

SUMMARY OF JUDGMENT

INTRODUCTION:

This appeal borders on Civil Procedure.

FACTS:

The appeal is against the decision of the Court of Appeal. The first defendant took a lease of a parcel of land from the second defendant for a term of 90 years. It was an industrial lease dated 19 March, 1974 and registered as No. 75 at page 75 in Vol. 1448 of the Register of Deeds, kept at Lagos State Land Registry. The plaintiff later approached the first defendant for a sub-lease. Arrangement was reached and there was a document prepared as a sub-lease for a term of 40 years, but without the consent of the second defendant. The plaintiff, before the consent was sought, had started building operations on the land. It was the absence of consent that really led to the action filed by the plaintiff at the trial Court. Evidence was led by all the parties. After the addresses and submissions by the learned Counsel, the Court gave judgment in favour of the plaintiff on some parts of the plaintiff's claim and gave possession of the land to the first defendant. The plaintiff appealed against the judgment to the Court of Appeal.

The Court of Appeal in a unanimous decision allowed the appeal, set aside the judgment of the trial Court and awarded damages in favour of the plaintiff. Aggrieved by the decision, the appellant appealed to the Supreme Court.

ISSUES:

The Supreme Court, summed up the issues under two heads:
"(1) Can specific performance be ordered against either party i.e. the appellants in this case?

(2) What is the measure or amount of damages, if any, that can be awarded should the respondent fail on specific performance?"

DECISION/HELD:

In the final analysis, the appeal was partly allowed. Costs of N1,000 was awarded in favour of the respondent to be paid by the second appellant.