

Judgment

CH 62

1957

No. 39 of 1953.

In the Privy Council.

ON APPEAL
FROM THE WEST AFRICAN COURT OF APPEAL
(LAGOS JUDICIAL DIVISION).

BETWEEN

1. ADEYINKA OYEKAN
2. AMUSA DOCEMO
3. OLUYEMI DOCEMO
4. H. A. OGUNDIMU
5. BABATUNDE AKITOYE

(On behalf of themselves and other members of the House of
Docemo) (Plaintiffs) *Appellants*

AND

MUSENDIKU ADELE (Defendant) *Respondent.*

RECORD OF PROCEEDINGS

A. L. BRYDEN & WILLIAMS,
53 VICTORIA STREET,
WESTMINSTER, S.W.1,
Solicitors and Agents for the Appellants.

HATCHETT, JONES & CO.,
DOMINION HOUSE,
110 FENCHURCH STREET,
LONDON, E.C.3,
Solicitors and Agents for the Respondent.

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In the Privy Council.

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BETWEEN

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In the Privy Council.

ON APPEAL FROM THE WEST AFRICAN COURT OF APPEAL (LAGOS JUDICIAL DIVISION).

BETWEEN

- 1. ADEYINKA OYEKAN
- 2. AMUSA DOCEMO
- 3. OLUYEMI DOCEMO
- 10 4. H. A. OGUNDIMU
- 5. BABATUNDE AKITOYE
(on behalf of themselves and other members of
the House of Docemo) (Plaintiffs) . . . *Appellants*

AND

MUSENDIKU ADELE (Defendant) . . . *Respondent.*

RECORD OF PROCEEDINGS

*In the
Supreme
Court.*

No. 1.
CIVIL SUMMONS.

No. 1.
Civil
Summons,
13th
October
1949.

IN THE SUPREME COURT OF NIGERIA.

20 Book No. U.31

U.3002.

CIVIL SUMMONS.
Suit No. 276 of 1949.

Between 1. ADEDOYIN DOCEMO
2. AMUSA DOCEMO
3. OLUYEMI DOCEMO
4. H. A. OGUNDIMU
5. BABATUNDE AKITOYE
(on behalf of themselves and other members of
the House of Docemo) Plaintiffs

30

and

MUSENDIKU ADELE Defendant.

To MUSENDIKU ADELE of 26, Upper King Street, Lagos.

YOU ARE HEREBY COMMANDED in His Majesty's name to attend
this Court at Tinubu Square, Lagos on Monday the 24th day of October,

*In the
Supreme
Court.*

1949, at 9 o'clock in the forenoon to answer a suit by 1. Adedoyin Docemo (on behalf of themselves and other members of the House of Docemo) of c/o Their Solicitors, 37, Campbell Street, Lagos against you.

No. 1.
Civil
Summons,
13th
October
1949,
continued.

The Plaintiffs claim as against the Defendant :—

(1) Declaration of title in respect of the property situate at No. 26, Upper King Street, Lagos, commonly known as Iga Idunganran or the House of Docemo.

(2) The sum of £2,000 being damages for trespass committed by the Defendant on the said property.

(3) Recovery of Possession of the said property. 10

Annual Rental value of the property for the purpose of Court fees is £60.

Issued at Lagos the 13th day of October 1949.

Summons :	£40 : 0 : 0
Service :	4 : 4
Mileage :	- : - : -
	<hr/>
	£40 : 4 : 4
	<hr/> <hr/>

(Sgd.) C. G. AMES,
Puisne Judge.

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 20 the Plaintiff to proceed to judgment and execution.

No. 2.

NOTICE OF MOTION to sue in Representative Capacity.

*In the
Supreme
Court.*

IN THE SUPREME COURT OF NIGERIA

In the Lagos Judicial Division.

Suit No. 276/1949.

Between ADEDOYIN DOCEMO

AMUSA DOCEMO

OLUYEMI DOCEMO

H. A. OGUNDIMU

10

BABATUNDE AKITOYE

(On behalf of themselves and other members of
the House of Docemo) Plaintiffs

and

MUSENDIKU ADELE Defendant.

No. 2.
Notice of
Motion to
sue in
representa-
tive
capacity,
20th
October
1949.

MOTION EX PARTE.

(Order 4, Rule 3.)

TAKE NOTICE that this Honourable Court will be moved on Monday
the 24th October, 1949 at the hour of 9 o'clock in the forenoon or so soon
thereafter as Counsel for the Plaintiffs could be heard for an Order of this
20 Honourable Court granting leave for the Plaintiffs to prosecute the above-
mentioned action in a representative capacity, and for such further
Order as the Honourable Court may deem meet in the circumstance.

Dated at Lagos this 20th day of October, 1949.

(Sgd.) ADELEKE ADEDOYIN

(Sgd.) OLADIPO MOORE
Solicitors for the Plaintiffs,
37, Campbell Street, Lagos.

No. 3.

AFFIDAVIT of Amusa Docemo.

No. 3.
Affidavit
of Amusa
Docemo,
20th
October
1949.

30

(Title as No. 2.)

Suit No. 276/1949.

I, AMUSA DOCEMO of 20, Oke Street, Lagos make Oath and say as
follows :—

1. I am the Second Plaintiff in the above-mentioned Suit.

2. I am the older of the two surviving male children of the late
King Docemo of Lagos.

*In the
Supreme
Court.*

No. 3.
Affidavit
of Amusa
Docemo,
20th
October
1949,
continued.

3. A general meeting of the members of the House of Docemo was held at No. 12, Ricca Street, Lagos on Saturday, October 8, 1949.

4. At the said meeting the five people whose names appear as the Plaintiffs in this action were unanimously selected to represent the family to prosecute this action.

5. The five of us agreed.

Wherefor the leave of this Honourable Court is hereby sought to enable us to prosecute this action in a representative capacity for and on behalf of our family, the House of Docemo.

Dated at Lagos this 20th day of October, 1949.

10

(Sgd.) AMUSA DOCEMO.

Sworn to at the Supreme Court Registry this day of October, 1949, the foregoing having been first read over and explained to the deponent in the Yoruba language by me. When he seemed perfectly to understand the same before signing his signature thereto :

Before me,
(Sgd.) E. ADE BAMGBOYE,
Commissioner for Oaths.
20/10/49

No. 4.
Affidavit
of George
Iyitola
Oyekan,
24th
October
1949.

No. 4.

20

AFFIDAVIT of George Iyitola Oyekan.

(Title as No. 2.)

I, GEORGE IYITOLA OYEKAN of No. 3, Bajulaiye Lane, Lagos make Oath and say as follows :—

1. I am the son of the late Oba Oyekan who reigned in the Iga Idunganran, Lagos for 15 years *id est* from 1885 to 1900. He was *ipso facto* the Head of the House of Docemo.

2. The said Oba Oyekan was the eldest son of the late King Docemo of Lagos, and he (Oyekan) was the immediate successor of the King Docemo.

30

3. That I am an important member of the House of Docemo.

4. A general meeting of the members of the House of Docemo was held at No. 12, Ricca Street, Lagos—the House of the first Plaintiff in this action on Saturday, October 8, 1949.

5. At the said meeting, the five people—Adedoyin Docemo (the present Head of the Family), Amusa Docemo (the oldest son of the late King Docemo, now surviving), Oluyemi Docemo (another son of the late

King Docemo), H. A. Ogundimu (a grandson of the late King Akitoye), and Babatunde Akitoye (a great grandson of the late King Akitoye) who appear as Plaintiffs in this action were unanimously selected—and they agreed—to represent the family to institute and prosecute this action.

In the Supreme Court.

6. I swear to this Affidavit in support of the Motion of Amusa Docemo dated 20th October, 1949.

No. 4.
Affidavit of George Iyitola Oyekan, 24th October 1949, *continued.*

Wherefor the approval of this Honourable Court is sought to enable the five men aforementioned to prosecute this action in a representative capacity for and on behalf of our family, the House of Docemo.

10 Dated at Lagos this 24th day of October, 1949.

(Sgd.) GEORGE IYITOLA OYEKAN.

Sworn to by the Deponent in the Supreme Court Registry, Lagos, this 24th day of October, 1949

Before me,
(Sgd.) E. ADE. BAMGBOYE,
Commissioner for Oaths.

No. 5.

COURT NOTES ON MOTION to sue in Representative Capacity with leave to amend Affidavit.

20

IN THE SUPREME COURT OF NIGERIA.

Monday the 25th day of October, 1949.

Before—

HIS HONOUR, STEPHEN BANKOLE RHODES, C.B.E., Puisne Judge.

Suit No. 276/1949.

ADEDOYIN DOCEMO & ORS. V. M. ADELE.

Adedoyin moving.

Motion for leave to sue in a representative capacity. Leave granted.

(Sgd.) S. B. RHODES, J.

30 Adedoyin asks leave to amend his affidavit by deleting Docemo in line 5 of paragraph 5 and substituting Akitoye. Leave granted.

(Sgd.) S. B. RHODES, J.

No. 5.
Court Notes on Motion to sue in representative capacity with leave to amend affidavit, 25th October 1949.

*In the
Supreme
Court.*

No. 6.

ORDER giving leave to sue in Representative Capacity.

(Title as No. 2.)

No. 6.
Order
giving
leave to
sue in
representa-
tive
capacity,
25th
October
1949.

AFTER READING the Affidavit of George Iyitola Oyekan, of No. 3, Bajulaiye Lane, Lagos, son of late Oba Oyekan who reigned in the Iga Idunganran, Lagos, sworn and filed on the 8th day of October, 1949, and after hearing Counsel in the matter :

IT IS ORDERED that Adedoyin Docemo, Amusa Docemo, Oluyemi Docemo, H. A. Ogundimu and Babatunde Akitoye do represent the members of the House of Docemo as Plaintiffs, in the prosecution of the 10 above-mentioned action.

Dated at Lagos this 25th day of October, 1949.

(Sgd.) S. B. RHODES,
Puisne Judge.

No. 7.
Statement
of Claim,
8th
November
1949.

No. 7.

STATEMENT OF CLAIM.

(Title as No. 2.)

1. The 1st Plaintiff is the Head of the House of Docemo.
2. The 2nd, 3rd, 4th and 5th Plaintiffs are principal members of the said House of Docemo. 20
3. The Plaintiffs have been authorised to sue on behalf of the said House of Docemo.
4. The Defendant is the son of one Buraimoh Ogongo and is now in wrongful possession of the property the subject matter of this action.
5. The property in dispute is situate at No. 26, Upper King Street, Lagos and is popularly known and called the Iga Idunganran and forms part of a larger area of land covered by a Crown Grant dated 15th July, 1870 of which King Docemo and his heirs are the Grantees. The said Crown Grant is registered as No. 74 at page 74 in Volume 6 of the Register of Crown Grants kept in the Lands Registry, Lagos. 30
6. The property in dispute has for a period of over 100 years been in exclusive possession of the House of Docemo and various attempts by outsiders to challenge the rights of the said House of Docemo over and above the said property have been successfully resisted by the said House of Docemo.

7. The Defendant and his servants and agents on the 1st day of October, 1949 broke and entered the property in dispute which was on the said day in the possession of the 1st Plaintiff as the Head of the House of Docemo, together with other members of the said House of Docemo.

8. Since the said 1st day of October, 1949, the Defendant has been in wrongful possession of the said property.

Wherefor the Plaintiffs sue and claim as per the Writ of Summons.

Dated at Lagos this 8th day of November, 1949.

(Sgd.) ADELEKE ADEDOYIN

(Sgd.) OLADIPO MOORE.

Solicitors for the Plaintiffs.

37, Campbell Street, Lagos.

*In the
Supreme
Court.*

No. 7.
Statement
of Claim,
8th
November
1949,
continued.

10

**No. 8.
DEFENCE.**

(Title as No. 2.)

No. 8.
Defence,
21st
November
1949.

1. The Defendant denies paragraphs 1 and 2 of the Statement of Claim and says that what the Plaintiffs call the House of Docemo is the House of Ado or Iga Idunganran and (if it be necessary for the purpose of this case) the Defendant is the Head thereof.

20 2. The Defendant further states that the 4th and 5th Plaintiffs are ordinary members of the House of Ado (commonly referred to as the House of Docemo or the House of Docemo-Oyekan) and that the 2nd and 3rd Plaintiffs are two of the principal members of the said House.

3. The Defendant denies that he is in wrongful possession of the property the subject matter of this action but admits that he is the son of Prince Braimah Adele popularly known as Braimoh Ogongo a descendant of Oba Adele.

30 4. The Defendant admits that part of paragraph 5 of the Statement of Claim which quotes the date and number of the Crown Grant but contends that if the said Crown Grant were granted to "Docemo and his heirs" such grant was obtained by him in trust for the family of Ado who was the founder and owner of the House.

5. The said House from time immemorial is the Official residence of an Oba who is the Head of that House and is also for the use of chiefs and the descendants of Ado (Oma-Oba) and Ibigas (slaves) as a meeting place.

6. The Defendant will also contend at the trial that such a Crown Grant is inoperative and of no effect.

*In the
Supreme
Court.*
No. 8.
Defence,
21st
November
1949,
continued.

7. The Defendant denies paragraph 6 of the Statement of Claim and states that since the time of Oba Ado (1630–1669) the said property has always been in possession of any Oba duly installed by the Chiefs according to native custom and placed on the stool in the house. The Defendant will also submit that the said paragraph be struck out.

8. The Defendant denies paragraph 7 of the Statement of Claim and says that the said property was not and never was in lawful possession of the 1st Plaintiff or any of the Plaintiffs.

9. The Defendant further states that he has every right to enter the said property and that the first Plaintiff is not the Head thereof. 10

10. The Defendant says with reference to paragraph 8 of the Statement of Claim that he is not in wrongful possession of the said property.

11. The Defendant says that on the death of Oba Falolu, the War Chiefs became the custodians of Iga Idunganran and that no other person has a right to the possession of the said Iga until an Oba is installed therein who will then be entitled to the exclusive possession thereof.

12. The Defendant was duly capped on the 1st day of October 1949, as the Oba of Lagos by the chiefs entitled to do so and was duly installed in the said Iga Idunganran and by virtue of (i) his office (ii) his position 20 as the Head of the House and (iii) his being a descendant of the said Oba Ado, occupied the said Iga Idunganran in accordance with ancient custom and is still in possession thereof.

13. The Defendant avers that any Oba duly installed as the Head of the House of Ado (commonly referred to as the house of Docemo or the house of Docemo-Oyekan) is the Head Chief of Lagos.

14. The Defendant will contend that this action is an attempt to try the right to a chieftaincy in Court and will object to the jurisdiction of the Court.

15. The Defendant elucidates his relationship to Oba Ado and even to 30 Oba Docemo by the Genealogical Table attached hereto.

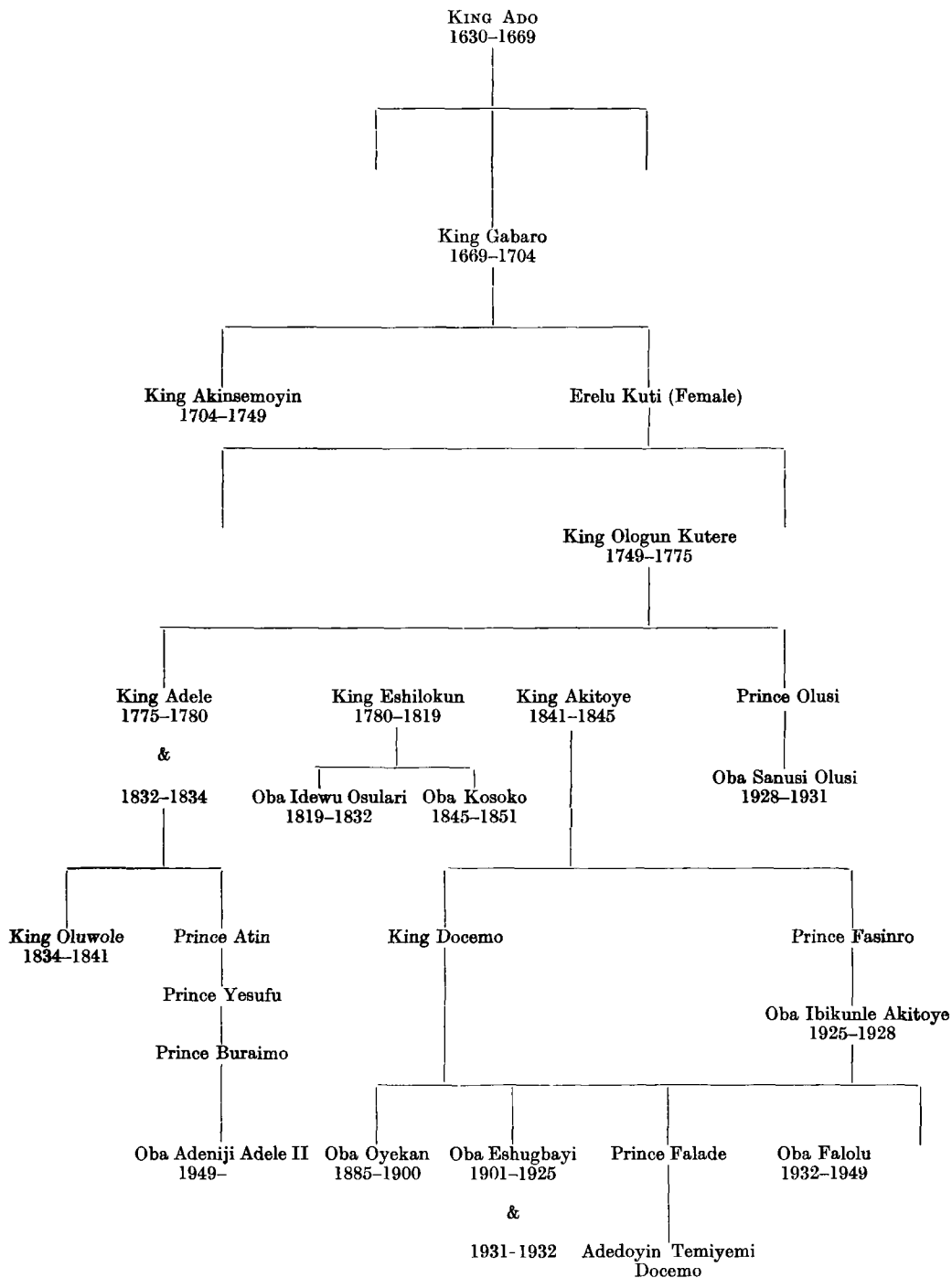
Delivered for filing this 21st day of November, 1949.

(Sgd.) ALAKIJA & ALAKIJA,
Solicitors for the Defendant.

No. 9.
DEFENDANT'S GENEALOGICAL TABLE.

*In the
Supreme
Court.*

No. 9.
Defendant's
Genea-
logical
Table,
21st
November
1949.



*In the
Supreme
Court.*

**No. 10.
PLAINTIFFS' Opening.**

No. 10.
Plaintiffs'
opening,
13th
February
1950.

IN THE SUPREME COURT OF NIGERIA.

Monday the 13th day of February, 1950.

Before—

HIS HONOUR, COURTENAY WALTON REECE, Esq., Puisne Judge.
Suit No. 276/49.

A. DOCEMO ET AL VS. M. ADELE.

O. Moore, Adedoyin and Mrs. Adebisi for Plaintiffs.

Sir Adeyemo Alakija and F. R. A. Williams for Defendants.

10

Moore opens :—The Plaintiffs sue for themselves and on behalf of other members of the house of Docemo. There are three claims in the writ (1) A declaration of title of No. 26, Upper King Street, Lagos. (2) A claim for £2,000 damages for trespass and (3) Recovery of possession. As to (1) we are relying on a Crown Grant, the grantee being King Docemo and his heirs for ever. Plaintiffs' case is that Defendant does not come anywhere within that grant. We say that for more than 100 years we exercised rights of ownership exclusively in respect of the property and that the successive heads of the house of Docemo have occupied this property. By successive heads of the house of Docemo we mean descendants of King Docemo. The last of such heads to occupy the property is Oba Falolu who died sometime in September 1949. After his death the first Plaintiff was duly elected head of the house of Docemo and moved into possession of the property in dispute. Up to 1st October 1949 the 1st Plaintiff was in possession and occupation of the property. On that day the Defendant and his servants and agents broke and entered the premises and remained in possession until to-day. For this act of trespass on the 1st October, 1949, we claim £2,000 and seek to recover possession of the property from the Defendant. 20

Refers to paragraph 14 of the defence. We are not concerned in the least with the position held by the Defendant in the community. We want to eject him from our family property. 30

PLAINTIFFS' EVIDENCE.

No. 11.

Amusa Docemo.*In the
Supreme
Court.**Plaintiffs'
Evidence.*

AMUSA DOCEMO : Sworn on the Koran saith in Yoruba :—

No. 11.

Amusa
Docemo,
13th
February
1950.
Examina-
tion.

I live at 20 Oke Street in Chief Salewe's compound. I am the son of the late King Docemo. There are four of us surviving, 2 men and 2 women. The third Plaintiff Oluyemi Docemo is my junior brother. Adedoyin Docemo is the head of my family. I know 26 Upper King Street, known as Iga Idunganran. King Docemo owned the property. The property was originally left by King Akitoye to his son King Docemo. Akitoye was the son of Ologun Kutere. Ologun Kutere had other children besides Akitoye. They were Adele, Esilokun, Olusi, Akelu and Olukoya. The property in dispute was given by Ologun Kutere to his son Akitoye. Ologun Kutere gave his other children land in the same way as he gave this portion to Akitoye. To his son Adele he gave a portion of land at Okiti in the Isale Eko area. Some of Adele's descendants live on land in the area of Okiti. The piece of land at Idunmota approaching Carter Bridge was given to Olusi by Ologun Kutere. The Government acquired the land and paid some compensation for it to the children of Olusi. The whole of the Docemo family did not share the compensation. Esilokun was given a piece of land near Ereko known as Iga Kosoko. Akelu was given a piece of land at Ita Ado. Olukoya was given a piece of land at Oju Olokun. Akitoye was buried at Iga Idunganran. Docemo was also buried in the same compound. Oyekan succeeded his father as head of the family, he being the eldest son. Eshugbayi Eleko succeeded Oyekan. Docemo was the father of Eshugbayi. Eshugbayi was also buried in the compound. Falolu was the son of King Docemo and succeeded Eshugbayi Eleko. Oba Falolu was buried at Iga Idunganran. The heads of the family of Docemo on their selection lived at the Iga Idunganran. Adedoyin Docemo, the first Plaintiff, is the head of the family and lived at Iga Idunganran on his selection. He is not there now. They waged war on us and drove us out of the compound. Adele and the Chiefs waged war on us. It was about the 1st October 1949. I left the compound about 3 a.m. of the 2nd October. No one has been buried in the Iga Idunganran who was not a member of the family of Docemo. No member of the Adele family has ever been there. No member of the Adele family has ever lived in that compound. Adele is now called the head of the house of Ado. I do not know Ado. I do not know that Ado lived in the Iga Idunganran compound. Ado lived long before Akitoye and never in that compound. Akitoye started to build the houses and his son Docemo completed the buildings. Kosoko was alive during Akitoye's lifetime. Esilokun was Kosoko's father. There was a dispute between Kosoko and Akitoye about a chieftaincy. Kosoko's people were strong and drove Akitoye away from the Iga Idunganran. Akitoye came back to the Iga by the help of the British Government. There were certain people before Akitoye's time called Obas. They collected custom duties and sent the money to King of Benin. These Obas were under the King of Benin, and were chosen by him. The bodies of these Obas were carried to Benin and buried there. In 1925 Eshugbayi Eleko was deported from Iga

*In the
Supreme
Court.*

*Plaintiffs'
Evidence.*

No. 11.
Amusa
Docemo,
13th
February
1950.
Examina-
tion,
continued.

Idunganran to Oyo. Ibikunle Akitoye was living at Iga Idunganran when Eshugbayi Eleko was deported to Oyo. Ibikunle Akitoye died and was buried in the Iga. Ibikunle Akitoye was a member of our family, all being descendants of King Akitoye. All the heads of families from Akitoye to Oba Falolu were buried in the houses, but Ibikunle Akitoye was buried in the compound. After Ibikunle Akitoye's death Sanusi Adegbe, alias Sanusi Olusi, occupied the Iga. Sanusi Adegbe was a member of Olusi family, not of the Docemo family. Eshugbayi Eleko came back to Lagos to the Iga. The Government drove Sanusi Olusi away from the Iga and Eshugbayi Eleko on his return from Oyo resumed living in the Iga and died there. Eshugbayi Eleko died before Sanusi Adegbe. Adegbe did nothing after Eshugbayi died. Falolu was installed after Eshugbayi's death although Sanusi Adegbe was alive. 10

Adjourned till 20/2/50.

(Sgd.) C. W. REECE.

25th
February
1950.
Examina-
tion,
continued.

Saturday the 25th day of February, 1950.

Amusa Docemo continuing saith :—

Before Akitoye became independent he was under the Benin Kings and was of the same status as the Chiefs which collected Custom duties. These Chiefs used to live at Iddo. Ologun Kutere lived at Iddo. These now called Obas were called Olowos i.e. collectors of money. Adele was also a collector of money. Adele lived at Iddo. When Adele died he was succeeded by his son, Oluwole. He also lived at Iddo. Since the death of Akitoye till 1st October 1949, no descendant of Adele ever laid claim to the Iga Idunganran. Ologun Kutere apportioned a piece of land known as Okiti Eregbe to his son Adele. I don't know why it is so called. Atini was an Arota i.e. a slave. It is not the custom for Arota or his descendant to lay claim to the property of his Master who had descendants. I have a Government document relating to the Iga Idunganran. I produce the document. Tendered, no objection, admitted and marked Exhibit 1. 30

From the time of King Akitoye to Olusi's time the descendants of Akitoye and Docemo were in occupation of the Iga. After Olusi's expulsion the Iga was again occupied by the descendants of Akitoye and Docemo. Eshugbayi Eleko returned from Oyo to the Iga Idunganran about 1931. From this time till October 1949 Docemo's descendants have been in occupation of the Iga. On the 1st October 1949 when Adele entered I was there but I was not living there. I used to go there every morning. I am Senior member of the Docemo Family. I know Adedoyin Docemo, 1st Plaintiff. He was living at the Iga and was there as head of the family I was about 15 years old when Docemo died in about 1885. There were others of his family living with Adedoyin Docemo in the Iga in October 1949. There were Ayawo Docemo, Subulade Docemo and Iyitola Oyekan. We did not agree for Adele to enter the Iga and we closed the door with a padlock. The fence surrounding the Iga was broken and the door was forced open. The doors to the living apartments were broken. I was sad. We locked ourselves in a room late at night and they came and banged on the doors asking us if we had gone yet. We had to leave the Iga that night because an evil would have happened if we had remained till day break. 40

I did not see them. We did not look out. Musendiku Adele has been living at the Iga from the 1st October till now. We have brought this action for a declaration that we are the owners of the Iga and claiming £2,000 for trespass. We also claim possession.

*In the
Supreme
Court.*

*Plaintiffs'
Evidence.*

Cross-examined by Sir Adeyemo Alakija :

- Akitoye was father of Docemo and Fasinro. On Akitoye's death Docemo was elected as Oba in preference to Fasinro. I am the son of Docemo. We i.e. my family go by the name of Docemo. The Fasinro branch of the family call themselves Akitoye. Ibikunle Akitoye, son of Fasinro, occupied the Iga as Oba when Eshugbayi was deported to Oyo. Ologun Kutere was the father of Akitoye. He had many sons. I don't know if Akitoye was only 2 months old when his father died. I was told that Ologun Kutere gave Akitoye property by the elders. Ologun Kutere's eldest son was called Osolokun. I know that Adele was his son but I don't know if he was his favourite son. Adele succeeded Ologun Kutere. I don't know that other children of Ologun Kutere reigned as Obas after Adele. Adele and Osolokun reigned before Akitoye. They were also sons of Ologun Kutere. I heard that one son of Osilokun was Idewu Ojulari. I was also told that Idewu Ojulari succeeded his father Osilokun. Oluwole succeeded Ojulari. All these reigned before Akitoye. All these people, I do not know if they were grandchildren of Ologun Kutere. But I have given the names of his 6 children. Iga means the house of an Oba or the house of a chief. I was told that the present site of Iga Idunganran was formerly known as Oko Ata. I don't know who owned Oko Ata before the Chiefs came from Benin. I don't know who gave Ologun Kutere land. I don't know if the land belonging to the Chieftaincy houses was given to King Ado by Aromire. I have heard of Asipa. I don't know his history. Itolo, my brother might know. Ologun Kutere gave the land on which Iga Idunganran stands to Akitoye. There was no deed. They knew nothing about deeds at that time. Akitoye gave unto Docemo. Fasinro has no portion of the Iga as he was not a Chief. I know that Ologun Kutere had 6 children. Akitoye had several children. I don't know whether Akitoye knew when he was dying that Docemo would succeed him. A person cannot know who will succeed him when he dies. I heard that Akitoye gave the Iga to his son Docemo. I don't know where Docemo came from when he was made King. Falolu was living at Enu Owa when he was made King. Enu Owa is Docemo family land. I know Fagbohun Court. I heard that Docemo stayed there before he was made King. Fagbohun Court is where Docemo's mother lived. I don't know who owns Fagbohun Court. I don't know who put Docemo's mother there. I know where Ibikunle Akitoye built his house before he became King. That was part of his father Fasinro's land. When Akitoye died Docemo distributed the pieces of land to them. When Ologun Kutere apportioned piece of land for his children the land came into the hands of Akitoye. Docemo who succeeded Akitoye distributed the lands. And where Fasinro built his house is part of the lands distributed. I heard about Erelu Kuti that she was the mother of Ologun Kutere. I never heard whose daughter she was.

No. 11.
Amusa
Docemo,
25th
February
1950.
Examina-
tion,
continued.
Cross,
examina-
tion.

Adjourned till Saturday 4th March at 8.30 a.m.

Saturday the 4th day of March, 1950.

*In the
Supreme
Court.*

AMUSA DOCEMO :

*Plaintiffs'
Evidence.*

Cross-examination by Sir Adeyemo continues :

No. 11.
Amusa
Docemo,
4th March
1950.
Cross-
examina-
tion,
continued.

The Iga is called Ata. I don't know whether it is called Idunganran because of the Area Oko Ata. It used to be called Oko Ata before. Idunganran is Ata. I had a nephew called Iyitola Oyekan. He was clerk to Oba Falolu. He gave evidence in the police Court case in which the defendant was charged with unlawful damage to property, the subject matter of this case. I don't know if he is giving evidence in this case. The Iga is my father's house in which I grew up. I left the Iga because they waged war against us. I have never lived at the Iga. When the King's wives become pregnant they leave the palace. I lived outside the palace but was a daily visitor. A child born to an Oba is shown to him when 3 months old. Each wife lives in a house in the Iga. The house is called Ipeti and when they become pregnant they leave the Iga and live in a house not necessarily given by the Oba. When a man is elected Oba he is taken to Iga to live. We, the children of Docemo, are the proper people to elect an Oba. This practice started from the time of Eleko Eshugbayi. It is not because we did not elect Adele that we do not want him there. All the Chiefs in Court are connected with the Iga Idunganran. They hold their meeting every nine days (ose) at the Iga and meet the Oba there and discuss matters of general importance. These Chiefs are not the King Makers ; they do not select an Oba. I remember the inquiry when Sanusi and Falolu were fighting for the stool. I agree with the findings of the inquiry. It was said in the inquiry that the Chiefs are the King-Makers but we of the house of Docemo chose Eshugbayi Eleko and Falolu. Eshugbayi Eleko had died before the inquiry. Others chose Sanusi. The Governor gave reasons why Falolu was preferred to Sanusi. When Falolu died applications by Omo Obas were made to the Chiefs. Candidates from different houses applied. I don't know if Akitoye house applied. The house of Docemo applied. The letter now shown to me I signed. Tendered, admitted and marked Exhibit 2. I was able to identify a Crown Grant. I cannot identify the document handed to me. I agree with the Governor's message read to me from the Gazette No. 37 of 4th October 1933. Tendered, admitted and marked Ex. 3. Ibikunle Akitoye was King after Eshugbayi Eleko was driven to Oyo. He was entitled to be King. What has been read to me from Gazette No. 76 of 10th August 1925 was made by Government. Tendered, admitted and marked Exhibit 4. When Akitoye died Sanusi was elected Oba and put in the Iga. That was done by the Government. When Akitoye was made King the case for the restoration of Eshugbayi Eleko was still going on. Public feeling was divided. I was against Akitoye. Akitoye died when the case was going on. The Government put Sanusi there. When Eshugbayi returned from Oyo Sanusi was advised to leave the Iga and Government gave him a house. When Eshugbayi Eleko died Falolu and Sanusi applied to be made King and then public feeling was also divided. This resulted in the Ward Price enquiry. I did not give evidence before that enquiry, but my younger brother Oluyemi did. I was present when my brother gave his evidence. I heard my brother say that "as a son of Docemo he did not claim the Iga Idunganran as the private property of the descendants of Docemo."

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Ex. 2.

Ex. 3.

Ex. 4.

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I also heard my brother say that " he recognised the right of other sections of the family to the stool." Sanusi was not of the house of Docemo. My brother supported Sanusi. Sule Adamaja was Docemo's junior brother. He was a claimant for the stool and so was Ajose. I supported Adamaja. Ajose was the son of Docemo's senior sister. The house of Docemo asked the Government to elect Eshugbayi Eleko. McGregor was Governor and he said they should present a new claimant leaving out the other two. I remember John Kosoko, a very prominent man in the Iga Idunganran. He did well with us. He died in 1937 or 1938. He was a great supporter of Falolu. He was at the enquiry. I agree that I heard at the enquiry what you read to me as being said by John Kosoko. Page 9 of the evidence taken at the Commission of Enquiry by Ward Price in 1933. Tendered, admitted and marked Ex. 5. I tender Gazette No. 50 of 29th August 1933—admitted and marked Ex. 6. I do not agree that everybody who goes to the Iga is an Oba elected by one or other section. I say that only the son of Docemo goes to the Iga. When I grew up I knew Docemo. He was called "King." Oyekan was called "Prince." The house of Docemo did not begin when the staff was sent to England in 1920. I don't know if the house of Docemo existed before Docemo became King as I was not then born. Herbert Macaulay had a great interest in the house of Docemo. In 1937 we fell out with him as our Minister and we came to you for help. He never refused to give up the Crown Grant and staff of office. He only asked for a receipt which we did not prepare because the goods were not given to us. You put him in Court for us. I was the principal person instructing you. Macaulay engaged a barrister and fought the case. Falolu got judgment and recovered the Staff and documents. I cannot remember how many Crown Grants we got back as a result of the action. I know the land at Eno Owa which the Government acquired for the Reclamation Road Area. Falolu obtained the compensation.

30 Adjourned to 8.30 a.m. on 11/3/50.

(Sgd.) C. W. REECE.

Saturday the 11th day of March, 1950.

*In the
Supreme
Court.*

*Plaintiffs'
Evidence.*

—
No. 11.
Amusa
Docemo,
4th March
1950.

Cross-
examina-
tion,
continued.

Ex. 5.

Ex. 6.

AMUSA DOCEMO : continuing in cross-examination : sworn states.

The Chiefs do not select an Oba ; my family does. What I say is contrary to what all parties said before the Ward Price commission. When an Oba dies Chief Ashogbon does not take possession of the Iga. The late Majolagbe Ashogbon was one of the witnesses at the Ward Price enquiry. He was older than I was at the time. I did not hear any evidence given at the enquiry that when an Oba dies Ashogbon takes possession of the Iga. Eletu Odibo was the senior chief at the time. He was our witness. What you have read to me from the evidence of Eletu Odibo at the inquiry is not correct—Evidence at page 4 of Ex. 5. When Falolu died we, the sons of Docemo, called Ashogbon and Chief Bajulaiye to lock up the part of the Iga where they keep the paraphernalia and to take charge to prevent thieves from getting at it. We could not take charge because we were not allowed to go near Falolu's body. Since

11th March
1950.

*In the
Supreme
Court.*

*Plaintiffs'
Evidence.*

No. 11.
Amusa
Docemo,
11th March
1950.
Cross-
examina-
tion,
continued.

the Government sanctioned Sanusi as the successor to Ibikunle Akitoye, we could not take action for possession because we had Eleko's case in Court. We had no case in Court against Sanusi. Only the Oba has authority in the Iga. He lives with servants and slaves. Only the Obas are buried in the Iga. I have seen that. I have never seen any one else there. In the old days when Obas died they made a mound of mud over the grave in the form of a bed and the children may lie there. I was not there on the day Falolu asked Sir Adeyemo to be shown around the graves. There are three igas in the palace viz. Egun, Gbedu and Opo-ide. Iga Gbedu is not called Oju Egun Ado, but it is called Oju 10 Egun Babagba. I do not know who was the Baba-agba and I never asked. I have heard that Ado was our baba-agba. I do not know if Ado was the owner of the lands we now share. I did not know that the piece of land at Enu Owa belonged to Ado. It was Docemo's name I saw in the Conveyance i.e. Crown Grant. The Chiefs are united against the Docemo family. There are six tombs in the Iga. I have never heard that Ologun Kutere's body was the body of the first King to be buried there. I have never heard that Idewu Ojulari or Adele were buried there. I heard the history that Oluwole was killed by lightning, but I don't know where. I have never heard that lightning set fire to the 20 gunpowder store. Oluwole was said to have died at Okiti Eregbe.

Ologun Kutere gave the Iga to Akitoye and Akitoye left it to his son. All of us together with the Akitoye's have rights of user in the Iga. It belongs to the Docemo and Akitoye families. The other children of Ologun Kutere have no rights in the Iga. It may be that 5 Kings reigned between Ologun Kutere's death and Akitoye's accession at the Iga. I have never read Wood's history of Lagos Obas. I don't know that the sons of Docemo have sold any of the houses left by Ologun Kutere. The premises occupied by G. B. Ollivant at the Marina form part of the stool lands. Akitoye family now own lands formerly belonging 30 to the stool. I do not know that the Akitoye family has a property at 151 Marina Street, Idumagbo. I know Sedu Omo Oba Nlado. It is the property of Asi, Docemo's senior sister. It was formerly part of the stool lands.

There is a piece of land at Oko Baba given by Oloto to Docemo. Oloto is one of the Olofin's children. Olofin was the owner of Iddo. He was not stronger than Ologun Kutere. Obas of Lagos lived at Iddo.

Temiyemi Adedoyin lived at Abeokuta with his mother's people. He grew up in Abeokuta. He is a Chief there. He was a trader there. He came of his own accord to claim Kingship. When he comes to Lagos 40 he lives at Ricca Street. It was not on the night that we heard that the Chiefs had chosen some one else that we put him in the Iga. I can't remember when we put him there. We took him to the Iga before they brought their man. When we wrote Ex. 2, Temiyemi was at the Iga. I don't know how many days before we wrote Ex. 2 that Temiyemi had been in the Iga. No ceremonies have to be performed before one is installed in the Iga, except when he is taken to Enu Owa. Eletu performs these ceremonies. The Governor's approval after his installation is compulsory. I heard that ceremonies have been performed for Adele and that the Governor has approved of him. 50

Re-exd. by Moore :

We are claiming the house as the property of Docemo family. Falolu, Oyekan and Eshugbayi never got the Governor's permission to live in the Iga. Akitoye was the first Oba to occupy the present Iga Idunganran. There was no Iga there then : it was bush. Oluwole who reigned before Akitoye had his Iga at Ekiti Eregbe. Adele had his Iga at Ekiti Eregbe. It is not there now it is broken down. There are buildings on part of it. Adele was Oluwole's son. Eshilokun had his Iga at Ereko on Kosoko's land.

In the Supreme Court.
 — — —
Plaintiffs' Evidence.
 — — —
 No. 11.
 Amusa Docemo,
 11th March 1950,
continued.
 Re-examina-
 tion.

10 Adjourned till 27th April, 1950.

(Sgd.) C. W. REECE.

No. 12.

NOTICE OF MOTION for Substitution.

(Title.)

MOTION.

No. 12.
 Notice of Motion for substitution, 13th November 1950.

TAKE NOTICE that this Honourable Court will be moved on Tuesday the 14th day of November, 1950 at the hour of 9 o'clock in the forenoon or soon thereafter as Counsel for the Plaintiffs may be heard for an Order to substitute Prince Adeyinka Oyekan-Docemo for Prince Adedoyin Docemo deceased first Plaintiff in the above-mentioned action, and for such further or other orders as the Court may deem meet to make in the circumstance.

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Dated at Lagos this 13th day of November, 1950.

(Sgd.) ADELEKE ADEDOYIN,
 Solicitor for the Plaintiffs,
 20, Igboere Road, Lagos.

No. 13.

AFFIDAVIT of Babatunde Akitoye.

(Title.)

No. 13.
 Affidavit of Babatunde Akitoye, 13th November 1950.

30 I, BABUTUNDE AKITOYE of 94A Okepopo Street, Lagos, clerk, British subject, make oath and say as follows :—

1. I am the 5th Plaintiff in the above-mentioned action.

2. The 1st Plaintiff Adedoyin Docemo died at Lagos on the 21st day of July, 1950.

*In the
Supreme
Court.*

No. 13.
Affidavit of
Babatunde
Akitoye,
13th
November
1950,
continued.

3. A special meeting of the Executive members of the House of Docemo was convened the same day and Prince Adeyinka Oyekan-Docemo was selected and subsequently installed and capped as the Head of the House of Docemo in immediate succession to the said Prince Adedoyin Docemo deceased.

4. It is the wish of the members of the said House of Docemo that the said Prince Adeyinka Oyekan-Docemo should lead them in all matters concerning the said ancient House of Docemo.

5. It is also the wish of the members of the said House of Docemo that the Head thereof should lead them in this litigation. 10

Dated at Lagos this 13th day of November, 1950.

Sworn to by the declarant Babatunde Akitoye at the Supreme Court Registry, Lagos, this 13th day of November, 1950. } (Sgd.) BABATUNDE AKITOYE.

Before me,
M. E. OJOMO,
Commissioner for Oaths.

No. 14.
Order for
substitu-
tion, 15th
November
1950.

No. 14.
ORDER for Substitution.

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IN THE SUPREME COURT OF NIGERIA.
In the Lagos Judicial Division.

Suit No. 276/49.

Between : 1. ADEYINKA OYEKAN (substituted by Order of Court dated 15/11/50).
2. AMUSA DOCEMO.
3. OLUYEMI DOCEMO.
4. H. A. OGUNDIMU.
5. BABATUNDE AKITOYE Plaintiffs
(On behalf of themselves and other members of the House of Docemo.) 30

and

MUSENDIKU ADELE Defendant.

UPON READING the affidavit of Babatunde Akintoye, of 94A, Okepopo Street, Lagos, Clerk, British subject, sworn to and filed on the 13th day of November, 1950, and after hearing Counsel for the Plaintiff-Applicant and Counsel for the Defendant on the motion :

IT IS ORDERED that Prince Adeyinka Oyekan be and is hereby substituted for Prince Adedoyin Docemo deceased who was the first Plaintiff in the above-mentioned action.

Dated at Lagos this 15th day of November, 1950.

(Sgd.) C. W. REECE,
Puisne Judge.

PLAINTIFF'S EVIDENCE (continued).

No. 15.

Lawani Folami.

10 IN THE SUPREME COURT OF NIGERIA.

Wednesday the 6th day of December, 1950.

Before—

HIS HONOUR COURTENAY WALTON REECE, Esq., Puisne Judge.

Suit No. 276/1949.

ADEYINKA OYEKAN ET AL

Vs.

MUSENDIKU ADELE.

Adedoyin for the Plaintiffs with Moore, Williams, Benson & Mrs. Adebisi.

20 Sir Adeyemo Alakija with F. R. A. Williams, H. O. Davies for Defendant.

LAWANI FOLAMI sworn on Koran saith sworn states :

I am a member of the Dosunmu family. My Parents, both father and mother, were domestics of Dosunmu. I know the property known and called Iga Idunganran. There I used to live until a year ago when we were driven out. The property belongs to Akitoye who is dead. After the death of Akitoye his son Dosunmu inherited it. Dosunmu is dead. After Dosunmu's death the property devolved on one Oyekan who is also dead. The property devolved on Eshugbayi Eleko on Oyekan's death. 30 Eleko is also dead. On Eleko's death Fololu succeeded to the property. Falolu also is dead. After Falolu's death Adedoyin Dosunmu succeeded to the property. I knew all these persons. I did not know Akitoye. I knew Dosunmu and the others whose names I have mentioned. As a domestic of Dosunmu I knew the affairs of Iga Idunganran. When all these people died they were buried within the precincts of the Iga. All the graves can be identified. None but a member of the Dosunmu family has been buried in Iga Idunganran so far. I know the Defendant Adele.

*In the
Supreme
Court.*

No. 14.
Order for substitution, 15th November 1950,
continued.

*Plaintiffs'
Evidence
(continued.)*

No. 15.
Lawani Folami, 6th December 1950.
Examination.

*In the
Supreme
Court.*

*Plaintiffs'
Evidence.*

No. 15.
Lawani
Folami, 6th
December
1950.
Examina-
tion,
continued.

He is a son of Buraimoh Ogongo—a child of an arota. Yesufu Iba was Ogongo's father, whose father was Timi. Timi was also called Atin. Atin was a slave of one Adele who is dead. All these people are dead. I knew all these people from Ogongo down to Atin personally. I did not know Adele, who was an Oba. Adele had a son called Oluwole who is dead. Adele and his son Oluwole had certain lands in Lagos. The land is known as Okiti Eregbe at Isale Eko. Oluwole had no issue, but his slaves occupied the land Okiti Eregbe. A child of Leruma is there to-day. Leruma was a slave of Adele. Adedoyin Dosunmu did not die within the Iga. I know when he left the Iga it is over a year now. The Oluwa 10 brought the Defendant in by force to the Iga. We were inside and they broke the fence and entered. They also broke the doors. We left the premises at 3 a.m. by the backyard, because there were so many people there. I know that there is a Crown Grant relating to the land of the Iga Idunganran. Akitoye and Adele (both deceased) were the children of Ologun Kutere. Ologun Kutere had 6 children. The others were Olukoya, Akinlolu, Olusi and ? I was not alive in Ologun Kutere's lifetime. All the children of Ologun Kutere have land in Lagos other than Iga Idunganran. Okiti Eregbe belonged to Adele. Ashilokun's land was situate in Ereko. Olukoya had land at Oju Olokun; Akinlolu had his at 20 Ita Ado. Olusi at Idunmota. Akitoye had the Iga Idunganran. Neither Ogongo nor his father nor his grandfather claimed any interest in Iga Idunganran. I am 97 years old.

Cross-
examina-
tion.

Cross-examined by Sir Adeyemo Alakija :

Sule Ige died since this case started. He knew as much as I did about the affairs of the Iga Idunganran. I do not know No. 88 Idumo Igbo, but I know the quarter. I knew Saidu Omo Oba Nlado. His children live at Idumo Igbo. Where they live is one of the houses of Akitoye—the house of Asi. Asi is a sister of Dosunmu. She was called Iya Idumo Igbo. Asi was a child of Akitoye. I knew Dally, son of Akitoye. I knew 30 where he lived. He lived in a property belonging to Fasinro, a younger brother of Akitoye. Where Falolu lived before he was made Oba belonged to Dosunmu in his personal capacity. Apart from the Iga itself there are other properties set aside for the enjoyment of the Oba. One of these properties is situate at Enu Owa and is known as Iga Iwase. It was acquired by the L.E.D.B. in the time of Falolu. I have heard the history of Oluwole. He was killed by lightning, crushed to ashes. I never heard of an explosion. There was not a gunpowder store near the Iga. I gave evidence to the Ward Price Commission. I said in the evidence before the Commission that Akitoye's father occupied the same Iga. I said 40 Akitoye was son of Ologun Kutere. I showed you at the request of Falolu the burial places in the Iga. I know Oju Egun Baba Agba. It is otherwise known as Iga Gbedu. No one was buried there. I showed you the burial places of Akintoye, Dosunmu, Oyekan and Eleko. Ologun Kutere was not buried at the Iga nor were Adele and Ashilokun. I do not know where Idewu Ojulari was buried. Dosunmu inherited from his father Akitoye. The Iga Idunganran was the portion given to Akitoye. I was not alive when this is supposed to have taken place. My grandfather told me this. I was 80 years old. My grandfather was not alive 10 years ago. My grandfather told me this more than 60 years ago. I did not know Ologun 50

Kutere. I did not know his brothers. I have told the Court what I know. I knew Herbert Macaulay. I do not know that he was the right hand man of Dosunmu.

*In the
Supreme
Court.*

Re-exd. :

Said Oba Nlado was the owner of the property in which his children lived. Akitoye owned the property before him.

*Plaintiffs'
Evidence.*

No. 15.
Lawani
Folami, 6th
December
1950.
continued.
Re-
examina-
tion.

No. 16.

Ayawo Dosunmu.

No. 16.
Ayawo
Dosunmu,
6th
December
1950.
Examina-
tion.

AYAWO DOSUNMU sworn states :

- 10 I am the daughter of the late King Dosunmu and a sister of Oba Falolu. I was born at the Iga Idunganran. I was formerly living with my mother and when Dosunmu died and his successor Oyekan was installed Oba I went to live at Iga Idunganran. I cannot remember when my father died, but I was not then married. I was a young woman. I lived there until 1949 about 2 months before the Greater Bairam festival when I was driven out. The people who brought Adele in drove us out about 3 a.m. Akitoye was the owner of the Iga. He is dead. Dosunmu succeeded Akitoye and lived in the Iga. Oyekan is dead. Eleko Eshugbayi succeeded Oyekan and also lived in the Iga.
- 20 Eleko is dead and was succeeded by Falolu, who is also dead. Adedoyin Dosunmu succeeded Falolu and lived at Iga Idunganran. At the time that I was driven out Adedoyin Dosunmu was living at the Iga. Dosunmu was not driven out in that manner. But when he knew that a big quarrel was about to arise he left. Those who came with Adele were boasting that they would quarrel or fight. I saw the crowd. There were very many people.

Cross-exd. by Williams :

Cross-
examina-
tion.

- 30 I was at the Iga the day Adedoyin Dosunmu left. I was living there. Ibikunle Akitoye lived at the Iga when he was Oba. I was not living there then. I lived in the house in which my mother lived. I know that Sanusi Olusi succeeded Akitoye as Oba and lived at the Iga. I was not living there then. When Falolu was alive I went to live at the Iga. I agree that everyone who has been an Oba of Lagos has lived at the Iga. I know the Iga very well. The graves of past Obas are there until this day. I know Iga Gbedu. I know the grave of the father of Dosunmu there. I am not sure if the grave of Akitoye's father is there. I was not told in history where he was buried. I do not know where Idewu Ojulare was buried in the Iga. I never heard that he was an Oba of Lagos. I heard that Ologun Kutere was an Oba. I do not know where he was buried.
- 40 I was married when Oyekan was Oba. I went to my husband's house. Only last year I was driven from the Iga. It was due to the

*In the
Supreme
Court.*

*Plaintiffs'
Evidence.*

No. 16.
Ayawo
Dosunmu,
6th
December
1950,
continued.
Re-
examina-
tion.

circumstances prevailing at the time of Ibikunle Akitoye and Sanusi that I did not live at the Iga in their time. I did not support these two Obas. I do not support Adele. Adele drove us out of the Iga. I know Suenu Street. I do not know Fagbohun Court. I have never heard of it. I know when Eshugbayi Eleko was made Oba very well. He was living at Awunre Lane before he was made Oba. I do not know if it is the same place as Fagbohun Court. This property at Awunre Lane belonged to Dosunmu himself. After his death it belonged to his children.

Re-Exd. :

When Oyekan died I returned to the Iga and have been living there 10 since then. When Eshugbayi Eleko was in the Iga I was there. At the time Ibikunle Akitoye and Sanusi were Obas Eshugbayi Eleko was taken to Oyo. He returned to Lagos as Oba. Olusi had been in the Iga and had been removed.

To Court.

To the Court :

I do not agree that the Iga is the traditional home of the Obas of Lagos. It is at Iga Idunganran that any Oba who has been made King lives.

Adjourned till 9 a.m. on Thursday 7th December, 1950.

(Sgd.) C. W. REECE,

6.XII.50. 20

No. 17.
Lamidi
Oshu, 7th
December
1950.
Examina-
tion.

No. 17.
Lamidi Oshu.

LAMIDI OSHU sworn states :

I am a clerk in the Lands Department. I produce a certified copy of a Crown Grant dated, 15th July, 1870, and registered as No. 74 at page 74 in Volume 6 of the Register of Deeds kept in the Lands Registry at Lagos, Nigeria. Tendered, admitted and marked Ex. 7. I know the place No. 26 Upper King Street, Lagos, called Iga Idunganran. According to the plan there is an area in the plan marked "palace."

Ex. 7.

No cross-examination.

30

No. 18.
Abudu
Adaramaja
Akitoye,
7th
December
1950.
Examina-
tion.

No. 18.
Abudu Adaramaja Akitoye.

ABUDU ADARAMAJA AKITOYE sworn states :

I am the grandson of the late King Akitoye. Adaramaja, my father, was the son of Akitoye. I know No. 26 Upper King Street, otherwise called

Iga Idunganran. Oba Akitoye owned it. He is dead. His first-born Dosunmu Akitoye succeeded him in occupying and managing the palace. I cannot read or write. I am 53 years old. Dosumu is dead. Oyekan succeeded him. Eshugbayi succeeded Oyekan. Falolu succeeded Eshugbayi. Adedoyin Dosunmu succeeded Falolu. I mentioned Ibikunle Akitoye. When Oba Eshugbayi was taken away to Oyo Ibikunle Akitoye occupied the Iga Idunganran. Akitoye died before the return of Eshugbayi. When Eshugbayi returned he went back to Iga Idunganran. The place was empty when Eshugbayi returned. I do not know when the Iga Idunganran was built. I asked my father in 1925 when there was trouble whether any descendant could come to live at Iga Idunganran other than those of Oba Akitoye and he said no. My father also told me that every son of Ologunkutere had had his own portion of land. The names of the sons and the land they received are as follows:—Eshilokun had land at Ereko; Olukoya at Oju Olokun; Adele at Ekiti Eregbe; Akinlolu at Ita Ado; Olusi had at Idunmota and Akitoye had his portion at where there is trouble to-day. Akitoye was buried at Iga Idunganran. Dosunmu was also buried there. All the descendants of Akitoye mentioned above were buried at Iga Idunganran. Oyekan, Eshugbayi Eleko and Falolu were the children of Oba Dosunmu. Falade Dosunmu was the father of Adedoyin Dosunmu. Dosunmu was the father of Falade Dosunmu. I was told that the corpse of Ologun Kutere was carried to Benin. Ologun Kutere was head tax collector for the Oba of Benin. After Ologun Kutere Eshilokun was appointed. After Eshilokun Odusu Adele was appointed and after Adele Akitoye was appointed. Tax collecting for the Oba of Benin stopped at the time of Akitoye. Akitoye stopped it. These tax collectors were called Olowo Bode. Kingship started from the time of Akitoye. Eshilokun and Adosu Adele were carried to Benin to be buried. Akitoye was buried in Lagos at Iga Idunganran. There was an inter-tribal war which was fought between Akitoye and Kosoko. When they fought Akitoye was taken away as a prisoner of war, but later released and brought back to his house at Iga Idunganran. Kosoko was a child of Eshilokun. Benin people came to help Kosoko when they wanted to remove Akitoye from his office. The Europeans brought back Akitoye. Kosoko was driven away from the house of Akitoye to Epe. I heard that Dosunmu built the Iga Idunganran.

Cross-examined by Sir Adeyemo Alakija :

I claim Iga Idunganran as belonging exclusively to Akitoye. According to the history I was given by my father there was nobody known as Oba in Lagos until the time of Akitoye. Itola is a son of Oyekan and was clerk to Falolu. I am a son of Adaramaja. Ologun Kutere was an Olowo Bode, he was not an Oba. When Ayawo Dosunmu said that Ologun Kutere was an Oba she was not giving a correct version of history, because there was no Oba then, but only an Olowo Bode. The office of Oba started with Akitoye. Ologun Kutere was living at Iddo when he divided the land among his children. He did not build a house for himself. Akitoye was the youngest son of Ologun Kutere. I do not know how old Akitoye was when Ologun Kutere died. I do not know if he was two months old. I went to Enu-Owa school. I did not go to any other school. I read a little of the history of Lagos when I was at school. I reached

*In the
Supreme
Court.*

*Plaintiffs'
Evidence.*

No. 18.
Abudu
Adaramaja
Akitoye,
7th
December
1950.
Examina-
tion;
continued.

Cross-
examina-
tion.

*In the
Supreme
Court.*

*Plaintiffs'
Evidence.*

No. 18.
Abudu
Adaramaja
Akitoye,
7th
December
1950.
Cross,
examina-
tion,
continued.

standard school. I left school in 1910 and was born in 1897. I do not know whose history I read. (Witness reads from Payne's History the names of Kings of Lagos p. 6.) I knew Herbert Macaulay. He knew a lot about the affairs of my family. I do not know that Macaulay wrote a book called *Justitia Fiat*. All this history which you have read from Herbert Macaulay's book, my father did not tell me (p. 14 of *Justitia Fiat*).

(Passage from p. 42 is now read to witness who is asked whether he accepts it as historically correct.) All these people whose names have just been mentioned my father told me were called Olowo Bode. I was not told that 92 years elapsed between the reigns of Ologun Kutere and that of Akitoye. I do not know that payment of tribute to Benin stopped in time of Idewu Ojulari. My father did not tell me. The Iga was called "Idunganran" because the place was planted in pepper in olden days. The present is not the place where Akinsemoyin built the Iga. The number that I have called 24 Upper King Street in my evidence should have been "26." I do not agree that Akinsemoyin built it. Akinsemoyin built at Idumo Igbo and there his shrine is to this day. He was an Olowo. There is only one place called "Iga Idunganran" in Lagos. I do not agree with the history read to me from *Justitia Fiat*. I do not know any members of the Akitoye family who say that the Iga Idunganran is not Akitoye's personal property, but belongs to all Obas. I know Jimmy Akitoye. He is a descendant of Akitoye. He is better educated than I am. I do not know if he supports Adele. I was not present when Jimmy Akitoye read an address to Adele. I did not apply to be a candidate for the Oba. I did not go to the Commission of Enquiry by the Governor as to how Obas were elected. Ajose, my father Sule Adaramaja and Eshugbayi Eleko were contestants for the office when Eshugbayi Eleko was elected. All princes are eligible. The family makes a selection from the candidates and hand him to the Arotas telling them that this is their choice. The Arotas hand the candidates to the Chiefs. (Gazette No. 50 of August 29th 1933 p. 1 read to witness.)

Ex. 6.

Re-
examina-
tion.

Re-Exd. :

I wrote Yoruba usually at school. When I said that Ologun Kutere did not build a house for himself I meant in Lagos.

No. 19.
Muda
Dosunmu,
7th
December
1950.
Examina-
tion.

No. 19.
Muda Dosunmu.

MUDA DOSUNMU sworn states :

I live at 46 Vincent Street, Lagos, and am a watch repairer. I am a member of the house of Dosunmu. Adeyinka Oyekan is the present head of the house and he succeeded Adedoyin Dosunmu. I remember 1st October 1949. On that day I was in a room in the Iga Idunganran along with many others. Adedoyin Dosunmu, Amusa Dosunmu, Oluyemi Dosunmu and Adeyinkan Oyekan were there, with me. I got there about 2 p.m. While I was there I heard voices from outside saying that they were coming in.

At about 4 p.m. Adedoyin Dosunmu gave me a padlock and key to lock the front gate i.e. the gate in the wall. I did so and returned the key to Adedoyin Dosunmu and sat with the others in the room. Amusa and Oluyemi are important members of the family. When I was sitting in the room I heard a noise and voices saying "the fence is broken." Adedoyin Dosunmu then gave me the keys to the various rooms in the Iga and I locked the doors and returned to Adedoyin Dosunmu the keys. While we were sitting in the room people came in and started to break the doors. I did not know them. I did not see them breaking the doors. I heard 10 knocking against the doors. We remained in this room till about 6 a.m. When we left the room. The fence was broken about 6 p.m. Before they came near the door where we were it was about 9.30 p.m. When I came out I saw people holding sticks and matchets and axes walking up and down. We slipped out and got away in cars. There were other members of the family in the compound of the Iga celebrating a funeral ceremony of Oba Falolu. I did not see the padlock with which I locked the gate again until it was brought to the Magistrate's Court.

*In the
Supreme
Court.*

*Plaintiffs'
Evidence.*

—
No. 19.
Muda
Dosunmu,
7th
December
1950.
Examina-
tion,
continued.

Cross-Exd. by H. O. Davies :

I knew the time when Oba Falolu was installed. I was not present 20 at the ceremony at Enu Owa. I was in the Iga waiting for him to be inducted. I heard that Adele was being installed on 1st October 1949. I did not know that the ceremony of installation was taking place at 2 p.m. When I went to the Iga. I did not see crowds on the streets along which I passed. I went there to celebrate the funeral. We were doing something in that room and the others were in the compound playing. I did not know that the Oba would be brought to the Iga after the installation ceremony. Falolu was brought to his house in the Iga when he was installed. He was not living in the Iga when he was installed. When we heard people saying that they were coming to the place we locked the gate. 30 Adedoyin Dosunmu led the way out of the Iga. We all followed. We all ran out.

Cross-
examina-
tion.

Re-Exd. :

The procession to Enu Owa for the installation of Oba Falolu started from the Iga. From Enu Owa after the installation Oba Falolu returned to the Iga. When an Oba is elected he is taken to Oruko—a mound—in the palace and placed on a seat. From there he is put on the throne. Other ceremonies are then performed. They last about 2 months perhaps.

Re-
examina-
tion.

To the Court :

The Iga Idunganran is the traditional home of the Obas of Lagos.

To Court.

40

(Sgd.) C. W. REECE.

*In the
Supreme
Court.*

**No. 20.
Ganiyu Dosunmu.**

*Plaintiffs'
Evidence.*

GANIYU DOSUNMU sworn states :

No. 20.
Ganiyu
Dosunmu,
8th
December
1950.
Examina-
tion.

I live at 42 Ita Omo Lane and am an electrician. I am a member of the house of Dosunmu. I remember the 1st October, 1949. I was at the Iga Idunganran. I was there along with others. We heard that Adele was coming in that day and I was there to prevent him from coming in. I saw it pasted on the verandah of the Iga and outside on the walls of the Iga that Adele was coming. I produce a copy of the Notice. I saw it pasted on the walls. I was in the compound of the Iga under a verandah. 10
At about 6 p.m. I saw the Defendant along with Chiefs coming towards the Iga from Enu Owa. When they got opposite the Iga the Defendant joined Oluwa's car and they drove the car towards the Iga with intent to enter. The main gate was then locked. I now say that before the people came the gates were open. When they wanted to enter we told them they could not enter. When they came in the door was locked. When they came I was at the entrance of the gate outside. I was not there alone. We were about 15. The car was in front trying to push us away and we were trying to push it back. The Chiefs and their followers followed the car. As we were pushing the car back the people in the compound threw 20
stones bricks and sand at the car. Then a fight ensued and the police came and stopped the fight. The car had reached the gate leading into the compound, but was removed on the request of the police to near the flag post. When the car stopped the Defendant called the following people, who are his brothers viz. : Sanni Adele, Salawu, Lawani Adele and Aminu Kosoko and told them to go home and change yourselves and come back to break the fence. They went away. I saw them return. They had changed their dress. When they returned Salawu had a carpenter's crow bar—about 18" long. Lawani had a hammer. They broke the fence made of corrugated sheets. Kosoko came back but had nothing with him. 30
He was the first man to pull the iron sheet into which Salawu put the bar. The man Lawani used the hammer to drive in the iron. The fence was broken. People rushed into the compound. I ran back to the main gate. The people came to the gate and broke it down from within. The car was then driven into the compound. I wanted to go on fighting and my mother dragged me home. I did not want the Defendant to enter because he had no right there ; he is not a member of our family. I was eleven years old when Eshugbayi Eleko returned to Lagos. Gazette No. 35 of Ex. 9. 1931 put in by consent through witness and marked Ex. 9.

Cross-
examina-
tion.

Cross-Exd. by Sir Adeyemo Alakija :

40

My party brought a criminal prosecution against the Defendant, Sanni, Lawani, Salawu Adele and Kosoko and others. I gave evidence there. The Court did not call upon the Defendants. I gave the evidence I have given this morning then. I went to school and can read and write. I knew Herbert Macaulay. He was a friend of the family. I know that he knew many things about Lagos. I will not agree with all the things Macaulay wrote about Lagos. I cannot accept things that my conscience directs me is not true. I read a little of the history of Lagos at school.

I read a lot when I was at school and now that I have grown up I find that much of it is not correct. I have read that there were Kings before Akitoye, but that is not so. My father told me so.

*In the
Supreme
Court.*

*Plaintiffs'
Evidence.*

No. 21.

Lamidi Eleko.

No. 20.
Ganiyu
Dosunmu,
8th
December
1950,
continued.

LAMIDI ELEKO sworn states :

I live at 12 Shase Lane. I remember the incident last year when the Defendant tried to enter Iga Idunganran. I was in the Iga when I saw Muda Dosunmu lock the gate with a padlock. Before the door was locked
10 some of us were outside, some inside. I was inside. I know Ganiyu Dosunmu. He was outside the gate. At about 6 p.m. I saw a car belonging to Chief Oluwa come with a crowd of men and police. The driver wanted to force the door with the car. The people at the door resisted. The car stopped for some time and came on again. The police stopped it and it went back. About 5 minutes later I heard shouts that the fence was broken. I could see what was happening outside. A crowd rushed into the compound led by three men who had sticks and cudgels. I saw Aminu Kosoko, Lawani and Salawu Adele. Lawani had a hammer and Salawu a bar. The crowd came to the gate and forced it open. Salawu
20 Adele put the crowbar into the hasp and staple. Aminu Kosoko released the bolts fastening the door. The car entered the compound. Musendiku Adele was in the car with Oluwa. Many people followed the car with Chief Ashogbon, Onilegbale and Oniru. They went to Ogun's shrine. The Defendant got out of the car and went to Ogun's shrine. From Ogun's shrine they went to Opo Ide. At the entrance of Opo Ide's gate they found it locked and the Defendant ordered it to be broken and it was then forced open.

No. 21.
Lamidi
Eleko, 8th
December
1950.
Examina-
tion.

Cross-exd. by Sir Adeyemo Alakija :

There were crowds of about 20,000 outside. The Commissioner of
30 Police with lots of other police officers and constables were there. I did not see any arrests. Ganiyu Dosunmu was not arrested. I do not deny that Chiefs are entitled to come to Iga, but the way they came that day was unusual. It is not usual to lock the gate when a Chief or Chiefs approach the Iga. I did not hear that Ashogbon had the key to the room with the paraphernalia when my father died. The key was with the Chiefs when Falolu died. I do not know if that is the custom. I do not know if the keys were to be handed to the successor of Falolu when he was appointed.

Cross,
examina-
tion.

Re-exd. :

40 Witness collapses in stand and is removed.

Re-
examina-
tion.

Witness called does not answer.

*In the
Supreme
Court.*

**No. 22.
Salawu Dosunmu.**

*Plaintiffs'
Evidence.*

SALAWU DOSUNMU sworn states :

I live at Isale Eko. I know 155 Idumagbo Marina. My house is 151 Idumagbo Marina. This property is 151 at the corner of Upper King Street and Idumagbo Marina. The place belonged to my grandfather Dosunmu, Oba Dosunmu. The place is near the Iga Idunganran. My father was called Awere Dosunmu. He is dead. My father lived at 151 Idumagbo Marina. I was born there. No one has ever instituted legal proceedings to remove me from the premises.

10

Cross-examined :

All domestics are called Ibiga. Songo Wemimo was not my father. He was an Ibiga. I am an Omo Oba. I can be elected an Oba of Lagos. The place I live in belongs to Iga, to Dosunmu.

No. 22.
Salawu
Dosunmu,
8th
December
1950.
Examina-
tion.

Cross-
examina-
tion.

No. 23.
Fowuro
Dosunmu,
8th
December
1950.

**No. 23.
Fowuro Dosunmu.**

FOWURO DOSUNMU sworn states :

I live at 13 Ita Ado Street and am a trader in pepper. The property belonged to my grandfather Oba Dosunmu. Falolu gave the place to us. Since I have been there no one has molested me.

20

No. 23A.
Sanni
Lawani, 8th
December
1950.
Examina-
tion.

**No. 23A.
Sanni Lawani.**

SANNI LAWANI sworn states :

I live at Ita Ado and am a carpenter. I know 27 Alagbiji Street I live there. I am an arota of the house of Dosunmu. My father's name was Lawani Abidogun, now dec'd. My father lived at 27 Alagbiji Street. My father was an arota. I have always lived in the same house and no one has questioned my right to live there. Lawani, my father owned the place.

Cross-
examina-
tion.

Cross-exd. :

The oldest Arota is Lawani Folami. All of us Arotas, live in the property of the Oba. Nobody has ever tried to drive me out of the place. Every master finds accommodation for his Arotas.

30

Re-
examina-
tion.

Re-exd. :

I am not an Arota of Adele.

To the Court :

Adele has not tried to drive me out.

No. 24.
Sanni Areago.

*In the
Supreme
Court.*

*Plaintiffs'
Evidence.*

SANNI AREAGO sworn states :

I am a gilder and live at No. 7 Ajia Ijesha Court Oshodi Street. Some time last year I gave evidence in the Police Court in a prosecution by Adedoyin Dosunmu (now dead) against the Defendant Musendiku Adele and others. The case was in connection with Iga Idunganran. I remember some time in October, 1949, I went to Iga. I left my house at about 3 p.m. and went to Iga Idunganran. I saw people playing and went in.
10 Some time later I heard that Oba was coming and I climbed on an old rickshaw to see what was happening outside. I saw that the fence had been broken. I saw three men leading the crowd coming into the Iga from where the iron fence had been broken down. I saw a man with a hammer and another with an iron used by carpenters. I ran for my life.

No. 24.
Sanni
Areago, 8th
December
1950.
Examina-
tion.

Cross-exd. by Williams :

I am a gilder. I did not work on that day. I wanted to see what was happening. I did not receive a summons to attend this Court and give evidence. After the criminal case I heard that there would be an appeal and I was also told that I would have to give evidence again.
20 There were thousands of onlookers there that day. I am not an interested party ; I am neither for Adele nor for Dosunmu. I have come to tell what I saw. I know them all. They are neither my friends nor enemies. Nobody came to my house and told me that I would be required to give evidence. No one came to me at any other place to tell me that I would be required to give evidence. The counsel Mr. Adedoyin told me that I would be required to give evidence in this Court. When the other case was concluded and I heard there was an appeal the Counsel told me that I would have to give the same evidence as I gave in that case in this Court. He did not tell me that this was the appeal. No one told me that I was
30 giving evidence in the Magistrates' Court. I went to the Counsel myself and offered to give evidence and I told him I was there. The Counsel was Mr. Adedoyin. In the Court below I said that I had read in a newspaper that there was a case about the Iga and that made me go to Mr. Adedoyin. I read that Adedoyin was for Dosunmu and Sir Adeyemo Alakija for Adele. I did not go to Sir Adeyema because I heard that Adedoyin was for the people in the compound and I was not outside. I have said what I saw.

Cross-
examina-
tion.

To the Court :

Since the time that the case has been heard in this Court I have attended every day and been kept outside. I have not been paid a
40 half-penny.

To Court.

*In the
Supreme
Court.*

No. 25.

Sifawu.

Plaintiffs' Evidence. SIFAWU, Bale of Epe sworn states :

No. 25.
Sifawu, 8th
December
1950.
Examina-
tion.

I live at Muhsin and am a trader. Last year I gave evidence in the Magistrate's Court about the incident at Iga Idunganran. On 1st October 1949, I left the Auctioneer's Mart at 5 p.m. for Enu Owa sightseeing. I was at the time living in Lagos. I accompanied Chief Oluwa to the Iga. On arriving at the Iga the driver drove up to the gate. The Defendant was not in the car. There was a struggle at the gate and the Defendant was pushed back. He then joined the car. Chief Oluwa was in the car. 10
I was in the crowd on the Street. After they pushed the car to the gate and could not enter, the Defendant then called, Sanni, Salawu, Aminu Kosoko and Lawani and said go around and break the fence. They were going away and Sanni called them back and asked them to go and change their dress because they had loin cloth. I then went around to the Church (African) and waited. I stood on the pavement of the Church facing the pavement that was broken. I saw many people come from the direction of the Oba's house and enter the lane where I was. I saw 3 men different from others coming. I saw Aminu, Salawu and Lawani. Salawu had a bar in his hand and Lawani was carrying a hammer. Salawu struck the 20
iron sheets with the bar in his hand. I passed by. That's all I saw.

Cross,
examina-
tion.

Cross-Exd. by Sir Adeyemo Alakija :

I gave evidence in the Magistrate's Court. I admitted having four previous convictions. When I gave evidence in the Magistrate's Court, I trade and am an informant. If anybody does anything that is not good I say it. I am paid for my services. I am not paid for giving evidence in this case. What Musendiku Adele did was not good. I volunteered to give evidence. I went and saw the Counsel.

Re-
examina-
tion.

Re-Exd. :

I was last convicted in 1939.

30

No. 26.

Lamidi Eleko (recalled).

*In the
Supreme
Court.*

LAMIDI ELEKO recalled for re-examination :

*Plaintiffs'
Evidence.*

We saw the Chiefs coming when we locked the gate of the Iga. We locked the Iga because we found that they were not coming in a peaceful condition and we had read that on that day they were performing the capping ceremony of Oba Adele. They were coming with intent to fight. I know many people, but I don't know what is 20,000. The policemen were not at the place where the fence was broken. My father was Lawani
10 Eleko. He was never head of the house of Dosunmu.

No. 26.
Lamidi
Eleko
(recalled),
8th
December
1950.

Adjourned till Monday the 11th December 1950.

(Sgd.) C. W. REECE,
Puisne Judge.

No. 27.

Ademuyiwa Oyekan.

No. 27.
Ademuyiwa
Oyekan,
11th
December
1950.
Examina-
tion.

ADEMUYIWA OYEKAN sworn states :

My father's name was Oyekan Dosunmu. Oba Dosunmu was his father. I know the property known as Iga Idunganran. Akitoye is the owner of it. Oba Dosunmu was Akitoye's son. All the land adjoining the
20 Iga Idunganran belonged to Akitoye in the same way as the Iga Idunganran. Oba Falolu was also head of our family at one time. So also was Eshugbayi Eleko. Adedoyin Dosunmu and Adeyinka Oyekan are the heads of the family in succession. Since 1917 the Dosunmu family have paid water rates on these properties. I knew Eshugbayi Eleko personally. He was appointed head of the family in 1901 and the Government recognised him as the head of the family. Government withdrew their recognition in 1920. I tender Gazette No. 75 of December 1920 relating thereto. Admitted and marked Ex. 10. In 1925 Eshugbayi was exiled to Oyo.
30 From the time he was appointed Oba Eshugbayi Eleko went to live at Iga Idunganran. Up till 1925 he continued to live in the Iga Idunganran. Eshugbayi Eleko returned to Lagos in 1931 and went back to live in the Iga Idunganran. He died in 1932. Oba Falolu succeeded him. Government recognition was not restored up to the time of the death of Eshubayi Eleko. During the time when Eshubayi Eleko was in Oyo Sanusi Olusi lived in the Iga. He is not a member of the Dosunmu family. When Eshugbayi Eleko returned to Lagos Sanusi Olusi was removed by the Government. Sanusi Olusi was the Oba during the time when Eleko was exiled.

Ex. 10.

Cross-Exd. by Sir Adeyemo Alakija :

40 When Eshugbayi Eleko went to Oyo Akitoye was appointed by the people. He lived in Iga Idunganran for about 3 years. He built a

Cross-
examina-
tion.

*In the
Supreme
Court.*

*Plaintiffs'
Evidence.*

No. 27.
Ademuyiwa
Oyekan,
11th
December
1950.
Cross-
examina-
tion,
continued.

storey house within the Curtilage. The children of Dosunmu abused Akitoye and said they did not want him there. We did not call him "Ajobaje," because we said the house belonged to Dosunmu. The house belonged to Akitoye and Dosunmu. Akitoye died there. I do not know how he was appointed, but I heard that he was an Oba. The Government did not tell me that Sanusi Olusi was driven out by them. I do not know that Sanusi Olusi left the Iga voluntarily in favour of his elder brother Eshugbayi Eleko. I saw Sanusi Olusi with a big house, but I do not know how he got it. I do not know that Government gave him £400 a year for life. Eshugbayi Eleko returned from Oyo a sick man 10 and he died within a year as a result of that illness. Many of the children of Dosunmu applied to be elected Oba after Eleko's death. I do not know if Sanusi Olusi applied also. I do not know if some of the chiefs supported Falolu and others Sanusi Olusi. I heard of the commission of Mr. Ward Price. I did not attend the proceedings. I was interested in Falolu. I heard that the Ward Price Commission was held to determine whether Falolu or Sanusi Olusi had been properly selected. After the report of the Commission the Governor appointed Sir Gerald Whitely and Chiefs to consider the appointment further. I read the Gazette. Cameron was the Governor at the time. He was called "Kaiyero" or 20 the "Man who brought peace to the world." I read the portions that you have just read to me on page 471 of the Gazette No. 50 of 29th August 1933, Gazette No. 57 of 4th October 1933. Gazette No. 28 of 1933, No. 50 of 1933 and No. 57 of 1933 put in by consent and marked Ex. 11. My younger brother Kushanu Oyekan was a schoolmaster. He was the father of Adeyinka Oyekan. My relative taught Lagos history in School. I have read history, but I do not know whose. I have not read either of those you have shown to me. I have read Macaulay's *Justitia Fiat*, but I do not agree with all of it. I was not born before Akitoye's time so I cannot agree with what Macauley wrote about those days. I know 30 George Iyitola; he was my brother and a clerk to Falolu. He knew a great deal about our family affairs. I was not present in the case in which he gave evidence before the Magistrate. When I said that the land adjoining the Iga belonged to Akitoye I meant land covered by the Crown Grant. Sanusi Olusi paid water rate when he was living in the Iga. Iwashe property belonged to us. The signature on the document shown to me is that of my brother Iyitola. Document tendered—Objected to by Moore. If it is a declaration of title it is inadmissible. Admitted and marked Ex. 12.

Ex. 12.

Re-
examina-
tion.

Re-Examined :

40

I was not present when Ex. 12 was written. I cannot say whether the thumb impression is that of Oba Falolu.

By consent a document made between the Late Queen Victoria and King Dosunmu dated 6th August 1861 is put in evidence and marked Ex. 13.

Ex. 13.

No. 28.
Damien Kehinde Soares.

DAMIEN KEHINDE SOARES : sworn states :

I am the Office Assistant, Legal Department. I produce a letter dated 31st July, 1931, to the Attorney General from W. Wells Palmer and a letter dated 28th August 1931 by the Attorney General to W. Wells-Palmer. Admitted by consent and marked Exs. 14 & 15 respectively.

Plaintiffs' case closed.

*In the
Supreme
Court.*

*Plaintiffs'
Evidence.*

No. 28.
Damien
Kehinde Soares,
11th
December
1950.
Examina-
tion.
Exs. 14 & 15

10

No. 29.
DEFENDANT'S Opening.

Sir Adeyemo Alakija .

The case before the Court has nothing to do with whether Adele is a descendant of a domestic or of Oba Adele. The question for the Court is whether No. 26 Upper King Street, the Iga Idunganran, is personal property of Dosunmu as alleged because he obtained a Crown Grant for it or whether it is the official residence of the Oba of Lagos or Heads of the House of the Royal Families. I shall show that from time Immemorial the Title of the Head of the house is Oba or Olowo. I will show that the place has been the residence of the Obas from the time of Ado until to-day and that Ologun Kutere resided there as Oba of Lagos. I will show that the property is not the personal property of Dosunmu as Dosunmu, but that he occupied as his predecessors or successors did as the head of the house. I will show that the appointment of that head is left with the Chiefs of Lagos and not with the members of the family. We are not claiming ownership of the property but the right to occupy so long as the Defendant remains the properly appointed Oba. All other princes and ibigas and Chiefs are entitled to make proper use of the Iga. By consent the certified copy of the record in charge No. 13543/49 *Adedoyin Docemo vs. Musendiku Adele et al* is put in evidence as Ex. 16.

20

30

No. 29.
Defendant's
Opening,
11th
December
1950.

Ex. 16.

DEFENDANT'S EVIDENCE.

No. 30.
Akinola Ajose-Adeogun.

AKINOLA AJOSE-ADEOGUN sworn states :

I am related to the late Oba Falolu. I was a school-master and was myself a pupil of Akinloye Dosunmu, a member of the Dosunmu Family. I remember the time when Oba Falolu had some litigation with Herbert Macaulay (decd.) about the return of paraphernalia and Crown Grants. I

*Defendant's
Evidence.*

No. 30.
Akinola
Ajose-
Adeogun,
11th
December
1950.
Examina-
tion.

- In the Supreme Court.*
Defendant's Evidence.
 No. 30.
 Akinola
 A Jose-
 Adeogun,
 11th
 December
 1950.
 Examina-
 tion,
continued.
- know George Iyitola Oyekan he is a nephew of the late Oba Falolu. Falolu recovered from Macaulay a Crown Grant of Iga Idunganran and other properties. It included the property called "Iwashe" which the L.E.D.B. acquired. Falolu made a claim to the L.E.D.B. of the buildings. I was Falolu's agent and prepared the claim now shown to me, marked Ex. 12. George Iyitola was the office clerk. Oba Falolu made his thumb mark on the document in the presence of George Iyitola and myself and both of us signed the document Ex. 12 as witnesses. Falolu instructed me to prepare it and both Iyitola and I read it over to him ; I have read the history of Lagos. As a school-master I have taught history of Lagos to the junior 10 classes in secondary schools. I was myself taught the history of Lagos by Dosunmu. I am a descendant of Chieftaincy house. The history told to me by my ancestors was the same as that which I was taught in school. I have read all the histories of Lagos published since I left school. They agree in the main particulars with history I was taught in School. I have read the part of Burn's history dealing with Lagos with respect to the Obas and their Status it is the same as what I was taught. Counsel reads a portion from page 43 of Burn's history and witness says he agrees. Ex. 17. Burn's history of Lagos tendered admitted and marked as Ex. 17. I have read Revd. Wood's history. I agree with its contents in their entirety. 20
- Wood's history of Nigeria is tendered. Moore objects to its admissibility on the ground that the qualification of the author has not been established. To my knowledge an earlier edition of the work you show to me by Wood was in circulation in 1901 and was taught to me. Admitted and marked Ex. 18. I did not know Losi. I know that he wrote a history of Lagos. He used to teach in the Roman Catholic School. His book was used in the Schools of Lagos. Losi's history is tendered, admitted and marked Ex. 19. I knew Payne personally. He published a work called Payne's Almanac. Ex. 20. Payne's Almanac is put in evidence by consent as Ex. 20. The Obas of Lagos reside at Iga Idunganran and have so done from the time of Gabaru. 30 Gabaru was the first to put a building there. Oba Akinsemoyin erected a building with a roof of tiles. Iga Idunganran (the land) was given to the first Oba by Aromire. I have never heard that the land was given to a particular Oba as his property. It is the traditional residence of the Obas and no person who is not an Oba can live there. I know when Adele was made Oba. I remember the date of his installation. After his installation Chief Eletu and other Chiefs took Adele to the Iga.

Cross-
 examina-
 tion.

Cross-Exd. by Moore :

I belong to the Obanikoro Chieftaincy family. There is at present a chief Obanikoro—an educated man. He was taught history at School. 40 He will know as much as I do about the history of Lagos. Some of my knowledge of Lagos history was acquired at school and some from my parents. My father was not a chief. He died in 1909. I am 61 years old. I was teaching when my father died. What I have said that Ado first acquired land and Gabaru first built I learned from my father and at school. I learned from my father that Akinsemoyin erected a building with tiled roof. The Iga was improved by Akinsemoyin. I do not know the form the Iga took in the days of Gabaru. The wall was around the Iga when I was a child. I do not know who put the wall there. I have no idea how much land Aromire gave to Ado. It was the same spot as the Iga now 50

stands on. The whole area of the Iga is on the corner. It was one block given by Aromire to Ado. The Iga is within the block. It is common knowledge that the Iga land was given by Aromire to Ado. The boundaries of the block are Upper King Street, Onilegbale Street, Ehiniga Street and the Marina. I understand that those are the boundaries of the land given by Aromire to Ado. Some of the houses surrounding the Iga are inhabited by members of the Dosunmu family and there are members of other houses there. There are members of Akitoye's house and Adele's house inhabiting the surrounding houses. The Akitoye family have land other than stool land. They have land at Idumoinbo. Dosunmu family also have houses at Idumoinbo in which his children and domestics live. There can be no iga there, unless there is a chieftaincy. Iga is a chieftaincy house. There is an Iga Kosoko at Ereko. He was an Oba. Sanusi Olusi is a descendant of Ologunkutere. There was no Iga Olusi. The house acquired by the Government for Olusi was the private house of Olusi grandfather of Sanusi Olusi. Only Obas live at the Iga. Ex. 12 is handed to the witness. Under this document nothing was paid. It was a declaration made for the L.E.D.B. and the claim was paid. Two copies were made—one went to the L.E.D.B. and the other must be somewhere in the Oba's file. I do not agree that for 100 years the only Obas were descendants of Akitoye; Olusi was not a descendant of Akitoye. Olusi left the Iga on the advice of the Government. Ado was first living at Iddo and then he came to Lagos. Lagos was then farmland; the Iga Idunganran was then a pepper farm at the time of the gift. It was given to Ado to build a palace on. When the Oba moved his people moved. Ado was a vassal of Benin. In those days the term "Olowo" was applied to all Obas. The term is to-day used exclusively of Obas. Ado paid tribute to the Oba of Benin. He paid tribute from his own pocket. The fact that the Iga was built by Gabaru was known to all chieftaincy houses, not only to my father. If the Plaintiffs' witnesses have given different evidence concerning the building of the Iga it must be an invented story. There may be some points of difference, not material e.g. dates, in these history books. I used an earlier edition of Wood's history. I have a copy of it. I know the defendant. I know that his family land is at Okiti, Isale Eko. Every prince had his own property. The land on which the Iga stands does not belong to the Akitoye-Dosunmu family. The father of Kosoko, Eshilokun, was given land at Ereko. Eshilokun was a brother of Akitoye, so was King Adele. Olusi the grandfather of Sanusi was a brother of Akitoye, so was Akinlolu. They all had distinct portions of land given to them. I do not know who gave them. The portion on which the Iga stands was not allotted to Akitoye or anybody as his own property.

Re-Exd. :

Ologunkutere was an Oba who lived at Iga Idunganran. Kosoko was an Oloja. As Oloja he had his house at Ereko. While Kosoko was Oba he lived at Iga Idunganran.

When the land was given there were no roads forming boundaries. I do not know the extent of the land given by Ado.

*In the
Supreme
Court.*

*Defendant's
Evidence.*

—
No. 30.
Akinola
Ajose-
Adeogun,
11th
December
1950.
Cross-
examina-
tion,
continued.

Re-
examina-
tion.

*In the
Supreme
Court.*

No. 31.
Adetunji Akitoye.

*Defendant's
Evidence.* ADETUNJI AKITOYE sworn states :

No. 31.
Adetunji
Akitoye,
11th
December
1950.
Examina-
tion.

I am a clerk in the Stores Department of the Nigerian Railway at Ebute-Metta. I was nominated as a candidate for the office of Oba after Falolu's death but I was not approved by the Chiefs. I am a descendant of Oba Akitoye. He was my grandfather. I do not claim that the land of the Iga Idunganran is the personal property of my grandfather. Iga Idunganran is the official residence of any Oba constitutionally appointed by the Chiefs. It was not ever given to Akitoye, Dosunmu or any one else. Akitoye was given land now known as 88B Idumoinbo Street, Lagos, as his property. Dosunmu, the son of Akitoye, was given property and so was Fasinro. 10

Cross-
examina-
tion.

Cross-Exd. by Adedoyin :

I am 37 years old. Eshilokun gave land to Akitoye. Oba Eshilokun was Akitoye's brother. Dosunmu was given Fagbohun Court. I was not told who gave him. Fasinro was given 33 Upper King Street, Lagos. Fasinro had other portions of land to wit. 12 Upper King Street, Isale Eko, Lagos. I do not know if he was also given 16 Upper King Street, Lagos. I do not know if he was also given Nos. 1 & 6 Alagbeje Street. I know where Alagbeje Street is. It is not far from Iga Idunganran. 33 Upper King Street was allotted to Fasinro by his father King Akitoye, the first. This is also very near the Iga. All around that area has been allotted to members of my family. Akitoye was not originally the owner of 33 Upper King Street. The land was stool property. I have heard of the Crown Grant relating to the land of the Iga Idunganran. My family lives all around Isale Eko area. In my family there are members much older than myself. I do not know Adaramaja. I know Folami. I do not know if he is the head of the Arotas. I do not know 151 Idumagbo Marina. 20

Adjourned till 9 a.m. Tuesday 12th December, 1950.

30

(Sgd.) C. W. REECE.

No. 32.
Michael
Eledumo
Ojomo,
12th
December
1950.
Examina-
tion.

No. 32.
Michael Eledumo Ojomo.

MICHAEL ELEDUMO OJOMO sworn states :

Ex. 21.

I am Senior Registrar of the Supreme Court. I produce the case File in Suit No. 151 of 1920—*Yesufu Agoro vs. Joseph Gbadamosi Obayomi* at page 3 of the file is the Statement of Claim. Tendered, admitted and marked Ex. 21. I produce the Suit file in Suit No. 107 of 1923—*Yesufu Omo Oba versus David Obayomi and two others*. At page 4 of the file is the

Statement of Claim and the Defence is page 7 *et seq.* The Order of the Court is on back cover of file. Tendered, admitted and marked Ex. 22. I produce Case file in Suit 300 of 1938—*The Chairman L.E.D.B. v. Oba Falolu and Chief Bakare Ajose Eletu of Washe.* At page 5 is first Defendant's Statement of interest and second Defendant's is at page 7. Tendered, admitted and marked Exhibit 23.

*In the
Supreme Court.* Ex. 22.

*Defendant's
Evidence.* Ex. 23.

No. 32.
Michael
Eledumo
Ojomo,
12th
December
1950.
Examina-
tion,
continued.

No. 33.

Josiah Abiodun Ladega.

JOSIAH ABIODUN LADEGA, Chief Ashogbon of Lagos sworn states :

- 10 I know the Defendant in this case. He is now the Oba of Lagos. The chiefs are responsible for the election of the Obas of Lagos according to Native Custom. The Chiefs have never appointed Adedoyin Dosunmu or Adeyinka Oyekan. Their appointments were unconstitutional. Their appointments were against our traditional laws and customs. (*Ex. 2 is handed to witness.*) This is an application recommending a candidate from the house of Dosunmu. It is the application of Adedoyin Dosunmu. The Chiefs did not approve of the application. When an Oba dies the Chief Ashogbon keeps the keys of the Iga. After the death of Falolu I took possession of the Iga and all the properties of the late Falolu. It is my
- 20 duty in accordance with native law and custom. None of the members of the house of Dosunmu, protested or resisted against my taking possession of the Iga and the property of Falolu. I do not know how Adedoyin Dosunmu got into possession of the Iga. After the appointment of Adele II as Oba I handed to him all the keys of the stores in which I had locked the properties. I know a little of the history of Lagos. Chief Aromire and his family gave the land on which the Iga now stands to Ado. The "soldiers" or "war boys" of those days cleared the land. Ado did not erect any buildings before his death. Ado was an Oba. Gabaru succeeded Ado and put on some primitive buildings. These buildings
- 30 were the first Iga Idunganran and Gabaru lived there. From the time of Gabaru there has been a succession of Obas in Lagos up till to-day. These Obas lived in Iga Idunganran. I agree with those witnesses for the Plaintiff who say that Iga Idunganran is the traditional home of the Obas of Lagos. On Gabaru's death, Akinsemoyin succeeded him as the Oba. He put up the present buildings. As he was very friendly with the Portuguese merchants of those days and could not obtain iron sheets they gave him the two tiles I produce and many others to cover the roofs of the buildings. Tiles admitted and marked Ex. 24. The tiles have been recovered from the roof and iron sheets put in their place.

No. 33.
Josiah
Abiodun
Ladega,
12th
December
1950.
Examina-
tion.

Ex. 24.

40 *Cross-Exd. by Adedoyin :*

I became a Chief in 1936. I was made a Chief by the late Oba Falolu. I was not present during the lifetime of Gabaru, Ado, or Akinsemoyin.

Cross-
examina-
tion.

*In the
Supreme
Court.*

*Defendant's
Evidence.*

No. 33.
Josiah
Abiodun
Ladega,
12th
December
1950.
Cross,
examina-
tion,
continued.

I got the evidence I have given of the history from my predecessor and I have read much in books. The late Majolabi Ashogbon Ladega and other aged members of the family gave me the history. Majolabi himself was not born at the time I have mentioned. I have read Losi, Revd. Wood and other books when I was a scholar. I know Chief Oluwa ; he is the Senior Chief I would not tell Oluwa of every action I was going to take with respect to my office of Ashogbon. Oluwa knew about my taking control of the Iga on Falolu's death. I was once a Civil Servant. I was not resident in Lagos during my entire stay in the Civil Service. In accordance with custom we consulted the Ife Oracle concerning the selection of the 10 candidate. Chief Oluwa signs in Arabic and I don't know Arabic. I cannot say whether the signature on the document is Chief Oluwa's. I know the signature of the Defendant. The signature on the document shown to me is the Defendant's. I do not remember when Oba Falolu died. The document is dated 2/9/49. I remember that Falolu was suspended, but I do not remember the time. At that time I and other Chiefs did not present the Defendant Adele to the Commissioner of the Colony for recognition.

Before the death of Falolu we, the Chiefs, did not determine to appoint Adele. Ibikunle Akitoye built the storey-house in the compound of the 20 Iga. Akitoye was not the first Oba to erect buildings on the land given by Aromire for the Iga. I do not agree that Dosunmu built the mud buildings in the Iga and covered them with tiles. Chief Aromire gave a lot of land to Ado not only the land on which the Iga stands. All the surrounding lands belong to Aromire. I have read in Losi that the word " Eko " i.e. Lagos, is derived from " Oko " a farm. I read that the whole of Lagos was known as Oko and belonged to Olofin and his people. I do not agree that all the Obas from Ado to Ologunkutere lived at Iddo and not at the Iga Idunganran. I agree that there was a building in the middle of the 30 compound, which has been pulled down. It was a tumble down shambles. The house of King Dosunmu was not in front of this tumble down building. I agree that all the children of Ologunkutere had private lands given to them, which have become family property. I know Idumoinbo Street but I cannot say I know No. 88. I received many telegrams from Kano in September last year. I don't know to which you refer. I cannot say if I received one from the Defendant. I did not receive £450 by telegraphic transfer from the Defendant from Kano last year. I did not receive a telegraphic transfer for £150 from the Defendant. I got nothing. I live in Isale Eko area. I cannot give the boundaries of the land that was given by Aromire to Ado. We did not break into the Iga. I agree 40 that with the exception of Olusi all Obas in occupation of the Iga from Akitoye to the 1st October last year were of the house of Dosunmu. I was present when the Defendant went into the Iga on the first of October, 1949. I was not in the car with Defendant. I followed the car. There was a fight inside, not outside the entrance. I saw the iron fence to the Iga broken down. The main gate was forced open from within. The doors of the Iga were not open they were closed with bolts. I know the door leading to Iga Opode. I was not instructed by the Defendant to break it. It was not forced open. The children of Dosunmu were in the storey-house built by Akitoye in the compound of the Iga. I know Ayawo Dosunmu. 50 Up to that day she lived in the Iga Idunganran and so was her sister Victoria.

Re-Exd. :

I don't remember when Sanusi Oluse was Oba : it was between the reigns of Ibikunle Akitoye and Falolu. While he was Oba he lived there.

*In the
Supreme
Court.*

*Defendant's
Evidence.*

To the Court :

Adedoyin Dosunmu was in fact in possession of the Iga sometime after the death of Falolu and he remained in possession up to the 1st October i.e. the day Adele was installed. He was in possession for about 2 months. Adedoyin Dosunmu was not in possession of all of the rooms of the Iga. There was no sign of tampering with the inner doors of the Iga of which I had the keys. I opened those doors with the keys and found the contents just as I had locked them.

No. 33.
Josiah
Abiodun
Ladega,
12th
December
1950,
continued.
Re-
examina-
tion.
To Court.

No. 34.

Frederick Babatunde Williams.

FREDERICK BABATUNDE WILLIAMS, sworn, states :

I am a Clerk in the office of the Commissioner of Colony. The letter shown to me was written by the Commissioner of the Colony. (*Tendered, admitted and marked Ex. 25.*)

No. 34.
Frederick
Babatunde
Williams,
12th
December
1950.
Ex. 25.

No. 35.

Musa Ashafa Tijani.

20 MUSA ASHAFATIJANI, sworn, states :

I know the property in Isale Eko known as Iga Idunganran. I am familiar with the history of Lagos and with that of Iga Idunganran. I am related to the Royal House of Adele. Chief Aromire was the original owner of the land on which the Iga now stands. King Ado asked for the land from Aromire and it was given to him. Ado could not build before he died. Ado was an Oba and he was succeeded by Gabaru. Gabaru erected a building on the land and lived there while he was Oba. The building is known as Iga Idunganran. Gabaru was succeeded by Akinsemoyin and there were Obas in succession until Falolu.

No. 35.
Musa
Ashafa
Tijani, 12th
December
1950.
Examina-
tion.

30 Akinsemoyin rebuilt the then existing buildings and covered them with tiles which he got from his friends the Portuguese. There are still some of these tiles to be seen capping the walls. The tiles shown to me Ex. 24 are some of the tiles. After the death of Falolu the house of Adele presented Musendiku Adele, the Defendant as a candidate for the office of Oba and he has been appointed as Oba by the Chiefs. From Gabaru to Adele the Iga Idunganran has been the official residence of the Obas.

*In the
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Court.*

I remember the history of the reign of Oluwole. Lightning struck gun-powder in a part of the Iga Okuta and this was destroyed. Akitoye succeeded Oluwole. Oluwole was destroyed in the explosion.

*Defendant's
Evidence.*

Cross-Exd. by Moore :

No. 35.
Musa
Ashafa
Tijani, 12th
December
1950,
continued.
Cross,
examina-
tion.

The source of my history is my grandmother and history books of Lagos. My grandmother is of the Oloto family. She also told me of the history of the Oloto lands. She died in 1924. She knew her grandfather Adele and up to Eshugbayi Eleko. I think she was about 100 years old when she died. I don't know when Adele reigned. I read the histories of Wood and Losi. I learned at School and read in the books that Aromire gave the land to Ado. When Ado was given the land he was at Iddo. I do not know what Lagos was like in those days. Eshugbayi Eleko rebuilt the wall when it fell down. I cannot say who first built it. I have never heard that the Iga Idunganran belonged to the Dosunmu family. The families of the Obas own land adjoining the Iga, given to them by their fathers. Any Oba can give land to his son. Adele gave land—23 Upper King Street—to his son. The Iga is the traditional house of every Oba constitutionally appointed. The family of a deceased Oba who have been living with him in the Iga must vacate when a new Oba has been elected. If they do not remove they will be forced to remove. The family of Falolu was living at the Iga before another Oba was appointed. When Adele went in they removed of their own accord. When Adele entered they vacated the place. I never went to the Iga when Adele entered. I was told that they vacated. I do not know the extent of the land given by Aromire. 10

Re-
examina-
tion.

Re-Exd. :

I know of no instance where the family of a deceased Oba refused to vacate.

No. 36.
Yesufu
Abiodun,
12th
December
1950.
Exami-
nation.

No. 36.
Yesufu Abiodun.

30

YESUFU ABIODUN CHIEF ONIRU sworn states :

I am one of the "White Cap" Chiefs of Lagos. I know the Iga Idunganran. The Iga was formerly a pepper farm of Chief Aromire. Ado asked for the land from Aromire. Ado was then at Iddo. At that time there was frequent quarrelling and fighting between Ado and the Idejo Chief at Iddo at the time. This led Ado to ask for the land now called Iga Idunganran. He had not come on the land before he died, although he wished to. We are Idejo Chiefs and are descendants of Olofin, the original owner of Iddo. When Ado died his corpse was removed to Benin. Ado was father of Gabaru and after his death Gabaru came on the land now known as Iga Idunganran. When he arrived there he erected a bamboo house covered with thatch. He was there as an Oba and went 40

- there with his people. After Gabaru's death Akinsemoyin became Oba. Akinsemoyin built a house which could be recognised as Iga. He traded with the Portuguese and as a result of his relationship with the Portuguese he was given tiles with which he covered the Iga. He was there as an Oba and died there. Eletu Kekere succeeded as Oba. Ologun Kutere succeeded Eletu and was followed by Adele. Iga Idunganran was the only Iga in Lagos and all the Obas lived there. Any other Iga seen in Lagos belonged to a Chief and not an Oba. The Oba is the head of all the chiefs in Lagos. After Adele there came Idewu Ojulari, then Oluwole, 10 Eshilokun was also an Oba in the Iga. I know the spot Iga Okuta ; it is behind the Iga Idunganran. Gunpowder was kept there. During the life of Oluwole there was a civil war. Oluwole had to go to Iga Okuta to do certain things and there he was struck by lightning and was burnt up. Akitoye succeeded Oluwole. It was not Akitoye but Akinsemoyin who built the Iga. I have never heard that the Iga was given to Akitoye. It was given to Ado. From time immemorial, even before Ado came on Lagos Island, there are some things which we do on particular days. The chiefs have continued to perform these ceremonies until today. That is what we call "Iga Orose," i.e., a weekly meeting of Chiefs. We hold 20 this meeting at the Oba Iga, i.e., the Iga Idunganran. I recognise Adele absolutely as Oba. There is no exception among the Chiefs.

*In the
Supreme
Court.*
—
*Defendant's
Evidence.*
—
No. 36.
Yesufu
Abiodun,
12th
December
1950.
Examina-
tion,
continued.

Cross-Exd. :

It is not true that Adele distributed money among the Chiefs. I did not receive £150 from Adele. It is all lies.

Cross-
examina-
tion.

- I know that Ojon is a white capped Chief. Ojon is not a Chief of Lagos and is not concerned with the appointment of an Oba. My father gave me the history which I have given the Court. Although my father was not born in those time he knew his father. "White-Cap" Chiefs are not called Olojas ; they are called Ibas. I don't know how many 30 children Ologunkutere had. I know he was the father of Adele, Eshilokun and Akitoye. My father told me Akitoye was the last born. I did not hear that he was the father of Akinlolu. I don't know if he was the father of Olusi. I did not hear that Ologunkutere allotted lands to his children. I have never heard that Ado, Gabaru and Akinsemoyin were merely tax collectors for the Oba of Benin. I have never heard that all the Obas from Ado to Akitoye were collectors of tax and that is not correct. There was never any collection made and taken to Benin. The head of Lagos never paid any tax to Benin. Lagos does not belong to Benin ; they did not pay anything. From Ado to Gabaru they were recognised as 40 Obas. The Obas were not known as Olowos before the advent of the European, but when the Europeans came they had fanciful things with which they decorated their houses which made people call them (Obas) "Olowos." "Olowo" was not derived from "Olowo bode" because the custom dues did not belong to the Benin. All the people from Ado to Ologun kutere lived in Lagos and not at Iddo. The Idejos did not allow them to stay at Iddo. I cannot say the extent of the land given by Aromire to Ado. I did not know when the original wall was built. I know when the existing wall was built. It was not Eshugbayi Eleko who built the present wall. Ibikunle Akitoye met one which he rebuilt

*In the
Supreme
Court.*

and Olusi built the present one. It is not true that the present wall was built by Eshugbayi Eleko. It is not true that Akitoye was referred to as having inherited dilapidated walls and guns.

*Defendant's
Evidence.*

Re-Exd. :

No. 36.
Yesufu
Abiodun,
12th
December
1950,
continued.
Re-
examina-
tion.

Ojon had nothing to do with the selection of the Oba. From Gabaru down to Adele they were all called Obas.

Adjourned till 9 a.m. Wednesday 13th December, 1950.

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No. 37.

DEFENDANT'S Closing Address.

Wednesday the 13th day of December, 1950.

10

Suit No. 276/1949.

A. OYEKAN & OTHERS v. M. ADELE.

Adedoyin for Plaintiffs.

Sir Adeyemo Alakija with F. R. A. Williams for Defendant
H. O. Davies.

Sir Adeyemo addresses :

History of Lagos well known, particularly that which affects the Oba. Until present case no one has ever heard the history as propounded by Plaintiffs viz. that Akitoye was the first King of Lagos and it was during his reign that the Iga first sprung up. Ado was the founder of the site on which the Iga Idunganran stands. This fact is borne out by witnesses and history. Gabaru was the first man to put up a building on the land. Trouble began when the descendants of Dosunmu began to reign. This is the greatest speculative action I have seen in my career. Of all the five Plaintiffs elderly people in the Dosunmu family—only one Amusa Dosunmu has given evidence, the rest have not ventured to come. They have called children, ex-convicts and busybodies to give evidence. The claim of Plaintiffs is for a declaration of title, trespass and recovery of possession. Re para. 6 of Statement of Claim. Not a single witness has been brought to support the allegation in para. 6 of Statement of Claim that attempts by outsiders to challenge the rights of the House of Dosunmu has been successfully resisted. The evidence shows—both from the Plaintiffs' and Defendant's witnesses—that the occupants during the past 100 years of the Iga have been Obas and no one else. And that while these Obas were resident the Chiefs were using the Iga as a meeting place to discuss the affairs of the Chiefs of Lagos. I direct attention to the opening of the case

by Mr. Moore. Moore said " we are relying on a Crown Grant, the grantee being King Dosunmu and his heirs for ever." He said that for more than 100 years they exercised rights of ownership over the property and that the successive heads of Dosunmu have occupied the property. Moore added—

10 " By successive heads of the house of Dosunmu we mean descendants of King Dosunmu." If Plaintiffs are claiming this property as Dosunmu property because he got a Crown Grant for himself and heirs and by successive heads they mean descendants of Dosunmu. How did Akitoye come in ? It was Akitoye to whom the land was given according to the Plaintiffs'

10 evidence and he reigned before Dosunmu. If they say that Dosunmu accepted the grant on behalf of Akitoye's descendants it partly supports the defence. Iga Idunganran is the residence of a constitutionally appointed Oba of Lagos. When the children of Dosunmu thought that they should lay claim to the Iga as their personal property, they should have done so at the time Sanusi Olusi was made Oba and resided in the Iga. One of Plaintiffs' witnesses said that the reason why they did not do this was because they were busy with a case in the Privy Council. When there was a vacancy of the office of Oba after the death of Oba Falolu the Dosunmu people sent their candidate to the Chiefs. I refer to the

20 cross-examination of the evidence of Amusa Dosunmu where he said " Adele succeeded Ologunkutere. I don't know that other children of Ologunkutere reigned as Oba after Adele. Adele and Eshilogun reigned before Akitoye. They were also sons of Ologunkutere etc. etc. I was also told that Idewu Ojulare succeeded Eshilogun. Oluware succeeded Ojulare. All these reigned before Akitoye." He said—" Iga means the house of an Oba. I was told that the present site of Iga Idunganran was formerly known as Oko-ata. Fasinro had no portion of the Iga as he was not a chief." Amusa Dosunmu also said " I have a nephew called Iyitola Oyekan. He gave evidence in the Police Court." P. 19 of Ex. 16 refers. Ref. to

30 the claim because of the Treaty of Cession. The witness said " the Obas of Lagos had always resided at Iga Idunganran from time past." Also vide p. 26 of Ex. 16, the evidence of Adedoyin Dosunmu—" I knew Oba Falolu was presented to the Chiefs." Adedoyin Dosunmu also said—" Before Akitoye there were some buildings at Iga Idunganran." (See also the continuing evidence about where Ologunkutere lived, read by Counsel). Ref. to evidence of Folanmi as to his evidence at the enquiry. Amusa Dosunmu said that all the Chiefs in Court are connected with Iga Idunganran. They hold their meeting every 9 days and meet the Oba there etc. etc. It was said at the Inquiry that the Chiefs are the King

40 Makers. Amusa went on to say that when Falolu died—Applications by Omo Obas were made to the Chiefs. Candidates from different houses applied. The house of Dosunmu applied, Amusa said he agreed with the message read to him from Gazette No. 57 of 4th October 1933 (Ex. 3). I direct attention to Ex. 12. Oba Falolu made a statement in Ex. 12 that the interest in the above property 65 Great Bridge Street was vested in the successive Kings of Lagos coming down from King Ado to King Dosunmu, the latter of whom to confirm the title obtained a Crown Grant dated the 17th October 1867. I refer to Ex. 23—p. 5—Statement of Interest. I refer to these exhibits to show the Court that the Plaintiffs knew that the

50 properties concerned had been granted by Ado. Ref. to the evidence of Amusa Dosunmu under cross-examination " I did not give evidence before the enquiry, but my younger brother Oluyemi did. I was present when

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my brother gave his evidence. I heard my brother say as a son of Dosunmu he did not claim Iga Idunganran as the private property of the descendants of Dosunmu. I also heard my brother say that he recognised the right of other sections to the stool." Amusa said that "Sanusi was not of the house of Dosunmu. My brother supported Sanusi." Ref. to Amusa's evidence where he states that he remember Kosoko, a great supporter of Falolu etc. etc. Ref. to Ex. 5 p. 9 "Oba Eshilogun was father of Oba Falolu etc. The Iga Idunganran belongs to each branch of the family and each branch is represented there now." Amusa said that when Falolu died we the sons of Dosunmu called Ashogbon and Chief Bajulaiye to lock up part 10 of the Iga where they keep the paraphernalia. After the evidence of Amusa Dosunmu there is no other evidence worth commenting on. The evidence of Plaintiffs that the Iga Idunganran was erected by Akitoye is contrary to history vide p. 8 of Losi's history of Lagos paragraph 2 and 4. It is thus apparent that Iga Idunganran has been there from the time of Gabaru. Vide page 9 under head "Akinsemoyin." Vide page 18 (a) Oluwole paragraph 16. It was after the destruction of Oluwole that Akitoye came to the Iga. Ref. to the evidence of payment of tribute and tax which is said to have stopped with Akitoye vide Burn's history of Nigeria p. 43. Ref. to Wood's history page 20 of Ex. 18. Two Kings 20 refused paying tribute before Akitoye, so why should Plaintiffs' witnesses say Akitoye stopped the payment of tribute. Vide Losi page 22 paragraph 8.

I ask the Court to say that the case of the Plaintiff is fantastic. This is another way of attempting to discuss the title of Oba. The Plaintiffs have put in 2 inconsistent claims of recovery of possession and trespass. I submit that Plaintiffs cannot succeed on either. If Court holds that the Iga Idunganran is the residence of the Oba Plaintiffs must fail and cannot recover possession. As regards trespass we have a right of entry by virtue of being elected Oba taken there by the Chiefs who are the custodians of 30 the paraphernalia. Adverse possession by anyone else would be wrongful. The Plaintiffs have admitted that the Chiefs have a right of entry to the Iga at any time. Those who shut the main gate when the Oba was coming became trespassers *ab initio*.

Ref. *Hemmings & Wife vs. Stoke Poges Golf Club*, 1 K.B.D. [1920] at 733.

Chief Akinolu Akodu vs. Omidiji Oloto. Clerk & Lindsell on Torts—10th Edn. page 517. Ref. to Amusa Dosunmu's evidence. Vol. 216 page 43. Adedoyin Dosunmu's residence in the Iga was unlawful and so we could use force to put him out. 40

Re the Crown Grant: Vide *Lawani Marshall v. Ashimowu Ekeloju Oti*—Suit No. 107 of 1938.

Administrator of Colony v. Ajayi Lafenwa Tadeyo. Suit No. 368, 387 & 443 of 1927. In this case reference was made to Wood's history—2 N.L.R. p. 79 and to Payne and Losi—Ref: to p. 5 of the judgment.

Onus is on Plaintiff to prove his title when seeking a declaration.

Ref: Laws of Nigeria. Crown Grant Ordinance.

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Adedoyin Addresses :

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Plaintiffs' claim is that we are the owners of the property 26 Upper King Street or Iga Idunganran and that we have been in possession for over 100 years up till 1st October 1949 when Defendant trespassed into the premises and that he has taken possession of this property. We rely mainly on the Crown Grant Ex. 1. At paragraph 5 of Statement of Claim we have given a description of the property covered by the grant. A
10 plan covering the area given in Ex. 1 has been put in evidence as Ex. 7. The property 26 Upper King Street is a portion of the land covered by Exhibit 1.

Paragraph 4 of the Defence confirms the Existence of the Crown Grant and the description of the property given in Exhibit 1 and the plan Exhibit 7.

First and foremost I respectfully submit that we have had witnesses giving hearsay evidence and books of authority have in consequence to be considered. But what are the books to be considered? Not Burns, not Losi, not Wood nor even Payne. There is nothing to show that these
20 books are not copied from one another. We do not know the source of information of the respective writers, nor are we told of their respective qualifications or authority or motive. In view of this we have to consider the evidence of witnesses who are eyewitnesses of what they say in Court. We are bound to respect Government documents, like Gazettes and official letters. In this respect I refer to *Commission of Lands v. Kadiri Adagun* —3 W.A.C.A. page 206.

Our story is that the land on which Ida Idunganran stands and the adjoining lands as described in Ex. 7 was given by Ologunkutere to Akitoye his son, in the same way as Adele, son of Ologunkutere was also
30 allotted a piece of land at Okiti and Eshilogun at Ereko, where now is situated the Iga of Kosoko, son of Eshilogun who according to genealogical tree attached to Defence was Oba of Lagos from 1845–1851. Another son of Ologunkutere, Olusi, was granted land in Idunmota area. I refer to Suit No. 368, 387 & 443 of 1927 *Administrator of Colony v. Tadeyo and Anor*. This case deals with Olusi family land. We have called witnesses to show who lives on land adjoining Iga Idunganran. I refer to evidence of Towuro Dosunmu two others. They are members of family of Dosunmu. A witness for defence Adetunji Akitoye said that No. 12 & 33 Upper King Street are property of one Fasinro, a brother to King Dosunmu.
40 The evidence he gave is what he saw and knows. But he did not know who gave or where was situated land given to Fasinro, Akitoye and Dosunmu. We have the evidence of Chief Ashogbon for defence. He said he took possession of the Iga and all the property in it after the death of Oba Falolu and that the members of the house of Dosunmu did not protest or resist him taking possession. He said he locked the doors, kept the keys and gave them to Defendant. He admitted that Adedoyin Dosunmu was in possession of Iga after Falolu's death. He said he locked the doors of the room in which the paraphernalia was. His evidence should not be believed. On one point only can he be believed and that

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is when he says that the wall of the Iga was built by Eshugbayi Eleko. Both Ashogbon and Oniru gave evidence that Aromire gave land to Ado, but they cannot give the area. The same thing applies to the evidence of the tiles. Ajose Adeogun was the only defence witness who tried to give the area of the land given by Aromire. Under re-examination he said he did not know the boundaries. Question of Kosoko is material. Adeogun admitted that Kosoko was an Oba and had his palace at Ereko. He was son of Eshilogun. That is why Adele should have his palace at Okiti—Eribe. The same Adeogun said that Ado moved to Lagos from Iddo and his people moved with him. This cannot be reconciled with 10 Ashogbon's evidence. Reference to evidence of Tijani Ashafa, who gave evidence as to the departure of Adedoyin Dosunmu from the Iga on 1st October 1949, but admitted that he was not there. He said that the family of Adele live near the Iga. That is not true, I submit that if it were true members of the family living there would have been brought to give evidence, as we have done in the case of Olowuro Dosunmu and the 2 other witnesses mentioned already.

The genealogical tree attached to Defence confirms that we have been in possession of the property since 1841 up to 1st October 1949 when the alleged trespass is said to have been committed, with the exception of 20 the period 1928–1931 when Sanusi Olusi occupied the premises as an Oba during the period that Eshugbayi was exiled to Oyo. The evidence is that Sanusi was removed by Government. The story that the Iga Idunganran is not only for Obas is not true. In 1920 Eshugbayi Eleko who was installed as Oba in 1901 had his recognition as Oba withdrawn by Government. Vide Ex. 10. I say that Eshugbayi Eleko occupied the Iga Idunganran from 1920 up to 1925 when he was sent to Oyo as a private individual by Government and he remained in Oyo till 1931. When he returned to Lagos as a private individual and so remained till his death in 1932. Ref. to Ex. 9 Chief Ojuru gave it in evidence that Ado 30 was buried at Benin. When Eshugbayi was brought back a letter to Government was written by Wells-Palmer. Ex. 14. Attorney General replied in Ex. 15. Vide p. 3 thereof. It will be found that when Eshugbayi returned to Lagos Sanusi left the Iga. Ref: to evidence of Ayawo Dosunmu who said she lived in the Iga and returned when Eshugbayi returned and stayed up to the trespass on 1st October 1949. Ref: to evidence of Muda Dosunmu, Musa Dosunmu and Lawani Folami, who described the incidents leading up to and after the closing of the gates on 1st October. They also described how they left the Iga. There is also 40 the evidence of Ganiyu Dosunmu, Shifawu Bale and Areago, also the evidence of Lamidi Eleko. The first two described how Defendant called on Lawani Adele, Sanni Adele, Salawu Adele and Aminu Kasoko to go and change their dress and come and break down the wall and how they went and broke down the fence on the side where the policemen were not standing. Also how they entered the Iga from the fence and broke the main door in obedience to the order given by Defendant. Defendant entered the compound in a car and also ordered the doors to be forced open, which was done. On all these there was no cross-examination and there was no evidence to the effect that all these incidents never happened. I submit that the Plaintiffs' witnesses should be believed. Ashogbon 50 admitted that the story building in the compound was built by Akitoye. There has not been any evidence to show that state money or Communal

labour was used in building this house or in the building of the wall, I submit that it was built out of their own pockets. There is evidence that Government built a house for Sanusi when he left the Iga. If it is true that Sanusi had a house built for him what is his interest in the Iga ?

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The treaty of Cession—Ex. 13—was made between the Queen of Great Britain and King Dosunmu. They are the contracting parties.

I now refer to Exs. 21, 22 & 23. They have no bearing on this case at all. The Crown Grants Ordinance. Ref: to Ex. 12. It is not a declaration. Paragraph 1 thereof. It is not worth anything. *Vide* Lands
10 Registration Ordinance Vol. 4 Sec. 8 (1). The document Ex. 12 was not registered. Ref: to Crown Grants (Township of Lagos) Ordinance—*Vide* Preamble and Section 3, 5 (a).

Akpan Awo vs. Cookey Gam. 2 N.L.R. 100.

At the time of the alleged trespass we were in possession. It has been admitted that Chief Oluwa is the most senior Chief. *Vide* Exhibit 5 at page 8. I refer to the para. 4 of the Defence wherein it is alleged that the Crown Grant was given to Dosunmu in trust. Evidence has been led by the defence that where the Iga stands is the portion of land granted by Aromire to Ado for the building of Iga Idunganran, but there has
20 been no evidence to show that the land adjoining the Iga as shown in the Grant and on the plan Ex. 7 are not claimed by the Defendants in the same way as they claim the Iga itself. I presume that if the Iga has special interest it would be so described in the Crown Grant to distinguish it from the rest of the land in Ex. 7. If it were not so described there should be a special grant for it.

Eshugbayi Eleko versus The Officer Administering the Government and anor. Privy Council—No. 42 of 1930 page 9 to confirm position of Eleko.

We have tried our best to prove our case for a declaration of title. We have given evidence to the effect that we have had long possession
30 of the property and that we have dealt with it as *our own property*. We were in possession at the time of the alleged trespass. The trespass has been proved our witnesses have not been challenged. Trespass *ab initio*. *Halsbury's Laws of England 1st Edition Vol. 27 page 857, para. 1505.* They had no right to use force to recover possession.

Adjourned for judgment, parties to be notified.

(Sgd.) C. W. REECE.

*In the
Supreme
Court.*

**No. 39.
JUDGMENT.**

No. 39.
Judgment,
18th
January
1951.

In this action the Plaintiffs seek :—

- (1) A declaration that the property situate at No. 26 Upper King Street, Lagos, and known as the Iga Idunganran is the property of the members of the house of Docemo.
- (2) Recovery of possession of the said property, and
- (3) £2,000 damages for trespass committed by the Defendant against the said property.

The Plaintiffs contend that, by virtue of a Crown Grant dated the 15th day of July, 1870, which was put in evidence as Exhibit 1, whereby John Hawley Glover, Administrator of the Government of the Island and Territories of Lagos, granted to King Docemo, his heirs, executors, administrators and assigns for ever the land described in the grant, the land became the property of King Docemo and his family. They contend that for more than 100 years descendants of King Docemo have exercised exclusively acts of ownership over this property up to the 1st day of October, 1949, when the Defendant and his servants broke and entered and took possession of the premises. The case for the Defendant, on the other hand, is that the property has from time immemorial been the official residence of the Oba of Lagos and that the Crown Grant granted to King Docemo and his heirs was granted in trust for the family of Ado, the founder of the House. The Defendant alleged that he had a right to enter the premises and that he is not in wrongful possession.

A great deal of evidence has been given about the early Kings of Lagos, and reference has been made in the course of the evidence to such text books as Rev. J. Buckley Wood's Historical Notices of Lagos, The History of Lagos by Prince John, B. O. Losi, Otunba Payne's Table of Principal Events in Yoruba History and the History of Nigeria by A. C. Burns, K.C.M.G. It seems to me that in order fully to understand the case it is necessary to examine in detail some of this evidence, which, apart from the text books mentioned, has been in the nature of tradition.

Amusa Docemo, one of the Plaintiffs, said that he was a son of the late King Docemo who owned the property. The property, Amusa Docemo stated, was originally left by King Akitoye to his son King Docemo. Akitoye was the son of Ologun Kutere who had other children, viz. : Adele, Eshilokun. Olusi, Ikelu and Olukoya. Amusa Docemo said that Ologun Kutere gave the property now known as the Iga Idunganran to his son Akitoye, and to his other children he gave other properties. To Adele was given a portion of land at Okiti in the Isale Eko area, while to Olusi was given land in Idumota. This land, Amusa stated, was acquired by Government and compensation paid to the children of Olusi. To Eshilokun was given land near Ereko known as Iga Kosoko. Akeju had land at Ido Ado, and Olukoya was given a piece of land at Oju Olokun.

From this evidence in chief Amusa Docemo would have the Court believe that just as Ologun Kutere gave the lands described to his several

children as their own family lands, so he gave the lands on which the Iga Idunganran stands to Akitoye for his family land. But Amusa Docemo in his cross-examination said :—

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10 “ I heard that Akitoye gave the Iga to his son Dosunmu. I don’t know where Docemo came from when he was made King. Falolu was living at Enu Owa when he was made King. Enu Owa is Docemo family land. I know Fagbohun Court. I heard that Docemo stayed there before he was made King. Fagbohun Court is where Docemo’s mother lived. I don’t know who owns Fagbohun Court. I know where Ibikunle Akitoye built his house before he became King. That was part of his father Fasinro’s land. When Akitoye died Docemo distributed the pieces of land to them. When Ologun Kutere apportioned piece of land for his children the land came into the hands of Akitoye. Docemo, who succeeded Akitoye, distributed the lands and where Fasinro built his house is part of the lands distributed.”

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I have reproduced this evidence of Amusa Dosunmu because it so obviously qualifies the evidence which he gave in chief and puts a very different complexion altogether on it. There he endeavours to give the
20 impression that since Ologun Kutere gave lands to his other children to be family land and because he “gave” the land on which the Iga Idunganran stands to Akitoye then it follows that the Iga is family land. But he later admits that the Docemo family have their own family land at Enu Owa, distributed by Dosunmu himself, and that Dosunmu also distributed to Fasinro his brother. Dosunmu be it remembered, was preferred to Fasinro his elder brother and was elected Oba. And so, from Amusa Dosunmu’s evidence, I am satisfied that Akitoye did not give the Iga Idunganran to Dosunmu as family land, but that Dosunmu
30 succeeded to it as Oba, while his own family land was at Enu Owa. And we must not forget that from the time when Ologun Kutere reigned as Oba in 1749 to the time when Akitoye was Oba in 1841, there was an interval in time of 92 years during which there were four Obas, viz. Adele, 1775, Oshilekun, 1780, Idewu Ojulari, 1819, and Oluwole, 1834, all of whom occupied the Iga Idunganran as Obas. No claim has been made that Ologun Kutere gave the Iga to these, of whom we know that Oshilokun and Adele were brothers of Akitoye.

Therefore according to the evidence of Amusa Docemo we have it that the property in dispute descended from Ologun Kutere 1749 to Akitoye, 1841, to Dosunmu Docemo, 1853. When King Docemo died,
40 the witness Amusa Docemo stated, he was succeeded by his eldest son Oyekan, who in turn was succeeded by Eshugbayeri Eleko, his brother, and also a son of Dosunmu. Eshugbayeri Eleko was succeeded by Falolu, also a son of Dosunmu. But Amusa also gave evidence that Kosoko, the son of Eshilokun, drove Akitoye from the Iga Idunganran and that Akitoye returned to the Iga with the help of the British Government. In 1925, Amusa Docemo further stated, Eshugbayeri Eleko was deported from the Iga Idunganran to Oyo and that Ibikunle Akitoye was living at the Iga. After Ibikunle Akitoye’s death Sanusi Olusi occupied the Iga. Amusa stated that Sanusi was not a member of the Dosunmu family.
50 He further said the Government drove Sanusi Olusi away from the Iga

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and Eshugbayi Eleko returned from Oyo about 1931 and resumed living at the Iga, where he died. On the death of Eshugbayi Eleko Falolu was installed Oba.

From the evidence in chief of the witness Amusa Dosunmu we do not get a consistently clear and true picture of the line of Obas from Ologun Kutere. He did not give his evidence in a chronological sequence. In cross-examination he admitted that Adele succeeded Ologun Kutere and that both Adele and Osilokun reigned before Akitoye. He admitted further that Idewu Ojulare was a son of Osilokun and succeeded him, that Oluwole succeeded Ojulare and that all these reigned before Akitoye. Now we have 10
a chronological sequence of the Obas from Ologun Kutere to Falolu. They are : Ologun Kutere, 1749 ; Adele, 1775 ; Oshilokun, 1780 ; Idewu Ojulari, 1819 ; Oluwole, 1834 ; Akitoye 1841 ; Kosoko 1845 ; Akitoye 1851 ; Dosunmu 1853 ; Oyekan 1885 ; Eshugbayi Eleko 1901 ; Ibikunle Akitoye 1925 ; Sanusi Olusi 1928-31 ; Eshugbayi Eleko 1932 ; Falolu 1933. This evidence of Amusa Dosunmu relating to the successors of Ologun Kutere is corroborated by other witnesses for the Plaintiff. It is only of passing interest to add that in 1920 Government withdrew its recognition of Eshugbayi Eleko and on Wednesday 8th December, 1920, a publication to that effect was made in the Nigeria Gazette. Soon after his return to Lagos 20
in 1931 and resumption of occupation of the Iga, Eshugbayi Eleko died in 1932 and was succeeded by Falolu who was recognised by Government as Head of the House of Docemo or Ado in the publication made in the Gazette of 4th October, 1933—Exhibit 11.

From the evidence adduced by the Plaintiffs I am satisfied that the property now known as the Iga Idunganran first passed from Ologun Kutere 1749 through succeeding Obas to Dosunmu 1853 and not from Akitoye 1841. Amusa Docemo admitted in cross-examination that he was told that the Iga Idunganran was formerly known as "Oko Ata", but said he did not know who gave the land to Ologun Kutere, or if it had 30
been given to Ado by Aromire, but he was certain that Ologun Kutere gave it to Akitoye.

Akinola Ajose Adeogun, a witness for the defence, associated himself with the statement in Burn's History of Nigeria that Ashipa was the first King of Lagos, appointed by the King of Benin. He said that the Iga Idunganran was the residence of the Obas of Lagos from the time of Gabaro, and that Gabaro was the first to put a building there, a fact well known to all chieftancy houses, while Oba Akinsemoyin was the first to erect a building with a roof of tiles. Ajose Adeogun also said that the land on which the Iga Idunganran stands was given to the first Oba by Aromire. 40
He had never heard that the land had been given to a particular Oba as his property. In cross-examination this witness said it is common knowledge that the Iga was given by Aromire to Ado, who was first living at Iddo, and then came to Lagos, which was farmland. He said that the Iga was at this time a pepper farm, "Oko Ata" and that it was given to Ado on which to build a palace. Ado was a vassal of the King of Benin and paid tribute to him. Josiah Abiodun Ladega, Chief Ashogbon of Lagos gave it in evidence that Chief Aromire and his family gave the land on which the Iga now stands to Ado, who did not erect any buildings. He said that Ado was an Oba who was succeeded by Gabaro, who had put up primitive buildings, which 50
comprised the first Iga Idunganran. According to Chief Ashogbon,

Gabaro was the first Oba to live at the Iga Idunganran, and from his time until to-day, all the Obas of Lagos have lived there. On his death, Gabaro, so says Chief Ashogbon, was succeeded by Akinsemoyin as Oba. To Akinsemoyin, Chief Ashogbon ascribes the present buildings. In cross-examination Chief Ashogbon stated that Aromire gave a lot of land to Ado, not only the land on which the Iga stands. He further said that he had read in Losi that the word "Eko" Lagos, is derived from "Oko" a farm, and that the whole of Lagos was known as Oko and belonged to Olofin and his people.

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10 It is noteworthy that the Plaintiffs' witnesses make no reference to the early history of Lagos before Ologun Kutere, who, they say, gave the land on which the Iga Idunganran stands, to Akitoye. How Ologun Kutere got the land they do not say. The account given by the two defence witnesses, Adeogun and Chief Ashogbon, corresponds with the accounts given in the text books cited, viz. Losi, Wood, Payne and Burns and I accept it.

20 Losi says that in olden times Lagos was a bush, full of swamps and lakes. At that time there lived Olofin, a powerful Chief, with thirty-two sons, among whom we find the White-Cap Chiefs of today. Lagos was divided among ten of his sons, first of whom was Aromire. Aromire is said to have built a camp in Lagos and settled there with his people. The people of Isale Eko dwelt on Aromire's farm where he planted vegetables, and because of this the people called the present King's Palace — "Iga Idunganran," the "Pepper Palace," because it is the site of Aromire's pepper farm.

All the authorities cited give Asipa as the first King and say that he was succeeded by his son Ado and he by his two sons Gabaro and Akinsemoyin successively.

30 Akinsemoyin was succeeded by Ologun Kutere. From Ologun Kutere to Falolu, both the Plaintiffs and the Defendants are agreed upon the succession of the Obas. But whereas the Defendant alleges that the land on which the Iga Idunganran stands was given by Aromire to Ado, the Plaintiffs claim it as their personal property by virtue of the Deed of Grant, Ex. 1, by Governor Glover to King Dosunmu in 1870. While the Plaintiffs in the statement of Claim rest their claim to the land on the aforesaid Crown Grant, the Plaintiff Amusa Docemo in his evidence said: "The property in dispute was given by Ologun Kutere to his son Akitoye" who, the witness had already said, left it originally to his son, King Dosunmu. Both Payne and Losi give the date of the reign of Ologun Kutere as about 1749, and that of Akitoye as 1841. Dosunmu is said to have reigned from 1853. Thus, accepting the evidence of the Plaintiffs, it is very clear that the Iga Idunganran was in existence for 102 years before the Grant to King Dosunmu in 1870. This evidence seems to me to be the weak link in the chain to which the Plaintiffs' case is shackled. The Plaintiffs allege in para. 6 of the Statement of Claim, that for over a period of 100 years the property in dispute has been in the exclusive possession of the House of Docemo and various attempts by outsiders to challenge the rights of the said House over and above the said property have been successfully resisted by the said House of Docemo.

40 I would first observe that there has not been adduced one iota of 50 evidence to support the later part of the allegations contained in the

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said paragraph 6 of the Statement of Claim, and it can be brushed aside and ignored. As to the allegation that the property has been in the exclusive possession of the House of Docemo, this is not wholly supported by the evidence, for the Plaintiffs' witnesses admit that after the death of Ibikunle Akitoye, Sanusi Olusi occupied the Iga. He said in cross-examination: "When Akitoye died Sanusi was elected Oba and put in the Iga. The Government put Sanusi there. When Eshugbayi returned from Oyo, Sanusi was advised to leave the Iga and Government gave him a house." I have already remarked that this witness stated that Sanusi Olusi was not a member of the House of Docemo. Eshugbayi Eleko 10 died in 1932 shortly after his return from Oyo in 1931. Thus it is evident that it is not true to say that for over 100 years the House of Dosunmu have been in exclusive possession. It is true that the House of Docemo has been in possession of the Iga Idunganran from the time of Docemo, 1853 up to the time when Eshugbayi Eleko went into exile in 1925. But what is the nature of this possession? The Plaintiffs say that by virtue of the Deed of Grant, Ex. 1, their possession was that of private owners. The date of the Deed of Grant is the 15th July, 1870, and so for at least 17 years before the Grant, Docemo had been in possession as Oba. It is not in question that he was an Oba of Lagos and it has not been suggested 20 by the Plaintiffs that Dosunmu did not become possessed of the Iga when he succeeded his father, Akitoye, in 1853 as Oba, and because he was Oba. And as the Plaintiffs themselves have admitted, from the time of Ologun Kutere 1749, Obas were residing at the Iga Idunganran up to the time of 1853 Dosunmu and from the time of Dosunmu up to the present day. What then is the effect of the Deed of Grant which was made to Dosunmu in 1870? I am of the opinion that it does not confer on Dosunmu and his heirs the absolute ownership of the land granted as claimed by the Plaintiffs.

Every successor of King Dosunmu up to the time of Falolu, with the 30 exception of Sanusi, has, in fact, been a member of the House of Dosunmu, and it is this coincidence that has, in my opinion, encouraged the Plaintiffs to advance the specious argument that the Iga Idunganran is the property of the House of Dosunmu. But the Plaintiffs admit that every person who resided in the Iga Idunganran since the death of King Dosunmu was an Oba, and everyone who resided there before Dosunmu was likewise an Oba. And from the evidence it is clear that they all descended from Ologun Kutere, by whom, the Plaintiffs admit, the Iga was given to Akitoye, who in turn gave it to Dosunmu. But the Plaintiffs do not rely on acquisition of the Iga through Ologun Kutere—they rely on the Deed of Grant, 40 Ex. 1, which seems to me to be the rock on which their claim to ownership is shattered. To attempt to rely on acquisition through succession of Obas from Ologun Kutere would be too much like accepting the contention of the Defendant that the Iga is the traditional home of all properly constituted Obas. I am of opinion that from the evidence that has been adduced the proper construction to be placed on the Deed of Grant Ex. 1, is that the land was given to King Dosunmu as trustee for his successors in the office of Oba of Lagos.

From the evidence it seems to me to admit of no doubt that from the time of Gabaro right up to the death of Falolu every person who occupied 50 the Iga Idunganran occupied it as Oba of Lagos and by virtue of being Oba

of Lagos. Even King Dosunmu, through whom the Plaintiffs claim it to be their private property, first went into occupation in 1853 as Oba. It seems to me, therefore, that it is not strictly accurate to say that Ologun Kutere gave it to his son Akitoye who in turn gave it to his son Dosunmu. It was not Ologun Kutere's to give. Both Akitoye and Dosunmu were Obas after Ologun Kutere and nearly 100 years after him, and in their capacities as Obas they occupied the Iga.

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Further in support of this view I refer particularly to the evidence of Amusa Dosunmu, who said in cross-examination when referring to the
10 Ward Price Enquiry concerning the House of Docemo, Ex. 5, that he heard his brother say "As a son of Docemo I do not claim that the Iga Idunganran is the private property of Docemo's descendants. I recognise the right of other sections of the family to the Stool." Vide para. 7 page 17 of Ex. 5. Moreover Ayawo Dosunmu, a daughter of the late King Dosunmu said: "I agree that everyone who has been an Oba of Lagos has lived at the Iga." And again, this very witness said: "It is at Iga Idunganran that any Oba who has been made King lives." Another member of the Dosunmu family who gave evidence for the Plaintiffs—
20 Muda Dosunmu—said: "The Iga Idunganran is the traditional home of the Obas." It is this evidence in particular which has compelled me to the view that King Dosunmu held the land on which the Iga now stands, as trustee for his successors in office. My attention has been drawn to Suits Nos. 386 of 1927; 387 of 1927 and 443 of 1927—*Administrator of Colony v. Chief Ajose Onitona & 5 Ors.*; *Administrator of Colony v. Chief Ajose Onitona & 11 Ors.*; and *Administrator of Colony v. Ajayi Lafenwa Tadeyo* in which M. L. Tew, the Chief Judge, speaking of a Crown Grant, observed as follows:—

30 "It has been held repeatedly by this Court that a Crown Grant did not necessarily confer exclusive ownership upon the grantee, and that his descendants will not be allowed to set up a Grant in order to exclude members of his family and others who by Native Law and Custom are equally entitled with themselves to the ownership of the property."

There has never before been a claim by any member of the House of Docemo that the Iga Idunganran was the private property of the members of the family, and I cannot but agree with Counsel for the Defendant, Sir Adeyemo Alakija, that, if the House of Docemo did really think that the Iga Idunganran was their private property, the time to make such a claim was when Sanusi Olusi was appointed Oba; for Sanusi Olusi was not a
40 member of the House of Dosunmu. The reply of Amusa Dosunmu given in cross-examination as to why no such claim had then been made strikes me as being just stupid. He said—"Since the Government sanctioned Sanusi as the successor to Ibikunle Akitoye, we could not take action for possession because we had Eleko's case in Court. We had no case in Court against Sanusi." It seems to me that the real reason is to be found in the evidence of those witnesses for the Plaintiffs who say that the Iga Idunganran is the traditional home of the Obas of Lagos, and that if this is admitted then an action claiming the land as the private property of the House of Dosunmu could not be sustained. It is not for me to speculate
50 why this action has been brought, but from the evidence it is difficult not to opine that because the choice of Oba has fallen on a member of the House of

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Dosunmu as from the date of the election of King Dosunmu in 1853, the members of the House of Dosunmu have grown to think that an Oba must be chosen from that House.

The defence alleges that the Iga is the traditional residence of the Obas of Lagos and claim that as Oba of Lagos the Defendant is lawfully entitled to occupy the Iga. I have already referred to the evidence of the witness Adeogun and Chief Ashogbon who traced the origin of the Iga beyond Ologun Kutere back to Aromire, who gave the land to Ado. This evidence was also supported by the witness Mustafa Tijani and Chief Oniru. 10

On the evidence which has been adduced I am satisfied that the Iga Idunganran started with a gift of land to King Ado by Chief Aromire, but that it was Gabaru who first erected any buildings on, and lived on the land, and that the buildings were brought to their present state by Akinsemoyin, save for the building erected by Akitoye. For reasons already given I reject the suggestions advanced by the Plaintiffs that Ologun Kutere gave the Iga Idunganran to Akitoye, who in turn gave it to Dosunmu. I have said why I do not accept the argument that the Deed of Gift to King Dosunmu conferred on the House of Dosunmu the absolute ownership of the land, and I am satisfied that the Iga Idunganran 20 has been from earliest existence the traditional home of the Obas of Lagos.

I see nothing in the statement of the then Acting Attorney-General contained in Exhibit 15, to wit—"Without such provision the return of Eshugbayi to his father's home could only have been effected by lengthy legal proceedings"—which would influence me in coming to a different opinion. I consider the expression "to his father's home" an ambiguous one loosely used by the Attorney-General; for when it is remembered that the subject matter of the letter, Exhibit 15, was in no way concerned with the ownership of the Iga Idunganran, there is no reason to suppose 30 that the Attorney-General had even considered it. And even if he had, how could his opinion be presumed to influence the decision of this Court in the present case. I consider Exhibit 15 completely irrelevant and of no value. I am therefore of the opinion that the Plaintiffs have failed to show that they are entitled, in the terms of the writ, to a declaration of title in respect of the property situate at No. 26 Upper King Street, Lagos, commonly known as Iga Idunganran or the House of Docemo.

The Plaintiffs have also claimed recovery of possession and damages for trespass.

As to the recovery of possession, to obtain this the Plaintiffs must 40 show a better title than the Defendant, who is alleged to have been in wrongful possession since 1st October, 1949. I have found that the Iga Idunganran is the traditional home of the Obas of Lagos and thus it seems to me to follow that before the Plaintiffs can recover possession they must satisfy me that they require such possession to enable a properly installed Oba to take up his residence therein. The evidence discloses that when Oba Falolu died applications by candidates—Omo Obas—from different houses were sent to the Chiefs responsible for selecting the Oba. An application was made by the members of the House of Dosunmu to the White Cap Chiefs and the War Chiefs, presenting Adedoyin Dosunmu (now 50

deceased) as a worthy successor of Oba Falolu. Exhibit 2 is the application. Ayawo Dosunmu, already referred to as the daughter of the late King Dosunmu and witness for the Plaintiffs, gave it in evidence that the late Adedoyin Dosunmu succeeded Oba Falolu and lived at the Iga. But Chief Ashogbon in his evidence referred to Exhibit 2 and said that the Chiefs did not approve the application of Adedoyin Dosunmu and did not appoint him Oba. But Chief Ashogbon said the Defendant Musendiku Adele was appointed Oba and a letter from the Commissioner of the Colony to Chief Amodu Tijani Oluwa was put in evidence as Exhibit 25, which expressed Government recognition of Adele as Oba. The pertinent part of the letter reads as follows :—

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“ My good Friend, Greetings. I have to inform you that the following announcement will be made public in the Press and by Radio to-day :—

“ It is officially announced that Adeniji Adele, having been properly selected in accordance with customary law and tradition, is recognised by the Government as Head of the House of Ado.”

Much evidence has been adduced with a view to showing the method of selection of the Oba, but as this action is in no way concerned with the question whether Adedoyin Dosunmu should have been preferred to Adele, I do not propose to dwell upon this evidence. Suffice it to say Adele is recognised by Government as having been properly selected in accordance with customary law and tradition, and is accordingly as such Oba, in my opinion, entitled to occupy the Iga Idunganran, which I have found to be the traditional home of the Oba of Lagos. Having come to this conclusion I must hold that the Plaintiffs are not entitled to the recovery of possession of the Iga Idunganran claimed in the writ.

And finally I come to the claim for damages for trespass. In paragraph 7 of the Statement of Claim the Plaintiffs allege that the Defendant and his servants and agents on the 1st day of October, 1949, broke and entered the property in dispute which was on the said day in the possession of first Plaintiff as Head of the House of Docemo, together with other members of the said House of Docemo. The Defendant, in paragraph 8 of the Defence, alleges that the said property was not and never was in lawful possession of the first Plaintiff or any of the Plaintiffs.

The witness Amusa Dosunmu in his evidence in chief said that Adedoyin Dosunmu was on the 1st October, 1949, living at the Iga and was there as head of the family. Others were living with him. In cross-examination he said that it was not on the night that they heard that the chiefs had chosen some one else that they put him in the Iga. The Defendant does not deny that the Plaintiffs were in possession ; they claim that the possession was not lawful and that they had a right to enter. It was Chief Ashogbon who said in answer to the Court—
“ Adedoyin Dosunmu was, in fact, in possession of the Iga after the death of Falolu, and he remained in possession up to the 1st October, i.e., the day when Adele was installed. He was in possession for about two months.”

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On that evidence there can be no question that Adedoyin Dosunmu was, in fact, in possession of the Iga, even though not in possession of all of the rooms. For I accept the evidence of Chief Ashogbon that, in accordance with Native Custom, he, on the death of Oba Falolu, kept the keys of the Iga, and took possession of the paraphernalia and personal properties of the late Falolu. In this Chief Ashogbon is supported by the Plaintiff Amusa Dosunmu, who, in his cross-examination, said :—

“ When Falolu died, we, the sons of Docemo, called Ashogbon and Chief Bajulaiye to lock up the part of the Iga where they keep the paraphernalia and to take charge to prevent thieves from getting at it. We could not take charge because we were not allowed to go near Falolu’s body.” 10

Several witnesses gave evidence on behalf of the Plaintiffs with respect to the alleged breaking down of the galvanised iron fence on one side of the Iga, and of the entry through the breach, of the crowd. Evidence was also given that the front gate which had been closed was forced open from within and that the Defendant drove into the compound in a car through the main gate.

Ganiyu Dosunmu alleged that the Defendant called Sanni Adele, Salawu, Lawani Adele and Aminu Kosoko, and told them to go home 20 and change their clothes and come back and break the fence. The witnesses alleged that these men went away and returned, having changed their clothes. Salawu returned with a crow bar and Lawani with a hammer. These two and Kosoko, who had nothing in his hand broke the fence through which the crowd entered. According to Ganiyu Dosunmu the crowd came to the gate and forced it open ; Salawu Adele ripping off the hasp and staple with the crow bar, while Aminu Kosoko released the bolts. Lifawu, Bale of Epe, also said that the Defendant called Sanni, Salawu, Aminu Kosoko and Lawani and told them to go around and break the fence. He said he saw Aminu, Salawu and Lawani. 30 Salawu struck the iron sheets with the bar in his hand. Apart from the evidence of the breaking of the fence and the gate there is no evidence that any damage was done to the rooms of the Iga itself. Muda Dosunmu said he did not see anyone breaking the doors, but he heard knocking against them.

This evidence has not been contradicted by the defence and I accept it and find as a fact that the Defendant forcibly entered the Iga on 1st October, 1949, accompanied by the Chiefs, and that there was no damage to the buildings of the Iga or any part of them. The Defendant has pleaded that he had every right to enter the said property, being the 40 duly appointed Oba, and Lanudi Eleko, a witness for the Plaintiffs, said that he did not deny that the Chiefs are entitled to come to the Iga. Accordingly, the question for me to decide are whether, finding as I have that the Defendant as Oba was entitled to occupy the Iga as the traditional home of the Obas, he was entitled to enter into such occupation by forcible entrance and whether the Plaintiffs can maintain an action for trespass in respect of such entry. It must be remembered that the defence admits that Adedoyin Dosunmu was, in fact, in possession of the Iga, and had been living there for some time before the alleged trespass complained of.

It is contended, I repeat, on behalf of the Defendant that this possession by Adedoyin Dosunmu was unlawful and so the Defendant was entitled to use force to put him out. In view of the evidence of Chief Ashogbon that he did not know how Adedoyin Dosunmu got into possession it seems clear that Chief Ashogbon, while having the keys to the rooms containing the paraphernalia of the Oba, and having taken possession of the personal effects of the late Oba Falolu, did not, in fact, have possession of the entire Iga. I accept Chief Ashogbon's evidence that none of the members of the House of Docemo protested or resisted

10 against his taking possession of the Iga. This appears to me to be evidence of the recognition by the Plaintiffs of the right of the Chief Ashogbon to take possession of the Iga Idunganran on the death of an Oba. From the evidence it is clear that Adedoyin Dosunmu was not in occupation of any part of the Iga until some time after the death of Oba Falolu, for Amusa Dosunmu said: "It was not on the night that we heard that the Chiefs had chosen some one else that we put him in the Iga. I can't remember when we put him there. We took him to the Iga before they brought their man." He had been put there before the 19th September, 1949, when Exhibit 2—the recommendation of Adedoyin Dosunmu to the

20 Chiefs for the office of Oba—was written. Falolu died on the 2nd September, 1949. From the evidence of Musa Dosunmu, it is evident that Chief Ashogbon's estimate of two months as the time during which Adedoyin Dosunmu occupied the Iga, cannot be correct. But however long or short a time he did occupy the Iga before the 1st October, 1949, I am satisfied that such occupation was not of right and was therefore unlawful.

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My attention has been directed by Counsel for the Defendant to the case of *Hemmings & Wife v. Stoke Poges Golf Club* [1920] 1 K.B. 720 at 733. The facts were that the plaintiffs, a man and his wife, lived in a cottage belonging to the defendants, the man being in their service and being

30 required by them to live in the cottage as part of his service and for the performance of his duties. He left their service and refused to give up the cottage after notice to quit had been duly given. By command of the defendants, several persons entered the cottage and removed the plaintiffs and their furniture, using no more force than was necessary for that purpose. In an action for assault and battery and trespass, it was held that the defendants were not liable, their right of entry being a defence to civil proceedings for the acts complained of. On the authority of this case it is contended that the Defendant is not liable. The case

40 cited was an action founded upon an alleged infringement by the Defendants of the Statute 5 Richard 2 Stat. 107, which enacts that a forcible entry is a punishable offence. The *ratio decidendi* in that case seems to me to be that, although the defendant had violated the law, for which he could be punished under a criminal prosecution, under the Statute no right of the plaintiff had been infringed, since the possession was not legally his. And no injury had been sustained by him for which he could be entitled to compensation in damages. He could not recover damages for forcible entry, because, although the Statute of Richard 2 created a crime it gave no civil remedy. In other words, a person making a forcible entry under

50 the Statute is liable to punishment and exposes himself to damages if he uses more force than is necessary to remove the occupant of the premises.

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There are no provisions in the laws of Nigeria similar to the Statute of Richard 2 above, but there is a provision in section 292 of the Criminal Code which seems to me identical with the provisions of the said Statute. Section 292 provides—

“ It is lawful for a person who is in peaceable possession of any land, structure, vessel or place, or who is entitled to the control or management of any land, structure, vessel or place and for any person acting by his authority, to use such force as is reasonably necessary in order to prevent any person from wrongfully entering upon such land, structure, vessel or place or in order to remove therefrom a person who wrongfully remains therein, provided that he does not do harm to such person.” 10

I have already stated that I accept the evidence of the Plaintiffs' witnesses describing the manner of entry and am of the opinion that this constituted a forcible entry. I have found that the occupation of the Iga by Adedoyin Dosunmu was unlawful and in view of the provisions of section 292 of the Criminal Code cited above I am of the opinion that the Defendant, being entitled to control or management of the Iga Idunganran *virtute officii* as Oba, was entitled to use such force as he did to gain entrance to the Iga, for the purpose of removing Adedoyin Dosunmu therefrom. 20 There is no evidence that any harm was done to Adedoyin Dosunmu, and indeed the claim for trespass is not against the person, but *quare clausum fregit*. I am therefore of the opinion that the claim in trespass must fail. And for the reasons that I have given judgment must be for the Defendant with costs assessed at two hundred and fifty guineas.

(Sgd.) C. W. REECE.

Puisne Judge,

18.1.51.

NOTICE AND GROUNDS OF APPEAL.

*In the
West
African
Court of
Appeal.*

Filed 11.30 a.m. on 23.1.51.

CIVIL FORM 1.

IN THE WEST AFRICAN COURT OF APPEAL.

Notice of Appeal.

No. 40.
Notice and
Grounds of
Appeal,
22nd
January
1951.

Suit No. 276 of 1949.

Between ADEYINKA OYEKAN

(Substituted by Order of Court for

10 ADEDOYIN DOCEMÒ)

AMUSA DOCEMO

E. A. OGUNDIMU

BABATUNDE AKITOYE (on behalf of them-
selves and other members of the House of
Docemo) Plaintiffs

and

MUSENDIKU ADELE Defendant.

20 TAKE NOTICE that the Plaintiffs being dissatisfied with the whole
decision of the Supreme Court, Lagos, in the Judgment dated the 18th day
of January, 1951, do hereby appeal to the West African Court of Appeal
upon the grounds set out in paragraph 3 and will at the hearing of the Appeal
seek the relief set out in paragraph 4.

And the Appellants further state that the name and the address of
the person directly affected by the appeal is set out in paragraph 5.

(2) Whole decision of the Lower Court complained of.

(3) Grounds of appeal. Attached.

(4) Relief sought from the West African Court of Appeal :
Allowing Appeal and substituting judgment for Plaintiffs as per
their writ of summons.

30 (5) Persons directly affected by the Appeal :

Name : Musendiku Adele.

Address : 26, Upper King Street, Lagos.

Dated at Lagos this 22nd day of January, 1951.

(Sgd.) ADELEKE ADEDOYIN } Solicitors for the
(Sgd.) OLADIPO MOORE } Appellants.

GROUND OF APPEAL.

1. The Learned trial judge failed to apply the provisions of sections 3
and 5 of the Crown Grants (Township of Lagos) Ordinance Cap. 44 and
thereby erred in law in dismissing the Appellants' claim.

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No. 40.
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2. The Learned trial judge misdirected himself on the evidence adduced by the Appellants in the following passage of his judgment: "I would first observe that there has not been adduced one iota of evidence to support the latter part of the allegations contained in paragraph 6 of the Statement of Claim and it can be brushed aside and ignored."

3. Judgment against the weight of evidence.

No. 41.

COURT Notes of Arguments.

IN THE WEST AFRICAN COURT OF APPEAL, holden at Lagos, Nigeria, Wednesday the 22nd day of October, 1952. 10

Before THEIR LORDSHIPS

SIR STAFFORD WILLIAM POWELL FOSTER SUTTON, President.

SIR JOHN VERITY, Chief Justice, Nigeria.

SIR JAMES HENLEY COUSSEY, Justice of Appeal.

W.A.C.A. 3621.

Counsel as before.

Taylor:

Appeal from Reece J. Refers to grounds of appeal.

Ground 1. Sections 3 & 5—Crown Grants Ordinance, Section 3—Claim for declaration of title. 20

Judgment p. 52 of record, line 16—p. 52, l. 20 & p. 53, l. 41. P. 53—
from line 22. P. 53—line 45. P. 54—line 34.

If I am able to satisfy Court that Justice Tew's judgments are concerned they are no longer good law.

Even if property in dispute is traditional home of Oba of Lagos—does not prevent declaration of title being granted—merely limits user.

Two types of Crown Grants.

Cap. 60. Epetedo grants. Ordinance altered law—Tew's judgments no longer valid.

Cites Vol. II. Nigerian Law Reports p. 10. Vol. I, p. 55. Nigerian 30
Law Reports 1915 Edition, p. 56. Earlier Edition.

N.L.R., Vol. X, p. 46.

In these cases grants were between native and native.

In this case grant between Governor and grantee—i.e. Native and non-native. Cap. 60 was passed to clarify position of holders of Crown Grants. Reads preamble.

Objects well set out in Long Title.

Refers to Crown Grants Ordinance Cap. 44. Long Title. Reads Preamble.

Important Section 3.

Grant in this case comes under Cap. 44. Note—It is conceded that land comes under Cap. 44.

Effect is this grant vests in King Dosunmu an estate free from all competing interests and restrictions with the exception of those recognised by native Law and Custom.

Effect of Cap. 44 is only to give Oba right of user.

Page 33, l. 25–27 of Record—Defendants not claiming title—only right to occupy.

10 Plaintiffs claimed title not Defendant.

Defendant left title in air. Reads from p. 44, l. 46 of record.

Submits by virtue of Section 3 Cap. 44—Plaintiffs must obtain a declaration of title subject to right of user by Oba.

Original owner was the Crown. Therefore concluding words of section 3 have no effect.

Has land been divested of any rights under native Law and Custom.

Section 5. There is evidence that no native law and Custom applies to this land. Refers to Statement of Claim paragraphs 5 & 6. Judgment p. 51, line 49 deals with them (down to page 52, l. 19).

20 Has been admitted that Plaintiffs have been in possession of the Iga from 1841 to 1949—refers to p. 9 of record.

Refers to p. 12, line 31. Tree—p. 9 filed by Defendant admits it and pp. 12 & 13—evidence is further proof. Evidence p. 35, line 19, p. 38, line 40 & 41.

Next point—Could gap of 3 years adversely affect Plaintiff's claim. Government—put party there for three years and then removed him.

Plaintiffs could not prevent. P. 12, l. 9 "The Government drove Sanusi Olusi away"—p. 14 of record—line 39 & 42–43. "The Government put Sanusi there." P. 31, line 36. "Sanusi was removed by Government."

30 By virtue of section 5, Cap. 44, all that it is necessary for Plaintiff to show that for a period of approximately 79 years Plaintiffs have been in possession of Iga—true at that time they were Oba.

Refers to Exhibit "1"—"Glover—grant."

We are—Plaintiffs—really only concerned with declaration of title—not so much with damages.

40 So far as Cap. 44 is concerned two dates are relevant—Treaty—grant made in 1861. H.M. was owner free from any rights that the then Oba might have had, and Crown was such an owner until 1870 when Crown grant was made no right was then in Oba—admits that between 1861 and 1870 land was being used by Oba.

Note—See P.C. Case—W.A.C.A. Vol. 4, P. 1.

If Plaintiff is owner by virtue of Cap. 44 then entry was a trespass—*Stoke Poges* case (1920) K.B. 744. *Scrutton* L.J. 752. Submits no hearing if his proposition is accepted.

There was no attempt on part of trial Judge inter: Effect of Ordinance—Crown Grant.

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Williams
for
Defendant.

P. 55, lines 43 to 47 of Judgment.

(1) Plaintiffs are entitled to a Declaration of title by virtue of Section 3 Cap. 44.

(2) Highest that right of Defendant can be put is right to remain there so long as he is Oba. By virtue of Preamble Crown was owner free of any other interests.

Williams :

Would like to assume learned friend's arguments are correct and then show that if they are his clients would not be entitled to any of the relief asked for. 10

If Plaintiffs hold subject to rights of Oba he is clearly out of Court in his claim to possession, in this case—no trespass.

Evidence at trial would not entitle him to declaration nor would Statement of Claim.

Statement of Claim does not aver that Plaintiffs claim to title is denied by Defendants.

W.A.C.A. 3441.

Nowhere in evidence is it alleged that Defendant was dealing with the property in a manner which challenged Plaintiffs *alleged* title.

Cap. 44 merely embodies decisions of Privy Council on effect of Crown 20 grants.

Cites *Amodu Tijani v. Secretary Southern Provinces*. Vol. 3. N.L.R. p. 24, p. 62. Vol. 9. N.L.R. p. 27.

In order to clarify position Cap. 44 was enacted.

Vol. 4 W.A.C.A. reads from p. 7. No distinction is drawn between grants to slaves and grants to non-slaves—in any of the cases.

If learned friend is right Court would have to disregard entirely concluding words of Section 3.

Submits that property is vested not in Docemo but in both parties ancestors. Land is held by grantees in trust for House of Ado. 30

Docemo merely happened to be Oba when grant was made. Defendant was sued as an individual and as such he claims no right.

Ownership is vested in descendants of King Ado.

Section 5 of Cap. 44 para. (B).

Note.—Sanusi was only Oba during exile of Eleko—as soon as Eleko returned he re-occupied as Oba as soon as he returned—Trial Judge deals with matter at p. 52, l. 44 to p. 53, l. 15.

Taylor :

I agree that Williams contention is correct that if we are only entitled by virtue of Section 3 of Cap. 44 then we must fail in our claim for damages 40 —trespass.

Do not agree that we must fail because we have not averred that Defendant is challenging our title—see his Statement of Defence.

Submits there is a vast difference between a grant to a head slave and a grant by Crown to subject. Submits that after Treaty—1861 King Ado had no rights in property whatever. Nothing ever happened after that to confer title on King Ado.

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Thursday the 23rd day of October, 1952.

Taylor :

10 Cap. 44 p. 309. Preamble—3rd paragraph—and 4th paragraph—
declared & “Confirmed”—

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Effect is to confirm those grants—Then Section 3—Whole intention of legislation is to remove incidents of native tenure.

Submits—only right claimed is “right of Oba to use property so long as he is Oba.”

20 Submits that only right that existed before Treaty was right in
King Oba to use the property so long as he was Oba—Treaty wipes out all
rights of the Oba. Property was vested in Oba and his family prior to
Treaty. Submits he belonged to Docemo family—It was King Docemo
who entered into Treaty. Property was vested in King Docemo and his
family—as head of his family not as Oba. It was by chance that it so
happened he was Oba.

Corrects what he said yesterday—Eleko ceased to be Oba as from
1st December 1920 and he continued to occupy Iga after he ceased to be
Oba for years. He left in 1925—returned in 1930 and went back to Iga
and remained there for one year although not Oba.

Gazette
p. 132
Exhibit 10
of record.

30 Refers to p. 82 & 83 of record Exhibit 15. He returned as a private
individual and went to live in Iga and the then Oba was “pushed out.”
When Oba gave up rights he received consideration for so doing Exhibit 13
p. 74 of record.

The only right left to Docemo by Treaty was right to use title as
King and decide disputes between his subjects.

C. A. V.

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**No. 42.
JUDGMENT.**

(Delivered by Sir JOHN VERITY, C.J.)

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In this case the Appellants sought a declaration of title, an order for possession and damages for trespass in respect of premises at 26 Upper King Street, Lagos, known as the Iga Idunganran.

They based their claim upon averments that the premises in question are the property of the descendants of King Docemo of Lagos of whose family the Appellants are members and rely upon the Treaty of 1861 entered into between King Docemo and the representative of Her late Majesty Queen Victoria whereby King Docemo transferred to Her Majesty— 10

“ the port and island of Lagos with all the rights profits territories and appurtenances whatsoever thereunto belonging and as well the profits and revenue as the direct full and absolute dominion and sovereignty of the said port, island and premises with all the royalties thereof.”

They rely also upon a Crown grant made subsequently thereto to King Docemo his heirs, executors, administrators and assigns for ever of the said premises.

The Respondent, who is the duly recognised Oba of Lagos, although 20 he was sued personally and not in that capacity, contended that the premises are not the absolute property of the Plaintiffs or of the descendants of King Docemo but are the traditional residence of the Oba of Lagos, that the Appellants are not therefore entitled to a declaration of title, nor to possession of the premises nor can they recover damages as against the respondent for his entry thereupon in exercise of his right to occupation as Oba of Lagos.

A great deal of evidence was considered by the learned trial Judge both oral and documentary and in a careful and exhaustive judgment he came to the conclusion that the premises were in fact the traditional 30 residence of the Obas or Kings of Lagos, that the Crown Grant of 1870 is not to be construed as an absolute grant to King Docemo and his heirs but in trust to the use of the Obas of Lagos ; that the Appellants were not therefore entitled to the declaration which they sought, nor to possession, nor to damages for the entry of the respondent thereupon.

I do not propose in this judgment to narrate or attempt to analyse the vast body of evidence direct, traditional or historical adduced at the trial for although one of the grounds of this appeal is that the judgment is against the weight of the evidence Counsel for the Appellant at the hearing of the appeal took but little exception to the learned Judge's findings of 40 fact but rested his argument almost entirely upon those parts of the judgment which relate to the inferences drawn by the learned Judge from the facts found by him and the conclusions reached by him as to the legal consequences flowing therefrom. I propose therefore to consider the case upon the facts found by the learned trial judge from which upon the evidence I see no reason to differ.

The history of the premises in question in so far as is essential to this case has been found by the Court below to be as follows (I do not quote the precise words of the judgment) :

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The Iga Idunganran originated in a gift of land by Chief Aromire to King Ado, who was the Oba of Lagos between 1630 and 1669. It was not, however, till the time of King Gabaru (1669—1704) that buildings were erected on the land and occupied by the Oba. The buildings were completed by King Akinsemoyin (1704—1749) save for one erected by King Akitoye (1841—45). From the time of King Gabaru the Iga has been the residence of the Obas of Lagos, save as it would appear for a brief period (1931—32) when Eleko Eshugbayi after a period of exile was permitted by the Government to reside in the Iga although not recognised as “ the head of the House of Ado (sometimes known as the house of Docemo or Docemo-Oyekan) ” or “ as holding any position which might entitle him to official recognition from the Government.”

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The position would appear to be, therefore, that in 1861 at the date of the Treaty of Cession the premises in question had for a period of over a century been used as the residence of the Oba of Lagos, who was, as indeed each has been to this day, a descendant of King Ado. King Docemo remained in occupation of the Iga, notwithstanding the Treaty, until 1870 when the Crown Grant to which I have referred purported to grant the premises to him and his heirs, executors, administrators and assigns forever. Thereafter his successors as Oba have occupied the Iga in due course and save for a short period (1928—31 or perhaps 1932) the Oba has been a descendant of King Docemo until the time of the Respondent who was recognised as Oba in 1949. Both Sanusi Olusi who was recognised as Oba in 1928 and the Respondent are descendants of King Ado but not of King Docemo. Upon these facts the learned trial judge reached the conclusion that the premises in dispute are not the absolute property of King Docemo’s descendants and that the proper construction to be placed upon the Crown Grant of 1870 is that the land was given to King Docemo as trustee for his successors in the office of Oba of Lagos.

Mr. Taylor on behalf of the Appellants contended that in reaching this conclusion the learned judge erred in that he failed to apply the provisions of sections 3 and 5 of the Crown Grants (Township of Lagos) Ordinance, Cap. 44 and in the first place therefore I would consider the former of these sections by which it is enacted that all grants of the category of which that in question is admittedly one “ shall be deemed to have been validly made ” and which proceeds :

“ each of such grants shall be deemed to have vested in the grantee an estate free from competing interests and restrictions save only such interests and restrictions recognised by native law and custom as at the date of the grant affected such estate.”

The purpose of this enactment as disclosed by the preamble thereto is that “ doubts should be removed and that the effect of all the grants of land made by or on behalf of the Crown should be declared and confirmed.”

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There can be no question that in the course of time doubts had arisen as to the effect of these Crown Grants which by their terms purported to vest in the grantees an estate which in England would amount to the fee simple or as it is described in the previous paragraph of the preamble "an absolute title to the land." It hardly seems open to question that the view was widely held that this was indeed the effect of such grants and that the right of the Crown to make grants of this nature rested upon the terms of the Treaty of Cession. A contrary view was also held, however, and it would appear that this prevailed.

In *Amodu Tijani vs. Secretary, Southern Nigeria* [1921] 2 A.C., p. 399, 10 the Judicial Committee of the Privy Council observed :

"No doubt there was a cession to the British Crown, along with the Sovereignty, of the radical or ultimate title to the land in the new Colony but this cession appears to have been made on the footing that the rights of property of the inhabitants were to be fully respected . . . Where the cession passed any proprietary rights they were rights which the ceding King possessed beneficially and free from the usufructuary qualification of his title in favour of his subjects."

Further in *Idenu Inasa vs. Oshodi* [1934] A.C. 94 Lord Blanesburgh in 20 delivering the judgment of the Board observed in relation to the issue of grants by the Governor of Lagos—

"It cannot be doubted that this act of Government was a source of misunderstanding as each grant, on its face, purported to be a disposition in absolute terms in favour of the grantee. But it was at an early stage settled although apparently not always accepted, that these grants were only in trust and that they left the interest in the properties, whether those of the occupiers or those of the Chief, exactly where they had been."

Again in *Oshodi vs. Dakolo and others*, IX N.L.R. 13, Lord Dunedin 30 said in reference to similar grants :—

"It has, however, been decided, and their Lordships have no intention of interfering with this decision, that grants given in such circumstances were really only grants in trust and indeed left the property exactly as it was."

It appears to me to be clear from these decisions that the position immediately prior to the enactment of the Crown Grants Ordinance Cap. 44 was that while the grants themselves purported to vest in the grantee an absolute title the Courts had held that in fact each was no more than a grant in trust leaving what I may describe as the beneficial or usufructuary 40 interest as it had been before the issue of the grant.

Mr. Taylor sought to draw a distinction between grants made to Head Slaves, to which Oshodi cases specifically referred, and Crown Grants such as the present. He referred in support of his argument to the Epetedo Lands Ordinance Cap. 60 in which provisions different from those in Cap. 44

were enacted in relation to grants made by the Crown of certain lands in a district of Lagos known as Epetedo. While in my view the incidence and occasion of those grants may differ from such grants as are dealt with in the Crown Grants Ordinance, Cap. 44, I am unable to perceive any difference in the principle whereby grants purporting to convey an absolute title are subjected by the Ordinance to limitations not contained in the grant, and in my view the reasons for the decisions of the Courts in the *Oshodi* cases are of equal application to all grants purported to have been made by the Crown of lands in Lagos in pursuance of or in right of the terms of the Treaty of Cession. I do not consider that it is possible to draw any vital distinction in principle nor is it apparent, if it were attempted to draw such a distinction, what construction could be placed upon the last sentence of section 3 of Cap. 44 which will fall for consideration at a later stage.

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It may be convenient at this point to deal briefly with a further submission of Counsel before passing to consider what I think to be the major argument for the Appellant. Counsel contended, in relation to those parts of the grounds of appeal which referred to section 5 of Cap. 44 and paragraph 6 of the Statement of Claim, that if by section 3 any restrictions were imposed upon the terms of the grant to King Docemo the land had been freed from any such restrictions by the operation of section 5. It appeared from his argument that Counsel contended that even if the grant to King Docemo were held to be subject to a right of occupation vested in the Oba of Lagos while holding that office this right had been extinguished by the permission granted to Eleko Eshugbayi to occupy the Iga at a time when he was not recognised by the Government as Oba. With this contention I find myself also unable to agree, for it does not appear to me that it can be justifiably concluded that the pre-existing rights of the Obas of Lagos (if such rights continued to exist after the Treaty of 1861 and the Grant of 1870) can have been extinguished by the act of the Government in permitting one who was no longer recognised as Oba to occupy the traditional residence.

I do not think however that Mr. Taylor laid great stress upon this contention and his main argument I understood to be that by the Treaty of 1861 all rights of the Oba of Lagos were transferred to the Crown and that the grant to King Docemo in 1870 was therefore at the date of the grant subject to no such "interests and restrictions recognised by native law and custom" as are preserved by section 3 of the Crown Grants Ordinance, Cap. 44. In order to determine whether this contention is well founded it is necessary to consider what were the rights vested in King Docemo as Oba of Lagos in relation to these premises at the date of the Treaty. The learned trial Judge found, and I think rightly upon the evidence before him, that the land upon which the Iga was subsequently built, was as long ago as the middle of the seventeenth century granted to King Ado by Chief Aromire. The nature of the estate or interest then created is to be determined by reference to native law and custom. When one considers the user of this land during the past three hundred years it appears to be beyond doubt that it falls within that class of estate which has been variously described as "stool land" (a term more commonly used in the Gold Coast than in Nigeria) or "royal estates" and the nature of

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the interest vested in the King or Oba has been the subject of judicial pronouncement. In *Quarm vs. Yankah II* (1 W.A.C.A. 80), Deane, C.J., referring to stool lands in the Gold Coast, said :—

“ the conception of the Stool that is and has always been accepted in the courts of this Colony is that it is an entity which never dies, a corporation sole, and while the occupants of the Stool may come and go, the Stool goes on forever.”

From this it may be deduced that land vested in the ruler as such is not vested in him beneficially or as absolute owner but solely in him by virtue of his office, and indeed, prior to Sir George Deane's observation 10 to which I have referred, Lord Haldane in *Amodu Tijani vs. Secretary, Southern Nigeria* (1921), 2 A.C. 399 at p. 410, observed :—

“ Their Lordships doubt whether any really definite distinction is connoted by the expression “ stool lands.” It probably means little more than lands which the Chief holds in his representative or constitutional capacity as distinguished from land which he and his own family hold individually.”

It would appear therefore that the estate or interest vested in the ruler in royal estates or stool land is to be distinguished on the one hand from land vested in him beneficially as absolute owner alienable by him 20 at will and on the other hand land vested in himself and his family beneficially and of which the Chief or head of the family is sometimes referred to as a “ trustee.”

This then appears to have been the nature of the estate or interest vested in the Oba of Lagos at the date of the Treaty of 1861, and the effect of the Treaty upon land so held thus falls to be considered. The terms of the Treaty are such that, as I have said, diverse views have been held as to their effect in relation to land, but it is not open to question that the true effect of the Treaty was as laid down in *Amodu Tijani vs. Secretary, Southern Nigeria* :— 30

“ When the cession passed any proprietary rights they were rights which the ceding King possessed beneficially and free from the usufructuary qualification of his title in favour of his subjects.”

The passing of the Crown Grants Ordinance, Cap. 44 in 1947 has in my view left unchanged and has indeed confirmed the interpretation placed upon the Treaty by the courts. Indeed it may be gathered from the terms of the second paragraph of the preamble to that Statute that the legislature intended specifically to confirm the view of the Judicial Committee of the Privy Council to which I have last referred for there are used the precise words of Lord Haldane in delivering the judgment of 40 the Board.

It is to be observed, moreover, that the intention of the legislature was, in the words of the last paragraph of the preamble, that the *effect* and not the *terms* of the grants to which it applies was to be declared and confirmed. This intention has been carried out by section 3 of the Ordinance

by which each grant shall be deemed to vest an estate free from competing interests and restrictions save those recognised by native law and custom which affected the estate at the date of the grant.

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I would advert therefore to the effect of the Treaty upon the premises in question in this action, and I think the matter to be decided is whether or not the interest of the Oba of Lagos as such was transferred to the Crown by the Treaty. In view of the decision in *Amodu Tijani's* case and of the confirmatory effect of the Ordinance, this question may be stated alternatively: were the rights of the Oba in these premises
10 proprietary rights possessed by him beneficially and free from the usufructuary qualification of his title in favour of his subjects? If so then such rights were transferred to the Crown but if not then the estate granted to King Docemo and his heirs remains subject to the pre-existing right of occupation by the Oba recognised by native law and custom for such right continued to the date of the grant not having been extinguished or transferred by the terms of the Treaty.

The answer to this question will I think determine the present issue and will depend upon whether or not a "royal estate" in the sense in which I have used it earlier in this judgment, falls within the Treaty, for
20 I have no doubt that the whole history of the premises in question from the time of King Ado to the date of the Treaty and, indeed, until the death of the Oba Falolu can lead to no other conclusion than that the Iga and the land whereon it is erected were intended to be vested and were indeed vested in King Ado and his successors in a "representative or constitutional capacity."

The sole question is therefore whether land so vested falls within the Treaty, the terms of which are to be interpreted in accordance with judicial decision. I do not consider that it can be so held, for as I have said earlier whatever may be the precise extent or limitation of such an
30 estate it is to be distinguished both from absolute beneficial ownership and from what is known as "family land" held by a Chief in trust for himself and his family. It is I think clear that at no time prior to the date of the Treaty were the premises held by the Oba beneficially, an estate which connotes absolute ownership and the right of alienation, nor I think can it be said that it was held by him free from the usufructuary qualification of his title in favour of his subjects, for while the usufruct may not have been of the nature to which the term is ordinarily applied still his holding in a representative capacity as Oba implies a limitation
40 or restriction of his user in favour of the state which he represents and which is in effect the aggregate of his subjects. Be this last proposition as it may, it is to be observed that the phrase used by Lord Haldane and repeated in the preamble to the Ordinance is "beneficially *and* free from the usufructuary qualification" and, therefore whatever may be the interpretation to be placed upon the term "usufructuary qualification" if he did not hold the land beneficially it did not pass to the Crown.

In my view therefore the grant of 1870 vested in King Docemo and his heirs an estate subject to the interest and restriction imposed thereon by the native law and custom relating to what I have described as "royal

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estates " that is to say subject to the right of the Oba of Lagos during his term of office to hold the same in a representative and constitutional capacity as his official residence.

For these reasons I think the learned Judge was right when he held that the Appellants were not entitled to a declaration of title in the sense in which they claimed under the Grant of 1870 on behalf of themselves and other members of the House of Docemo as absolute owners free from competing interests and restrictions, nor entitled to possession as against the respondent nor to damages for trespass in respect of his entry thereupon in exercise of his right of occupation as duly appointed and recognised 10 Oba of Lagos.

I would therefore dismiss the appeal with costs.

(Sgd.) JOHN VERITY,
Chief Justice, Nigeria.

I have had an opportunity of reading my brother the Chief Justice's Judgment, I entirely agree with it and have nothing to add.

(Sgd.) S. FOSTER SUTTON,
President.

I concur. I have nothing to add.

(Sgd.) J. HENLEY COUSSEY, 20
Justice of Appeal.

No. 43.

ORDER dismissing Appeal.

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IN THE WEST AFRICAN COURT OF APPEAL.
Holden at Lagos,
Nigeria.

No. 43.
Order
dismissing
Appeal,
17th
November
1952.

Suit No. 276/49.
W.A.C.A. 3621.

On appeal from the judgment of the Supreme Court in the Lagos
Judicial Division.

- 10 Between 1. ADEYINKA OYEKAN (substituted by order
dated 15/11/50)
2. AMUSA DOCEMO
3. OLUYEMI DOCEMO
4. H. A. OGUNDIMU
5. BABATUNDE AKITOYE on behalf of
themselves and other members of the House
of Docemo Appellants
and
MUSENDIKU ADELE Respondent.
- 20 (L.S.)

Monday the 17th day of November 1952.

(Sgd.) S. FOSTER SUTTON,
President.

UPON READING the Record of Appeal herein after hearing
Mr. J. I. C. Taylor appearing with Mr. D. O. Ibekwe of counsel for the
Appellants and Mr. F. R. A. Williams appearing with Mr. R. A. Fani-Kayode
of counsel for the Respondent :

IT IS ORDERED that this appeal be dismissed :

And that the Appellants Adeyinka Oyekan, Amusa Docemo, Oluyemi
30 Docemo, H. A. Ogundimu and Babatunde Akitoye do pay to the Respondent
Musendiku Adele, his costs in the appeal fixed at £56.1.3d.

(Sgd.) W. H. HURLEY,
Deputy Registrar.



COURT NOTES of Conditional Leave to Appeal to H.M. in Council.

*In the
West
African
Court of
Appeal.*

IN THE WEST AFRICAN COURT OF APPEAL.

Holden at Lagos,
Nigeria.

No. 44.
Court
Notes of
Conditional
Leave to
Appeal to
H.M. in
Council,
5th
January
1953.

Monday the 5th day of January, 1953.

Before—

HIS LORDSHIP JOSEPH HENRI MAXIME DE COMARMOND,
Senior Puisne Judge, Nigeria.

Sitting as a Single Judge of the Court.

10

W.A.C.A. 3621.

ADEYINKA OYEKAN & 4 Others	.	.	.	Applicants
				and
MUSENDIKU ADELE	.	.	.	Respondent.

J. I. C. Taylor to move.

Rotimi Williams on notice.

Taylor moves. All the Plaintiffs join in the appeal. Value exceeds £500. Applies for conditional leave to appeal to H.M. in Council.

Williams has no objection but wishes to know whether appeal is against whole Judgment or simply as to question of title in as much as 20 the other parts were abandoned in W.A.C.A.

Mr. Taylor explains position and says he did not abandon any grounds.

Conditional leave granted. Usual order to be drawn up. Good and sufficient security to satisfaction of this Court in the sum of £500 to be furnished within two months. Appellant to deposit £75 in Court for preparation of Record and for the despatch thereof within six months from date of this Order.

No order as to costs of this application.



No. 45.

ORDER granting Final Leave to Appeal to H.M. in Council.

*In the
West
African
Court of
Appeal.*

IN THE WEST AFRICAN COURT OF APPEAL.
Holden at Lagos, Nigeria.

Suit No. 276/49.
W.A.C.A. 3621.

No. 45.
Order
granting
Final Leave
to Appeal
to H.M. in
Council,
16th
February
1953.

APPLICATION FOR FINAL LEAVE TO APPEAL TO HER
MAJESTY'S PRIVY COUNCIL

10 Between 1. ADEYINKA OYEKAN (substituted by
order dated 15/11/50)
2. AMUSA DOCEMO
3. OLUYEMI DOCEMO
4. H. A. OGUNDIMU
5. BABATUNDE AKITOYE
(On behalf of themselves and other members
of the House of Docemo) *Applicants*

and

MUSENDIKU ADELE *Respondent.*

(L.S.)

20 Monday the 16th day of February, 1953.

(Sgd.) H. DE COMARMOND,
Presiding Judge.

UPON READING the application herein and the affidavits sworn to
on the 4th day of February, 1953, filed on behalf of the Applicants and
after hearing Mr. J. I. C. Taylor of counsel for the Applicants and Mr. R. A.
Fani Kayode of counsel for the Respondent :

IT IS ORDERED that Final Leave to appeal to Her Majesty's Privy
Council from the judgment of this Court dated the 17th day of November,
1952, be granted to the Applicants.

30 (Sgd.) J. BENNETT,
Ag. Deputy Registrar.

Plaintiffs'
Exhibit
" 13."

EXHIBITS.

No. 39 of 1953.

Treaty of
Cession,
6th August
1861.

OYEKAN

V.

ADELE.

Exhibits arranged in Order of Dates.

" 13 " TREATY OF CESSION.

TREATY BETWEEN NORMAN B. BEDINGFELD COMMANDER H.M.S.
" PROMETHEUS " AND SENIOR OFFICER OF THE BIGHTS DIVISION
AND WILLIAM MCCOSKRY ESQUIRE HER BRITANNIC MAJESTY'S 10
ACTING CONSUL ON THE PART OF HER MAJESTY THE QUEEN OF
GREAT BRITAIN AND DOCEMO KING OF LAGOS ON THE PART OF
HIMSELF AND CHIEFS.

Article 1st. In order that the Queen of England may be the better enabled to assist defend and protect the inhabitants of Lagos and to put an end to the Slave trade in this and the neighbouring Countries and to prevent the destructive wars so frequently undertaken by Dohomey and others for the capture of slaves I Docemo do with the consent and advice of my Council give, transfer and by these presents grant and confirm unto the Queen of Great Britain her heirs and successors for ever the port and 20
Island of Lagos with all the rights profits territories and appurtenances whatsoever thereunto belonging and as well the profits and revenue as the direct full and absolute dominion and sovereignty of the said port island and premises with all the royalties thereof freely fully entirely and absolutely I do also covenant and grant, that the quiet and peaceable possession thereof shall with all possible speed be freely and effectually delivered to the Queen of Great Britain or such person as Her Majesty shall thereunto appoint for Her use in the performance of this grant the inhabitants of the said Island and territories as the Queen's subjects and under Her sovereignty, crown, jurisdiction and Government being still 30
suffered to live there.

Article 2nd. Docemo will be allowed the use of the title of King in its usual African signification and will be permitted to decide disputes between natives of Lagos with their consent subject to appeal to British laws.

Article 3rd. In the transfer of lands the stamp of Docemo affixed to the Document will be proofs that there are no other native claims upon it and for this purpose he will be permitted to use it as hitherto. In consideration of the cession as before mentioned of the Port and Island and territories of Lagos the representatives of the Queen of Great Britain 40
do promise subject to the approval of Her Majesty that Docemo shall

receive an annual pension from the Queen of Great Britain equal to the net revenue hitherto annually received by him such pension to be paid at such periods and in such mode as may hereafter be determined.

Plaintiffs' Exhibit "13."

King Docemo of Lagos. Stamp.

Treaty of Cession, 6th August 1861, *continued.*

	DOCEMO	His X mark	OBALEKORO	His X mark
10	TOLAKE	His X mark	ARCHEHONY	His X mark
	?	His X mark		

(Sgd.) NORMAN B. BEDINGFIELD

(Sgd.)

?
Senior Officer
Bight Division

(Sgd.) W. McCOSKRY
Acting Consul.

Lagos August 6th 1861.

20 King Docemo having understood the foregoing Treaty perfectly agrees to all the conditions thereof; and with regard to the 3rd Article consents to receive as a pension to be continued during his lifetime the sum of 1,200 (twelve hundred) bags of Cowries per annum as equal to his *nett* revenue: and I the undersigned Representative of Her Majesty agree on the part of Her Majesty to guarantee to the said King Docemo an annual pension of 1,200 (twelve hundred) bags of Cowries for his lifetime unless he Docemo should break any of the Articles of the above treaty in which case his pension will be forfeited—The pension shall commence from the first of July of the present year, one thousand eight hundred and sixty-two, from which day he, the King resigns all claim upon all former farmers of

30 the Revenue.

Ratification, 18th February 1862.

DOCEMO	His X mark	(Sgd.) HENRY STANHOPE FREEMAN Governor.
--------	------------------	--

We the undersigned witness that the above Treaty and ratification was explained to King Docemo in our presence and in our presence was signed by him and by Henry Stanhope Freeman Esquire as representative of Her Majesty the Queen of England on this the eighteenth day of February in the year of Our Lord One thousand eight hundred and sixty-two.

40

(Sgd.) JOHN H. GLOVER K.N.N.

(Sgd.) JACOB CROWTHER.

(Sgd.) J. C. THOMAS,
Secretary to King Docemo.

(Sgd.) S. B. WILLIAMS,
B. Interpreter.

Plaintiffs'
Exhibit
" 1. "

" 1 " CROWN GRANT to King Docemo.

No. 74

Crown
Grant to
King
Docemo,
15th July
1870.

KNOW ALL MEN BY THESE PRESENTS, that I *John Hawley Glover* Commander in Her Majesty's Royal Navy and Administrator of the Government of the Island and Territories of Lagos, having duly investigated the Claims set forth by *King Docemo* to a Piece of Land situated at *Great Bridge St. Idumagbo* and measuring *One hundred and ten feet East Public Street, with angle of one hundred and eight feet to space by Three hundred and thirty five feet to Lane, Four hundred and eighty six feet West in Great Bridge Street, Three hundred and forty seven feet North to Marina, and Two hundred and seventeen feet South Public Street* do hereby Grant and Assign to the said *King Docemo* His Heirs, Executors, Administrators and Assigns for ever the above specified Piece of Land. 10

As witness my Hand under the Great Seal of the Colony, this *15th* day of *July* 1870.

JOHN H. GLOVER
Administrator.

Great Seal.

I do hereby certify, that I have this *20th* day of *August* 1870 received a Grant under the Great Seal of this Settlement, of which the above is a true Copy. 20

pro *KING DOCEMO*

SOGURO

his
X
mark

Witness

I. J. King.

Defendant's
Exhibit
" 7. "

" 7 " CROWN GRANT to King Docemo.

(Same as Plaintiffs' Exhibit " 1. ")

Crown
Grant to
King
Docemo
(same as
Number 1),
15th July
1870.

“ 10 ” NIGERIA GAZETTE. Extraordinary.

*Plaintiffs’
Exhibit
“ 10.”*

THE NIGERIA GAZETTE.

EXTRAORDINARY.

Published by Authority.

No. 75.) Lagos, Wednesday, December 8, 1920. (Vol. 7.

Nigeria
Gazette,
Extra-
ordinary,
8th
December
1920.

The following announcement is published for general information.
By His Excellency’s Command.

D. C. CAMERON,
Central Secretary.

10 Central Secretary’s Office,
Lagos, 8th December, 1920.

His Excellency the Governor announces that, as from the 1st December, 1920, the Government of Nigeria has ceased to recognise Eshugbayi ; commonly known as ‘ Eleko,’ as Head of the House of Docemo or as holding any position which might entitle him to official recognition from the Government or any of its officers. The relations of Eleko to the Government will henceforth be those of any other private individual.

His Excellency wishes the reasons for this announcement to be widely known, and has, therefore, authorised the following statement to
20 be issued :—

The circumstances of the appointment of Eleko to be head of the house of Docemo are clearly set forth in the despatch dated February 23rd, 1901, addressed by the late Sir William Macgregor, the Governor of Lagos, to the Secretary of State, Mr. Joseph Chamberlain.

In recommending Eleko as successor to Oyekan, Sir William Macgregor wrote as follows :—

30 “ I have made it abundantly plain that the successor to Oyekan
“ is only the head of the Family : that he has no ruling function ;
“ and that he has with regard to the Government no official position
“ beyond that of Chief of the Docemo-Oyekan house.

40 “ At a full meeting of the principal chiefs, Christian, pagan
“ and Mohamedan, I explained the position clearly to them and
“ they all understood perfectly that the present appointment, if
“ sanctioned by you, will be a matter of grace, and that the
“ nomination has no political significance. I have promised to
“ strongly recommend to you that the person to be appointed
“ should receive a compassionate allowance at the rate of £200 a
“ year, the sum at first paid to the late Oyekan, to whom it was
“ gradually increased till it reached £400 a year. It has been
“ fully explained that this would be for the maintenance of the
“ women and children, more particularly for the education of the
“ latter, who cannot be permanently provided for by Government,
“ but must by education prepare themselves for a struggle in the
“ world in the ordinary way.”

Plaintiffs' Exhibit "10."

Nigeria Gazette, Extraordinary, 8th December 1920, *continued.*

Wide publicity has been given in England to Statements made by Mr. Herbert Macaulay putting forward extravagant and preposterous claims on behalf of Eleko. The fact that Mr. Macaulay habitually carries about with him in England Eleko's Staff, which was given to Chief Oluwa without the knowledge or consent of the Acting Administrator or the Resident of the Colony, would lead all acquainted with native custom in such matters to believe that in making the statements referred to, Mr. Macaulay was speaking with the express authority of Eleko. In order to make it clear to all that Mr. Macaulay had received no such authority, His Excellency invited Eleko to make a full and public 10 repudiation by means of his bellmen and crier of the false statements made by one who poses, and is doubtless accepted, as his accredited agent. His Excellency further advised Eleko to send a telegram demanding the return of his Staff. Eleko has deliberately declined to take these or any other steps to disassociate himself publicly from the preposterous claims and statements advanced by Mr. Macaulay on his behalf; and His Excellency, acting on the unanimous advice of the Members of His Executive Council, has therefore decided to take the action referred to above.

The compassionate allowance granted to Eleko will no longer be 20 paid.

By His Excellency's command,
W. F. GOWERS,
Acting Administrator.

Lagos, 8th December, 1920.

Defendant's Exhibit "4."

Nigeria Gazette, Extraordinary, 10th August 1925.

" 4 " NIGERIA GAZETTE. Extraordinary.

THE NIGERIAN GAZETTE.

EXTRAORDINARY.

Published by Authority.

No. 76.)

Lagos, Monday, August 10, 1925.

(Vol. 12. 30

It is hereby announced for general information that the majority of the representative members of the families descended from Ado (hitherto commonly referred to as the house of Docemo or the house of Docemo-Oyekan) have elected Ibikunle Akitoye as Eleko in place of Eshugbayi, whose deposition and removal were announced in a Notice dated the 6th day of August, 1925, and published in an Extraordinary Gazette dated the 6th day of August, 1925.

It is further notified that His Excellency the Officer Administering the Government has been pleased to sanction the appointment of the said Ibikunle Akitoye as Eleko.

It is further notified that at Government House on the afternoon of Saturday, the 8th day of August, 1925, the said Ibikunle Akitoye was presented by his supporters to His Excellency the Officer Administering the Government, who was pleased to address him in the following terms :—

*Defendant's
Exhibit
"4."*

*Nigeria
Gazette,
Extra-
ordinary,
10th
August
1925,
continued.*

“ IBIKUNLE AKITOYE.

I have had submitted to me a letter to the Resident of the Colony, dated 6th August, 1925, signed by a majority of the persons entitled to elect the Eleko.

2. The letter states that the signatories have elected you, Ibikunle
10 Akitoye, as the right and proper person to succeed Eshugbayi as the Eleko, he having now been deposed, and I am asked to sanction your election as Eleko.

3. I am assured that the signatories are indeed the fit and proper persons to elect the Eleko and that you are in every way a suitable person to hold the position of Eleko.

4. I therefore sanction your election and welcome you here to-day.

5. I shall now report the state of affairs to the Secretary of State and seek his approval to grant you an allowance of £300 per annum from to-day—the date of my sanctioning your election.

6. I wish you to understand that your position as Eleko does not
20 invest you with any ruling function or jurisdiction over any of the inhabitants of Lagos. But as head of the house of Ado, latterly known as the house of Docemo-Oyekan, your influence on the people of Lagos is great indeed.

I look to you confidently to use that influence in two ways. First, to use your utmost endeavours to heal the present disastrous dissensions in Lagos and to be strictly impartial in your dealing with the supporters of Eshugbayi.

Secondly, by your own example to inculcate in the minds of the
30 people a spirit of loyalty to the Government and its orders.

7. So long as you carry out the duties of your high office in the above spirit, so long will you receive the support of the Government.”

By His Excellency's Command,

T. S. W. THOMAS,
Acting Chief Secretary to the Government.

Chief Secretary's Office,
Lagos, 10th August, 1925.

Plaintiffs'
Exhibit
" 9."

Nigeria
Gazette,
Extra-
ordinary,
2nd July
1931.

" 9 " NIGERIA GAZETTE. Extraordinary.

THE NIGERIA GAZETTE.

Published by Authority.

No. 35.)

Lagos, Thursday, July 2, 1931.

(Vol. 18.)

GOVERNMENT ANNOUNCEMENT.

The following note by His Excellency the Governor is published for general information :—

By His Excellency's Command,

G. HEMMANT,

Chief Secretary to the Government. 10

Chief Secretary's Office.

2nd July, 1931.

NOTE BY HIS EXCELLENCY THE GOVERNOR.

I have had under careful consideration since my arrival in Nigeria on the 17th June the case of Eshugbayi (commonly known as " Eleko ") and have decided that it is not in the public interest that Government should take further part in the legal proceedings still pending before the Supreme Court. Eshugbayi will therefore, I presume, return to Lagos and I have made arrangements for the Iga to be free for his re-occupation as if the proceedings of August, 1925, had not taken place. 20

In future the Government will recognise no one as the head of the house descended from Addo (sometimes known as the house of Docemo or Docemo-Oyekan), and the administration of Lagos will in all respects be direct between the Administrator and his officers on the one hand and the people on the other. The Government will regard Eshugbayi (and Sanusi, who for a time was installed as the head of the house) as private persons merely, in the same way as any other citizens of the town. If and when the members of the house can compose their domestic differences and can as a whole present to the Government a head of the house selected by themselves then I shall be ready to consider the question of according 30 to the person selected, as an act of courtesy, official recognition by Government as head of the house. In such case he would have no administrative functions and his recognition by Government as head of the house, and no more, would have no political significance.

The Government will pay to Eshugbayi, during his lifetime and subject to good behaviour, an alimentary allowance at the rate of £240 a year, and reserves to itself, in its sole discretion, the right to withdraw the allowance if peace and good order in Lagos become disturbed as a result of Eshugbayi's presence in the town.

The Government records its thanks to Sanusi for his services from the date he was received by Government as the head of the house, and for his loyal co-operation with Government in effecting the settlement notified in this announcement.

Government House,
Lagos.
29th June, 1931.

DONALD CAMERON,
Governor.

Plaintiffs'
Exhibit
" 9."
—
Nigeria
Gazette,
Extra-
ordinary,
2nd July
1931,
continued.

10

" 14 " LETTER. Mr. Wells Palmer to Attorney-General.

Wilberforce House Chambers,
Broad Street,
Lagos, Nigeria,
British West Africa.

W. Wells Palmer,
Barrister-at-Law & Solicitor.
The Honourable
The Attorney General,
Lagos.

31st July, 1931.

Plaintiffs'
Exhibit
" 14."
—
Letter
from
Mr. Wells
Palmer to
Attorney-
General,
31st July
1931.

20

Re Eshugbayi Eleko

Sir,

I am instructed by Prince Eshugbayi Eleko of the Iga Idunganran, Lagos to approach His Excellency the Governor through you for compensation for his wrongful deportation to Oyo.

As His Excellency is in possession of the facts of the case it is hardly necessary for me to refer to the details.

My client feels that he deserves some consideration for the suffering he has had to endure since August 1925.

Awaiting your favourable reply,

30

I remain,
Yours truly,
W. WELLS PALMER.

Attorney General,
Nigeria.

31 Jul. 1931.

Plaintiffs'
Exhibit
" 15."

" 15 " REPLY : Acting Attorney-General to Mr. Wells Palmer.

L449/Vol. 111/169.

Reply :
Acting
Attorney-
General to
Mr. Wells
Palmer,
28th
August
1931.

The Office of the Attorney-General,
Lagos.

28th August, 1931.

Sir,

Re Eshugbayi Eleko.

I am directed to inform you that the Governor has given due consideration to the request, put forward on behalf of your client in your letter of the 31st July, 1931, for compensation in respect of his deportation to Oyo. Such consideration has led to a comprehensive review of all the circumstances in which Eshugbayi was deported in 1925 and those governing his return to Lagos in July of this year. In this connexion I have to point out that although, in view of the judgments of the Judicial Committee of the Privy Council, the legality of the procedure pursued by the Government for Eshugbayi's deportation was questionable, there is nothing in their Lordships' judgment to suggest that stricter compliance could not have been made with the formalities required by law if the deposition and deportation had been effected in a somewhat different manner. Moreover, their Lordships have not during the course of these lengthy proceedings expressed any opinion to indicate that, although the deportation procedure might not accord with the law, your client had not by the attitude he had assumed prior to his deportation brought upon himself the treatment that was meted out to him.

2. In default of any expression of opinion by their Lordships as to whether good order and government required your client's removal from Lagos in 1925, and having regard to the bona fide view held by the Government that such removal was an act rendered necessary by his behaviour and the fact that the action taken in July this year was with intent taken without examination of the merits of the case against Eshugbayi on which the Orders were made in August, 1925, the decision taken by His Excellency which led to the return of Eshugbayi to Lagos must be regarded as being influenced by the legal aspect of the case as it then stood rather than by its merits. Further, the position of the Government in regard to the deposition and deportation of Eshugbayi could from a legal point of view have been placed on a basis which could not have been challenged in the same way if it had elected to adopt certain other measures of which you, as a lawyer, are fully cognisant.

3. Although your client's case rested therefore not on merit but merely on legal technicalities that could have been overcome, His Excellency with the sole desire of promoting peace and goodwill in Lagos commenced his tour of office with an act of clemency which overlooked the past and permitted your client's return to Lagos. Not only was Eshugbayi's exile from Lagos terminated, but provision at considerable Government expense was made whereby he could return forthwith to the Iga. Without such provision the return of Eshugbayi to his father's home could only have been effected by lengthy legal proceedings, the final result of which might

for some considerable time have remained a matter of doubt, and which could have brought in their train only expense and anxiety to those who participated and further dissension in the town.

Plaintiffs'
Exhibit
" 15."

4. In addition to being placed by the Government in possession of the Iga, your client found himself residing in a building which, renovated and improved during the last few years, had a considerably enhanced value as compared with that which could have been placed upon it in 1925 at the time of his removal from Lagos.

Reply :
Acting
Attorney-
General to
Mr. Wells
Palmer,
28th
August
1931,
continued.

5. The final settlement of the legal proceedings between the Govern-
10 ment and your client made a generous provision for the latter in the matter of costs, whilst his return to Lagos, although without significance from a political point of view and conferring on him no rights in the form of Government recognition, was accompanied by a promise on the part of His Excellency to make an *ex gratia* allowance of £240 a year. I may observe in this connexion that in view of your client's return merely as a private individual the Government was under no obligation so far as the provision of an allowance was concerned and that Eshugbayi received no allowance from the Government prior to his deportation in 1925.

6. In conclusion I am to state that His Excellency having as an act of
20 Grace, in the circumstances to which I have referred, permitted your client's return to Lagos on generous terms which partake themselves of a compensatory character regrets that he is unable to agree that any further claim can in equity be made against Government in this respect.

I have the honour to be

Sir,

Your obedient servant,

(Intld.) ?

Acting Attorney-General.

30 W. WELLS PALMER, ESQ.,
Wilberforce House Chambers,
Broad Street,
Lagos.

*Defendant's
Exhibit
" 11."*

Nigeria
Gazette,
4th May
1933.

" 11 " NIGERIA GAZETTE.

THE NIGERIA GAZETTE.

Published by Authority.

No. 28.)

Lagos, Thursday, May 4, 1933

(Vol. 20.

Gazette Notice No. 384.
(L.S.)

Donald Cameron,
Governor.

By His Excellency Sir DONALD CHARLES CAMERON, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, 10 Knight Commander of the Most Excellent Order of the British Empire, Governor and Commander-in-Chief of the Colony and Protectorate of Nigeria, etc.

WHEREAS it is enacted by the Commissions of Inquiry Ordinance that the Governor may, whenever he shall deem it desirable, issue a commission appointing one or more commissioners, and authorising such commissioners, or any quorum of them therein mentioned, to hold a commission of inquiry into any matter in respect of which, in his opinion, an inquiry would be for the public welfare ;

AND WHEREAS I am of the opinion that an inquiry into the matters 20 specified in the Terms of Reference in the Schedule hereto would be for the public welfare ;

NOW THEREFORE I, DONALD CHARLES CAMERON, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George Knight Commander of the Most Excellent Order of the British Empire, Governor and Commander-in-Chief of the Colony and Protectorate of Nigeria, by virtue of the powers conferred upon me by the said Ordinance, do hereby appoint HENRY LEWIS WARD PRICE, Esquire, now Resident of the Province of Oyo, to be a Commissioner to hold a Commission of Inquiry into the said matters and to report thereon. 30

2. AND I HEREBY DIRECT that the said Commissioners shall take oath prescribed by the said Ordinance before myself.

3. AND I HEREBY FURTHER DIRECT that the said Commission of Inquiry shall be held at such places as the Commissioner may deem to be necessary or convenient for the purposes thereof, and that the said Commissioner shall open the said Commission of Inquiry as soon as conveniently may be after the date thereof, and that the said Commissioner may adjourn the Inquiry from time to time as he shall see fit.

4. AND I HEREBY FURTHER DIRECT that the Report of the said Commissioner shall be rendered to myself, or, in my absence from Nigeria, to the Officer Administering the Government, in writing and shall be signed by the said Commissioner.

*Defendant's
Exhibit
" 11."*

Given under my hand and the Public Seal of Nigeria at Government House, Lagos, this 2nd day of May, one thousand nine hundred and thirty-three.

Nigeria
Gazette,
4th May
1933,
continued.

DONALD CAMERON,
Governor.

10

SCHEDULE.

TERMS OF REFERENCE.

1. To enquire into the manner in which the Head of the house of Docemo should be chosen in order that such choice may be made in accordance with native custom and tradition.

2. To enquire who are the persons who are entitled respectively to participate in, to be consulted with regard to, or to be in any other way associated with,

(A) the actual selection of the head of the said house, and

20 (B) the confirmation of such selection if such confirmation is required by native custom and tradition.

3. To enquire whether there are any objections to following such native custom and tradition as may be found applicable to the matters referred to in the preceding paragraphs, or any part of such native custom and tradition, and, if there are, to recommend to what extent a modification of such native custom and tradition might properly be permitted by Government.

Ex. " 5 " EXTRACT from Notes of Evidence of Commission of Enquiry.

*Exhibit
" 5."*

SECOND WITNESS.

CHIEF ELETU ODIBO sworn states :—

30 I am Bamgbopa, the Eletu Odibo, head of Akarigbere chiefs. The first class of the white-cap chiefs.

Appointed sixteen years ago. Am second to the Oba. I know the custom of selecting an Oba. (Note—" Oba " is used with the same meaning as " head of the house of Docemo," which person is known to the people of Lagos as " Oba ").

At an Oba's death, the Ibigas report it to Ashogbon, who closes the doors of the Iga. Ashogbon reports it to me (Eletu Odibo), and we both view the body.

Extract
from Notes
of Evidence
of Commission of
Enquiry

Evidence
of Chief
Eletu
Odibo
10th May
1933.

Exhibit
"5."

Extract
from Notes
of Evidence
of Com-
mission of
Enquiry

Evidence
of Chief
Eletu
Odibo
10th May
1933,
continued.

On arrival back at my house, we send for a priest (Babalawo of Ifa)—on the same day. He consults Ifa on our behalf. Previous to this, we are aware of all the names of the children of the dead Oba.

We call their names very quietly so that the priest shall not hear; each time we call a name Ifa is consulted. Ifa will choose one of the names.

The reason we consult Ifa is to know whether there will be peace during the reign. If necessary, we shall be told what sacrifice to make to bring this about.

Ifa is consulted only once : any sacrifices are made the same day.

Certain ceremonies are then performed by Ashogbon and myself at 10 the Iga.

Next day we call the other chiefs ; (all chiefs except the Ogalade class). Important townspeople were also called, and the sons and daughters of the house. The Ibigas also.

I tell Ashogbon to tell the assembly the name of the candidate selected ; and to bring him forward. I show him to the people and they acclaim him. They are of necessity satisfied because Ifa has made the selection. Everyone believes (or used to believe) in the Ifa oracle whatever their religion was.

The next day I take the selected man into the Iga. The Oba would 20 not yet be buried. The candidate has to perform certain ceremonies before the burial ; and thus becomes Oba-elect. The dead Oba is buried the same day.

The sons of the house must supply food and drink and money for the ceremonies.

Ashogbon and I decide the date of the installation ; upon which the Oba-elect becomes the head of the House.

The succession is confined to the sons of the late Oba ; we only go to other relatives, if the late Oba had no son.

The "crown" is not a crown from the Oni of Ife ; it is a local 30 "crown."

(NOTE.—*There is no crown in Lagos. The head of the ruling house is called an Oba by courtesy.*)

Answering Sir Kitoyi Ajasa :

The Obaship was created in Lagos. Our forefathers were from Benin, whom we served formerly. I was appointed Eletu seven years after my father's death. I was seven years old when Oyekan was installed. My father performed the ceremonies and I held the staff.

It is customary to select the successor the day following the death. It minimises disputes among the sons of the house. 40

I do not know who "Ado" is. (Ado is an alleged ancestor of the House of Docemo.)

(NOTE.—*The witness was not helpful in answering questions. He was too much on the defensive.*)

Answering Commissioner :

The Docemo family is not a "private" family; the selection of its head is a public matter.

Only two chiefs consult the oracle. Only those sons of the late Oba who were born during his reign and who have reached the age of puberty are eligible.

If no such son existed, the chiefs would decide what to do. But this has never happened.

10 All sons of the house will abide by Ifa's choice. Ifa will not select a bad candidate. Docemo may have had some brothers. Docemo was the "head of the House" to his brothers; i.e. they were not of another house.

SIXTH WITNESS.

JOHN KOSOKO sworn states :—

I am an Omo-Oba. My father was Dangba; my mother was Okunyi daughter of Kosoko, an Oba of Lagos. I have lived in Lagos all my life. I know a little about the customs.

When the Oba dies, the Ibigas tell Ashogbon, who reports to Eletu.

20 The Eletu and Ashogbon then call Eletu Ika, a special Ifa priest, to divine the successor. Today there is no such post. They also send for Eletu Iwase and Onilegbale. These posts also are not filled today. This makes five chiefs concerned in the selection.

They consult Ifa by whispering to a small stone that the Oba has died; asking whether so-and-so would be a good successor and have a peaceful reign. Ifa will reply and the choice is made accordingly.

Any priest may be selected today to consult Ifa.

Only sons of Obas who were born during the reign of their father are eligible; and only those more or less of age are mentioned.

30 At a general meeting of Omo-Obas, chiefs and people, the choice of Ifa is revealed. Everyone must be satisfied. I have heard of trouble over the selection long ago when the chief deceived the Ifa priest.

The man selected by Ifa must be highly respected by everyone. If any person fails to respect him, he will be an enemy of the town; and in old times would be killed.

I am a Christian. As I understand it, Ifa is an oracle common to Christians, Moslems and heathens. It is possibly like "taking a chance," or tossing a coin.

The Ifa followers regard Ifa as holy; but not all Christians do so. I as a Christian do not believe that Ifa represents God.

40 I cannot alter the customs of my fathers. That is the truth. I am satisfied that as regards the selection of an Oba, Ifa should be followed.

*Exhibit
"5."*

—
Extract
from Notes
of Evidence
of Com-
mission of
Enquiry

—
Evidence
of Chief
Eletu
Odibo
10th May
1933,
continued.

Evidence
of John
Kosoko,
10th May
1933.

Exhibit
" 5."

Obanikoro and the Ogalade chiefs are the priests and doctors of the Oba, and have nothing to do with the election of the Oba.

Extract
from Notes
of Evidence
of Com-
mission of
Enquiry

Answering Sir Kitoyi Ajasa :

Oba Oshunlokun was father of Oba Kosoko. Oba Akitoye was brother of Oba Kosoko ; all the sons of Oshunlokun, Adele Oluwole, Docemo are sons of the same common ancestor and are of one large family.

Evidence
of John
Kosoko,
10th May
1933,
continued.

Ashipa begat Ado.

Ologun Kutere begat Oshunlokun, Adele and Akitoye.

Oshunlokun begat Idowu Ojulere and Kosoko.

Adele begat Oluwole.

10

Akitoye begat Docemo.

The Iga belongs equally to each branch of the family, and each branch is represented there now. The Oba is not only head of the family but head of the town.

Akitoye was an Oba ; so was Kosoko, who was Akitoye's younger brother.

I, as a Christian, can say I believe in the choice made by Ifa ; it is the ancient custom.

Only those Omo-obas born during the reign of their father are eligible to succeed.

20

Defendant's
Exhibit
" 6."

" 6 " NIGERIA GAZETTE. Extraordinary.

THE NIGERIA GAZETTE.

EXTRAORDINARY.

Published by Authority.

Nigeria
Gazette,
Extra-
ordinary,
29th
August
1933.

No. 50.)

Lagos, Tuesday, August 29, 1933.

(Vol. 20.

Gazette Notice No. 699.

COMMISSION OF INQUIRY REGARDING THE HOUSE OF DOCEMO.

The following Note by His Excellency the Governor is published for general information.

By His Excellency's Command,

30

A. C. BURNS,

Acting Chief Secretary to the Government.

Chief Secretary's Office,

Lagos, 29th August, 1933.

I have studied with care Mr. Ward Price's report regarding the manner of selection of the Head of the House of Docemo and will deal in the first

instance with the status of the House. Mr. Ward Price writes in paragraph 9 :—“ I assume that in the event of official recognition the head of the House would still be regarded ” (by Government) “ as a private citizen.” This possible deduction is no doubt mentioned in order to point out the embarrassments that would ensue if it were correct. It is, however, erroneous. If a Head of the House were appointed in manner approved by the Government in accord with the announcement on this point made in my speech on the 9th May last when I attended and opened the Commission, and thereafter were recognised by the Government he would in my intention be in the same position as that which Sir William MacGregor gave Eshugbayi thirty years ago ; a position that apparently completely satisfied the House for many years, i.e., until Government withdrew the recognition in 1920. Indeed, if a suitable appointment were made which seemed likely to heal the dissensions in the House which now so unfortunately exist I should be willing to recognise the person appointed as Oba (or its local equivalent of Olowu) of the House, although that recognition would have no political significance, i.e., would not bring the “ Oba ” within the administrative machinery of the Government.

Defendant's Exhibit “ 6.”
 ———
Nigeria Gazette, Extraordinary, 29th August 1933, continued.

2. I note from paragraph 14 of the report that :—

20 “ At a representative meeting of the members of the House, including descendants of Obas Adele, Akinsemoyin, Oshunlokun (Eshilokun), Ologun Kutere, Akitoye, as well as of Docemo, and also some women representatives, it was unanimously agreed that the members of the House themselves should by native custom and tradition, take no part in the selection of their Head. The White-cap chiefs were present at this meeting, and they all agreed that this was so. Counsel on each ‘ side ’ also agreed.”

Further, from paragraph 16, that :—

30 “ It has never been suggested throughout the Inquiry that anyone but the chiefs of the town and district should be responsible for the selection of the new Head.”

and that :—

“ It can be accepted that it is the duty of the chiefs of Lagos and environs to make the selection of the Head of the House of Docemo.”

The members of the House themselves agree that the choice of the Head of the House “ is a public matter and nothing to do with them ” (paragraph 60).

3. Mr. Ward Price states in paragraph 17 that :—

40 “ there was no dispute as to the statement ” (quoted in my preceding paragraph) “ that it is the chiefs who select the Oba.”

but that—

“ the evidence given as regards what action the chiefs should take, and which of the chiefs should take the leading part, was contradictory.”

This is further developed in his nineteenth paragraph where he writes :—

“ As the chiefs are responsible for the selection, it is necessary that they should have a leader; someone to make arrangements and

*Defendant's
Exhibit
" 6."*

Nigeria
Gazette,
Extra-
ordinary,
29th
August
1933,
continued.

" to take any action necessary to guide the procedure. This also
" is admitted, but the chiefs are not agreed among themselves as
" to who is their leader, apart from the Oba."

4. The main hindrance at present, therefore, is that the chiefs are not agreed among themselves as to who is their leader. As they cannot agree among themselves and as it is desirable that the friction in the town due to the dissensions within the House of Docemo should cease, if that can be effected by human effort from outside, that is, from outside the House, I propose to intervene at this point and issue instructions on the subject (see paragraph 10 below). I note in this connexion (paragraph 68 10 of the report) that " all the chiefs asked for definite instructions from the Government."

5. Discussing the seniority of the chiefs (paragraph 22 (B)) Mr. Ward Price writes :—

" The record of these meetings leaves the impression that there
" is no fixed order by titles. If there were, it would be known, not
" only to the Eleko and his principal Councillors themselves, but to
" almost every adult in the town who takes any interest whatever
" in public affairs or who has observed public ceremonies."

6. He is of opinion, further (paragraph 24) that no rule was in force 20 as to which of the four classes of chiefs (Idejos, Akarigberes, Ogalades, and War Chiefs) was the superior one, and that consequently no order of precedence at all amongst the chiefs of the respective classes was ever laid down.

7. He suggests in paragraph 24 that as no order of precedence amongst the head chiefs had been laid down :—

" the only way left to settle the order of precedence was to ignore
" the classes altogether and to allow the chiefs to take their seats
" in the order of their installation. There can be no argument
" about that method and it is a reasonable course to adopt." 30

8. I propose to leave the question of the respective seniority of the chiefs to be settled by the Oba and themselves when the former is appointed. It is preferable and more in accord with native custom that they, rather than the Government, should settle this vexed question, and a solution at present is not necessary for my purposes as developed in paragraph 10 of this Note.

9. Mr. Ward Price writes in paragraph 49 of his report as follows on the subject of the persons who actually participate in the selection of the head of the House :

" The persons entitled to participate in the actual selection 40
" of the head of the House are those chiefs who are on the com-
" mittee formed for the purpose. This committee consists of a
" variable number of chiefs, it depends on the circumstances at the
" time. It is composed of the senior chief of Lagos, and of the
" next three or four chiefs in order of precedence. They participate
" in the selection ; that is to say, they take active measures towards
" that end."

10. No fixed committee appears ever to have been formed for the purpose and Mr. Ward Price writes in paragraph 64 of his report that it seems reasonable that custom should be modified to the extent that certain chiefs should be definitely appointed as being members of the selection committee. I accept this recommendation and appoint for the purpose the leading chief of each of the three classes of White-cap Chiefs and in addition the head of the War Chiefs and two White-cap Chiefs who (not being either of them the leading chief of either of the three classes, Idejos, Akarigheres or Ogalades) are most senior as regards the date of their selection, no matter to which of the three classes they may belong. This will constitute a committee of six Chiefs and is in accord with the recommendations in paragraph 64 of the report. It will be convened by a senior Administrative Officer appointed for the purpose who will preside over the deliberations of the Committee so far as may be necessary. He will be an officer who has not previously been connected with political affairs in Lagos. No personal slur on the Commissioner of the Colony must be inferred from this decision to appoint an officer unconnected with Lagos affairs for this purpose. The Commissioner has naturally been so occupied.

*Defendant's
Exhibit
"6."*
Nigeria
Gazette,
Extra-
ordinary,
29th
August
1933,
continued.

20 11. The duties of the Committee will be as follows, quoting from paragraph 75 of the report :

“ The duty of the Committee of Chiefs is to meet together
“ and discover their own views as to the selection. They then
“ should call a meeting of all the chiefs with no one else present,
“ and find out what the general opinion is.

30 “ The committee then should look shrewdly around the town
“ and note whether there happens to be any person or persons,
“ inside or outside the house of Docemo itself, with such influence
“ in the town that it is advisable to know their views. The custom
“ does not compel them to do this ; they must judge whether it
“ is in the interests of the community to do so.

“ After everyone whom they think ought to be consulted has
“ been consulted, if there is one outstanding candidate, he will be
“ selected. If opinion is divided among two or three candidates
“ then discussion follows with a view to eliminating all but one.

“ If this is not possible, they must decide whether they will
“ agree to the ‘ opinion ’ of the Ifa Oracle. If they all agree
“ to abide by Ifa’s decision, the oracle is consulted and the name
“ which gets the best recommendation is the one selected.

40 “ If they cannot agree to let Ifa decide, then it is the duty of
“ those chiefs who are supporting the candidate with the least
“ public following (not in numbers necessarily, but as regards
“ responsible honest opinion, both within or without the House of
“ Docemo) to withdraw their candidate for the sake of peace, and
“ so that there will be that unanimity which is essential.”

They should undertake those duties without delay, with the assistance of the senior Administrative Officer referred to in the previous paragraph, who will consult me from time to time if the necessity arises.

*Defendant's
Exhibit
"6."*

Nigeria
Gazette,
Extra-
ordinary,
29th
August
1933,
continued.

12. If the Committee of Chiefs are unable to agree in the selection of a suitable and acceptable person and obtain that unanimity which is so essential, using again the words of Mr. Ward Price, they should resort to the alternative set out in paragraph 76 (h) of the report where the Commissioner writes as follows :—

“ If the Chiefs are not unanimous, or they all think certain names are equally worth consideration, then the names can be submitted to Ifa in turn if the Chiefs so agree. The name returning the highest Odu is the one selected. The selection is final.”

13. If the Chiefs, that is the Committee of Chiefs, are unable to agree 10
in the selection of a suitable and acceptable person as Head of the House of Docemo, or to submit the question to the arbitrament of Ifa as explained in the preceding paragraph of this Note, in either manner obtaining that unanimity which is so essential, then, for my part, I shall regretfully be compelled to decline any longer to recognise the family as a “ public family,” according to the term used by Mr. Ward Price. This would mean the death of the House of Docemo as an “ Oba's ” House. The Oba and the Chiefs would gradually fade out of the picture and disappear as such ; the family would sink more rapidly to the position of a private family ; all being removed in due course from the field of political agitation in 20
Lagos.

14. The Chiefs concerned must now decide whether the House of Docemo is worth saving or not ; the whole responsibility lies on their shoulders. It is clear to me, as it must be clear to everyone, that the machinery for the selection of a Head of the House which is set up by this Note can function smoothly and efficiently if the Chiefs will desist from their miserable squabbles.

I will repeat what I said in my speech on the 9th May when I opened the Commission :—

“ One section of the members of the House are pulling one way ; 30
“ another section are pulling in the opposite direction. Now, I would
“ ask you most seriously which is the more important? The House
“ itself or one or other of those sections? If you regard either of
“ the sections as more important than the House, then the logical
“ conclusion to be drawn by myself and other impartial persons
“ whose opinions demand some respect, is that the House is a mere
“ plaything to be used for the aggrandizement, political or other-
“ wise, of this or that section of its members. I shall continue to
“ refuse to believe that you are animated by any such sentiments,
“ Gentlemen. 40

“ If, on the other hand, the House is of more importance than
“ either of the sections to which I have referred, the noble-minded
“ members of the House, to whichever section they may belong, will
“ rally to the support of the House, not for any benefit that may
“ accrue to themselves or to the section to which they belonged—
“ you note that I am now using the past tense—but for the simple
“ and sufficing reason that the House is worth preserving.

“ We all make mistakes. Brothers, are ye not all sons of the
“ same House? Brothers, I say unto you, forgive and forget ;
“ let the past be dead and let that dead past bury its dead.” 50

Get you to your task, Chiefs; show yourselves men. Earn the approbation and respect of this and future generations of the House in which you are all concerned. Fail in your responsibilities and your name shall go down in history as those who wrecked the House of Docemo.

Defendant's Exhibit "6."

15. If a suitable and acceptable person is presented to me, whether selected by the Committee of Chiefs themselves, or, if they agree to that course, selected by the arbitrament of Ifa, I will recognise him as the Head of the House of Docemo and allow him to style himself "Oba (or Olowu) of the House."

Nigeria Gazette, Extraordinary, 29th August 1933, *continued.*

10 16. A Yoruba version of this Note will be furnished to the Chiefs.

DONALD CAMERON,
Governor.

Government House,
28th August, 1933.

" 3 " NIGERIA GAZETTE. Extraordinary.

THE NIGERIA GAZETTE.

EXTRAORDINARY.

Published by Authority.

Defendant's Exhibit "3."

No. 57. Lagos, Wednesday, October 4, 1933.

Vol. 20.

20 Gazette Notice No. 801.

The Head of the House of Docemo.

The following Note by His Excellency the Governor is published for general information.

Nigeria Gazette, Extraordinary, 4th October 1933.

By His Excellency's Command,
A. C. BURNS,

Acting Chief Secretary to the Government.

Chief Secretary's Office,
Lagos, 3rd October, 1933.

30 In a Note published in an Extraordinary issue of the Nigeria Gazette on the 29th August I appointed a Committee of Chiefs to select a Head of the House of Docemo. The Committee was constituted as follows :

The Eletu Odibo,
The Obanikoro,
The Olumegbon,
The Ashogbon,
The Oluwa,
The Ojora.

Mr. G. C. Whitely, Acting Deputy Chief Secretary, sat with the Committee as its convener and adviser.

40 The Committee held five meetings and a report of their deliberations at the last of those meetings was made to me by Mr. Whiteley in a document which was translated to the Chiefs word by word and agreed to by all of them. As a consequence I authorised Mr. Whiteley to deliver the following message to them at a subsequent meeting.

*Defendant's
Exhibit
"3."*

Nigeria
Gazette,
Extra-
ordinary,
4th
October
1933,
continued.

The Governor sends this message to the Chiefs in committee :—

There are two candidates put forward ; one of them by a party which is greatly in the minority. According to native custom the Chiefs supporting that candidate should withdraw him. They must know that in the olden days before British rule was established in Lagos they could not have pursued the course they are now pursuing. British rule shelters them from the consequences of their action in pursuing that course instead of joining with the rest of the House in effecting an amicable settlement. They propose in short to use that shelter to protect them from the consequences of an act which is a breach of native custom and therefore unconstitutional, possibly hoping thereby to prevent the selection of any other candidate. I propose, on the other hand, to prevent them from sheltering behind the British Government in order to commit an unconstitutional act and direct that the candidature of the nominee who is in the minority shall be regarded as withdrawn. His name will therefore no longer be considered by the Committee. In any event, I should not be able to recognise him and his further candidature is useless from every point of view. 10 20

The message was delivered by Mr. Whiteley at a meeting held on the 2nd October, and a formal resolution in the following terms was then passed.

BE IT RESOLVED that this Committee do hereby select Falolu to be Head of the House of Docemo or Ado and humbly recommend his presentation to the Governor and his recognition by His Excellency as Head of the House of Docemo or Ado.

I accordingly recognise Falolu as Head of the House. As an act of grace, using the words employed by Sir William MacGregor thirty-two years ago, he is recognised as Head of the House and no more, he will have no administrative functions and the recognition has no political significance. He will be expected to be a loyal supporter of the Administration and to set a good example in that and other respects to the other members of the House and the people of Lagos generally. If he does not fully comprehend the policy of the Government in any particular or desires to make any representations before effect is given to the intentions of Government, as he understands them, he should seek the advice and assistance of the Commissioner of the Colony. 30

I am indebted to Mr. Whiteley for his assistance to me in his capacity as an adviser of the Chiefs in their deliberations. He has handled the matter with marked ability, great tact and infinite patience. I trust sincerely that the Chiefs will guide themselves by the abundant good advice which he has given them in regard to their attitude one towards the other in the future. 40

(Sgd.) DONALD CAMERON,
Governor.

Government House,
3rd October, 1933.

“ 12 ” DECLARATION as to Title by Oba Falolu.

TOWN PLANNING ORDINANCE, 1928.

Property No. 65, Great Bridge Street, Lagos.

DECLARATION AS TO TITLE.

I, OBA FOLOLU, of Iga Idunganran, Lagos, Nigeria, do declare and say as follows :—

Defendant's Exhibit
“ 12.”

Declaration as to Title by Oba Falolu, 8th March 1939.

1. I am the Head of the Royal Family or Ruling House of Lagos commonly referred to as the House of Dosumu.

2. The interest in the above Property was vested in the successive Kings of Lagos coming down from King Ado to King Dosunmu, the latter of whom, to confirm the title, obtained a Crown Grant dated the 17th day of October, 1867, and registered as No. 194 in Page 194 of Volume 2 of the Register of Deeds, Lagos.

3. The ownership of the said land had at different times been determined by the Supreme Court of Nigeria in favour of my family, and finally confirmed by Judgment obtained on the 13th day of February, 1939, in Suit No. 300 of 1938—*Lagos Executive Development Board versus Oba Falolu and Bakare Ajose, Chief Eletu-Iwashe.*

4. The Buildings on the said land were procured and paid for by my predecessor in office on the terms of the judgment entered by the Court on the 3rd day of December, 1923 in the action—*Yesufu Omo-Oba versus David Obayomi and others*—Suit No. 107/23.

5. The said property is unencumbered, the same not having now been mortgaged in any financial transactions.

6. I herewith undertake to pay to the Chairman, Lagos Executive Development Board the sum of Thirty Pounds as Liquidated Damages, should any statement herein made by me be proved untrue.

Dated at Lagos this 8th day of March 1939.

30

OBA FALOLU.

The Oba's thumb
X
impression.

In the presence of :—

Signed by the Oba the same having first been interpreted and explained to His Highness in the Yoruba Language by GEO. IYITOLA OYAKAN.

When the Oba seemed perfectly to understand the same and put his Thumb Mark in the presence of :—

(Sgd.) ?

Accountant, 9, Ajose Court, Lagos.

(Sgd.) GEO. IYITOLA OYEKAN.

40

Clerk, 5, Bajulaiye Lane, Lagos.

*Defendant's
Exhibit
" 2."*

" 2 " LETTER of Presentation of Adedoyin Dosunmu.

Letter of
Presenta-
tion of
Adedoyin
Dosunmu,
19th
September
1949,

Iga Idunganran,
26, Upper King Street,
Lagos.

19th September, 1949.

Thro : Chief Oluwu.

To : The White Cap Chiefs and
The War Chiefs of Lagos.

Sirs,

We the undersigned Amusa Dosunmu and Oluyemi Dosunmu 10
(children) and Tijani Ologun Kutere, Henry Adeyemi Ogundimu,
Babalola Dawodu and George Iyitola Oyekan (grand-children) of the
late King Dosunmu of Lagos in accordance with your advice of yesterday
evening at the Iga Idunganran hereby on behalf of ourselves and on
behalf of the late King Dosunmu's entire family present to you Adedoyin
Dosunmu as a worthy Successor of Oba Falolu who died on the 2nd day
of the current month.

The said Adedoyin is a popular figure in Lagos and Abeokuta and
son of Falade the son of King Dosunmu. He was educated at the
Abeokuta Grammar School and worked as a tailor, a storekeeper, a Court 20
Clerk, and on the Railway Traffic Staff. He is now an independent and
prosperous trader. He has travelled all over Nigeria and the Camerouns.
His experience is wide and his character is exemplary and unimpeachable.

Our experience in the past, our hope for the future and the present
condition of the Iga Idunganran make it imperative that an enlightened
Oba of Adedoyin's personality should occupy the Iga (palace) this time.

Copies of this letter have been forwarded to the Honourable the
Chief Secretary to the Government for the information of His Excellency
the Governor, and to the Honourable the Commissioner of the Colony,
respectively. 30

We have the honour to be,

Sirs,

Yours Obediently,

(Sgd.) AMUSA DOSUMU
OLUYEMI DOSUNMU
TIJANI OLOGUNKUTERE

Their left

X

X

Thumb prints.

(Sgd.) H. A. OGUNDIMU.

(Sgd.) B. DAWODU.

(Sgd.) GEORGE IYITOLA OYEKAN. 40

The above letter was read and interpreted in the Yoruba language
to the signatories by me and they were perfectly satisfied therewith before
signing and making their marks thereon.

(Sgd.) GEORGE IYITOLA OYEKAN.

In the Privy Council.

ON APPEAL FROM THE WEST AFRICAN COURT OF APPEAL (LAGOS JUDICIAL DIVISION).

BETWEEN

1. ADEYINKA OYEKAN
 2. AMUSA DOCEMO
 3. OLUYEMI DOCEMO
 4. H. A. OGUNDIMU
 5. BABATUNDE AKITOYE
(On behalf of themselves and other members of the House of
Docemo) (Plaintiffs) *Appellants*
- AND
- MUSENDIKU ADELE (Defendant) *Respondent.*

RECORD OF PROCEEDINGS

A. L. BRYDEN & WILLIAMS,
53 VICTORIA STREET,
WESTMINSTER, S.W.1,
Solicitors and Agents for the Appellants.

HATCHETT, JONES & CO.,
DOMINION HOUSE,
110 FENCHURCH STREET,
LONDON, E.C.3,
Solicitors and Agents for the Respondent.