

~~CHH 6 2~~

Judgment
24/1964

IN THE PRIVY COUNCIL

No.29 of 1962.

O N A P P E A L

FROM THE FEDERAL SUPREME COURT OF NIGERIA.

B E T W E E N :

(Suit No.0/25/58)

UNIVERSITY OF LONDON
INSTITUTE OF ADVANCED
LEGAL STUDIES
22 JUN 1965
25 RUSSELL SQUARE
LONDON, W.C.1.

- 1. ANACHUNA NWAKOBI, THE OSHA OF OBOSI
- 2. IKEFUNA ONWUGBOLU, THE OBOLI OF OBOSI
(as representing themselves and all others the people of Obosi.)
- 10 3. JABEZ CHUKWUDEBE NWANGWU
- 4. ALFRED OKOMA
- 5. JONAH NWOEM
- 6. DOCTOR JONAS IWEKA
- 7. ISAAC IWEKA
- 8. JONAS IBEZUE (Defendants) Appellants

78603

- and -

- 1. EUGENE NZEKWU
- 2. PHILLIPS AKUNNE ANATOGU
(for themselves and on behalf of the Ogbo Family of Umuasele Onitsha)
- 20 (Plaintiffs) Respondents

AND B E T W E E N :

(Suit No.0/32/58)

- 1. ANACHUNA NWAKOBI, THE OSHA OF OBOSI
- 2. IKEFUNA ONWUGBOLU, THE OBOLI OF OBOSI
(representing themselves and all others the people of Obosi)
- (Plaintiffs) Appellants

- and -

- 30 1. PHILLIP ANATOGU
- 2. EUGENE NZEKWU
(representing themselves and all others of the Ogbo Family)
- (Defendants) Respondents

CASE FOR THE RESPONDENTS

Record:

1. This appeal is from a Judgment of the Federal Supreme Court of Nigeria, dated the 3rd

p.158.

Record

p.119. July, 1961, in two consolidated suits, dismissing an appeal from a Judgment of the High Court, Onitsha Judicial Division, dated the 12th May, 1960, whereby the claim of the Ogbo Family of Umuasele Onitsha, represented by the Respondents, for damages for trespass to their land known as "Ugborimili", recovery of possession and an injunction, was upheld, and the claim of the people of Obosi, represented by the Appellants Nos. 1 and 2, for a declaration that they are entitled to certain usufructuary rights in the same land, and an injunction, was rejected. 10

2. The principal questions which arise for consideration upon this appeal are as follows :-

(1) Whether the Courts below were right, in law and on the facts, in rejecting the defences of acquiescence and laches put forward by the Appellants in answer to the claim of the Respondents for damages and other relief for trespass to land. 20

(2) Whether the High Court was right in holding that the Appellants were estopped from asserting their claim to usufructuary rights in the land in dispute by a Judgment in a former suit, on the principle applied in Nana Ofori Atta II and Anr. v. Nana Abu Bonsra II and Anr, (1958) A C. 95.

p.2. 3. The first of the two Suits (No.0/25/58) was instituted in the High Court by the Respondents as Plaintiffs, suing on behalf of themselves and the said Ogbo Family, by a Claim dated the 26th March, 1958. The Defendants at that time were the six persons who are the Appellants Nos. 3 to 8 in this Appeal. They were sued not only on behalf of themselves but also "as representing the Obosi people", but it subsequently appeared that they were not the right persons to be sued in that capacity. Accordingly, by an order made on the 2nd August, 1958, on the Respondents' application, the Appellants Nos. 1 and 2, being the duly appointed representatives of the Obosi people, were added as Defendants Nos. 1 and 2. The original 40

p.2. Defendants (the Appellants Nos. 3 to 8) were later dismissed from the Suit, which proceeded upon a representative basis as a suit between the said two communities. (The Respondents, as well as the community whom they represent, are hereinafter referred to as the Ogbo Family; the

p.4, 1.17.
p.19, 1.7.
pp. 5-13.
p.120, 1.25.
p.137, 1.21.

Appellants Nos. 1 and 2, and the community whom they represent, are hereinafter referred to as the Obosi people).

4. The second suit (No.0/32/58) which was also a representative suit, was instituted in the High Court by the Obosi people, as Plaintiffs, against the Ogbo Family, as Defendants, by a Claim dated the 14th April, 1958. p.63.
5. It is common ground that the Ogbo Family are the radical owners of the land in dispute, the issue of ownership having being decided in Suit No. 0/3/49, a representative action between the same two communities, which was concluded by a Judgment of the Privy Council sub nom Chief J.M. Kodilinye and Anor. v. Philip Akunne Anatogu (1955) 1 W.L.R. 231, but which left open the question whether the Obosi people had any usufructuary rights in the land. p.31
p.53, l.4.
p.71, l.11.
p.73, l.7.
6. The history of the land in dispute is set forth by the Ogbo Family in their Statement of Claim dated the 1st September, 1958, in the first Suit (No.0/25/58). They allege, inter alia, as follows :- p.26.
- (i) The Ogbo Family are the owners in possession from time immemorial. p.26, l.28.
- (ii) The Ogbo Family occupied the land by themselves and their tenants for farming purposes, without interference from anybody. p.27, l.1.
- (iii) They have now and again put various individuals from the Obosi people upon the land on payment of yearly tribute in accordance with Onitsha native law and custom. They have also put other tenants, not belonging to the Obosi people, on the land. p.27, l.4.
pp.27, l.9.
- (iv) Four named members of the Obosi people have been permitted by the Ogbo Family to build each a dwelling house on the land. p.27, l.20.
- (v) In 1882 a Chief of the Ogbo Family granted the land to the National African Company, Limited, and this was confirmed by an instrument made by a British Consul in 1884. p.27, l.27.
p.170.
- (vi) The grant of 1882 reserved to the p.27, l.35.

Record:

Ogbo Family the right to farm on the land and to permit their tenants living on the land to farm thereon and enjoy certain fishing rights. (The expression used in the grant which is interpreted by the Ogbo Family to mean their tenants is "the Abutshi people", i.e. people living on the land.)

- p.27, 1.45.
p.28, 1.2. (vii) The said Company entered into possession of the land and opened a trading station thereon. The tenants on the land, including those who were members of the Obosi people, continued, with the permission of the Ogbo Family, to farm on the land and to pay the customary tribute. 10
- p.28, 1.8. (viii) Subsequently the said Company became merged in the Royal Niger Company Chartered Limited.
- p.28, 1.30. (ix) In 1916 the Niger Lands Transfer Ordinance vested in the Governor in trust for His Majesty as from the 1st January, 1900, certain specified properties belonging to the Royal Niger Company, including the land in dispute. 20
- p.29, 1.10. (x) Notwithstanding the acquisition of the land by the Crown, the Ogbo Family continued to put Obosi tenants to farm the land and these tenants continued to pay the customary tributes, and whenever they failed to pay, the Ogbo Family have successfully sued them in Court and have recovered the equivalent in money. 30
- p.29, 1.15 -
p.30, 1.3.
- p.30, 1.4. (xi) The Obosi tenants always recognised the Ogbo Family as their landlords until about 1934 when some of them were encouraged by their Chief J.M. Kodilinye to discontinue paying rent.
- p.30, 1.12. (xii) As a result of the refusal of Obosi people to pay rent, the Ogbo Family made representations to the Government, but were informed that the Government did not admit their right to collect rents, and they therefore took no further action against the Obosi people. 40
- p.30, 1.21. (xiii) From 1934 until December 1948 the Obosi people entered on the land in large numbers and erected buildings thereon, claiming the land as their own, and refused to pay rent to the Ogbo Family or recognise them as their landlords as they had done in the past.

Record:

- (xiv) Certain proceedings were brought by the Crown for recovery of possession of Crown land (suits Nos. 0/15/1944 and 0/16/1944). p.30, l.33.
- (xv) On the 11th December, 1948, the Crown abandoned the land. p.30, l.41.
- (xvi) The land became the subject matter of Suit No.0/3/49 (mentioned above, in paragraph 6). p.31, l.3.
- 10 (xvii) The land was also the subject-matter of Suit No. 0/31/1956 (Exhibit 15) in which the Ogbo Family sued one Isaac Maduegbunam Ichue of Obosi for recovery of possession of a portion of the land, an order for the demolition of the Defendant's buildings thereon, and an injunction. The Defendant fought the suit with the support of the Obosi people, and the Defence which he put forward asserted the alleged rights of the Obosi people, but the Judgment of the High Court found the facts in favour of the Ogbo Family. p.32, l.25.
p.32, l.40.
- 20 (xviii) During March, 1958, the original six Defendants (Appellants Nos. 3 to 8) began to build houses on the land without the permission of the Ogbo Family and in spite of several warnings by them. When questioned, the said Defendants said that the land belongs to them and that they are authorised by the Ndichie and Land Council of Obosi to build thereon. p.33, l.22.
p.36, l.37.
- 30 Since the action commenced there has been further building on the land by Obosi people. p.37, l.17.
- The prayer claimed £5,000 damages for trespass, recovery of possession of the portions of the land now being built upon by Obosi people, and an injunction to restrain interference with Ogbo Family's possession, rights of enjoyment and disposition of the land. p.37, l.4.
- 40 7. The Obosi people by their Defence dated the 10th December, 1958 (Suit No.0/25/58) admit certain salient historical facts pleaded in the Statement of Claim, viz. the 1882 grant to the National African Company, Limited, the merging of that company in the Royal Niger Company, the vesting of the land in the Crown as from the 1st January, 1900, the proceedings brought by the Crown (Suits Nos. 0/15/1944 and 0/16/1944), the p.52.
p.53, l.39.
p.54, l.10.
p.54, l.19.
p.55, p.8.
p.55, l.14.

Record:

abandonment of the land by the Crown in December, 1948, the suit No. 0/3/49 which decided the issue of ownership in favour of the Ogbo Family, and the suit No. 0/31/56 (Exhibit 15) (although they plead that this is sub judice and, furthermore, res inter alios acta). The Defence was as follows :-

- p.53, 1.1. (i) That the Obosi people, and not the Ogbo Family, have been in possession of the land from time immemorial, living and farming thereon, and fishing from the ponds and creeks around the land without let or hindrance or payment of tribute, and that they have exercised these rights either under native customary law or by virtue of the grant of 1882. 10
- p.53, 1.17. (ii) That the Ogbo Family have not occupied the land or put Obosi peoples thereon as tenants. If any Obosi person paid rent, it was by mistake of fact, the Ogbo Family having by the grant of 1882 sold all their rights in the land to the Royal Niger Company. 20
- p.53, 1.34.
p.53, 1.41. (iii) That the grant of 1882 did not reserve to the Ogbo Family the right to put tenants on the land, nor did it reserve as of right the right of the Ogbo Family to farm thereon.
- p.53, 1.42.
p.54, 1.1. (iv) That the Obosi people rely upon the terms of the said grant, which was confirmatory of the state of affairs which existed before 1882, the Obosi people being the only people farming, fishing, living and exercising other usufructuary rights in respect of the land. 30
- p.54, 1.27. (v) That it was denied that after the land vested in the Crown the Ogbo Family put Obosi tenants on the land. If any Obosi person paid rent he did so under mistake of fact and without the knowledge or consent of the Chiefs.
- p.54, 1.32. (vi) That the Judgments obtained by the Ogbo Family during the period when the land was vested in the Crown are disputed. 40
- p.54, 1.29. (vii) That the alleged recognition by the Obosi people of the Ogbo Family as their landlords until about 1934 is denied.
- p.55, 1.5. (viii) That such houses as there are on the

land were put up in the exercise of the possessory rights of the Obosi people.

(ix) That the allegation of building houses in March 1958 is denied; and that, of the original Defendants, only No.5 (Appellant No. 5) has a house, which was on the land before 1944. That the allegation of further building since action commenced is denied; and that such buildings as there are have been put up by Obosi people as of right.

p.56, l.12.

p.56, l.32.

(x) That the Obosi people plead all legal and equitable defences open to them, and in particular -

Long possession.
The grant of 1882.
Laches.
Estoppel.

8. The Statement of Claim of the Obosi people in the second suit (No.0/32/58) dated the 8th August, 1958, put forward in substance the same claims in relation to the land as are contained in their Defence to the earlier suit, and alleged, inter alia, as follows:-

p.69.

(i) That between 1920 and 1948 the Ogbo Family started asserting their rights over the land and demanding tribute, which the Obosi people refused to recognise.

p.70, l.40.

(ii) That both before and after the suits brought by the Crown (Nos. 0/15/44 and 0/16/44) (which were discontinued) Obosi people have been in undisturbed possession of various portions of the land, without payment of tribute either to the Ogbo Family or the Crown.

p.71, l.20
p.71, l.24.

(iii) That the Ogbo Family before 1882, and in particular between 1882 and 1948, abandoned all their rights over the land, and are estopped from denying the grant of 1882, and furthermore that the Obosi people's possession within the period mentioned has been so long that the Ogbo Family must be deemed to have acquiesced in it either directly or by virtue of the acquiescence of the Royal Niger Company and the Crown, the divesting order of 1948 notwithstanding.

p.71, l.31.

p.71, l.35.

Record:

- p.71, 1.42. (iv) That since the Privy Council Judgment in Suit No. O/3/1949 the Ogbo Family have molested the Obosi people and disturbed their usufructuary rights.
- p.72, 1.7. The prayer is for a Declaration that the Obosi people are entitled to the possession and use of the land, to farm and to exercise piscary rights, by virtue of the 1882 grant and/or under native law and custom, and an injunction.
- p.73. 9. The Ogbo Family by their Defence in Suit No.0/32/58 repeat the allegations contained in their Statement of Claim in the earlier suit and plead estoppel, forfeiture by denial of title, and ownership and long possession. 10
- p.83, 1.20. and ownership and long possession.
- p.84. 10. The order for the consolidation of the two suits was made on the 10th February, 1959. The Ogbo Family were the Plaintiffs in the consolidated proceedings.
- pp.85-118. 11. The consolidated suits were heard in the High Court (cor. Betuel J.) on 8 days between the 31st March and the 7th April, 1960, and evidence was adduced by both sides in support of their respective cases. Numerous documents were admitted in evidence, including :- 20
- p.170. (a) The instrument dated 8th October, 1884, signed by a British Consul, confirming the grant of 1882 by the Ogbo Family to the National African Company Limited. (Exhibit 2).
- Exhibits Volume:-
- p.147 (b) The Judgment in Suit No. O/31/56 brought by the Ogbo Family against Isaac Maduegbunam Ichue of the Obosi people (Exhibit 15); the pleadings in this suit were also admitted (Exhibits 13 and 14). 30
- pp. 111,123.
- p.18. (c) Letter dated 9th July, 1934, sent on behalf of the Crown to the Ogbo Family, informing them that their right to collect rents from the land is not admitted (Exhibit 36).
- p.22. (d) Letter dated 16th June, 1942, from the Resident, Onitsha Province, to the District Officer, copies of which were sent to the Ogbo Family and the Obosi people, stating inter alia that farming on the land should be allowed by permit only (Exhibit 38). 40

(e) Letter dated the 4th September, 1942, from the Resident to Counsel for the Ogbo Family stating inter alia that buildings on the land by Obosi people have not been to the knowledge of or with the consent of the Crown.

p.27, 1.30

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(f) The proceedings in the two suits brought by the Crown against defendants who were members of the Obosi people (Nos. 0/15/44 and 0/16/44) including the Notice of Discontinuance in the second of those two suits (the first suit does not appear to have been discontinued, contrary to the pleadings of the Obosi people) (Exhibits 27 to 33).

pp.32 et seq

Record:-

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The oral evidence adduced on behalf of the Obosi people included a statement by Isaac Iweka, Defendant No.7 (Appellant No.7) in cross-examination, that in 1930 (i.e. during a period when the Obosi people were settling and building on the land) they knew that the land was Crown land.

p.109, 1.13.

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12. In the Judgment of the High Court, dated the 12th May, 1960, the learned trial Judge first dealt with the issue of estoppel. On this issue, the contention of the Ogbo Family was that the Obosi people are estopped, by the Judgment in Suit No. 0/31/56 (Exhibit 15) from asserting the alleged usufructuary rights now claimed by them. The learned Judge stated inter alia as follows (he refers to the Obosi people as the "Obosi Community"):-

p.119.

p.122, 1.10.

"In Exhibit "15", the action was between the Ogbo Family and an Obosi, known as Ichu.

p.122, 1.21.

The building was situate on a portion of "Ugbo - Orimili".

In view of the final decision of the Privy Council on appeal in suit No.3 of 1949, there was no issue of title raised.

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The issue was concerned with the existence and extent of the possessary rights enjoyed by the Defendant as a member of the Obosi Community.

The Defendant pleaded that he was entitled

Record:

to remain on the land by native customary law, or under the Agreements, or, by reason of laches or acquiescence or under any other equitable right.

The defence and evidence adduced in that case was much the same as the defence put forward and evidence adduced in this case.

Although the claim was against the Defendant personally, the case was fought out as if it were, as in reality it was, a dispute between the Ogbo Family and the Obosi Community.

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I accept the reality as conclusively shown the suit was financed and conducted by organised bodies within the Obosi Community their Progressive Society and Land Council, and I am not at all sure that the Obosi Community deny it, what I am asked to do is to draw a distinction, between an individual asserting the Obosis case and supported by them, and a suit against the Obosi in a representative capacity, in which they and not the Ogbo Family, chose the person who will represent them."

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pp.123-125.

After referring to the relevant authorities, including Nana Ofori Atta II and Anr. v. Nana Abu Bonsra II and Anr. (1958) A.C.95, the learned Judge upheld the plea of estoppel in the following terms :-

p.125, 1.21.

"In my opinion Exhibit 15 is res judicata or comes within the extension of the doctrine, but in case I am mistaken I will also consider the other aspects of the case."

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p.125, 1.25.

13. The learned Judge then disposed of the claim by the Obosi people to be entitled to usufructuary rights under customary law. Observing that no evidence had been adduced to support, he dismissed this claim.

p.125, 1.33.

14. As regards the claim by the Obosi people to be entitled to usufructuary rights by virtue of the grant of 1882, the learned Judge found as follows :-

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p.127, 1.28.
p.126, 1.38.
p.126, 1.41.
pp.92-93.

(a) That until recent times the system of land tenure alleged by the Ogbo Family, viz. that they placed tenants including members of the Obosi people, on the land annually for each

farming season, on payment of rent or tributes, and also gave permission to certain of the Obosi people to live on the land, on payment of rent or tribute, was the general rule and was generally observed.

- 10 (b) That the rights of Obosi people in relation to the land was therefore limited to their seasonal rights to farm and, on the waters, to fish, and a right of occupancy in those who had received permission to occupy portions of the land (and their descendants), and that all these were in duty bound to acknowledge the Ogbo Family as their landlords by payment of rent or tribute. p.127, 1.32
- (c) That the said rights of the Obosi people were reserved in the grant of 1882, by the Ogbo Family, who were protecting their tenants. p.127, 1.42.
- 20 (d) That the existence of the grant of 1882 and the subsequent vesting of the land in the Crown did not prevent the Ogbo Family from putting tenants on the land, claiming rent, and suing for rent until prevented by the Crown. p.128, 1.2.
- The learned Judge therefore found that the claim of the Obosi people under the grant of 1882, except to the individual tenants of the Ogbo Family, with their permission and on payment of rent, must be dismissed. p.128, 1.12.
- 30 15. Finally, the learned Judge considered the question whether the Obosi people can resist the remedies sought against them, by raising some sort of equitable title or defence. After observing that it is now admitted on behalf of the Obosi people that any equitable defences put forward will not avail them against the Ogbo Family except as the successors to the Crown, the learned Judge went on to consider whether, during the period that the land was Crown land, there had been any acquiescence or laches on the part of the Crown. On this question, he stated inter alia as follows :- p.128, 1.21.
p.130, 1.36.
p.132, 1.13.
- 40 "Even before 1882 until about 1924 - 1928, individual Obosis paid rent or tribute for the occupation of their lands and no question of acquiescence can arise. p.133, 1.17.

Record:

When they ceased to pay rent, they were sued by the Ogbo Family, until 1934, when the Ogbo Family were forbidden by government to have any dealings with the land, and so were the Obosis. The Ogbo Family heeded the warning the Obosis did not.

The attitude of the Crown appears to have gone through several stages, at first they do not seem sure in view of the existence of the agreements, of their position, but they nonetheless issued a warning to the parties, a gesture of ownership, in the next stage, between 1934-1948, the Crown not wishing to take sides in the dispute, and, having in view the abandonment of a part of the land, held their hands, although in 1944, they did bring an action against a number of individual Obosis, which they finally discontinued. 10

The fact the action was brought, was another gesture of ownership or something more than that; and shows that the Crown was disputing the Obosi claim, and, tells against any acquiescence on the part of the Crown, and may destroy any estoppel which would avail against the Crown, and therefore the Ogbo Family. 20

It is clear that in the period 1934-1948, the Obosis built on Crown land to the knowledge of the Crown, any other suggestion to the contrary is ridiculous, but did they build in good faith on property which they honestly believed to be their own. 30

I may be exceedingly obtuse but I am not sure of the precise act or omission on the part of the Crown which intentionally caused or permitted the Obosis to believe they had possessary rights in the land and were permitted to build thereon and treat the land as if it were their own (Section 150 of the Evidence Ordinance).

The facts do not seem to me to suggest any sufficient grounds for any such belief and, I apprehend, that acting bona fide is a cause sine qua non of the grant of any equitable relief. If they held any such belief, which I doubt, I do not think that such a belief was reasonable. It is even doubtful since the Crown had at one time, some doubts as to its rights, permitted the Obosis to build on the land. (Attorney-General to the Prince of Wales v. Collom (1916) 2 K.B. 193) ch. 205. 40

Far from being permitted to build on the land they were, as they well knew, forbidden to do so."

16. Accordingly, the learned trial Judge awarded to the Ogbo Family damages in the sum of £500, and granted them an injunction and an order for possession in terms of their claim. p.137, 1.16.
17. The only grounds of appeal relied upon in the Federal Supreme Court were p.145, 1.11.
- 10 (i) that the learned trial Judge was wrong in holding that the Obosi people were estopped by the Judgment in suit No. O/31/56 (Exhibit 15) and
- (ii) that the equitable defences of acquiescence and laches ought not to have been rejected.
18. In the Federal Supreme Court (Ademola C.J., Unsworth and Bairamian F.J.J.) the principal Judgment was delivered by Bairamian F.J., the other two members of the Court concurring. The learned Federal Judge dealt first with the equitable defences put forward on behalf of the Obosi people. He observed that, in this part of their case, it was the laches of the Crown that was relied upon; and that the Obosi people stood or fell upon the position that the Crown had by acquiescence waived their trespass and thereby lost the right to evict the Obosi people, and that right could not be revived. After referring to certain authorities, the learned Federal Justice then expressed the view that the equitable defence relied upon by the Obosi people is laches, not acquiescence in its proper legal sense; he drew attention to the absence of what would be an essential ingredient of acquiescence, viz. a belief on the part of the Obosi people that they were the owners of the land. He continued as follows :-
- 20 p.158
- p.167
- p.160, 1.21.
- p.160, 1.26.
- 30 p.164, 1.17.
- p.165, 1.9.
- 40 "A suit by the Crown could not have been resisted by pleading limitation of time, so what is pleaded is laches, but, with respect. I do not think that the defence is available to the Obosis. They were trespassers on what they knew was Crown land: see para. 12 of their defence to the Onitshas' suit, and para. 7 of their Statement of Claim in their own cross-suit; p.165, 1.13.
- p.54, 1.18.
p.70, 1.26

Record:

and their own witness, Isaac Iweke, admitted in cross-examination that "In 1930, the Obosi Community knew the land was Crown land" - which brings their case within the last two sentences in the above passage from Ramaden v. Dyson. One trespassed, but, when the officers of the Crown came to know of it, no action was taken to evict; then another trespassed, and so it went on; but I do not see how the tortious conduct of the Obosis could have affected the legal rights of the Crown if the Crown had chosen to assert them." 10

.....

p.166, 1.7. "There is, I fear, no merit in their conduct. There is the evidence for the Plaintiffs of the Resident's oral warnings to their Chief; to whom the Resident also sent a copy of Exh. 38, his letter of 16th June, 1942, on individual farming permits. The learned Judge says that - 20

"Far from being permitted to build on the land they were, as they well know, forbidden to do so."

p.166, 1.26. Having found against the Obosi people on their alleged equitable defences, the learned Federal Justice expressed no conclusion on the question whether the learned trial Judge was right in holding that they were estopped by the Judgment in suit No.0/31/56 (Exhibit 15).

p.167, 1.22. 19. The appeal to the Federal Supreme Court was dismissed with Costs. 30

p.169. 20. On the 13th November, 1961, Final Leave to Appeal to the Privy Council was granted to the Obosi people.

21. The Ogbo Family respectfully submit that this Appeal should be dismissed with Costs, for the following, amongst other :-

R E A S O N S

(1) BECAUSE the Judgment of the Federal Supreme Court is right, for the reasons stated by Bairamian F.J. 40

(2) BECAUSE the Judgment of the High Court is right, for the reasons therein stated.

- (3) BECAUSE it is right, in law and on the facts, that the Appellants' defences of acquiescence and laches should be rejected.
- (4) BECAUSE if and in so far as the issues of acquiescence and laches depend upon findings of disputed facts, there are concurrent findings in both the Courts below.
- 10 (5) BECAUSE the Appellants are estopped from asserting their claim to usufructuary rights by the Judgment in Suit No.0/31/1956 (Exhibit 15).

ALUN T. DAVIES

RALPH MILLNER

No. 29 of 1962

IN THE PRIVY COUNCIL

O N A P P E A L

FROM THE FEDERAL SUPREME
COURT OF NIGERIA

B E T W E E N :

ANACHUNA NWAKOBI
THE OSHA OF OBOSI
and Others
... ... Appellants

- and -

EUGENE NZEKWU
and Another Respondents

AND B E T W E E N :

ANACHUNA NWAKOBI,
THE OSHA OF OBOSI
and Others Appellants

- and -

PHILLIP ANATOGU
and Another Respondents

CASE FOR THE RESPONDENTS

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