

~~GHU 60~~^{PC}

Judgment
33, 1964

IN THE PRIVY COUNCIL

No. 1 of 1964

ON APPEAL

FROM THE FEDERAL SUPREME COURT OF NIGERIA

HOLDEN AT LAGOS

B E T W E E N:-

JONES ADEYEYE

Defendant/Appellant

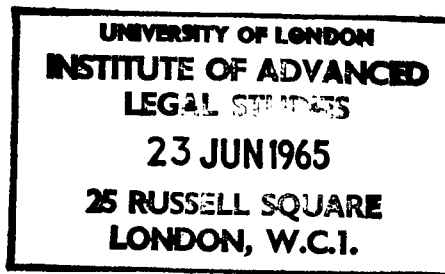
-- and --

1. E.T. ADEWOYIN
2. JAMES LABONDE ADEBOWALE
3. JOSEPH KONKO ADEYEYE
4. GABRIEL OYEDELE ADEMILUYI
5. ADEBAYO ADEMILUYI

Representing Ademakin/Ademiluyi
Family of Ife

Plaintiffs/Respondents

RECORD OF PROCEEDINGS



78628

HATCHETT JONES & CO:
90 Fenchurch Street,
London, E.C.3.

APPELLANT'S SOLICITORS

ON APPEAL

FROM THE FEDERAL SUPREME COURT OF NIGERIA

HOLDEN AT LAGOS

B E T W E E N :-

JONES ADEYEYE

Defendant/Appellant

- and -

1. E.T. ADEWOYIN
2. JAMES LABONDE ADEBOWALE
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Family of Ife

Plaintiffs/Respondents

RECORD OF PROCEEDINGS

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IN THE HIGH COURT

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(iii)

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Court Notes	25th September 1959
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Motion with Affidavit to extend the time within which to file statement of defence and plan filed	21st January 1960
Motion with Affidavit for final judgment in default of defence filed	28th January 1960
Affidavit of Josiah Oladipo Lanियoni	8th February 1960
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Motion with Affidavit to extend the time to file statement of defence and plan filed	7th May 1960
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(iv)

<u>Description of Document</u>	<u>Date</u>
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(v)

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Date

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Motion with affidavit for final leave to appeal	4th July 1963
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Settlement of record of proceedings	16th September 1963

IN THE PRIVY COUNCIL

No. 1 of 1964

ON APPEAL

FROM THE FEDERAL SUPREME COURT OF NIGERIA

HOLDEN AT LAGOS

B E T W E E N:-

JONES ADEYEYE

Defendant/Appellant

-- and--

1. E.T. ADEWOYIN
2. JAMES LABONDE ADEBOWALE
- 10 3. JOSEPH KONKO ADEYEYE
4. GABRIEL OYEDELE ADEMILUYI
5. ADEBAYO ADEMILUYI

representing Ademakin/Ademiluyi
Family of Ife Plaintiffs/Respondents

RECORD OF PROCEEDINGS

No. 1

Civil Summons

IN THE HIGH COURT OF JUSTICE
WESTERN REGION OF NIGERIA
IBADAN JUDICIAL DIVISION

In the High
Court

No. 1

Civil Summons
9th October 1958

20

Suit No.1/257/1958

No. 9

Between:

E.T. Adewoyin & ors
and
Jones Adeyeye

Plaintiffs
Defendant.

To Jones Adeyeye of Otutu Street, Ife.

In the High Court

No. 1

Civil Summons
9th October 1958
(Continued)

Your are hereby commanded in Her Majesty's name to attend this Court at Ife on Monday the 27th day of October 1958 at 9 o'clock in the forenoon to answer a suit by E.T. Adewoyin & ors., c/o Barrister Olagbaju against you.

The Plaintiffs' claims against the defendant are as particulars attached.

Issued at Ibadan the 9th day of October, 1958.

(Sgd) R.A. Doherty
JUDGE, HIGH COURT

10

TAKE NOTICE - That if you fail to attend at the hearing of the suit or at any continuation or adjournment thereof, the Court may allow the Plaintiff to proceed to Judgment and execution.

No. 2

Particulars of
Claim 9th
October 1958

No. 2

Particulars of Claim

IN THE HIGH COURT OF JUSTICE
WESTERN REGION OF NIGERIA

IN THE HIGH COURT OF THE IBADAN JUDICIAL DIVISION
HOLDEN AT IFE

Suit No. I/257/1958

20

BETWEEN:

1. E.T. Adewoyin	}	... Plaintiffs
2. James Labondo Adebawale		
3. Joseph Konko Adeyeye		
4. Gabriel Oyedele Ademiluyi		
5. Adebayo Ademiluyi		
representing Ademakin/ Ademiluyi Family of Ife	}	

And

30

Jones Adeyeye ... Defendant

C L A I M

The Plaintiffs' claims against the defendant are for: (a) Declaration that the piece or parcel of land situate lying and being at Omifunfun

Onigbodogi, Ife District and more particularly described and delineated in a plan to be filed later in this action is the property of Ademakin/Ademiluyi Family of Ife.
 Annual rent for purpose of the action £5.
 (b) £600 for mesne profits.
 (c) Injunction restraining the defendant, his servants and or agents from entering or doing any act upon the land in dispute.

In the High Court

No. 2

Particulars of Claim 9th October 1958 (Continued)

10 Dated at Ife this 9th day of October, 1958.
 (Sgd) D.E. Olagbaju
 Plaintiffs' Solicitor.

Plaintiffs' Address:- 151 Irewo Street, Ife.

Defendant's Address:- Otutu Street, Ife.

No. 3

Order on Motion to Sue in Representative Capacity

IN THE HIGH COURT OF JUSTICE
 WESTERN REGION OF NIGERIA
 IBADAN JUDICIAL DIVISION

Suit No. I/257/58

No. 3

Order on Motion to Sue in Representative Capacity 27th October 1958

20

Between:-

- | | | |
|------------------------------|---|------------|
| 1. E.T. Adewoyin | } | Plaintiffs |
| 2. James Labondo Adebawale | | |
| 3. Joseph Konko Adeyeye | | |
| 4. Gabriel Oyedele Ademiluyi | | |
| 5. Adebayo Ademiluyi | | |

And

Jones Adeyeye

Defendant

30 Motion to sue in a representative capacity

 (Sgd) R.Y. Hedges
 J U D G E

UPON READING the affidavit of E.T. Adewoyin James L. Adebawale, Joseph K. Adeyeye, Gabriel O.

In the High Court

No. 3

Order on Motion
to sue in
representative
capacity 27th
October 1958
(Continued)

Ademiluyi and Adebayo Ademiluyi British Protected
Persons, traders and farmers of Ife sworn to at
the Magistrate's Court Registry Ife on the 8th
day of October, 1958 and filed at the High Court
Registry, Ibadan on the 9th day of October, 1958:

AND UPON HEARING Mr. Olagbaju of Counsel for
the Plaintiffs.

IT IS HEREBY ORDERED that the above-named
Plaintiffs do sue for themselves and other members
of Ademakin/Ademiluyi family. 10

Issued at Ife under the Seal
of the Court and Hand of the Presiding
Judge this 27th day of October, 1958.

(Sgd) Afolabi Akinoso
REGISTRAR HIGH COURTS.

No. 4

Statement of
Claim, 21st
August 1959

No. 4

Statement of Claim

IN THE HIGH COURT OF JUSTICE
WESTERN REGION OF NIGERIA
IBADAN JUDICIAL DIVISION
HOLDEN AT IBADAN

20

Suit No. I/257/58.

Between:-

- 1. E.T. Adewoyin
 - 2. James Labondo Adebowale
 - 3. Joseph Konko Adeyeye
 - 4. Gabriel Oyedele Ademiluyi
 - 5. Adebayo Ademiluyi
- } ... Plaintiffs

representing Ademakin/
Ademiluyi Family of Ife }

30

And
Jones Adeyeye

Defendant

STATEMENT OF CLAIM

1. The Plaintiffs are farmers and traders and they

take this action in a representative capacity, In the High Court
representing Ademakin/Ademiluyi family of Ife.

No. 4

2. The defendant is a farmer and he himself belongs to Ademakin/Ademiluyi family of Ife.
3. The land in dispute is delineated on Plan No. CK160/59 and thereon edged red, and is herewith attached to the Statement of Claim.
- 10 4. The Plaintiffs state that the land delineated on the plan herewith attached originally belonged to the Otutu family of which Ademakin/Ademiluyi family is a branch and is described as Omofunfun Onigbodogi.
5. Before 1953, there was much confusion among the various branches of Otutu family in regard to the use of family land, and one Shoko Ademakinwa-(now deceased) was alleged to have monopolised the family land and was using the land exclusively.
- 20 6. In order to check the exclusive and monopolistic use of Otutu family land, an Otutu family meeting was held at Ife in 1933 wherein Otutu family land was allotted to various branches of Otutu family.
7. The Plaintiffs state that at that historic meeting of 1933, the land between Omofunfun and Idiako was one of the two portions allotted to the entire children of Oba Ademiluyi the late Oni of Ife.
- 30 8. Oba Ademiluyi, the late Oni of Ife was the head of Ademakin/Ademiluyi family, and the allotment to Ademiluyi's children included allotment to his younger brother's children, the names of the late Oba's younger brothers being Adebowale and Adeyeye now deceased.
9. The defendant is one of the sons of Adeyeye, a younger brother of Oba Ademiluyi, late Oni of Ife.
- 40 10. After the historic meeting wherein the Otutu family land was allotted to various branches of the family, a petition was addressed to the

Statement of
Claim 21st
August 1959
(Continued)

In the High Court

No. 4

Statement of
Claim 21st
August 1959
(Continued)

Native Authority Ife, to keep the Authority informed of how the Otutu family land was allotted, and the defendant was one of those who signed the petition for the family.

11. About 1947, one Adeyemo Eletiko a member of the family supported by the defendant as representatives of the family started putting tenants on the land in dispute with the consent of the family and on the understanding that when the tenants started paying Ishakole, 10 all the members of Ademakin/Ademiluyi would be entitled to share out of the Ishakole.
12. A short time after, Adeyemo Eletiko died, and the defendant carried on as representative of the family on the land in dispute.
13. When the Plaintiffs observed that the tenants have been paying Ishakole to the defendant a demand for the share of the other members of the family was made, but the defendant started making promises which he never 20 fulfilled.
14. The members of Ademakin/Ademiluyi Family held several meetings with the defendant requesting him to give a list of the names of the tenants on the family land in dispute so that the family may appoint people to collect Ishakole from the tenants direct, but the defendant did not co-operate.
15. In one of the meetings, the defendant stated that the land is his own exclusive property and 30 no members of the Ademakin/Ademiluyi family has any right to share Ishakole being paid by the tenants on the land in dispute with him.
16. The defendant as representative of the family took an action against Sanni Odera in Suit I/49 in Ife Lands Court and it was decided in favour of the family.
17. There are many tenants on the land in dispute and the defendant makes a lot of profit on the land alienated to the tenants. 40
18. The defendant has no farm of his own on the land in dispute.

- 19. The family house built by the late Oba Ademiluyi at Otutu Street, Ife has become completely dilapidated as no funds with which to effect repairs are available.
- 20. The virgin forest which remains on the land in dispute is insufficient for one man to farm but the defendant has about 300-400 tenants on the land in dispute, and he collects over £2000 annually from the tenants.
- 10 21. The members of Adenakin/Ademiluyi number over 100 people, and all have now been rendered landless and the defendant will not share Ishakole with any of them.
- 22. WHEREFORE the plaintiffs claim as per their writ of summons.

In the High Court

No. 4

Statement of
Claim 21st
August 1959
(Continued)

(Sgd) D.E. Olagbaju
Plaintiff's Solicitor.

Plaintiff's Address:- Otutu Street, Ife.

Defendant's Address:- Otutu Street, Ife.

20

No. 5

No. 5

STATEMENT OF DEFENCE

Statement of
Defence 21st
September 1960

IN THE HIGH COURT OF JUSTICE OF THE WESTERN
REGION OF NIGERIA

IN THE HIGH COURT OF THE IBADAN JUDICIAL DIVISION

HOLDEN AT IBADAN

Suit No. I/257/58

Between:

- 1. E.T. Adewoyin
 - 2. James Labondo Adebawale
 - 30 3. Joseph Konko Adeyeye
 - 4. Gabriel Oyedele Ademiluyi
 - 5. Adebayo Ademiluyi
- representing Ademakin/
Ademiluyi Family of Ife
- Plaintiffs.

In the High Court

And

No. 5

Jones Adeyeye Defendant

Statement of
Defence 21st
September 1960
(Continued)

STATEMENT OF DEFENCE

Save and except as is hereinafter expressly admitted the defendant denies each and every allegation of fact contained in the Plaintiffs' Statement of Claim as if each had been separately taken and specifically traversed.

1. The defendant admits paragraphs 1, 2, and 9 of the statement of claim but states that there is only Ademakin Family of which the Ademiluyi section is just a branch and the defendant belongs to the Adeyeye branch. 10
2. The defendant states that he is the owner of the land depicted in plan No.L & L/A 3563 and that the plaintiffs' plan attached with their statement of claim is incorrect in material respects.
3. The defendant denies paragraph 4 of the statement of claim but states that at one time the Otutu family alleged that certain portions of land in Ife District belonged to them because the family had hunting rights therein. 20
4. That later judicial pronouncement had stated that hunting rights in a Forest do not confer title or ownership over the land in Ife.
5. With regard to paragraphs 5,6,7, and 8 of the statement of claim the defendant states that there was no allotment of any portion or portions of land in 1933 by or among branches of Otutu family, although a family meeting was held in 1933 and it was in respect of a dispute between one Soko Ademakinwa and C.A. Layade about a farm at Osi Soko Village. 30
6. Further, there was no reference of any kind to Omofunfun Onigbodogi in the 1933 family meeting as it was then a thick virgin bush unknown and unfarmed.
7. The defendant denies paragraph 10 of the statement of claim and states that all that the 40

Otutu family did was that a petition was sent to the Oni of Ife and Council in 1950 praying that the family hunting rights be recognised as title to all portions of land over which the family had hunting rights.

In the High Court

No. 5

Statement of
Defence 21st
September 1960
(Continued)

- 7a. A reply was sent to the petition saying that the matter was then sub judice and that the Oni could not therefore intervene.
- 10 8. The defendant denies paragraphs 11 and 12 of the statement of claim and puts the plaintiffs to the strictest proof thereof.
9. About 1938 the defendant has been farming on the land shown in plan No. L & L/A 3563 and putting tenants thereon in his own right and not as a representative of the plaintiffs.
10. The defendant denies paragraphs 13 and 14 of the statement of claim and states that he has never held out any promise to share the Ishakole on his farm with the plaintiffs.
- 20 11. With regard to paragraph 16 of the statement of claim the defendant states that the judgment in Suit I/49 has been reversed in the subsequent Courts of Appeal in that under Ife native law and custom hunting rights in a forest do not confer title or ownership of the forest land.
12. That it was as a result of the failure of Suit I/49 that the petition referred to in paragraph 7 above was sent to the Oni of Ife and Council.
- 30 13. As regards paragraphs 17 and 18 of the statement of claim the defendant states he has his farms in different portions of his land as shown in plan No. L & L/A and the other portions of the land are occupied by the defendant's tenants some of whose names are shown on the plan.
14. The defendant will contend that paragraph 19 of the statement of claim is immaterial and vague and that it be struck out.
- 40 15. The defendant denies paragraphs 20 and 21 of the statement of claim and puts the plaintiffs to the strictest proof thereof.

In the High Court

No. 5

Statement of
Defence 21st
September 1960
(Continued)

16. The plaintiffs sive their own respective farms at the following places:- Osi Okere, Otun Omikoto, Babaegbe, Ojerinde, Ara Igba, Edunabon, Apata, Ojebowale, Osogun etc. where they place their own tenants who number over 1000.
17. Before 1938 the defendant's land as shown in the plan L & L/A 3563 was an unfarmed virgin forest.
18. Believing that the Otutu family who had hunting rights over the land also had title to 10 the said land the defendant started to cultivate the said area of land and put tenants in various parts of the land.
19. In the case instituted by the defendant against one Sanni Odeera it was held on appeal that the defendant family's hunting rights did not confer right of ownership or title over the land - a distinction being drawn between hunting and agricultural rights in Ife native law and custom. 20
20. Thereafter the defendant approached the Oni of Ife Sir Adesoji Aderemi for a grant and confirmation of title of his holding of the land delineated in plan No. L & L/A 3563. The Oni of Ife as the custodian of unoccupied virgin forest land in Ife has the right to allocate or grant the land. The confirmation of title was accordingly made.
21. Before and after the grant of title by the Oni of Ife the defendant has been in peaceful open 30 and undisturbed possession of the land described in his plan, cultivating the land, putting in tenants and exercising thereon all acts of ownership.
22. At a time when certain people - viz. Lujumo Ologiri family, Jagunosin family and Agbakuro family were disputing boundaries with the defendant, the Oni of Ife, after investigations sent emmissaries to demarcate the boundaries between the defendant and the aforesaid 40 families.
23. The defendant and his tenants cultivated the

land from pure virgin forest and built up villages and markets within the land. The markets were set up with the authority and consent of the Oni of Ife.

In the High Court

No. 5

Statement of
Defence 21st
September 1960
(Continued)

24. None of the plaintiffs has any inch of ground within the land they are now disputing with the defendant nor ever exercised any act of ownership over the said land.

10 Wherefore the defendant says the Plaintiffs' claim is speculative, vexatious and should be dismissed with substantial costs.

Dated at Ife this 21st day of September, 1960.

(Sgd) M.A. Omisade
DEFENDANT'S SOLICITOR

PLAINTIFFS' EVIDENCE

Plaintiffs'
Evidence

No. 6

No. 6

TIMOTHY ADEWUNMI FAGBOHUN

Timothy Adewunmi
Fagbohun 6th
November 1961

MONDAY 6TH DAY OF NOVEMBER, 1961.

20 I/257/58: E.T. Adewoyin & ors. for family
v.
Jones Adeyeye

Parties present.
OLAGBAJU (Ademola with him for the plaintiffs).
WILLIAMS Q.C. (Omisade with him) for defendant.

Mr. Olagbaju applies to call a witness to tender document only. Granted. No objection.

30 1st witness for the plaintiff: Timothy Adewunmi
Fagbohun Sworn on Bible states in English. I
live at Modakeke Ife. Assistant Chief Clerk,
Secretary Department of the Ife Divisional Council.

Examination

In 1950 a petition was received in the Secretary's office from the Otutu family. This is the petition dated 18/12/50 (7 pages). Tendered, no objection, marked Exhibit "A".

Exhibit "A"

In the High Court
Plaintiffs'
Evidence
(Continued)

XXd. by Williams Q.C.: I have not in my file record of a meeting of Ademiluyi family of June 1933.

No. 6

Timothy Adewunmi
Fagbohun 6th
November 1961
Cross-Examination

No. 7

No. 7

John Adegboyega
Conde 6th
November 1961
Examination

JOHN ADEGBOYEGA CONDE

2nd Witness for plaintiff: John Adegboyega Conde (m) sworn on Bible states in English. I live at Epe. I am a petty trader. I know some members of the Otutu family of Ife. I know the defendant - Jones Adeyeye. In 1950 I was resident in Ife. In 10 that year the defendant and some members of Otutu family approached me to write a petition on their behalf to the Native Authority Ife. I carried out their instructions and prepared Exhibit A which was signed by the defendant and others.

Cross-Examination

XXd. by Williams: I still know the members of the Otutu family. I do not know the present head of the Otutu family. The head of the Otutu family in 1950 was an old man whose name I do not remember now but he thumbprinted Exhibit A. I know 20 Ademakin/Ademiluyi branch of Otutu family. I cannot say if E.T. Adewoyin is the present head of Ademakin/Ademiluyi branch of Otutu family.

No. 8

No. 8

Gabriel Oyedele
Ademiluyi 6th
November 1961
Examination

GABRIEL OYEDELE ADEMILUYI

4th Plaintiff: Gabriel Oyedele Ademiluyi (m) sworn on Bible states in Yoruba. I live at Iremo Ife. Farmer and trader. I and the other plaintiffs took this action as representatives of Ademakin/Ademiluyi family. I know the defendant in this case; he is my first cousin. Jones Adeyeye is a member of Ademakin/Ademiluyi family which is a branch of Otutu family. Ademakin and Ademiluyi 30

are descendants of Otutu family. Otutu family comprises of (1) Ademakin/Ademiluyi, (2) Soko Apete, (3) Soko Ademakinwa, (4) Aseri Agba.

In the High Court

Plaintiffs'
Evidence
(Continued)

No. 8

Gabriel Oyedele
Ademiluyi 6th
November 1961
Examination
(Continued)

10 I know the land in dispute; it is called Cmifunfun Onigbodogi and it was given to Ademakin/Ademiluyi branch by Otutu family in 1933. Before 1933 the Otutu family had various farmlands namely: Osi, Ara, Owena, Eleja Ogbo, Omifunfun Onigbodogi, Idiako. Before 1933 any member of
20 Otutu family could go into any of the farmlands to farm. I know Soko Ademakinwa; before 1933 he used to put tenants in any part of the various farmlands mentioned. In 1933 members of the Otutu family went to the Osi farm and held a meeting with Soko Ademakinwa. We decided that the farmlands should be distributed among all children of Otutu because we did not approve of his making use of the farmlands alone. We returned home and had another meeting in which
30 the farmlands were distributed among members of the family. I was present at both meetings.

30 Osi farmland and Omifunfun Onigbodogi farmland were given to Ademakin/Ademiluyi branch of Otutu family. The defendant was present at the meetings held at Osi farm and at home; others present were: Okero Ademiluyi, C.A. Layade, Adewole Ademiluyi and many others. Eleja and Oke Osi farmlands were given to C.A. Layade who belongs to Soko Apete branch. I cannot remember
40 the farmland given to E.T. Adewoyin. The Oni Ademiluyi was the head of Ademakin/Ademiluyi family. Adebowale and Adeyeye were brothers of the Oni Ademiluyi. Adeyeye's children are Jones Adetoro Adeyeye (defendant), Joseph Konko Adeyeye (3rd plaintiff) among others. The children of Adebowale are Adeleke Adebowale, Lagbando Adebowale (second plaintiff) among others. Some years after the meetings of 1933 the family appointed the defendant and one Eletiku to put tenants on the land in dispute - Omifunfun; they put tenants there accordingly. When Eletiku died the defendant carried on. We asked the defendant about the tribute (Ishakole) collected from the tenants and he said it was not yet time for tributes to be collected. We waited for three or four years for cocoa trees to begin to yield and thereafter we asked the defendant for the tributes but he failed to give any account. We held several meetings but to no avail. In 1957 we had a meeting at which the

In the High Court

Plaintiffs'
Evidence
(Continued)

defendant said that he put tenants in his own portion of the farmland; we were surprised that the defendant could alone claim a portion of the farmland which is 14 miles by 14 miles. We decided to take action against him.

No. 8

Gabriel Oyedele
Ademiluyi 6th
November 1961
Examination
(Continued)

The land in dispute has common boundaries with Ologiri farmland, Elegberun farmland, Idiogun Ogunsakin farmland, Agbakuro farmland, Ifetedo farmland. There are over 600 tenants on the land in dispute - some of them have been paying 10 tributes and some have not yet started to pay. Members of Ademakin/Ademiluyi family number between 100 and 150 persons; we are all entitled to a share in the tributes collected; the defendant is also entitled to his share. We the plaintiffs claim as per writ of summons.

Cross-
Examination

XXd. by Williams: I am now about 50 years of age. In 1933 I was about 22. I attended several meetings before 1933 and those held in 1933. I attended the meeting held in June 1933. I know 20 E.T. Adewoyin; he was not put as the first plaintiff because he was the head, he is older than I and J.L. Adebowale; he is older than J.K. Adeyeye and A. Ademiluyi; he is the oldest of all the plaintiffs. One women called Ilelomia Ademiluyi has been the head of the family since the death of the Oni Ademiluyi; she is still alive. I am not surprised that her name is not on the writ or in the resolution authorising us to sue; all 30 sections of the family authorised us.

Exhibit "B"

I do not agree that E.T. Adewoyin is the head of Ademakin section of the family; E.T. Adewoyin was one of those authorised to take this action; he does not know better than myself about the land in dispute; Abedire Ademiluyi is older than E.T. Adewoyin. I can read and write. I swore to affidavit in support of a motion on 6/11/58, (para. 8 in particular). Copy of affidavit of 6/11/58 put in evidence by consent. Tendered 40 Ex. "B".

I know the handwriting of E.T. Adewoyin. The first batch of tenants were put on the land in dispute by Eletiko sometime in 1938; the defendant put tenants there about 1940. The family did not receive anything on the land between 1940 and 1958.

Firstly the defendant said the cocoa trees were not yet yielding and at another time he said that the tenants had not yet paid; being members of the same family we were patient with him until we found that the defendant was deceiving us and we took action. The family decided to ask the defendant to put tenants there after 1933 meeting.

In the High Court

Plaintiffs'
Evidence
(Continued)

No. 8

(Counsel refers to para. 11 of statement of claim). Gabriel Oyedele

Ademiluyi 6th
November 1961
Cross-Examination
(Continued)

10 The defendant has all along been giving us various excuses including promise to pay us the tributes. He never told us that at any time that he was the owner of the land in dispute exclusively. (Refers to para. 15 of statement of claim). We took this action against the defendant when in 1958, he said he was the owner of the land in dispute.

20 We put the defendant on the land after 1933 meeting but in 1958 he said he was the owner of that land exclusively. I know the handwriting of E.T. Adewoyin. The writing "Eman Timothy Adewoyin" as deponent to the affidavit of 16/6/60 is similar to his handwriting. Affidavit of 16/6/60 tendered for identification. I know that defendant has a house of about four rooms on the land in dispute. I do not know the year he built the house but it was after 1933 when tenants had come on the land. I do not dispute his right to own the house because we all own the land in dispute.

30 We are not asking him not to go on the land but we must share the Ishakole together. I know Osifarm, Okero Ademiluyi has a farmland there; if Okero Ademiluyi cultivates any portion of the Osi farm for himself nobody would quarrel with him, but if he puts tenants on any portion of the farm and collects tributes, members of the family would have to share the tributes collected with him. Okero has farmland at Omikoto which he cultivates for himself; Adeleju Ademiluyi and Adeyeni Ademiluyi
40 have no farmlands at Baba-egbe in respect of which they collect tributes.

Coker Adewoyin has a farm at Oriapata for himself; Lomina Ademiluyi has no farm at Ajebandele and I cannot say if he collected tribute on that

In the High Court

Plaintiffs' Evidence
(Continued)

No. 8

Gabriel Oyedele
Ademiluyi 6th
November 1961
Cross-Examination
(Continued)

land before; I cannot say if Lomia has any farm at Isoya. Adebisi Adeyeni Ademiluyi has a farm at Isirejun; the farm belonged to his father and did not form part of the land in dispute. Adewole Ademiluyi has a farm at Idiako; Eman Taiwo Ademiluyi has no farm at Apoje. It is no exaggeration to say that members of our family are rendered landless.

Re-Exam: No question.

Adjourned 7/11/61.

(Sgd) M.O. Oyemade.
Ag. Judge.

10

No. 9

Abolade Olatunji
Coker 7th
November 1961

No. 9

Abolade Olatunji Coker

TUESDAY THE 7TH DAY OF NOVEMBER, 1961.

Parties present - Olagbaju for plaintiffs.
Omisade for defendant.

Examination

3rd Witness for plaintiff: Abolade Olatunji Coker (m) sworn on Bible states in English. I live at NW4/60 Race Course Road Ibadan. Licensed Surveyor.

I prepared this Survey plan No. CK.160/59 on the instructions of the plaintiffs. I was taken round the boundaries by the plaintiffs. I inserted in the plan all the important features I found on the land. Survey plan tendered Exhibit "C". 20

Cross-Examination

XXd. by Omisade: I went on the land myself during June, July and August 1959. The field work took place mainly in June and July. I went on the land with my assistants. I cannot give the area of the thick bush shown on the survey plan towards the eastern side near rock; I did not specially survey the areas of thick and light bushes shown on the plan. I saw the stream shown on the northern part of the plan. It appears to have its source from point lll and flowing westward. I did the survey in the rainy season and I saw the stream but I do not know the name. Omifunfun stream runs as shown on the plan along the north eastern boundary; the same stream flows westwards through light bush which was not surveyed. The survey was 30 40

done along the boundary in a clock-wise direction starting from point 1 near the road to Olode market in the North. The boundary was cut by the plaintiffs. The roads and the streams shown were traversed separately. I saw Gbonna stream and surveyed it and showed it on the plan. The streams shown without names were also seen but nobody could give their names. I walked through the land also in certain directions to study the features on the land.

10

Re-Exam: No question.

In the High Court

Plaintiffs'
Evidence
(Continued)

No. 9

Abolade Olatunji
Coker 7th
November 1961
Cross-Examination
(Continued)

No. 10

JOSEPH KONKO ADEYEYE

No. 10

Joseph Konko
Adeyeye 7th
November 1961
Examination

3rd Plaintiff: Joseph Konko Adeyeye (m) sworn on Bible states in Yoruba. I live at Ilode Street, Ife. Farmer, I know the defendant; he is my half-brother. I know the land in dispute; the land belongs Ademakin/Ademiluyi family; the ancestor of the family is Otutu family; The Otutu family comprises of Ademakin/Ademiluyi. Soko Ademakinwa, Apete, Aseri.

20

The Osi farmland and Omifunfun farmland were given to Ademakin/Ademiluyi family. The present action is in respect of Omifunfun. I have been to Omifunfun farmland before and there are tenants there. I know the defendant and one Eletiko put tenants on the land in the name of Ademakin/Ademiluyi family. I cannot say when the tenants were put on the land but thereafter I travelled away from home for about six years. The tenants planted cocoa, yams, cassava on the land; at first they were paying tributes of yams to the defendant and later when cocoa began to yield, they pay Ishakole of cocoa. The defendant has never given me part of the Ishakole.

30

XXd. by Omisade: I have my farm at Itamarun about six miles from Ife. I have no other farm elsewhere. I know Osa farm but I have no farm there, I know Adewole but he did not take me to Osa to farm. The boundaries of the land in dispute are as follows: Ologiri, Elegberun, Agbakuro, Ifetedo. Referring to Exhibit "B" paragraph 3 the witness says he does not know if the defendant has a farm

40

Cross-Examination

In the High Court

Plaintiffs'
Evidence
(Continued)

No. 10

Joseph Konko
Adeyeye 7th
November 1961
Cross-Examination
(Continued)

within the land in dispute; I know he has a small house on the land. I did not go round the whole farm in dispute before this case started but I have been to the village there to greet the defendant. I was not present when the land in dispute was allotted to Ademakin/Ademiluyi family. I do not know much about family history. I do not know how many tenants are on the land and I do not know how much Ishakole they pay.

Re-exam: No questions

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No. 11

Claudius Adedini
Layode 7th
November 1961
Examination

No. 11

CLAUDIUS ADEDINI LAYODE

4th witness for plaintiff: Claudius Adedini Layode (m) sworn on Bible states in Yoruba. I live at Otutu compound Ife. Farmer. I am the oldest member of Otutu family. The Otutu family is divided into three branches, namely, (1) Adeokun (2) Akinmoyero Odunle (3) Gbewiri; the Ademakin/Ademiluyi family belongs to Adeokun branch. I remember that in 1950 I was one of the signatories 20 to the petition addressed to the Oni and Council. The petition is Exhibit "A". I am a member of Ademakin/Ademiluyi family. Aseri and Ademakin are children of Odunle. According to Exhibit "A" Osi and Omifunfun farmlands were allotted to Ademiluyi's children Ara farmland was allotted to me personally. Ademakin was the father of Ademiluyi, Adebowale, Adeyeye and Jala Owoadepo (a woman). The land was allotted to Ademiluyi and his brothers according to the allotment list in Exhibit "A". Otutu 30 beгат Adeokun and others. Adeokun beгат Sanre, Ademakin and Aderotimi otherwise known as Soko Apete. I was away from home for sometime and when I returned to settle I was given Ara farmland. The farmlands Os Oshi, Omifunfun, Ara belong to Otutu. I know the present Oni (Sir Adesoji). He has nothing to do with Otutu farmlands except if questions of boundary disputes are referred to him.

Cross-Examination

XXd. By Omisade: A separate farm was allotted to E.T. Adewoyin; and one was also allotted to me. 40 The piece of farmland allotted to Jones Adeyeye the defendant is at Omifunfun but I do not know the

extent of the farmland. When he was working on the farmland he had a case with another family concerning the boundary; the case was brought before the Oni who settled the dispute for them after about three years. E.T. Adewoyin is a descendant of Ademakin; the defendant too is also a descendant of Ademakin and so is Okero Ademiluyi. This is the reply dated 9/1/51 to our petition dated 18/12/50 and marked Exhibit "A". Reply
10 tendered and marked Exhibit "D". Osi farmland is now in possession of Ademiluyi children; Otun Omikoto farmland is also in possession of Ademiluyi children; Babaegbe farmland is also in possession of Ademiluyi's children. The following farmlands belong to Okero Ademiluyi, namely, Ojerinde, Ara, Iba, Edunabon and Elegborun; Oriapata farmland belongs to E.T. Adewoyin; Ajebandele and part of Isoye farmlands belong to Lomia Ademiluyi; Osogun and Idiako
20 farmlands belong to Sam Adewole Ademiluyi; Aopje farmland belongs to Eman Taiwo Ademiluyi; part of Isireyun farmland belongs to Adebisi Adeyemi Ademiluyi. In 1933 there was a dispute between me and Soko Ademakinwa and we had a family meeting; Soko Olowu, Awe Ijitoye, Soko Ademakinwa, Afuye, Logun, E.T. Adewoyin, Adediji, Okero, Gbadamosi and I were present among others at that meeting. I cannot say if the 4th plaintiff (Dele Ademiluyi)
30 was present at that meeting; he was a young man then. The dispute between me and Soko Ademakinwa was amicably settled. It was at that meeting that a portion of Osi farmland was given to E.T. Adewoyin; I was given Ara farm. I have never been to the farmland in dispute and I do not know its size. In 1933 Omifunfun farmland was a virgin forest. Ademakin/Ademiluyi and Soko Apete belong to Adeogun line of Otutu family; Soko Ademakinwa and Aseri Agba belong to Akinmoyero Odunle line of Otutu family.

40 Re-exam: I cannot remember all those who were present at the family meeting of 1933. The defendant was present at the family meeting.

In the High Court

Plaintiffs'
Evidence
(Continued)

No. 11

Claudius Adedini
Layode 7th
November 1961
Cross-Examination
(Continued)

Exhibit "D"

Re-Examination

Case for Plaintiffs.

In the High Court

DEFENDANT'S EVIDENCE

Defendant's
Evidence

No. 12

No. 12

JONES ADEYEYE

Defence opens:

Jones Adeyeye
7th & 8th
November 1961
Examination

Jones Adeyeye (m) Sworn on Bible states in Yoruba. I live at 13 Otutu Street Ife. Farmer. I know the plaintiffs in this case. We are members of the same Ademakin family; Ademakin family consists of Ademiluyi, Adebowale, Adeyeye and Jala Owoadep branches. I instructed a Surveyor to prepare a plan of my farmland at Omifunfun Onigbodogi which is in dispute. The farmland originally belonged to Otutu family who had only hunting rights over it. There was nobody on the farmland before 1938; it was a virgin forest. In 1938 I went on the land and began to cultivate part of it. In June 1933 we had an Otutu family meeting because there was a dispute between C.A. Layade (4th p.w.) and Soko Ademakinwa. I attended the meeting and it was decided that members of the family should go and see the land in dispute between Layade and Ademakinwa. Dele Ademiluyi (4th plaintiff) was not present at that meeting. The land in dispute between Layade and Soko Ademakinwa was Osi and Ara. There was no discussion about the farmland Omifunfun which is now the subject of this action. I did not know where the land was in 1933.

I was carrying on my trade before 1938 and I used to follow Layade, Soko Ademakinwa and others during the dispute between them over the farmland at Osi and Ara just to see if I might be able to get part of the family land for my use. Sometime in 1938 I was taken to the farmland in dispute by a hunter called Faro. It was he who told me that the land belonged to Otutu. After the hunter had shown me the farmland I came home and told the Oni (Sir Adesoji) about the farmland and he said I could put my tenants on the farmland. When I went to put my tenants on the land I met members of Lujumo family on the land and they went and reported me to the Oni; the Agbakuro family also complained that I entered their land.

The Lujumo family said that their ancestors had hunting rights over the land and I asserted

that Otutu had hunting rights also over the land. The matter was referred to the present Oni, who decided to send Emeses to the place and mark out the boundary between me and the Lujumo family. The Emeses (traditional palace officials) sent to the farmland then were Omisope, Jaiyeobe (now dead) and one Bunmi (now dead) and Gabriel Lokuri. Since the boundary was demarcated I have been working on the farmland. I have a house on the farm. I had litigation over the land for a long time and I spent my money on it; no member of the family contributed to it. The Oni also sent a senior Emese (Itiaran) to mark out the boundary between me and Agbakuro family. The boundaries are still the same as originally marked out. My father Adeyeye did not put tenants on any farm before he died and I struggled to get this one in dispute. I did not acquire it for the family. I am a signatory to the petition of 1950 - Exhibit "A". We wrote the petition because members of other families were worrying me over this land in dispute, and there was also other dispute between Layade and Eman Adewuyi separately; it was said that Otutu had only hunting rights over the farmlands in which I was; and the same thing was said about Layade and Eman Adewuyi. I fought my case in the Land Court and failed and so I decided to approach the Oni direct to grant me title to the farmland in dispute and he did so. No member of the family helped me financially or otherwise. According to native law and custom unoccupied virgin forest belong to the Oni and Council. The allotment sheet attached to the petition of 1950 was not the true state of affairs then; we simply got that up to present our case to the Oni and Council. I approached the Oni for a grant of the farmland after the 1950 petition and the grant was made to me personally. I know Osa farm; J.K. Adeyeye (3rd plaintiff) has a farm there. Okero Ademiluyi has a farmland at Osi and Otun Omikoto and puts tenants on it; he also owns Ara Iba, Edunabon and Elegberun farmlands. Lomia Ademiluyi has farmland at Ajebandele; the farmland at Abaegbe belongs to Adelaja and Adeyeni Ademiluyi; Osogun farm belongs to Sam Adewole Ademiluyi and he also owns part of Idiako. Oriapata farmland belongs to E.T. Adewoyin; Apoje farmland belongs to Eman Taiwo, Josiah Adebayo Ademiluyi; part of Isoya farm belongs to Lomia Ademiluyi; part of Isireyun farm belongs to Adeyeni Ademiluyi. I cannot say why

In the High Court

Defendant's
Evidence
(Continued)

No. 12

Jones Adeyeye
7th & 8th
November 1961
Examination
(Continued)

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In the High Court

Defendant's
Evidence
(Continued)

No. 12

Jones Adeyeye
7th & 8th
November 1961
Examination
(Continued)

the plaintiffs took this action against me, because I fought out the case myself. The plaintiffs have tenants on their own farmlands and I do not share their profits with them.

Adeyemo Eletiko was living in my father's house and died there; he belonged to Gbewiri branch of the family; he never went with me over this land in dispute. I did not promise to share my profits on the land with any body. The farmland in dispute belongs to me in my own right.

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Cross-Examination

XXd. by Olagbaju: I can read and write. I read the petition before I signed it. I understand the contents of the petition. According to the Otutu family history our ancestor had title to the farmland in dispute and we so contended in the petition; but when the petition was turned down and all litigation over the farmland proved abortive I decided to approach the Oni to obtain title to the land; I signed the petition in 1950 because my name was mentioned in it that I had farmland there. I was present at the family meeting held in 1933 at home and in the farm. I cannot say if there was confusion concerning the use of Otutu family farms in 1933. The present Oni granted me the farmland in dispute in 1952. The farmland was partly cultivated in 1952 and partly virgin forest. I had been on the land before it was granted in 1952. I sent one Pa Oye to the Oni to beg for me. I have been on the land since 1938 and there was dispute over it till I got the grant in 1952. The hunter Faro who showed me the land is still living and it was he who told me that farmland belonged to Otutu family but the Oni and council said that Otutu had only hunting rights over it. Adebowale is my uncle. I cannot say if he has farmland anywhere. I do not know how many children had Oni Ademiluyi. My father had ten children. I gave nothing to the 3rd plaintiff because he contribute nothing to my efforts in acquiring the farmland. I have about three hundred tenants on the land and I collect one-hundred-weight (1 cwt.) of cocoa from each tenant. The price of cocoa is not stable. Eletiko was a servant to Oni Ademiluyi who used to send him round to Modakeke and Ipetu. I got my

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tenants on the land through Joel Bajepade who was appointed a Receiver.

In the High Court

Adjourned 8/11/61 - x-exam to continue.

Defendant's
Evidence
(Continued)

(Sgd) M.O. Oyemade
Judge

No. 12

WEDNESDAY THE 8TH DAY OF NOVEMBER, 1961.

I/257/58: E.T. Adewoyin & others.....Plaintiffs
v.
Jones AdeyeyeDefendant

Jones Adeyeye
7th & 8th
November 1961
Cross-Examination
(Continued)

10 Parties present - Mr. Olagbaju (Ademola with him)
for plaintiffs.
Mr. Omisade for defendant.

Defendant - Jones Adeyeye (m) Sworn on Bible
states in Yoruba. X-examination continues:

20 XXd. by Olagbaju: Joel Bajepade simply gave me
tenants but he did not know the boundaries of my
land. I did not tell him I was putting tenants
on the land as a representative of the family. I
took action against one Odera in respect of this
same land in dispute. I took the action for
myself and I claimed the land for myself and not
for the family.

Note: Witness is shown copy of proceedings
in Suit No.I/49 which states "The
plaintiff claims for himself and on
behalf of his family".

Evidence continues: The family referred to in
the Suit I/49 is "Jones Adeyeye family".

30 Certified copy of proceedings in Suit I/49
Jones Adeyeye v. Sanni Odera tendered in evidence
and marked Exhibit "E". No objection. The
judgment in the suit was reversed on appeal.

Exhibit "E"

At the time the action was taken the farmland
was under cultivation. According to our family
history I understand that Otutu family had
produced seven Onis. I agreed that Otutu family
is an illustrious family. I cannot say if Otutu
family had laid claim to this farmland in dispute

In the High Court

Defendant's
Evidence
(Continued)

No. 12

Jones Adeyeye
7th & 8th
November 1961
Cross-Examination
(Continued)

for over 400 years. I signed the petition Exhibit "A" because the elders said that our family had been laying claim to the land for 400 years. I am not the only educated person in the family. I am now about 60 years of age. It was when we were preparing the petition in 1950 that the elders in the family mentioned the Yoruba song quoted in the petition. I did not hear the song before 1950. I signed the petition because I believe the contents were correct. The land in dispute was never a communal land. I know Soko Adeyinka. I cannot say if the land at Eleja camp was allotted to him. Oriapata farmland was allotted to E.T. Adewoyin and it is still in his possession; it was part of Otutu farmland; he did not approach the Oni for a grant because he had no trouble on his land. 10

Part of Osi farmland was in possession of SokO Ademakinwa before we wrote the petition. The children of Ademakinwa are now on the farmland. Osi is part of Otutu family land. He did not go to the Oni for a grant because there was no dispute over his farmland. I do not know what farmland was allotted to Aseri and I cannot say if his people are still on the land. He did not go to the Oni for a grant because there was no dispute on his farmland. Osi farmland is about ten miles from Ife and has been under cultivation for a long time; my farmland is about 26 miles from Ife. If tenants are put on family land members of the family should share the Isakole; but the land in dispute is mine. 20 30

Re-examination

Re-exam: The petition of 1950 was written after the case I had against Odera. In our petition para. 6 - we contended that our right to the farmland is farming right and not hunting right. There was no minute book from which the extracts of allotment were made; the allotments mentioned were not true in fact.

No. 13

JAMES ODUNLADE

In the High Court

Defendant's
Evidence
(Continued)

No. 13

James Odunlade
8th November 1961
Examination

1st witness for defendant: James Odunlade (m)
Sworn on Bible states in Yoruba. I live at
Agbakuro compound Ife. Farmer, I am a member of
Agbakuro family. I know Jones Adeyeye. I have
my farm in Amule village. I know defendant's
farmland at Omifunfun; we have common boundary
and I pass over his land into mine. I had a
10 boundary dispute with the defendant about ten
years ago. The dispute was referred to the Oni
who sent an Emese called Itiaran to demarcate the
boundary for us. The defendant and I were present
at the demarcation; about five other members of
my family were also present. Since then there has
been no dispute between us.

XXd. by Ademola: I am not the head of Agbakuro
family. Our family land in that area was granted
to our forefathers from time immemorial by the
20 former Onis. I have been seeing the defendant on
his own land for about twenty years before I had
boundary dispute with him; he was cultivating and
farming on the land then. The dispute between me
and the defendant was settled by the Oni. It was
when the defendant's tenants trespassed into my
farmland that I reported to the Oni. The
defendant belongs to Otutu family; the land on
which he was farming then was called Otutu family
land.

30 Re-exam: No question.

Cross-Examination

No. 14

JAMES ITIARAN

No. 14

James Itiaran
8th November 1961
Examination

2nd witness: James Itiaran (m) Sworn on Bible
states in Yoruba. I live at Opa's compound Ife.
I am Chief Yegbata of Ife. I know the defendant.
I know the Agbakuro family. About ten years ago
the Oni sent me to go with members of Agbakuro
family and the defendant to go to the farm where
there was a boundary dispute between them I went to
40 the farmland and found that the place was virgin
forest and there was no peregun trees or any other
land-marks to demarcate the boundary between them.
I went and reported to the Oni who sent me. Later

In the High Court

Defendant's
Evidence
(Continued)

No. 14

James Itiaran
8th November 1961
Examination
(Continued)

I went and inspected the farmland with the parties. I took a big tree in the forest between them and marked it and the defendant with Agbakuro family members put stones round the tree which was used as the boundary mark. Since then there was no dispute between them.

Cross-Examination

XXd. by Olagbaju: I have been palace official since the reign of Oni Olubushe. I know Oni Ademiluyi who reigned after Olubushe. The land over which there was boundary dispute then was called Omifunfun, I cannot say if Omifunfun is part of Otutu family land. All I went to do was to demarcate the boundary between the defendant and Agbakuro.

10

The defendant is a member of Otutu family. Nobody said at that time that the land belonged to Otutu family. I know Otutu family has farmlands at Ara, Osi. I cannot say if Otutu family owns Omifunfun and Onigbodogi. When I visited the farmlands ten years ago I saw cocoa trees on the land of the defendant and also on the land of the Agbakuro family but there was a big virgin forest between them and it was in respect of the forest that we went to demarcate the boundary between them. If tenants are put on family land the Isakole collected should be shared between members of the family. When I visited the land of the defendant I went for the purpose of demarcating the boundary and not to find out the owner. The Oni grants only virgin forest and not cultivated farmland.

20

30

Re-Examination

Re-exam: Questions put by leave of Court:

Hunting rights over a land does not confer title to cultivate or farm on such land; such land extends over a wide area; the hunter would give kolanuts and bush meat to the Oni every year. If such a hunter wants to have agricultural rights over such area or any part of it he should apply to the Oni who would send his officials and chiefs to grant him the land for agricultural purpose. The Oni has right to settle land disputes referred to him.

40

No. 15

In the High Court

COMFORT ODESOLA

Defendant's
Evidence
(Continued)

No. 15

Comfort Odesola
8th November 1961
Examination

10 3rd witness for defendant: Comfort Odesola (f)
sworn on Bible states in Yoruba. I live at Lujumo
compound Ife. Petty trader. I know the defendant.
My brother Lawani Ogunlana is dead. We have a
family land at Ologiri village. I remember that
about twenty-three years ago the defendant
encroached on the farmland of my deceased brother
and the matter was reported to the Oni who sent
some Emeses to go to the farmland and demarcate
the boundary between the defendant and my brother.
One of the Emeses is called Gabriel. I was
present when the boundary was marked out. One
peregun tree and Atori tree were planted to mark
the boundary; the trees were planted in one spot.
Since then there has been no dispute.

20 XXd. by Ademola: I belong to Lujumo family and our
land is called Ologiri. We have been farming at
Ologiri before the boundary dispute; the defendant
has been cultivating his farmland before that time
also. I knew the defendant 23 years ago; he
belongs to Otutu family. The defendant was on
Omifunfun land but I do not know how he came there.
I was not the head of my family; members of our
family knew about the dispute between us and the
defendant. I was with my husband twenty-three
years ago but I still took interest in my family
property. I knew this morning that I was to give
30 evidence in this case. I am giving evidence of
what I know. One Johnson was one of the Emese
sent to demarcate the boundary for us. Johnson is
still alive. Gabriel is another Emese sent that
day; he is still alive; the third Emese is dead.
I did not see the 2nd witness for defendant
(Itiaran) when the boundary was marked out.

Cross-Examination

40 The defendant encroached on our family land
and so there was a dispute. He had then cultivated
his farmland planting cocoa and yam. There was
virgin forest between our farmland and that of the
defendant. When the peregun and atori trees were
planted to mark the boundary I did not go. I was
later shown the boundary.

Re-exam: Members of our family are now using the
farmland.

Re-examination

In the High Court

No. 16

Defendant's
Evidence
(Continued)

GABRIEL ORATOYE

No. 16

Gabriel Oratoye
8th November 1961
Examination

4th witness for defendant: Gabriel Oratoye (m)
Sworn on Bible states in Yoruba. I live at
Akinosinla compound Ife. Farmer. I have been an
Emese for over forty years. I served under the
late Oni Ademiluyi. I know the defendant. About
23 years ago one Lawani Ogunlana lodged a
complaint before the present Oni that the
defendant trespassed into his farmland. The Oni 10
called the parties to the palace and sent me,
Jaiyeoba and James Sope to go to the land and
demarcate the boundary between the defendant and
Lawani Ogunla. Three of us went with the parties
and demarcated the boundary. Jaiyeoba who led us
then is now dead. The defendant and Lawani with his
people were present when we demarcated the boundary.
There were many people who came with Lawani and I
cannot say if the 3rd witness for the defendant
(Comfort) was present. We planted peregun trees 20
along the boundaries. I cannot say how long was
the boundary between the defendant and Lawani.
After the demarcation we reported to the Oni.
There has been no dispute since then.

Cross-Examination

XXd. by Olagbaju: The farmland between the land of
the defendant and that of Lawani was virgin forest;
it was when the defendant cleared part of the
forest that Lawani claimed it for his family.
We then shared the virgin forest between the
defendant and Lawani. Lawani Ogunlana was 30
claiming the farmland for Lujumo family. The
defendant said the farmland was his own. The
defendant is a member of Otutu family. The
defendant and Ademiluyi are members of the same
family. I do not know those who came with Lawani
Ogunlana when we demarcated the boundary. Some
other people also came with the defendant. I did
not see Okero Ademiluyi there when we marked out
the boundary. I remember seeing Okero Ademiluyi
when we went to Elegberun farmland on another 40
occasion. The defendant and Lawani Ogunlana had
been cultivating their farmlands before we went
there to demarcate the boundary. I did not go
back to the farm since then. I know Johnson an
Emese; he did not go with us to demarcate the
boundary. My family has a farmland at Iponrin.

I served as an Emese under Oni Ademiluyi for about ten years.

Re-exam: No questions

Adjourned 14/11/61 for Surveyor's evidence and for 20/11/61 for the Oni's evidence at the Governor's Office Ibadan at 10 a.m.

(Sgd) M.O. Oyemade
Ag. Judge.

In the High Court

Defendant's Evidence (Continued)

No. 16

Gabriel Oratoye
8th November 1961
Cross-examination (Continued)

No. 17

No. 17

10

JONES ADEYEYE (RECALLED)

Jones Adeyeye (Recalled)
14th November 1961.

TUESDAY THE 14TH DAY OF NOVEMBER, 1961.

Parties present - Olagbaju for plaintiffs.
Omisade for defendant.

Mr. Omisade applies to recall the defendant.

Application granted.

20

Defendant: Jones Adeyeye (m) Sworn on Bible states in Yoruba. In Suit I/49 between me and Sanni Odera, I got judgment against Sanni Odera but that judgment has been reversed on appeal. The defendant appealed and it was heard in the Resident's Court of appeal on 31/5/50. This is the certified copy of proceedings No.12/50. Tendered. No objection, Exhibit "F".

Examination

Exhibit "F"

30

The case was referred to the Ife Lands Court as directed in Exhibit "F". The order to take fresh evidence was complied with by the Ife Lands Court on 7/11/50. Certified copy of proceedings of 7/11/50, tendered. No objection.
Exhibit "G". On 13/11/50 the proceedings in case No. 12/50 in the Resident's Court of Appeal were continued and the record shows what had transpired. Certified copy of proceedings of Suit 12/50 of 13/11/50 tendered. No objection. Exhibit "H". The appeal lodged by Jones Adeyeye (now defendant) was heard in the Court of District Officer Ife on 16/2/51 - Case No. 7/1949 - Certified copy of proceedings and judgment delivered on 18/6/51. Tendered. No objection. Exhibit "J".

Exhibit "G"

Exhibit "H"

Exhibit "J"

In the High Court
Defendant's
Evidence
(Continued)

No. 17

Jones Adeyeye
(Recalled)
14th November 1961
Cross-Examination

XXd. by Olagbaju: I heard of the song quoted in the petition when we wrote the petition. I admit that I was claiming the farmland for Otutu farmland but the decisions of the land Court were that the family had only hunting rights over the land.

I was cultivating the farmland before and during the hearing of the cases between me and Sanni Odera. I had boundary dispute with Sanni Odera. I do not know the farmland of C.A. Layade because it is very far from my farm. I did not obtain the grant of the land in dispute on behalf of Otutu family. 10

No. 18

Josiah Oladipo
Laniyonu 14th
November 1961
Examination

Exhibit "K"

No. 18

JOSIAH OLADIPO LANIYONU

4th witness for defendant: Josiah Oladipo Laniyonu (m). Sworn on Bible states in English. I live at N3.589 Agbaje Street, Inalende, Ibadan. Licensed Surveyor. I know the defendant. He engaged me to prepare a survey plan for the purpose of this case. Plan No. L & L/A 3563 tendered and marked Exhibit "K". The Survey plan Exhibit "C" is contained in Exhibit "K" and thereon edged red. The boundary of the farmland claimed by the defendant is edged violet in Exhibit "K". There is the Onigbodogi stream to the north of plan Exhibit "K". In Exhibit "C" the stream shown to the north is not named. The Omifunfun stream is flowing from north towards the south and west of Omifunfun village; and not east of the village as shown in Exhibit "C". In Exhibit "C", the stream shown along the southern boundary is not named; but in Exhibit "K" it is shown as Onigbodogi stream about half a mile south of the boundary shown in Exhibit "C". The stream flows westward to join Amula stream. It is not natural for the stream shown in Exhibit "C" to flow uphill and to the north as indicated by the arrows. The Amula stream is bigger than Onigbodogi stream and it is natural that a smaller stream flows into a bigger stream. 20 30 40

The survey of the farmland took about a month and I lived in Omifunfun village with my men during the progress of the work.

XXd. by Olagbaju: The defendant showed me a copy of Exhibit "C" before I prepared Exhibit "K". It is usual for the plaintiff to file his own plan and for the defendant to make his plan and point out any points of difference. The directions in which the rivers on the land flow shows the topography of the land. I surveyed the area shown to me by the defendant. I was not on the land continuously but my trained men were there to carry on the work under my directions. Field notes were made and submitted to the Survey Department for checking.

10

Re-exam: No questions.

Adjourned 20/11/61 at Ibadan 10 a.m.

(Sgd) M.O. Oyemade
Ag. Judge. 14/11/61.

No. 19

SIR ADESOJI ADEREMI

HOLDEN AT IBADAN

MONDAY THE 20TH DAY OF NOVEMBER, 1961

20 I/257/58: E.T. Adewoyin & ors. vs. Jones Adeyeye

Parties present. Chief Williams Q.C. (Omisade with him) for defendant.
Olagbaju (Ademola with him) for plaintiffs.

30

5th Witness for Defendant: Sir Adesoji Aderemi (m). Sworn on Bible states in English. I am the Oni of Ife. I ascended the throne in 1930. I know the defendant. As the Oni of Ife I have control of all the virgin forest in Ife division. According to native law and custom I settle land disputes brought before me. In the late thirties I knew that people were going to farm in the virgin forests in Ife division without my authority and I took steps to stop that practice, and even a by-law was made to control farming in the forest. All people belonging to hunting families and forest owing Chieftaincy families

In the High Court

Defendant's
Evidence
(Continued)

No. 18

Josiah Oladipo
Laniyonu 14th
November 1961
Cross-Examination

Re-examination

No. 19

Sir Adesoji
Aderemi 20th
November 1961

Examination

In the High Court

Defendant's
Evidence
(Continued)

No. 19

Sir Adesoji
Aderemi 20th
November 1961
Examination
(Continued)

knew that they ought to consult me before going to farm in virgin forests. The defendant and the plaintiffs belong to the Otutu family which had hunting rights in the forests. The defendant later came to me to ask for permission to go to Omifunfun forest to go and farm there and I agreed. It is illegal for anyone to go and farm in the virgin forest without my permission according to native law and custom. The defendant came and asked me to allow him to farm in the forest i.e. 10
Omifunfun area where his family (Otutu) had hunting rights. I remember that on a few occasions after I had granted permission to the defendant to farm in Omifunfun forest there were some boundary disputes between him and some members of other families having farmland adjacent to him. I sent Emeses to the farmland to settle boundary disputes between the defendant and other families. When once the Oni grants virgin forest to a person, such farmland belongs to the grantee and his 20
descendants. The method of granting farmland to people is that if the applicant is from a hunting family the Oni grants to such a person permission to go and farm within the area where his family had hunting rights; in the case of applicants from other families, I would send for the head-hunter in the area and inform him of the request of the applicant and later send Emeses to go with them to the virgin forest and cut sufficient forest for the applicant for farming purposes. 30

Hunters are generally guardians of the forests with the right to hunt within such forests, and kill game, collect kolanuts; part of which they give to the Oni. The hunters all over the forests know their boundaries; in the olden days there was no need for farming area in the forests because they were too far from the town; but with the increase in the value of cocoa and other products, people now want to have farmlands for agricultural purposes; some strangers used to 40
approach families with hunting rights for a grant of virgin forest for agricultural purposes but such families used to bring such strangers to the Oni who would then send Emeses to the forest to cut out boundaries for such strangers. I remember there was a dispute between the defendant and one Odera; the dispute was a long drawn one ending in a court action. After that case the defendant came to me and asked me to confirm his farming rights at

Omifunfun; I told him I had already granted him permission there and that he could carry on; the dispute between him and Odera stemmed out of the defendant's argument that Odera's farmland belonged to him and I said no. I had granted farming rights to other persons in Omifunfun area. People to whom I had granted farming rights in the forest can bring tenants to their farmland.

In the High Court

Defendant's
Evidence
(Continued)

No. 19

Sir Adesoji
Aderemi 20th
November 1961
Examination
(Continued)

10 XXd. by Olagbaju: At the time the defendant approached me I knew the area was a forest. I was assured that the area was not under cultivation then. The defendant was the first person to whom I granted farmland in that area. As the Oni I have no right to grant farmland which had been under cultivation because such land would have been granted by me or by my predecessors.

Cross-Examination

20 When the defendant first approached me for a grant of the farmland I did not send any chief or Emese to go and mark out the boundaries of the area granted him but when there was dispute with other families about boundaries I sent chiefs and Emeses to go and demarcate the boundaries for them. The grant of virgin forest to a person takes effect from the time the grant was made.

30 The song quoted in the petition (Exhibit "A") is not known to me. It might be a family song. I remember seeing the petition Exhibit "A", but I did not agree with the contention of the petitioners that their rights were not hunting rights. At one time members of families having hunting rights in the forests claimed that they had family rights over the area where they hunted but I made it clear that that view was wrong. There are chieftancy families at Ife which were given forests because of their heroic deeds and such forests belong to their families; hunters over such forests paid tributes of bush meat to the chiefs instead of the Oni; such chiefs are e.g. the Obaloran, Yannigan families.

In the High Court

Defendant's
Evidence
(Continued)

No. 19

Sir Adesoji
Aderemi 20th
November 1961
Re-Examination

Re-exam: If someone had gone to farm in the forest illegally i.e. without the permission of the Oni, there is nothing to prevent the Oni from making a grant to that person later and regularise the position.

No. 20

Counsels Addresses

(a) Chief Williams
for Defence 20th
November 1961

No. 20

COUNSELS ADDRESSES

(a) (CHIEF WILLIAMS FOR DEFENCE)

Case for defence

CHIEF WILLIAMS ADDRESSES: Refers to the evidence of the 1st and 2nd witnesses for the plaintiffs. 10
Their evidence dealt mainly with the petition of 18/12/50 - Exhibit "A". It appears that the plaintiffs are relying on Exhibit "A" to establish the fact that Otutu family had family rights over the area and not hunting rights. Exhibit "A" does not help either side. It shows at page 1 that the defendant has a personal allotment at Omifunfun Onigbodogi; Exhibit "A" also admits that the Court had decided that Otutu had only hunting rights; the petition is in effect against a decision of 20
the Court.

Regarding the evidence of 4th plaintiff- G.O. Ademiluyi - he too was one of those who swore to Exhibit "B" para. 8 - Contrast this with para.18 of the statement of claim. Under cross-examination this witness contradicted para 15 of statement of claim.

The 4th plaintiff said that there were four branches of Otutu family whereas the 6th witness for plaintiff said there were three and gave three 30 different names. The 4th plaintiff said he was present at the 1933 family meeting but the 6th witness for the plaintiff (C.A. Layade) said that the 4th plaintiff was then too young and would not

have been invited to the family meeting. The Court should hold that 4th plaintiff was in all probability not present at that meeting; and further the evidence of the 4th plaintiff as regards what happened at that meeting was not materially supported by the 6th plaintiffs' witness. Layade said that what was discussed at that meeting was a dispute between him (Layade) and Soko Ademakinwa. Compare this evidence of Layade with paragraph 5 of statement of defence. The evidence of defendant's surveyor should be accepted as regards the accuracy of the plan. From the demeanour of the 3rd plaintiff (J.K. Adeyeye) it appears he knows little or nothing about the land in dispute. C.A. Layade is the head of the plaintiffs' family and there is much in his evidence. He confirms that defendant had exercised acts of ownership in the land in dispute in his own right. The defendant and the Oni of Ife have given evidence. The Court should accept the evidence of the defendant as to how he came to sign Exhibit "A". The Oni has confirmed that he gave land personally to the defendant in the late thirties; he confirmed that he settled dispute between the defendant and other boundary owners; such disputes could not take place unless the defendant and/or his tenants were exercising rights of ownership in that area. There was nothing to challenge what the Oni said about the settlement of the disputes. The evidence of the Oni confirmed that all the Otutu family had on the land in dispute were hunting rights. Exhibit "A" confirmed that Otutu family had only hunting rights.

This is a claim for declaration of title and the onus is on the plaintiff to establish his claim. They cannot expect to succeed by relying on the weakness of defendant's case. Kedniliye v. Odu and others. 2 W.A.C.A.336 at 337.

In this case the plaintiffs' case should be dismissed; the areas of their claim are not defined with certainty. The plaintiffs' have admitted that the defendant had farmland within the area claimed but they have not been able to show it vis-a-vis the area they claimed.

According to the statement of claim it was said that the land in dispute was allotted to

In the High Court

Counsels
Addresses
(Continued)

No. 20

(a) Chief Williams
for Defence 20th
November 1961
(Continued)

In the High Court
Counsels Addresses
(Continued)

No. 20

(a) Chief Williams
for Defence 20th
November 1961
(Continued)

Ademakin/Ademiluyi branch of the Otutu family. See paragraph 6 of statement of claim. The family land was said to be allotted and not partitioned.

If there was only an allotment the allottees could obtain an injunction but not a declaration of title - *Umana v. Ewa* 5 N.L.R. 25. The Court would not grant an injunction unless all the parties are before the Court. This is a claim by a branch of the Otutu family. There is no evidence of long occupation or use by the plaintiffs in this case. The defendant is a member of the same family as the plaintiffs, and it is therefore impossible to restrain him from going on the land as claimed. The claim for mesne profit is misconceived. The proper claim against the defendant is for an account even if it were accepted that the Otutu family put him on the land to collect rents on behalf of the family. The plaintiffs must prove some grant of the land to them, or long user of occupation to entitle them to a declaration of title; there is no evidence from the plaintiff as how they came to own the land by native law and custom.

10

20

As regards the money in Court, the Receiver collected it because the plaintiff said that the defendant should not be allowed to continue to collect the tributes which he had been collecting from tenants; if the plaintiffs' claim failed the money should be paid to the defendant.

(b) Mr. Olagbaju
for Plaintiffs
20th November 1961

(b) (MR. OLAGBAJU FOR PLAINTIFFS)

30

MR. OLAGBAJU ADDRESSES: Refers to Exhibit "A". The defendant signed it and was present at the family meeting of 1933. The extract of the minutes was attached to the petition. C.A. Layade is not the head of Otutu family. Ademakin/Ademiluyi family is a section of Otutu family. Layade was definite that the defendant was present at the 1933 family meeting. The plaintiffs' claim is that the land should be declared family land and not the personal property of the defendant.

40

The survey plan filed by the plaintiffs is accurate. There is no question of partition because each section of Otutu family knows its area of allotment. The evidence of the 4th

In the High Court

Counsels
Addresses
(Continued)

No. 20

(b) Mr. Olagbaju
for Plaintiffs
20th November
1961 (Continued)

10 plaintiff is that the defendant put tenants on
the land on behalf of the family. The defendant
did not give evidence that he approached the Oni
in the late nineteen thirties for grant of land
and such approach was not pleaded. The defendant
said in his evidence that he approached the Oni
in 1952. Refers to Exhibit "J" - the evidence of
the defendant in Suit No.7/49. The defendant had
been saying all along that the land in dispute
belonged to the family of Otutu; the traditional
history offered by the plaintiff is contained in
Exhibit "A" and there is no need to repeat its
contents. In 1952 the land in dispute had been
cultivated and the Oni cannot grant cultivated
farmland. Refers to Exhibit "E". The Oni said
that a grant of land cannot be retrospective;
nobody blamed the defendant for putting tenants
on the land. Chief Yegbata (Itiaran) said in
20 this case that he went there to settle boundary
dispute. Oratoye (Emese) said that if someone
put tenants on family land the members of the
family would be entitled to share in the Isakole.

The defendant is not a witness of truth; he
has come to this Court to deny all he did before;
he shifts from pillar to post. According to
native law and custom land always belong to the
family - Golightly v. Ashrifi 14 W.A.C.A. 676;
Asafoatse Agbloe & ors. v. Sapor 12 W.A.C.A. 187
Refers to G.B.A. Coker's family property among
30 Yorubas page 41 - 42.

Adjourned sine die for judgment.

(Sgd) M.O. Oyemade
Ag. Judge 20/11/61.

No. 21

No. 21

JUDGMENT

Judgment 30th
November 1961

HOLDEN AT IFE

THURSDAY THE 30TH DAY OF NOVEMBER, 1961

Suit No.I/257/58.

In the High Court

No. 21

Judgment, 30th
November 1961
(Continued)

Between:

1. E.T. Adewoyin
2. James Labondo Adebawale
3. Joseph Konko Adeyeye
4. Gabriel Oyedele Ademiluyi
5. Adebayo Ademiluyi Plaintiffs

vs.

Jones Adeyeye Defendant

Plaintiffs present - OLATAWURA for OLAGBAJU for Plaintiffs. 10
Defendant present - OMISADE for him.

J U D G M E N T

By their writ of summons, the plaintiffs claim against the defendant are for

(a) Declaration that the piece or parcel of land situate, lying and being at Omifunfun Onigbodogi, Ife district, and more particularly described and delineated in a plan to be filed later in this action is the property of Ademakin/Ademiluyi Family of Ife. 20

(b) Annual rent for the purpose of the action £5
£600 mesne profits.

(c) Injunction restraining the defendant, his servants and/or agents from entering or doing any act upon the land in dispute.

Pleadings were ordered and filed.

By their Statements of Claim the Plaintiffs aver among others that they are suing in a representative capacity on behalf of Ademakin/Ademiluyi family which is a branch of Otutu family; 30 that the land in dispute is called Omifunfun Onigbodogi and it is part of the farmlands belonging to Otutu family; that in 1933 the said land Omifunfun was one of the two portions of land allotted to the children of Oba Ademiluyi the late Oni of Ife at a meeting of Otutu family; that the allotment to Oba Ademiluyi's children included allotment to the children of his younger brothers, namely., Adebawale and Adeyeye now deceased; that the present defendant is one of the children of 40 Adeyeye; that in 1947 the defendant and one Eletiko began to put tenants on the land in dispute with

the consent of the family (Ademakin/Ademiluyi) on the understanding that members of the family would share the Isakole; that the defendant has refused to share any Isakole with other members of the family and has claimed the land in dispute as his personal property; Suit No.I/49 in the Lands Court Ife between the defendant and one Sanni Odera was also pleaded as being in favour of the family.

In the High Court

No. 21

Judgment, 30th
November 1961
(Continued)

10 The above represents a gist of the foundation on which the plaintiffs' claims are based and two of the plaintiffs (the 3rd and 4th plaintiffs) gave evidence in support of the claims and called witnesses.

20 The 4th plaintiff (Gabriel Oyedele Ademiluyi) gave evidence and said that the Otutu family comprises the following branches, viz: Ademakin/Ademiluyi, Soko Apete, Soko Ademakinwa, Aseri Agba he said before 1933 the Otutu family had various farmlands namely, Osi, Ara, Owena, Eleja Ogbo, 20 Omifunfun Onigbodogi, Idiako and any member of the family could go and farm in any of them, and particularly one Soko Ademakinwa used to put tenants in the various farmlands mentioned; as a result of his activities a family meeting was held in Osi farm with Soko Ademakinwa and it was decided that the various farmlands should be distributed amongst the branches of the Otutu family because they did not approve of his making use of the farmlands alone; consequently the Osi 30 and Omifunfun Onigbodogi farmlands were given to Ademakin/Ademiluyi branch (paragraphs 5 to 8 of the statement of claim refer). As averred in paragraph 8 of the statement of claim, the allotment to the children of Ademiluyi included the children of his younger brother, namely Adebowale and Adeyeye; the defendant being a son of Adeyeye and one Eletiko were appointed by allottees to put tenants on the land on behalf of the family; few years later the defendant was asked about the 40 Isakole being collected on the land but nothing was given, at another family meeting held in 1957 matter came to a head when the defendant refused to account for any Isakole and said that the land in dispute belonged to him personally. The 4th plaintiff said that the defendant and Eletiko put tenants on the land in dispute between 1938 and 1940 but the family received no Isakole between those years and 1958 when this action was taken.

In the High Court

No. 21

Judgment, 30th
November 1961
(Continued)

The 3rd plaintiff who gave evidence is Joseph Konko Adeyeye a half brother of the defendant; he said that the land in dispute was allotted to the Ademakin/Ademiluyi family; he does not appear to know much about the land in dispute; he however admits that he has a farm at Itamarun about six miles from Ife.

Another important witness for the plaintiff is C.A. Layade; he is an elderly man and claims to be the oldest member of Otutu family now living; he said Otutu family has three branches namely: Adeokun; Akinmoyero Odunle; and Obewiri. The Ademakin/Ademiluyi family belongs to Adeokun branch. He said Ademakin was the father of Ademiluyi, Adebowale, Adeyeye and Jala Owoadepo (a woman) he also said that the land in dispute was allotted to Ademiluyi and his brothers according to the petition and the allotment sheet Exhibit "A". Ara farmland was allotted to him personally. The witness admits being a signatory to the petition dated 18/12/50 and marked Exhibit "A".

The petition was addressed to the Oni and Council in 1950 by the Otutu family wherein the members of that family claimed to have produced about seven Onis of Ife and contending that the rights of their family in Omifunfun were not mere hunting rights but that the land belonged to their ancestors from time immemorial. The case between Jones Adeyeye and Sanni Odera (I/49) was referred to in the petition because in that case Jones Adeyeye contended that he was on Omifunfun farmland because it belonged to Otutu family of which he is a member; while the case was still in progress the petition was got up to buttress the claim of Jones Adeyeye part of paragraph 2 of the petition reads:

"Since 1933 this farmland has been divided into sections of the above named family as per allotment list attached. While on this point it is important to note that Gbadamosi Adewuyi, a grandson of Akinmoyero Odunle, an Oni of Ife, opened this allotment with his section at Osi, while Jones Adeyeye, a grandson of Shinlade alias Otutu closed the stretch of land with his own sectional allotment at Omifunfun Onigbodogi."

The allotment list, attached to the petition Exhibit "A" is as follows:-

In the High Court

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(Continued)

- "Extract from the family minute book Allotment
"of Otutu family Farmland - 15/6/33.
"1. Allotted to Asheri and his people - The
"land between Oshi and Owena including More
"and Adanbiaran camps - that portion situate
"on the East side of Oshi on entering Aba-Nla
"Oshi it situates on the left hand.
10 "2. Allotted to Shoko Ademakinwa and his people-
"the land between Oshi and Oke-Egan including
"Olowo and Ogbo camps which situates on the
"west of Oshi, on the right hand side on
"entering Aba-Nla.
"Note: Olowo and Ogbo Camps were destroyed and
"Ademakinwa's people settled at Oke-Egan.
"3. Allotted to the entire children of
"Ademiluyi and section. Two portions (a) the
20 "land from Oshi bounded by Peleoye, Ogbo and
"Owena rivers situating on the South of Oshi in
"the front from the mark point. The Second
"portion lies between Omifunfun and Idiako.
"4. Allotted to Adedini (Layade), the land
"bounded by Ara, Owena and Iworiya rivers along
"to the main path (this place is called Ara)
"including Okuru.
"5. Allotted to E.T. Adewoyin (Coker) the land
"between Olowo and Jetifa Camps (known as Aba
"Okero).
30 "6. Allotted to Shoke Adeyinka Olowu and Afuye
"Onifade the land between Peloye and Owona
"rivers including Eleja Camp.
"Note: Delegates sent to mark these portions
"were Jacob Obisanya, Eman Adewuyi, Okero
"Ademiluyi David Adeoye and others)."

The reply to the petition is dated 9/1/51 in which it was said that the case between Jones Adeyeye and Sannie Odera from which the petition stemmed was then subjudice. The reply is Exhibit "D".

- 40 It may convenient at this stage to deal with Suit No.I/49 (Jones Adeyeye v. Sanni Odera) which was pleased by both parties. The claim in that suit was as follows:-

"The Plaintiff's claim is for declaration of
"title to all that piece of farmland situated

In the High Court

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Judgment, 30th
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(Continued)

"and known as Omifunfun Onigbodogi bounded on
"the East by Ologiri's farmland, on the West
"by Agbakuro's farmland, on the North by
"Agbakuro's farmland and on the South by Jeje
"Ogunshakin's farm.
"The plaintiff claims for himself and on
"behalf of the family".

Judgment was given in favour of the plaintiff on
22/3/49 vide Exhibit E. Extract from the judgment
reads:

10

"(1) That the farmland in dispute belonged to
"Otutu Royal Family of Ife of which the
"plaintiff is a member.

"(2) That the plaintiff Jones Adeyeye by his
"connection is the head of Otutu family and
"therefore the owner of that farmland in
"dispute.

"We therefore grant title of the farmland to
"the plaintiff and order that the tenants put
"in the farm by Odera should be subject to
"the control of the plaintiff as their landlord
"if they wish to work in the farm....."

20

The plaintiffs relied on the above judgment
which was pleaded in paragraph 16 of the Statement
of Claim; but by paragraph 11 of the Statement of
Defence the defendant avers:

"With regard to paragraph 16 of the Statement
"of Claim the defendant states that the
"judgment in Suit I/49 has been reversed in
"the subsequent Courts of Appeal in that under
"Ife Native law and custom hunting rights in a
"forest do not confer title or ownership of the
"forest land."

30

Copies of subsequent proceedings were tendered
in evidence.

The defendant in Suit I/49 (Sanni Odera)
appealed against the judgment of 22/3/49 to the
Resident's Court Oyo Province. Certified copy of
proceedings in the Resident's Court is tendered as
Exhibit F. The Appeal Court recorded the
following opinion on 31/5/50:

40

"It seems unusual that a party should be able
"to convert hunting forest to agricultural

"purposes without the permission of the
"community as a whole as expressed by its
"head. It is ordered by this Court that
"the question be addressed to the Ife Land
"Court as to whether their judgment in favour
"of plaintiff was intended to confer absolute
"ownership of the land in dispute on the
"plaintiff or only to confirm his hunting
"rights over the whole."

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Judgment, 30th
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(Continued)

10 As a result of the above reference the Ife Land
Court took further evidence from Chiefs who were
Knowledgeable in native law and custom and on
7/11/50 the Land Court gave the following judgment
(Exhibit G refers):

20 "The Resident on hearing the appeal of the
"defendant appellant passed an interim order
"to this Court to say whether our judgment
"in favour of the plaintiff was intended to
"confer absolute ownership of the land in
"dispute on the plaintiff or only to confirm
"his hunting rights.
"We have taken fresh evidence on the question
"and it is clear that title to forest land like
"the one in question rests with the Oni of
"Ife in trust for the Chiefs and people of
"Ife. Hunters have only hunting rights.
" We are satisfied that our judgment of
"22/3/49 was wrong and we hereby revise it
"on the evidence before us and on the fact
30 "that hunting right on the land in dispute was
"originally granted by the Oni and Council to
"plaintiff's forefather.
" We recognise that plaintiff's father
"had hunting rights when the land was a virgin
"forest. That right of course ceases now that
"the forest has been cleared.
" We give no title to the plaintiff; but
"that does not mean that defendant either
"has the title."

40 It is interesting to note that although the
members of the land court were laymen their clear
cut judgment was in accordance with legal principle
as laid down in the case of Kodilinye v. Mbanefo
Odu 2 W.A.C.A. 336 which says:

"The onus lies on the plaintiff to satisfy
"the Court that he is entitled on the evidence

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"brought by him to a declaration of title. The
"plaintiff in this case must rely on the
"strength of his own case and not on the
"weakness of the defendant's case. If this
"onus is not discharged the weakness of the
"defendant's case will not help him and the
"proper judgment is for the defendant. Such
"a judgment decrees no title to the defendant
"he not having sought the declaration."

Jones Adeyeye appealed further against the 10
judgment of the Lands Court of 7/11/50 still
contending that in years gone by all Iife land was
allocated to families and that the land in issue
together with the large area of surrounding
country was allocated to his family.

At the hearing of the appeal, Onitiju, the
Obalorun, gave evidence and produced certain
documents - vide Exhibit J. He also said inter
alia:

"By native law and custom the Oni grants 20
"hunting rights over virgin bush, provided that
"this bush has not previously been allocated to
"anyone.
"A hunter will build a hut in his forest as
"his headquarters. He has the right to clear
" the bush and plant sufficient food crops for
"himself and his followers, but in the olden
"days the forest was too thick for cultivation
"and hunters usually took dried foodstuffs with 30
"them. A hunter would have no right to
"plant permanent crops. Of the five ruling
"families the Otutu and Agbedegbede are
"hunting families."

On 18/6/51 the Appeal Court confirmed the
judgment of the Iife Land Court given on 7/11/50.
Portion of the judgment of the Appeal Court reads:

"The plaintiff-appellant's argument that his
"family has had the right to farm the land
"since the days of Olofin is not reasonable.
"Even 50 years ago it is extremely unlikely 40
"that any person held farming rights more
"than 5 miles from his place of settlement.
"The only way in which plaintiff-appellant's
"family or Defendant-Respondent's for that

"matter could have obtained valid farming rights over this land would be from the grant of a recent Oni. Plaintiff-Appellant has not attempted to assert this. Defendant-Respondent has done so, but has brought no evidence to support this assertion. The claim must fail. The judgment of the land court given on 7/11/50 is upheld".

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(Continued)

10 Thus ended the chapters of the battle for the ownership or title to the land Omifunfun Onigbodogi, the battle which was fought by way of petition and legal process between 1949 and 1951.

20 I have earlier pointed out that the only reference made to Suit I/49 by the plaintiffs in this case is the first judgment given by the Land Court on 22/3/49 which favoured the plaintiffs and I have treated the course of subsequent appeals in order to show at once the shaky foundation on which the plaintiffs' claim is based. In paragraph 4 of the Statement of Claim the plaintiff avers that the land in dispute belonged to Otutu family of which Ademakin/Ademiluyi family is a branch but there is no evidence to show how Otutu got the land; and if Otutu had only hunting rights over the land in dispute which confers on farming rights as shown in the court proceedings quoted above there is nothing in the land in dispute which the family could properly allot memo dat quod non habot.

30 The defendant - Jones Adeyeye gave evidence in support of the material allegations in the Statement of Defence. He said that at one time the Otutu family of which he is a member was claiming title to the farmland in dispute but it was later decided that the family had only hunting rights over the land which confer no title on the family; he said before 1938 the farmland was a virgin forest, he said that there was a dispute between C.A. Layade (4th plaintiffs' witness) and one Soko Ademakinwa
40 sometime in 1933 about the farmlands at Osi and Ara and that dispute was the subject of discussion at the family meetings held in 1933; there was no mention of the farmland - Omifunfun how in dispute; he said it was in 1938 that a hunter called Faro showed him the land and told him that it belonged to Otutu family of which he is a member and on this belief he began to farm there;

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(Continued)

he said he informed the present Oni about it and he was told that he could carry on; later he had boundary disputes with members of Agbakuro and Lujumo families and the Oni sent Emeses to demarcate the boundaries for them and since then there had been no further disputes. In support of these settlements of boundary disputes, James Odunlade (1st defence witness) for Agbakuro family, Comfort Odesola (3rd defence witness) for Lujumo family, James Itiaran (2nd defence witness) then a Emese, and Gabriel Oratoye (4th defence witness) and Emese, gave evidence. This shows that the defendant has been working in this farm and expending his activities hence his constant clashes with his neighbours. The one person who asserted adverse title to that of the defendant was Sanni Odera whose case had been dealt with earlier on. 10

As regards the purport of the 1933 family meetings at which the plaintiffs allege that allotment of lands was made the defendant said there was no such allotment and that the allotment list attached to the petition was got up purposely to support that petition; he said the 4th plaintiff (G.O. Ademiluyi) who gave evidence in support of the allotment was not present at that meeting. The 4th plaintiff admitted that he was about 22 years of age then, and C.A. Layade an old member of the family expressed doubt as to whether the 4th plaintiff was present at the meeting he being a young man then; Layade said that at that meeting the dispute between him and Soko Ademakinwa was settled and further spoke of allotment of portion of Osi farm to E.T. Adewoyin and Ara farm to himself; he confirmed that in 1933 Omifunfun was a virgin forest. Without further investigation as to whether the allotment list was genuine or not suffice it to say that at that time the land in dispute was a virgin forest over which the Otutu family had only hunting rights and which they could not validly allot. 20 30 40

The defendant denies going on the land in dispute as an agent or representative of the family but it appears to me that he took active part in getting up the petition Exhibit A in 1950 in which the family was fighting for title over the land and also spearheaded the case in courts; this however might be explained by the fact that

he had more personal interest to stake in the farmland having been working there since 1938.

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Judgment, 30th
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(Continued)

In his evidence the defendant says:

"I fought my case in the Land Court and
"failed and so I decided to approach the Oni
"direct to grant me title to the farmland in
"dispute and he did so. No member of the
"family helped me financially or otherwise."

Under cross-examination he said:

10 "According to Otutu family history our
"ancestors had title to the farmland in
"dispute and we so contended in the
"petition but when the petition was turned
"down and all litigation proved abortive I
"decided to approach the Oni to obtain
"title to the land."

As against this, there is no evidence by the plaintiff as to whether the family spent any money on the litigation.

20 In any case a grant of the farmland in
dispute was made to the defendant personally
by the Oni in 1952. The Oni gave evidence on
behalf of the defendant and said that the defendant
told him about the farmland in question in the
later thirties and he told the defendant that he
could carry on his farming there; this appears
to support the defendant's contention that he went
on the land as a result of the information he
obtained from a hunter that the land belonged
30 to Otutu family and not as a result of any
family allotment as alleged by the plaintiff;
but if this is true, it is strange that both in
the petition (Exhibit A) of 1950 and in the Court
case No.I/49 the defendant was vocal and insistent
that the Otutu family's right over the land was
not merely hunting right. The position then to
my mind, was that the defendant did not mean what
he was saying and merely following his family
(Otutu) in the wrong path while he was secretly
40 paving way for his personal acquisition of the
farmland. However morally reprehensible this may
be on the part of the defendant, the plaintiffs
cannot call on him to account for what he did on

In the High Court

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(Continued)

the land because there is no evidence to support the view that the defendant was an agent of the plaintiffs. The learned author of Halsbury Laws of England Volume 1 page 147 paragraph 352 says as regards the Law of Agency:

"It may be stated as a general proposition
"that whatever a person has power to do himself
"he may do by means of an agent. The converse
"proposition similarly holds good that what a
"person cannot do himself he cannot do by 10
"means of an agent. It is only necessary
"speaking generally to ascertain who is legally
"competent to act or contract in order to
"know who is competent to be a principal."

On the above principle therefore and from the evidence adduced the Otutu family was not competent legally or by native law and custom to allot the farmland as stated and therefore the allottees had no title and cannot bring action in respect thereof. 20

In conclusion I may refer to the evidence of the Oni which simply confirms the decision given in the proceedings in the Ife Land Court already referred to and the fact that he granted the land in dispute to the defendant in his own right.

It may also be observed that the area of land shown in the plan Exhibit K filed by the defendant is larger than that shown in the plan Exhibit C filed by the plaintiffs; the area covered by Exhibit C is within the area covered by 30 Exhibit K. The difference in sizes does not however come up for decision in this case.

As regards paragraph 18 of the Statement of Claim which avers "that the defendant has no farm of his own on the land in dispute", there is no evidence to support this, rather a portion of the petition Exhibit A quoted above shows that the defendant had farmland allotted to him at Omifunfun Onigbodogi. As regards paragraph 21 of the 40 Statement of Claim which says that members of the Ademakin/Ademiluyi family had been rendered landless, the defendant denies this in paragraph 15 of the Statement of Defence and in paragraph 16 he says that the plaintiffs have farms in the

places mentioned therein; the defendant gave evidence in support of his averment and so also in C.A. Layade who gave evidence for the plaintiffs and said that the Osi, Otun Onikoto, Babaegbe, Ojerinde, Ara Iba, Edunabon, Elegberun, Ajebandele, Osogun, Idiako, Apoje farmlands are in possession of certain children of Ademiluyi. It is therefore not correct to say that all the members of the family had been rendered landless.

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(Continued)

10 From the evidence before me I find that according to traditional history, the Otutu family of which the plaintiffs are descendants had only hunting rights over the land in dispute and as such that family could not have validly allotted the land to anyone. I believe that the defendant had been farming on the land in the belief that the land belonged to Otutu family and that in 1952 the Oni regularised the position by making a grant of the land to the defendant. One would have thought that the claim of title to the land by the Otutu family having failed, the defendant should have negotiated the grant on behalf of the family but that is mere conjecture, because the right of the Oni to grant the land having been established he could have granted it to anybody else besides the defendant and the plaintiffs would have no right of action against such other person.

The plaintiffs' claims are therefore dismissed.

30 It is hereby ordered that the amount collected by the Receiver shall be paid to the defendant.

Costs: Mr. Omisade asks for costs as follows:

Survey plan	-	£625	-	-
Solicitor's fees	-	1025	-	-
Witness etc.		60	-	-
		<hr/>		
		£1710	-	-

Court: Costs awarded as follows:

40	Survey plan:	120	-	-
	Solicitor's fees	150	-	-
	Witness etc.	30	-	-
		<hr/>		
		£ 300	-	-

In the High Court

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Judgment, 30th
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(Continued)

Note: At this stage I am informed by the Receiver that he has not filed the Statement of account as ordered by Court on 8/11/61. He says he was sick. The account is to be filed on or before 8/12/61.

(Sgd) M.O. Oyemade
Acting Judge.

No. 22

Enrolment of
Judgment 30th
November 1961

No. 22

Enrolment of Judgment

10

IN THE HIGH COURT OF JUSTICE WESTERN NIGERIA
IBADAN JUDICIAL DIVISION

ENROLMENT OF JUDGMENT:

Suit No.I/257/58:

Between:

- 1. E.T. Adewoyin
 - 2. James Labondo Adebowale
 - 3. Joseph Konko Ademiluyi
 - 4. Gabriel Oyedele Ademiluyi
 - 5. Adebayo AdemiluyiPlaintiffs
- representing Ademakin/
Ademiluyi Family of Ife. 20

A n d

Jones Adeyeye Defendant
L.S. -----
(Sgd) M.O. Oyemade
Ag. Judge.

UPON the following claim of the plaintiffs against the defendant to wit:-

The Plaintiffs claims against the defendant are for:-

30

- (a) Declaration that the piece or parcel of land situate lying and being at Omifunfun Onigbodogi, Ife District and more particularly described and delineated in a Plan to be filed later in this action is the property of Ademakin/Ademiluyi Family of Ife.

Annual rent for purpose of the action £5

In the High Court

(b) £600 for mesne profits.

No. 22
Enrolment of
Judgment 30th
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(c) Injunction restraining the defendant, his servants and/or his agents from entering or doing any act upon the land in dispute.

10 COMING UP for hearing and determination in the presence of Mr. Olagbaju (Ademola with him) Counsel for the plaintiffs, Mr. Rotimi Williams Q.C. (Omisade with him) Counsel for the defendant: the Court after hearing both parties adjudges and orders as follows:-

"The Plaintiff claims are dismissed with Costs assessed at £300."

"IT IS hereby further Ordered that the amount collected by the Receiver shall be paid to the defendant."

20 ISSUED at Ife Under the Seal of the Court and the Hand of the Presiding Judge this 30th day of November 1961.

(Sgd) Sydney Foresy the
REGISTRAR HIGH COURT.

No. 23

In the Federal
Supreme Court

Notice and Grounds of Appeal

No. 23

IN THE FEDERAL SUPREME COURT OF NIGERIA

NOTICE OF APPEAL - RULE 12

SUIT NO. I/257/58

Notice and Grounds
of Appeal 11th
December 1961

HOLDEN AT LAGOS

BETWEEN:

F.S.C. No.

30 1. E.T. ADEWOYIN
2. J.L. ADEBOWALE
3. J.K. ADEYEYE
4. G.O. ADEMILUYI
5. A. ADEMILUYI

.....PLAINTIFFS/
APPELLANTS

In the Federal
Supreme Court

AND

JONES ADEYEYE DEFENDANT/RESPONDENT

No. 23

Notice and
Grounds of
Appeal 11th
December 1961
(Continued)

TAKE NOTICE that the Plaintiffs being dissatisfied with the whole decision of the Ife High Court, Western Nigeria, contained in the judgment of His Lordship Mr. Justice Moses Olatunji Oyemade, Judge Ife High Court, dated 30th day of November, 1961, doth hereby appeal to the Federal Supreme 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. 10

(1) 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.

(2) The whole decision of the lower Court is complained of.

(3) GROUND OF APPEAL

1. The judgment is erroneous, unreasonable and cannot be supported having regard to the weight of evidence. 20
2. Further grounds of Appeal will be filed when records of the proceedings is available to the appellants.

(4) RELIEF SOUGHT from the Federal Supreme Court of Appeal:

1. To set aside the judgment and award of costs of the lower court.
2. To enter judgment in favour of the Appellants. 30

(5) Persons directly affected by the Appeal:-

1. E.T. Adewoyin & others for Ademakin/ Ademiluyi Family c/o Their Solicitors Messrs. Okusage & Ademola, 23, Lebanon Street, Ibadan.

2. Mr. Jones Adeyeye c/o His Solicitor,
N.A. Omisade Esq., B.L.
162, Ireemo Road, Ife.

In the Federal
Supreme Court

No. 23

Dated this 11th day of December, 1961.

(Sgd) E.A. Ademola
FOR OKUSAGA ADEMOLA
Solicitors for the Appellants.

Notice and
Grounds of
Appeal 11th
December 1961
(Continued)

No. 24

No. 24

Counsels Arguments on Appeal

Counsels
Arguments on
Appeal 14th
November 1962

10

IN THE FEDERAL SUPREME COURT OF NIGERIA

HOLDEN AT LAGOS

ON WEDNESDAY, THE 14th DAY OF NOVEMBER 1962

BEFORE THEIR LORDSHIPS

SIR ADETOKUNBO ADEMOLA, KT. CHIEF JUSTICE OF THE
FEDERATION

JOHN IDOWU CONRAD TAYLOR FEDERAL JUSTICE

SIR VAHE ROBERT BAIRAMIAN, KT. FEDERAL JUSTICE.

F.S.C. 167/1962

20

E.T. Adewoyin & others)
representing Ademiluyi family etc.)
Appellants.

v

Jones Adeyeye

Appeal: judgment of Oyemade J., dated 30/11/61.

Kayode Q.C., for the appellant (Adenekan Ademola
& Duduyemi with him).

Chief Rotimi Williams Q.C., (Nzegwu with him) for
the Respondent.

30

Court raised the point of the appeal of the
Native Court decisions on this case - they are
Exhibits E, F, & G. In each of these cases the
constitutions of the Court changes from time to
time. The decisions, on the face of them, are
null and void. In what way does this affect the

In the Federal
Supreme Court

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Counsels
Arguments on
Appeal 14th
November 1962
(Continued)

appeal. Attention of Counsel called to this and arguments on the point might help the Court.

Kayode: "I would like the point to be available for us to argue as a ground of appeal".

Chief Rotimi Williams: "I cannot resist the point if the Court wishes the point argued, but I do not think appellant should be allowed to argue it. If it is to be argued, I agree that all the proceedings in the Native Court are nullities".

Both Counsel agreed that all the proceedings in the Native Courts are nullity. 10

Kayode argues:

It is agreed that both sides (plaintiffs & defendant) are members of the same family.

The defendant has enjoyed the user of the land in dispute as a member of that family. Until the happening of certain events he felt his family had no right to the land; he then sought to get the land personally.

The 5th witness for defendant (The Oni of Ife) based his evidence on the fact that the land was hunting land for the family of plaintiff and defendant, and that it was virgin land. 20

From the plan Exh. A., almost the whole of the land is cultivated excepting the boundaries. Whole land is 2889 acres (15 sq. miles) in all.

Learned trial judge in giving judgment, adverted his mind to the Native Court cases in p. 170 of the Record 17. We also supported it with the evidence of the Oni of Ife. 30

See also page 171 line 17 et seq.
Lines 22-29 very important.

Not at any time did the plaintiff or defendant say that the right the family had on the land was hunting right. Nobody said anything much about hunting rights until the Oni of Ife gave his evidence and said so.

Refers to p.147 of the Record - evidence of the defendant. P.147 from line 33 and at p.148 line 2 where hunting right for mentioned. See page 130 line 29 etc. P.131 is very important: In 1938, the land was in the hands of the family of parties. The defendant went to see the Oni on behalf of his family and was allowed to put tenants there for the family. How can the Oni then give it to defendant in 1948. Plainly, the Oni was misled in this matter.

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Supreme Court

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Counsels
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Appeal 14th
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(Continued)

10

Refers to p.132 line 10 etc....Petition Exh. A sent to the Oni: the defendant signed it.

Refers to p.174 - 185 (Exh.A). Defendant signed the petition at p.185.

Refer to Evidence of defendant at p.133 line 20. Also at p.135 case line (35)

Refers to p.137 (1st witness for defendant) at line 19.

20

Refers to Evidence of the Oni at p.151 line 29 to the end.

From the evidence of the defendant himself, plaintiff should have got judgment.

Land was under cultivation for about 20 years before the Oni granted it to defendant. He himself had said he had no right to make a grant of land already cultivated.

Move that judgment be set aside.

Chief Rotimi Williams supporting judgment:

30

The writ was issued by Ademakin-Ademiluyi family - see p.2 of the Record. At p.9 leave to sue for that family obtained.

It was never established that the land belonged to that family.

Kayode objects: There was nothing filed by the Respondent that judgment can be supported on other grounds.

Chief Williams: I am replying to what the appellant said: not raising a point of law. I am speaking of the identity of the land. Otutu

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No. 24

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(Continued)

family owned the land. Ademakin-Ademiluyi a branch of it. It was said that the land was allotted by the family to Ademakin-Ademiluyi family.

See Statement of Claim at p.75: paragraphs 6, 7 & 8. In reply see paragraph 5 of the statement of Defence.

The petition Exh. A: See page 175, lines 18-24 states that land in dispute was allocated to the defendant. Also p.182 from line 27. 10

The Court is to gather from the Petition at pages 175-176 and 186 that the family has allotted the land to the defendant. Refers to page 129 from lines 10-14.

A declaration of title cannot be granted without the Otutu family: it is said to be an allotment, not partition. Difference between the two.

Umana v. Ewa 5 N.L.R. 25

Injunction: How can they claim injunction; he is a member of the family. 20

Court: Will not be fair to keep him out of the land altogether. See para.20 & 21 of the Statement of Claim. It appears they are concerned with the money he collects: see page 125 line 20.

Williams: I am going by the writ.

Second leg of argument:

No evidence of ownership of the land by the Otutu family. It is true there was act of possession by that family for sometime thro' the defendant/Respondent; but after the Native Court case the defendant obtained a grant of land from the Oni of Ife and remained in occupation in his own right. 30

Evidence of the occupation was given and not disputed by

Mesne Profit

Proper action would be for account. 40

Not proved the allegation in the Statement of Claim that in 1933 the land in dispute was allotted to Ademakin - Ademiluyi family.

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Refers to evidence to p.122 from line 12 etc..... Evidence at p.127 line 21 et seq. at page 128, see lines 13-14. That rules him out: he knows nothing about the partition etc.

Counsels
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(Continued)

Evidence at p.128 from line 19
Refers to p.129 line 10 & 11.

10 The Evidence of the Oni of Ife: pp 149

It is submitted he has power to make a grant of land. It will be unreasonable for those who were hunting on the land to start farming it surreptitiously.

P.130: Line 12-13: In 1933, the land was virgin forest. Page 133 lines 34-35: land given to defendant in 1952. Unless the family can prove a grant.

Refers to the judgment at p.170 lines 12-16.

20 Kayode replies:

Paragraph 2 of the Statement of Claim admitted the defendant is not a stranger: a member of the family. See paragraphs 5-8 of the statement of claim.

The defendant agrees that up till 1952 the family owned the land: They claimed the land that it was theirs all the time.

The Oni's evidence was that he was assessed that the land was virgin land.

30 Referring to page 170 lines 12-16 where the judge referred to, matter of agency.

I refer to the case of Suimonu v. Disu Raphael (1927) H.L. A.C.881.

The defendant admitted the ownership of the land by the plaintiffs' family (to which he himself belongs) up till 1952.

No need to prove a grant: virgin land belonged to Oni. The plaintiffs are descendants of six Onis.

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No. 24

Counsels
Arguments on
Appeal 14th
November 1962
(Continued)

The judge's judgment based solely on judgment of the Native Court. The Oni confirmed the decision (Expression of the Learned Judge). Once the Native Court proceedings are done away with, there is nothing on which the Statement can stand.

At page 130 lines 34 & 35 the defendant admitted being present at the meeting at which the allotments were made, although he denies part of the allotment.

10

See page 131 lines 10-14: this makes it clear that defendant had no personal allotment in 1933 under Exh. A left till 1938 he was trying to get some land for himself out of family land to farm.

Refers to p.128 of the Record, line 20 et seq. Exh. A shows that the family has had the land for

Injunction: Only to the limits of evidence given. At p.125. mesne Profit: not pressed.

Judgment reserved.

20

(Sgd) A. Ade. Ademola
CHIEF JUSTICE OF THE FEDERATION.

No. 25

Judgment, 28th
January 1963

No. 25

Judgment

IN THE FEDERAL SUPREME COURT OF NIGERIA

HOLDEN AT LAGOS

MONDAY THE 28TH DAY OF JANUARY, 1963

BEFORE THEIR LORDSHIPS

SIR ADETOKUNBO ADEMOLA

CHIEF JUSTICE OF THE
FEDERATION

30

JOHN IDOWU CONRAD TAYLOR

FEDERAL JUSTICE

SIR VAHE BAIRAMIAN

FEDERAL JUSTICE

F.S.C. 167/1962

BETWEEN:

- 1. E.T. Adewoyin)
- 2. J.L. Adebowale)
- 3. J.K. Adeyeye)
- 4. G.O. Ademiluyi)
- 5. Adebayo Ademiluyi)

APPELLANTS/PLAINTIFFS

representing Ademakin/Ademiluyi
Family of Ife

In the Federal
Supreme Court

No. 25

Judgment, 28th
January 1963
(Continued)

v.

10

Jones Adeyeye

RESPONDENT/DEFENDANT

JUDGMENT

BAIRAMIAN F.J.:

The plaintiffs complain against the judgment of the 30th November, 1961, which dismissed their Suit (Ibadan No. 257/58). In their appeal they repeat their claim for a declaration of title to the land in plan CK 160/59 (on which it is shown edged red), abandon mesne profits, and confine the old claim for an injunction against the defendant entering the land to one against his gathering ish-akole from the tenants. The defendant, they said belongs to the plaintiffs' family and may go on the land like any other member of the family; their complaint is that he is claiming the land to be his own and keeping all the Ishakole to himself, instead of sharing it with the family. It amounts to £2,000 or more a year.

The defendant admitted in evidence that-

"If tenants are put on family land members of the family should share the Ishakole; but the land in dispute is mine."

The issue is whether the land belongs to the family.

Briefly put, the plaintiffs' case is that the land originally belonged to the Otutu family, of which their family is a branch; owing to one of the Otutu family, namely Shoko Ademakinwa, monopolizing some of the family land, the Otutu family held a meeting in 1933, at which family land was allotted to various branches; and the land between Omifunfun and Idiako was one of two portions

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allotted to all the children of Ademiluyi, the head of the Ademakin/Ademiluyi family (who are the plaintiffs by representation), and that allotment included the children of Ademiluyi's younger brothers, Adebowale and Adeyeye, the defendant's father. It is mentioned in the petition which the family, including the defendant, sent to the Native Authority of Ife in 1950. The plaintiffs go on to allege in their pleading that in or about 1947 Adeyemo Eletike, with the defendant, began putting tenants on the land with the family's consent on the understanding that when the tenants began giving Ishakole, all the members of the family would share. When the tenants began paying, the defendant at first promised to share, but did not, and finally said the land was exclusively his; and he has been keeping all the Ishakole which the tenants pay. 10

The defendant's case is, briefly, that he owns the land; it did not originally belong to the Otutus. At one time the Otutus alleged that certain areas of land in Ife district belonged to them because the family had hunting rights, but (says the Defence) later court decisions stated that hunting rights in a forest did not confer ownership. The defendant admits there was a meeting in 1933, but it was over a dispute between Soko Ademakinwa and C.A. Layade over a farm at Osi Soko. The land now in dispute was then unknown virgin forest and was not mentioned. The defendant denies the plaintiffs' allegation of his putting tenants on the land in 1947 on the family's behalf and promising to share the Ishakole; he alleges that since 1938 he has been farming and putting tenants on the land in his plan in his own right, and that before 1938 all the land in his plan was virgin bush. 20 30

I pause to note that his plan (L & L/A 3563) shows the land in dispute and some adjoining land besides, to which the plaintiffs lay no claim. 40

To revert to the Defence: paragraph 18 states - "Believing that the Otutu family who had hunting rights over the land also has title to the said land the defendant started to cultivate the said area of land and put tenants in various parts of the land".

Boundary disputes led to his suing one Sanni Odera in the Ife Lands Court in 1949: the plaintiffs allege that the suit was decided in favour of the family, and the defendant points out that on appeal it was held that hunting rights did not confer title but were to be distinguished from farming rights. The Defence goes on to allege that -

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10 "20. Thereafter the defendant approached the Oni of Ife Sir Adesoji Aderemi for a grant and confirmation of title of his holding of the land delineated in plan No. L & L/A 3563. The Oni of Ife as the custodian of unoccupied virgin forest land in Ife has the right to allocate or grant the land. The confirmation was accordingly made".

20 Paragraph 23 states that it was on that authority of the Oni that the defendant and his tenants cultivated the land from pure virgin forest and built up villages. Before the grant, he had exercised openly all acts of ownership; the Plaintiffs had never exercised any. When there were disputes over boundaries with neighbouring owners, the Oni sent his messengers to settle them.

30 It is plain that until the second pronouncement in the Lands Court on hunting and farming rights being different, everyone believed that the land was Otutu family land. When the defendant sued Odera, he says he did so on behalf of the Otutu family. Having regard to the fact that he signed the petition of 1950, which represents the land as having been allotted to the plaintiffs' family, which is the defendant's also, I am inclined to think that he sued on behalf of the plaintiffs' branch. Paragraph 18 of the Defence makes it plain that he cultivated and put tenants in the belief that the land was Otutu family land. In cross-examination he
40 said that -

"According to Otutu family history our ancestors had title to the farmland in dispute and we so contended in the petition but when the petition was turned down and all litigation proved abortive I decided to approach the Oni to obtain title to the land."

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He did so unbeknown to his family, in 1952, and obtained a grant of some 3,000 acres for himself alone.

It is not proposed to say more on the judgment under appeal than this - that it is affected by the second decision of the Lands Court in the Odera Suit. Both parties at the hearing of the appeal agreed that (for reasons into which there is no need to enter here) the proceedings in that court were a nullity; it was on that basis that arguments were advanced at the hearing. 10

The plaintiffs' case is simple; it is -

- A - This is, or was, rather, Otutu family land, which in 1933 was allotted to the plaintiffs' branch of that family, and the defendant belongs to that branch;
- B - The defendant put tenants on family land, so the ishakole they pay belongs to the plaintiffs' family; 20
- C - The defendant cannot avail himself either of the decision of the Land Court or of the grant from the Oni which he obtained thereafter.

That decision was admittedly a nullity. The grant was a nullity, too. James Itiaran, a witness for the defendant stated (at the end of his cross-examination) that -

"The Oni grants only virgin forest and not cultivated farmland."

The Oni too, as a witness for the defendant admitted that - 30

"As the Oni I have no right to grant farmland which had been under cultivation because such land would have been granted by me or by my predecessors".

The Oni's evidence is that before the boundary disputes between the defendant and neighbouring owners, at a time when he was assured that the land was virgin forest, he made a grant, without any defined limits, of the land to the defendant; 40

that later, when boundary disputes arose, he sent messengers to settle the boundaries; and after the Odera case he confirmed his grant to the defendant. That is putting the defendant's case higher than he himself puts it. The defendant admitted that it was after losing the Odera case that he sent someone to the Oni to give him a grant of the farmland - in 1952.

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10 In passing it is useful to note that the Oni, as father of his people, is approached sometimes to settle boundary disputes; it does not mean that he had granted the land in dispute or on either side.

I must now refer to a passage in the Oni's evidence in chief, where he said this -

20 "When once the Oni grants virgin forest to a person, such farmland belongs to the grantee and his descendants. The method of granting farmland to people is that if the applicant is from a hunting family the Oni grants to such a person permission to go and farm within the area where his family had hunting rights; in the case of applicants from other families, I would send for the head-hunter in the area and inform him of the request of the applicant and later send Emeses (messengers) to go with them to the virgin forest and cut sufficient forest for the applicant for farming purposes."

30

The distinction is invalid as in either case the grantee becomes sole owner; and as the rights of the family will be affected by being deprived of an area over which it has a right to hunt, natural justice requires that the family should be consulted. The grant which the Oni made - it was in 1952 - sinned against that rule insofar as it included virgin bush, and insofar as it was cultivated land it sinned against the rule which 40 is acknowledged by the Oni that he has no right to grant farmland under cultivation.

The defendant had been cultivating as far back as 1938. Part of his evidence in cross-examination is:

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"The Oni granted me the farmland in dispute in 1952. The farmland was partly cultivated in 1952 and partly virgin forest."

About 1938 he had a dispute with the brother of Comfort Adesola because he encroached on the latter's land; about 1951 he had a dispute with James Odunlate, who said the defendant's tenants encroached on his land; and who, by the way, said that the land on which the defendant was farming was then called Otutu family. There was also the dispute with Odera, which led to the Suit of 1949. Those disputes mean clearing or cultivation at the boundaries. How much of the land was virgin bush in 1952, and how much cultivated land, there is no means of knowing. 10

The plans in evidence, which were made in 1959, show that there is some light bush here and there, and some thick bush near the boundary; doubtless also in 1952 there was some virgin bush, but nothing hangs from that. Moreover, it was not the defendant's case in the court below that the Oni granted him virgin bush in 1952: there he relied on the land Court's decision that the people with hunting rights in bush had no right to farm it, and he wanted to relate back, to the days before he began cultivating what he believed was family land, the grant was made to him in 1952. Likewise on appeal the argument for him does not seek to differentiate between cultivated land and land that was bush in 1952: the argument is that as at the time when cultivation began, many years before 1952, the land did not belong to the family but was bush, and as the Oni (Who was installed in 1930 as such) did not make any grant of the bush, the family could not acquire any rights by surreptitious cultivation of land in which they hold only hunting rights, and it was competent to the Oni to make a grant to the defendant in 1952. 20 30

That argument depends on the judgment of the Land Court in substance, which is null and void. The fact remains that in 1952 the Oni made a grant of land under cultivation - that there were some bush parts does not matter upon the defendant's case: in fact his aim in approaching the Oni for a grant was to acquire title to the area under cultivation in the light of the Odera Judgment. 40

The grant was contrary to native law and custom and ineffectual to confer title for the reasons above stated (before the mention of the plans, in dealing with the Oni's evidence on grants).

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(Continued)

10 With the Odera judgment and the grant of 1952 out of the way, the plaintiffs' claim that the land is family land is plain, and cannot be gainsaid by the defendant, who, until the Odera judgment, shared the family belief in the tradition that the land belonged to the family, and it was in that belief that he cultivated it and put tenants on the land: Defence paragraph 18. He objects, however, that if the land belongs to the Otutu family, then plaintiffs are not suing on behalf of the Otutu family, but as representing a branch, namely Ademakin/
Ademiluyi family branch.

20 That objection does not come with good grace from a member of the family who disavows the family rights he had championed in the suit against Odera, nor is it available to him in view of his having signed the petition of 1950 believing that its contents were correct. According to paragraph 3 (a) of the annex to that petition, the land in dispute was allotted to Ademiluyi and his brothers, and the evidence for the plaintiffs is to that effect. It seems to me, therefore, that the plaintiffs, as between themselves and the defendant, can maintain their
30 claim against him. The court is not concerned in this case with any persons whom the defendant did not, because of the case he was putting up, ask to be joined: its only concern and duty is to adjudicate between the parties before it; and in my judgment the plaintiffs are entitled to succeed to the extent of the claims they have urged in their appeal.

40 In regard to costs, I have to observe that about half the material in the record was superfluous, and to regret that the solicitors for the appellants did not attend when the registrar of the court below was to settle the record, to advise him on what was relevant to the appeal. Appellants and their solicitors should realise that it is their duty to confine the record to what is relevant; and the registrar should look at the grounds of appeal for guidance in that regard.

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Supreme Court

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Judgment, 28th
November, 1963
(Continued)

There was no point in including all the material relating to the appointment of a receiver.

The following order is proposed :

The appeal of the plaintiffs from the judgment of the High Court of the Western Region in the Ibadan Suit No. 257 of 1958 dated the 30th November, 1961 is allowed and that judgment is hereby set aside and replaced by a judgment declaring that the land at Omifunfun Onigbodogi shown in plan CK 160/59 (Exhibit C) edged red is the property of Ademakin/Ademiluyi Family of Ife and an injunction shall issue restraining the defendant, his servants and or agents, from collecting Ishakole from the tenants on the land and taking the profits of the land, but the same shall be shared in the said Family, with liberty to apply to the court below in regard to the Ishakole collected by the receiver and by the defendant, and with costs assessed at three hundred guineas in the court below and at seventy-five guineas as costs of appeal. 10 20

(Sgd) Vahe Bairamian
FEDERAL JUSTICE

ADEMOLA, C.J.F.:

I agree with every word of the Judgment which has just been read by my learned brother. I only wish to comment on two points in the evidence. 30

In the first place the Oni of Ife, under cross-examination, said as follows : "At the time the defendant approached me I knew the area was a forest." This cannot possibly be the true state of the area because it was clear that in 1952 (when the defendant said he approached the Oni for the land) the area was not a forest. It is possible, however, that the Oni was misled.

The other point relates to the distinction which the Oni drew between an applicant for virgin forest land over which a family had hunting rights who is a member of that family, 40

and an applicant who is not. The Oni's evidence is that in the latter case he consults the head hunter of the family, but in the former case he does not. If his evidence means that his practice is in accord with native law and custom, then I am bound to say that it is not acceptable. For one thing, it is contrary to common sense and natural justice, for another I should require very strict proof of the implied suggestion that such was the distinction in native law and custom. The Oni was the last witness for the defence, so his suggestion could not be tested by questions to other witnesses. For the time being it must not be regarded as anything more than a mere suggestion on his part, designed as it was no doubt to justify his granting to a single individual member of a large family, without consulting the family or its head, a vast area of three thousand acres of land over which, at the least, the family had hunting rights insofar as it was virgin forest - which, by the way, it was not at the time of the grant except as to an undetermined portion.

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Judgment, 28th
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(Continued)

(Sgd) A. Ade Ademola
CHIEF JUSTICE OF THE FEDERATION

TAYLOR, F.J.:

I agree with both the judgments delivered.

(Sgd) John Taylor
FEDERAL JUSTICE

30 For appellants: Mr. R.A. Fani-Kayode, Q.C.
(Messrs. A. Ademola and O.A.
Duduyemi with him).

For the respondent: Chief F.R.A. Williams, Q.C.
(Mr. G.C. Nzegwu with him).

In the Federal
Supreme Court

No. 26

No. 26

Order Granting Final Leave to
Appeal to Her Majesty in Council

Order Granting
Final Leave to
Appeal to Her
Majesty in Council
6th August 1963

IN THE FEDERAL SUPREME COURT OF NIGERIA
HOLDEN AT LAGOS

Suit No. 1/257/1958
F.S.C. 167/1962

Application for an order
for Final Leave to appeal
to the Privy Council.

10

Between:

Jones Adeyeye Applicant

A N D

- 1. E.T. Adewoyin }
- 2. J.L. Adebawale }
- 3. J.K. Adeyeye } ... Respondents
- 4. G.O. Ademiluyi }
- 5. Adebayo Ademiluyi }

(Sgd)
L. Brett (Representing Ademiluyi)
AG. CHIEF Family of Ife)
JUSTICE OF THE
FEDERATION

20

Tuesday the 6th day of August, 1963.

Upon reading the application herein
and the affidavit of the Applicant sworn
to on the 29th day of May, 1963, and
after hearing Chief F.R.A. Williams, Q.C.,
(Chief A. Adesigbin with him) of counsel
for the Applicant and Mr. L.O. Ojunu of
counsel for the Respondents not opposing:

30

IT IS ORDERED that Final Leave to
appeal to the Privy Council be granted.

(Sgd) M.A. Macauley

CHIEF REGISTRAR

Exhibit "E"

Proceeding of Ife Native Court
in Suit No. I/49

Exhibits

Exhibit "E"

ON THURSDAY THE 24TH DAY OF FEBRUARY, 1949, BEFORE:

S. Makinde The Chief Olalufe V.P.
S. Elegbaju " " Obajio
E.J. Ajayi The J.P.

Proceedings in
Ife Native
Court in Suit
No. I/49
February/March
1949

SUIT NO. I/49 Jones Adeyeye (m) of Ife Plaintiff
vs.
10 Sannie Odera (m) of Okeigbo
Defendant

Claim:- The plaintiffs' claim is for declaration of title to all piece of farmland situated and known as OMIFUNFUN ONIGBODOGI, bounded on the East by Ologiri's farmland, on the West by Agbakuro's farmland, on the North by Agbakuro's farmland and on the South by Jeje Ogunshakin's farm.

The plaintiff claims for himself and on behalf of the family.

20 Plea: Not admitted. Both parties present.

Witness to the Plaintiff:- Jeje Ogunshakin, Ojo Adedire, James. Witness to the Defendant:- I have no witness but the evidence of the plaintiff's witness will suit my purpose.

Case adjourned on Court initiative till Monday the 28/2/49.

ON MONDAY THE 28TH FEBRUARY, 1949, BEFORE:-

30 S. Makinde The Chief Obalufe Vice-President
S. Elugbaju " " Abajio
E.J. Ajayi The J.P.

SUIT NO. I/49 FROM PAGE 61 JONES ADEYEYE VS.
SANNI ODERA.

Odera states:- I am having a witness but on the day I said that I had no witness I said so through fear. I was afraid to mention the name of my witness on the day because I have seen him last since one year and half and I did not know that

EXHIBITS

Exhibit "E"

Proceedings in
Ife Native
Court in Suit
No. I/49
February/March
1949 (Continued)

my witness will be traceable.

Court Odera: Who is your witness?

Ans Afilaka

Case adjourned 5/- Pd.CR.No.28607 of 3/3/49

On Monday the 3rd February, 1949, BEFORE:-

S. Makinde	The Obalufe
S. Elugbaju	" Obajio
E.J. Ajayi	The J.P.

SUIT NO.I/49 FROM PAGE 62 ABOVE: JONES ADEYEYE VS. SANNI ODERA

10

JONES ADEYEYE THE PLAINTIFF HAVING SWORN ON HOLY BIBLE STATES:

I am Jones Adeyeye farmer of Otutu Street, Ife. From the beginning of this town the farm in dispute is my great grandfather's farm and this farm after the death of my grandfather turned to my father this farm is hereditary by my forefathers and it was inherited in turns. It turned to my father till it presently comes to my turn. But to my great surpouse the defendant trespassed into the farmland when he knows that he does not relate to my family in order to have share in the farm. So I take action against him for him to explain why he should trespass into this farmland belongs to me and my family. Before this action was taken I reported the defendant to Eman Agbaje and Eman Agbaje called him and warned him not to trespass into the farm again. When he did not cease trespassing by directing his tenants to this farm for farming I reported him before Chiefs the ONI and Council. So the Oni of Ife and Council delegated Chief J. Awoyemi Jagunoshin, Chief J. Olufidipe the Obalaye and Chief Shitu Balogun the ladin to go and inspect the farm. NOTE:- At this juncture the court explained that they did not send the Chiefs for inspection particularly on the plaintiff's farm but to inspect all farms by the time.

20

30

JEJE OGUNSHAKIN 1ST WITNESS TO THE PLAINTIFF HAVING SWORN ON IRON STATES:-

I am Ogunshakin Farmer of Ehindi's compound, Ife. The boundary between the farms of Otutu family farmland and Agbedegbede farmland is Onigbodogi stream runs as

40

far to Omifunfun stream. The farm in dispute is the one belongs to Otutu family which belongs to the plaintiff, it was this farm which belongs to the plaintiff was trespassed by the defendant.

Q. by defdt. Jeje: Do you know Gongo Ogunremi?

Ans. Yes.

Deft. Jeje: Could you remember that Gongo Ogunremi took action on this farm against my brother? Amoda once?

10 Ans. No not on farm dispute.

Deft. Jeje: What action did Gongo Ogunremi take?

Ans. It was because he cohabited with my brother's wife.

EXHIBITS

Exhibit "E"

Proceedings in
Ife Native
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No.I/49
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1949 (Continued)

OJO DEDIRE 2ND WITNESS TO THE PLAINTIFF HAVING SWORN ON HOLY BIBLE. I am Abraham Dedire Ogunleye farmer of Agbedegbede's compound, Ife. About the farm in dispute the defendant have no share in the farm in dispute. The farm belonged to the plaintiff. I am the plaintiff's boundary neighbour man.

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Q. by Deft. Ogunleye: Could you remember that you sent a message to me in the farm?

Ans. No.

JAMES ODUNLADE 3rd WITNESS TO THE PLAINTIFF HAVING SWORN ON HOLY BIBLE STATES:- I am James Odunlade farmer of Ogbon Aiyesan, Ife. I met Rotifa my father's brother in the farm. It was Rotifa my cousin who showed me the boundary between Agbedegbede and Otutu farms, he showed me his own farm. Amoda brother of the defendant was a hunter and he lived with Rotifa my cousin. I do not know the defendant neither he is my boundary neighbour man.

30

Court James: Where was Amoda use to hunt?

Ans. At Agbedegbede's farm.

SANNI ODERA THE DEFENDANT HAVING SWORN ON KORAN STATES:- It was the late Ologhenla who gave my father Osho this farmland in dispute, he killed one Elephant there it was on the very spot that my father killed and elephant he erected his hut. At the bottom of my farm I have boundary with Apodu farm the plaintiff's farm is at the right hand side bounded by stream and at the left hand side Adewunmi is my boundary neighbour man and at the Northern

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EXHIBITS

Exhibit "E"

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side the farm in dispute is bounded by Agbakuro farmland. I have been in this my farm since I have been born.

Plaintiff Odera: How do you know Apodu and Ogunshakin?

Ans. They are of the same father.

Plaintiff Odera: How do you know James my 3rd witness?

Ans. I do not know him.

Plaintiff Odera: Who do you know? 10

Ans. I know Aregbe.

Plaintiff Odera: Do you know that Agbakuro family have shared their farms and given Aregbe his part?

Ans. I do not know.

Plaintiff Odera: Is it because the sons of Rotifa divided their farms and gave it to Apodu became your boundary neighbour?

Ans. I do not know.

Plaintiff Odera: Is there no farm besides Adewunmi farm who is your boundary neighbour man? 20

Ans. I do not know.

AFILAKA WITNESS TO THE DEFENDANT HAVING SWORN

STATES: I am Bello Afilaka farmer of Irewo, Ife. What I know in this case I hunted in this farm in dispute for 9 years. It was Amoda who took me to the farm and throughout the lifetime of Amoda there was no misunderstanding in this farm this Amoda is the defendant's brother. The defendant did not trespass into the plaintiff's farm. The farm in dispute belongs to the defendant. 30

Court: Afilaka: Who is boundary neighbour of the plaintiff and the defendant.

Ans. Omifunfun stream.

Pltff. Afilaka: Who take you to the farm?

Ans. Amoda.

The case is adjourned by Court initiative till Monday 21/2/49.

ON MONDAY THE 21ST MARCH, 1949, BEFORE:-

S. Makinde The Chief Obalufe Vice-President 40

S. Elugbaju " " Obajio

Awotide " " Lowa

E.J. Ajayi " " J.P.

Oyeshiji " Bale of Modakeke

Case I/49 from above contd.

Chief Elushakin Kojodun Emese having sworn on Holy Bible states:- On the 18th March, I was ordered by the Ife Land Court Judges to go and inspect the boundaries between the plaintiff and the defendant Jones Adeyeye and Odera the defendant. Both plaintiff and the defendant including Agbedegbede family and Agbakuro family followed. In the presence of the people and the two disputants the plaintiff showed me his boundary, I asked who was his neighbouring boundary man and he said he has boundary with Agbedegbede's family farmland. I then asked the people of Agbedegbede and they confirmed the saying of the plaintiff. I turned to Odera the defendant if he had anything in contrary to what the plaintiff stated but he said no. We took a foot path till we reach Mojeroku stream where the defendant said his farm started and the plaintiff disputed it. I then called the Agbedegbede's family to witness the disputes and they said Jones the plaintiff's statements were genuine and that Odera was telling lies to say that his farm started at Mojeroku. I asked Odera the defendant if he has another thing to show me he said there was an Iroko tree afront us to show me. When we reached there he said that was the boundary of his farm as from Mojeruku stream. I asked Agbakuro's family to witness this whether it was true or not as they were the boundary neighbour. to the plaintiff at the second part of his farm. I therefore asked the Agbedegbede's family and the Agbakuro's family in the presence of both parties to show me the farm of Odera and they said Odera the defendant has no farm there. I asked him the defendant if he has another witness and he said none besides Dewuni.

10

20

30

40

Court Jones Adeyeye: Is the message correct?
 Ans Yes.
 Court Odera: Is the message correct?
 Ans. Yes.

EXHIBITS

Exhibit "E"

Proceedings in
 Ife Native
 Court in Suit
 No. I/49
 February/March
1949 (Continued)

J U D G M E N T

ON THURSDAY THE 22ND MARCH, 1949, BEFORE:-

S. Makinde	the Chief	Obalufe	Vice-President
Awotide	"	"	Lowa
S. Elugbaju	"	"	Obajio
Oduwole	"	"	Jaran
E.J. Ajayi	"	"	J.P.

EXHIBITS

Case I/49 Contd.

Exhibit "E"

Proceedings in
Ife Native
Court in Suit
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February/March
1949 (Continued)

In this case the plaintiff's claim is for declaration of title to all piece and parcel of land situated and known as Omifunfun Onigbodogi bounded on the east by Ologiri farmland on the North by Agbakuro farmland on the west by Agbakuro farmland also and South By Jeje Ogunshakin's farm.

The defendant disputed this claim.

We the Court judges therefore carefully listened to the statements of both parties with the evidence produced by their witnesses. In the evidence of the witnesses of both parties we found the following facts:- 10

(I) That the farmland in dispute belonged to Otutu Royal family of Ife of which the plaintiff is a member.

(II) That the plaintiff Jones Adeyeye by his connection is the Head of Otutu family and therefore the owner of that farmland in dispute.

We therefore grant the title of the farmland to the plaintiff and order that the tenants put in the farm by Odera should be subject to the control of the plaintiff as their landlord if they wish to work in the farm. With further order that Odera should be exempted from paying feudity to the plaintiff. 20

41/6d costs awarded to the plaintiff.

(Sgd) S. Makinde Chief His
X

(Sgd) Councillor E.J. Ajayi Mark 30
Member, 22/3/49.

CERTIFIED TRUE COPY

(Sgd) J.O. Awoyele
SENIOR COURT CLERK
IFE DIVISIONAL COUNCIL

18/- pd. CR.NO.1055 of 10/10/58.

EXHIBIT "F"

EXHIBITS

Proceedings of Residents Court
Ife in Suit No. 12/50

Exhibit "F"

IN THE RESIDENT'S COURT OF APPEAL, OYO PROVINCE.
HOLDEN AT IFE
BEFORE I.R.F. HESLOP ESQ. DISTRICT OFFICER
(SPECIAL POWERS)

Proceedings in
Residents Court
Ife in Suit
No. 12/50
31st May 1950

ON WEDNESDAY, 31ST MAY, 1950.

No.12/1950

10 Jones Adeyeye - Plaintiff-Respondent-Respondent
versus
Sanni Odera - Defendant-Appellant-Appellant
Parties present.

Claim: Declaration of title to all piece of land
situated and known as Omifunfun Onigbodogi bounded
on the East by Ologiri farmland, on the West by
Agbakuro farmland, on the North by Agbakuro family
farmland and on the South by Jeje Ogunshakin farm.

20 Case History: Plaintiff won his case in the Ife
Land Court. Defendant's appeal was dismissed by
the District Officer on 13th April, 1949.
Defendant now appeals to the Resident.

Defendant-Appellant questioned by Court: I did not
submit grounds until March 1950 because I was sick
for 10 months.

Grounds of Appeal and proceeding in Courts below
read:

30 The grounds of appeal merely express dissatisfac-
tion and give reasons (at Variance with the one now
given) as to why the appeal was not pursued. The
defendant admits that his family entered as hunters
on the land where they have now planted cocoa. It
is not clear from the evidence that plaintiff has
any better title to the land than this either i.e.
it appears that the Judgments of the Courts below
may have crystalised out claims and counter-claims
which are quite beyond the actual pretensions of
either party.

40 Plaintiff in answer to Court (1) If any owns
forest of this description, he can let any one hunt
thereon payment of annual tribute. (2) The owner
of the forest may reserve of his forest for his own

EXHIBITS

Exhibit "F"

Proceedings in
Residents Court
Ife in Suit
No. 12/50
31st May 1950
(Continued)

hunting and let out parts for hunting by other persons. (3) The owner of the forest may make farm on it if he wishes. (4) He may do so without the permission of the Oni of Ife.

Court: It seems unusual that a party should be able to convert hunting forests to agricultural purposes without the permission of the community as a whole as expressed by its head. It is ordered by this Court that the question be addressed to the Ife Land Court as to whether their Judgment in favour of plaintiff was intended to confer absolute ownership of the land in dispute on the plaintiff, or only to confirm his hunting rights over the whole. 10

(Sgd) I.R.P. Heslop
District Officer (Special Powers)
31/5/50.

3/- paid for copy of proceedings C.R.No. 35810 of 3/8/50. Certified True copy CERTIFIED TRUE COPY 1st Class Clerk (Sgd) J.O. Awoyele SENIOR COURT CLERK IFE NA 20

Exhibit "G"

EXHIBIT "G"

Proceedings in
Ife Land Court
in Suit No. I/49
7th November 1950

Proceedings in Ife Land Court in
Suit No. I/49

IN THE LAND COURT OF IFE HOLDEN AT IFE ON
TUESDAY THE 7TH NOVEMBER, 1950, BEFORE:-

- 1. Sanni Makinde the Chief Obalufe, Vice-President
 - 3. Seidu Elugbaju " " Obajio
 - 5. E.J. Ajayi " " Ejesi
 - S. Adefesobi " " Ejesi
- 30

Ife Land Court Suit No. I/49, From page 61 of
Record Book Volumes IV.

Jones Adeyeye Versus Sanni Odera.

Court Findings with regards to the point raised by the Resident in his interim Order of 31/5/50.
Witnesses called by the Court: Chief J. Olusunmi - Akogun, Joshua Fadiora and Bakare Odunlade -Yegbata.
Chief J. Olusanmi Akogun 1st witness sworn on Bible

and question by Court.

EXHIBITS

Court: Chief J. Olusanmi Akogun: Who has authority on Virgin forest where hunters are hunting?

Exhibit "G"

A n s . The ONI and Council own the Virgin Forest. The hunters are put in the virgin forest purposely to hunt and they pay annual Tribute to the ONI and Council.

Proceedings in
Ife Land Court
In Suit No. I/49
7th November 1950
(Continued)

10 Court: Jones Adeyeye: Have you any question to ask Chief J. Olusanmi Akogun?

A n s . If Chief Akogun is giving evidence in the case between me (Jones Adeyeye and Sanni Odera), I have no question on that.

Court: Jones Adeyeye: The Resident has made order to hear fresh evidence in this Suit, hence you were notified to appear today.

A n s . I am begging the Court to see the Order made by the Resident.

20 COURT: Copy of the Order made on 31/5/50 was read. Jones Adeyeye, I have the copy with me, but I want to make it known to the Court that this Court has complied with the order made by the Resident, and they had sent their Findings made on 15/9/50 to the Resident. I only appeared to the Court to obey the Order of the Court.

Court: Jones Adeyeye: Do you know that you were served with Notice to appear in this Court in respect of the case between you and Sanni Odera?

30 A n s . Yes, I know but must to obey the Court, because this Court has heard this case and decided it, and Sanni Odera has lodged his appeal to the Resident, and I have been served with Notice to appear in the Resident's Court on 13/11/50.

Court: Sanni Odera: Have you any question to ask Chief Akogun?

A n s . No question.

40 Joshua Fadiora 2nd witness sworn on Bible, questioned by Court:

Court: Joshua Fadiora: Are hunters hunting in the virgin forest have authority on the forest or the ONI and Council?

EXHIBITS

Exhibit "G"

Proceedings in
Ife Land Court
In Suit No. I/49
7th November 1950

(Continued)

A n s. What I know is that the ONI and Council is the owner of the Virgin forest. The hunters are put in the forest only to hunt there and pay annual Tribute to the ONI. Before they can make farm on the Forest, they must get permission from the ONI and Council because they are the owner of the land.

Court: Jones Adeyeye: Have you any question to ask Joshua Fadiora?

10

A n s. I have no question.

Bakare Odunlade Yegbata 3rd witness sworn on Koran questioned by the Court.

Court: Bakare Odunlade: In a Virgin Forest where hunters are hunting and paying annual tribute to the ONI, who has authority on such Forest?

A n s. The ONI and Council.

Court: Bakare Odunlade: Do you know the farm in dispute between the two parties?

20

A n s. I do not know the Farm.

Court: Bakare Odunlade: Do you know the name of the farm?

A n s. I do not know its name, but it is a Virgin Forest.

Court: Bakare Odunlade: If a person or a hunter wishes to make farm in a Virgin Forest, from whom will he get permission, before making farm?

A n s. From the ONI and Council.

30

Court: Jones Adeyeye: Have you any question to ask Bakare?

A n s. I have no question.

J u d g m e n t:- The Resident on hearing the appeal of the defendant - appellant passed an interim Order to this Court to say whether our judgment in favour of the plaintiff was intended to confer absolute ownership of the land in dispute on the plaintiff or only to confirm his hunting rights. 40

We have taken fresh evidence on the question, and it is clear that title to forest land like the one in question rest with ONI OF IFE in trust

for the Chiefs and people of Ife.
Hunters have only hunting rights.

EXHIBITS

Exhibit "G"

We are satisfied that our judgment of 22/3/49 was wrong and we hereby revise on the evidence before us and on the fact that hunting right on the land in dispute was originally granted by the Oni and Council to Plaintiff's forefather.

Proceedings in
Ife Land Court
In Suit No. I/49
7th November 1950
(Continued)

10 We recognise that plaintiff's father had hunting rights when the land was a virgin forest. That right of course ceases now that the forest has been cleared.

We give no title to the plaintiff:
But that does not mean that defendant either has the title.

Sgd. Sanni Makinde - Obalufe His
Vice-President. X
7/11/50 Mark

20

CERTIFIED TRUE COPY
(Sgd) J.O. Awoyele
SENIOR COURT CLERK,
IFE DIVISIONAL GRADE 'B'
CUSTOMARY COURT, IFE.
9/- pd. CR. No. A.046584 of 13/11/61.

EXHIBIT "H"

Exhibit "H"

Proceedings in Resident's Court
Ife in Suit No. 12/50

Proceedings in
Resident's Court
Ife in Suit No.
12/50 13th
November 1950

30 IN THE RESIDENT'S COURT OF APPEAL, OYO PROVINCE
HOLDEN AT IFE
BEFORE R.A. VOSPER, ESQR. RESIDENT, OYO PROVINCE.
ON MONDAY THE 13TH DAY OF NOVEMBER, 1950

No.12/1950. Jones Adeyeye Plaintiff
v e r s u s
Sanni Odera Defendant.

Claim: Declaration of title to all pieces of land situated and known as Omifunfun Onigbodogi bounded on the East by Ologiri farmland, on the West by

EXHIBITS

Exhibit "H"

Proceedings in
Resident's Court
Ife in Suit No.
12/50 13th
November 1950
(Continued)

Agbakuro farmland and on the South by Jeje
Ogunshakin farm.

Mr. Heslop District Officer (Special Powers)
gave judgment as follows:

"It seems unusual that a party should be able
to convert hunting forest to agricultural purposes
without the permission of the community as a whole
as expressed by its head. It is ordered by this
Court that the question be addressed to the Ife
Land Court as to whether their judgment in favour 10
of plaintiff was intended to confer absolute
ownership of the land in dispute on the plaintiff,
or only to confirm his hunting rights over the
whole".

The Ife Land Court in explanation stated the
question of hunting rights does not arise in this
case.

Defendant then appealed to the Resident's
Court on 15th September. But parties did not
attend. 20

The Land Court then asked permission to call
fresh evidence before submitting a considered
judgment. This was done and in their judgment
of 7th November quashed their original judgment of
22nd March, 1950, and dismissed the Plaintiff's
claim.

Plaintiff now wishes to appeal. He may do so,
on payment of appeal fee to the District Officer's
Court. Copy of proceeding not required.

(Sgd) R.A. Vosper 30
Resident: Oyo Province.
13/11/50

MOADE:
Certified true copy
(Sgd) ?.....?
1st Class Clerk

EXHIBIT "A"

Petition, Otutu Family to
Native Authority

From Otutu Family.
Otutu Compound,
Ife.
18th December, 1950.

EXHIBITS

Exhibit "A"

Petition (Otutu
Family to Native
Authority)
18th December
1950

10 The Alaiyeluwa,
The Oni & Council,
The Native Authority,
Ife.

Kabiyesi,

20 Among the important sons of Olofin, the
recognised Progenitor of Obaship to the throne of
Ife, may be mentioned the following:- Shinmole,
and Oni of Ife; he begot Gbebusaka also and Oni
of this Town; Orekungba was another Oni, so also
was OLOJO who begot SHINLADE (alias OTUTU); there
was also Akinmoyero Odunle (the Oni of Ife
reigning when Modakeke Quarter of Ife Town was
founded, vide Johnson's History of Yorubaland,
page 230) and this was succeeded by ADEMILUYI as
the Seventh Oni of Ife from our own Ruling House.
The following Oni of Ife were among the prominent
ones who alternated the above named Obas on the
dynasty of Ife Kingdom:- WUNMONIJE, GBANLARE,
GBEGBAJE, ADEGUNLE, KUMBUSHU, AND ADELEKAN, alias
OLUBUSHE.

30 By the Grace of God, the undersigned, for
themselves and the rest Members of this Family who
are the direct descendants of Shinmole, but better
identified for nearer reference as Otutu Family,
respectfully beg to present this Petition for
sympathetic consideration and necessary action.
Commencing from Osi and making a finishing
touch at Omifunfun-Onigbodogi, a distance of
approximately 10 miles with an average of three-
quarters of a mile in depth, is an area known as
40 Otutu Family farmlands, Otutu or Shinlade, the son
of Olojo and great grandson of Shinmole. This
stretch of land opens at Osi with a boundary on a
side by Luobe Family, on another by Akinshinla
Family, on the third side by Timi Family Farmlands,
and on the fourth side by the Owena stream. It

EXHIBITS

Exhibit "A"

Petition (Otutu
Family to Native
Authority)
18th December
1950 (Continued)

closes at Minifunfun-Onigbodogi where it is bounded on the East by the Ologiri Farmland, on the North and West by Agbakuro Family Farmlands, and on the South by the Farmland of Jeje Ogunshakin. The Important Farmsteads of this family Farmlands, lined at intervals of space and named by our forefather are Osi, Asa, Idi Ere, Marere, Gbadago. The boundary given above takes no cognisance of the traffic Road which since made, had divided this territory into two parts at vantage points. Since 1933, this Farmland had been divided into sections of the above named Family as per the Allotment List attached. While on this point, it is important to note that Obadamosi Adewuyi, a grandson of Akinmoyero Odunle, an Oni of Ife, opened this allotment with his own section at Osi, while Jones Adeyeye, a grandson of Shinlade alias Otutu closed the stretch of land with his own sectional Allotment at Omifunfun-Onigbodogi. Excepting Edo Agbakuro Family who were friends of this family and who had been given lands by our forefathers as "fidus Achates" of the original Head of their family to our forefathers no other Member of any Family has any rightful claim within this Allotment in this Town and never in the History of Ife is our Title questioned by any Oba or Council at anytime of the regimes of the Obas mentioned above outside our own Family Ruling House.

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We respectfully state challengingly that each of the above names Obas from our own Family came right from this farmland to assume the post of Oniship when at intervals between regimes, their own turn came. From the long string of Obaship enumerated above as coming from our own Ruling House (and to their period of reigning should be added the Obas named also as alternating from other Ruling Houses), it is obvious that the connection of this family with the said Farmland started from a period anterior to the dawn of regular History. To attempt to fathom the question of How or When, we respectfully submit, your very Council is not in a position to say; the answer to such question by anyone living shall always be given in a familiar way as the guess-work often accorded an intricate question of its type, question, we repeat, which had baffled the mathematical ingenuity of ages, to wit,

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HOW HIGH IS THE SKY?
HOW DEEP IS THE OCEAN?

EXHIBITS

Exhibit "A"

Petition (Otutu
Family to Native
Authority) 18th
December 1950
(Continued)

10 But a certainty presented itself out of uncertainty
and that is no Oba or Family ever disputed the
right of this family over this area. In fact,
all Ifes so acknowledge the area as Otutu Family
Farmland that a Native song had been dedicated
long, long ago, to remind the Ife Public about
this Right, a song, we proudly say. which
wordings went even far to show Otutu family
farmlands - boundary in Ife and this song is sung
every year at Edi Festival, namely,

ODI GBADAGO, O DI MARERE,
ODI ONI DI ERE, KAWO TO SEJO,
AMILA YOKUN OKO OTUTU,
ELEWE ERAN GBERU ODI OSI.

whish song when translated in English means:-

20 ONWARD TO GBADAGO, WE'LL HASTEN TO MARER
AND TO ERE WHERE ALL FRATERNITY WILL FORE
GATHER,
WE ARE GOING TO HARVEST IN OTUTU FARMLANDS
BAG AND BAGGAGE LET US ALL GO TO OSI.

From this it would be seen that the boundary of
Otutu Family Farmland in this Town had been
clearly defined and incorporated in Ife Song even
before this generation was born, a fact that twice
confirms and attests undisturbed Right over this
area by our Family. We challenge any Ife living
to disprove this boundary-marker song!

30 4. In a recent announcement, it was declared
in a case which affects this Family Farmland, to
be specific, Jones Adeyeye versus Odera, that our
forefather, Otutu, had only hunting Right over
this area in dispute which is part and parcel of
Otutu Family Farmland described in para.2 above.
This announcement is received by this Family with
a shock, and for the sake of clarity, we wish to
put our points of contention, supported by
unassailable ratiocination, before this Council,
40 for deep and sympathetic consideration. In doing
this, we have one aim in view and this is to wash
our dirty linens at home. We believe that the
removal of certain conflicting idealogies which
are still present in our unrecorded land Tenure

EXHIBITS

Exhibit "A"

Petition (Otutu
Family to Native
Authority) 18th
December 1950
(Continued)

in this Town once for all, will also remove the setting of a bad precedent with subsequent confusion as it will be in this case.

5. Pursuant to our contention, we cannot do better than to make a timely use of the statement of a Speaker, who posed as an Authority on Land Tenure in this Town when called upon to give his views about the Land Tenure in this Town and District at a recent Meeting of the Town Council, as a pointer to the conflict of ideology of Land Tenure here - a line of thought which unfortunately befogged intelligent views on this point leading to the decision under protest. The Speaker supported his argument that all people laying claims to the Farmlands around Omifunfun could not have owned Lands in such areas years gonebye as those areas were thick jungle and was very far to Ife so that no one dared to move to such loneliness for Farming purposes. This is pure sophism. The Speaker uttered those words from the figment of the imagination and he is unfortunately not conversant with the contemporary History of Ife Town. We hasten to educate this school of thoughts. It will be readily admitted by the well informed that during the Modakeke warfare, Ife Town was broken, though not by Mcdakeke - powers, but by the general inter-tribal warfare in those days, and the Ifes had to retire to Isoya for strategic purposes. Now this Isoya is only four miles to Osi-Omifunfun-Onigbodogi area. Thus our forefathers made this area their farmsteads, area, be it understood, which had previously been bequeathed to their section of Olafin sons by Olofin who had years before divided his land possessions among his sons including other prominent families. The proximity of their family Farmlands to the new settlement became an added advantage to their family in this place of refuge. They therefore bestirred themselves of this and started their plantations. There is nothing extraordinary even to this day for a Family to own Farmlands within a radius of 6 to 7 miles to this Town of Ife, and since Isoya was the enforced homesteads of the Ifes in the period under retrospect, it is reasonable to believe that the surroundings of Isoya would be gorgeously transformed into veritable harvest - ground as the result of the agricultural activities of the then Ife-Settlers in sojourn.

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10 And that was exactly what our forefathers did,
and the discovery in recent years of a special
Oshirigi Bell unearthed from one of the bushes
at a foundation of a hut (now in custody of this
family as collection of antiquity) confirms, in
striking testimony, the sort of civilisation which
the Ifes enjoyed in our grandsires farmlands when
they sojourned at Isoya. As to the grouse of the
Speaker over the extent of land it can never be
said that 10 miles of a stretch of land for the
combined Families of Seven Obas from our own
Ruling House is too much as up till the present
day some families with no extra qualification
than mere citizenship of Ife, own Family Farmlands
which stretch to 20 or 30 miles. If this could
be done on the green, what of the dry? We can
name such Families, but we forbear because we have
no quarrel with them, in fact, our forefathers
never envied their lot, but we received their
20 own portion as they met it with pure content-
ment and loyal resignation to the distribution of
the forefather, Olofin, the Distributor of all
Land to every Family in this Town.

30 If such were the perfect resignation reposed
in the original distribution by all the forefathers
of all the Families in this Town, would to God that
this generation allows sleeping dogs to lie, or if
it insists on what it considers a better equitable
distribution, then all Family Farmlands should be
surrendered for such New distribution in this
District.

40 6. We contend that our Right to the above
named area is Farming Right and not Hunting Right.
Could Hunting Right alone have tied Seven Obas of
Ife from our Ruling House to this area without the
thought of Planting Right for themselves and
Families? A reputed hunter of a Rufus Williams
could not have so foolishly clung to such Hunting
Right in a Hunting Forest! Why should we not have
got another area to point out as the Family
Farmlands of any of these Obas outside the
boundaries defined above? The only reasonable
answer is that from time they had known at cradle-
period this side to be their own section of Olofin
grandson, and to their credit, they limited
themselves to this area. Is there any Family or
Ruling House in this Town that has no Family
Farmlands? To deprive this family of the Farming

EXHIBITS

Exhibit "A"

Petition (Otutu
Family to Native
Authority) 18th
December 1950
(Continued)

EXHIBITS

Exhibit "A"

Petition (Otutu
Family to Native
Authority) 18th
December 1950
(Continued)

Right over any Side or the Whole of this portion under reference is to say that we are the only Ruling House in Ife and District who have no Family Farmland! No greater punishment and abject sign of ingratitude that could be hurled on the memories of those Seven Obas who had served their respective periods with gallantry than to deprive their descendants of the Family Farmlands over which they had exercised the Right of Ownership for over 400 years.

10

7. In the interest of peace and especially for the coming generation, your Petitioners respectfully request the Council to consider that there will be no end to the conflicting ideologies on Land Tenure in this District, if, as it is now, the interpretation placed on Land Title by one Council as compared to another will assume the versatility of a chameleon. The settled policy of a reigning Oba and his able Council on Land matter will always be raked afresh in another regime. What more, where the interest of the new Council is at stake Members will be humanly influenced to reclaim any lost possession of their families and in this way, a sorry but avoidable spirit of vindictiveness would creep into the Administration while revision of policy of one reign and another will continue ad infinitum. As Members of the Ruling House of this Town whose forbears had the hereditary Right at one time or the other to be at the helm of affairs and who, please God, by virtue of their birth, is not above ambition that however long (and may the present Oba reign long), a Member of same will not join you in deliberation in the capacity of a Head, it is our duty to guard jealously the heritage of Peace bequeathed to this Domain by the past Ruling Houses and towards which the present regime assiduously labour. To this end, therefore, we appeal in the name of Justice and Fairplay that the Right of our Family over this area for centuries past should be vindicated. To question our Right to any part thereof (hence the whole) will be tantamount to a revision of policy on Land Tenure in this Town and we shall then be naturally entitled to be convinced by what Right had acquired their Family Farmlands and why we should have none of those Rights? We shall be entitled to know why our own right over our family farmland should be hunting right only and whether there is a decree in Ife History which forbade agricultural ambition among

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our own Seven Obas? At whose reign or why such decree was made?

EXHIBITS

Exhibit "A"

Petition (Otutu Family to Native Authority) 18th December 1950
(Continued)

8. We said while ago that throughout the long generation of Obas that we had recounted, there is nothing in Ife History that any family ever disputed our Right on the area under reference. We can say also that we have no major dispute in this area since the death of the last Oba from our own Ruling House, the late Oba Ademiluyi of blessed memory. There was the common dispute between boundary-neighbour with us by the Timi family. After protracted unrecorded litigation and schim, Time taught us to settle our differences among ourselves and by ourselves. Another case before the Alaiyeluwa, the Oni our father, though no Court litigation started yet, may be mentioned that of Gbadamosi Adewuyi versus Obutu Akinoshinla. We have also the litigation of Wakeson family, the Usurper of the Right of Ikalade, the senior daughter of Odunle (whose portion to her by virtue of her parentage as traced above) by this Family is being unduly invaded. But the only one to give this Family "mere hunting Right" over this area is the one in which Odera, a Native of Oke-Igbo attacked Jones Adeyeye about a portion of this area. On several occasions, the Ife Elders gave the real judgment that they ought to give after sending their Emissaries to the very spot who ought to know by now lands with "hunting Right" as distinct from lands with hereditary Right, but later after months of their decision, a new theory sprung which said that our 400-years old Right over this area is nothing short of "hunting Right"! Just as it is late, too very late in the day for the Ifes by their song defining this boundary of Otutu Farmland (nothing like "hunting Right" is incorporated in this song for instead of saying they were going to harvest in Otutu Farmland", they should have said that "we are going to eat venison in Otutu Hunting Forest"), so it is too late in the day to say Seven Obas in this Town have no Family Farmlands. To say so will be an undefensible policy.

9. Here is perhaps a more convenient place to state the propriety of this Family concern in this matter. In para. 2 of this Petition, we have given the boundary owned by our forefathers. The case in point affects a portion of this area. We have also shown in the same paragraph the

EXHIBITS

Exhibit "A"

Petition (Otutu
Family to Native
Authority) 18th
December 1950
(Continued)

section given to Jones Adeyeye by the Family vide also the list of Partition of Allotment attached and that since 1933. Where the Right of the Family is disputed in any section and especially whatever that designates the Right of the Family as Hunting Right on this Section affects, ipso facto, the whole areas as Hunting Forest with a Hunting Right. We cannot view this announcement as a Judicial edict because by the system in vogue in this Town and elsewhere, the Judicial and Executive Powers are not only co-ordinating, but also like a pair of scissors; to view this issue in such light is to minimise the grave issue involved, namely, to deprive Seven Obas of their Family Farmlands, and if so, who else stand assured of perpetual land legacy? Whatever it is, this Family cannot differentiate, and respectfully wish to be assured that "Grand Alliance" of Powers (as expressed above) of this Native Administration whole-heartedly or not support that Seven Obas of Ife had only hunting Right over their Family Farmlands and we shall then be satisfied to contend against this by all evidences in another sphere; before we are impelled to do so, however, we will request a general political enquiry of all citizens of Ife where unbiased Speakers will have the free liberty to say their minds and give the verdict of History. 10 20

Finally, when an undefensible policy of Native Law and Custom affecting Land Tenure in the District is mistakenly pursued by any of the allied branches of the Native ADMINISTRATION, the Council here is the highest Court of Appeal in the first instance because when future confusion arises about a matter like this or as a consequence of such error, the burden of uneasiness would rest on this Council. We have proved that our Right to the whole area is as old as the hill; evidence of brisk agricultural activities for centuries past by our family abounds in the retrospect of Isoya days supported by other practical evidences; there is also the evidence of undisturbed full Right of ownership over this area for centuries past of which this council plead ignorance, May we ask then when Hunting right was granted to this family and in whose reign? And when agricultural activities were going on in this area for centuries past, when, and at whose Oba's 30 40

reign was the elleged unlawful conversion questioned? From this it does not require the wisdom of Solomon to declare that undisturbed occupation of any land for centuries, if even considerable years, is a fact that is legally armed with a fatal weapon in the plea of Estopol. Unfortunately, this is not an opportune time for the Town to be divided into political camps as enemies are within the gate. Nevertheless as a father with children your lot is blessed if only a united front is presented; there is no doubt that you then come within the very lines of the Psalmist:-

10

Children are the fruits of labour,
 Happy is the father with quiver full of them,
 Ashamed he shall never be,
 But meet the enemies at the gate.

20

We hope the Council will say that Otutu Family has this area or in the absence of its ability to do so, we press for Ife Public Enquiry where Ife citizens, but poor or high will tell Otutu Family once for all that all Seven Obas of their Family had no Family Farmlands and what they meant in dedicating that Song to the Farm of our very Grandfather, May God guide the wisdom of the Council.

We are,
 Your loyal Omo--Obas and Sons

30

Their R.T. Imp.
 Gbadamosi Adewuyi
 The Bale
 Jacob Akeja

40

Read and interpreted into Yoruba language to the perfect understanding of All and Sundry before they either sign or affix their thumb impressions.

(Sgd) John Ade.Gboyega Conde

J. Ade. Adegboyega Conde
 Secretary.

H. R. T. I.
 Gabriel Adewole
 H. R. T. I.
 Sannie Adedewe (Sgd).
 Moses Oyeyemi (Sgd).
 C.A. Layade H.R.T.I.
Jones Adeyeye (Sgd).
 E.A. Ademiluyi (Sgd).
 G. Adewole Ademiluyi (Sgd).
 Sampson Okikiade
 H.R.T.I.
 Thomas Adewuyi (Sgd).
 E.T. (Coker) Adewoyin (Sgd).

EXHIBITS

Exhibit "A"

Petition (Otutu Family to Native Authority) 18th December 1950
(Continued)

EXHIBITS

Exhibit "A"

Petition (Otutu
Family to Native
Authority) 18th
December 1950
(Continued)

Copy to the District Officer, Ife; the
Resident, Oyo Province, Oyo and the Chief
Commissioner, Western Provinces, Ibadan.

EXTRACT FROM THE FAMILY MINUTE BOOK

ALLOTMENT OF OTUTU FAMILY FARMLAND, 15th June, 1933

1. Allotted to Asheri and his people - The land between Oshi and Owena including Moro and Adanbiaran Camps - this portion situates on the east side of Oshi on entering Aba-Nla-Oshi- it situates on the left hand. 10
2. Allotted to Shoko Ademakinwa and his people - The land between Oshi and Oke-Egan including Olowo and Ogbo Camps which situate on the West of Oshi, on the right hand side on entering Aba-Nla.
(Note: Olowo and Ogbo Camps were destroyed and Ademakinwa's people settled at Oke-Egan).
3. Allotted to the entire children of Ademiluyi and section Two portions
(a) The land from Oshi bounded by Pekeoye, Ogbo 20 and Owena rivers - situating on the South of Oshi in the front from the mark-point. The second portion lies between Omifunfun and Idiako.
4. Allotted to Adedini (Layade): The land bounded by Ara, Owena and Iworiya rivers along to the main path (this place is called Ara) including Okuru.
5. Allotted to E.T. Adewoyin (Coker): The land between Olowo and Jetifa Camps (Known as Aba 30 Okero).
6. Allotted to Shoko Adeyinka Olowu and Afuye Onifade: the land between Pepeleye and Owena rivers including Eleja Camp.

Note: Delegates sent to mark these portions were Jacob Obisanya, Eman Adewuyi, Okero Ademiluyi David Adeoye and others.

Signed: C.A. Layade.

(Sgd) John Ade. Gboyega Conde

Certified
true copy.

EXHIBIT "D"

Letter Native Authority to Otutu
Family

No.146/158
NATIVE AUTHORITY OFFICE,
THE AFIN, IFE.

9th January, 1951.

EXHIBITS

Exhibit "D"

Letter Native
Authority to
Otutu Family
9th January 1951

Sirs,

10 I am directed by the Oni and Council to refer
to your lengthy petition of the 18th December,
1950 which appears to be an upshot of the decision
of the Court in the land case between Jones
Adeyeye and Odera - your paragraph 4 refers.

2. As it is assumed that this case is still
pending in one of the Courts of Appeal, I am to
say that the Oni and Council are forbidden by law
to entertain any petition in connection therewith.
Your legal remedy is to pursue the course of
justice to the last Court of Appeal.

20 3. In the future please submit a precis
of the measure of redress sought when your
petition covers more than two pages of foolscap
paper.

I have the honour to be,
Sirs,
Your obedient Servant,

(Sgd.) ? Fabunmi
Administration Secretary

MAD/Awo

30 The Otutu Family,
Otutu Compound,
Ifé.

EXHIBITS

EXHIBIT "J"

Exhibit "J"

Proceedings in District Officer's Court
in Case No. 7/49 February/June, 1951.

Proceedings in
District Officer's
Court in Case
No. 7/49
February/June 1951

IN THE COURT OF THE DISTRICT OFFICER, IFE DIVISION
SITTING IN HIS APPELLATE JURISDICTION BEFORE JAMES
HUGH BOURNE, ESQUIRE, DISTRICT OFFICER, AT IFE ON
THE 16TH DAY OF FEBRUARY, 1951

Case No.7/1949 (Contd.)

Jones Adeyeye of Ife ...Plaintiff-Respondent
Versus

Sanni Odera of Okeigbo...Defendant-Appellant 10

Claim: Declaration of title to all piece of land
situated and known as Omifunfun Onigbodogi bounded
on the East by Ologiri farmland on the West by
Agbakuro farmland, on the North by Agbakuro family
farmland and on the South by Jeje Ogunshakin farm.

Proceedings to date are summarised in the records
of the Resident's Court, dated 13/11/50. The
Plaintiff now appeals against the last judgment
of the Court of Appeal (Land) which declined to
grant title to plaintiff as claimed, because his
right over the land was found to be hunting right
and a right to title. 20

Both parties present.

Grounds of appeal and copies of proceedings read.

Plaintiff-Appellant Jones Adeyeye, sworn states: I
would say that the area of the land described in
the claim is about 3½ miles square. It is about
7½ miles South West of Aba Olode and perhaps 10
miles North of the Forest Reserve (Shasha). I
am not laying claim to any other land in the area, 30
nor does my family. Some of us have our personal
farms there. We have farmland also at Oshi, near
Isoya. This is not contiguous to that we are now
claiming; but is separated from it by Agbakuro
farmland, which our father gave the Agbakuro
family. I mean by our father, ONI Otutu. He had
the land before he became Oni. Olofin gave him
the land as he did to all other landowning
families in Ife. This is history and very long
ago, before there was an Oni. At Omifunfun I
have in my personal farm, cocoa, Kola etc., and 40
food crops. There is no high bush. There is no
high bush anywhere in the area in issue. The land
given to our tenants was previously used as
farmland by our fathers. Our farmland near Oshi
is much larger. During the inter-tribal war the

people of Ife all went to Isoya, but the land there belonged to our family before that. A member of my own family was not Oni when the people of Ife went to Isoya. The people of Ife met us at Isoya, where we had farm. Some of our family were hunters, some were not. Some of Agbedegbede and Agbakuro people were hunters. There were no hunters before the Europeans brought guns. The people who went into the forest to collect snails and such like were called ADEKU. My people were never Adeku. The area used to be called Gbadago and there is an old song which refers to Gbadago being Otutu land. Olofin divided all the land when most of it was virgin forest. Then everybody started to clear his own. Olofin did this right up to Oyo, Ibadan and Ilesha. Thereafter each community and family divided their own amongst their own members. People never used to come and beg Oni Ademiluyi for land, so far as I know. If there is any land which has not yet been allotted to anybody the Oni has authority to allocate it. It is true that Olofin allocated all the land originally, but some families died or went away and so the land reverted to the Oni.

Adjourned until 2nd March.

(Sgd.) J.H. Bourne
District Officer
16th February 1951.

30 Case re-opened.

Onitiju, the Obaloran called by Court, sworn, stated: I produced an old land Court record book. On page 38 therein a judgment is recorded. In this judgment appears the following sentence:

"It is our custom and law here that the high bush belongs to the Oni and Council in trust for the people".

The judgment is dated 11th July, 1936.

40 I also produce a petition dated 8th November 1947 which is signed by Jones Adeyeye and others. An extract from this reads as follows:

".....We all agreed with Alaiyeluwa, the Oni, because he has the right to give any forest and to any member of the community who have no land to make farm. The whole or part of this Ara land had for a long time been our fore father's HUNTING FOREST BUT NOT withstanding our hunting right over the land, we know and

EXHIBITS

Exhibit "J"

Proceedings in
District
Officer's Court
in Case No.7/49
February/June
1951

(Continued)

EXHIBITS

Exhibit "J"

Proceedings in
District
Officer's Court
in Case No. 7/49
February/June
1951 (Continued)

admit the fact that forest land is community owned and it is vested in the reigning Oni in his capacity as the Trustee for his people". (Exhibit A). I also produce a document, dated 5/5/48, drawn up by the Ife Farmland Preservation committee, which refers amongst other things to the question of rights in forest land. Plaintiff's cousin, Okero, is a member of this Committee (Ex. B).

Cross-examined by Court: Oni Otutu gave my great grandfather forest land for farming at Osha Itabiye. This is near Owena. The land is big - about 3 miles square. Nobody has hunting rights there. Oni Ademiluti gave a portion of land to my mother's family at Alaka's house. This is in a different area to the first portion mentioned. By law and custom the Oni grants hunting rights over virgin bush, provided that this bush has not previously been allocated to anyone.

A hunter will build a hut in his forest as his headquarters. He has the right to clear bush and plant sufficient food crops for himself and his followers, but in the olden days the forest was too thick for cultivation and hunters usually took dried foodstuffs with them. A hunter would have no right to plant permanent crops. Of the five ruling families the Otutu or Agbedegbede are hunting families. Either Oni Otutu or Ademiluyi might have allocated their own family forest land for farming, but they should have consulted the chiefs.

The song of Gbadago mentioned by plaintiff I know. I have never been to Gbadago and don't know where it is. There are similar songs with different names mentioned.

The Otutu have family land near Isoya so I understand. I have passed through the land in issue. Some is thick forest but most is cultivated. History tells that Olofin distributed the land to his sons, the Obas. The Ife land he retained - and his powers over the Ife land passed down to the Oni.

Cross-examined by Plaintiff-Appellant: I cannot remember any dispute on this land. I have never heard that in the event of an Emese, sent to settle a land dispute, being killed the land becomes communal property. I do not know if and Emese was killed in settling a dispute on the land given to my family by Oni Otutu. We have another farmland given to us by Oni Kumbusu. Our

farmlands were granted to us by Onis and Chiefs. At the time of grant they were high forest. We were not hunters, but could have allocated it to hunters. I was historian clerk to Oni Ademiluyi and to the present Oni. I did not have an interview with Mr. Ward Price before he wrote his Tenure book.

The Olofin did not distribute all the Ife land before his death.

10 Misore, the Ladin, called by Court, sworn, states:

I passed through the land in issue about 6 months ago. I did not see any old cocoa, but there is plenty of youngish cocoa. There is high bush also there. I have not heard the song about Gbadago mentioned by Plaintiff-Appellant. Olofin is the first Oni. He did not distribute all the Ife land before he died. Before cocoa all the farmland was near the town. A hunter will take
20 his food with him to the bush. He should not use any of the forest for any purpose other than for hunting, unless he gets permission. Many of them have done so without permission since cocoa came. I do not know if the Plaintiff-Appellant got permission before farming the land in issue.

Cross-examined by Plaintiff-Appellant: I do not remember when the Emeses were sent to demarcate your boundaries. I remember a similar case between
30 my family and Aniwe. It was not high bush. Aniwe was a hunter, but he hunted on different land. Oni Kimoyero gave us the land. In the case against Aniwe the land was given to us.

I know the people called Olumoko: they belong to Otutu family.

Case adjourned until 2nd April, 1951.

(Sgd.) J.H. Bourne
District Officer
2nd March 1951.

40 IN THE DISTRICT OFFICER'S COURT OF APPEAL, IFE
DIVN SITTING IN HIS APPELLATE JURISDICTION BEFORE
JAMES HUGH BOURNE, ESQUIRE; DISTRICT OFFICER, AT
IFE ON THE 11TH OF JUNE, 1951

EXHIBITS

Exhibit "J"

Proceedings in
District
Officer's Court
in Case No. 7/49
February/June
1951 (Continued)

Case No. 7/1949 (Resumed)

EXHIBITS

Exhibit "J"

Jones Adeyeye

Vs.

Sanni Odera

Parties present.

Proceedings in
District
Officer's Court
in Case No. 7/49
February/June
1951 (Continued)

DefendantRespondent, Sanni Odera, on oath, questioned by Court states: The land in issue was given to my father by Oni Ologbenla. The southern boundary is the Onigbuna stream, the northern is the Mahun stream, the western is the Majeroku, the eastern is a line between my land and the Agbakuro family. My other boundary neighbours are Agedegbede, Jones Adeyeye on the other side of the Onigbona stream, and Lotifa, the son of Jeje Ogunshakin, mentioned in the claim. I first went to the land in the time of Oni Olugbuse, when I was a boy. The land was thick bush. My father was one of the warriors who went to Okeigbo. When he came back Oni Ologbenla gave him land for hunting. My father had no farm on the land. I started farming on it. I asked the present Oni for permission four years ago. Nobody was farming there before me. I now have about 40 tenants (a few of whom are Ifes). They are not paying me Ishakola because their cocoa is not mature. Plaintiff Appellant is now claiming these tenants on the ground that the land is his. The name Omifunfun Onigbodogi is applied to a hut belonging to Plaintiff Appellant, which I pass on the way of my farm. 10 20

Cross-examined by Plaintiff Appellant: Ologbenla was not really Oni, but Oni elect. He was preceded by Aiyekiti and the Oni next after him was Adeleko Olugbuse. They were all of the same family - Kiyesi family. 30

No further questions.

Adjourned for judgment on 18th June.

(Sgd) J.H. Bourne
District Officer
11th June, 1951.

Case No. 7/1949: Resumed. 40

Judgment: The history of this case is complicated. On 22/3/49 the Land Court found for the Plaintiff-Appellant, Jones Adeyeye in that the evidence showed:

- (a) that the farmland in dispute belonged to Otutu royal family of Ife of which the Plaintiff is a member".
- (b) "that the Plaintiff by his connection is the head of the Otutu family and therefore the owner of the farmland in dispute".

EXHIBITS

Exhibit "J"

Proceedings in
District
Officer's Court
in Case No. 7/49
February/June
1951 (Continued)

10 This judgment was confirmed on appeal to the
District Officer on 13/4/49. On 7/5/49 the
Defendant-Respondent paid the appeal fee to the
Resident's Court, but thereafter took no further
action. On 14/3/50, however, the Defendant-
Respondent wrote that he wished to pursue his
appeal, and the following month submitted his
grounds (dated 22/5/50). These grounds of appeal
raised the question of hunting rights', the
Defendant-Respondent arguing that the Plaintiff-
Appellant should not have been granted titles,
because the Plaintiff-Appellant's rights over the
20 land like his own, was limited to hunting.
Subsequent happenings are described in the
proceedings of the Resident's Court on 13/11/50.
From the Lands Court records of 7/11/50 it is
stated and confirmed by the Court that control
of 'virgin' forest is vested in the Oni for the
chiefs and people of Ife, but it is not made clear
except in the judgment, what rights belong to the
parties in respect of the land in issue, nor how
they came by such rights, if any. In this court
30 both parties were asked to describe their rights
and how these rights originated. The Plaintiff-
Appellants story as I understand it, is that in
years gone by all Ife land was allocated to families
and that the land in issue together with all large
area of surrounding country was allocated to his
family. Later, parts of the land were given to
other families by his ancestor Otutu, when he was
Oni. The Plaintiff-Appellant does not deny that
the land in issue was recently 'high' forest, but
40 denies that it was "virgin"forest. He asserts
that the land was farmed long ago by his family.
The Defendant-Respondent, Sanni Odera, gave
evidence from which may be adduced that his father
obtained a right to hunt over the land in issue
about 70 or 80 years ago. He stated that about 4
years ago he received permission to farm on the
land from the Oni: he settled tenants on the land,
but these tenants are not paying Ishakole because

EXHIBITS

Exhibit "J"

Proceedings in
District
Officer's Court
in Case No.7/49
February/June
1951 (Continued)

their cocoa is not yet bearing.

The Court also called expert witnesses, knowledgeable in Native Law and Custom relating to land, both of whom know land in issue. The evidence given by them is clear.

The following points emerge from the evidence given in this case:

- (a) accepted Native law and custom is that the reigning Oni has the right to control 'virgin' forest and that he exercises this right on behalf of the chiefs and people of Ife. 10
- (b) the land in issue was 'high' forest, unfarmed not many years ago.
- (c) the dispute on the land arose because there was disagreement between the parties as to who should receive the monies (or crops) payable, and probably paid, by the tenants placed on the land.

The Plaintiff-Appellant's argument that his family has had the right to farm the land since the 20 days of Olofin is not reasonable. Even 50 years ago it is extremely unlikely that any person held farming rights more than 5 miles from his place of settlement. The only way in which Plaintiff-Appellant's family or Defendant-Respondent's for that matter, could have obtained valid farming rights over this land would be from the grant of a recent Oni. Plaintiff-Appellant has not attempted to assert this. Defendant-Respondent has done so, but has brought no evidence to support his assertion. 30

The claim must fail. The judgment of the Land Court given on 7/11/50 is upheld.

No order as to costs.

Either party may appeal to the Resident's Court within 30 days of the date of this judgment.

The attention of the Lands Court is particularly drawn to the course of this action and the issues raised herein. How very much better it would be if the courts, when giving judgment on 'claims to title for land', were to refrain from using the word 'title' and merely specify the 40

nature of the rights held.

(Sgd.) J.H. Bourne
District Officer
i/c Ife Division
18th June, 1951.

Certified true copy

(Sgd). ? ? ?
Deputy Registrar, Ife.

EXHIBITS

Exhibit "J"

Proceedings in
District
Officer's Court
in Case No.7/49
February/June
1951 (Continued)

EXHIBIT "B"

Exhibit "B"

10

Affidavit filed by Plaintiffs

Affidavit filed
by Plaintiffs
6th November
1958.

IN THE HIGH COURT OF JUSTICE OF THE WESTERN
REGION OF NIGERIA

IN THE HIGH COURT OF THE IBADAN JUDICIAL DIVISION

HOLDEN AT IBADAN

Suit No.I/257/58.

Between

20

- 1. E.T. Adewoyin
 - 2. J.L. Adebowale
 - 3. J.K. Adeyeye
 - 4. G.O. Ademiluyi
 - 5. Adebayo Ademiluyi Plaintiffs
- representing Ademakin/Ademiluyi
Family of Ife.
- A N D
- Jones Adeyeye Defendant

A F F I D A V I T

We E.T. Adewoyin, J.L. Adebowale, J.K. Adeyeye, G.O. Ademiluyi and Adebayo Ademiluyi, British Protected Persons, Traders and Farmers of Ife make oath and say as follows:-

30

- 1. That we are the plaintiffs in the above-mentioned civil action.
- 2. That we represent Ademakin/Ademiluyi family of Ife
- 3. That the aforesaid family is a large family, and is comprised of many men and women.

EXHIBITS

Exhibit "B"

Affidavit filed
by Plaintiffs
6th November
1958 (Continued)

4. That majority of the men belonging to the aforesaid family are landless and are unemployed.
5. That the aforesaid family has a family land at Omifunfun Onigbodogi, Ife District.
6. That the defendant has let out the whole land to a considerable number of Tenants.
7. That the defendant is collecting Ishakole from the tenants on the land.
8. That apart from the land let out to tenants the 10 defendant has a farm of his own on a portion of the land in respect of which a declaration is sought.
9. That all the other members of the family are not allowed by the defendant to enjoy the Ishakole accruing from the land let out to tenants.
10. That the defendant had made promises in the past to share the Ishakole with the other members of the family, but has always failed to fulfil the promises. 20
11. That the majority of members of the family entitled to a share of the Ishakole being collected are impecunious and are suffering hardship.
12. That the family house built by His Highness the late Oni Ademiluyi (a former head of the family) has fallen down and is now in ruins - picture of the said family house attached as Exhibit "A".
13. That there is no central fund from which 30 necessary repairs to the house can be affected.
14. That if the defendant is allowed to continue collecting Ishakole from the land it will be impossible to recover it back either in kind or cash.
15. That if a receiver is appointed neither of the parties to this action will lose.
16. That the defendant will suffer no hardship or damage.
17. That if the defendant continues to collect 40 Ishakole, there may be breach of peace and bloodshed.

1. Sgd. E.T. Adewoyin.
2. J.L. Adebawale His R.T.I.
3. J.K. Adeyeye (Sgd.)
4. G.O. Ademiluyi (Sgd.)
5. Adebayo Ademiluyi (Sgd.)

EXHIBITS

Exhibit "B"

Affidavit filed
by Plaintiffs
6th November
1958 (Continued)

D E P O N E N T S

Sworn to at the Magistrate's Court
Registry Ife this 6th day of November, 1958,
the foregoing having been read over and
10 interpreted into Yoruba language by (Sgd.) ? ?

Sworn Interpreter when the Deponents seem
perfectly to understand the same before
affixing their signatures or thumb
impressions thereto.

BEFORE ME

(Sgd.) A.J. TINUBU
COMMISSIONER FOR OATHS.

IN THE PRIVY COUNCIL

No. 1 of 1964

ON APPEAL

FROM THE FEDERAL SUPREME COURT OF NIGERIA

HOLDEN AT LAGOS

B E T W E E N:-

JONES ADEYEYE

Defendant/Appellant

- and -

1. E.T. ADEWOYIN
2. JAMES LABONDE ADEBOWALE
3. JOSEPH KONKO ADEYEYE
4. GABRIEL OYEDELE ADEMILUYI
5. ADEBAYO ADEMILUYI

Representing Ademakin/Ademiluyi
Family of Ife

Plaintiffs/Respondents

RECORD OF PROCEEDINGS

HATCHETT JONES & CO:
90 Fenchurch Street,
London, E.C.3.

APPELLANT'S SOLICITORS