

**IN THE COURT OF APPEAL**  
**IN THE IBADAN JUDICIAL DIVISION**  
**HOLDEN AT IBADAN**

**ON WEDNESDAY THE 25<sup>TH</sup> DAY OF MARCH, 2015**

**BEFORE THEIR LORDSHIPS:**

**M. B. DONGBAN-MENSEM**  
**HARUNA SIMON TSAMMANI**  
**MUDASHIRU NASIRU ONIYANGI**

**-JUSTICE, COURT OF APPEAL**  
**- JUSTICE, COURT OF APPEAL**  
**- JUSTICE, COURT OF APPEAL**

APPEAL NO: **CA/I/110/11**

**BETWEEN:**

MR. RAFIU YUSUF ..... APPELLANT

AND

HONOURABLE A.O. OGUNOLA .....RESPONDENT

**JUDGMENT**

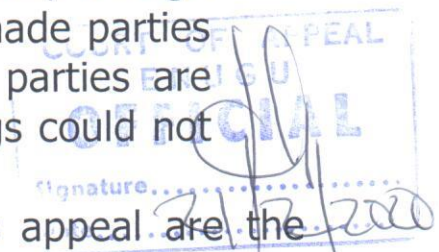
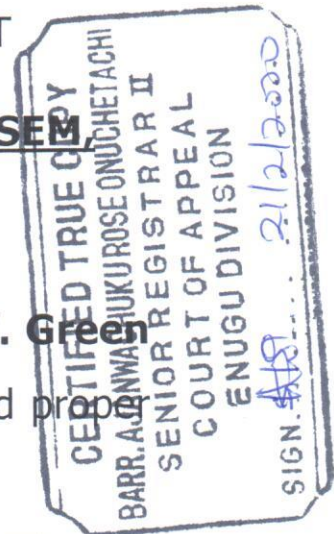
**(DELIVERED BY MONICA BOLNA'AN DONGBAN-MENSEM**  
**JCA)**

**1. Proper parties to a suit**

Who are necessary and proper parties? The case of **Green V. Green**  
**(19870 3 NWLR pt.61 pg.480 at 493**, respectively defined proper  
parties as:

“...those named in the suit and those who, though not interested in the Plaintiff’s claim, are made parties for some good reasons, While necessary parties are those who in their absence, the proceedings could not be fairly dealt with....”

By this definition, clearly the proper parties in this appeal are the parties named. What determines the competence of the suit is among other things, whether the proper parties are before the court. From the facts of the case, which culminated into this appeal, and which facts are not contested, the Appellant and the Respondents are the



proper parties before the court. It has not been presented to this court that the Appellant sought to join other parties and that the Learned trial Judge failed to join such parties and thereby occasioning a miscarriage of justice to the Appellant.

**2. Joinder of parties**

It is my view that the rights and interests of the parties in this case can be decided without joining the Ado-odo/Ota Local Government as a party in this case and it also possible for this court to adjudicate on the cause of action set up by the plaintiff without joining the Local Government as a party.

The Appellant has not stated how this decision has adversely affected him in terms of miscarriage of justice. No application was placed before the court for a joinder therefore the suit of the respondent was properly before the court which competently assumed jurisdiction. Issue one is resolved against the Appellant.

**3. Pleadings**

Principles of law must be applied to facts pleaded and proved by the parties before the court. Where a party reproduces his statement of defence as the facts in his counter claim, the learned trial Judge is entitled to merge and treat all the issues together before making its final pronouncement.

**4. Notice of revocation of title**

The Appellant was a trespasser who had been so declared by the learned trial Judge. I find no error in the application of law to the facts placed before the trial court. The principle of law has always been

CERTIFIED TRUE COPY  
BARR. AJANWACHUKUROSE ONUCHETACHI  
SENIOR REGISTRAR II  
COURT OF APPEAL  
ENUGU DIVISION

COURT OF APPEAL  
ENUGU  
OFFICIAL  
Signature.....  
Date 20/2/2020

that there must not only be notice of revocation, but that the notice must state the reason for the revocation. In most cases, only revocation for reason of public use, have stood the coercive powers of the courts where a revocation appears to be arbitrary. In this appeal, there was no revocation. The Appellant therefore bought nothing because its vendor had nothing to sell to him. See **Shaibu V. Bakare SC 115/1983** held that:

"....at the time he trespassed, he had no title, even the so called deed of conveyance was valueless since his grantors had nothing left to grant- *Nemo Dat Quod Non Habet* – a purchaser can never get what his vendor himself did not possess...."

