (2007) 14 NWLR (Pt. 1053) 17; STATE v. OLADIMEJI (2003) 14 NWLR (Pt. 839) 57 @ 69.***

Courts are to confine themselves to issues raised by the parties.

Counsel for the Appellant submitted that the issue of right to freedom from discrimination under S.42 (2) 1999 Constitution was never canvassed before the trial court. It, therefore, could not be part of the review exercised by the Lower Court. See ***AYINKE STORES LTD. v. ADEBOGUN (2008) 10 NWLR (Pt. 1096) 612 - 617; OSADIM v. TAWO (2010) 6 NWLR (Pt. 1189) 155.***

Law should only be applied to the facts of the case. It is not for a court to manufacture facts. Counsel urged this court to allow the appeal as the judgment of the trial court was not based on any admissible evidence.

Respondent's counsel in response stated that these issues are frivolous. Judges are not confined to rely on the laws and cases cited and relied upon by parties. When writing judgments, the courts are entitled to make use of laws and case - laws not cited or relied upon by counsel for the parties.

Counsel for the Respondent finally submitted that the court was justified and cannot be faulted in making use of the facts of the case as adduced by the parties. He further submitted that the Appellant's complaint is misplaced and misconceived. The appeal should be dismissed as it is vexatious, lacks merit and constitutes a serious abuse of court's process.

The suit in the lower court was almost fought on affidavit evidence wherein almost all the material evidence was placed before the court. The Appellant deposed to his paternity and that of the Respondent and other siblings. This singular information of paternity of the parties is the material the lower court needed to exercise its discretion one way or the other. The Respondent led credible evidence to show that he is the son of the deceased. This was not denied by the Appellant though he claimed the respondent was from an adulterous relationship. The Respondent also clearly showed that he was representing the other siblings the Appellant had failed to acknowledge. From the materials placed before the court, the Respondent is a better person to be given the letters of administration since he has clearly shown he was representing the interest of the other siblings. This was unlike the Appellant who, though the first son, sought to exclude the other siblings from the estate of their deceased father. All these information was given by the parties and, as such, the court was not speculating on the facts.

The Appellant had sworn to an affidavit that the marriage certificate of his father and mother was lost. This was not enough evidence of a monogamous marriage between his parents excluding all other wives.

It is incumbent upon an applicant to place all necessary materials before the court to enable the court exercise its discretion in his favour. It is not sufficient for an applicant to rely on mere averments; the averments must be substantial by exhibiting the relevant materials for the averment to be credible. Livestock Feeds Plc Funtua (2005) All FWLR (Pt. 286) 753 CA

The loss of the certificate and the affidavit to that effect does not automatically become an exhibit at the trial to make the assertion of a monogamous marriage between the parents credible. **Jacob Vs. Attorney General of Akwa Ibom State (2002) 7 NWLR (Pt. 765) page 18.**

The Appellant had complained that the High court Judge referred to S. 42 (2) of the 1999 Constitution which was never canvassed by either of the parties. This complaint is neither here nor there. A good judgment should set out the nature of the action before the court and the issue in controversy, review the cases for the parties, consider the relevant laws raised and applicable to the case, make specific findings of fact and conclusions and give reasons for arriving at those decisions. **Ciroma v. Ali (1999) 2 NWLR (part 590) page 317.**

Section 42 of the 1999 constitution referred to by the High Court Judge in his judgment was not done suo motu. In fact it was the Appellant that stated in his affidavit thus:

That, still in further answer to paragraph 3 of the affidavit, I state categorically that Peter Etim duke, Emmanuel Etim Duke, Mary E. Ene, Rita V. Ita and Inyang E. Etim were born out of adulterous and void relationship their mother might have had with my late father. Consequently, they remain illegitimate and unknown to my father's estate until they can produce a proper and acceptable document to me to show that my late father actually personally legitimated them.

To correct that assertion and re-iterate what the 1999 Constitution said, the High Court Judge referred to that Section which provides.

"Section 42 no citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth"

The appellant had alluded to the fact that the respondent was a product of an adulterous relationship. The High Court Judge was, therefore, correcting an erroneous impression being created by the Appellant that his siblings were illegitimate.  
  
This issue was canvassed by their various affidavits, even though none of them referred to S. 42 of the 1999 Constitution simpliciter. However, for the High Court Judge to reach a just decision, he must refer to the relevant laws or statutes applicable to the facts as presented by the parties.

The High Court Judge cannot be faulted with the use of the facts and materials placed before him. These issues also fail.

In sum, the four (4) issues articulated by the Appellant have all been resolved against him. This appeal is unmeritorious and, therefore, fails. I affirm the judgment of the lower court and the orders contained therein:

That the letters of administration had been granted to the Appellant and the Respondent.

I make no order as to costs.

**CHIMA CENTUS NWEZE, J.C.A.:**

My Lord, **Uzo I. Ndukwe-Anyanwu, JCA,** obliged me with the draft of the leading judgment just delivered now. I am persuaded by the reasoning and conclusion. I abide by the consequential orders in the said leading judgment.

**ONYEKACHI A. OTISI, J.C.A.:**

I had the privilege of reading, in draft, the Judgment just delivered by my learned Brother, **Ndukwe-Anyanwu JCA,** dismissing this appeal.

I am in complete agreement with the reasoning and conclusions of my learned brother on the issues raised for determination as comprehensively resolved; and have nothing further to add.

I abide by the orders made in the lead Judgment.

***Cases referred to -***

AJAYI V. OLU FISHER (1956) INSCC 82

ASERE V. ASERE (1991) 6 NWLR (PT. 197) 316

ASHIRU V. OLUKOYA (2006) 11 NWLR (PT. 990) 1

AYINKE STORES LTD. V. ADEBOGUN (2008) 10 NWLR (PT. 1096) 612

BAWA V. PHEMAS (2007) 4 NWLR (PT. 1024) 251

BOB-MANUEL V. WOJI (2010) 8 NWLR (PT. 1196) 2060

CIROMA V. ALI (1999) 2 NWLR (PART 590) 317

COLE V. AKINYELE (1960) 5 FSC. 84

DANA IMPEX LTD V. AWUKAM (2006) 3 NWLR (PT. 968) 544

EHIDIMHEM V. MUSA (2000) 4 SC (PT. II) 166

EIMSKIP LTD V. EXQUISITE IND. LTD (2003) 4 NWLR (PT. 809) 88

FIRST BANK OF NIG PLC V. SONGONUGA (2007) 3 NWLR (PT. 1021) 230

G.M.O. NWORAH & SONS CO. LTD V. AKPUTA (2010) NWLR (PT. 1200) 443

GUDA V. KITTO (1999) 12 NWLR (PT. 629) 21

IMANI & SONS LTD. V. BILL CONSTRUCTION CO. LTD (1999) 12 NWLR (PT. 630) 254

IN RE ALASE (2002) 10 NWLR (PT. 776) 553

INAKOJU V. ADELEKE (2001) 4 NWLR (PT. 1025) 427

JACOB V. ATTORNEY GENERAL OF AKWA IBOM STATE (2002) 7 NWLR (PT. 765) 18

KATUN V. OLASE WERE (2010) 1 NWLR (PT. 1175) 411

KUDA HOLDINGS (2000) 12 SC (PT. 1) 139

LIVESTOCK FEEDS PLC FUNTUA (2005) ALL FWLR (PT. 286) 753 CA

MAHAMMED V. COURT OF APPEAL (1999) 12 NWLR (PT. 630) 331

OFFORDILE V. EGWUATU (2006) 1 NWLR (PT. 961) 421

OFU OSADIM V. CHIEF E. E. TAWO (2010) 6 NWLR (PT. 1189) 155

OKON V. ADMINISTRATOR GENERAL OF CROSS RIVER STATE (1992) 6 NWLR (PT. 248)

OLORUNYOLEMI V. AKHAGBE (2010) ALL FWLR (PT. 252) P. 246

OMIDIORA V. FED. CIVIL SERV. COMMISSION (2007) 14 NWLR (PT. 1053) 17

OSADIM V. TAWO (2010) 6 NWLR (PT. 1189) 155

OSUJI V. EKEOCHA (2009) 16 NWLR (PT. 1166) 81

OYEKANMI V. NEPA (2000) 12 SC (PT. 1) 70

STATE V. OLADIMEJI (2003) 14 NWLR (PT. 839) 57

UBN PLC V. ADJARHO (1997) 6 NWLR (PT. 507) 112