

SUMMARY OF JUDGMENT

INTRODUCTION:

The appeal borders on Land Law.

FACTS:

The appeal originated from the High Court of Kwara State where the Plaintiffs instituted the action claiming for declarations and injunction against the Defendants as follows:

"(a) A declaration that a piece of land lying and situated very close to a village called Basanyin in Ifedapo Local Government Area of Kwara State on which a group of houses known as Gaa Kekere or 'Gaa Oke' and now inhabited by the Defendants and some others was and is still the farmland of the Plaintiffs from time immemorial;

(b) A declaration that Defendants are tenants to the plaintiffs on the said farm land referred to in paragraph (a) above, the plaintiffs having given out the said farmland to Defendants at the request of the defendants for farming and grazing purposes only;

(c) A declaration that the plaintiffs never alienated the said farmland to Defendants by way of sale or gift and plaintiffs are still therefore the holders of the customary right of occupancy over the said farmland;

(d) A declaration that the act of the defendants whereby sometime in November, 1981 they erected 3 signboards bearing the inscription 'GAA IRAPA IDERA IFEDAPO' in 3 separate places on the said farmland; which signboards plaintiffs, defendants' landlords, found objectionable and provocative and therefore opposed and which defendants refused or neglected and still refuse and neglect to remove despite plaintiffs' repeated requests to them to do so, constitute a grave act of nuisance and provocation on the parts of defendants as regards their landlords - the plaintiffs;

(e) A decree of the Court ordering the defendants to remove the said offending signboards forthwith since plaintiffs, their landlords, find it objectionable, provocative and unbearable;

(f) A permanent injunction restraining the defendants from ever erecting permanent structures like the said offending sign-boards on the said farmland of plaintiffs, now occupied by defendants and their relatives and friends without the prior written approval of the plaintiffs first sought and obtained." Pleadings were filed and exchanged. At the end of the trial, the trial Court found as a fact that the defendants were customary tenants of the plaintiffs and had been so for 60 years. It also found that they were paying tributes annually to the plaintiffs till 10 years previous to the institution of the action in 1982. It found as a fact that Gaa Irapa

was not under the sovereignty of Bale Irapa. It also found as a fact that the purpose for which the tenancy of the land was granted was farming and grazing of the defendants' cattle. It also found as a fact that the name Gaa Irapa was fabricated to forment trouble in an otherwise peaceful environment. The defendants were dissatisfied with the Judgment and appealed against it to the Court of Appeal. The appellant's appeal was dismissed. The plaintiffs were dissatisfied with the Judgment and appealed to the Supreme Court.

ISSUES:

According to the Court the main issue for determination in this appeal is:
"Whether the Land Use Act, 1978 particularly Sections 1, 36 and the definitions of "holder" and "occupier" under Section 50, read with other provisions of the Act has abolished the rights of customary owners vis-a-vis customary tenants of land for agricultural purposes."

DECISION/HELD:

In the final analysis, the Supreme Court unanimously partly allowed the appeal.