

***Proof of Resulting Trust – Whether Can Invalidate Legal Title to a Property***

In the Supreme Court of Nigeria  
Holden at Abuja  
On Friday, the 14<sup>th</sup> Day of April, 2025

**Before Their Lordships**

Ibrahim Muhammed Musa Saulawa  
Emmanuel Akomaye Agim  
Chioma Egondy Nwosu-Iheme  
Stephen Jonah Ndah  
Jamilu Yammama Tukur  
*Justices, Supreme Court*

SC.1049/2016

**BETWEEN**

**MICHAEL AFOLAJIMI JOLUGBO**

**APPELLANT**

(Suing on behalf of himself and other  
Beneficiaries of the Estate of M.A. Julogbo)

**AND**

- 1. MRS. O.A. AINA**
- 2. LAGOS STATE DEVELOPMENT AND  
PROPERTY CORPORATION (L.S.D.P.C)**

**RESPONDENTS**

*“When property has been acquired in such circumstance that the holder of the legal title may not in good conscience retain the beneficial interest, equity converts him into a trustee.”*

*(Lead judgement delivered by Honourable Jamilu Yammama Tukur, JSC)*

**Facts**

The appeal challenges the judgement of the Court of Appeal, Lagos Division, in Appeal No. CA/L/362/14 delivered on 30<sup>th</sup> March 2016 against the Appellant. The dispute centers on the validity of the title transfer of Flat 5 Block A 78, LSDPC Low-Cost Housing Estate, Dolphin, Anikantamo, Lagos, from the late Mr. Olayinka Aina to the late M.A. Julogbo. Believing the 1<sup>st</sup> Respondent, who is Mr. Olayinka Aina’s wife was frustrating the sale, Mr. Aina and Mr.

Julogbo's late father initiated Suit No. LD/3276/94 at the High Court of Lagos State, seeking a declaration that Mr. Aina was the legal and beneficial owner of the property, that the title transfer to Julogbo was valid, and that Julogbo was entitled to possession. The 1<sup>st</sup> Respondent also filed Suit No. LD/769/97, claiming a trustee relationship existed between Mr. Aina and herself, and that she is the beneficiary of the trust. She asserted that though the title document of the property is in her husband's name, she provided the funds for purchase of the property which was held in trust for her. She thereby sought to set aside the sale to M.A. Julogbo.

The cases were consolidated for trial. On 19<sup>th</sup> November 2004, the trial found that a trust relationship existed between the 1<sup>st</sup> Respondent and Mr. Olayinka Aina. The court, accordingly, set aside the sale. The Appellant's late father and Mr. Aina appealed, but the Court of Appeal dismissed the appeal on 30<sup>th</sup> March 2016. Dissatisfied, the Appellant, on behalf of other beneficiaries of Mr. Julogbo's estate, filed an appeal to the Supreme Court.

### **Issues for Determination**

Two issues were raised in the Appellant's brief for determination, thus:

- i. **WHETHER** the court processes filed by the 1<sup>st</sup> Respondent in the consolidated suits are competent as to vest the lower court with jurisdiction to determine her right over the property in dispute?
- ii. **WHETHER** from the evidence before the lower Court, a Resultant or implied Trust can be implied to exist in favour of the 1<sup>st</sup> Respondent? If the answer is in the negative, whether the lower court, having found that the legal title resides in the 2<sup>nd</sup> Claimant, should not have held that the said Claimant validly transferred the legal title to the 1<sup>st</sup> Claimant?

Counsel for the 1<sup>st</sup> Respondent on his part raised four issues for determination of the appeal, while counsel for the 2<sup>nd</sup> Respondent formulated two issues. The Supreme Court opined that the central question in the appeal is – *Whether the lower courts were right to have granted the 1<sup>st</sup> Respondent's title over the disputed property on the principle of resulting trust.*

### **Arguments**

Counsel for the Appellant argued that there is no evidence, explicit or implied, demonstrating that Mr. Olayinka Aina intended to transfer the property to the 1<sup>st</sup> Respondent on trust. He posited that at trial, the 1<sup>st</sup> Respondent produced no documentary title but relied solely on oral testimony, which was outweighed by the substantial documentary evidence of title presented by the husband. Counsel supported this position with the authorities *EZENNAH v ATTA (2004) 17 W.R.N. 1 S.C.*, *MADU v MADU (2008) 2-3 S.C. (PT. II) 109*, and *FAGBENRO v AROBADI (2006) 19 W.R.N. 1 S.C.* He submitted further that the 1<sup>st</sup> Respondent failed to establish any of the five recognized methods enumerated by the Supreme Court to prove ownership of the disputed property. Conversely, the husband presented documentary evidence supporting his ownership. Appellant placed reliance on the documents emanating from the 2<sup>nd</sup> Respondent, and there is no single document of title registered in the name of “Mrs. Aina,” the 1<sup>st</sup> Respondent. Counsel relied on the authority of *OJOH v KAMALU (2006) 6 W.R.N. 110 S.C.* and *AGBAREH v MIMRA (2008) 1 S.C. (Pt.3) 88*, to buttress his submission.

Counsel contended that Mr. Aina had legal authority to transfer title to the Appellant. He argued further that even if the 1<sup>st</sup> Respondent’s claim of a resulting trust were to succeed, the Appellant would still qualify as a *bona fide* purchaser for value without notice—be it actual, constructive, or implied - as the Appellant duly conducted a title search at the 2<sup>nd</sup> Respondent’s office, which confirmed allocation to the said Mr. Aina, with no indication of any trust affecting the property. Lastly, he argued that the 1<sup>st</sup> Respondent’s evidence regarding payments for mortgage and repairs does not override the superior title evidence adduced by Mr. Aina and does not support her claim to a resulting trust. Furthermore, these documents are inconsistent with her testimony, where she expressly stated that she had no direct dealings with LSDPC and LBIC.

On the part of the 1<sup>st</sup> Respondent, counsel contended that during the trial, the 1<sup>st</sup> Respondent, through both oral and documentary evidence, successfully established circumstances giving rise to a presumption of a resulting trust in her favour. This formed the basis for the concurrent findings of the trial Judge and the Court of Appeal Justices that a resulting trust indeed existed in favour of the 1<sup>st</sup> Respondent. It was argued that the 1<sup>st</sup> Respondent paid the initial fees,

contributed significantly to the property's development, made mortgage repayments, and paid for the mandatory insurance policy on the flat, with her father acting as Guarantor, despite her husband's father being alive during the relevant period. Counsel clarified further that the 1<sup>st</sup> Respondent did not dispute that legal title to the property was vested in her husband, as his name appeared on the title documents; however, she maintained that the equitable interest belonged to her, given her financial contributions toward the purchase and related expenses, thereby creating a resulting trust for which she is the beneficiary.

Counsel submitted that the Appellant's claim to ownership based solely on the title document bearing the name of Mr. Aina was misplaced, as proof of a resulting trust invalidates the title. Counsel argued that the defence of a *bona fide* purchaser without notice would not succeed because the Appellant's father failed to exercise due diligence. The father did not demand the original title documents before the purchase and admitted he neither inspected the flat nor investigated the tenancy, which would have revealed that the property belonged to the 1<sup>st</sup> Respondent. It was contended that Mr. Aina acted in bad faith and colluded with the Appellant to deprive the 1<sup>st</sup> Respondent of her proprietary interest. This argument referenced *CLAY INDUSTRIES NIGERIA LTD v AINA* (1997) 8 NWLR (PT. 516) P. 208; *FASESIN v OYERINDE* (1997) 11 NWLR (PT. 530) 552; *GBADAMOSI v AKINLOYE* (2013) 15 NWLR (PT. 1378) P. 455; *ABBA v S.P.D.C.N LTD* (2013) 11 NWLR (PT. 1364) P. 86; and *ORONTI v ONIGBANJO* (2012) 12 NWLR (PT. 1313) P. 23.

### **Court's Judgement and Rationale**

In resolving the issue of whether, given the circumstances of the case, a trust exists between Mr. Olayinka Aina and the 1<sup>st</sup> Respondent (Mrs. O.A Aina), the Supreme Court distinguished between express trust and implied trust. Their Lordships explained that an express trust is evidenced by a trust deed, which clearly identifies the parties to the trust. In the case of an implied trust, resulting or constructive trust, an implied trust arises when the court infers the existence of a trust from the circumstances surrounding the acquisition of the property. In such cases, the beneficiary of the trust is recognized as the true owner of the property, even though the legal title is held by the trustee. As a result of this, "*the trustee must deal with the property in a way that would corrode the interests of the beneficiary.*" The Supreme Court relied on its earlier decision in

**HUBNER v AERONAUTICAL INDUSTRIAL ENGINEERING & PROJECT MANAGEMENT CO. LTD (2017) LPELR 42078(SC) (Pp 10 – 11 Paras D-E)** where it was held that *“when property has been acquired in such circumstance that the holder of the legal title may not in good conscience retain the beneficial interest, equity converts him into a trustee ... Constructive trust is neither granted nor accepted, but it is foisted upon the parties by the operation of law.”*

Applying the above principles of trust to the facts of this case, the Supreme Court held that *“the circumstances were one in which a trust relationship could be validly read into between the 1<sup>st</sup> Respondent and her deceased husband, the 2<sup>nd</sup> Claimant at trial, to the effect that she advanced money to her husband to buy a house on her behalf, so that even though he is the legal owner and his name appeared on all documents of title, her right is superior because she is the ultimate beneficiary and the true owner.”*

The court noted further that the Appellant’s argument, relying on the existence of legal title documents and the 1<sup>st</sup> Respondent’s failure to prove ownership by conventional means, was misplaced. *The issue was not about legal ownership of the property but rather whether the legal owner (the 2<sup>nd</sup> Claimant at the trial court) held the property in trust for the 1<sup>st</sup> Respondent.* The Supreme Court emphasized that the 1<sup>st</sup> Respondent’s status as beneficial owner is supported by the fact that she funded the purchase and made mortgage payments on the property.

The court concluded that the Appellant failed to give concrete grounds for the Supreme Court to abrogate from the concurrent findings of the lower courts. Consequently, the court dismissed the appeal for lacking in merit.

*Appeal dismissed.*

### **Representation**

Oladele Ojogbede, Esq. for the Appellant

Micheal A. Aribisala Esq for the 1<sup>st</sup> Respondent

Olugbenga Ajala Esq. for the 2<sup>nd</sup> Respondent.

**Reported by Optimum Publishers Limited**

**Publishers of the Nigerian Monthly Law Reports (NMLR)**

*(An affiliate of Babalakin & Co.)*

