**MR. TOYIN BAJELA OKO-OSI**

**V.**

**MRS. R. I. AKINDELE**

IN THE COURT OF APPEAL OF NIGERIA

THE 11TH DAY OF JANUARY, 2013

CA/L/249/96

**LEX (2013) - CA/L/249/96**

OTHER CITATIONS

2PLR/2013/122

(2013) LPELR-20353 (CA)

**BEFORE THEIR LORDSHIPS**

AMINA A. AUGIE, JCA

IBRAHIM MOHAMMED MUSA SAULAWA, JCA

SIDI DAUDA BAGE, JCA

**BETWEEN**

TOYIN BAJELA OKO-OSI - Appellant(s)

AND

R. I. AKINDELE - Respondent(s)

**ORIGINATING COURT**

LAGOS STATE HIGH COURT (I. A. Olorunnimbe J., Presiding)

**REPRESENTATION**

S. A. OGUNLEYE - For Appellant

AND

Respondent counsel absent though served within the hearing notice - For Respondent

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

REAL ESTATE AND PROPERTY LAW - LAND:- Family land – Order of court relating thereto – Duty of parties to obey same – Attitude of court to disobedience thereto

CONSTITUTIONAL LAW AND JURISPRUDENCE – JUDICIAL POWERS –STARE DECISIS/PRECEDENT:- Section 6 of the Constitution of the Federal Republic of Nigeria, 1999, as amended – Vesting of the judicial powers of the Federation in the Superior Courts of record duly established for the Federation – Whether the judicial powers of a state are equally vested in the courts duly established for the respective states, subject to the provisions of the Constitution – Duty of courts not only to respect, but also to be strictly bound by the authoritative decisions of the Supreme Court - Justification

CHILDREN AND WOMEN LAW:- *Women and* Family property – Interests of branches of the family – How treated

**PRACTICE AND PROCEDURE ISSUES**

ACTION **-** CONTEMPT PROCEEDINGS:Essence and nature of – Quest to preserve and safeguard the sanctity or sacredness of administration of justice – Whether Contempt of court proceedings can be either criminal or civil - Whether it is criminal when it consists of interference with administration of law thus impeding and perverting the course of justice - Whether it is civil when it consists of disobedience to the judgments, orders, or other processes of the court resulting or involving private injury

COURT - CONTEMPT OF COURT:- Disobedience to a judgment or an order of Court requiring a person to abstain from doing a specified act - Orders for injunction, whether mandatory or prohibitory, interlocutory or permanent, specific performance – Whether the Court may only punish as contempt, a breach of or disobedience to an order of Court or non-compliance with an undertaking, if it is satisfied that the terms of the order or injunction are clear and unambiguous

COURT - CONTEMPT OF COURT: Meaning – Two types - Contempt in faciae curiae i.e contempt committed in the face (before) the court - Contempt ex faciae curiae i.e. contempt committed outside the court – Distinction – How treated by court When court can deal with the contemnor instaneously – When court is obliged to transfer the charge to another court where the contemnor can be given proper trial on the merits by a different judge

JUDGMENT AND ORDER **-** CASE LAW - DOCTRINE OF STARE DECISIS:- Two conflicting decisions of the Supreme Court – Whether lower court is bound to follow the latter decision of the Supreme Court -

JUDGMENT AND ORDER - ORDER OF COURT:- Application for stay - Duty of every court of law not to lend its machinery in aid of a recalcitrant party by ordering a stay while the party is still in contempt of order thereof

JUDGMENT AND ORDER OF COURT:- Obedience to lawful orders of court as fundamentally a sine qua non to the good order, peace and stability of the Nigerian Nation, nay any nation for that matter - alternative to obedience of lawful court orders as brute self help and anarchy – Whether disobedience to an order of court should, therefore, be seen as an offence directed not against the personality of the judge who made the order, but as a calculated act of subversion of peace, law, and order in the Nigerian Society

WORDS AND PHRASES - LATIN MAXIMS:- “si tamen similia evenerint, per simile judicentur, cum bona sit occasion a similibus procedure ad similia” – Meaning

WORDS AND PHRASES - "CONTEMPT OF COURT":- Meaning and how treated by court

**MAIN JUDGMENT**

**IBRAHIM MOHAMMED MUSA SAULAWA, J.C.A. (Delivering the Leading Judgment):**

Most regrettably, the instant appeal belongs to the league of the old appeals that ought to have been disposed-off long ago. Having been entered in 1996, the appeal has had an unwarranted chequered history. The appeal is a fall-out of the ruling of the High Court of Lagos State, Ikeja Judicial Division, which was delivered on July 2, 1993 by the Hon. Justice I. A. Olorunnimbe in Suit No. ID/1337/93.

**BACKGROUND FACTS: -**

The genesis of the appeal could be traced to June 6, 1993. That was the day on which the Suit in question was filed in the lower court, vide a writ of summons and a statement of claim. By the statement of claim thereof, the Plaintiffs claim jointly and severally against the Defendants various declaratory and injunctive reliefs as follows: -

*(i) A declaration that the property consisting of ONE GARRAGE situate, lying and being at No. 2, Onilekere Street, Off Cement Bus Stop, Abeokuta Expressway, Agege Lagos State herein referred to simply as "the garage" belongs jointly to ALL the Four (4) Branches of Late Momodu Moshesha namely:-*

*Disu Descendants (Branch)*

*Sabalemotu Descendants (Branch)*

*Abu Bakare Descendants (Branch)*

*Rabiatu Alake Descendants (Branch)*

*(ii) A declaration that the 1st Plaintiff as the Representative of Abu Bakare Descendants and the 2nd Plaintiff as the Representative of Sabalemotu Descendants are jointly entitled to HALF of the entire interest on the said garage.*

*(iii) A declaration that the absolute occupation, usage, letting and dealing in the said garage by the Defendants without reference to the Plaintiff is irregular, unauthorized and all transactions relating thereto are irregular, invalid, null and void and of no effect whatsoever and an order setting aside all the said transactions.*

*(iv) An order for a true and fair account of all the rents and profits realized from the said garage since January, 1980 to the date of judgment and payment of HALF of the total rents collected to the Plaintiffs as their just entitlements in respect of the said garage.*

*(v) An order that the garage which sits on a property measuring about one and Half (1'bd) Plots be PARTITIONED or shared into two equal halves with One Half to the Plaintiffs and the other half of the Defendants.*

*(vi) An order of perpetual injunction restraining the Defendants whether by themselves, their servants, agents and/or privies from letting, leasing or collecting rents or dealing in any manner whatsoever with the property consisting of ONE GARRAGE situate, lying and being at No. 2, Onilekere Street, Off Cement Bus Stop, Abeokuta Expressway, Agege Lagos State.*

In the said suit, both the Appellant and the (present) Respondent were the 2nd Defendant and 2nd Plaintiff, respectively.

The Plaintiff's counsel, LB Lawal - Akapo Esq. filed a motion on notice dated June 10, 1993, in the court below, seeking the following interlocutory reliefs:

*(i) An order of interlocutory injunction restraining the Defendants/Respondents whether by themselves, their servants agents or privies from further collection of rent, leasing, letting, alienating, selling, mortgaging or dealing in any manner whatsoever, with the property situate, lying and being at No. 2, Onilekere Street, Off Cement Bus Stop, Abeokuta, Expressway, Agege, Lagos State otherwise known as "the garage", pending the final determination of this suit.*

*(ii) An order of Court for the appointment of official Receiver of the High Court Lagos to be responsible for the collection of rent in respect of the garage and pay the same into an interest yielding account which account shall be kept and maintained in the name of One Chief Registrar, High Court, Lagos pending the final determination of this case.*

*(iii) An order of Court granting leave/permission to the Licensed Surveyor of the Plaintiffs/Appellants' choice to enter upon the said property known as No. 2, Onilekere Street, Off Cement Bus Stop,**Abeokuta Expressway, Agege, Lagos State also known as the garage and take measurement of the entire property with a view to knowing the limit and extent of the said garage and consequently issue and draw up a Comprehensive Survey reflecting the measurement taken.*

*(iv) Such further or other orders as this Honourable Court may deem fit to make in the circumstances.*

The said interlocutory motion was supported by a 29 paragraphed affidavit deposed to by Mrs. Risikatu Iyabode Akindele, the 2nd Plaintiff in the case.   
The ruling of the lower court regarding the interlocutory application, delivered on 02/7/93, is contained at pages 14 - 16 of the record of appeal. In the said ruling, the learned trial judge came to the conclusion, thus:-

"It is clear that the Defendants are not really opposing the application. Indeed they gave no answers to the allegations deposed to in the supportive affidavit. They offered none. I accept as true all the allegations since they are not challenged, denied or rebutted. I am satisfied that the Plaintiffs have placed before the Court sufficient materials to warrant the exercise of my discretion in their favour. In the circumstance, the application succeeds, and the following orders are hereby made.

*1. An order of interlocutory injunction restraining the Defendants/Respondents, whether by themselves, their servants, Agents or privies from further collection of rent, leasing, letting, alienating, selling, mortgaging or dealing in any manner whatsoever with the property situate, lying and being at No. 2, Onilekere Street, Off Cement Bus Stop, Abeokuta Expressway, Agege, Lagos State otherwise known as "The Garage", (Sic) pending the final determination of this suit.*

*2. The Official Receiver of this Honourable Court is hereby appointed as Receiver and Manager of the property, the subject matter of this matter known as No. 2, Onilekere Street, Off Cement Bus Stop, Abeokuta Expressway otherwise known as "the Garage."*

*3. The Official Receiver will collect rents in respect of the property and manage it. Rents collected shall be paid in an interest yielding account in a reputable Bank in the name of the Official Receiver pending the hearing and final determination of this Suit or further orders from this Court.*

*4. An order of Court granting Leave/permission to the Licensed Surveyor of the Plaintiffs/Applicants' choice to enter upon the said property known as No. 2, Onilekere Street, Off Cement Bus Stop Abeokuta Expressway, Agege, Lagos State also known as "the garage" and take measurement of the entire property with a view to knowing the limit and extent of the said Garage and consequently issue and draw up a Comprehensive Survey reflecting the measure taken.*

*There will be no order as to cost.*

On July 9, 1993, Olusola Martins Esq. filed in the court below a motion on Notice seeking the following interlocutory reliefs:

*1. An order of stay of execution of the court's ruling given on the 2nd day of July, 1993 pending the determination of the motion to set aside the said ruling.*

*2. Any other order or orders as this Honourable Court, may deem fit to make in the circumstances.*

Curiously enough, the said Olusola Martins Esq., filed yet another motion on notice, dated the July 5, 1993, seeking virtually the same relief as the first application, thus:

*"An order setting aside the order of this Honourable court made on the 2nd day of July, 1993 and for such further order or orders as this Honourable court may deem fit to make in the circumstances."*

The two motions, filed by Olusola Martins Esq. seeking to set aside the ruling of the lower court delivered on July 2, 1993 are yet to be heard by the court below. However, the aspect of the court's order relating to the 3rd Defendant Madam Biola, was set aside by the lower court on the ground of non-service thereon.   
On June 15, 1994, the Respondent's counsel filed in the lower court a motion on notice, pursuant to order 9 Rule 13 of the Sheriffs And Civil Process Law (sic) CAP. 127 Laws of Lagos State, seeking the following relief against the Appellant.

*An order for your committal to prison for having disobeyed the order of this Honourable court made on the 2nd day of July, 1993 restraining you, your servants, or Agents from collecting rent, letting leasing or dealing in any manner whatsoever, with the property known as No.2, Onilekere Street, Ikeja, Lagos otherwise known as "the GARAGE" and appointing an Official Receiver of the Lagos High Court to collect rent and pay the same in to an interest yielding account etc. pending the determination of this suit.*

See pages 26 - 30 of the Records.

On 21/7/94, the Appellant filed a 9 paragraphed counter affidavit to the application in-question. Consequent upon the hearing of the motion on 03/8/95, the lower court delivered its ruling thereupon, on 09/8/95 to the effect, *inter alia*, thus:-

*The conduct of TOYIN BAJELA OKO-OSI the 2nd Defendant is an affront to civilized society. He has shown a flagrant disrespect for law and order. There is a disturbing and worrisome aspect of this incident. After the order had been made by this Honourable court Mr. Sola Martins - learned counsel for the said 2nd Defendant - a member of our noble and honourable profession wrote to the Official Receiver. He said in paragraphs two and three of the letter:*

*It is surprising to note that despite your office being notified, you went ahead to execute the order thus for-stalling the outcome of our application. It is trite law that once the parties to an action have been served with motion to set aside the order of court or motion for stay of execution, no further action should be taken during the pendency of the motion.*

*Our clients are finding it difficult to cooperate in view of their pending application slated for 8/11/93.*

*Nothing could be more contemptuous.*

*The learned counsel did not cite his trite law. This is unfortunate...*

*In the final analysis, I found Toyin Bajero Oko-Osi liable. I now call on him to show cause why he should not be committed of court (sic).*

In response to the above ruling in-question, both the Appellant and counsel thereof were recorded to have pleaded thus:-

*2ND DEFENDANT: I pray for leniency.*

*MARTINS: I ask the court to be lenient with the 2nd Defendant. It was the 3rd Defendant who let the place. We are sorry. It is not the intention of the 2nd Defendant to disobey the law. I ask the court*

Whereupon, the lower court held thus:-

*COURT: I have carefully listened to the plea of the 2nd Defendant and his counsel. I have taken into consideration the fact that the 2nd Defendant/Contemnor and all other parties are members of the same family and he finds himself, unable to use the learned counsel - Mr. Martin's language to cooperate with the official Receiver.*

*It seems to me that he had been ill-advised and misguided. Be that as it may- I will not be hard on him. He is hereby cautioned and discharged.*

At page 43 of the Record, the Appellant appears to have given a notice of appeal to the ruling of the lower court in-question, thus:-

*I, Toyin Bajela - Oko-Osi, having been convicted of the offence of contempt of court and whose address for service is care my counsel, Sola Martins & Co. 62, Olowode Street, Yaba do hereby give notice of appeal against my conviction (parts... of which hereinafter appear) to the court on the following grounds.*

*...*

*Signature & Address*

*Signature of Applicant of attesting witness*

*Dated this 6th day of November, 1995.*

Ironically, the above notice of appeal was not filed along with any grounds. However, pages 44 - 45 of the Record contain - a total of 8 grounds of appeal, dated and filed on 06/11/95. The Appellant's brief of argument was evidently filed on 10/10/07, but deemed properly filed and served on 25/11/10. On 19/3/12 the court granted an order (pursuant to the Appellant's application filed on 22/12/11) setting down the appeal for hearing on the Appellant's brief alone. The Respondent has consistently failed to show interest in the appeal, resulting in failure to file the brief thereof.

At pages 5 & 6 of the (unpaginated) brief thereof, the Appellant has formulated three issues for determination, viz:-

*1. Whether there is need for a fresh supporting affidavit of the complaint against the 1st Respondent/Applicant in respect of the application under FORM 49. The Respondents originally had their complaint against the four Defendants but later withdrew against three others.*

*2. Whether the affidavit in support of the criminal proceeding (Form 49) sworn to by Mrs. Ayisat Agoro supports the charges of contempt laid against the Applicant.*

*3. Whether the trial learned judge can convict the Appellant for contempt without mentioning in his judgment the act or omission of the Appellant that constitute contempt of his order.*

Having considered the circumstances surrounding the appeal vis-'a-vis the grounds of appeal, I am of the view that there is only one issue for determination, viz:

*1. Whether the lower court was right in convicting the Appellant for contempt thereof under Order 9 Rule 13 of the Sheriffs and Civil Process Law, CAP 127 Laws of Lagos State, 1994.*

Instructively, the word contempt literally means the act or state of despising. As a legal term, it denotes a conduct that defies the authority, honour, prestige or dignity of a court or legislature. Thus, due to the fact that such a despicable conduct invariably interferes with the administration of justice, it is usually punishable by fine or imprisonment. See BLACK'S LAW DICTIONARY, 8th edition, 2004 at 336:

Contempt is a disregard of, or disobedience to, the rules or orders of a legislative or judicial body, or an interruption of its proceedings by disorderly behaviour or insolent language, in its presence or so near thereto as to disturb the proceedings or to impair the respect due to such a body. EDWARD M. DANGU, Contempt SC1, at 2 (1939).

Over three decades ago, Francis Mann was recorded to have aptly postulated that:

"Contempt of court is undoubtedly one of the great contributions the common law has made to the civilized behaviour of a large part of the world beyond the continent of Europe where the institution is unknown."

See the LAW QUARTERLY REVIEW, JULY 1979 edition, at 348.

It's trite, that the fundamental essence of contempt proceedings is to preserve and safeguard the sanctity or sacredredness of administration of justice. It was indeed Lord Hardwicke who once stated, in 1742 that:-

"There cannot be anything of greater consequence than to keep the streams of justice clear and pure, that parties may proceed with safety both to themselves and characters." See THE ST. JAMES' EVENING CASE (1742); 2 ATKINS, 469 at 472.

Thus, whatever obstructs the courses, or muddies the waters, of any of the formidable streams of justice is usually punishable under the unique cognomen 'contempt of court.' Characteristically, contempt is a criminal offence, although it's not tried on indictment or charge. It may also be civil. See EZEKIEL HART VS. EZEKIEL HART (1990) 1 NWLR (Pt.126) 276 paragraph D, wherein the Supreme Court held thus:

Contempt of court is either criminal or civil, it is criminal when it consists of interference with administration of law thus impeding and perverting the course of justice, it is civil when it consists of disobedience to the judgments, orders, or other processes of the court resulting or involving private injury. Per Wali, JSC, at 286 paragraph D.

In the instant case, it's rather obvious from the circumstances surrounding the appeal, as gleaned from the records of appeal, that the contempt committed by the Appellant is civil contempt. It is very clear from the facts of the case at the lower court, that the Appellant had refused to comply with the interlocutory order thereby restraining him and Co-defendants/Respondents thereof:

*From further collection of rent, leasing, letting, alienating, selling, mortgaging or dealing in any manner whatsoever with the property situate, lying and being at No.2, Onilekere Street, Off Cement Bus Stop, Abeokuta Expressway, Agege, Lagos State otherwise known as "The Garage" (Sic) pending the final determination of this suit.*

Most regrettably, instead of complying with the said orders of the lower court, the Appellant resorted to delaying tactics by filing frivolous and rather worthless applications, with a view to stultifying the trial of the suit. The Appellant learned counsel's letter (Exhibit D - page 33 of the Record), dated 19/10/93, addressed to the official Receiver duly appointed by the lower court is to the effect, *inter alia, thus:*

*Our records shows that your office have been served with 3 motions on the 15th day of July, 1993. The motion are for setting aside the order of courts dated 21st June, 1993 for reasons stated therein whilst one of the motion is for stay of execution.*

*It is surprising to note that despite your office being notified, you went ahead to execute the order thus forestalling the out-come of our application. It is trite law that once the parties to an action have been served with motion to set aside the order of court or motion for Stay of Execution, no further action should be taken during the pendency of the motion.*

*Our Clients are finding it difficult to co-operate in view of their pending application slated for 6/11/93.*

As aptly observed by the lower court: *"Nothing could be more contemptuous."*

The affidavit in support of the application (Form 49) for the committal of the Appellant for contempt is contained at pages 27 - 32 of the Record.   
Most particularly, paragraphs 11, 12, 13, 14, 16, 17, 18, 24 & 27 of the said affidavit are to the following effect:

*11. That the order was made on the 2nd of July, 1993 and up to the time of filing this application (i.e. 12th May, 1994) 11 months had passed and the Official Receiver had been prevented from collecting any money from the property.*

*12. That an average rent of N10,000.00 per month is being realized from the said GARAGE and that the Defendants would by now have realized N110,000.00 as rent.*

*13. That the 2nd Defendant hiding under the cover of the 3rd Defendant leased a portion of land in the said Garage to some Ibo Lessors to construct additions on the Property.*

*14. That the purported leasers/tenants started construction of addition shop an extension to the existing ones on Monday 2nd May, 1994.*

*15. That I was aware of this fact on Thursday 4th May, and myself and the 1st Plaintiff went to the spot.*

*16. That we saw the 2nd Defendant who stood by with thugs and instructed them to deal with us if we venture to interview or disturb the workers.*

*17. That there is a Police Post attached to the garage and we went there to report the situation.*

*18. That the Policemen told us to go to Court to complain if there is a breach of order of Court.*

*24. That the said shop is now being roofed and almost completed.*

*27. That the 2nd Defendant had boasted to collect rents as long as this suit subsists*.

By the counter affidavit thereof (page 31 Record), the Appellant vehemently denied the above averments thus:-

*3. That it is not true that I leased a portion of the land in the Garage to some Ibo Lessors either as principal or as agent of the 3rd Defendant.*

*4. That it is not true that I stood by anybody thugs or gentlemen, to construct or help in constructing the shop as mentioned in paragraph 16 of the affidavit in support of motion*.

Contrary to the highly misplaced argument of the Appellant on issues 1 & 2 thereof, the averment contained in the affidavit supporting the application for committal of the Appellant for contempt are sufficient for the applicability of form 49 pursuant to Order 9 Rule 13 of the Judgments (Enforcement)  Rules (supra).

Indeed, the law is well settled, that contempt is of two types: (a) contempt in faciae curiae i.e contempt committed in the face (before) the court; and (b) contempt exfaciae curiae i.e.  contempt committed outside the court.   
Regarding contempt in faciae curiae, the judge must have seen with his own eyes, to the extent that he needs no evidence of witnesses at all. Thus, he can deal with the contemnor instaneously.  Contrariwise, in the latter case (contempt exfaciae curiae), the court is obliged to transfer the charge to another court where the contemnor can be given proper trial on the merits by a different judge.

In the course of writing this judgment, I have had the privilege of referring to a plethora of authorities on the vexed subject. Indeed, one of such of authorities was MILITARY GOVERNOR OF KWARA STATE VS. AFOLABI (1991) 6 NWL (Pt. 196) 212, wherein it was held by this court thus:

In this case, since the contempt of court allegedly committed by the Appellants by their failure to comply with the order of injunction given in favour of the Respondent and by writing the second letter was committed outside the court, the court is obliged to transfer the charge to another court where the contemnors can be given proper trial on the merits by a different judge. The adjudication by the trial judge in a matter which concerned his own order is therefore contrary to natural justice, equity and good conscience. Per Aikawa, JCA (of blessed memory) at 225 - 226 paragraphs G - C.

In AFOLABI's case (supra), this court came to the conclusion, inter alia, that the trial of the Appellant for contempt was "repugnant to natural justice equity and good conscience", on the simple ground that the trial judge adjudicated in a matter which concerned his own order. Per Aikawa, JCA (of blessed memory) at 226 paragraph H.

Thus, by virtue of this court's decision in the MIL-GOV; KWARA STATE VS. AFOLABI (supra), there is no gain saying the fact, that the decision of the court below in question is to be regarded as "repugnant to natural justice, equity and good conscience."

However, the decision of the Supreme Court in the latter case of EZEKIEL HART VS. EZEKIEL HART (supra) does not seem to support the court of Appeal's decision in AFOLABI's case (supra) on that point. And the reason for so postulating is not farfetched! It was held, rather authoritatively, by the Apex Court that:

Where an individual is enjoined by an order of the court to do or to refrain from doing a particular act he has a duty to carry out that order and the court has a duty to commit that individual for contempt of its orders where he deliberately fails to carry out such orders. In this case, the Appellant's conduct throughout is one calculated to bring the authority of the law in to disrespect. Per Wali, JSC at 289, paragraphs B - C & 298, paragraph A, respectively.

Most particularly, AFOLABI's case (supra) deals with issues regarding the provisions of Order 1 X Rule 13 of the Sheriffs and Civil Process Judgment (Enforcement) Rules, Laws of Northern Nigeria 1963. While the case of HART VS. HART (supra) equally deals with issues relating to Section 71 Sheriffs and Civil Process Law of Eastern Nigeria 1963 vis-'a-vis Form 48 of Judgment (Enforcement) Rules of Eastern Nigeria, 1963 respectively.

Thus, most undoubtedly, both AFOLABI's case (supra) and HART VS. HART (supra) are on all fours with the instant case. That being the case, therefore, in the event of the obvious conflict between the two decisions in question, this court is bound to follow the latter decision of the Supreme Court in HART VS. HART (supra). And I so hold!

It's indeed trite, that by virtue of the provisions of Section 6 of the Constitution of the Federal Republic of Nigeria, 1999, as amended, the judicial powers of the Federation are vested in the Superior Courts of record duly established for the Federation. Afortiori, the judicial powers of a state are equally vested in the courts duly established for the respective states, subject to the provisions of the Constitution. See ANAZIA VS. AG. - LAGOS STATE (2010) 15 NWLR (Pt. 1216) 207 at 237 paragraphs E - F.

In the same vein, by virtue of the provisions of Section 233 (1) of the 1999 Constitution, as amended, the Supreme Court has been cloaked with the exclusive jurisdictional competence to hear and determine appeals from the Court of Appeal.

By the doctrine of STARE DECISIS (JUDICAL PRECEDENT), this court has the onerous duty not only to respect, but also to be strictly bound by, the authoritative decisions of the Supreme Court. And with particular regard to the instant appeal, the authoritative decision of the Supreme Court in the case of HART VS. HART (supra) is most irresistibly compelling.

Instructively, it's trite that the doctrine of Stare Decisis poses an immeasurable fascination to students of jurisprudence (who's often even hypnotized by it) and practicing lawyers alike. As attested to by Lord Denning Mr. in his cherishingly notorious erudite characteristics:

To a student of jurisprudence, this doctrine of precedent exercises a peculiar fascination. He is hypnotized by it. To a practicing lawyer it is Mr. Facing - both - ways. He is attracted or repelled by it according as to whether it is for him or against him. He can argue either way, as you please. To a judge it comes, if he chooses, as a way of escape. He does not have to think for himself or to decide for himself. It has already been decided by the previous authority. But not so for most judges. Whilst ready to applaud the doctrine of precedent when it leads to a just and fair result, they become restless under it when they compelled by it to do what is unjust or unfair. This restlessness leads them to various expedients to get round a previous authority. But never to depart from it altogether - except for an absolution recently granted by the House of Lords to themselves, though not vouchsafed by them to others. Even when a Judge is so bound by a previous authority that he cannot depart from it, the question arises: ought he to express his own opinion as to its correctness or not? See THE DISCIPLINE OF LAW 1979 (1st Indian edition 2007) at 285.

Most remarkably, it's trite that the genesis of the doctrine of Stare Decisis is traceable to that Colossus name in the common law: HENRY BRACTON (C1200 - 1268). Bracton was indeed a judge of the King's Bench over seven centuries ago. He was equally an ecclesiastic - as most judges were then. Reputedly, Bracton was arguably the first person (in England) to make the common law in to Science. Interestingly, he kept a note of roughly 2000 cases from the old plea rolls in the 13th century. They were all in Latin. What's more-

He used his note book as the basis of a treatise he gave references to previous cases, just as we do now. By using decided cases in this way he started the English system of precedent. In this notebook he says:

Si tamen similia evenerint, per simile judicentur, cum bona sit occasion a similibus procedure ad similia. (literally meaning).

It however similar things happen to take place, they should be adjudged in a similar way: for it is good to proceed from precedent to precedent. See WHAT NEXT IN THE LAW, by LORD DENNING, MR: Oxford University Press, 1st edition 2008, at 5.

Thus, not surprisingly, Bracton's phrase - 'From precedent to Precedent,' was cherishingly adopted by jurists all over the common law world. Most notably, Lord Alfred Tennyson, in his notorious gushing eulogies aptly described England as a land where:

A man may speak the thing he will,

A land of settled government,

A land of just and old renown,

Where Freedom slowly broadens down

From precedent to precedent.

In the instant case, it's my considered view, that the lower court was absolutely right in assuming jurisdiction, as it did, to have found the Appellant for contempt, in accordance with the provisions of Order 9 Rule 13 of the Judgments (Enforcement) Rules CAP.127, 1974 (as amended). The fact that at page 40, lines 7 - 8 of the record of appeal, a reference was made to "Order 9 Rule 13 Sheriff and Civil Process Law CAP. 127 Laws of Lagos State",notwithstanding. This is undoubtedly so, because the Judgments (Enforcement) Rules (supra) vis-'a-vis the Enforcement of Judgments And Service of Process (Lagos State) Rules are both subsidiary legislations to the Sheriffs And Civil Process, CAP. 127, Laws of Lagos State, 1974 (supra).

It was the contention of the Appellant under issue No.3 thereof, that *"the Appellant's conduct that amount to contempt of court was not mentioned and or established."* In my considered view, that contention is rather prepestrous. Form 49 at page 26 of the Record is very explicit regarding the nature of the allegation against the Appellation and the relief thereby sought by the Respondent, viz:

*For an order for your (Appellant's) committal to prison for having disobeyed the order of this Honourable Court made on the 2nd day of July, 1993 restraining servants, or Agents from collecting rent, letting, leasing or dealing in any manner whatsoever, with the property known as No.2, Onilekere Street, Ikeja, Lagos otherwise known as "the Garage" and appointing an official Receiver of the Lagos High Court to collect rent and pay the same into an interest yielding account etc. pending the determination of this suit...*

Right from the outset of the decision thereof, at page 39 of the Record, the lower court copiously alluded to the nature and circumstances giving rise to the contempt proceedings in question. At page 40 of the Record, the lower court equally outlined the nature of the allegation made against the Appellant, under Order 9 Rule 13 vis-'a-vis forms 48 & 49 (supra). Both the Affidavit and Counter affidavit for and against the application, as well as the submissions of the learned counsel to the respective parties, were equally amply taken into consideration before the lower court came to the conclusion that the Appellant was liable for Contempt of Court, thus:

*"In the final analysis, I found Toyin Bajela Oko-Osi liable. I now call on him to show cause why he should not be committed of court (sic)."*

To which both the Appellant and counsel thereof responded thus:

*"2ND DEFENDANT: I pray for leniency."*

*MARTINS: I ask the court to be lenient with the 2nd Defendant. It was the 3rd Defendant who let the place. We are sorry. It is not the intention of the 2nd Defendant to disobey the law. Ask the court.*

Whereupon, the lower court proceeded to, ***inter alia***, caution and discharge the Appellant thus:

*"I have carefully listened to the plea of 2nd Defendant and his counsel... It seems to me that he had been ill advised and misguided. Be that as it may - I will not be hard on him. He is hereby cautioned and discharged."*

Hence, in the light of the foregoing far-reaching postulations, there is every cogent reason for me to arrive at the most inevitable conclusion, that the answer to the sole issue in question is in the affirmative, and same is hereby resolved against the Appellant.

Prior to putting the last dot to this judgment, I have deemed it imperative to lend credence to the court's lamentation upon the unwholesome attitudinal disposition of both the Appellant and counsel thereof. Most particularly, the Appellant counsel's assertion in the letter he wrote the Official Receiver, referred to in the lower court's decision (page 41 Record), is to the effect, ***inter alia***, thus:

*"Our clients are finding it difficult to cooperate in view of their pending application slated for 8/11/93."*

In my considered view, the above assertion by the Appellant's counsel is, to say the very least, unfortunate and rather contemptuous! By the above reckless assertion, the Appellant's counsel had unwittingly portrayed himself in a rather belligerent and contemptuous attitudinal disposition towards the lower court. Not surprisingly, the lower court came to the conclusion, rightly in my view, that:

*"Nothing could be more contemptuous...It seems to me that he (Appellant) had been ill-advised and misguided. Be that as it may - I will not be hard on him. He is hereby cautioned and discharged."*   See page 41, lines 40 - 42, and 42, lines 14 - 16 of the Record.

In the instant case, the Appellant counsel's effrontery was predicated on the highly misguided, and rather preposterous, belief that there were three motions pending in the lower court seeking stay of execution and setting aside of the court's order in question. Yet, it's a trite veritable principle, that obedience to lawful orders of court is fundamentally a sine qua non to the good order, peace and stability of the Nigerian Nation, nay any nation for that matter.

Paradoxically, the alternative to obedience of lawful court orders is brute self help and anarchy. As authoritatively held by the Supreme Court:

Disobedience to an order of court should, therefore, be seen as an offence directed not against the personality of the judge who made the order, but as a calculated act of subversion of peace, law, and order in the Nigerian Society. Obedience to every order of court is therefore a duty which every citizen who believes in peace and stability of the Nigerian State owes to the nation. See HART VS. HART (supra) at 297 paragraphs C - D. per Nnaemeka - Agu, JSC (of blessed memory).

Thus, the court of Appeal, nay any court of law for that matter, has an onerous duty not to lend the machinery thereof in aid of a recalcitrant party by ordering a stay while the party is still in contempt of order thereof. See GOVERNOR OF LAGOS STATE VS. OJUKWU (1986) 1 NWLR (Pt.18) 621; HART VS. HART (supra) at 297 paragraphs D - E. CANADIAN METAL CO. LTD. VS. CANADIAN BROADCASTING CORP. (NO.2) (1975) 48 DLR (3d) 641.

To allow court orders to be disobeyed would be to tread the road to anarchy. If orders of the court can be treated with disrespect, the whole administration of justice is brought to scorn... If the remedies that the courts grant to correct... wrongs can be ignored, then there will be nothing left to reach person but to take the law in to his own hands. Loss of respect for the courts will quickly result into the destruction of our society. Per O'Leary, J; at 669.

It's equally rather axiomatic, as copiously alluded to above, that contempt of court, in whatever ramification, is antithetical to the well cherished rule of law, democracy and independence of the judiciary. Thus, there is no iota of doubt, that public confidence in the integrity of judicial officers that man the courts, and in the impartiality and efficiency of the administration of justice system, as a whole, unarguably contribute immensely in sustaining the judicial system of a nation. As aptly asserted by MR. JUSTICE FRANK-FURTER, that eminent and rather fearless U.S. jurist, over five decades ago:

"The court's authority ...possessed of neither the purse nor the sword... ultimately rests on sustained public confidence in its moral sanction." See BAKER VS. CARR, SUPREME COURT OF USA (1962) 369 US 18.

Hence, having already resolved the sole issue against the Appellant, I have no hesitation whatsoever in coming to the most inevitable conclusion, that the instant appeal is grossly unmeritorious, and same is hereby dismissed by me. The decision of the lower court in question, which was delivered on August 9, 1995 by the High Court of Lagos State, Corum I. A. Olorunnimbe, J; is hereby affirmed.

There shall be no order as to costs.

**AMINA A. AUGIE, J.C.A.:**

I have read the lead judgment just delivered by my learned brother, Saulawa, JCA, and I agree with him that the appeal lacks merit and should be dismissed.

He explained the law on contempt, and dealt extensively with the issue at stake in this appeal; I really have nothing useful to add except to reiterate the point he made about the disobedience of a Court order vis-'a-vis contempt.

It is a civil contempt of court to refuse to do an act required by a judgment or order of Court within the time specified therein or to disobey a judgment or an order requiring a person to abstain from doing a specified act - see Abbas v. Solomon (2001) 15 NWLR (Pt.735) 144, where Igu, JSC, explained as follows -

"Accordingly a judgment or order to do or abstain from any act, unless otherwise stipulated by the statute, may be enforced by a writ of attachment or by committal. The commonest instances of such a judgment or order are orders for injunction, whether mandatory or prohibitory, interlocutory or permanent, specific performance... where, therefore, any person refuses or neglects to comply with an order made against him by a Court of competent jurisdiction... the court has ample jurisdiction ... to order that he be committed to prison and detained in custody until he has purged his contempt... The Court may only punish as contempt, a breach of or disobedience to an order of Court or non-compliance with an undertaking, if it is satisfied that the terms of the order or injunction are clear and unambiguous".

In this case, the order of interloctory injunction made by the lower court on 2nd July, 1993 is clear and unambiguous, and there is also no question that the Appellant refused to comply with the order restraining him and others from "further collection or rent, leasing, letting, alienating, selling, mortgaging or dealing with" the property in dispute pending the determination of the suit.   
His appeal to this Court clearly lacks merit, and I also dismiss the appeal. I abide by the consequential orders in the lead judgment including no costs.

**SIDI DAUDA BAGE, J.C.A.:**

I had the special privilege of reading in draft, the judgment of my learned brother, **Hon. Justice I. M. M. Saulawa, JCA,** which I am in complete agreement with. This appeal is unmeritorious and same is also dismissed by me.

I also affirmed the decision of the lower court delivered on August 9, 1995. I abide by the order as to costs contained in the lead judgment.