

35,1960

IN THE PRIVY COUNCIL

No. 4 of 1959

ON APPEAL

FROM THE FEDERAL SUPREME COURT OF NIGERIA

B E T W E E N :

(1) LAWAL BURAIMAH FATOYINBO  
(2) JARINATU BURAIMAH FATOYINBO  
(3) AMINATU BURAIMAH FATOYINBO and  
(4) SHITTU BURAIMAH FATOYINBO  
(Plaintiffs) Appellants

- and -

(1) SELIATU ABIKE WILLIAMS alias SANNI  
(2) ADIJATU AYINKE WILLIAMS alias SANNI  
(3) ABIBATU AYOKA WILLIAMS alias SANNI  
(4) NUSIRATU ABEKE WILLIAMS alias SANNI  
(5) ALIU SANNI WILLIAMS alias SANNI DAWODU  
and  
(6) SUNMONU AKENBI WILLIAMS alias SANNI  
(Defendants) Respondents

---

RECORD OF PROCEEDINGS

---

CHARLES RUSSELL & CO.,  
37, Norfolk Street,  
Strand, W.C.2.  
Solicitors for the Appellants

HATCHETT JONES & CO.,  
90, Fenchurch Street,  
E.C.3.  
Solicitors for the Respondents.

IN THE PRIVY COUNCILNo. 4 of 1959

ON APPEAL

FROM THE FEDERAL SUPREME COURT OF NIGERIA

UNIVERSITY OF LONDON  
W.C.I.

- 7 FEB 1961

INSTITUTE OF ADVANCED  
LEGAL STUDIESB E T W E E N :

- (1) LAWAL BURAIMAH FATOYINBO
  - (2) JARINATU BURAIMAH FATOYINBO
  - (3) AMINATU BURAIMAH FATOYINBO and
  - (4) SHITTU BURAIMAH FATOYINBO
- (Plaintiffs) Appellants

50987

- and -

- (1) SELIATU ABIKE WILLIAMS alias SANNI
  - (2) ADIJATU AYINKE WILLIAMS alias SANNI
  - (3) ABIBATU AYOKA WILLIAMS alias SANNI
  - (4) NUSIRATU ABEKE WILLIAMS alias SANNI
  - (5) ALIU SANNI WILLIAMS alias SANNI  
DAWODU and
  - (6) SUNMONU AKENBI WILLIAMS alias SANNI
- (Defendants) Respondents

RECORD OF PROCEEDINGSINDEX OF REFERENCE

No.	Description of Document	Date	Page
	<u>In the Supreme Court of Nigeria Lagos Judicial Division</u>		
1.	Particulars of Claim	15th May, 1953	1
2.	Writ of Summons	18th May, 1953	2
3.	Statement of Claim	13th June, 1953	3
4.	Statement of Defence <u>Plaintiffs' Evidence</u>	11th July, 1953	4
5.	Lawal Buraimah Fatoyinbo	23rd November, 1954	6
6.	Lawal Buraimah Fatoyinbo (recalled)	24th November, 1954	12
7.	Shittu Buraimah Fatoyinbo	24th November, 1954	14

No.	Description of Document	Date	Page
8	Lamidi Onadipe Dada Anifowose	24th November, 1954	16
9	Tiamiyu Bolaji Braimo.	24th and 25th November, 1954.	18
10	Abu Bakare Eletu Ijebu	25th November, 1954	21
11	Notes of Proceedings	2nd December, 1954	24
12	Lawal Buraimah Fatoyinbo (recalled)	2nd December, 1954	24
13	Amodu Tijani Chief Oluwa <u>Defendants' Evidence</u>	2nd December, 1954	25
14	Aliu Sanni Williams	2nd and 17th December, 1954.	27
15	Situ Afinju Adaba	17th December, 1954	34
16	Notes of Proceedings	12th January, 1955	37
17	Kasali Bale Ipakodo	16th June, 1955	38
18	Stephen Aderibighe Olurebi	16th June, 1955	40
19	Notes of Proceedings	17th & 20th June, 1955	41
20	Michael Nathaniel Bright Wilson	20th June, 1955	42
21	Speech for Defendants	20th June, 1955	44
22	Speech for Plaintiffs	20th June, 1955	45
23	Judgment of Jobling J. <u>In the West African Court of Appeal.</u>	27th June, 1955	46
24	Notice of Appeal. <u>In the Federal Supreme Court of Nigeria formerly The West African Court of Appeal</u>	28th June, 1955	48
25	Notes of Acting Federal Chief Justice Jibowu	5th, 6th and 15th November, 1956.	49

No.	Description of Document	Date	Page
26	Judgment Nageon de Lestang F.J. (concurrent in by Jibowu, Ag. F.C.J. and Hubbard, Ag. F.J.)	15th November, 1956	54
27	Order allowing appeal	15th November, 1956	59
28	Notes of Acting Federal Chief Justice Jibowu	17th December, 1956	60
29	Order dismissing applica- tion for leave to Appeal to Privy Council	17th December, 1956	61
	<u>In the Privy Council</u>		
30	Order of Her Majesty in Council granting special leave to Appeal	31st July, 1957	62

EXHIBITS

Exhibit Mark	Description of Document	Date	Page
	<u>Plaintiffs' Exhibits</u>		
"B"	Letters of Administration (Without Will) of Asenatu Aina	30th December, 1933	64
"C"	Permit to erect temporary shed	15th August, 1911	65
"D"	Lease - L.B. Fatoyinbo & Another to Salim Nouayhid	3rd October, 1934	66
"F"	Letter - Defendant A.S.Ola Dawodu to first Plain- tiff	6th June, 1933	68
"G"	Lease - A.S. Williams and others to Fouad H. Shour	1st October, 1952	70

Exhibit Mark	Description of Document	Date	Page
	<u>Defendants' Exhibits</u>		
"H"	Deed of Gift - Aina alias Osenatu to Sani Owolabi	16th January, 1914	73
	<u>Plaintiffs' Exhibits</u>		
"J"	Receipt for £100	28th May, 1917	75
	<u>Defendants' Exhibits</u>		
"K"	Letter from First Defendant to Ayinde Williams.	10th February, 1947	75
"M"	Promissory Note	8th December, 1915	76
	<u>Plaintiffs' Exhibits</u>		
"N"	Letter to first Plaintiff		77
"O"	Letter to first Plaintiff from Dawodu	9th December,	77
"P"	Letter to first Plaintiff from A.S. Dawodu	8th March, 1935	78
"Q"	Letter to first Plaintiff from A.S. Dawodu	29th March, 1934	79
"R"	Letter to first Plaintiff from A.S. Dawodu	8th December, 1935	80
"S"	Letters to first Plaintiff from Ayinde Williams	18th September, 1939 14th September, 1939 and 16th October, 1940.	81 and 82
"V"	Lease - L.B. Fatoyinbo & another to Salim Nouayhih	29th December, 1937	83

LIST OF DOCUMENTS TRANSMITTED  
BUT NOT REPRODUCED

Description of Document	Date
Order for Pleadings	22nd June, 1953
Proceedings on settling of Record of Appeal	10th September, 1955
Bond for Costs on Appeal	26th September, 1955
Affidavit of Surety	26th September, 1955
Certificate of Service of Notice of Appeal	17th February, 1956
Certificate of compliance with Appeal conditions	17th February, 1956
Notice of Motion for leave to appeal to Privy Council	6th December, 1956
Affidavit in Support of Motion	6th December, 1956
Further Affidavit in support of Motion	7th December, 1956

ON APPEAL

FROM THE FEDERAL SUPREME COURT OF NIGERIA

B E T W E E N :

- (1) LAWAL BURAIMAH FATOYINBO
  - (2) JARINATU BURAIMAH FATOYINBO
  - (3) AMINATU BURAIMAH FATOYINBO and
  - (4) SHITTU BURAIMAH FATOYINBO
- (Plaintiffs) Appellants

10

- and -

- (1) SELIATU ABIKE WILLIAMS alias SANNI
  - (2) ADIJATU AYINKE WILLIAMS alias SANNI
  - (3) ABIBATU AYOKA WILLIAMS alias SANNI
  - (4) NUSIRATU ABEKE WILLIAMS alias SANNI
  - (5) ALIU SANNI WILLIAMS alias SANNI  
DAWODU and
  - (6) SUNMONU AKENBI WILLIAMS alias SANNI
- Defendants) Respondents

RECORD OF PROCEEDINGS

No. 1.

PARTICULARS OF CLAIM

IN THE SUPREME COURT OF NIGERIA  
IN THE LAGOS JUDICIAL DIVISION.

Suit No.249/1953

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division.

No. 1.

Particulars of  
Claim.

15th May, 1953.

BETWEEN:

- (1) Lawal Buraimah Fatoyinbo )
- (2) Jarinatu Buraimah Fatoyinbo )
- (3) Aminatu Buraimah Fatoyinbo and ) Plaintiffs
- (4) Shittu Buraimah Fatoyinbo )

30

AND

- (1) Seliatu Abiko Williams alias Sanni )
- (2) Adijatu Ayinke Williams alias Sanni )
- (3) Abibatu Ayoka Williams alias Sanni )
- (4) Nusiratu Abeke Williams alias Sanni ) Defen-
- (5) Aliu Sanni Williams alias Sanni - ) dants  
Dawodu )
- (6) Sunmonu Akanbi Williams alias Sanni )

The Plaintiffs' claim against the Defendants

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division.

is for Declaration that the Plaintiffs and the De-  
fendants are jointly the Owners as tenants in  
common under Native Law and Custom of the freehold  
Hereditaments and Premises situate at and now known  
as Nos. 42 and 44, Ereke Street, Lagos, Nigeria.

No. 1.

The Property in dispute is assessed at £200.0.0  
and the annual Value is assessed at £60 for the  
purpose of Court fee.

Particulars of  
Claim.

Dated at Lagos this 15th day of May, 1953.

15th May, 1953  
- continued.

(Sgd) L.B. Agosto  
Solicitor for the Plaintiffs.

10

No. 2.

Writ of Summons  
18th May, 1953.

No. 2.

WRIT OF SUMMONS

IN THE SUPREME COURT OF NIGERIA

CIVIL SUMMONS

Suit No.249 of 1953

BETWEEN:

1. Lawal Buraimah Fatoyinbo & Ors. Plaintiffs

AND

1. Seliatu Abike Williams alias Sanni &  
Ors. Defendants

20

To Seliatu Abike Williams alias Sanni & Ors. of  
1st Defendant 12, Olumegbon Street, Isale-Eko  
District, Lagos.

You are hereby commanded in His Majesty's name  
to attend this Court at Tinubu Square, Lagos on  
Monday the 1st day of June, 1953, at 9 o'clock in  
the forenoon to answer a suit by Lawal Buraimah  
Fatoyinbo & Ors of c/o 21/23, Bamgbose Street,  
Lagos against you.

30

(see Doc.No.1)

The Plaintiffs' claim is as per particulars  
attached.

Issued at Lagos the 18th day of May, 1953.

No. 3

STATEMENT OF CLAIM

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division.

\_\_\_\_\_

No. 3

Statement of  
Claim.

13th June,  
1953.

(1) The Plaintiffs are the surviving children of one Buraimah Fatoyinbo deceased who was the only child of one Dada deceased who was one of the only two children who survived one Opo alias Apoola deceased, the other child being one Aina deceased.

10 (2) The Defendants are the surviving children of one Sanni deceased who was the only child of one Aina deceased who was one of the only two children who survived the afore-mentioned Opo alias Apoola deceased, the other child being Dada deceased as stated above.

20 (3) The property in dispute consists of the freehold Hereditaments and Premises now known as Nos. 42 and 44, Ereko Street, Lagos, and was originally owned by the great-grandmother of the Plaintiffs and the Defendants Opo alias Apoola deceased mentioned in the preceding Paragraphs under and by virtue of a Crown Grant dated the 25th day of November, 1869, registered as No. 173 in Volume 5 of the Register of Deeds kept at the Lands Registry, Lagos.

30 (4) By right of inheritance from the said Opo alias Apoola through their respective grand-mothers (Dada and Aina) and their respective fathers Fatoyinbo and Sanni aforesaid, the Plaintiffs and the Defendants are now jointly the owners of the said freehold Hereditaments and Premises as tenants in common under Native Law and Custom.

(5) As such co-owners the Plaintiffs and the Defendants had jointly let out to various tenants the portion known as No. 42, Ereko Street, Lagos, from the year, 1933 to March, 1953, and had from time to time during this period shares in two equal parts per stirpes the rents received from such tenants.

40 (6) By an Instrument of Lease dated the 1st day of October, 1952, registered as No. 53 at Page 53 in Volume 923, the Defendants without the knowledge and consent of the Plaintiffs have let to one Fouad H. Shour for a term of 10 years the said portion known as No. 42, Ereko Street, Lagos, and have received from him an advance rent of £900 at the rate of £300 per annum as from the 16th day of

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division.

No. 3

Statement of  
Claim.

13th June,  
1953 - continued.

March, 1953, and have refused and still refuse to give the Plaintiffs the half portion of the said rent and have besides claimed and still claim to be the only Owners of the said Hereditaments and Premises (Nos. 42 and 44,) Ereko Street, Lagos, and have denied and still deny the Plaintiffs' title to and interest in the said Hereditaments and premises as co-owners.

Wherefore the Plaintiffs claim as per the Writ of Summons.

Dated at Lagos this 13th day of June, 1953.

(Sgd) L.B. Augusto  
Solicitor for the Plaintiffs.

10

No. 4

Statement of  
Defence.

11th July,  
1953.

No. 4.

STATEMENT OF DEFENCE

1. Save and except as hereinafter specifically admitted the Defendants deny each and every allegation of facts contained in the Plaintiffs' Statement of Claim as if each were set out seriatim and separately denied.

2. In answer to paragraph 1 of the Statement of Claim the Defendants admit the Plaintiffs are children of one Buraimah Fatoyinbo (Deceased).

3. In further answer to paragraph 1 the Defendants also admit that the said Buraimah Fatoyinbo is the only child of one Dada (Deceased).

4. In further answer to paragraph 1 the Defendants deny that the said Dada was one of two children of Opo alias Opoola (Deceased) or at all.

5. In further answer to paragraph 1 the Defendants admit that the said Aina referred to was one of the only two children of Opo (Deceased), but plead further that the only other child of the aforesaid Opo (Deceased) was one Oniyoku who died in or about 1898 without issue.

6. The Defendants plead that the said Dada

20

30

referred to by the Plaintiffs is a child of one Dada a native of Ikorodu and his mother one Efunite also of Ikorodu, distant relatives to the aforementioned Opo (Deceased).

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division.

7. In answer to paragraph 2 of the Statement of Claim the Defendants admit they are the surviving children of Sanni (Deceased) who was the only child of Aina (Deceased). The Defendants further admit that the said Aina (Deceased) was one of the two children of Opo (Deceased) but deny that the other child is Dada (Deceased) the Defendants plead further that the only child of Opo (Deceased) was the aforementioned Oniyoku (Deceased).

No. 4

Statement of  
Defence.

11th July,  
1953 - continued.

8. The Defendants plead that the said Opo (Deceased) was possessed or was seized of properties at 42/44, Ereko Street, and 50, Great Bridge Street, Lagos the former of which properties devolved on the Defendants under native law and customs.

9. The Defendants deny paragraphs 4 and 5 of the Statement of Claim.

10. The Defendants aver that they have solely enjoyed as absolute owners all the properties constituting the estate of the said Opo (Deceased) without let or hindrance.

11. The Defendants plead further that the aforementioned Opo who was the original owner of the property 42/44, Ereko Street, Lagos had two children one called Oniyoku who died without issue and the other, Osenatu Aina who was the mother of Sanni Owolabi, the father of the Defendants.

12. On the death of Osenatu Aina (Deceased) in 1933 the 1st Plaintiff was appointed administrator of the estate of the said Osenatu Aina jointly with the 5th Defendant as 1st to 4th Defendants are all women and illiterates and the 6th Defendant was an infant. The 5th Defendant himself was only 22 years old at the said time.

13. That as such administrators the 1st Plaintiff and the 5th Defendant collected rents for the estate of the said Osenatu Aina (Deceased) including 42 and 44, Ereko Street, Lagos.

14. The Defendants, their father and grandmother have solely enjoyed the said Property from

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division.

\_\_\_\_\_  
No. 4

Statement of  
Defence.

11th July,  
1953 - continued.

the very lifetime of Opo till to-day to the exclu-  
sion of the Plaintiffs and all others.

15. The Defendants aver that Sanni Owolabi the  
father of the Defendants in the year 1903 pulled  
down the original old building erected by Opo very  
many years ago and erected the buildings thereon  
now at his sole cost.

16. The Defendants plead that the Plaintiffs'  
claim is misconceived and not properly before the  
Court.

Dated at Lagos this 11th day of July, 1953.

(Sgd) Thomas, Williams & Kayode.  
SOLICITORS TO THE DEFENDANTS.

10

Plaintiffs  
Evidence.

No. 5

Lawal Buraimah  
Fatoyinbo.

23rd November,  
1954.

Examination

No. 5.

EVIDENCE OF LAWAL BURAIMAH FATOYINBO

LAWAL BURAIMAH FATOYINBO Sworn on Koran. Live 50,  
Great Bridge Street, Lagos. Petty Trader.

I know 42 and 44, Ereko Street, Lagos. It is  
the property in dispute. It originally belonged to  
Opo alias Opoola who also originally owned 50 Great  
Bridge Street. Opo had originally some Crown Grant  
Certificates in respect of 42/44, Ereko Street. I  
have obtained certified copies from the Land Regis-  
try and produce them. These are they. (Admitted  
Exhibit "A").

Opo died many years ago. I did not know Opo  
personally. From all I have heard she left three  
children when she died - one male, and two females.  
She had three children but one died before she did,  
so I heard, and only two survived her.

Opo was my great-grand-mother. What I have  
said is what I heard from in our family.

The two children who survived Opo were Aina  
and Dada both females. The male child was Oluyokan  
and had no issue before he died.

20

30

Dada left one male child surviving her. Fatoyinbo by name and he was my own father and also the father of the other 3 Plaintiffs.

Aina had only one child surviving her - named Sanni - he is dead. He left 6 children surviving him. They are the Defendants in this case.

42/44 are joint properties and that property 50, Great Bridge Street were left by Opo when she died.

10 I live at the 50 Great Bridge Street property. I have been living there for the last 22 years. I pay no rent to anyone. I live there by right of descent from Opo.

Prior to death of my father in 1912 I was staying with my father and on his death I moved to 42/44, Ereko Street, Lagos. I lived there at first for 6 consecutive years. Again later I returned to this house for the years 1932 and 1933. From there I moved to 50 Great Bridge Street, Lagos.

20 Sanni predeceased our mother Aina, Aina died about March, 1932. The children of Sanni survived Aina, not Sanni himself.

30 Myself representing Fatoyinbo Branch of the Family and the 5th Defendant representing the Sanni Branch of the Family obtained a Grant of Letter of Administration to Aina's personal Estate. I produce a certified copy of the Letter of Administration (Admitted Exhibit "B"). The personal effect was divided into 3 parts - one for the Fatoyinbo Branch, one for the Sanni Branch and the third for the other relation of Opo, namely those that were not her children. The division was made by the elders of the Opo Family. Those present included Chief Ologulie S.J. Williams, Chief Oluwa, Gbadamosi Aralawon. The only one of them now living is the Chief Oluwa. There were many persons present where Nonyiro was one I remember also Sanusi Osoni. They have both died. Three of the persons in the witness room are relatives of Opo but not direct descendants. There names are  
40 Tiyaniyu Buraimo, Dada Anifowose and Bakare Eletu-Ijebu Chief Oluwa is also a relative of Opo.

Only Dada Anifowose shared in a portion of the division of personal effect of Aina given to the relatives of Opo.

In the Supreme Court of Nigeria, Lagos Judicial Division.

Plaintiff's Evidence

No. 5

Lawal Buraimah Fatoyinbo.

23rd November, 1954.

Examination - continued.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division.

Plaintiffs  
Evidence

No. 5

Lawal Buraimah  
Fatoyinbo.

23rd November,  
1954.

Examination  
- continued.

44, Ereko Street, was built in 1903 by the Defendants' father - Sanni. It was a brick building on other floor covered with iron roof.

On No. 42, Ereko Street the building is two stories house. It was built by my own father in 1909-1910. In 1911 I remember there was a marriage in our Family. In that marriage a temporary shed was built in front of Nos. 42/44, Ereko Street, the ceremony was performed by my late father. My father had to obtain a permit from the Lagos Town Council to erect the shed. This is the permit he got (Admitted Exhibit "C").

10

There is a shop in the building 42/44, Ereko Street. After the death of Aina I together with 5th Defendant let out this shop to one Salaiu Nonayhid. I produce the Deed of Lease signed by myself and 5th Defendant (Admitted Exhibit "D"). The rent we received was divided into 2 parts one for Fatoyinbo Branch and one for Sanni Branch of the Family.

20

Another tenant of 42/44, Ereko Street was Elkalil. At one time we had to take goods in lieu of rent from Elkalil as he had no ready cash.

I and 5th Defendant took the goods and signed the Invoice for them. This is the Invoice (Admitted Exhibit "E"). After taking out Letter of Administration to Aina's Estate 5th Defendant wrote to me about the administration of the Deceased Estate. This is the letter (Admitted Exhibit "F").

Since Aina's death in 1952 we shared the rent with the Sanni Branch up to the year 1953 March.

30

The premises 42/44, Ereko are not leased to a Syrian. This lease was entered with without my knowledge by the Sanni children in 1953 - six months before the expiry of the former lease- in which we all shared in the rents. We have not shared in the rent under the new lease. We have come to the Court to compel the Defendants to share the rents.

Defendants were known as Sanni or Dawodu but they appear in the new Lease as Williams. How they came by the name Williams I don't know and I had difficulty because of this in finding out about the lease. I produce a copy of the lease to the Syrian (Shour) by the Sanni Children (Admitted Exhibit "G").

40

When I discovered the lease I demanded the share of the rent for our Branch of the Family but Defendants refused to let us have anything.

In the Supreme Court of Nigeria, Lagos Judicial Division.

When I demanded a share the 1st Defendant told me that property belonged exclusively to the Sanni Branch and he had seen a Will in which the promises were devised to them exclusively. I complained to Chief Oluwa and he sent for 5th Defendant who said he had seen a Will devising the property to the Sanni Branch. In consequence of what Chief Oluwa told me I commenced this action.

Plaintiffs Evidence

No. 5

Lawal Buraimah Fatoyinbo.

23rd November, 1954.

Examination - continued.

10

My father Fatayinbo died in 1912. Both Aina and Sanni were then alive. In her life time Aina was living at 42/44, Ereko Street. She let out portions of the property during her life time. With the rent she obtained she maintained myself and the other Plaintiffs and she also used some of it to help me get married. I had some debts amounting to £100 and I had only £42 Aina out of the rent paid the rest for me. Aina also helped my elder brother to get married and in purchasing a sewing machine - then was Adamo - he was my elder brother but is now dead.

20

When my father died in 1912, his personal effects were inherited by Sanni according to Native Law and Custom. He also inherited all the children including the Plaintiffs and my father's wives.

30

According to Native law my father's wives automatically became Sanni's wives by inheritance. Sanni became the head of the Family and responsible for my father's children as well as the others.

The Defendants do not dispute any right to 50, Great Bridge Street but only in respect of 42/44, Ereko Street.

(Nicol objects to the evidence on the ground that it has not been pleaded by Plaintiff - no substance in the objection. Evidence may be led as to 50 Great Bridge Street if it is relevant to the claim before the Court)

40

I have come to Court because Defendants dispute my right to 42/44, Ereko Street.

Adjourned for 10 minutes.

(Intld) G.L.J.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division.

Resumed

Plaintiffs  
Evidence

No. 5

Lawal Buraimah  
Fatoyinbo.

23rd November,  
1954.

Cross-  
Examination.

Cross-Examined Nicol I am older than the 5th Defendant. I do know more of the Family history than the 5th Defendant. I don't know the name of the father of Opo. Opo's father was, I heard, a slave to Chief Kosoko. I heard that Opo had sisters at Ikorodu but I did not know them.

Aina told me that Dada was her sister born of the same father and mother. I did not hear that they were first cousins. Also my grandfather told me Aina and Dada were sisters by the same mother and father.

10

When my father died I went to stay with Aina. Sanni was living with Aina then. Sanni married the young wife of my late father after inheriting her in 1912.

I took out Letter of Administration to Aina's estate jointly with 5th Defendant. When taking out Letter of Administration I swore an Administrator Oath and I was asked about my address and I said I was staying at 42/44, Ereko Street.

20

Aina is the grandmother of Defendants. When I swore the Administrator Oath I stated that we wanted to share the personal estates of Aina. I said nothing about 42/44, Ereko Street. I stated what property we wanted to administer. I don't remember if 42/44, Ereko Street was mentioned.

I and 5th Defendant joined in a lease to Salim (Exhibit "D") as Administrators.

I deny that I knew all along that the property was Aina. Aina had taken out a summons for debt against somebody just before her death and is asking for Letter of Administration we had to mention Aina as owner of the property so as to step into her shoes in the action.

30

When Aina died there was a lot of rent outstanding and we were advised to take out Letter of Administration to get it in.

In order to facilitate matter we decided to call all the children of Fatoyinbo and Sanni as the Children of Aina. We had a Family meeting - 11 of us attended and we decided to call as all descendants of the late Aina.

40

Aina let out the property and therefore we had to take out Letter of Administration in her name to sue in her name.

Dada and Aina were sisters. It was not necessary for Dada's name to be mentioned in applying for Letter of Administration. Dada died before Aina and before I was born.

10 I knew Aina made a gift of 50 Great Bridge Street to Sanni. I see the document produced. It is a Deed of Gift of 50 Great Bridge Street. It was given in 1914. I knew of it. I was staying with Aina then and know how it came to be prepared. (Admitted Exhibit "H").

20 My own father died in 1912 and left about 14 houses Sanni alleged that my father was in debt and Sanni sold the houses allegedly to pay the Debts, all except one 58, Palm Church Street, Lagos which is now the Fatoyinbo Family house. When the 13 houses had been sold the debts had not been fully liquidated and the creditors asked for 58, Palm Church Street to be sold. We asked Aina not to let the house to be sold. Sanni was then alive and Aina called on Sanni to borrow money to prevent the house being sold. Sanni approached one Coker to borrow. Coker asked for security and Aina made a gift of 50, Great Bridge Street to Sanni so that he could give it as security to Coker. Adamo and I were consulted and agreed to it to prevent our own father's property being sold.

30 It was a mistake if Aina stated in Exhibit "H" that only her children Oniyokan and herself survived Opo. Aina was illiterate and I was also at the time. A letter writer wrote out the particulars. I see that the attestation certificate at the end says document was read over to Aina in Yoruba and she seemed perfectly to understand it.

40 I see the document produced. It is a lease between myself, 5th Defendant and Syrian Golin Monafe in 1937. (Copy of lease produced - Objected to by Augusto - not admitted).

When I brought this action I went to my Solicitor and gave him all the facts.

My father's name was Fatoyinbo Baruwa and I see the address on the Helmet (Exhibit "C") is given as Agarawu Street, Lagos. This was her own

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division.

Plaintiffs  
Evidence

No. 5

Lawal Buraimah  
Fatoyinbo.

23rd November,  
1954.

Cross-  
Examination  
- continued.

In the Supreme Court of Nigeria, Lagos Judicial Division.

personal property and the marriage was at his mother's house 42/44, Ereko Street. That was why he gave that address.

Re-examined Agosto:- No questions.

Plaintiffs Evidence

Adjourned till tomorrow 9 a.m.

(Intld.) G.L.J.

No. 5

23/11/54.

Lawal Buraimah Fatoyinbo.

23rd November, 1954.

Cross-Examination - continued.

No. 6

No. 6

Lawal Buraimah Fatoyinbo (recalled)

EVIDENCE OF LAWAL BURAIMAH FATOYINBO (recalled)

10

24th November, 1954.

1ST WITNESS (LAWAL B. FATOYINBO) recalled at request of both Counsel. Re-sworn on Koran.

Examination.

Agusto further re-examined (with permission) I told the Court yesterday the circumstances in which Exhibit "H" was made. It was in the interest of myself and my brothers and sisters.

Sanni died in my presence in my house 42/44, Ereko Street. I was the Keeper of all documents relating to my father's affairs. They were all kept in one cupboard and I had possession of them after Sanni's death. The documents had amongst them the one I now produce. (Receipt to Sanni for £100 signed by J.B. Coker) (Admitted Exhibit "J").

20

Cross-examination.

Cross-examined Kayode (with permission) As Administrator of the Estate of Aina I and 5th Defendant had some transaction with one Shyngle.

I cannot remember if at the end of the transaction we issued a Writ of Fifa against Shyngle.

I see the paper writing produced. I wrote it. (Admitted Exhibit "K"). I wrote it to the 5th Defendant. I addressed it to him as A. S. Williams. I knew he was called Williams when I wrote Exhibit "K". That was in 1947. I think it is a nick-name for him.

I lived at 42/44, Ereko Street from 1912 to 1918 and again 1932 and 1933.

10 I went on transfer from Lagos in 1927. Between 1918 and 1927 I lived at a village called Isheri. I left School in 1921. I lived at Sada in 1921 and went from there to School in Lagos. I also lived at Isalegangan Street, Lagos and Isheri between 1918 and 1927.

I was 19 years of age in 1921. I was living at 42/44, Ereko Street when Sanni died. He died in 1921.

20 Since death of my father I have lived with Sanni Owolabi until the latter's death. My father died in 1912. Sanni lived at 42/44, Ereko Street and died in 1921. I lived there with him until he died.

In 1918 Sanni was sick and was taken to his farm at Isheri to be looked after and I went with him. He came back in 1921 and I came back with him. Some-times when travelling between Lagos and Isheri I could stay in Lagos with my mother at Isalagangan Street or at Sadu. Sometimes I could stay for a week or a month at one of these places for a change.

30 When I left School I was a small member of the Family.

In 1917 I lived at 42/44, Ereko Street, I was then 15 years old. I did not keep the documents in the lifetime of Sanni. I only got the documents after Sanni's death. I did not mean to say that I had possession of them before Sanni's death.

Sanni told us about the documents to put in the cupboard but it was after his death that I came into possession of them.

40 It is not true that I did not get the documents until the death of Aina in 1932 when I got them as Administrator of her estate.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division.

Plaintiffs  
Evidence.

No. 6

Lawal Buraimah  
Fatoyinbo  
(recalled)

24th November,  
1954.

Cross-  
examination  
- continued.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division.

EVIDENCE OF SHITTU BURAIMAH FATOYINBO

Agusto calls:-

2ND P.W. SHITTU BURAIMAH FATOYINBO

Plaintiffs  
Evidence.

No. 7

Shittu Buraimah  
Fatoyinbo.

24th November,  
1954.

Sworn on Koran. I am 4th Plaintiff in this case. 1st Plaintiff is my brother. I heard his evidence. I knew 42/44, Ereko Street - it is the property belonging to my great grand-mother Opo. I know part of it is let out to tenants. The rent from the part let out was collected by one S. J. Williams as Aina who was in possession was very old. Aina used some of the rent for the benefit of myself and my brothers and sisters.

10

Examination.

After death of Aina S.J. Williams ceased to collect the rent. On death of Aina we called a family meeting and appointed one person from each branch of the family to collect the rent and manage the property - we appointed 5th Defendant and 1st Plaintiff to collect the rent and manage the property. We gave them written authority. When 5th Defendant and 1st Plaintiff collected the rent it was divided into two equal shares, one for the 5th Defendant's Branch of the family and one for 1st Plaintiff's Branch. This continued up to 1952.

20

The lease of the premises was up to 1953 but Defendants made another lease in their own in 1952 and did not give us any share of the rent they then collected. That is why we are in Court.

Cross-  
examination.

Cross-examined Kayode: My great grand-mother owned 42/44, Ereko Street. Any member of the family knows the history of the family. I have never heard of Adebayo.

30

I did not know that Adebayo was the father of Opo - it is not so. I don't know who was Opo's father. I don't know that Opo had 4 sisters. I have never heard about Ade-Elenu. I have never heard of Efunte. I first saw the name in the pleadings in this case. I don't know Elepo. All these people are long ago - 1854 - 1865. I only knew about things in this century. I was born in 1912. I don't know that Efunte died in 1865. I don't know Bodukale. I don't know Aina Asinju-Adaba. I knew one person Omoyeni. I knew that Omoyeni's father was Sanusi Oshin.

40

I don't know that the grand-father of Omoyeni was Bodukale. I know that Bodukale was the sister of Opo. I don't know that Sanusi Oshin is of the same family as Opo and that the Sanusi Oshin lived at 42/44, Ereko Street and died there. I don't know if Sanusi Oshin shared in the rent collected from the property nor do I know if Omoyeni shared in the rents. I know that Omoyeni is daughter of Sanusi Oshin.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division.

Plaintiffs  
Evidence.

10

I don't know that Sanusi Oshin ever received a penny of the rents. Rent was divided into two parts. I don't know if Sanusi ever received any part of it. He does not belong to the 1st Plaintiff's Branch of the family nor to 5th Defendant's Branch but he is a member of the Family.

No. 7

Shittu Buraimah  
Fatoyinbo.

24th November,  
1954.

It is not true to say that our family and Oshin family were living at 42/44, Ereko Street by the kindness of Aina.

Cross-  
examination  
- continued.

20

I don't know Shittu Asingju Adeba (Man produced says his name is Shittu Asingju Adeba) I see this man for the first time now. Don't know him at all.

Opo died before I was born. I don't know where she died or when. I don't know if she died at Ikorodu. I know that she was a native of Ikorodu.

I went to school in Lagos, first at St. John's School, Aroloya Lagos, and later at Tinubu Methodist School.

30

S.J. Williams collected rent for Aina from Sanni's death in 1921 up to Aina's death in 1933. I knew S.J. Williams in 1930 when I visited the property - 42/44, Ereko Street to see my brother who is now dead - it was when he celebrated his marriage.

At that time only one member of our Branch of the family was living in the house 42/44, Ereko Street then.

40

1st Plaintiff and 5th Defendant were collecting the rent. This was not because they were Administrators of the Estate of Aina (Deceased). The property 42/44, Ereko Street belonged to Opo. It did not belong to Aina. Aina at the time of her death was in possession and managing it for the family.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division

1st Plaintiff and 5th Defendant were appointed  
by the Court to administer the Estate of Aina. They  
were granted Letter of Administration. A letter of  
authority was given to them by the family to manage  
the Estate.

Plaintiffs  
Evidence.

Adjourned for 10 minutes.

(Intld.) G.L.J.

No. 7

Shittu Buraimah  
Fatoyinbo.

Resumed

24th November,  
1954.

Cross-examination continued: My branch of the Fam-  
ily has an interest in the property of 42/44, Ereko  
Street. It is family property.

10

Cross-  
examination  
- continued.

Re-Examined Augusto

Re-examination.

Sanusi Oshin was a relative of Opo. Opo was in  
the habit of showing hospitality to people coming  
from Ikorodu Sanusi was one of such people lodging  
with Opo. I don't know the exact relationship be-  
tween them but Sanusi was called a relation.

No. 8

No. 8

Lamidi Onadipe  
Dada Anifowose.

EVIDENCE OF LAMIDI ONADIPE DADA ANIFOWOSE

24th November,  
1954.

Agusto calls:-

20

Examination.

3RD P.W. LAMIDI ONADIPE DADA ANIFOWOSE Sworn on  
Koran.

Live 17 Bajulaiye Street, Lagos. I know 1st  
Plaintiff and 5th Defendant and I know the property  
at 42/44, Ereko Street, Lagos. I lived there 1918  
to 1919. I knew Aina. I did not know her mother  
but I heard her name was Opo. I knew 3 people who  
were children of the same mother. I heard of one  
Oluyokun as the son of the late Opo. I learnt of  
one Dada as the last born child of Opo and I know  
Aina as the daughter of Opo. These three were all  
children of Opo. Aina told me of her brother and  
sister, Oluyokun and Dada respectively. My grand-  
mother was a relative of Opo. Aina told me my  
grand-mother was an elder sister of Opo. That is  
how I came to live at 42/44, Ereko Street. Aina had

30

Sanni Olabi as her son. I knew him personally. Sanni was the father of 5th Defendant. I know the father of 1st Plaintiff. He was Fatoyinbo. Fatoyinbo's mother I don't know. Aina told me that the mother of Fatoyinbo was her younger sister named Dada. Aina told me Oluyilun was the first born of Opo. He died without issue.

10 I knew Sanusi Oshin. He lived and died at 42/44, Ereko Street. He was related to Aina in the same way as I am related to Aina's family.

Opo came from Ikorodu to Lagos. When Aina died her personal effects were divided into 3 portions. One was given to children of Sanni Olabi and one to the children of Fatoyinbo and the third to Sanusi Oshin and myself to share between the rest of our relatives at Ikorodu.

Cross-examined Kayode:

The partition of effects was with the consent of the children of Aina.

20 My father had no interest or right to 42/44, Ereko Street. I lived there for 2 years. Aina was kind to me. I paid no rent. When I was married Aina was not responsible for all the marriage expenses. She prepared food and kept myself and my wife. She bore no part of the expenses.

30 In 1918 to 1919 many people were living at 42/44, Ereko Street. Sanni was at Isheri then and not at 42/44, Ereko Street. 1st Plaintiff was not at 42/44, Ereko Street in 1918 or 1919. My father was Dada Keyo. I don't know Adebayo.

Orekelu was the mother of Dada Keyo and she had no brother named Adebayo. She had brothers and sisters by the same mother and father.

Oyedalu and others whose names I don't know and they were brothers and sisters of Orekelu. I have never heard that one of them was named Adebayo.

40 I did not know Dada the mother of Fatoyinbo. I only heard about her. I don't know when she died. I have not heard of Efute. Aina told me Dada was the daughter of Opo and my father confirmed this.

I knew Shittu Asinju Adeba and I knew Sanni

In the Supreme Court of Nigeria, Lagos Judicial Division.

Plaintiffs Evidence.

No. 8

Lamidi Onadipe  
Dada Anifowose.

24th November,  
1954.

Examination  
- continued.

Cross-examination.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division.

Plaintiffs  
Evidence.

No. 8

Lamidi Onadipe  
Dada Anifowose.

24th November,  
1954.

Cross-  
examination  
- continued.

Asinju Adeba was the father of Shittu. We are all members of the same family from Ikorodu. The last witness is a member of the same family as myself. Myself, Sanni Asinju Adeba and last witness are all members of the same family - all their ancestors came from Ikorodu.

I learnt that Bodukale was the mother of Sanni Oshin and I know that Bodukale was of the same family as Opo but don't know the exact relationship.

I have not heard of Ade Elemi.

10

I don't know the names of Sanni Asinju Adeba's mother. I don't know of Efun Potun or that she was the sister of Sanni Asinju Adeba.

Ade Elemi may be the mother of Sanni Asinju Adeba. If Aina stated in a document that only she and Oniyoku were the children of Opo I don't know why she said so. She would know more about her family than myself. I got my information about the children of Opo from Aina.

I am about 64 years of age. I am about the same age as Sanni Asinju Adeba.

20

It is not true to say I know nothing about the Family except what 1st Plaintiff has told me.

Re-examined Agosto.

Re-examination.

Aina did tell me that she had a brother and sister. If she said in a document that she only had a brother she may have done this for some purpose of her own.

No. 9

Tiamiyu Bolaji  
Braimo.

24th and 25th  
November, 1954.

Examination.

No. 9

EVIDENCE OF TIAMIYU BOLAJI BRAIMO

30

4TH P.W. TIAMIYU BOLAJI BRAIMO Sworn on Koran.

Live 9 Offin Road, Lagos. Petty Trader. Know 1st Plaintiff and 5th Defendant. I knew Aina. She was living 42/44, Ereko Street when alive. I never lived there. I lived nearby about - 100 feet from that house. I knew S.J. Williams - He is my uncle.

After the death of Sanni Oluba, S.J. Williams started managing the property. Aina was alive then. S.J. Williams took care of all the documents belonging to the property and taking care of Sanni's children. Portions of the property were let out and S.J. Williams collected the rents. He was taking care of Sanni's children and also of the children of Fatoyinbo. I know the Family history of Aina. The junior sister of Aina was the mother of Fatoyinbo - she was named Dada. Apart from Dada, Aina had a brother who died a long time ago. He was named Oluyokun.

10

After the death of Aina the members of the branch of the family of Plaintiffs and Defendants demanded an account from S.J. Williams in respect of the property of Aina and Dada. The latter had died a long time before. The personal effects of Aina were shared among the children of Aina and Dada - that is the Defendants and the Plaintiffs respectively.

20

There was a shop at 42/44, Ereko Street. It was let out at a rental. The rent was divided into two parts one portion given to Plaintiffs' family and one to Defendants' family.

My uncle told me that they had demanded an account from him and gone to the Court to obtain Letter of Administration for the Estate. He said they had divided the property between the two branches of the family and also the rents.

30

Adjourned to 9 a.m. tomorrow.

(Intld) G.L.J.  
24/11/54.

THURSDAY THE 25TH DAY OF NOVEMBER, 1954.

T.B. Braimo (Re Sworn) (Continues)

Cross-examined Kayode:-

I am over 60 years of age - 66. I have no work but do petty trading. When I was younger I was a clerk under W.B. McIver. I worked there from 1910 to 1920 until I was transferred to Oshogbe. There I was working for McIver for 5 years and then was transferred back to Lagos. Then I worked for Miller

40

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division.

Plaintiffs  
Evidence.

No. 9

Tiamiyu Bolaji  
Braimo.

24th and 25th  
November, 1954.

Examination  
- continued.

Cross-  
Examination

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division.

Plaintiffs  
Evidence.

No. 9

Tiamiyu Bolaji  
Braimo.

24th and 25th  
November, 1954.

Cross-  
examination  
- continued.

Bros. for 3 years at Ede. There was a break-down in the produce trade at Ede. The middlemen who did the business carried away the money we were to trade with and did not bring back any produce and I told them to come and take the stock of goods in my care and then I left them.

I went back to Oshogbo to do some business on my own. I stayed there for the next 5 years.

Sanni Olabe died in 1917. From the time he died S.J. Williams had possession of all documents belonging to the property. I was in Lagos when Aina died in 1932. Then S.J. Williams handed over the documents to 1st Plaintiff and 5th Defendant. I don't know which of them took custody of the documents. I was not present but I was told by S. J. Williams that he had handed the documents to them. I left Oshogbo in 1932 to return to Lagos. 10

1st Plaintiff was working at Oshogbo up to 1932. I don't know when he went there. He came with the French Coy. He was not there the first time I went to Oshogbo. He was not there when I was at Ede. I met him at Oshogbo on my second visit there in 1928 - 1929. I don't know where 1st Plaintiff was working when I left Oshogbo. He worked in various places. 20

After death of Aina in 1932 I went back to Oshogbo. I went to and fro Oshogbo and Lagos for about 5 years. I lived in Lagos and paid occasional visits to Oshogbo to look after my children at school there. 30

I know the last witness Anifowose. He is a member of Aina's family. He is not a member of my own family. We are not all descendants from Adebayo. Adebayo is on the last witness father's side. I belong to the Opo's side. I don't know Adebayo. I was never told anything about Adebayo. I don't know Ade Elenu - There are many branches of the family at Ikorodu. I heard of Efunlate - she is my own grand-mother. I am related to 1st Plaintiff through Efunlate. Dada was grand-mother of 1st Plaintiff. Dada was the daughter of Opo. 1st Plaintiff may not have known Efunlate as he was not more than 2 years old at the time. 40

I have never heard of Elepo. Never heard of Bodukale. They are people from Ikorodu.

I know Sanusi Oshin personally. I don't know his mother's name. Bodukale may be the mother of Sanusi Oshin but I don't know. Sanusi Oshin lived at 42/44, Ereko Street until he died. Aina was taking care of Sanusi Oshin during her life time.

In the Supreme Court of Nigeria, Lagos Judicial Division.

I don't know when last witness got married. I know he lived at 42/44, Ereko Street, long ago. I know Aina was caring for last witness but I don't know when he got married. I knew nothing about Adobayo. I never attended any family meeting at which 1st Plaintiff and 5th Defendant were given authority to deal with Aina's Estate. I never attended any of their family meetings. 1st Plaintiff does not feed me. He does not give me anything. I have no shop.

Plaintiff's Evidence.

No. 9

Tiamiyu Bolaji Braimo.

24th and 25th November, 1954.

S.J. Williams is my uncle and also uncle of 1st Plaintiff.

Cross-examination - continued.

Re-examined Agosto.

My grand-mother and the mother of S.J. Williams were born of the same parents.

Re-examination.

Efunlate, Opo and the mother of S.J. Williams were related on the mother's side.

No. 10

No.10

EVIDENCE OF ABU BAKARE ELETU IJEBU

Abu Bakare Eletu Ijebu.

ABU BAKARE: Sworn on Koran.

25th November, 1954.

My full name is Abu Bakare Eletu Ijebu. Live at 45 Great Bridge Street. Trader. I know 1st Plaintiff. I knew his father Braimah Fatoyinbo. I knew Braimah Fatoyinbo's mother personally. She was Dada and my relative. I learned about Dada's mother from family history. I learned her name was Opo. Dada had a senior sister named Aina. I knew Aina personally. Aina was living 42/44 Ereko Street the property in dispute in this case. Dada lived there also. Opo was mother of Aina. Aina and Dada were children of Opo and I heard that there had been another child who had died long ago. I heard its name was Oluyoke.

Examination.

I belong to Ijebu tribe. I belong to Ijebu

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division.

Plaintiffs  
Evidence.

No.10

Abu Bakare  
Eletu Ijebu.

25th November,  
1954.

Examination.

District but came down to Ikorodu District to settle and then came to Lagos. Opo belonged to my family - the Eletu-Ijebu Family.

When a family meeting was summoned Dada and Aina used to join us. Meetings were held at Eletu Ijebu's Palace at 45 Great Bridge Street; the place where I live. The meetings were of the family of Aina. We came as members of Eletu-Ijebu family. I am about 80 years of age.

Both Aina and Dada are now dead. Dada died first, about 58 years ago. Aina died about 22 years ago. Dada died at Ikorodu. She left Lagos to trade at Ikorodu and died there. She was buried there.

10

1st Plaintiff went Ikorodu dug up her corpse and took it to Lagos where it is now buried. I was present at the burial in Lagos.

A photo of the corpse was taken. The coffin with her corpse inside was placed down and the 1st Plaintiff and his children stood nearby and a photo was taken. I had a copy of the photo. This is it. (Admitted Ex. "L").

20

Cross-examined Kayode:

Cross-  
examination.

My father's name was Dada Eletu Ijebu. My mother's name was Omoloto. My father's father was Fadugba but my father's mother's name has escaped my memory for the moment. My great grand-father - Fadugba's father - was Koku. I don't know the latter father's name. I cannot remember my mother's father's name. Agbale was my mother's mother's name. I don't know latter's father. I don't know the name of Agdale's mother.

30

Eletu Ijebu is the head of all the Ijebus in Lagos - head of all the people who came from Ijebu District. The last Chief Eletu Ijebu died 22 years ago and a new Chief has not been elected. I am the person in the position of Chief Eletu. I did not apply for the Chieftainship. We can at any time appoint a chief. I am a blood relation of Opo. Opo was a child of the Eletu Ijebu - named Olufinran. Opo and others told me so - he was the natural father of Opo.

40

I never heard that Opo's father was Adebayo. Dada died about 58 years ago. Oluyoke was the first born of Opo and died long ago. I don't know

whether he died 56 years ago. I never saw him.

All the Ijebus in Lagos are not entitled of right to attend the Elotu family meeting.

I don't know Bodukale or whether she was the mother of Sanusi Oshin.

I don't know Dada Keyo - nor Anifowosi (the 3rd witness). I know Shittu (2nd witness) (produced) I don't know Shittu Afinju Adabe.

10 I have never heard of Sanni Afinju Adebé, nor Afunlate, nor Efunpotun.

I don't know that the father of Opo was a slave to Asoko. I heard that the father of Opo was Olu-finran. He was Chief Eletu. He was not a slave.

Agbale was my mother's mother.

I don't know S.J. Williams but know Saidu Williams. Saidu Williams is not my relative - I don't know, if he is related to 1st Plaintiff or not. I know the witness T.B. Braimo. He is a relative of Saidu Williams.

20 I knew that Dada's corpse was dug up and brought to Lagos for re-burial. I did not go to Ikorodu when corpse was exhumed.

I have retired from work now and my children feed me. 1st Plaintiff does not feed me. He is not my son but a member of the family. He does not give me any money.

I know 5th Defendant is son of Sanni Olube. Neither 1st Plaintiff nor 5th Defendant ever come to our family meetings.

30 1st Plaintiff did not tell me what to say in Court. We never discussed this case.

Adjourned to 2nd December, 1954.

(Intld) G.L.J.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division.

Plaintiff's  
Evidence.

No.10

Abu Bakare  
Eletu Ijebu

25th November  
1954.

Cross-  
examination  
- continued.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division.

No. 11

NOTES OF PROCEEDINGS

THURSDAY THE 2ND DAY OF DECEMBER, 1954.

Plaintiffs  
Evidence.

Hearing resumed

Agusto for Plaintiffs  
Kayode for Defendants

No. 11

Notes of  
Proceedings.  
2nd December,  
1954.

Agusto applies for evidence of one witness Omodu  
Tijani Chief Oluwa as witness is very old.

Certificate dated 24/5/54 that witness is sen-  
ile is produced.

10

Ruling This is not very satisfactory but may be  
considered sufficient to warrant adjournment to the  
witness's house.

Application granted.

To be adjourned to witness's house to take evidence.

Kayode applies for re-call of 1st witness (1st  
Plaintiff) for further Cross-examination.

No objection.

Witness to be recalled and further cross-examina-  
tion before adjournment to Amodu Tijani's house.

20

No.12

Lawal Buraimah  
Fatoyinbo  
(recalled)

No. 12

EVIDENCE OF LAWAL BURAIMAH FATOYINBO  
(recalled)

2nd December,  
1954.

LAWAL BURAIMAH FATOYINBO recalled (1st witness)  
Sworn on Koran.

Cross-  
examination.

Cross-examined Kayode:- I agree I told the Court  
that my father left 14 houses. They were all sold  
to pay his debt. 58, Palm Church Street, Lagos was  
the last one sold.

When I found that 58, Palm Church Street was  
to be sold I asked Aina for help. I cannot tell the  
period that elapsed between the loan raised by Sanni

30

and the Deed of Gift by Aina to him.

Sanni raised the loan in 1914. The Deed of Gift was executed in Sanni's favour in order that he should be able to raise the loan. The loan was raised from J.G. Coker. I see the paper writing produced. It is a promissory note by Sanni dated 3th December, 1915. (Admitted Exhibit "M")

Re-examined Augusto. No questions.

10 BY COURT: It was in 1914 that all the troubles started.

In 1914 I spoke to Aina about help and the Deed of Gift was prepared then to enable Sanni to raise a loan. The lender - Coker - was a relative - an in-law - and it was possible that the loan was raised before the Promissory note was executed.

That is the probable explanation of why the Promissory Note is dated December, 1915.

Adjourned to Chief Oluwa's house.

No. 13

20 EVIDENCE OF AMODU TIJANI, CHIEF OLUWA.

Court held at the Chief Oluwa's Palace. Oluwa Court

No. 2

Agusto for Plaintiffs.  
Kayode for Defendants.

AMODU TIJANI CHIEF OLUWA; Sworn on Koran.

30 Agusto - in Chief. I knew the late Buraimah Fatoyinbo. I knew his mother. Her name I have forgotten. I knew Sanni, Osalabi and his mother. Her name was Aina. It may be Osunatu Aina I don't know.

The mother of Fatoyinbo and Aina are of the same family. My father told me this. I don't know the exact relationship. I don't know Aina's mother. I don't know the mother of Fatoyinbo's mother. I have never heard about Opo. I don't know the date of Aina's death but I know she has died. I don't

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division

Plaintiffs  
Evidence.

No.12

Lawal Buraimah  
Fatoyinbo  
(recalled)

2nd December,  
1954.

Cross-  
examination  
- continued.

Re-examination.

No.13

Amodu Tijani,  
Chief Oluwa.

2nd December,  
1954.

Examination.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division

know what happened to her personal effects, I only heard about the dispute about the house. I mean the house at Ereko Street about which they are quarrelling. I don't know who was the original owner of the house.

Plaintiffs  
Evidence.

No.13

Omodu Tijani,  
Chief Oluwa.

2nd December,  
1954.

Examination  
- continued.

I see the 1st Plaintiff. I know him. Fatoyinbo was the father of 1st Plaintiff. I see the 5th Defendant. I don't know him. Fatoyinbo's mother was living at Ereko Street during her life time. Aina was also living there. They lived in same house. 10

I know they were the owners of the house and were living there. They inherited it from their father. I did not know their father. He died before I was born.

I know S.J. Williams. I don't know if he had anything to do with the Ereko Street there. I don't know anything about the renting of Ereko Street house to Syrians.

The disputants came to me to report the matter to me and that was how I came to know of it. 1st Plaintiff was one of the children who came to complain. When I was informed of complaint I sent some one to call them before me but none of them have appeared. I just sent for the people who were disputing. I don't know their names. They were the grand-children of Aina, but they have not come. I did not send 1st Plaintiff to call them. 20

Cross-  
examination.

Cross-examined Kayode:- I sent one of my sons to call - this one present there now (Tairu Oluwa indicated).

The grand mothers of disputants are my relatives. 30

Adjourned to Court.

(Intld) G.L.J.

In Court:-

Plaintiffs' Case.

---

No. 14

EVIDENCE OF ALIU SANNI WILLIAMSKayode calls:-

10 5TH DEFENDANT ALIU SANNI WILLIAMS Sworn on Koran. Sales Clerk. Live 44, Ereko Street, Lagos. I know all the other Defendants. They are my half brothers and sisters but some of them are full brothers and sisters. The Plaintiffs are the children of Braimah Fatoyinbo who was the only child of Dada. Dada was not the child of Opo. I know the history of my family. I have heard of Adebayo. He is dead. He had 5 children. They were Opo, Efunte, Bodukala, but I have forgotten the names of the other two.

I have heard of Ade- Elelu. That was the name of Adebayo's fourth child. I heard the name of Elepo. That was the fifth child of Adebayo. I heard of Aina and Oniyokun. They were the children of Opo. Aina was my grand-mother - mother of my father. My father's name was Sanni Owalabe. Oniyokun is dead.

20 I have heard of Afunju Adaba. He was the full brother of Ade - Elelu - same mother.

Bodukala had a child named Sanusi Oshin.

I have seen Exhibit "H" before. It was executed by Aina to my knowledge.

The rent of 42/44, Ereko Street was not shared between the Plaintiffs and Defendants in this case. My father's children were the only persons who enjoyed the rent of these premises.

30 During the life time of Aina she enjoyed the rent herself. To my knowledge no person has ever challenged the right of Aina to enjoy the rent of the premises.

1st Plaintiff and myself were appointed as the Administrators of the Estate of Aina.

40 I see Exhibit "F". I wrote it to 1st Plaintiff. At the time we were about to obtain Letter of Administration I was the only male adult person among my father's children and that is why I wrote Exhibit "F" to 1st Plaintiff as he was literate. I was then 22. 1st Plaintiff is older than I am.

Adebayo had one child called Efunete who was

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division

Defendants  
Evidence.

No.14

Aliu Sanni  
Williams.

2nd and 17th  
December, 1954.

Examination.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division

Defendants  
Evidence.

No.14

Aliu Sanni  
Williams

2nd and 17th  
December, 1954.

Examination  
- continued.

the mother of Dada. Dada was the mother of Fatoyinbo who was the father of 1st Plaintiff. The other Plaintiffs are the children of Fatoyinbo. We are all related by blood through Adebayo.

After writing Exhibit "F" appealing to 1st Plaintiff to come and help with administration of Estate he came and he did help me with the Administration. Both of us then collected the rent of the premises as administrators. We also managed the Estate business.

10

The present house at 42/44, Ereko Street was built by my father. He built it with his own money before Aina's death. The old house was demolished. I was not born then but my grand-mother Aina told me about it. Plaintiffs have no right to enjoy the rent of the premises with us. I have heard of Bodukala's son, Sanusi Oshin. He lived and died at 42/44, Ereko Street. The children of Sanusi Oshin are still living with us at 42/44, Ereko Street. During her life time Aina allowed her relatives to live in the premises.

20

My father had no other children than the 6 Defendants. The original owner of the premises was Opo. On Opo's death it was inherited by Aina and after Aina died the children of my late father (Aina's son) inherited the property.

None of the Plaintiffs have ever lived in the premises.

Cross-examination.

Cross-examined Agosto. The rent for the premises was collected and I usually give between £2 and £5 to 1st Plaintiff. I did this because my late mother Aina used to give him money.

30

It was in the nature of a gift by me to 1st Plaintiff. I don't know whether he shared it with his brothers and sisters or not.

I did not give him money every time the rent was collected. I can't remember if I received some rent in advance from the Syrian occupying the premises in 1938.

When rent was paid by cheques usually 1st Plaintiff used to go and cash them but I endorsed the cheques. He would not hand over the cash to me. He kept it and whenever we wanted cash we applied to him and gave him a receipt for the money and he paid it out to us. That was the practice from the

40

time we obtained Letter of Administration up to when we received another rent without the knowledge of 1st Plaintiff.

Many times we asked 1st Plaintiff for money and he said there was none. Exhibit "K" is a result of my applying for money which the 1st Plaintiff said he could not supply.

10 I don't agree that Exhibit "K" is in regard to money I wanted from 1st Plaintiff. It is to do with rent he had with him. Had there been no rent I could not have applied to him for money.

I used to write to 1st Plaintiff and ask for help when I needed money but this was only for the rent collected.

20 1st Plaintiff had no work and it was impossible for me to ask him for monetary help. When any receipt was given for money from the rent in 1st Plaintiff's hands the receipts were kept by 1st Plaintiff. I don't know if 1st Plaintiff kept any papers relating to the rent except the receipts.

1st Plaintiff at one time asked me to assist him financially and was crying for help and asked me to ask the Syrian who occupied 42/44, Ereko Street to lend him money. We approached the Syrian and he said he had no money with him. I told 1st Plaintiff I was going home and I left him with the Syrian. Later 1st Plaintiff came to me and said the Syrian had given him goods instead of money.

30 I asked how he could return the money for the goods to the Syrian. He said the Syrian and he had agreed that the goods were given in place of rent. I said I could not agree to that as the other beneficiaries would say we were not honest. He was begging me and crying. I asked how he could refund the money for the other beneficiaries. He promised me he would pay the money to a judgment creditor to avoid his house being sold. I then agreed that when the goods were sold he could make use of the money. The value of the goods was treated as part  
40 payment of the rent due.

I don't remember Omoliyi Coker writing to me in 1940. I see the letter produced. I have never seen it before (a copy only - objected to Document not admitted.) Other relatives of my late grandmother live on the premises today. Sanusi Oshin was alive when Aina died. He was much older than the

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division

Defendants  
Evidence

No.14

Aliu Sanni  
Williams

2nd and 17th  
December, 1954.

Cross-  
examination  
- continued

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division

1st Plaintiff but he was illiterate. He was living on the premises at the time. He was related to me. He was not asked to join us in application for Letter of Administration because he was then over 80 years old.

Defendants  
Evidence

No.14

Aliu Sanni  
Williams.

Dada was not the daughter of Opo. He was a relative through Adebayo. None of the children of Fatoyinbo ever lived on the premises 42/44, Ereko Street. The elder brother of 1st Plaintiff Adamo lived and died there. I am sure 1st Plaintiff never lived there. I have lived there since I was born up to now.

10

2nd and 17th  
December, 1954.

When we applied for Letter of Administration 1st Plaintiff was not living at 42/44, Ereko Street, he was living at 50, Great Bridge Street.

Cross-  
examination  
- continued.

I know the Letter of Administration states that we were both living at 44, Ereko Street. That is incorrect only I was staying there.

1st Plaintiff kept the money received as rent. Each of the children of Sanni used to approach 1st Plaintiff to be paid out his or her share. 1st Plaintiff kept all the accounts.

20

I personally kept no account of what was drawn. We trusted 1st Plaintiff, but later on when we wanted money he would say there was none and I was suspicious. 1st Plaintiff had no interest in the rent collected. At that time I was working.

It is the custom of Yoruba for the eldest person to keep money. We were entitled to the rent as Administrators and the eldest of us kept it.

30

I see the paper writing produced. I wrote it to the 1st Plaintiff. (Admitted Exhibit "N").

I see the paper writing produced. I wrote it to 1st Plaintiff (Admitted Exhibit "O"). I was asking for some of the rent taken by 1st Plaintiff.

I see the 5 page paper writings produced. I wrote to 1st Plaintiff (Admitted Exhibit "P").

I see the paper writing produced. I wrote it to 1st Plaintiff (Admitted Exhibit "Q").

I see the paper writing produced. I wrote it to 1st Plaintiff (Admitted Exhibit "R").

40

Before the death of Aina, S.J. Williams was not collecting her rent. He was only arranging the letting of the premises to new tenants. Aina collected the rent herself.

Adjourned to 17th December, 1954.

(Intld.) G.L.J.

FRIDAY THE 17TH DAY OF DECEMBER, 1954.

Hearing continued

Kayode for Defendants.  
L.B. Augusto for Plaintiffs.

Agusto Cross-examined continued

ALIU SANNI WILLIAMS Sworn on Koran.

I see the letter produced. I wrote it. (Admitted Exhibit "S")

I recognise the letter produced. I wrote it (Admitted Exhibit "T")

Exhibit "T" is not a list of the goods I selected from those shown in Exhibit "E".

I received no goods from those listed in Exhibit "E". (Agusto points out that some of the items in Exhibits "E" and "T" are the same).

When 1st Plaintiff and I went to the Syrian he asked us to come the following day. We went back to the 1st Plaintiff's house and he instructed me to go about among the customers and find out what kind of goods were saleable at that time.

I assisted the 1st Plaintiff by asking customers and prepared the list Exhibit "T", in consequence of what they said.

I did not know 1st Plaintiff was a trader himself at that time.

I knew 1st Plaintiff was a Clerk under J. H. Doherty and Company for many years before October, 1940 (date of Exhibit "E"). After he left Doherty's work he worked at several places including Oshogbo. He was a clerk to Financial Houses. I did not know he was trade clerk to the French Coy.C.F.A.O.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division

Defendants  
Evidence

No.14

Aliu Sanni  
Williams.

2nd and 17th  
December, 1954.

Cross-  
examination  
- continued.

10

20

30

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division.

Defendants  
Evidence

No.14

Aliu Sammi  
Williams.

2nd and 17th  
December, 1954.

Cross-  
examination  
- continued.

Had he been a trade clerk for hardware he would not have been able to say anything about textile goods. Even if he was a trade clerk on textile that does not mean that he could know what lines are saleable in Lagos as the kind of goods which are saleable in each town are different.

I never worked with any Firm selling textiles and I moved about many women who sold them.

When 1st Plaintiff approached me about repaying his debt I prepared Exhibit "T" after inquiry of the women and 1st Plaintiff said that would not be sufficient to repay his debts so he added to it and the result was Exhibit "E".

10

Selim Nonadid was tenant at 42, Ereko Street but I can't remember him giving a cheque for £175 in July, 1950.

I see the Receipt Counterfoils produced and agree that he did give a cheque for £175 on 11th July, 1950 (Admitted Exhibit "U"). I paid this into my own account at the National Bank of Nigeria Limited. I gave a cheque for £87.10/- to 1st Plaintiff. It was not the half share due to 1st Plaintiff.

20

After the £175 cheque we paid into my account 1st Plaintiff said he was going out of town and said he should get £87.10/- for the Estate account and I should keep the balance in case any expenses arose in his absence.

I am telling the truth.

I knew 1st Plaintiff was working for Nigerian Brewery in 1950 but he told me he was being transferred out of Lagos and that he tried to avoid the transfer but found it impossible. Eventually he did not go on transfer. 1st Plaintiff later told me that I should account for the £87.10/- and I accounted to him for my expenses and gave him £80 in cash which was the balance in my hands. No receipt was given to me. This was in accordance with our usual practice as I had confidence in 1st Plaintiff.

30

I can't remember receiving £48 in 1933 from W. Jackel & Coy.

40

1st Plaintiff used to keep all the money and keep accounts and shows the accounts to me from time

to time I would be able to recognise the account book he kept. I see the book produced. This is not the 1st Plaintiff's account book. I don't remember £80 and the £48 being given to the children of Sanni Owolabi, nor £20 being given to the children of Braimo Fatoyinbo.

The relatives of Aina who lived in her house have not come forward to claim in the Estate because they are not greedy.

10 1st Plaintiff was faithful at a certain stage but later on he became dishonest. He did keep the accounts but rent was paid 5 years in advance. He kept the money and we used to apply to him for amounts when we needed it. This continued from 1933 to 1952. He became dishonest in 1947. I thought so because whenever we asked 1st Plaintiff for money he said there was none and he had made use of the money for his own use. The account in Exhibit "E" was never refunded by 1st Plaintiff. This was in 20 1940. He continued to promise me he would refund the value. I relied on him and that was why I paid him the £87.10/- to 1st Plaintiff in 1950 and later £30 further. I did not inform the rest of the family of this.

I did not take any legal action against 1st Plaintiff for the money due in respect of Exhibit "E".

30 It is not true that since rents were collected I have been taking half of them and given half to the children of Fatoyinbo.

Re-examined Kayode:- In 1952 I rented the premises without the knowledge of 1st Plaintiff and this removed him as rent collector of the property.

As regards an action against 1st Plaintiff the family decided 1st Plaintiff should be left alone without any action being taken against him.

Exhibit "T" says that 1st Plaintiff can include the goods listed "in his selection". I made Exhibit "T" and 1st Plaintiff based his selection on it.

40 Exhibits "N" & "O" were written after 1st Plaintiff and I had been appointed Administrators of the Estate. The same applies to Exhibits "P", "Q" & "R". At that time I was not working.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division

Defendants  
Evidence

No.14

Aliu Sanni  
Williams.

2nd and 17th  
December, 1954

Cross-  
examination  
- continued.

Re-examination.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division

Defendants  
Evidence

No.14

Aliu Sanni  
Williams.

2nd and 17th  
December, 1954

Re-examination  
- continued.

1st Plaintiff was collecting all the rents and keeping them. The money I wanted was to come out of the rents he kept in the Estate accounts not out of his own pocket.

I don't know if 1st Plaintiff has ever been Trade Sales man in respect of textiles.

From 1947 I thought 1st Plaintiff was not honest. After that I started to be more vigilant in the matter of the account and money.

I see the Deed produced. It refers to both 1st Plaintiff and myself as Administrators of the Estate and gives our address as 50, Great Bridge Street. (Admitted Exhibit "V").

10

I never lived at 50, Great Bridge Street. That was the 1st Plaintiff's address.

Adjourned 10 minutes.

No.15

Situ Afinju  
Adaba.

17th December,  
1954.

Examination.

No. 15

EVIDENCE OF SITU AFINJU ADABA

Resumed

Kayode calls:-

SITU AFINJU ADABA Sworn on Koran.

Live at Ikorodu. Brick-layer. I have heard of the Adebayo family - I am one of Adebayos children. I am the natural child of a descendant of Adebayo.

I know the name Ade Elenu. He was my grand father. Ade Elenu was the son of Adebayo. My own father's name was Afinju Adaba.

I know the name Efunte. I have heard the name Dada. Efunte was the mother of Dada. I knew Fatoyinbo he was son of Dada who was a woman.

20

30

I know 1st Plaintiff very well. He is the son of Fatoyinbo the son of Dada.

I knew the name Elepo and also Mosanya. Elepo was the father of Mosanya. Adebayo was the father of Efunte and Eleko. I heard the name of Bodukale. She was the last born of Adebayos five children.

Sanuso Oshin was the son of Bodukale. Opo was the first born child (female) of Adobayo. Opo was the mother of Aina. Opo was the mother of Onijoku.

Dada was not the child of Opo Opoola. I knew Dada personally. I was present at her burial. Dada knew me from the time I was born. She was much older than me and her own child was older than I was. Dada died at Ikorodu and was buried there. I know the grave and it has never been disturbed.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division

Defendants  
Evidence

No.15

10 It would not be correct to say that the body was exhumed and taken to Lagos.

Situ Afinju  
Adaba.

I knew Aina personally, I knew Anifowose - I am far older than him.

17th December,  
1954.

I know 5th Defendant very well. Aina was the mother of 5th Defendant's father.

Examination  
- continued.

Opo had 2 children Oniyoku and Aina. Oniyoku predeceased Aina.

I did not know my grand father - Ade Elenu.

20 Cross-examined Augusto. I live at Ikorodu. I was at one time living in Lagos. I have lived in Lagos since I was born and paid visits to Ikorodu to my relatives there. I lived in Lagos with Aina at Ereko Street. I settled finally at Ikorodu 20 years ago and paid occasional visits to Lagos. I don't know my age. I was 4 years old in the Ijebu war.

Cross-  
examination.

I knew Dada very well. She and my own mother were born together (i.e. of the same family).

30 Dada and Aina lived together in 42/44, Ereko Street, Lagos. Dada came from Ikorodu to join Opo. Dada was not the first child of Opo. Efunte was the mother of Dada and Efunte and Opo were born of the same father.

I knew Fatoyinbo very well. I knew Adamo the brother of 1st Plaintiff. He is now dead. He lived at 42/44, Ereko Street. I am related to them. I was one of the persons who helped to bury Aina. I came from Ikorodu for the funeral.

40 I was not present when her personal effects were distributed. I heard of the distribution. I cannot say whether they were divided into three parts. All I know is that my share was brought to me to Ikorodu. I did not inquire into others shares.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division

Defendants  
Evidence.

No.15

Situ Afinju  
Adaba.  
17th December,  
1954.

Cross-  
examination  
- continued.

Oshin son of Bodukale was present at the distribution. So I heard. I heard that Saidu J. Williams (known as Tella) was also present.

Chief Oluwa might have been present. I was seriously ill at the time or I would have been present at the distribution.

I know Sanni Olube very well. I know that when Fatoyinbo died, Sanni took care of all his children.

The children of Fatoyinbo did not live at 42/44, Ereko Street. The only one who had lived there died. 10

I don't know the wife of Fatoyinbo named Adisatu Coker. Sanni Olube did not inherit the wife of the late Fatoyinbo. All the properties of Fatoyinbo were sold before his death to pay his debts. They were not sold after his death by Sanni Olube.

Sanni Olube was looking after the children of Fatoyinbo. There was no estate for him to look after. I don't know if he was clothing and schooling the children. 20

Fatoyinbo died in his house in Agarawu Street, Lagos. I can't say if he owned the house or not.

I helped to bury Dada the mother of Fatoyinbo. At one time Fatoyinbo was wealthy. He was so at the time of Dada's death and owned several properties then including the Agarawu house. He was still living in the Agarawu house when he died.

I think he had sold the Agarawu house before his death. I did not see Sanni sell any house after his death. I made no claim against the property. 30

Sanusi Oshin and the other persons who lived 42/44, Ereko Street made no claim against Aina's property. Opo was the original owner of the house. She was not the owner of 30, Great Bridge Street. It belonged to Aina. It came to her through husband of Opo.

Fatoyinbo was married several times. He celebrated no marriage at Ereko Street. He had several houses at the time and it was therefore not necessary for him to celebrate them at Ereko Street. I 40

say certainly he celebrated no marriage at Eroko Street.

Dada and Aina were not children of Opo. She only had two children - Aina and Oniyoku.

Re-examined Kayode:

I said Dada and my mother were born together. Efunte was Dada's mother. Ade Elenu was my grandmother. Efunte and Ade Elenu were sisters - they had the same father. Dada and Aina lived together at 42/44, Eroko Street. I lived there too. Aina kept an open house for relatives.

Sanni Olube never sold any property belonging to Fatoyinbo. That is as far as I know.

BY COURT: I was about 20 years of age when Dada died. I knew Efunte myself - nobody told me Efunte was Dada's mother.

Adjourned to 12/1/1955.

(Intld) G.L.J.

No. 16

NOTES OF PROCEEDINGS

WEDNESDAY THE 12TH DAY OF JANUARY, 1955

L.B. Augusto for Plaintiffs.  
Gaji for Defendants.

Gaji asks for adjournment as Counsel for Defendant is engaged in House of Representatives.

Adjourned to 16th and 17th June, 1955.

(Intld) G.L.J.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division

Defendants  
Evidence

No.15

Situ Afinju  
Adaba.  
17th December,  
1954.

Cross-  
examination  
- continued.  
Re-examination.

No.16

Notes of  
Proceedings.

12th January,  
1955.

10

11

20

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division

No. 17

EVIDENCE OF KASALI BALE IPAKODO

L.B. Augusto for Plaintiffs  
Nicol for Kayode for Defendant.

Defendants  
Evidence

No.17

Kasali  
Bale Ipakodo

16th June, 1955

Examination.

KASALI BALE IPAKODO Sworn on Koran.

Live at Ipakodo. I am a Chief. I know the parties to this action. The relationship between Dada and Aina the grandmothers respectively of Plaintiffs and Defendants, is that they are children of the same father but different mothers. 10

Dada's mother and Aina's mother are children of the same father. I know Opoola. She is dead. Her children were Aina and Oniyoku. She had no other children.

Of these 2 children Oniyoku died first and she left no issue. Aina had two children that I know, both male. Both in Court (indicated) (viz their names are Aliu Sanni Williams and Sunmonu Akanbi Williams).

I knew Sanni Owolabi. He was the father of the two persons I have indicated. I lived in Lagos and I don't know who Aina married. I don't know who Owolabi's mother was. 20

I know Dada very well. Fatoyinbo was the only child of Dada. Efunte was Dada's mother. The mothers of Fatoyinbo and Owolabi were children of the same father.

Dada died at Ikorodu. We buried her body at Ikorodu. I was one of the people who buried her. Nothing else happened to the body. 30

Cross-  
examination.

Cross-examined Augusto. I am about 150 years old. I have always lived at Ikorodu. I only pay occasional visits to Lagos - sometimes once - sometimes twice in 5 years. Sometimes once in ten years.

I know the history of both parties to this case and I have told the Court what I know.

The children of Opoola approached me to come and give evidence. Those two persons I indicated in Court (A.S. Williams and S.A. Williams) asked me to come. 40

I knew Theller Agidi - Adebaba. He is a native of Ikorodu but he and his father live in Lagos. He stands in the position of son to me - I mean he is junior to me.

Dada was mother of Fatoyinbo. Dada lived and died at Ikorodu. She sometime lived in Lagos but returned to Ikorodu. She had a house at Ikorodu and also one at Lagos. Fatoyinbo, her child lived and died in Lagos - I don't know when he died.

10 I don't know Fatoyinbo's father - nor Dada's father. Adebayo was Aina's father. Adebayo was Opoola's father. Adebayo had 5 children including Opoola. The other 4 were Adelenu, Efunte, Elepo, Bodukale. The 5 of them were living at Lagos but later returned to Ikorodu. None of them is alive to-day.

20 Opoola left Oniyoku and Aina as his children. Adelenu was female and left Ajayi, Agidi Adaba and Efunte. Ajayi is dead. Elepo was a male and left Omosanya. Bodukale was female and left Oshin. Efunte was female and left Dada. All of them were not born in Lagos. Omosanya was born in Lagos, Oshin also.

I don't know when all Adebayo's children were born.

30 Adelenu was female and was married before I was born and I don't know where. She was the junior sister to Opoola. Elepa I don't know whether he was married before I was born or not. I don't know where Bodukale was married. I was very young then.

I don't know when Efunte was married.

The evidence I have given is what I know. I know all the persons I have mentioned.

I don't know anything about the question of whom and where those persons were married.

I did not say that I was not born when Adlenu was married.

40 I knew Opoola personally. She was older than me. I can't say how older. She might have been old enough to be my mother. She was in residence in Lagos.

When I came to Lagos on an occasional visit I

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division

Defendants  
Evidence

No.17

Kasali  
Bale Ipakodo

16th June, 1955

Cross-  
examination  
- continued.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division

used to spend a day in Lagos and go back the second day. I usually spent the night at Ereko Street or Itolo Street. Oshin was at Ereko Street and Raji was at Itolo Street. I and Raji are natives of Ipakado.

Defendants  
Evidence

Elepo was in the position of grandfather to me. I could not come here to tell a lie.

No.17

Elepo was younger brother to Opoola who was the eldest of all.

Kasali  
Bale Ipakodo

I used to stay with Oshin at Ereko Street. He was a contemporary of mine - about the same age. 10

16th June, 1955

Cross-  
examination  
- continued.

I don't know what work Oshin was doing. He might have been working as a shop boy to Fatoyinbo. I did not know that Fatoyinbo owned a shop. I did not know where he was living, nor where he died.

When a member of the family died a ? ? to be that to Ikorodu and we sent down a representative to the burial. I saw Fatoyinbo when he came for his mother's burial, at Ikorodu - that was the only time I saw him. He was then older than myself and much older than Oshin. 20

It is what I know of family history that I have been giving in evidence.

Re-examination.

Re-examined Nicol My maternal grandfather Yigade and Adebayo were children of the same father. Adebayo was Opoola's father. Opoola was the mother of Oniyoku and Aina. Aina had a son Owolabi.

Adjourned 10 minutes.

(Intld) G.L.J.

No.18

Resumed

No. 18

30

Stephen  
Aderibigbe  
Olurebi.

EVIDENCE OF STEPHEN ADERIBIGBE OLUREBI

16th June, 1955

STEPHEN ADERIBIGBE OLUREBI : Sworn on Bible. I am a Clerk in the Rates Office of Lagos Town Council.

Examination.

I know the records of the property at 42/44, Ereko Street. My records show that the rates on 44, Ereko Street are paid in the name of Sonem Nonayhij at present. Between 1945 and 1950 the rates were paid in the name of the same person Sonem Nonayhij.

According to the records the property was originally No. 44 only and was divided up into 42 and 44 in 1939. I have no records of rates payable before 1939. Soncm Konayhij paid the rates.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division

Cross-examined Augusto

Defendants  
Evidence

I see the receipt produced. They were receipts issued by the Lagos Town Council for rates paid on 42 and 44, Ereko Street, and they were paid by L.B. Fatoyinbo. (Admitted Exhibit "W").

No.18

Stephen  
Aderibigbo  
Olurebi.

10

I see the paper writing produced. (Admitted Exhibit "X"). They are receipts for payment of Township and Water Rates in 1933 and is in the name of J.S. Williams.

16th June, 1955

Adjourned to 9 a.m. tomorrow.

Examination  
- continued.

(Intld) G.L.J.

Cross-  
Examination.

No.19

No.19

NOTES OF PROCEEDINGS

Notes of  
Proceedings.

FRIDAY THE 17TH DAY OF JUNE, 1955.

17th and 20th  
June, 1955.

Agusto for Plaintiffs.

20

Nicol for Defendants.

Hearing continued.

Nicol - Witness required is ill and asks for adjournment until after call over on Monday 20th June.

Adjourned to 20th June, 1955 after call over.

(Intld) G.L.J.

MONDAY, THE 20TH DAY OF JUNE, 1955.

L.B. Agusto for Plaintiffs.

Nicol for Defendants.

30

Nicol applies to Court to take evidence at witness's residence as he is too ill to come to Court.

Adjourned to witness's residence.

(Intld) G.L.J.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division

EVIDENCE OF MICHAEL NATHANIEL BRIGHT WILSON

20th June, 1955

Defendants  
Evidence.

At the residence of Michael Nathaniel Bright  
Wilson, 47, Balogun Street, Lagos.

No.20

L.B. Agosto for Plaintiff  
Nicol for Defendant.

Michael  
Nathaniel  
Bright Wilson.

Nicol Ex in Chief

20th June, 1955

MICHAEL NATHANIEL BRIGHT WILSON:- Sworn on Bible.  
Live 47, Balogun Street, Lagos. Solicitor for  
Supreme Court Nigeria. Retired.

10

Examination.

I knew Osenatu Aina in her lifetime. I acted  
as Solicitor for her. I acted for her in regard to  
42, Ereko Street property. I acted for her on her  
own behalf.

I was introduced to her by S.J. Williams who  
is now dead.

Osenatu Aina owned the property. I say this  
because she was residing at 42/44, Ereko Street.  
She actually lived in 44 and let out 42. Aina said  
she was the owner and S.J. Williams told me so also  
and I acted for her in Court in the matter of 42,  
Ereko Street. She rented it to a colleague of mine  
Charles Egerton.

20

A man called Shingle owed Aina a large amount  
for rent for 42, Ereko Street and she wanted me to  
sue. I sued Shingle. Aina sued as owner of the  
property in her own name. I obtained a portion of  
the money. I handed it to Aina.

I see Exhibit "H" Deed of Gift from Aina to  
Sanni Owolabi. She had 42 and 44, Ereko Street and  
a property in Great Bridge Street.

30

She mentioned that she had given the Great  
Bridge Street property to Sanni but I don't know  
anything about the transaction.

Sanni died before Aina. Letter of Administra-  
tion to Aina's Estate was taken out in 1933.

Nobody made any claim to the property 42/44,

Ereko Street when Letter of Administration was taken out in Aina's name.

I know the Plaintiffs and the Defendants. Defendant when Aina - his grandmother - died and I advised him to go and get some one of his relatives who was older to join in taking out Letter of Administration. He brought Plaintiff to me. That was how he came into the matter.

Cross-examined Augusto.

10 I acted for Aina a year or two before she died. The first time I acted for her was when I sued Shingle. She told me of her properties but did not produce any Conveyances etc.

It is not uncommon in this country for an uncle or an aunt to act as regards of property owned by herself and other members of the family.

20 There was still a balance owing by Shingle when Aina died. I don't remember that I advised them to take out Letter of Administration because it was necessary if they wanted to sue Shingle for balance.

I don't know the relationship of Defendant to Plaintiff. I asked Plaintiff to bring a relative and he brought 1st Defendant.

S.J. Williams suggested that 1st Defendant should join in application for Letter of Administration. He did not mention him as owner of the property.

30 The question of the exact relationship between the parties was not discussed. I don't know whether S.J. Williams came with 1st Defendant to my office or not. I transferred the action against Shingle for balance of rent to my colleague L.B. Davies. I took ill then. I don't know that S.J. Williams collected rent for Aina.

Letter of Administration was taken out in respect of personal property and have nothing to do with real property in this country.

Re-examined Nicol. When the 1st Defendant was

In the Supreme Court of Nigeria, Lagos Judicial Division

Defendants Evidence.

No.20

Michael Nathaniel Bright Wilson.

20th June, 1955

Examination - continued.

Cross-examination.

Re-examination.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division

Defendants  
Evidence.

No.20

Michael  
Nathaniel  
Bright Wilson.

20th June, 1955

Re-examination  
- continued.

brought to me to join in the Letter of Administration I said he would do and would act as a guide and guardian to the young Plaintiff.

Aina told me she had given the property at Great Bridge Street to her sister's son. There was no question of 1st Plaintiff being entitled to the property. That was made quite clear to 1st Plaintiff and Defendant.

Adjourned to Court.

(Intld) G.L.J.

10

IN COURT:-

Agusto for Plaintiff.  
Nicol for Defendant.

Close of Defendants' Case.

No. 21

Speech for  
Defendants.

20th June, 1955.

No. 21

SPEECH FOR DEFENDANTS

NICOL ADDRESSES COURT:-

The point in case is whether Aina and Dada were sisters.

Exhibit "H" Recited "leaving her surviving only Aina and her children.

20

Why not recite her brother and sister?

WILSON'S EVIDENCE That gave property to her sister's son is a mistake. Dada died 72 years ago. Fatoyinbo died in 1912. Deed of Gift is dated 1914. Defendant came forward for Letter of Administration - 1st Plaintiff only brought forward at request of Wilson as a guide. Adebayo said Efunte was mother of Dada and Opoola mother of Aina.

30

Exhibit "D" 1954 signed by Fatoyinbo 1st Plaintiff as Administrator of Aina's Estate - admission that it was Aina's property.

No. 22

SPEECH FOR PLAINTIFFS

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division

No.22

Speech for  
Plaintiffs.

20th June, 1955.

AGUSTO ADDRESSES COURT:-

Wilson Aina referred to be sister's son.

Not in dispute Dada and Aina relatives.

Great Bridge Street in hands of Fatoyinbo.

It originally belonged to Opoola.

Why make Exhibit "H" in favour of the only son. He would become entitled in any case.

10 Aina inherited is not mentioning Dada in Exhibit "H" - would call ? ? for Dada's children.

No trouble between 1933 and 1952.

Right of Plaintiff denied first in 1952 by Defendant leasing property without Plaintiff's knowledge. Goods received as rent were shared between Plaintiff and Defendant.

Rent shared until 1952.

20 Building of wedding reception place in front of his house by Fatoyinbo. Why write this to Town Council if house was not his.

Exhibit "B" - Plaintiff and Defendant declared as grandsons of ? ?

Fatoyinbo received grants of £1 and became boss says 1st Defendant. But 1st Defendant wants typing letter. Dada and Aina living in same house. Fatoyinbo built house in 42, Ereko Street. Exhibit "W1". Water rates paid by Fatoyinbo for years.

C.A.V.

Judgment 27/6/55.

(Intld) G.L.J.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division

JUDGMENT OF JOBLING, J.

No. 23

Judgment of  
Jobling, J.

27th June, 1955.

Plaintiffs claim a declaration that they are owners of premises at 42 and 44, Ereko Street, jointly with the Defendants as tenants in common under native law and custom. The Defendants assert that they are the sole owners of the property.

It is common ground that the property originally belonged to a woman named Opoola. The Plaintiffs aver that Opoola had three children; Aina, Dada, and Oniyoku and that on Opoola's death, the property descended to Aina and Dada as Oniyoku had already died without issue. It is not disputed that Dada was Plaintiff's grandmother and that if Dada was Aina's sister the Plaintiffs have a good claim to share in the property. But Defendants state that Opoola only had two children, Aina and Oniyoku and that Dada was the daughter of a sister of Opoola and therefore acquired no interest in the property.

10

20

The sole question in the case is therefore whether Dada was sister of Aina or not. The evidence on this point consisted of contradictory version of family history, and the surrounding facts must be examined to see if they threw any light on this matter.

The Plaintiffs alleged that the rent of the property had been shared between the Defendants and themselves up to 1952 and it is clear that on at least one occasion when 1st Defendant received an amount of £175 as rent, he paid £87.10/- of it to the 1st Plaintiff. It is also clear that 1st Plaintiff collected the rent and kept charge of it advancing amounts to Defendants when requested. There is nothing to show whether he paid out only half of the rent received or was merely acting as the Defendants' banker for the full amount, but it is undoubted that 1st Defendant wrote a number of begging letters to 1st Plaintiff which are inconsistent with the claim that he was only demanding payment from his own funds.

30

40

It also appears that when Letters of Administration for Aina's estate were taken out by 1st Plaintiff and 1st Defendant, they were both described as the grandsons of deceased.

And finally there is evidence of one of the Defendants' witnesses that Aina told him that certain property had been given to her sister's son. It is not in dispute that the property in question was given to 1st Plaintiff.

In the  
Supreme Court  
of Nigeria,  
Lagos Judicial  
Division

No. 23

Judgment of  
Jobling, J.

27th June, 1955  
- continued.

10 Against this there is the fact that Aina in a deed of gift to her son recited that Opoola died "leaving her surviving Oniyuko and the said Aina and her children". There is also the further fact that a lease of the premises was (exhibit "D") signed by 1st Plaintiff as administrator of the estate of Aina which would be unnecessary if he was joint owner of the property. Both these facts are open to explanatory comment, the recital to the comment that it was in Aina's interest to declare herself the sole owner of the property she was making a gift of to her son, and the signing of the lease to the comment that both 1st Plaintiff and 1st Defendant signed in the capacity of Administrators of the Estate and the signature in that capacity is as much an admission against 1st Defendant as against the 1st Plaintiff.

30 There is one other matter that should be mentioned. Plaintiff and 1st Defendant as administrators of Aina's estate jointly leased the property at 42 Ereko Street in 1938 to a tenant for a term of 15 years expiring in March, 1953. But 6 months before the expiration of this lease the Defendants in their own names without informing the 1st Plaintiff leased the property for a further period of 15 years and received three years rent in advance. This conduct is not one would expect from persons who had a clear title to the property.

In this case the family history is too contradictory to be relied upon, but the other evidence to which I have referred is consistent with Plaintiffs' claim and the facts relied on by the Defendants do not throw any doubt on it.

40 I find therefore that Dada was the sister of Aina and that the Plaintiffs are entitled to a declaration that they are jointly with Defendants the owners of the property at 42 and 44, Ereko Street. Declaration to issue accordingly.

Costs to Plaintiffs. Costs (including disbursements £32 odd) assessed at sixty guineas.

(Sgd) G.L. Jobling.  
JUDGE.

In the  
West African  
Court of Appeal

No. 24

NOTICE OF APPEAL

No. 24

Notice of Appeal  
28th June, 1955.

TAKE NOTICE that the Defendants being dissatisfied with the judgment of the Supreme Court, Lagos, contained in the judgment dated the 27th day of June, 1955 do hereby appeal to the West African Court of Appeal upon the grounds set out in paragraph 3 and will at the hearing of the appeal seek the relief set out in paragraph 4.

AND the Appellants further state that the names and addresses of the persons directly affected by the Appeal are those set out in paragraph 5. 10

2. Whole Judgment.

3. Grounds of Appeal.

- (1) The judgment of the learned trial Judge is against the weight of evidence.
- (2) The learned trial Judge erred in law in granting a declaration of title to the Plaintiffs when the Plaintiffs had failed to discharge the onus placed on them in law in order to succeed. 20
- (3) The learned trial Judge misdirected himself on the evidence by failing to direct his mind to the evidence of the 5th Defendant and Mr. Wilson and thereby arrived at an erroneous decision.
- (4) The learned trial Judge misdirected himself in law in holding that the recitals contained in the Deed of Gift tendered by the Defendants are not evidence against the Plaintiffs. 30

4. Relief sought from the West African Court of Appeal:

That the judgment of the Court below be set aside and for any further or other Orders as the Court may deem fit to make in the circumstances.

## 5. Persons directly affected by the Appeal:

	<u>NAME:</u>	<u>ADDRESS:</u>	In the West African Court of Appeal
			No. 24
	1. Lawani Buraimah Fatoyinbo,	50, Great Bridge Street, Lagos.	Notice of Appeal 28th June, 1955. - continued.
	2. Jarinatu Buraimah Fatoyinbo,	c/o 50, Great Bridge Street, Lagos.	
	3. Aminatu Buraimah Fatoyinbo,	c/o 50, Great Bridge Street, Lagos.	
10	4. Shittu Buraimah Fatoyinbo,	c/o 50, Great Bridge Street, Lagos.	

Dated at Lagos this 28th day of June, 1955.

(Sgd) Thomas, Williams & Kayode.  
APPELLANTS' SOLICITORS.

No. 25

NOTES OF ACTING FEDERAL CHIEF JUSTICE JIBOWU

IN THE FEDERAL SUPREME COURT OF NIGERIA

HOLDEN AT LAGOS

MONDAY THE 5TH DAY OF NOVEMBER, 1956

BEFORE THEIR LORDSHIPS

20	OLUMUYIWA JIBOWU	AG. FEDERAL CHIEF JUSTICE
	NAGEON DE LESTANG	FEDERAL JUSTICE
	PERCY CYRIL HUBBARD	AG. FEDERAL JUSTICE

In the Federal  
Supreme Court  
of Nigeria,  
formerly the  
West African  
Court of Appeal

No. 25  
Notes of Acting  
Federal Chief  
Justice Jibowu

5th, 6th and  
15th November,  
1956.

FSC.27/1956

Appeal from judgment of Jobling J., dated the 27th June, 1955.

Kayode (Dr. Coker with him) for appellants

Agusto (B.A.) for respondents.

Kayode refers to page 3 for Statement of Claim  
Defence at page 4.

In the Federal Supreme Court of Nigeria, formerly the West African Court of Appeal.

No. 25

Notes of Acting Federal Chief Justice Jibowu.

5th, 6th and 15th November, 1956 - continued.

Kayode says that the respondents had to show that both Dada and Aina had enjoyed the rents and benefits of the property in question.

See judgment at page 46. He says the Judge based his judgment on points.

- (1) re £187 at page 46 lines 27-32
- (2) 5th defendant received money from 1st plaintiff lines 32 - 37 of page 46.
- (3) lines 42 - 45 of page 46. Letters of Administration describing 1st plaintiff and 5th defendant as grandsons of the deceased. 10
- (4) begging letters of 5th defendant to plaintiff line 38 of page 46.
- (5) lines 4 & 5 of page 47. Property was given to Sanni and not 1st plaintiff.
- (6) lines 6 - 20 page 47. Ex.D.

He submits that signatures of 5th defendant on Ex.D is not against him as he claims through Aina, whereas 1st plaintiff is not claiming through Aina.

There is no evidence that 1st plaintiff did anything, outside the capacity of Administrator. He submits that the learned Judge did not direct his mind to the evidence of Bright Wilson at page 43 lines 3 - 8, that 5th defendant acted on his advice to join 1st plaintiff as co-administrator. Aina harboured relatives, near relatives and distant relatives. Plaintiffs took advantage, of the fact that the children of Aina were young. He knew everything about the estate by being an Administrator. He and others enjoyed Aina's hospitality. 20 30

He refers to page 16 Record lines 12 - 17, also to page 17, lines 8 - 10, also lines 20 - 25.

Children of Dada did not claim share of rent during life time of Aina.

? ? divided into three portions, Chief Oluwa was supposed to have been present. Page 7 line 34. See Chief Oluwa's evidence at page 25 lines 31 - 33. See page 7 lines 14 - 18; also page 13, lines 9 - 42. There was evidence at page 20 that he was at Oshogo see line 18. 40

1st Plaintiff alleged he got documents when Sanni died but it is suggested by the defence that he did when Aina died. See page 13, lines 32 - 42. Compare page 18 lines 18 - 20. This confirms evidence of the 5th defendant.

In the Federal Supreme Court of Nigeria, formerly the West African Court of Appeal

No. 25

Notes of Acting Federal Chief Justice Jibowu.

5th, 6th and 15th November, 1956 - continued.

10 Ex.H. - Deed of Gift at page 73. He suggests that the learned trial Judge did not treat the deed with the unfairness it deserved. See page 47 line 4 also line 12. He submits that deed contains evidence of pedigree. Refers to Section 90(1) Evidence Ordinance; also see 129. He says Ex.H. is over 20 years old - and there is presumption that the facts alleged are true. Refers to Doe on the Demise of Tilman vs. Tarver 171, E.R. 972. There was no litigation when the deed was made. No one had gone to Court to set it aside. If plaintiffs' case is true, why did he refrain from setting aside the deed of gift. He refers also to Wilson's evidence. Except for one single instance when rent was said to have been shared out, there was no other evidence. For a declaration a high standard of evidence beyond doubt is required. The 1st plaintiff is educated the lease described the property as property of Aina. 1st Plaintiff's story re the father's debt - Promissory Note produced to show improbability of 1st plaintiff story - see pages 75 and 76. Money borrowed on December, 1915 - Deed of Gift in 1914. He submits that the plaintiff had failed to discharge the onus of proof to warrant a declaration in their 20 30 favour.

Agusto is called upon for a reply. He submits only question is whether sufficient facts were placed before the learned Judge to justify the conclusions that Opo had three children. The evidence of the family history is contradictory.

40 For plaintiff - he refers to evidence of Anifowose at page 16, from line 28. See also evidence of Tiamiyu Braimah at page 19 lines 9 - 29. See also evidence of 5th Plaintiff at page 21, line 34. Defendants produced evidence to the contrary. Judge was therefore right in his conclusions.

Wilson's Evidence. See page 44, lines 4 and 5. There is clear acknowledgment that she had a sister. The only sister was Dada; the mother of Fatoyinbo. He says statement of claim referred only to children who survived Opo.

In the Federal  
Supreme Court  
of Nigeria,  
formerly the  
West African  
Court of Appeal

No. 25

Notes of Acting  
Federal Chief  
Justice Jibowu

5th, 6th and  
15th November,  
1956 - continued.

Re £87.10.0. half share of rent paid to 1st plaintiff the learned trial Judge thereby did not accept 5th defendant's observation. He at first demand payment of the money, see page 32, line 17 et seq. He says it is not a mere coincidence. Both 1st plaintiff and 5th Defendant were described as grandsons of Aina in the Letters of Administration. No litigation was then in contemplation. He submits the family might have thought he was going to cause trouble if he had described himself as a grand nephew of Aina in the Letters of Administration. He refers to Ex.F at page 68. He submits that respondents did not need to claim their share of rent from Aina because plaintiff was getting money from Aina, see page 28, lines 29 - 32; also page 19, line 24 et seq. He agreed Aina was kind to other relatives but not to the same extent as she was to the plaintiffs.

10

Re 50 Great Bridge Street and Deed of Gift, he says that Aina in 1914 - In any case the only son would have inherited her property. What was the motive behind the Deed of Gift? He submits plaintiffs' evidence cannot, that it was done to save Fatoyinbo's house. A member of the family advanced this money, he probably took security after. He admits that ? Evidence goes to the admissibility of the document. Judgment could not be given on the recitals alone as it is not conclusive. Defendants acted clandestinely in granting extension of lease behind the back of the 1st plaintiff. The case was also changed. 1st plaintiff still occupies 50 Great Bridge Street, Lagos. He submits that there was enough evidence to justify the Judge in accepting plaintiffs' evidences that Dada was a sister of Aina. Fatoyinbo plaintiffs' father built on the land evidence uncontradicted. See page 8 from line 4. Permit from L.T.C. Ex.C. see page 65. He submits that plaintiffs and defendants had been enjoying the property together until 1953, when Defendant executed a lease without the knowledge and consent of the plaintiff- Plaintiffs paid water rates evidence not contradicted. Kayode replies. He says administrators also paid Water Rates. There is evidence of 5th defendant that their father rebuilt 42 Ereko Street, see page 11 lines 43 - 45 He points out laxity in use of words like mother, uncle, grand-mother in this country. Defendants' change of names not to conceal lease - see page 8 lines 39 - 42 but see page 13 lines 1 - 6 and Ex.K.

20

30

40

Adjourned to 6th November, 1956.

(Sgd.) O. Jibowu

Ag.F.C.J. 5/11/56.

50

TUESDAY THE 6TH DAY OF NOVEMBER, 1956.

F.S.C.27/1956.

In the Federal  
Supreme Court  
of Nigeria,  
formerly the  
West African  
Court of Appeal

\_\_\_\_\_  
No. 25

Notes of Acting  
Federal Chief  
Justice Jibowu.

5th, 6th and  
15th November,  
1956 - continued.

10 Kayode continues his reply. He says that the plaintiff knew that the family name had been changed to Williams. Re loan from Coker - he asks the Court not to accept the theory of oral guarantee before a security was given later on owing to their difference in dates. Deed of Gift is dated 6/1/14 and the payment was made in December, 1915. The age of Aina is unknown in 1914, there was nothing to prevent her making a deed of gift to enable the son to make use of the property in her life time. He refers to page 42 lines 28 - 37. He suggests there is a mistake. He refers to line 22 of page 43 as a mistake. No gift was given according to the record to any "sister's son". With regard to the question that 1st plaintiff lives at 50 Great Bridge Street, he says that there is no evidence that he lives there alone. Regarding Ex.F. page 28, see lines 2 - 4. The story that a family meeting was called to appoint Administrators is not true. Ex.E. shows 1st plaintiff was invited to join in the administration by the 5th defendant. 1st plaintiff allowed Aina to be shown as owner of the property. See page 42 line 38 - page 43 line 1. Property was to be administered as a portion of Aina's estate.

20  
30 He says there is no explanation given only S. J. Williams was called in to look after the estate while the 1st plaintiff was there. He refers to page 42 lines 12 - page 43, Aina asserted full right of ownership without let or hindrance.

All members of the family were helped by Aina. He asks the Court to allow the appeal.

C.A.V.

(Sgd) O. Jibowu.

Ag. F.C.J. 6/11/56.

In the Federal  
Supreme Court  
of Nigeria,  
formerly the  
West African  
Court of Appeal

IN THE FEDERAL SUPREME COURT OF NIGERIA

HOLDEN AT LAGOS

THURSDAY THE 15TH OF NOVEMBER, 1956.

BEFORE THEIR LORDSHIPS

OLUMUYIWA JIBOWU	AG. CHIEF JUSTICE OF THE FEDERATION
M.C. NAGEON DE LESTANG	FEDERAL JUSTICE
PERCY CYRIL HUBBARD	AG. FEDERAL JUSTICE.

No. 25  
Notes of Acting  
Federal Chief  
Justice Jibowu

5th, 6th and  
15th November,  
1956 - continued.

F.S.C.27/1956.

Judgment of the Court is delivered by De Lestang,  
F.J.; Appeal is allowed with £10.10.0 costs to the  
appellant in Court below and £42.3.0 costs of this  
appeal.

10

(Sgd.) O. Jibowu.

Ag.F.C.J. 15/11/56.

No. 26

Judgment.

Nageon De  
Lestang F.J.  
(concurrent in  
by Jibowu Ag.  
F.C.J. and  
Hubbard, Ag.F.J.)  
15th November,  
1956.

No. 26

J U D G M E N T

NAGEON DE LESTANG. F.J. (concurrent in by Jibowu, Ag.  
F.C.J., and Hubbard, Ag. F.J.) This is an appeal  
from decision of the High Court of Lagos (Jobling,  
J.) in a declaratory suit. The respondents, who  
were plaintiffs in the Court below, sought a de-  
claration that they and the appellants, who were  
the defendants, were joint owners as tenants in  
common under native law and custom of certain prem-  
ises known as Nos. 42 and 44 Ereko Street, Lagos.  
It was common ground that the respondents were the  
descendants of one Dada and the appellants of one  
Aina, and the sole question for decision was  
whether Dada and Aina were sisters and the daughters  
of one Opo or Opoola.

20

30

The learned Judge decided this question in fav-  
our of the respondents and it is against this decis-  
ion that the appellants appeal.

The appeal is accordingly one on facts and the principles on which a Court of Appeal acts in such appeals are succinctly stated thus in the opinion of Lord Thankerton in Watt or Thomas v. Thomas, 1947, A.C. 484, at pages 487 and 488.

In the Federal Supreme Court of Nigeria, formerly the West African Court of Appeal

No. 26

Judgment.

Nageon De Lestang F.J.  
(concurring in  
by Jibowu Ag.  
F.C.J. and  
Hubbard, Ag.F.J.)

15th November,  
1956 - continued

10 "1. Where a question of fact has been tried by a Judge without a jury, and there is no question of misdirection of himself by the judge, an appellate court which is disposed to come to a different conclusion on the printed evidence, should not do so unless it is satisfied that any advantage enjoyed by the trial judge by reason of having seen and heard the witnesses, could not be sufficient to explain or justify that trial judge's conclusion, 11. The appellate court may take the view that, without having seen or heard the witnesses, it is not in a position to come to any satisfactory conclusion on the printed evidence., 111. The appellate court, either because the reasons given by the trial judge are not satisfactory, or because it unmistakably so appears from the evidence, may be satisfied that he has not taken proper advantage of his having seen and heard the witnesses, and the matter will then become at large for the appellate court."

"In arriving at his decision in the present case, the learned judge said this...

30 "In this case the family history is too contradictory to be relied upon, but the other evidence to which I have referred is consistent with plaintiffs' claim and the facts relied on by the defendants do not throw any doubt on it,"

The "other evidence" to which the learned Judge referred was, -

(1) That on one occasion defendant 5, shared the rent with plaintiff 1.,

(2) that it was plaintiff 1 who collected the rent and kept charge of it, advancing amounts to the defendants when requested.,

40 (3) that defendant 5 wrote a number of begging letters to plaintiff 1, which in the opinion of the learned Judge were inconsistent with the claim that he was demanding payment from his own funds.,

(4) that in applying for letters of administration to the estate of Aina, plaintiff 1 and

In the Federal  
Supreme Court  
of Nigeria,  
formerly the  
West African  
Court of Appeal

No. 26

Judgment.

Nageon De  
Lestang F.J.  
(concurrent in  
by Jibowu Ag.  
F.C.J. and  
Hubbard, Ag.F.J.)

15th November,  
1956 - continued

defendant 5 described themselves as the grandsons of Aina.,

(5) that there was evidence (that of the witness Wilson) that Aina had told him in her lifetime that she had given the property in Bridge Street to her sister's son, which property had in fact been given to plaintiff 1.,

(6) that whereas in 1937 plaintiff 1 and defendant 5 had jointly leased one of the properties of the estate, in 1953, six months before the expiry of that lease, the defendants alone re-leased the property. In the learned Judge's view the defendants' conduct there was inconsistent with their having a clear title to the property. 10

The evidence shows that when Aina died in 1932, her son, defendant 5, was only about 22 years of age, and he was advised by the family solicitor to get an older relation to join in the administration of Aina's estate. Defendant 5, accordingly wrote to plaintiff 1 and in the result both joined in an application for letters of administration, which in due course were issued to both of them jointly. It is in the light of this background, that the "other evidence" set out above should be considered. 20

In so far as the matters set out in (1), (2) and (3) are concerned, it must be borne in mind that plaintiff 1 was a much older man than defendant 5, and had been brought in specially to assist the latter in the administration of Aina's estate. There is, therefore, nothing inherently strange in the suggestion that he acted as banker, collecting the income of the estate and paying out sums of money to defendant 5 on request. It seems to be the Yoruba custom that in a joint transaction the older man takes charge of the financial responsibilities. It is accordingly dangerous to draw adverse conclusions merely from the facts that plaintiff 1 received and paid out monies belonging to Aina's estate. and that defendant 5 on several occasions wrote to plaintiff 1 begging him to let him have some money. Nevertheless, the fact remains that on one occasion, namely in July, 1950, the administrators received £175 by way of rent and defendant 5 gave a cheque for £87.10s. to plaintiff 1. The explanation given by defendant 5 for that payment is not very convincing, and the learned Judge was, I think entitled to rely on this incident as some evidence that plaintiff 1 was entitled to share in 30 40

the estate of Aina. One swallow, however does not make a summer, and proof of the sharing of rent on one occasion in 20 years is not conclusive of the fact that rent was invariably shared, in which case only would it go a long way to establishing the plaintiffs' Claim.

Item (4) above does not help the plaintiffs at all because the statement that plaintiff 1 and defendant 5 are the grandsons of Aina is obviously wrong. Plaintiff 1 is not and has never claimed to be the grandson of Aina. It is only defendant 5 who is her grandson.

As regards item (5), if the evidence of Wilson is examined, it will be found that his statement that Aina had told him that she had given her property at Great Bridge Street to her sister's son cannot be right because not only had he previously in his evidence made it clear that Aina had given that property to Sanni, who was her only son, but there was also documentary evidence (a deed of gift, Exhibit "H") to support this. There was on the other hand, no evidence whatsoever to show that Aina ever gave any property to plaintiff 1, and the learned Judge was clearly mistaken in saying that there was no dispute that the property in question had been given to plaintiff 1.

The inference that the learned Judge sought to draw from the sixth factor is, in my view, manifestly incorrect. I would have thought that by acting independently of the plaintiffs when leasing a property, the defendants were asserting their title and not acquiescing in the plaintiffs' title to that property, as the learned Judge seemed to think. Incidentally, in the second lease the defendants called themselves by the name of Williams, and plaintiff 1 suggested in his evidence that this was done to avoid detection, as he was unaware that they had assumed that name. Plaintiff 1's evidence on this point was clearly untrue because he himself had written to defendant 5 in 1947 and addressed him by the name of Williams (Vide 4.K.)

In my view, therefore, some of the items of "other evidence" which the learned Judge thought supported the plaintiffs' case did not do so, and some of the other items, for example (4) and (5), had no foundation in fact. Moreover, the learned Judge erred in saying that the facts relied on by

In the Federal  
Supreme Court  
of Nigeria,  
formerly the  
West African  
Court of Appeal

No. 26

Judgment.

Nagcon De  
Lestang F.J.  
(concurring in  
by Jibowu Ag.  
F.C.J. and  
Hubbard, Ag.F.J.)

15th November,  
1956 - continued

In the Federal  
Supreme Court  
of Nigeria,  
formerly the  
West African  
Court of Appeal.

—  
No. 26

Judgment.

Nageon De  
Lestang F.J.  
(concurring in  
by Jibowu Ag.  
F.C.J. and  
Hubbard, Ag.F.J.)

15th November,  
1956 - continued.

by the defendants did not throw any doubt on the plaintiffs' claim. The defendants relied on a recital in a deed of gift made in 1914 between Aina and her son, Sanni, wherein it is stated that Opo died "leaving her surviving Oniyoku and the said Aina alias Osenatu her children and whereas the said Oniyoku has since died .... leaving the said Aina his sister ... him surviving" as evidence of the facts therein stated. This statement in the recital to the deed, which, was made over 40 years ago and long before any dispute arose, in my view, clearly contradicts the plaintiffs' claim and affords strong support to that of the defendants.

10

For these reasons, applying the principles in Watt or Thomas v. Thomas, it seems to me that as the learned Judge did not, in coming to his decision rely on the advantages of having seen and heard the witnesses, and as some of the reasons which he gave for his decision have been shown to be erroneous, I think that this appeal falls within the first and third of Lord Thankerton's propositions above quoted. It is, therefore, open to this Court to examine all the evidence in the suit and decide whether the relationship claimed was established. A careful examination of the direct evidence of relationship or family history, as the learned Judge called it, will show that whereas witnesses on both sides spoke of the relationship between Aina and Dada from hearsay, (evidence which though admissible in a case of this nature carried little weight,) two witnesses on the defendants' side testified that they know of their own knowledge that they were not sisters. The witness, Kasali Bale Ipakodo, testified that he knew Opoola, that she had two children, Aina and Oniyoku, and that Dada was not a daughter of Opoola but of Opoola's sister, called Efunte. Another witness, S.A. Adaba, said that he knew Dada personally, and that she was not the child of Opoola, but her sister, her mother being Efunte. It seems to me therefore, that the preponderance of direct evidence of relationship was in favour of the defendants, but assuming, nevertheless, that the learned Judge was right in his view that such direct evidence was inconclusive on the point, I cannot for the reasons already given agree that the "other evidence" tipped the scales in favour of the plaintiffs. In my view, the recital in Exhibit "H" carries more weight than the dubious inferences which are sought to be drawn from the "other evidence" set out above. In my Judgment, on the evidence before the Court, the

20

30

40

50

learned Judge erred in holding that the plaintiffs had established their claim, and I would, therefore, allow this appeal, and dismiss the plaintiffs' suit with costs both in the Court below and in this court. I would assess those costs at £10.10.0d and £42.3.0d. respectively.

(Sgd.) M.C. Nageon de Lestang, F.J.  
15/11/56

I concur (Sgd) O. Jibowu, Ag, F.C.J.

I concur (Sgd) Percy C. Hubbard, Ag, F.J.

10

In the Federal Supreme Court of Nigeria, formerly the West African Court of Appeal.

No. 26

Judgment.

Nageon De Lestang F.J.  
(concurring in by Jibowu Ag. F.C.J. and Hubbard, Ag.F.J.)

15th November, 1956 - continued.

No. 27

ORDER ALLOWING APPEAL

IN THE FEDERAL SUPREME COURT OF NIGERIA

HOLDEN AT LAGOS.

Suit No.249/1953  
F.S.C. 27/1956.

On appeal from the judgment of the High Court of the Lagos Judicial Division.

BETWEEN

Seliatu Abike Williams  
Alias Sanni, and Others . Appellants

and

(L.S.) Lawal Buraimah Fatoyinbo  
and Others. Respondents

20

(Sgd) O. Jibowu  
ACTING CHIEF JUSTICE  
OF THE FEDERATION.

Thursday the 15th day of November, 1956.

UPON READING the Record of Appeal herein and after hearing Mr. R.A. Fani Kayode, appearing with Dr. G.B.A. Coker, of counsel for the Appellants, and

30

No. 27

Order allowing appeal.

15th November, 1956.

In the Federal Supreme Court of Nigeria, formerly the West African Court of Appeal.

No. 27

Order allowing appeal.

15th November, 1956 - continued.

Mr. B.A. Augusto of counsel for the Respondents:

IT IS ORDERED that this appeal be allowed and that the plaintiffs' suit be and is hereby dismissed;

AND IT IS FURTHER ORDERED that the Respondents do pay to the Appellants costs in the Court below fixed at £10.10.0 and costs of this appeal fixed at £42.3.0d.

(Sgd.) S.A. Samuel

AG. CHIEF REGISTRAR.

No. 28

Notes of Acting Federal Chief Justice Jibowu.

17th December, 1956.

No. 28

10

NOTES OF ACTING FEDERAL CHIEF JUSTICE JIBOWU

IN THE FEDERAL SUPREME COURT OF NIGERIA

HOLDEN AT LAGOS

MONDAY THE 17TH DAY OF DECEMBER, 1956

BEFORE THEIR LORDSHIPS

OLUMUYIWA JIBOWU	AG. FEDERAL CHIEF JUSTICE
NAGEON DE LESTANG	FEDERAL JUSTICE
PERCY CYRIL HUBBARD	AG. FEDERAL JUSTICE

F.S.C.27/1956.

L.B. Fatoyinbo & Ors. Applicants

20

vs.

Seliatu Abike Williams & Ors. Respondents

MOTION for order for conditional leave to appeal to the Privy Council.

B.A. Augusto for Applicants.  
Kotoye for Respondents.

Augusto applies for conditional leave under Rule 3; value of property was declared to be £200. He now

says it is worth more than £500. The Court informs him that he cannot now be heard to say that the property is worth more than he had previously declared it to be worth.

Application is dismissed with 3 guineas costs.

(Sgd.) O. Jibowu.

Ag.F.C.J.

17/12/56.

In the Federal Supreme Court of Nigeria, formerly the West African Court of Appeal

No. 28

Notes of Acting Federal Chief Justice Jibowu.

17th December, 1956 - continued

No. 29

No. 29

10

ORDER DISMISSING APPLICATION FOR LEAVE TO APPEAL TO PRIVY COUNCIL

IN THE FEDERAL SUPREME COURT OF NIGERIA HOLDEN AT LAGOS

Suit No.249/1953 F.S.C. 27/1956

Application for an order for leave to appeal to Her Majesty in Privy Council.

BETWEEN

Lawal Buraimah Fatoyinbo and Others

Applicants

And

Seliatu Abike Williams, Alias Sanni, and Others

Respondents

L.S.

(Sgd.) O. Jibowu ACTING CHIEF JUSTICE OF THE FEDERATION.

Monday the 17th day of December, 1956.

Order dismissing Application for leave to appeal to Privy Council.

17th December, 1956.

30

UPON READING the application herein and the affidavit sworn to on the 6th day of December, 1956, filed by the Applicants and after hearing Mr. B. A. Agosto of counsel for the applicants and Mr. N.A.B. Kotoye of counsel for the Respondents:

IT APPEARING that the value of the property the subject matter of the appeal is worth less than £500:

IT IS ORDERED that this application be dismissed and that the Applicants do pay to the Respondents 3 guineas costs of the Application.

(Sgd.) S.A. Samuel

AG. CHIEF REGISTRAR.

40

In the  
Privy Council.

No. 30

No. 30

ORDER OF HER MAJESTY IN COUNCIL GRANTING  
SPECIAL LEAVE TO APPEAL

Order of Her  
Majesty in  
Council grant-  
ing special  
leave to appeal.

L.S.

AT THE COURT AT GOODWOOD HOUSE

The 31st day of July, 1957.

31st July 1957.

PRESENT

THE QUEEN'S MOST EXCELLENT MAJESTY

LORD PRESIDENT

MR. MAUDLING

SIR MICHAEL ADEANE

SIR HARRY HYLTON-FOSTER

10

WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 10th day of July 1957 in the words following, viz:-

"WHEREAS by virtue of His late Majesty King Edward the Seventh's Order in Council of the 18th day of October 1909 there was referred unto this Committee a humble Petition of (1) Lawal Buraimah Fatoyinbo (2) Jarinatu Buraimah Fatoyinbo (3) Aminatu Buraimah Fatoyinbo and (4) Shittu Buraimah Fatoyinbo in the matter of an Appeal from the Federal Supreme Court of Nigeria between the Petitioners and (1) Seliatu Abike Williams Alias Sanni (2) Adijatu Ayinke Williams alias Sanni (3) Abibatu Ayoka Williams alias Sanni (4) Nusiratu Abeke Williams alias Sanni (5) Aliu Sanni Williams alias Sanni Dawodu and (6) Sunmonu Akenbi Williams alias Sanni Respondents setting forth (amongst other matters) that by a Judgment of the High Court of Lagos dated the 27th June 1955 the Petitioners' application for a declaration that they and the Respondents were jointly the owners as tenants in common under native law and custom of certain freehold property known as Nos. 42 and 44 Ereko Street Lagos Nigeria was granted (the Respondents having claimed that they were the sole owners); that the Respondents appealed to the Federal Supreme Court of Nigeria which Court on the 15th November 1956 gave Judgment allowing the Appeal; that the Petitioners applied to the Supreme Court for leave to appeal

20

30

40

to Your Majesty in Council and that Court on the 17th December 1956 dismissed the application holding that the value of the property the subject matter of the Appeal was below the appealable amount as laid down in the Nigeria (Appeals to Privy Council) Order in Council 1955; And humbly praying Your Majesty in Council to grant the Petitioners special leave to appeal from the Judgment of the Federal Supreme Court of Nigeria dated the 15th November 1956 or for such other Order as to Your Majesty in Council may seem fit;

In the  
Privy Council

No. 30

Order of Her  
Majesty in  
Council grant-  
ing special  
leave to appeal

31st July, 1957

- continued.

"THE LORDS OF THE COMMITTEE in obedience to His late Majesty's said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof no one appearing at the Bar on behalf of the Respondents Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioners to enter and prosecute their Appeal against the Judgment of the Federal Supreme Court of Nigeria dated the 15th day of November 1956 upon depositing in the Registry of the Privy Council the sum of £400 as security for costs:

"And Their Lordships do further report to Your Majesty that the proper officer of the said Federal Supreme Court ought to be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy under seal of the Record proper to be laid before Your Majesty on the hearing of the Appeal upon payment by the Petitioners of the usual fees for the same."

HER MAJESTY having taken the said Report into consideration was pleased by and with the advice of Her Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

Whereof the Governor-General of the Federation of Nigeria or other Officer for the time being administering the Government of the Federation and all other persons whom it may concern are to take notice and govern themselves accordingly.

W. G. AGNEW.

---

ExhibitsE X H I B I T S

"B"

Letters of  
Administration  
(Without Will)  
of Osenatu Aina.

30th December,  
1933.

"B" - LETTERS OF ADMINISTRATION (WITHOUT WILL)  
OF OSENATU AINA

Exhibit "B" (by Plaintiff) in Suit  
No. 249/53:- L.B. Fatoyinbo & Ors.  
Vs. S.A. Williams & Ors.

(Sgd) S.A. Fashanu  
Clerk of Court.  
23/11/54.

Judicial C 16

10

IN THE SUPREME COURT OF NIGERIA

LETTERS OF ADMINISTRATION (WITHOUT WILL)

BE IT KNOWN that on the 30th day of December, 1933, Letters of Administration of the personal property of OSENATU AINA late of 44, Ereko Street, Lagos Petty Trader, deceased, who died on the 22nd day of March, 1933, at Lagos Intestate, and who had at the time of her death her fixed place of abode at Lagos within the jurisdiction of this Court, were granted by this Court to LAWANI BRIMAH FATOYINBO and ALIU SANNI DAWUDU both of 44, Ereko Street, Lagos, Writing Clerks, the grandsons of the said Intestate, they having been first duly sworn.

20

(Sgd) M.H. Martindale  
Acting Chief Registrar.

Sworn under £25. 0. 0d and that the Intestate died on the 22nd day of March, 1933.

"C" - PERMIT TO ERECT TEMPORARY SHED

Exhibits

"C"

Exhibit "C" (by Plaintiff) in Suit  
No. 249/53; - L.B. Fatoyinbo & Ors.  
Vs. S.A. Williams & Ors.

Permit to  
erect temporary  
shed.

(Sgd) S.A. Fashanu

Clerk of Court.  
23/11/54.

15th August,  
1911

MUNICIPAL OFFICE,  
Lagos, 15th August, 1911.

10 Sir,

Re your application dated 14th August, 1911.

You are at liberty to erect a temporary shed  
in front of your house at Ereko Market Street for  
Marriage purpose under the direction of the Con-  
servancy Officer from 16th to 23rd instant but you  
are to understand that such shed must be removed  
within one week or when directed from this date and  
any damage to highway or public space to be repair-  
ed at your expense.

20

(Sgd)           ?           ?  
Municipal Engineer.

To Mr. Fatoyinbo Baruwa,  
Agarawu Street,  
Lagos.

Municipal Form No. 9.

---

Exhibits

"D"

"D" - LEASE - L.B. FATOYINBO & ANOTHER  
TO SALIM NOUAYHID...

Lease - L. B.  
Fatoyinbo &  
another to  
Salim Nouayhid.

Exhibit "D" (by Plaintiff) in Suit  
No. 249/53;- L.B. Fatoyinbo & Ors.  
Vs. S.A. Williams & Ors.

(Sgd) S.A. Fashanu  
Clerk of Court.

3rd October,  
1934.

THIS INDENTURE made the 3rd day of October,  
1934 BETWEEN LAWANI BRIMOH FATOYINBO Trader and  
ALIU SANNI DAWUDU Trader of 50 Great Bridge Street 10  
in Lagos Nigeria (hereinafter called "the Lessors"  
which expression where the context so admits in-  
cludes their heirs executors administrators and  
assigns) of the one part and SALIM NOUAYHID Trader  
of 42, Ereko Street, Lagos (hereinafter called "the  
Tenant" which expression where the context so admits  
includes his heir, executor administrator and  
assign) of the other part WITNESSETH and it is  
hereby agreed and declared as follows:-

1. That in consideration of the rent hereinafter 20  
reserved and of the Tenant's covenants hereinafter  
contained the Lessors hereby demise unto the Tenant  
ALL THAT piece or parcel of land with the Storey  
House thereon being and situate at 42, Ereko Street,  
Lagos TO HOLD unto the Tenant for the term of (3)  
three years from the 15th day of March, 1935 to and  
inclusive of the 14th day of March 1938 Yielding  
and Paying yearly rent of Twenty-four Pounds Ster-  
ling yearly in advance the 1st payment to be made 30  
on the execution of these presents then on the 15th  
day of March, 1936.

2. That the Tenant hereby covenants with the Less-  
ors to pay the rent hereby reserved at the times  
and in manner aforesaid.

3. That the Lessors hereby covenant with the Ten-  
ant in manner following (that is to say):-

(a) The Lessors will pay all rates and taxes  
charged on the premises

(b) The Lessors will at all times during the 40  
said term keep all buildings on the demised  
premises in good and substantial repair  
wear and tear generally excepted.

(c) That the Tenant paying the rent hereby reserved and observing and performing the covenants and conditions herein contained and on their part to be observed and performed shall and may peaceably enjoy the demised premises during the said term without any lawful interruption from or by the Lessors or any persons rightfully claiming from or under him.

Exhibits

"D"

Lease - L. B.  
Fatoyinbo &  
another to  
Salim Nouayhid.

3rd October,  
1934 - continued.

10 4. That if the Tenant should desire to make any alteration or addition to the existing building such alteration or addition may only be carried out with the consent and approval of the Lessors.

20 5. That if either Party shall be desirous of determining this Lease at the end of the period reserved and of such desire shall give to the other or leave at his or their usual place of business in Nigeria three calendar months previous notice in writing then and in such case at the end of the said period the said Lease shall cease but subject to the rights and remedies of the Lessors for or in respect of any rent in arrears or any breach of any of the Tenant's covenants IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals the day and year first above written.

SIGNED SEALED AND DELIVERED

by the within named Lawani (Sgd) Lawani Brimoh  
Brimoh Fatoyinbo and Aliu Fatoyinbo

30 Sanni Dawudu as the Adminis- (Sgd) Aliu Sanni  
trators of the Estate of Dawudu  
Osenatu Aina (Deceased) in  
the presence of :-

(Sgd) Olatunji Martin  
Barrister-at-Law, 18, Martins St.,  
Lagos.

SIGNED SEALED AND DELIVERED

by the within-named Salim (Sgd) Salim Nouayhid  
Nouayhid in the presence

40 of:- (Sgd) Olatunji Martin  
Barrister-at-Law,  
18, Martins Street, Lagos.

WITNESS.

Exhibits

"F"

"F" - LETTER - DEFENDANT A.S.OLA DAWODU  
TO FIRST PLAINTIFF

Letter -  
Defendant  
A.S.Ola  
Dawodu to  
first Plain-  
tiff.

6th June, 1933.

Personal & Social

44, Ereko Street,  
Lagos, Nigeria.  
6th June, 1933.

Ex. "F" (by Plaintiff) in Suit  
No. 249/53; L.B. Fatoyinbo &  
Ors. Vs. S.A. Williams & Ors.

(Sgd) S.A. Fashanu  
Clerk of Court.  
23/11/54.

10

My dear Cousin,

Yours received and the contents were carefully gone through. Regards the home affairs, general speaking, I have owed you a grudge, because you don't even write me any letter about it since the death of our Grandmother. But anyhow, I have forgiven and forgot that, for the simple reason that you've written me about it now. I converse with Adamo and told him that is now the high time for us to know that we come from the same blood, and more especially what cause this is our grandmother who in her lifetime care less for the majority who are not frequent to this house in her lifetime. But yet still we must try to put stop to everything, as a male person between them because those women do not care to spoil everything, as that has been the nature of them since the time of our fore-mothers. But man should try to place everything in order. Therefore it is now the time for us to know our position and place everything in order.

20

30

Secondly, Papa is always telling us that we should find amongst ourselves the executors to be collecting the rents etc. I also learnt from my cousin Adamo that he aware that some of the women are going to Papa and Chief Oluwa privately without being consulted anybody at all, and I told him that such an idea is out of way. But yet still, we must not follow women characters. And moreover had'nt been Papa is always calling us all together and lecturing and advising us, it may not have worst like this. Because we have left undone what we have to do from the start and be doing unnecessary things entirely. Please as far as your own knowledge is

40

concerned, I know that if you are here, you would have try your most efforts to put things in their positions. But still, I for one, and with the assistance of the others will try to call the both sides together and toll them to forgive and forget the past events. Therefore I am now writing you as I was told to do by Adamo, so that we must know your opinion. In so doing, we the male persons will then call a general meeting at which we shall nominate and appoint an executors amongst ourselves to be collecting the rents and keeping same in the bank and if there is any expense to be run, he will take out to this duty to do it, and record the account he has spent in a book which will be presented to us all every quarter in order to be seeing the balance remain in bank.

10

As an educated man. Yourself should support me on this reliable speech, which I hope you will do without ill will or favour. Treat this as an important matter and your early reply will be much appreciated.

20

I am,  
Yours sincerely,  
(Sgd) A.S. Ola Dawodu.

N.B.-

Having given our own opinions and views at the general meeting to be summond by the male persons, will shall then choose another day for the women and put everything before them for confirmation.

Exhibits

"F"

Letter -  
Defendant  
A.S. Ola  
Dawodu to  
first Plain-  
tiff.

6th June, 1933  
- continued.

Exhibits

"G"

"G" - LEASE - A.S. WILLIAMS AND OTHERS  
TO FOUAD H. SHOUR

Lease - A. S.  
Williams and  
others to  
Fouad H. Shour.

1st October,  
1952.

THIS IS TO CERTIFY that the within is a true and correct copy of a DEED OF LEASE dated the 1st day of October, 1952 and registered as No. 53 at Page 53 in Volume 923 of the Register of Deeds kept in the Lands Registry at Lagos, Nigeria.

(Sgd) J.J. Hunter.  
Deputy Registrar.  
22nd June, 1953.

10

THIS INDENTURE made the 1st day of October, 1952 BETWEEN ALIU SANNI WILLIAMS, SUNMONU AKANBI WILLIAMS, SELIMOTU ABIKE WILLIAMS, ADIJATU AYINKE WILLIAMS, ABIBATU AYOKA WILLIAMS and NUSIRATU ABEKE WILLIAMS, Traders and all of No. 44, Ereko Street, Lagos, Nigeria Grandchildren of Madam Osenotu Aina (Deceased) hereinafter called "The Lessors" which expression shall wherever the context so admits include their respective heirs, legal personal representatives and assigns) of the one part AND FOUAD H. SHOUR, Trader of No. 27, Docemo Street, Lagos, Nigeria aforesaid (hereinafter called "the Lessee" which expression shall wherever the context so admits include his heirs, legal personal representatives and assigns) of the other part

20

NOW THIS DEED WITNESSETH that in consideration of the rents and covenants hereinafter contained the Lessors hereby demise UNTO the Lessee ALL THAT piece or parcel of land together with the buildings thereon situate, lying and being at No. 42, Ereko Street, Lagos, Nigeria aforesaid and which with its dimensions and abuttals is more particularly described and delineated on the plan drawn or attached to the foot of these presents and thereon edged "PINK" (hereinafter referred to as the said "Premises") TO HOLD the same UNTO and TO THE USE of the said Lessee from the 16th day of March, 1953 for a term of Ten (10) years paying therefore a sum of £900 in advance as rent for the first three years before the execution of these presents (the receipt whereof is hereby acknowledged) and paying therefore a yearly rent of £300 sterling.

30

40

THE LESSEE hereby covenants with the Lessors in the manner following that is to say:-

Exhibits

"G"

1. That the Lessee will during the continuance of the said Lease granted pay the said yearly rent herein reserved and made payable and also will from time to time and at all times during the said term pay and discharge all rates and taxes that may be due in respect of the demised premises and also will not sublet or assign his interest on the said premises without the previous consent in writing of the Lessors, but such consent shall not be unreasonably withheld.

Lease - A. S. Williams and others to Fouad H. Shour.

1st October, 1952 - continued.

2. The Lessee will during the said term keep the said premises in good and tenantable repair order and condition internally and externally and shall at the expiration or sooner determination of the terms hereby granted give up possession in good and tenantable repair and condition reasonable wear and tear damage by fire, storm or tempest or other acts of God generally excepted.

The LESSORS hereby covenant with the Lessee as in the manner following that is to say:-

1. That the Lessee paying the rent hereby reserved and performing the covenants and conditions herein contained and on the part of the Lessee to be observed and performed shall peaceably and quietly possess and enjoy the premises hereby demised during the said term without interruption from or by the Lessors or any person or persons rightfully claiming from or under them.

AND PROVIDED ALWAYS and it is hereby agreed and declared that if the said rent or any part thereof shall be in arrears for any period after any of the days whereon the same ought to be paid as aforesaid and the same shall have been legally demanded by the Lessors in writing at least 14 days previously or if there shall be any breach or non-observance of the covenants by the Lessee hereinbefore contained then and in any such case the Lessors may at any time thereafter re-enter upon the demised premises or any part thereof and thereupon the Lease granted by this Indenture shall absolutely be determined but without prejudice to the right to action of the Lessors in respect of any breach of the Lessee's covenants herein contained.

IN WITNESS WHEREOF the said parties hereto have

Exhibits

"G"

hereunto set their hands and seals the day and year first above written

Lease - A. S. Williams and others to Fouad H. Shour. SIGNED, SEALED AND DELIVERED ) (Sgd) Ali S. Williams (L.S.)  
by the within-named Aliu )  
Sanni Williams and Sunmonu ) (Sgd) S.A. Williams (L.S.)  
Akanbi Williams, in the )  
presence of:- )

1st October,  
1952 - continued.

(Sgd) C.B.Ejuone

Law Clerk,  
42A, Kadara St.  
E.B.

Nigeria Nigeria  
Five Pounds One Pound  
Stamp Stamp  
Duty Duty  
16/10/52 16/10/52.

10

SIGNED, SEALED AND DELIVERED ) Salimotu Abike  
by the within-named Selimotu ) Williams her L.T.I.  
Abike Williams, Adijatu ) (L.S.)  
Ayinke Williams, Abibatu ) Adijatu Ayinke  
Ayoka Williams and Nusiratu ) Williams her L.T.I.  
Abeke Williams, the fore- ) (L.S.)  
going having been first read ) Abibatu Ayoka  
over and interpreted to them ) Williams her L.T.I.  
in the Yoruba Language by me ) (L.S.)  
(Sgd) Henry Odulami, Inter- ) Nusiratu Abeke  
preter, when they seemed ) Williams her L.T.I.  
perfectly to understand same ) (L.S.)  
before affixing their thumb )  
impressions thereto in the )  
presence of :- )  
(Sgd) Keyinde Sikuade  
Magistrate, Lagos.

20

B. 20707 18553  
3 Oct. 1952.

30

SIGNED, SEALED AND DELIVERED )  
by the within-named Lessee, ) (Sgd) F.H. Shour  
Gouad H. Shour in the presence ) (L.S.)  
of:- )

(Sgd) C.B.Ejuone,  
42A, Kadara St.  
E.B.

"H" - DEED OF GIFT - AINA ALIAS OSENATU  
TO SANI OWALABI.

Exhibits

"H"

Exhibit "H" (By Defence) in  
Suit No.249/53;- L.B. Fatoyinbo  
& Ors. Vs. S.A. Williams & Ors.

(Sgd) S.A. Fashanu  
Clerk of Court.  
23/11/54.

Deed of Gift -  
Aina alias  
Osenatu to  
Sani Owalabi.

16th January,  
1914.

10 This is to certify that the within is a true  
and correct copy of a Deed of Gift dated the 16th  
January, 1914 and registered as No. 14 at Page 48  
in Volume 87 of the Register of Deeds kept in the  
Land Registry at Lagos, Nigeria.

(Sgd) W.C. Taylor  
Deputy Registrar.

Colony & Protectorate  
of Southern Nigeria  
27 Jan. 1914  
Ten Shillings  
Stamp Duties.

20 No. 14 Volume 87 Page 48.

Deed of Gift  
Aina alias Osenatu to Sani Owolabi

30 This Indenture made the Sixteenth day of Janu-  
ary One thousand nine hundred and fourteen between Aina  
alias Osenatu of Ereko Lagos Petty Trader of the  
one part and Sani Owolabi of the same place Trader  
of the other part Whorcas the hereditaments and  
promises hereinafter described and intended to be  
hereby granted for an estate of inheritance in fee  
simple in possession was the property of Opo who  
died at Lagos aforesaid on or about the year 1885  
leaving her surviving Oniyoku and the said Aina  
alias Osenatu her children and Whereas the said  
Oniyoku has since died about six years ago child-  
less leaving the said Aina his sister and next of  
kin him surviving And Whereas the said Aina alias  
Osenatu for and in consideration of the natural  
40 love and affection she hath and beareth unto the  
said Sani Owolabi his only surviving son and of the  
sum of Ten Shillings sterling paid by him to her

Exhibits

"H"

Deed of Gift -  
Aina alias  
Osenatu to  
Sani Owalabi.  
  
16th January,  
1914 - continued.

She the said Aina alias Osenatu doth hereby give grant and convey unto the said Sani Owolabi his heirs and assigns All that piece or parcel of land situate at Great Bridge Street Lagos and measuring as per G.D. Agbeli's Certificate of measurement No.6 dated 15th January, 1914 On the North by the property of Saka Akidele Bakare Twenty four feet six inches On the South by Great Bridge Street Twenty nine feet six inches On the East by Tamowo's property Thirty-two feet and on the West by Road leading to Oju Olokun Thirty eight feet one inch and is delineated by a Map or Plan below these presents Together with all rights and things appurtenant or reputed as appurtenant thereto and all the Estate and interest of the said Aina alias Osenatu her heirs and assigns therein To have and to hold the same Unto and to the use of the said Sanni Owolabi his heirs and assigns for ever In witness whereof the said Aina alias Osenatu to these presents hath hereunto set her hand and seal at Lagos aforesaid the day and year first above written.

SIGNED SEALED AND DELIVERED )  
by the said Aina alias Osenatu )  
to the said Sani Owolabi this )  
Indenture having been first )  
read over and explained to the ) Aina alias  
said Aina alias Osenatu in the ) Osenatu her  
Yoruba Language when she seemed ) X  
perfectly to understand it and ) mark  
she made her mark to her name as ) (L.S.) 30  
herein appear in the presence )  
of:- )

(Sgd) Moses Babatunde Akiyemi  
of Denton Street, Ebute Metta.

(Sgd) Jonathan Oke Bankole Breadfruit Lane, Lagos.

The within Instrument is in the opinion of the Commissioners of Stamp Duties chargeable with a duty of Ten shillings and the Duty thereon has been assessed accordingly.

Colony & Protectorate  
of Southern Nigeria  
Commissioners of Stamp  
Duties.

Jan 20th 1914  
(Sgd) M.L. Tew  
Commr. of Stamp Duties.

40

This Instrument was proved before me by the Oath of Jonathan Oke Bankole within-named at 11.10 O'clock in the forenoon this 2nd day of February, 1914.

(Sgd) W. Buchanan Smith  
Dep: Registrar.

Registry of Deeds  
Lagos W.P.  
Southern Nigeria.

"J" - RECEIPT FOR £100Exhibits

Ex. "J" by Plaintiff Suit No.  
249/53;- Fatoyinbo & Ors. Vs.  
S.A. Williams & Ors.  
(Sgd) J.A. Sobanjo  
Ag. Registrar.  
24/11/54.

"J"

Receipt for  
£100.

28th May, 1917.

96, Griffith Street,  
Ebute Metta.  
28-5-17.

10

Sir,

I received from Sonni Owolabi the sum of £100  
One hundred Pounds to-day the above date in full.  
The Agreement and Security are return at the spot.  
No. of Security No. 14 at page 48 in Volume 87 of  
the Register dated 16th day of January, 1914 return  
to the said Sonni Owolabi by me.

Yours truly,  
Josephus B. Coker.

20

Witness his  
Oso Easorun X  
mark  
  
Oreratu her  
X  
mark.

"K" - LETTER FROM L.B. FATOYINBO TO AYINDE WILLIAMS

"K"

Ex. "K" by Defence Suit No.  
249/53;- L.B. Fatoyinbo & Ors.  
Vs. S.A. Williams & Ors.  
(Sgd) J.A. Sobanjo  
Ag. Registrar.  
24/11/54.

Letter from  
L.B. Fatoyinbo  
to Ayinde  
Williams.

30

10th February,  
1947.

Dear Mr. Williams Ayinde,

Herewith 42/- per bearer, please endeavour to  
adjust the balance I would have sent the money to  
you in full as I hope to do but I met with dis-  
appointment in the sale of Wrist Watches which I  
have for sale.

40

Please try and see that you execute the Writ  
of Fife in time as to know the position.

Yours  
(Sgd) L.B. Fatoyinbo.  
10/2/47.

Exhibits"M" - PROMISSORY NOTE"M"Promissory  
Note.8th December,  
1915.

£100

Ex. "M" (by Defence) In Suit  
No. 249/53:- L.B. Fatoyinbo &  
Ors. Vs. S.A. Williams & Ors.(Sgd) S.A. Fashanu  
Clerk of Court.  
23/11/54.PROMISSORY NOTE.

This is to certify that I the undersigned  
Sanni Owolabi of Ereko Market Street, Lagos  
Nigeria Trader, do borrowed from Mr. J. Bankole  
Coker of Layeni Street Lagos - Nigeria, Trader,  
the sum of One hundred Pounds Sterling (£100)  
with interest at the rate of six pence (6d) on  
every pound (£) per month, payable at the ending  
of every calendar month completed.

10

The said Principal, sum of One hundred Pounds  
Sterling (£100) is to be paid in twelve calendar  
months from the date of this promissory note, of  
which I deposited the Deed of Gift of Hereditaments  
and Premises of my Real property situated and being  
at Great Bridge Street in Lagos - Nigeria, and  
measuring 38 ft x 29 ft 6 inches to secure myself  
for the payment of both Principal sum of One hun-  
dred Pounds Sterling (£100) and the interest therein.

20

The said Deed of Gift Registered as No. 14 at  
Page 48 in Volume 87 of the Register of Deeds kept  
in the Lands Registry, in Lagos Nigeria, and dated  
16th day of January, 1914.

30

And if I fail to make the settlement of the  
Principal payment of the above amount in twelve  
calendar months as aforesaid, I shall have to first  
give immediate notice of one month in writing to  
the said Mr. J. Bankole Coker.

As witness my hand at Ereko Market Street in  
Lagos Nigeria this 8th day of December in the year  
of Our Lord One thousand Nine hundred and fifteen  
(1915)

(Sgd) Sanni Owolabi (his X Mark)

40

"N" - LETTER TO FIRST PLAINTIFF

Exhibits

Ex. "N" (by Plaintiff) in Suit  
No. 249/53:- L.B. Fatoyinbo &  
Ors. Vs. S.A. Williams & Ors.  
(Sgd) S.A. Fashanu  
Clerk of Court.  
2/12/54.

"N"  
Letter to First  
Plaintiff.

Sir,

10 Please note that I am penniless to-day, there-  
fore you should oblige me with anything you have  
per bearer to open to-day's fast. I beg don't let  
him come with an empty hand.

"Compliments to all"

Yours

(Sgd.) A.S. Williams.

"O" - LETTER TO FIRST PLAINTIFF FROM DAWODU

"O"

20 Ex. "O" (by Plaintiff) in Suit  
No. 249/53:- L.B. Fatoyinbo &  
Ors. Vs. S.A. Williams & Ors.  
(Sgd) S.A. Fashanu  
Clerk of Court.  
2/12/54

Letter to First  
Plaintiff from  
Dawodu.

9th December,

Dearest Cousin,

I call here but you were not in. I shall  
be much grateful if you can oblige me with some  
amount as I am penniless and I have to pay for the  
followings today:-

Washerman 3/-  
Pail-man 1/-  
4/-  
==

"Thanks in advance.

30 (Sgd) ? Dawodu  
9/12/

Exhibits

"p" - LETTER TO FIRST PLAINTIFF FROM  
A.S. DAWODU

"p"

Letter to First  
Plaintiff from  
A.S. Dawodu.

8th March, 1935.

Ex. "p" (by Plaintiff) in Suit  
No. 249/53:- L.B. Fatoyinbo &  
Ors. Vs. S.A. Williams & Ors.

(Sgd) S.A. Fashanu  
Clerk of Court.  
2/12/54.

Sir,

It takes me much pleasure in writing you re- 1C  
gards my expenditure which is somewhat unavoidable  
if you consider it, and approved same. Though I  
know a great burden that you are carrying especially  
in domestic affairs, but you should please consider  
the position my wife is now, which is somewhat deli-  
cate, apart from that Native Doctor's expenses, I  
have to do another private one, as you know that she  
is suffering from Abiku. As I have told you before  
hand that Balewa the Native Doctor charged me One  
Pound One Shilling, and he further said that he 2C  
would not take the delivery of the child without  
being paid all his charges complete. And I have paid  
him Nine shillings (9/-) before up to date and I  
found it nice to pay him now another eight shillings,  
which you will find in the expenses book, sent to  
you for your approval. So by that it will remain  
four shillings (4/0d) as balance to pay him because  
this is the eighth month of her pregnancy, and I  
hope if God says, she will probably deliver by next 3C  
month and as he said that he wouldn't take her de-  
livery unless he received all his charges, hence I  
don't want same to be burden on our neck. Now re-  
gards the first item, I borrowed the sum of One  
shilling and Six pence from him when I am short of  
money, and also buy One Shilling Singlet from him  
making the total Two shillings and Six pence (2/6d)  
regards that Washerman's fee, I think that is not a  
thing that I can make any comment upon, as it is a  
well known to you. Regards that cement I think I 4C  
have told you about that, and Pailman also. But you  
should please send a receipt, with the reply to my  
letter to you, whether you approved it or not.

May God help you and look after your children  
for you. Thank you for your past favours to me.

"Olorun je ki oni esan rereo"

Ami

An early attention will oblige,

Yours etc.

(Sgd) A.S. Dawodu

N.B. Send Cash receipt per  
bearer so that I will be  
able to get the money.

(Intld) A.S.D.

8/3/35.

5C

"Q" - LETTER TO FIRST PLAINTIFF FROM  
A.S. DAWODU

---

Exhibits

"Q"

Ex. "Q" (by Plaintiff) in Suit  
No. 249/53:- Fatoyinbo & Ors.  
Vs. Williams & Ors.  
(Sgd) S.A. Fashanu  
Clerk of Court  
2/12/54.

Letter to First  
Plaintiff from  
A.S. Dawodu.  
29th March,  
1934.

At Home,  
Lagos.  
29/3/34.

10

Dear Sir,

20

30

Good morning. I beg to inform you that the Syrian paid the sum of Two Pounds (£2) to me, but I am sorry to inform you that the Carpenters whom I give the Contract of my house to are pressing me much in as much that I have to pay them their money, as yourself has known that it is now 2 months that I have been promising them for same, but when their giving me a lot of worrystate since the beginning of this month, I have to pay them yesterday both the Glass Cutter and Carpenter who repair my premises for me. But anyhow I shall try to see that Syrian, probably he will get the key and pay that money (Three Pounds fifteen shillings) to us to-day, and I shall try to come and tell you about it. Dear Brother, do not vex about this, as you've known, that it is a disgrace to me for them to be shouting on me on account of a lump of money and if yourself hear, it will be a disgraceful to you also. I would have approach you about this before this time, but when I see that yourself has not get any where to give same to me, that is the reason I don't press you about it. Herewith the sum of Thirty Shillings (30/-) per bearer Adeniyi. Compliments to Mama, Sidikate & others.

Yours truly,

(Sgd) A.S. Dawodu.

(The key is with me).

---

Exhibits

"R"

Letter to First  
Plaintiff from  
A.S. Dawodu.

8th December,  
1935.

"R" - LETTER TO FIRST PLAINTIFF FROM  
A.S. DAWODU

---

Ex. "R" (by Plaintiff) in Suit  
No. 249/53:- Fatoyinbo & Ors.  
Vs. Williams & Ors.

(Sgd) S.A. Fashanu  
Clerk of Court.  
2/12/54.

8/12/35.

Sir,

10

I have left a note at home for you when I call there. I beg you with the name of Almighty Allah to please oblige me in a financial support to-day, as I am greatly embarrassed and when I reach home this afternoon my child is not well suffering from Teething Trouble, and I must try one or the other to buy her medicine for this - as this very thing is the cause of the death of my formal child - and moreover I am indebted to my Washerman, and also Pailman as per my statements to my formal note with Mamma. I therefore take this opportunity to beg you to get me anything you can afford, and surely God will keep you secret as you are keeping others secret.

20

An early attention will oblige.

Yours etc.

(Sgd) A.S. Dawodu.

---

"S" - LETTERS TO FIRST PLAINTIFF FROM  
AYINDE WILLIAMS

Exhibits

"S"

Ex. "S" (by Defence) In Suit  
 No. 249/53:- Fatoyinbo & Ors.  
 Vs. Williams & Ors.  
 (Sgd) S.A. Fashanu  
 Clerk of Court.  
 17/12/54.

Letters to  
 First Plain-  
 tiff from  
 Ayinde Williams

18th and 14th  
 September, 1939  
 and 16th  
 October, 1940.

44, Ereko Street,  
 At Home,  
 Lagos, Nigeria.  
 18/9/39.

10

Sir,

With all due deference, I beg to write you this few lines of mine just to express my sincere thanks to you for all the goodness which you have been doing for me all this days especially all the financial assistance which you always rendering to me when I am in need of which I cannot account for.

20

Though your position to me according to you was nothing but my Cousin, but surely I am boasting of you in your absence that you are my father, though our is dead, but whenever I see you I feel that my father is still alive. Because all what you are doing for me I don't expect same from you, but when God has knew that if such a man like yourself is not alive, I will feel or think of my father.

30

This is the reason why you are carrying on your goodness towards me. Since I have been unemployed uptill the time I have secured a job, you don't let me feel anything unless if you are out of pocket.

You try to ? standard of ?  
 me but God does not want it then.

Surely your goodself will not suffer of God's help in a moment. He will always keep you secret and surely he will always be with you for ever.

40

To my surprise my mother told me that she run to you for a help, and you assist her without even telling me, this makes me think that if even I was not of Town my mother will not suffer, for this I thank you, and I also thank God.

Your prayer will always be successful before

Exhibits

"S"

Letters to  
First Plain-  
tiff from  
Ayinde Williams

18th and 14th  
September, 1939  
and 16th  
October, 1940  
- continued.

Allah, and surely you will not suffer in this World,  
and also the next World Amen.

I therefore take this to thank you for all  
your assistance rendering on me and also Thank you  
for the future one in advance.

I am,  
Yours truly,

(Sgd) Ayinde.

Sir,

Good afternoon. Kindly oblige me 1/- there 10  
for an urgent use.

Yours etc.

(Sgd) Ayinde.  
14/9/39

Mr. L.B. Fatoyinbo.

Sir,

Kindly try your possible means to let me have  
5/- now.

I am in a great need to use same now. Please  
don't fail to give me this. 20

Thanks in advance.

Yours truly,

(Sgd) Ayinde  
16/10/40.

L.B. Fatoyinbo.

---

"V" - COPY OF DEED OF LEASE  
29th December 1937

---

Exhibits

"V"

Copy of Deed  
of Lease.

29th December,  
1937.

Exhibit "V" (by Plaintiffs) in  
Suit No. 249/53;- Fatoyinbo &  
Ors. Vs. Williams & Ors.

(Sgd) S.A. Fashanu  
Clerk of Court.  
17/12/54.

10 This is to Certify that the within is a true  
and correct copy of a Deed of Lease dated the 29th  
day of December, 1937 and registered as No. 3 at  
Page 3 in Volume 496 of the Register of Deeds kept  
in the Federal Land Registry at Lagos, Nigeria.

(Sgd) A.B. Roberts  
Assistant Registrar.  
9th December, 1954.

No. 3

Volume 496.

Page 3.

20 THIS INDENTURE made the Twenty-ninth day of Decem-  
ber One thousand nine hundred and thirty-seven  
BETWEEN LAWAL BRIMOH FATOYINBO AND ALIU SANMI DAWODU  
both traders of No. 50 Great Bridge Street in Lagos  
Nigeria the Administrators of the Estate of the late  
Osenatu Aina (hereinafter called "the lessors which  
expression where the context so admits includes their  
heirs executors administrators and assigns) of the  
one part AND SALIM NOUAYHIH Trader of No. 42, Ereko  
Street in Lagos aforesaid (hereinafter called the  
tenant which expression where the context so admits  
30 includes his heirs executors Administrators and  
assigns) of the other part WITNESSETH AND IT IS  
HEREBY AGREED AND DECLARED as follows:- That in  
consideration of the rent hereinafter reserved and  
of the tenant's covenants hereinafter contained the  
Lessors hereby demise unto the tenant ALL THAT  
piece or parcel of land with the story house and  
shop thereon being and situate at Nos. 42 and 44,  
Ereko Street in Lagos aforesaid as the same is more  
particularly described and delineated on the plan  
thereof drawn at the foot of these presents dated  
40 the 13th December, 1937 and edged pink TO HOLD the  
same unto the tenant for the term of fifteen years

Exhibits

"V"

Copy of Deed  
of Lease.29th December,  
1937.

- continued.

from the Fifteenth day of March 1938 YIELDING AND PAYING the yearly rent of Ninety Pounds (£90.0.0d) in advance the lessors hereby declaring that they have received before the execution hereof the sum of Two hundred and seventy Pounds (£270.0.0d) being three years rent in advance. The said rent shall be payable on the Fifteenth day of March in each year.

2. That the tenant hereby covenants with the lessors to pay the rent hereby reserved at the times and in manner aforesaid. 10

3. That the tenant will pay all rates and taxes charged or levied on the said premises.

The Lessors hereby covenant with the tenant in the manner following:-

1. That the Lessors will at all times during the said term keep all buildings on the demised premises in good and substantial repair wear and tear generally excepted.

2. That the tenant paying the rent hereby reserved and observing and performing the covenants and conditions herein contained and on his part to be observed and performed shall and may peacefully enjoy the demised premises during the said term without any lawful interruption from or by the Lessors or any persons rightfully claiming from or under them. 20

PROVIDED ALWAYS and it is expressly agreed as follows:

1. If the rent hereby reserved or any part thereof shall at any time be unpaid for fourteen days after becoming payable or if any covenant on the tenants part herein contained shall not be performed or observed then and in any of the said cases it shall be lawfully for the Lessors at any time thereafter to re-enter upon the demised premises or any part thereof in the name of the whole and thereupon this demise shall absolutely determine but without prejudice to the right of action of the Lessors in respect of any antecedent breach of the tenant's covenants herein contained. 30 40

2. The tenant shall have the right to assign underlet or part with the possession of the demised

premises or any part thereof by giving to the Lessors one month's previous Notice in writing.

Exhibits

"v"

Copy of Deed of Lease.

29th December, 1937

- continued.

10 3. That the tenant shall have the right to pull down any structure on the part of the demised premises numbered 44 as shown on the said plan drawn at the foot hereof and to build thereon at his own cost any suitable building subject to the observance of all regulations for the erection of buildings. Provided that no alterations of any kind shall be made to the demised premises No. 42 as shown on the said plan without the tenant first obtaining the written consent of the Lessors IN WITNESS whereof the parties hereto have herunto set their hands and seals the day and year first above written.

SIGNED, SEALED AND DELIVERED ) (Sgd) Lawal B. Fatoyinbo  
by the said Lawal Brimoh ) (L.S.)  
Fatoyinbo and Aliu Sanni ) (Sgd) Aliu S. Dawodu.  
Dawodu in the presence of:- ) (L.S.)

20 (Sgd) A. Barakat  
11, Ereko Street,  
Lagos.

SIGNED SEALED AND DELIVERED )  
by the said Salim Nouayhih ) (Sgd) S. Nouayhih  
in the presence of:- ) (L.S.)

(Sgd) A. Barakat  
11, Ereko Street,  
Lagos.

---