

[The Rules of Evidence](#)

Posted on [December 11, 2016](#)[December 20, 2016](#) Written By [Olanrewaju Olamide](#) Posted in [Nigerian Law of Evidence](#) Tagged [Evidence](#)

When it comes to tendering evidence before the court of law, there are some fundamental rules that the court has to adhere to. These rules determine the whole practice of bringing evidence before the court. The rules are as follows:

The Burden of Proof

The burden of proof is simply the party whose responsibility it is to establish evidence before the court. When it comes to civil cases, the burden of proof rests on the party that asserts. This could either be the plaintiff or the defendant. For instance, if in a land dispute, the defendant claims that the land belongs to him by right of first settlement, he has to prove it before the court. It is not the plaintiff's responsibility, in this instance, to disprove the defendant's claim of title to the land.

The court rules in civil cases based on the preponderance of evidence. This means that the party with the better evidence wins the case. In the case of *Ayanru vs Mandillas*^[1] Mandilas stated that Ayanru signed an agreement that extended the lease that was operating between them. Ayanru stated that he was illiterate and did not sign the agreement. Mr Ayanru brought his son as a witness to the fact that the signature on the contentious agreement was not the recognised signature of his father.

Mandilas also brought a witness to testify that the signature was Ayanru's signature. In addition, Mandilas tended other documents signed by Mr Ayanru. The court held that Mr Ayanru did not reliably prove his assertion that he didn't sign the document in question.

The court stated that just the testimony of his son isn't enough to prove that he didn't sign the document. Mr Ayanru's evidence weighed lesser than the testimony of Mandilas on the balance of probability. Since he has been unable to adequately prove his case, the court would believe the testimony of Mandilas.

In *Adake vs. Akun(2003) 7 SC 26*, both parties vied for the position of the district head of the Mangu Local Government. The King Makers voted Mr Adake for the position. Mr Akun was dissatisfied with this and sued in the trial court to cancel the election.

He contended that according to the provisions of the Native Law, the meeting to select the district head is to be presided by the Secretary to the Traditional Council. In the present case, it was presided by the Secretary to the Local Government.

Mr Adake contended that the election was valid because the Secretary to the Local Government was appointed as the secretary to the traditional council.

The trial court ruled in favour of Mr Adake and as a result, Mr Akun appealed to the Court of Appeal. The Court of Appeal allowed the appeal, leading to the present appeal against the decision of the court of appeal by Mr Adake.

Mr Adake contended that the Secretary to the Local Government was appointed as the secretary to the traditional council but he didn't bring substantial proof to back up his claim. As a result of his inability to discharge his burden of proof, the Supreme Court dismissed the appeal and held that the election of Mr Adake was null and void.

The burden of proof is a different ball game when it comes to criminal cases. In these cases, the burden of proof always rests on the prosecution and it never shifts. The only time the burden of proof shifts to the defendant is when he pleads a defence to his case like [the defence of mistake](#).

All Relevant Facts Must be Proved

This means that a party must prove all the facts that are relevant to resolving the case. There are exceptions to this rule of evidence. One of the exceptions is when the court takes judicial notice of a fact. The court applies this for facts that are so commonplace that tendering evidence in order to prove them would be nothing short of ridiculous. An example of this is the fact that Nigeria is a country in Africa. If a party's claim depends on the fact that Nigeria is an African country, he doesn't have to prove it because it is generally accepted knowledge.

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The second instance where a person doesn't have to prove a relevant fact is when the fact in question was uncontested during the pleadings. The pleadings are the formal documents in which both parties give their own side of the story. If the pleading of both parties agree on a particular fact, it means that they agree to it and as a result, there is no need to prove it.

Not all Facts are to be proved.

As already stated, parties do not have to prove all facts before the court. Parties don't have to prove some facts that

are inconsequential to the case. For instance, in the case of theft, it would be inconsequential to prove that the accused wore a black shirt and a white tie. This does not relate to the case at hand and as such, the prosecution doesn't have to prove it.

In the case of ***Ebhota vs PIPDC LTD (2006) NSCQR 317 at 333-334***, the court, per Ejiwunmi JSC stated:

While there is no doubt that parties are bound by their pleadings, it is not expected that all facts germane to the case of a party must be pleaded.

The Modes of Proving Evidence

Under the Nigerian law, certain kinds of evidence hold water before the court. They include **real evidence, circumstantial evidence, documentary evidence and electronic devices**. In the case of ***Navy vs Lambert (2007) 11 MJSC 1***, Tab Mohammed JSC stated:

The guilt of an accused person may be proved by a confessional statement, circumstantial evidence or direct evidence from eye witnesses to the commission of the offence.

See also: Emeka vs State (2001) 14 NWLR (pt 734).

[\[1\]](#) (2007) MJSC 163