

SUMMARY OF JUDGMENT

INTRODUCTION:

This appeal borders on Land Law.

FACTS:

This is an appeal against the decision of the Court of Appeal, Lagos Division.

At the High Court of Lagos State, Ikeja Judicial Division, the plaintiff, Alhaji Jubrilla Abdullahi, on January 29, 1993, commenced Suit No. ID/216/93, against Mrs. Iyabo Adetutu and Alhaji Tijani Sanni. His reliefs against them were couched thus: (a) Declaration that the plaintiff is the person entitled to Statutory Right of Occupancy in respect of a land situate, lying and being at Onipetesi, Idimango, Agege, Lagos State, which is more particularly described and delineated on Survey Plan No. AB/LA/86/311 prepared by. I. A. Babalola., Licensed Surveyor on the 23rd day of September, 1986.

(b) A sum of N500, 000.00 (Five Hundred Thousand Naira) being special and general damages for trespass being committed by the defendants who recently have been harassing and disturbing the possession, occupation and control of the vast area of land by the plaintiff.

(c) Perpetual Injunction restraining the defendants, their servants, agents and/or privies from continuing with their acts of molestation and harassment of the defendants, their servants, agents and/or privies of the land in dispute.

On April 16, 1993, while the plaintiff's Suit No. ID/216/93 was pending, the defendant commenced Suit No. ID/855/93 against Rasheed Adetokunbo and James Ojo, the fourth and fifth appellants in this appeal. The reliefs in Suit No. ID/855/93 were for: (1) A declaration that the plaintiff is entitled to the Statutory Right of Occupancy in respect of the land situate, lying and being at Onipetesi, Agege, Lagos, which is delineated on Plan No. CD. 52/71 dated 2nd March, 1971, annexed to the Deed of Conveyance granted to the plaintiff by Adetokunbo Bisiriyu dated 28th September, 1971 and registered as 55/55/1369.

(2) The sum of N750, 000. 00 being special and general damages for the trespass to the land committed by the defendants and for the damage to and destruction of the plaintiff's plantation, cash crops, buildings, machineries, generator, wall-fence and iron gates on the land; and

(3) Perpetual injunction restraining the defendants, their servants, agents or privies from any further act of trespass on the said land.

Sequel to the consolidation of the suits, they were transferred to Olu Akerele-Ayeni, J., who heard and determined them. The trial Court found for the plaintiff in Suit No. ID/855/93.

Dissatisfied with the decision of the trial Court, the appellant appealed to the Court of Appeal, Lagos Division, which allowed the appeal in part.

Still dissatisfied with the judgement of the Court of Appeal, the appellants further appealed to the Supreme Court.

ISSUES:

The Court determined the appeal based on the following issues for determination:

1. Whether the non-visit to the locus in quo was fatal?
2. Whether the lower Court erred when it agreed with the trial Court that the appellants' document of title, exhibit D8, was inadmissible?
3. Whether the lower Court did not cause substantial miscarriage of justice when it failed to consider properly issues canvassed by the appellants relating to Grounds 1, 3 and 4 of the Notice of Appeal before it?

DECISION/HELD:

In the final analysis, the Supreme Court dismissed the appeal.