

*Doctrine of Res Judicata – Fundamental Objective of*

In the Supreme Court of Nigeria  
Holden at Abuja  
On Friday, the 4<sup>th</sup> day of July, 2025

**Before Their Lordships**  
Uwani Musa Abba Aji  
Ibrahim Mohammed Musa Saulawa  
Emmanuel Akomaye Agim  
Chidiebere Nwaoma Uwa  
Obande Festus Ogbuinya  
*Justices, Supreme Court*

**SC/593/2019**

**Between**

**Anthony Damisa Tiput**

(For himself and on behalf of  
Denan Sarkin' Bungha's Family)

**Appellant**

**And**

**1. Halilu Ali Dawamkat**

(*Alias* Halilu Yasa Dawamkat)

**Respondents**

**2. Ibrahim Verengtu**

(For themselves and on behalf of  
Dawamkat's Family)

*(Lead judgement delivered by Honourable Ibrahim Mohammed Musa Saulawa, JSC)*

**Facts**

The Appellant instituted the action - Suit No. PLD/P.28CV/2013 - at the trial court seeking some declaratory and injunctive reliefs against the Respondents. Upon being served with the court process, the Respondents entered appearance and filed their Statement of Defence. Subsequently, the Respondents filed a Notice of Preliminary Objection challenging the competence of the suit on the ground of *res judicata*. The

objection was predicated on an earlier decision of the Grade I Area Court, Mangu, in Suit No. CV/323/1983, between Mai-Angwa Dawap of Millet (*alias* Dawamkat) and Sarkin Bungha Denan of Bungha, who are the predecessors-in-title of the present parties. The trial High Court heard arguments on the objection and, in its ruling, upheld the Respondent's objection. Accordingly, the suit was struck out on the ground that the action had been caught by the doctrine of *res judicata*.

Dissatisfied with that ruling, the Appellant appealed to the Court of Appeal which court unanimously dismissed the appeal. Still dissatisfied, the Appellant filed a further appeal to the Supreme Court.

### **Issues for Determination**

The Supreme Court adopted the three issues for determination distilled by the Appellant in determining the appeal. The issues are:

1. *Whether the court below was right when it affirmed the decision of the trial court that Suit No. **PLD/P.28CV/2013** between the parties therein was caught upon by the doctrine of Res-Judicata, in view of the decision of the Area Court, Mangu in Suit No. **CV/323/1983** between Mai-Angwa Dawap of Millet and Sarkin Bungha Denan, without considering the decision of the upper Area Court in Suit No. **CV/79/1985** between **Alhaji Shuaibu and Sarkin Bungha Denan** before arriving at its judgement.*
2. *Whether the Court below was right to have affirmed the decision of the trial court that the Suit No. **PLD/P.28CV/2013** was caught up by *res judicata* without looking at the pleadings of the parties and exhibits G, GI, and G2 attached to the Appellant's Counter Affidavit, wherein the Respondents had admitted that the land in dispute in Suit No. **PLD/P.28CV/2013** is different from the land declared in favour of their father in Suit No. **CV/323/1983**.*
3. *Whether the learned justices of the Court of Appeal were right when they failed and neglected to determine issue 2 formulated by the Appellant in his brief and if the answer is in the affirmative, whether the failure has not occasioned a miscarriage of justice against the Appellant.*

### **Arguments**

Arguing the issues, the Appellant submitted that the crux of the appeal concerns the concurrent findings of the two lower courts that the land in dispute in the present Suit No. **PLD/P.28CV/2013**, is the same as the land litigated upon in **Suit No. CV/323/1983**.

Counsel argued that both courts fell into grave error because they failed to place the decisions in **Suit No. CV/323/1983 and CV/79/1985** side by side in order to determine the particular land in dispute. Counsel submitted that a careful examination of the judgement of the Grade I Area Court, Mangu, in **Suit No. CV/323/1983** shows that the land in dispute therein, between Mai-Angwa Dawap of Millet (Dawakat) and Sarkin Denan Bungha, bears no relationship whatsoever with the land on which the Mangu General Hospital is situated. That it is the latter suit between **ALHAJI SHUAIBU BABUJE v SARKIN DENAN BUNGHA** that is connected to the land around the General Hospital. He contended further that the trial court failed to properly consider the evidence and exhibits before it, and instead resorted to speculation by attempting to determine whether the land in **Suit No. CV/323/1983** is located at the right or left of the Jos-Mangu-Pankshin Road. That the lower courts failed to consider the decision in **Suit No. CV/79/1985** which would have helped to determine which of the lands relates to the land surrounding the Mangu General Hospital. In conclusion, he urged the Supreme Court to allow the appeal, set aside the decisions of both the Court of Appeal and the trial court, and remit the case to the High Court for hearing on the merits before another judge.

Responding to the submissions of the Appellant, the Respondents contended that a proper examination of paragraphs 5, 6, and 7 of the Appellant's Statement of Claim in **Suit No. PLD/P.28CV/2013** clearly shows that the Appellant described the land in dispute with reference to identifiable features, namely the Jos-Pankshin tarred road on one boundary and a river or stream on the other. They submitted that these same features were vividly reflected in the description of the land adjudicated upon in **Suit No. CV/323/1983**, as demonstrated in Exhibit A attached to the Notice of Preliminary Objection. The Respondent argued further that the Appellant failed to properly appreciate the principles governing *res judicata*, particularly as enunciated in **MAKUN v FUT MINNA (2011) 18 NWLR (PT. 1278) 190 AT 222**. The Respondents argued that the Court of Appeal duly considered the earlier judgement in **Suit No. CV/323/1983** and rightly came to the conclusion that both suits relate to the same subject matter. They posit further that where the jurisdiction of a court is challenged, the court is bound to consider only the statement of claim in determining the issues.

On issue 3 raised by the Appellant, the Respondents argued that the Appellant was in error in contending that the Court of Appeal failed to consider the issue 2 raised at the lower court. They submitted that the lower court was right in holding that the resolution of the issues distilled by the Respondents sufficiently addressed all the material questions in controversy, including the Appellant's issue 2. In conclusion, they urged the Supreme

Court to dismiss the appeal in its entirety and affirm the concurrent decisions of the two lower courts.

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

In resolving this appeal, the Supreme Court held that *the term res judicata simply denotes "a thing adjudicated"*. *The fundamental object of the doctrine of res judicata is to put an end to a matter that was previously litigated by the same parties and determined on the merits by a court of competent jurisdiction. The whole purpose of the doctrine is to avoid duplicity of litigation thereby saving so much litigation time and expenses.* Adopting the rule laid down by Lord Denning L.J in **FEDELITES SHIPPING CO.LTD v D EXPORT CHILD (1966) 1QB 630 at 640**, the apex court held that *it is a well settled doctrine, that once an issue has been raised and specifically adjudicated between the parties, neither parties can be allowed to litigate the case or issue all over again.*

The Supreme Court held that *for a plea of res judicata to succeed, the party pleading must satisfy the following conditions: (i) there was an adjudication of the issues joined by the parties; (ii) the parties or their privies must be the same in the present case as in the previous case; (iii) the subject matter in both suits are the same in the previous case as in the present case.; and (iv) the previous decision must be final and on the merits.*

In the instant case, the Supreme Court found that there was no dispute as to the identity of the parties (or their privies) and the competence of the court that delivered the earlier judgement in **Suit No. CV/323/1983**. The sole point of contention was whether the subject matter in the present suit was the same as that in the earlier suit.

The Supreme Court held that the lower courts were right to have held that from the description of the land in dispute in the Appellant's Statement of Claim, the land in dispute is the same as the property in dispute in **Suit No. CV/323/1983**. The features, boundaries, and location of the land in both suits are substantially the same. The land in dispute was consistently described with reference to identifiable landmarks such as the Jos-Pankshin Road and adjoining stream boundaries, which corresponded with the land adjudicated upon in the earlier proceedings.

Their Lordships held further that the trial court was right in relying on the affidavit evidence and exhibits, which clearly demonstrated that the subject matter of the present suit had been litigated upon and finally determined in Suit No. CV/323/1983 between the predecessors of the parties. The conditions for a successful plea of *estoppel per rem judicatam* having been satisfied, the lower court was right in upholding the Preliminary

Objection and dismissing the Appellant's suit. The earlier decision was valid, subsisting, and binding on the parties and their privies. The Supreme Court also affirmed that the subsequent decision in Suit No. CV/79/1985, did not detract from the applicability of the principle of *res judicata*, as the core issue between the parties, which is title to the same parcel of land had already been conclusively settled in Suit No. CV/323/1983.

On issue three, the Supreme Court relied on its earlier decision in **ADEBAYO v A.G OGUN STATE (2008) LPELR – 80 (SC)** to hold that *“it is trite that when a party submits an issue to a court for determination, that court must make a pronouncement on the issue except where the issue subsumed is another issue. Where that happens, there shall no longer be the necessity of making a separate pronouncement on the issue subsumed.* Flowing from the foregoing, Their Lordships held that the lower court having duly read all the issues raised by the Appellant and the Respondents, was right to have come to the conclusion that the issues are similar, and only two issues from the four issues distilled by the parties were relevant for the determination of the appeal, which were issues one and three. The exercise of the lower's court discretion in subsuming the issue 2 of the Appellant in the issues 1 and 3, did not in any way amount to a miscarriage of justice.

The Supreme Court agreed with the concurrent findings of the lower courts that all the conditions for the application of the principle of *res judicata* had been satisfied. And that the Preliminary Objection was rightly upheld, and the Appellant's suit was properly struck out.

In conclusion, the Supreme Court found no reason to interfere with the concurrent decisions of the lower courts. The appeal was accordingly resolved against the Appellant.

*Appeal Dismissed.*

#### **Representation**

Edwin O. Okoro, Esq. for the Appellant.

S.D. Samchi, Esq. for the Respondents.

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