

CASE DIGEST



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PROPERTY LAW: ADMINISTRATION OF ESTATE; CAN AN ADMINISTRATOR /TRIX ADMINISTER PROPERTY NOT COVERED BY THE GRANT OF LETTERS OF ADMINISTRATION?

MRS. JEMILAT FOLARIN v. MR. FARAJDEEN AYODELE AGUSTO (surviving administrator of the Estate of Late L. B. Agosto)

SUPREME COURT OF NIGERIA

(ARIWOOLA; OKORO; AUGIE; ABUBAKAR; AGIM, JJ.SC)

Case Digest: The Topic

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Background Facts

The original plaintiffs (now deceased) being the two surviving administratrixes of the estate of their father, Late Chief Imam L. B. Agosto who died intestate on 26 July 1971, commenced this action at the High Court of Lagos State (trial court). Upon their demise, Mr. Farajdeen Ayodele Agosto (the Respondent) was substituted by an order of court. At the trial court, the Respondent made a case that their predecessor in title and father, the late L. B. Agosto, as lessor, entered into a lease agreement with Mrs. Jemilat Folarin's (the Appellant) late husband over four plots of land at Isolo, Lagos. The leasehold was for a period of ninety-nine years at an annual rent of 5 pounds for the first twenty years subject to revision every twenty years. During the lifetime of the two signatories to the lease, the Appellant's deceased husband failed to pay rent on the property to the late Chief Imam Agosto. The late Chief Imam Agosto later died, and the Appellant's husband still failed to pay rent to the Respondent as administratrixes in spite of repeated demands until he also died. Before his death, the Appellant's husband had erected a building on two out of the four plots and fenced the land. The Appellant, upon the death of her husband, continued in possession of the land.

The Appellant too refused to pay rent in respect of the four plots of land in spite of repeated demands following which refusal, the Respondents served her with a notice of forfeiture of the lease dated 28 December 1992. It was the Appellant's refusal to give up possession that led to the commencement of the action at the trial court wherein certain claims were made against the Appellant.

The Appellant's case, on the other hand, is that her late husband paid up the rent due on the term of the lease by the time of his death and that she has been in occupation of the house erected on the land before and after the demise of her husband and the first time she saw the Respondent was when they came to her husband's house with thugs and soldiers. At the close of the hearing, the learned trial Judge granted the reliefs sought by the Respondent. Dissatisfied, the Appellants appealed to the Court of Appeal (lower court). The appeal was accordingly dismissed.

Further aggrieved, the Appellant appealed to the Supreme Court. One of the issues raised on appeal was: *Whether the lower court was correct in holding that the*

Respondent had the locus standi to maintain the action and whether the issue of improper joinder of the Appellant as a defendant in the trial court was rightly determined.

Arguments

Learned counsel for the Appellant argued that the lower court was wrong to hold that both the letter of Administration issued to the Respondent to administer the estate of their late father and the Certified True Copy (CTC) of the order of the trial court declaring the Respondent as a person entitled to act as Administratrix of her late father's Estate conveyed on the Respondent the *locus standi* to maintain the suit in respect of the disputed two undeveloped plots of land. Counsel contended that nowhere in the above documents were the two undeveloped plots of land, the subject matter of this action, mentioned as part of the Estate of the Respondent's deceased father which the Respondent was authorised to administer. In further argument, learned counsel submitted that it is not sufficient for a court to declare that a person is competent to be appointed as an administrator of an Estate. That the properties which such a person is authorised to

administer must be specifically listed in the letter of administration and appropriate probate fees paid on the specific properties. Thus, the refereed documents did not vest the Respondent with the *locus standi* to maintain an action in respect of the two plots of land in issue in this case.

In response, learned counsel for the Respondent argued that the Letters of Administration along with the order of Court were issued to the Respondent to administer the personal properties and all real properties of late Chief Imam L. B. Augusto, thus, it was not compulsory to list the properties on the letters of Administration before the Respondent can sue for the recovery from the adverse party. Counsel further argued that the Respondent inherited their father's real estate including the property in dispute in this appeal upon his death. That having so inherited their dead father's estate, they had no need to obtain letters of Administration talk less of having the properties listed in the letters of Administration before claiming such properties from a third party and before administering them. court to resolve this issue in favour of the Respondent and uphold the findings of the lower court in that regard.



Resolution

In resolving this issue, the Supreme Court held that:

An administrator or administratrix, as the case may be, has no power to administer the property of the deceased not covered by the grant of letter of administration, howbeit; the powers of the High Court with regards to probate are very wide. It may reference specific properties in the letter; it may also be all-inclusive, as in the instant case.

Issue partly resolved in favour of the Respondent.

O. Badewole Esq., with Idris Adewale Tihamiyu Esq.,
for the Appellant
Kolawale Mayomi Esq., with Bolaji Gabari for the
Respondent

This summary is fully reported at (2023)
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