PROOF IN NIGERIAN LAND OWNERSHIP DISPUTES: AN ANALYSIS OF CONTEMPORARY SUPREME COURT DECISIONS*

Abstract

This paper applies the doctrinal research method to appraise the current jurisprudence and position of the Supreme Court of Nigeria towards proof of title to land in Nigeria. This paper is anchored principally on evaluation of case laws by the apex court highlighting the contemporary legal principles underlying proof of ownership of land in Nigeria. It concludes that full cognizance of the position of the law relating to requirements for proofs of title to land-traditional evidence, documentary proof, proof by long possession, numerous acts of ownership, as well as proof by ownership of contiguous and adjacent lands to the land in dispute – is vital to success in land ownership litigations. It is recommended that prospective owners of real property should exercise due diligence and seek legal advice prior to purchase and documentation of land acquisition so as to avoid being caught in the web of purchasing litigation instead of the intended property.

Keywords: Proof, Ownership, Land, Jurisprudence, Supreme Court

1. Introduction

The right to own real or immovable property in any part of Nigeria is an inalienable fundamental right guaranteed by the 1999 Nigerian Constitution.[1]This right, though guaranteed, is however circumscribed by s45 of the same constitution which validates any law that is necessary in a democracy for protecting public interest and the rights of other Nigerians. [2]The desire of citizens to enforce their various rights to property has resulted in claims and counter claims of land ownership which eventually leads to several litigations in the courts. The courts in Nigeria are vested with the judicial powers to adjudicate upon and decide disputes in relation to all matters within their jurisdiction and disputes arising from land ownership forms an integral part of issues litigated upon and major part of issues decided by the courts [3] As can be observed from existing case law reports, actions for declaration of title to land and related matters are perhaps one of the most litigious disputes and form a bulk of matters that come before the supreme court of Nigeria [4] As obligated by law in all civil cases, a plaintiff or claimant seeking to prove title to land must be conscious of the fact that the onus or burden of proof rests on him, and that he must discharge this burden by preponderance of evidence so as to succeed in his claims[5] This paper does a detailed but succinct evaluation of contemporary judgments and decisions of the Supreme court of Nigeria elucidating or restating apex courts approach on proof of land/ property title in Nigeria with a view to highlighting the current and correct position of the law with respect to how parties in land / property suit can succeed in seeking declaration of title to land in Nigeria. This paper further highlights the nature, scope and weight of evidence required from a party seeking to prove his ownership of land within the ambit of Nigerian property jurisprudence.

2. Proof of Land Ownership in Nigeria

A party who intends to commence and maintain an action to prove his ownership of land must be fully conscious of the law as it relates to the various methods known to law by which he can establish his claim. In the recent case of *Arije v Arije*,[6]the Supreme Court restated the principle in the *locus classicus* of *Idundun v Okumagba*[7]when it stated the settled position of the law that a claim for declaration of title to land may be proved in any of the following ways:

1. By traditional evidence or traditional history

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[1]CFRN 1999 (as amended) ss43,44.
[2]CFRN 1999 s45.
[3]Ibid s6(6).
[4]Comprehensive Index, NSCQR (2010-2012)284-300(SC).
[5]Evidence Act 2011 ss.132, 133, 134.
[6][2018] 74NSCQR 508 (SC).
[7]*Idundun v Okumagba* [2006] 2LC 100 (SC).

2. By production of duly authenticated and executed documents of title
3. 'By acts of ownership extending over sufficient length of time numerous and positive enough as to attract the inference of true ownership'
4. By acts of long possession and enjoyment
5. 'By acts of possession of connected or adjacent land in circumstance rendering it probable that the owner of such adjacent or connected land would in addition be the owner of the land in dispute'[8]

In addition to being conversant with the methods of proof, the plaintiff must also note that the law is settled that the burden of proof in an action for declaration of title to land rests on him as he must rely on the strength of his own case and not on the weakness of the defendant's case to succeed.[9]The parties must, in conformity with the law an extant rule plead all the facts that they intend to prove in the case and must lead evidence in support of their pleadings as parties are bound by their pleadings and will not be allowed by the courts to make a case outside their pleading.[10] It is trite that under the law evidence adduced on facts not pleaded by the party goes to no issue.[11] Conversely a fact that is pleaded by a party and not supported by evidence is deemed to have been abandoned[12] In proof of his case, the Plaintiff is always obligated by law to rely on the strength of his own case and adduce credible, admissible and conclusive evidence in support of same with a view to, on the basis of preponderance of evidence establish to a greater degree of probability that title/ownership of the disputed land is vested on him.[13] It is also a settled principle of Nigerian Law that where litigation is pursued across several counts, parties must, as a rule be consistent with their cases as stated in their pleadings from the trial court to the last court of appeal.[14] While Adducing evidence in a bid to prove their claims before the courts, parties to land disputes must take due cognizance of the fact that in arriving at a final decision on which of the parties to believe and which to disbelieve, the judge usually places the evidence of parties on the imaginary scale. He places the evidence of the plaintiff/claimant on one side of the scale and that of the defendant on the other side with a view to determining on the basis of balance of probabilities which is heavier and which of the parties' evidence is more probable. [15] The judge thereafter examines the evidence adduced on the basis of its admissibility, relevance, probative value and credibility and reaches a final conclusion based on the applicable law on which evidence to accept and which evidence to reject.

The procedure to be followed by courts in evaluation of evidence had earlier been stated by the Supreme Court in the Locus classicus of *Odofin and Ors v Mogaji and Ors*,[16]where it held thus:

> In other words, the totality of the evidence should be considered into determine which has weight and which has no weight at all….The trial judge after a summary of all the facts must put the two sets of facts on an imaginary scale, weight one against the other, then decide upon the preponderance of credible evidence which weighs more and accept it in preference to the other and apply the appropriate law to it[17]

With the above in the fore, it is apropos for parties to also bear in mind that disputes to land are resolved based on both law and equity and that a bonafidepurchaser for value without notice takes priority over an equitable interest in the same property.[18]It is imperative to hereunder provide case laws explanation of the methods of proofs to title of land as stated by the Supreme Court.

[8]Arije (n6) 616; *Obineche v Akusobi*[2010] 42 NSCQR 345 (SC); *OKoye v Obiaso*[2010] 41 NSCQR 958 (SC)
[9]*Kojo v Lawan* [2018] 74 NSCQR 121 (SC); *Matanmi v Dada* [2013] 53 NSCQR 353 (SC); *Mini Lodge Ltd v NGEI* [2010] 41 NSCQR 1 (SC).
[10]*Edosa v. Ogiemwanre* [2018] 76 NSCQR 212 (SC).
[11]*Ojiogu v. Ojiogu* [2011] 45 NSCQR 1291(SC).
[12]*Onwubuarri v. Igboasoiyi* [2011] 45 NSCQR 1007 (SC).
[13]*Kolo v. Lawan*[2018]74 NSCQR 121(SC); *Ezike v. Egboaba* (2019) 77 NSCQR 167(SC).
[14]*Ozomgbachi v. Amadi*[2018] 75 NSCQR 1 (SC).
[15]*Woluchem v. Gudi [*2006] 2 LC 132,(SC).
[16]*Odofinand Ors v Mogaji and Ors* [1978] NSCC 275 at 277(SC).
[17]Ibid 277
[18]*Orianzi v AG Rivers* [2017] 70 NSCQR 1135, 1150 (SC).

Proof by Traditional Evidence

It is common place in litigation for parties to rely on traditional evidence or traditional history in support of their claim. A basic ingredient of this is that whenever a party relies on traditional evidence in proof of his claim for declaration of title, he must prove that his predecessors in title and himself have been in undisturbed possession from time immemorial that is to say for a very long period of time running into generations.[19]

Meaning and Nature of Traditional Evidence

Traditional evidence is evidence of traditional history which in practice requires not the evidence of yesterday, a few years or decades, but requires what lawyers refer to as 'immemorial' evidence which means going back to ancient times in history. Put succinctly, for evidence of traditional history to be acceptable to establish a claim for declaration of title, it must go back to ancient times in the sense that the evidence existed for a very long time. The evidence must have survived through generations[20] In the case of *Wachukwu v Owuwanne,*[21]the Supreme Court stated the nature of traditional evidence when it held thus:

> Traditional history being of the nature it is -not documented- it usually boils down to the oath of the plaintiff and his witnesses against that of the defendant and his witnesses and the court is called upon to decide as to which of the versions of traditional history it prefers. To do this, the court usually evaluates the evidence side by side any documentary evidence available and acts of possession by the parties in recent memory, it is after evaluating these pieces of evidence that the court where possible decides on which version is preferable and why. Once the court believes the traditional evidence /history of the plaintiff as to the founding of the land in disputes, it means that the plaintiff has succeeded in establishing his claim to title of the land disputed and has to succeed.[22]

In deciding a case based on traditional evidence, the Judge is enjoined not to based his finding of facts on credibility of a witness but to base same on dispassionate evaluation of evidence. The law is settled that while an Appellate Court will be reluctant to overturn the decision of a trial judge based on evaluation of evidence of traditional history, it is likely to reverse a decision based on credibility of witnesses if such a decision is perverse [23]

Requirement for Proof by Traditional Evidence

In the case of *Sapo v Anibire*,[24]the Supreme Court stated the requirements for proof of title to land by traditional evidence when it held that the current position of the law is that where the plaintiff hinges his claim for declaration of title to land on traditional evidence/history he must adduce credible, cogent and uncontradicted traditional evidence in support of the traditional history to prove his title and succeed in his claim[25] In *Are v Ipaye*,[26]it was held by the Apex Court that it is a cardinal principle of Nigeria property Law that where the traditional history given by one party in proof of his title to a disputed land differs significantly from the traditional history given by the other party in proof of title to same land, the court must resort to the legal principle in *Kojo II v Bonsie*[27]to ascertain which of the history is true. The principle enunciated in *Kojo v Bonsie* is to the effect that where the traditional history of the parties are conflicting the court most resolve the conflict not by watching the demeanor of witnesses, but by testing their evidence with recent happenings in time. The supreme court further held that since

[19]*Alli v. Alesinloye* [2000] 2 NSCQR 285 (SC).
[20]*Ojoh v. Kamalu*P. 297).
[21]*Wachukwu v Owuwanne* [2011] 46 NSCQR 1(SC).
[22]Ibid 39-40
[23]Wachukwu (n21) 46.
[24]*Sapo v Anibire* [2010] 42.2NSCQR 910(SC).
[25]Ibid 954; Eyo v Onuoha [2011] 45NSCQR 210 (SC); *Sapo v Sunmonu* [2010] 42 NSCQR 910(SC); *Momoh v Umoru*[2011] 40 NSCQR 292(SC)
[26]*Are v Ipaye*[2012] 4LC 393 (SC).
[27]*Kojo II v Bonsie* [1959] IWLR1229(SC).

traditional evidence is ancient history, it can best be tested by its correlation with recent factual events in contemporary times [28]

Legal Effect of Rejection of Traditional Evidence

It is the law, and this is settled, that where in a claim for declaration of title to land, a party bases his case and pleadings solely on traditional history, such a party cannot turn around to rely on other acts of ownership such as long possession to support his claim as the foundation of his claim which is traditional evidence has been defeated. This position of the law had long been stated in the case of *Odofin v. Oyiola*[29]where the Supreme Court held per Kavibi- Whyte JSC as follows:

> it follows therefore that where traditional evidence of that alleged, from which title is derived is lacking or rejected as was in this case, such evidence is not merely inconclusive, but also cannot be relied upon whether any other act positive or numerous can support evidence of ownership. The basic foundation, that is traditional evidence having been rejected, there is nothing on which to found acts of ownership [30]

It is however pertinent to state that where it is expressly stated in the plaintiff's pleadings, he can rely on other methods of proof to title to land as proof of title by traditional history is not mutually exclusive of the other methods and can be proven side by side with the other methods.[31]In addition a plaintiff can rely on both documents and traditional evidence side by side to support his claim for declaration of title. [32]

Proof by Title Documents

In several claims for declaration of title to land, the Plaintiff may usually rely on title documents in proof. It is common assumption that presentation of title documents without further proof is sufficient to establish a claim for title. This assumption is not only erroneous but may be fatal to the case of the plaintiff if he so relies without taking due cognizance of what the law requires in accepting documents of title as proof of ownership. In the case of *Oyeneyin v Akinkugbe*,[33]the Supreme Court stated the position of the law on how to establish a valid title document when it held:

> Mere production of a valid instrument of grant does not necessarily carry with it an automatic grant of the relief of declaration. The production of an instrument of title carries with it the need for the court to look into a number of questions including-
>
> a. whether the document is genuine and valid;
> b. whether it has been duly executed, stamped and registered;
> c. whether the grantor had the authority and capacity to make the grant. [34]

It is the law therefore that beyond mere presentation of title documents the law obligates the party presenting the documents to ensure that it fully complies with the requirements of law to establish its validity.[35]

Proof by Certificate of Occupancy

It is quite common in contemporary times for the plaintiff or defendant to rely on statutory or customary certificates of occupancy issued by the state government or local government pursuant to the Land Use Act [36]In proof of his ownership of the disputed land. The law is settled that the holder of a validity issued certificate of occupancy holds a valid title to the land it refers to.[37] It is also a well-established principle of Nigeria jurisprudence that the holder of a validity issued certificate of occupancy is also

[28]Are v IPaye (n26) (2012) 414 -415.
[29]*Odofin v Ayoola* [1984] 11 SC 72 (SC).
[30]Ibid 100
[31]*Mkpanang v. Ndem* [2012] 52 NSCQR 146 (SC).
[32]*Purification Technique v. Jubril*[2012] 50 NSCQR 180 (SC).
[33]*Oyeneyin v Akinkugbe* [2010] 41 NSCQR 416 (SC).
[34]Ibid 437-438
[35]*Orlu v Gogo – Abitte* [2010] 41 NSCQR 450(SC); *Jolasun v Bamgoye* [2010] 44 NSCQR 94 (SC).
[36]*General Cotton Mills v Travellers Palace Hotel* [2018] 76 NSCQR 150; (SC); Land Use Act 1978 ss. 5(1)(a), 6 (1) (a).
[37]*AtikuAderonpe v Eleran* [2018] 76 NSCQR 255(SC); *Otukpo v John* [2012] 49 NSCQR 1304 (SC).

imputed by law to be in exclusive possession of the said land [38] However, questions that have arisen in proof of ownership of land by presentation of certificates of occupancy by the plaintiff are: what is the position of the law if the certificate is not validly issued or where the holder is not entitled to the statutory right of occupancy before he was issued the certificate? What is the position of the apex court where a certificate of occupancy is issued to defeat or deny a priorequitable interest? Can a C of O be validly issued where there exists a prior interest in the said land that has not been revoked? Those questions have variously been resolved and answered by the Supreme Court in several cases which are briefly highlighted below. On the issue of granting a C of O to a party in an attempt to defeat a prior interest, the apex court stated the position of the law in the AtikuAderonpe's case thus:

> The law does not have any distinction in treatment of equitable interest against individuals or authorities who in a bizarre manner purportedly vested "a legal title" on a third party ostensibly to defeat or frustrate the earlier subsisting right or interest'.The effect of those unassailable facts below is that the appellant had acquired an equitable interest over the plot of land which is enforceable against a legal title with notice of the equitable interest [39]

On the issue of entitlement of a holder of a C of O to the right to occupancy prior to its issuance, it has been held by the court that in line with the clear and unambiguous provisions of section 9 (1) (C) LUA 1978, the holder must have been entitled to statutory right of occupancy before certificate can be given as evidence of such rights. The court further stated that where there is no prior right or entitlement and a certificate is issued, such certificate is not worth even the paper it is written on as it is void and of no legal effect. [40] On the legal effect of a C of O in the face of existing interest over a piece of land, the Supreme Court held further in the Atiku Aderonmpe's case as follows:

> This court in a number of cases has held that a certificate of statutory or customary right of occupancy issued under the Land Use Act 1978 cannot be said to be conclusive evidence of any right, interest or valid title to land in favour of grantee. It is at best only a prima facie evidence of such right, interest or title and may in appropriate cases be effectively challenged and rendered invalid, null and void.[41]

It can therefore be gleaned from the above that although a C of O raises the presumption of title and exclusive possession, it can be invalidated if issued to a person invalidly and without entitlement. On the issue of validity of grant of C of O to a person without revocation of existing rights on the property the law is firmly settled that no valid right of occupancy can be granted to a person in a bid to confer legal title in respect of land on such a person when the existing rights, legal or equitable over the same property vested in another person has not been revoked.[42]

Proof by Deed and Similar Title Documents

It is very common in litigations for the Plaintiff or Defendant to rely on deeds executed between him and the prior owner in proof of his title to the disputed property. While it is the law that recitals in a deed of over 20years is presumed to be a true statement of fact of thereof,[43] the law is also trite that being a registrable instrument, the plaintiff cannot plead or rely upon a deed in proof of title unless it is registered in accordance with the various land instrument /titles registration laws.[44]Also, where the plaintiff's predecessor in title is not vested with ownership or right to sell the land before conveying same as in the case where a family member or head conveys family property as beneficial owner, the deed is void ab initio and has no evidential value in law.[45]Flowing from the above, a purchaser to whom family land is conveyed by the family head or member who expresses to convey as beneficial owner

[38]*Agboola v UBA* [2011] 45 NSCQR 335 (SC).
[39]AtikuAderonpe (n37) 281,282.
[40]Ibid 292.
[41]AtikuAderonpe (n37) 295.
[42]*Omiyale v Macaulay* [2009] 37 NSCQR 879 (SC).
[43]*Osindele v. Sokunbi* [2013] 52.3 NSCQR 1141(SC).
[44]see Delta State Land Titles Registration Law [2006]
[45]*Fayehun v. Fadoju* [2000] 2 NSCQR 42(SC).

acquires no title in law and is construed as a trespasser [46] However, the law is settled that the holder of a registrable instrument of title to land that has not been registered acquires and holds an equitable interest over the said land.[47]It is also trite law that a *bona fide* purchaser for value without notice acquires an interest that ranks first in privity over other existing equitable interest [48]

Proof by Long Possession

Another method of proving title to land is that the plaintiff must state in his pleadings an adduce evidence to show that he lawfully entered into the disputed parcel of land and has been in undisturbed possession for a very long period of time. Possession in law may either be actual physical possession or possession imputed on the person who has valid title to the land. [49]Under the law 'the matter of possession takes a back seat where title has been proved to reside in the other party'. [50] It is a cardinal principle of Nigeria jurisprudence that claim premised on acts of long possession is only tenable where title is not in dispute and the person in possession is able to validly establish his ownership of the land by proving his root of title. In the case of *Orlu v Gogo – Abitte*[51](2010)41NSCQR 450. The apex court roundly restated this principle when it held thus:

> The plaintiff /appellant made futile attempts to establish his claims to the disputed property through long possession. This is one of the five ways recognized by the court of proving titles to land. He claimed to have lived in the building and put tenants therein who were paying rents. He failed to tender receipts of such rents collected from tenants as landlord of the property. More important is the fact that his claims to possession cannot be tenable in that the ownership of the land is disputed. Possession is presumed in favour of one who has valid title to disputed land as the other party does not acquire possession by his acts of trespass. Acts of ownership can only properly be considered where root of title is pleaded and established by cogent and convincing evidence.[52]

Also, it has been firmly held that proof of ownership is prima facie proof of possession, and that possession is usually vested in the party who proves title to land by conclusive evidence. [53]

It is also the law that where a person from the beginning enters into the disputed land as a trespasser, being in long possession does not count for such a party. In the case of Akinloye V Eyiyola,[54]the Supreme Courtmphasize this principle thus: 'The law is well establish that unlawful and adverse possession of a piece/parcel of land against the interest of the owners will never in law ripen to confer title in the trespasser no matter how long he has dwelt on the said piece of land'.[55] It is therefore the law that proof by long possession can only count where it is established by cogent evidence that the party validly entered into the land, and is entitled to possession by reason of having a valid root of title. [56]

Proof by Ownership of Adjacent/ Surrounding Lands

It is the law that the plaintiff or defendant in a land dispute in Nigeria can prove his title by proving that he owns and is in possession of adjacent or contigious lands surrounding the land in dispute. This principle was restated by the Supreme Court in the case of *Oguanuhu v Chiegboka,*[57]where it held:

> There was also finding of fact that the land in dispute is contiguous of the abode of the plaintiff. This is one of the five ways of proving title to land. By proof

[46]*Oyeneyin*(n33) 416
[47]Ibid
[48]Jolasun (n35) 94.
[49]*Ameen v Amao* [2013] 53 NSCQR 414 (SC).
[50]bid 432
[51]Orlu (n35) 450.
[52]Ibid 497
[53]*Sapo v Anibire*[2010] 42.2NSCQR 910, 945 (SC); *Nwokidu v Okanu* [2010] 41 NSCQR 215 (SC).
[54]*Akinloye v Eyiyola* [2006] 2LC 63 (SC)
[55]Ibid
[56]*Suara v Adegoke and Odetunde*[2007] 30 NSCQR 269 (SC).
[57]*[*2013] 53.2NSCQR 367(SC).

> of possession of connected or adjacent land, in the circumstances rendering it probable that the owner would in addition be the owner of the land in dispute.[58]

In this case, the respondent as plaintiff filed the suit at the Mbamisi Customary Court claiming a declaration that he is entitled to customary right of occupancy over a piece of land known as 'Ana Ukpaka Ehurie' situate at Ezioka Isuofia within the jurisdiction of the court. At the trial court the plaintiff/respondent relied heavily on the fact that he owns the adjoining and adjacent land to the land in dispute and built his residence therein and that he also owned the land in dispute as it was part of his larger property. The Customary Court found for the plaintiff, wherein the defendant being dissatisfied appealed to the Magistrate Court which reversed the decision of the Customary Court. The plaintiff then appealed to the High Court which reversed the decision of the Magistrate court in his favour. Being dissatisfied the Appellant/Defendant appealed to the Court of Appeal, Enugu Division which dismissed his appeal, leading to the appellants further appeal to the Supreme Court. Restating the settled position of the law on the principle that ownership of land may be proved by proving ownership of adjacent or contiguous lands, the apex court held that having proved his ownership of the adjacent lands, it wa highly probable that the plaintiff/respondent also owned the land in dispute.

Also, in the case of *Nwokorobia v Nwogu*,[59] the apex court again restated this settled principle of Nigeria jurisprudence when it held as follows:

> The appellants in this appeal has proved that the ownership or possession of the various pieces of land surrounding the land in dispute and which form boundaries to the land vests on the appellant's relations with whom they share common ancestry. The appellant has also shown… that the land very next to the land in dispute is in his possession… the appellant has proved that the land he is farming on is contiguous to the land in dispute and this has raised the probability that the appellant owns the land in dispute. [60]

This principle of law has been held and rightly followed by the Supreme Court in other cases[61] It is therefore the law that proof of ownership of surrounding lands to the land in dispute is in law likely to lead to the inference that the owner of such contigious land also owns the land in dispute.

Proof by Numerous Acts of Ownership

Plaintiffs in land ownership disputes can also prove their ownership/title by pleading and relying on numerous acts of ownership extending over a period of time which may include renting, leasing or selling the land in dispute or any part thereof. [62] It has been established by the highest court in the land that plaintiffs who rely on acts of ownership in proof of title to land must satisfy the test as laid down and reemphasized in *Awarav. Alalibo,*[63]thus: 'Acts of ownership extending over a sufficient length of time numerous and positive enough to warrant the inference that the plaintiffs were exclusive owners'[64] In the Awara's case, the court further held that for the plaintiff to succeed in this score, the acts of ownership that will sustain a claim for declaration of title must be "positive and numerous enough". It is therefore settled that where a Plaintiff rests his claim for title to land on numerous and positive acts of unchallenged ownership extending over a period of time, the court is likely to draw the inference that he is the owner of the land in dispute. [65]

Proof of Ownership of Family Land

In addition to the methods of proof laid down by the court espoused above, it is pertinent to also highlight the position of the apex court in relation to family land so as to further elucidate the

[58]Ibid 390
[59][2009] 38 NSCQR 142(SC).
[60]Ibid 170-1717
[61]*Okereke v. Nwankwo* [2003] 14 NSCQR 96 (SC).
[62]*Idundun v Okumagba* (n7).
[63][2002] 12 NSCQR 413 (SC).
[64]Ibid 442; Ekpo v. Ita II NLR 68 at 69).
[65]*Balogun v. Akanji*[2005] 22 NSCQR 107(SC).

jurisprudence of proof to title and ownership of land derived from family owners. It is the law that family land is collectively owned by all members of the family and no member has distinct individual rights over same until it is partitioned.[66]It is also trite that the family head act as trustee and manages family property on behalf of other members of the family. This principle was restated by the Supreme Court in *Achilihu v Anyatonwu*[67] as follows

> as a general rule management of family property is put in the charge of the family head and he acts as a trustee of such... he is required to consult the other members of the family and in the case of important decisions such as sale of family land, he must obtain the consent of principal members of the family as the head of the family cannot transfer family property as his own exclusive personal property, any transfer of the family property by him without carrying along the principal members is void *ab initio*[68]

Under the law, consent of majority of the principal members of the family is required before family property can be validly alienated by family head. [69]It is therefore the law that where the family head alienates family property as his personal property and purports to execute a deed of conveyance in which he expresses that he is conveying as beneficial owner, such a sale is void and the purchaser acquires no title.[70] As a corollary, the law is well established that sale of family land by the family head without consent of principal members of the family is voidable at the suit of the aggrieved members . [71] It is the law also that where members of the family purport to alienate family land without the consent of the head of the family, such a sale is void. [72]Also, where two parties to a disputed land trace their root of title to the same family source, the law is trite that the equities are equal, and the first to acquire title is in law the owner of the disputed land. [73]

3. Conclusion and Recommendations

It is concluded from the foregoing review that proof of land ownership during litigations arising from disputes thereto is an embracing process that obligates the parties to adduce cogent, credible, admissible, weighty and conclusive evidence in conformity with any or some of the methods of proof known to law and emphasized by the apex court. It is also concluded that the methods of proof recognized in our jurisprudence - traditional history, presentation of title documents, long possession, ownership or adjacent lands and numerous acts of ownership - are not mutually exclusive as parties can rely on more than one method of proof provided same is duly pleaded and supportive evidence adduced. This paper makes the following recommendations:

a. Persons seeking to acquire property should ensure that they seek and obtain early legal advice so as to ensure proper search of roots of predecessors title,as well as ensurevalid documentation of purchase to prevent avoidable disputes and litigation.
b. Parties should ensure due diligence before commencing litigation in land ownership disputes especially in ensuring that their pleadings reflect the case they intend to make, and that there is enough admissible and conclusive supportive evidence.
c. Parties must be conscious of the fact that the methods of proof of land ownership known to law are not mutually exclusive and that reliance can be made on more than one method in a suit provided that it is pleaded.
d. Parties should take due cognizance of and apply the various rules relating to proof of oral and documentary evidence so as to succeed in their case

[66]*Orlu v Gogo – Abite* [2010] 41 NSCQR 458 (SC).
[67]*Achilihu v Anyatonwu* [2013] 53 NSCQR 474 (SC).
[68]Ibid 493
[69]*Akayepe v Akayepe*[2009] 38 NSCQR 450 (SC).
[70]*Kalio v Woluchem* [2004] ILC 595 (SC).
[71]*Usiobaifo v. Usiobaifo* [2005] 21 NSCQR 746 (SC).
[72]*Teriba v Adeyemo*[2010] 42 NSCQR 1204 (SC).
[73]Goldmark v Ibafon Ltd [2012] 49 NSCQR 1763 (SC).

e. The Plaintiff must be consistent and conclusive in his pleadings and case and must have in the fore the legal obligation that he must succeed based on the strength of his case an d not on the weaknesses of the defendant's case.