Privy Council Appeal No. 19 *of* 1955

Chief Iyeke - - - - - - - - - - - *Appellant*

v.

B. Osagie - - - - - - - - - - - *Respondent*

FROM

THE WEST AFRICAN COURT OF APPEAL

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL, DELIVERED THE 25TH FEBRUARY, 1957

Present at the Hearing:

LORD TUCKER
LORD SOMERVELL OF HARROW
MR. L. M. D. DE SILVA

[*Delivered by* LORD TUCKER]

This appeal is concerned with a dispute as to the title to an area of land in Nigeria known as Ugbokoissa. The plaintiff in the action sued as paramount head of the Akumazi people and claimed against the defendant as Chief of the Igbodo a declaration of title to the land in question and an injunction restraining him from hiring out to timber contractors the forests on the said land and receiving royalties therefor.

The case was heard by Acting Judge S. P. Thomas from 25th to 28th March, 1952, when he granted the plaintiff the relief claimed. The issue depended solely on questions of fact as to the traditional history regarding the ownership of the land and as to the occupation of certain parts of the land by members of the Igbodo people relied upon by the defendant as supporting his people's title to the land.

The learned Judge after reviewing the evidence and visiting the land stated that he disbelieved the story of the defendant's witnesses and accepted that of the plaintiff's.

The defendant appealed to the West African Court of Appeal who dismissed his appeal on 26th May, 1953.

In giving judgment the learned President stated that the evidence presented a direct conflict of oral testimony on an issue of fact largely depending upon the credibility of the witnesses whom the trial Judge had seen and heard, and that he was not satisfied that the Judge had fallen into any error in dealing with this evidence. He was on the contrary disposed to the view that he would himself have come to the same conclusion.

The defendant now appeals to Her Majesty in Council.

Their Lordships do not consider that any further reference to the facts or evidence is called for since the case so clearly falls within the rule that the Board will not entertain appeals against concurrent findings of fact unless the case can be brought within one of the exceptions laid down in *Srimati Bibhabati Devi* v. *Kumar Ramendra Narayan Roy* [1946] A.C. 508, none of which have any application to the present appeal.

Their Lordships will, accordingly, humbly advise Her Majesty that this appeal be dismissed. The appellant must pay the costs of the appeal.

(39971) Wt. 8069—3 100 3/57 D.L.

In the Privy Council

CHIEF IYEKE

v.

B. OSAGIE

DELIVERED BY LORD TUCKER

Printed by HER MAJESTY'S STATIONERY OFFICE PRESS,
DRURY LANE, W.C.2.

1957