IN THE SUPREME COURT OF NIGERIA
HOLDEN AT ABUJA

ON FRIDAY THE 24TH DAY OF APRIL, 2026

BEFORE THEIR LORDSHIPS

MOHAMMED LAWAL GARBA	JUSTICE, SUPREME COURT
EMMANUEL AKOMAYE AGIM	JUSTICE, SUPREME COURT
CHIDIEBERE NWAOMA UWA	JUSTICE, SUPREME COURT
STEPHEN JONAH ADAH	JUSTICE, SUPREME COURT
MOHAMMED BABA IDRIS	JUSTICE, SUPREME COURT

SC. 577/2018

BETWEEN:

1. **GODWIN CHARLES OKEKE** (SUING BY HIS ATTORNEY DR OKECHUKWU RICHARD OJI)
2. **DR OKECHUKWU RICHARD OJI**

== CROSS-APPELLANTS

AND

ENUGU STATE HOUSING DEVELOPMENT CORPORATION === CROSS-RESPONDENT

JUDGMENT
[DELIVERED BY STEPHEN JONAH ADAH, JSC]

This cross-appeal arises from the judgment of the Court of Appeal, Enugu Judicial Division, delivered on the 7th day of December, 2017, in Appeal No: CA/E/247/2013. At the lower court, both parties independently challenged distinct portions of the decision of the trial court, each seeking validation of their respective reliefs. In its judgment, the lower court

affirmed the declaration of title to land and granted a perpetual injunction in respect of certain portions of the landed property in favour of the cross-appellants, but refused the claims for special damages in their entirety. Dissatisfied with aspects of the decision, both parties have further appealed to this court. The cross-respondent filed its Grounds of Appeal on the 9th day of January, 2018, while the cross-appellants filed theirs on the 6th day of March, 2018.

The facts of the case, as presented by the parties, may be summarised thus: The 2nd cross-appellant is the bona fide owner of Plot A/13, Alderton Road Pocket Layout, GRA, Enugu, by virtue of a Certificate of Occupancy registered as No. 31 at page 31 in Volume 1392 of the Lands Registry, Enugu. The 1st cross-appellant derives title thereto by virtue of an irrevocable Power of Attorney. In the course of developing Coal City Estate, GRA, Enugu, the cross-respondent trespassed onto the said land belonging to the cross-appellants, demolishing structures thereon, including a five-bedroom boys' quarters constructed up to lintel level, a main building up to damp proof course (DPC), and a dwarf block fence enclosing the land. The cross-respondent admitted that the land in dispute did not form part of the layout of Coal City Estate.

Subsequently, both parties entered into a settlement agreement; however, the cross-respondent failed to fulfil its obligations thereunder, declined to restore possession of the land, and continued in occupation of the trespassed portion. The cross-respondent contended that the agreement was prepared by the cross-appellants and that, upon critical evaluation, the terms proposed therein far exceeded the value of the portion of land encroached upon.

Consequently, the cross-appellants commenced an action by Writ of Summons at the High Court of Enugu State, seeking declaratory and monetary reliefs for trespass. Both parties called two witnesses each in proof of their respective cases. In its judgment delivered on the 14th day of November, 2012, the trial court granted the relief of title in favour of the cross-appellants but refused the claim for perpetual injunction and only partially awarded the monetary reliefs sought.

Both parties, being dissatisfied with the judgment of the trial High Court, lodged separate appeals before the Court of Appeal, Enugu Judicial Division, challenging specific portions of the decision. In its judgment delivered on the 7th day of December, 2017, the Court of Appeal affirmed the decision of the trial court.

Still aggrieved by the outcome at the lower court, the parties have further appealed to this Court. The cross-respondent filed its Notice of Appeal containing five grounds on the 9th day of January, 2018, while the cross-appellants filed their Notice of Appeal on the 6th day of March, 2018.

In the Cross-Appellants' Brief of Argument, settled by learned counsel, O. Marx Ikongbeh, Esq., filed on the 1st day of September, 2020, and deemed properly filed and served on the 23rd day of May, 2023, two issues were distilled for the determination of this cross-appeal. The issues are couched as follows:

i. **Whether the lower court misapplied the equitable *maxim quic quid plantatur solo, solo cedit* in refusing to grant the cross-appellants a perpetual injunction in respect of the buildings erected by the rross-respondent on the cross-appellants' land.**

ii. **Whether the lower court was right in dismissing the cross-appellants' claim for monetary damages.**

In response, learned counsel for the cross-respondent, in the Brief of Argument filed on the 23rd day of April, 2023 and deemed properly filed and served on the 23rd day of May, 2023, and settled by Nneka Mbani, Esq., adopted the two issues as formulated by the cross-appellants.

Since the counsel of both parties are *ad idem* on the two issues raised by the cross-appellants' counsel, this appeal shall be considered in the light of those two issues. I shall start with issue one.

Issue One:

Learned counsel for the cross-appellants contended that, having invoked the equitable *maxim quic quid plantatur solo, solo cedit*, the lower court was bound to apply it consistently to all structures erected on the cross-appellants' land. It was submitted that the court, having found that the cross-respondent trespassed upon the said land, ought not to have denied the cross-appellants the equitable relief of perpetual injunction. Counsel argued that the application of the maxim becomes inevitable once the court determines that the land in question belongs to the plaintiff, and that the court is thereby empowered, even where not specifically claimed, to grant injunctive relief to protect the proprietary interest so established.

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Counsel further assailed the *suo motu* finding of the trial court that the maxim was inapplicable to the structures on plots 63 and 90 without affording the parties an opportunity to address the court on the issue. It was argued that this approach resulted in the wrongful cession of portions of the cross-appellants' land to the cross-respondent, notwithstanding the finding that the latter was a trespasser.

It was also submitted that the cross-respondent did not dispute the applicability of the doctrine in respect of plots 66, 68 and 89, but merely argued that it should not be invoked in circumstances amounting to a breach of contract. Counsel maintained that the refusal of the lower court to grant a perpetual injunction, despite its reliance on the maxim, occasioned a miscarriage of justice to the cross-appellants, whose complaint fundamentally concerns the unlawful appropriation of portions of their land by the cross-respondent.

Learned counsel further posited that, having found that the cross-respondent unlawfully entered the land and declared it a trespasser, the exclusion of plots 63 and 90, despite the court's acknowledgment that the structures thereon were partly erected on the cross-appellants' land, effectively

allowed the cross-respondent to benefit from its own wrongdoing.

Counsel relied on the authorities of **Orianwo v. Okene (2002) 14 NWLR (Pt. 789) 156; Dantsoho v. Mohammed (2003) 6 NWLR (Pt. 817) 457; Owie v. Ighiwi (2005) 5 NWLR (Pt. 917) 184;** and **Kano v. Maikaji (2011) 17 NWLR (Pt. 1275) 139,** in support of these submissions.

Learned counsel for the cross-respondent contended that the cross-appellants' argument is predicated on a fundamental misconception of the equitable *maxim quic quid plantatur solo, solo cedit.* It was submitted that the doctrine does not operate to enlarge a party's proprietary interest beyond the land originally owned. Counsel argued that the trial court and the court below were right in granting the cross-appellants title only to three of the five plots claimed, as the law does not permit the conferment of a greater interest than that which was originally vested.

Counsel further submitted that the cross-appellants relied on the survey plan in Exhibit P18 as the basis for seeking a perpetual injunction over plots 63 and 90. However, it was observed that the said exhibit lacked precise and accurate measurements, a deficiency conceded under cross-examination by the cross-appellants' surveyor (PW2). It was

contended that a valid survey plan must clearly delineate the dimensions, boundaries, and other defining features of the land in dispute, which Exhibit P18 failed to do.

It was further argued that, in light of the cross-respondent's denial that plots 66, 68, 89 and 90 formed part of Plot A/13, Alderton Road Pocket Layout, GRA Enugu, the cross-appellants bore a heavier evidential burden, which they failed to discharge, having relied on an incompetent and inadmissible survey plan. Counsel maintained that the lower court's grant of relief in respect of plots 66, 68 and 89 was therefore erroneous, as the burden of proof had not been satisfactorily discharged.

Counsel also pointed to the finding of the lower court that the cross-appellants presently hold 3,867.777 square metres as against the original plot size of 3,612.833 square metres. It was argued that if the reliefs sought in this appeal were granted, the cross-appellants' landholding would increase to 5,885.565 square metres, representing an addition of 2,272.732 square metres and approaching nearly double the size of the original allocation. Counsel urged that such an outcome would be inequitable and contrary to established principles.

Reliance was placed on the authorities of **Aremu v. Adetoro (2007) LPELR-546 (SC); Okedare v. Adebajo & Ors. (1994) LPELR-2431 (SC);** and **Elias v. Omo-Bare (1982) LPELR-1116 (SC).**

Learned counsel for the cross-respondent argued that the cross-appellants' reliance on the doctrine of *quic quid plantatur solo, solo cedit* is misconceived and merely an attempt to unjustly enlarge their landholding at the expense of the cross-respondent. It was contended that the complaint regarding the lower court's alleged *suo motu* application of the doctrine is unfounded, as the principles governing its application are well settled.

Counsel further maintained that the cross-appellants failed to establish entitlement to the expanded land area claimed, having proved ownership only in respect of the original plot size. Consequently, their claim lacks merit, particularly as they did not sufficiently prove the extent of the alleged trespass.

Reliance was placed on the cases of: **EFCC v. Chidolue (2018) LPELR- 57097 (SC); Ikenta Best (Nig.) Ltd v. A.G Rivers State (2008) LPELR-1476 (SC)** to support the position that a party cannot claim beyond what is proved.

The starting point on this issue is the settled common law *maxim quicquid plantatur solo, solo cedit*, which, being of universal application, has long been received into Nigerian jurisprudence. See the case of **National Electric Power Authority v. Mudasiru Amusa & Anor (1976) LPELR-1956(SC)**, where the maxim- "*Quic Quid Plantatur Solo Solo Cedit*" was applied by this court in 1976. In that case his lordship Atanda Fatai-Williams, JSC (as he then was), at Pp-16 - 16, B - G of the report held thus:

> **"With respect, we think that the maxim *quid quid plantator solo solo cedit* is still good law. It is a general rule of great antiquity and it means that whatever is affixed to the soil becomes, in contemplation of law, a part of it, and is subjected to the same rights of property as the soil itself. Thus, if a man builds on his own land with the materials of another, the owner of the soil becomes in law, the owner also of the building. Similarly, if trees were planted or seeds sown in the land of another, the owner of the soil became the owner also of the trees, plants or the seeds as soon as they had taken root (see Broom's Legal Maxims 9th Edition, pp. 264-265). Of course, this general rule of law is subject to any contract entered into by the parties and also to the doctrine and rules of equity. Apart from these exceptions which are not relevant to the case in hand, we are not aware of any general rule of law, and the learned trial judge did not refer to any, which says that the reverse, except as defined in specified statutes, is possible and that a**

building could therefore, for all purposes, include land on which it is built."

Its import is plain. Whatever is affixed to the soil becomes part of the soil and passes with it. This principle has been consistently applied by our courts in resolving disputes touching on fixtures, improvements, and proprietary interests in land.

The law is that, in determining whether an item forms part of the land, the court considers (i) the degree of annexation and (ii) the purpose of annexation. See **Osho v. Foreign Finance Corporation (1991) 4 NWLR (Pt. 184) 157**, where the Supreme Court reiterated that articles affixed to land, depending on the nature and purpose of their attachment, may become part of the realty. In like vein, the principle was affirmed in **U.A.C. Ltd v. Macfoy (1961) 8 All ELR 1477**, underscoring that once a thing is annexed to land with the intention of permanence, it loses its character as a chattel.

Flowing from the foregoing, buildings, structures, and permanent installations erected on land are prima facie part of the land and vest in the person entitled to the land. Thus, ownership of land ordinarily carries with it ownership of everything attached thereto.

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It is undoubtedly established on the evidence in the instant case that the cross-appellants are in lawful possession of land by virtue of their being the holder of a valid Certificate of Occupancy, and the cross-respondent, albeit under a mistaken belief of title, enters upon the land, demolishes existing structures and proceeds to erect buildings thereon, such entry constitutes actionable trespass. The mistaken belief of ownership, however bona fide, affords no defence to trespass.

Furthermore, once it is shown that the developments erected by the trespasser are affixed to the land, the doctrine of *quicquid plantatur solo, solo cedit* applies with full force, such that the structures become part of the land and enure to the benefit of the true owner or person in lawful possession. The refusal or failure of the lawful possessor to immediately retake physical possession does not operate as a waiver of his proprietary rights nor preclude the invocation of the said doctrine.

Equally, where parties, following the act of trespass, enter into a written settlement acknowledging the claimant's title, the defaulting party cannot resile from the agreement on the ground that its terms are unfavourable, particularly where the

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agreement was voluntarily executed and not vitiated by fraud, duress or misrepresentation.

In consequence, the lower court ought to enter judgment in favour of the cross appellant to uphold his proprietary interest, apply the doctrine of fixtures to the buildings erected on the land, and award damages for trespass and destruction of property.

The cross-appellants, in their Brief at page 17 paragraph 4.22 pose a tangentially pungent question as follows:

> **4.22 – The last question that can be asked is: whether it is fair to grant the cross-appellants a perpetual injunction over the house on Plots 63 and 90 since part of them sit on the cross-respondent's land and would thereby cede part of the cross-respondent's land to the cross-appellants.**

This question unmasked the difficulty of the rigid application of the maxim *quic quid plantatur solo solo cedit*.

The question posed must be resolved against the grant of a blanket perpetual injunction over the entirety of the houses on Plots 63 and 90 where portions of those structures encroach upon the cross-respondent's land.

It is settled law that an order of perpetual injunction, being an equitable remedy, must be exercised judiciously and in accordance with settled equitable principles, particularly that

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equity does not permit a party to appropriate that which does not belong to him under the guise of enforcing a right. While trespass is actionable per se and entitles the claimant to relief, such relief must not operate to divest another party of his lawful proprietary interest.

In the instant scenario, the evidence discloses that only portions of the buildings situate on Plots 63 and 90 encroach upon the cross-appellants' land, while the remaining parts lie on the cross-respondent's land. To grant a perpetual injunction over the entire structures would, in effect, confer upon the cross-appellants proprietary control over portions of land lawfully belonging to the cross-respondent. such an order would transcend the remedial scope of trespass and amount to an unwarranted transfer of title, which a court of law is not entitled to effect under the guise of equitable relief.

The proper approach, therefore, is to limit the remedy to the proven act of trespass. The cross-appellants are entitled to protection of their proprietary interest only to the extent of the encroachment. Accordingly, relief may properly lie in:

> **(1) an injunction restraining further trespass on the affected portion of their land; and/or**

(2) damages (including, where appropriate, mandatory orders) proportionate to the extent of the encroachment.

To grant a sweeping perpetual injunction over the entire buildings would be inequitable, disproportionate and legally unsustainable.

A court will not grant a perpetual injunction over entire structures where only part thereof encroaches on the claimant's land, as such an order would unjustly divest the defendant of his proprietary rights; reliefs must be confined to the extent of the trespass proved.

This issue therefore, is partly resolved in favour of the cross-appellants.

Issue Two:

On the second issue, learned counsel for the cross-appellants contended that the dismissal of their claims for damages by the two lower courts was erroneous and not founded on concurrent findings, as the reasons given by the courts were inconsistent. It was argued that the trial court wrongly refused the claim for damages on the basis that the parties had not pre-agreed on the value of the destroyed structures, whereas such pre-agreement is not a prerequisite for the award of damages.

Counsel further submitted that the lower court's refusal was predicated on the alleged failure of the cross-appellants to plead and prove the basis of the amount claimed with credible evidence, and on the characterization of their documentary exhibits as merely "dumped" on the court. It was contended, however, that the cross-respondent did not dispute the quantum claimed as the cost of improvements on the land, and that uncontroverted evidence ought to be accepted as established.

Accordingly, counsel argued that the denial of special damages was perverse and unjustified, urging the court to intervene in line with established authorities such as: **Oguntade v. Oyelakin (2020) 6 NWLR (Pt. 1719) 41** and **N.R.M.A & FC v. Johnson (2019) 2 NWLR (Pt. 1656) 247**.

Learned counsel for the cross-appellants submitted that the documentary evidence, particularly the receipts, was properly pleaded and linked through oral testimony, thereby satisfying the requirement that documents must be tied to a party's case. It was argued that the testimony of the 2nd cross-appellant sufficiently connected the exhibits to the claims, and that the lower court failed to properly evaluate this evidence.

Counsel further contended that a court is under a duty to give reasons for its decision, and that such reasons must relate to the issues for determination. It was submitted that the lower court's decision departed from settled legal principles and amounted to an unwarranted interference with the findings of the trial court. He relied on the cases of: **APGA v. Al-Makura (2016) 5 NWLR (Pt. 1505) 316** and **ACN v. Nyako (2015) 18 NWLR (Pt. 1491) 352; Ezeoke v. Nwagbe (1988)1 NWLR (Pt. 72) 616** and **PDP v. Okorocha (2012) 15 NWLR (Pt. 1323) 205**.

In response, learned counsel for the cross-respondent maintained that a party seeking relief must first discharge the burden of proof placed upon it. It was argued that the court is not obliged to undertake calculations or reconstruct a party's case, and that it is the duty of the claimant to clearly link documentary evidence to its pleadings. Failure to do so justifies the rejection of such evidence.

Learned counsel for the cross-respondent submitted that the cross-appellants failed to properly particularize and prove their claim for special damages, having neither itemized nor demonstrated how the sums claimed were computed. It was argued that the burden lies squarely on the claimant to lead credible and precise evidence in support of special damages,

as courts are not permitted to speculate or undertake calculations on behalf of parties. The mere tendering of documents without properly linking them to pleaded facts does not satisfy this burden.

Counsel further maintained that the alleged non-dispute of the claims by the cross-respondent does not relieve the cross-appellants of the strict requirement of proof, given the exceptional nature of special damages. The concurrent findings of the two lower courts that the cross-appellants failed to meet this evidential threshold were therefore justified.

On the claim relating to flight expenses, counsel contended that its dismissal was proper, as it equally suffered from inadequate proof.

Additionally, it was argued that the cross-appellants were not entitled to damages for trespass, having failed to establish valid title to the disputed land. Counsel emphasized that the reliance on a Power of Attorney as proof of title is legally insufficient, as such a document does not confer ownership. Consequently, the failure to prove title was fatal not only to the claim for trespass but also to the relief of perpetual injunction and special damages.

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It is settled beyond peradventure that an action in trespass is not merely aimed at restraining further unlawful intrusion upon land, but equally at securing compensation for the wrongful act already committed. The law is elementary that any unlawful and unauthorised entry upon land in the possession of another constitutes actionable trespass, for which damages are awardable as monetary recompense for the infringement of the claimant's proprietary rights. Such compensation is imposed by operation of law: see **Attorney-General, Bendel State v. Aideyan (1989) 4 NWLR (Pt. 118) 646; Ibrahim v. Mohammed (1996) 3 NWLR (Pt. 437) 453; Ajayi v. Jolaosho (2004) 2 NWLR (Pt. 856) 89**.

Accordingly, trespass to land is actionable per se, and a successful claimant is entitled to damages even in the absence of proof of actual loss. In such circumstances, the law awards nominal damages to vindicate the invasion of the claimant's legal right: see **Umunna v. Okwuraiwe (1978) 6 – 7 SC1; Osuji v. Isiocha (1989) 3 NWLR (Pt. 111) 623; Asuquo v. Asuquo (2009) 16 NWLR (Pt. 1167) 225; Spring Bank Plc v. Adekunle (2011) 1 NWLR (Pt. 1229) 581**. The essence of such nominal award lies in the recognition that a legal right has been violated, irrespective of whether any measurable damage has been occasioned:

see **Ogundipe v. Attorney-General, Kwara State (1993) 8 NWLR (Pt. 558); Aminu v. Ogunyebi (2004) 10 NWLR (Pt. 882) 457**.

Where, however, actual damage or loss is established, the claimant is entitled to general damages commensurate with the injury suffered. The assessment of such damages lies within the discretionary province of the trial court, guided by settled principles of law and judicial prudence. An appellate court will not lightly interfere with the exercise of that discretion unless it is shown that the trial court acted on wrong principles, misapprehended the facts, took into account irrelevant considerations, or that the award is manifestly excessive or inadequate: see **Oyeneyin v. Akinkugbe (2010) LPELR – 2875 (SC); United Bank for Africa Ltd v. Odusote Bookstores Ltd (1995) 9 NWLR (Pt. 421) 558; ACB Ltd v. Apugo (2001) 5 NWLR (Pt. 707) 653**.

In sum, once trespass is established, damages inexorably follow, nominal where no actual loss is proved, and substantial where damage is demonstrated, subject always to the cautious and principled discretion of the trial Court, with appellate intervention confined to clearly defined exceptional circumstances.

The parties have no much differences in this suit other than the issue of special damages and injunction.

The cross-appellant in paragraphs 13 and 14 of the Amended Statement of Claim pleaded as follows:

> **13. The plaintiffs aver that consequent upon correspondences with the defendant, dialogue and discussion commenced between the 2nd plaintiff and the defendant, with the defendant acknowledging that the said plot of land was not part of Ikenga Hotel pocket layout where they planned to construct the said coal City Gardens Estate, but that they entered into same in error and pleaded to offer compensation to the plaintiffs for trespassing into their land, since defendant had already commenced construction on the land. It was at this stage that the second plaintiff entered into the contract of agreement titled memorandum of understanding with the defendant. The said contract dated 11/2/2008 is hereby pleaded and shall be relied upon at the trial.**
>
> **14. The plaintiff aver that in the ensuing contract, the defendant covenanted to indemnify the plaintiff for the massive damages and the trespass committed by the defendant against the plaintiffs in respect of their land at A/13 Alderton road pocket layout GRA Enugu. The defendant covenanted inter alia:**
>
> **(i) Allocation of Plot No. 66 being a six-bedroom fully detached storey**

building with 2 bed-room boys quarters at the Coal City Gardens, the marked value of which should be approximately N45,000,000= (Forty Five Million Naira).

(ii) A vacant plot of land within the said Estate adjacent to plot No. 66 measuring 1,928.601 sq. metres.

(iii) Payment of special damages being the costs incurred by the owner in constructing the structures on the land which said sum shall be agreed upon by both parties.

The cross-respondent in paragraph 9 of the Amended Statement of defence, pleaded as follows:

> **9. The defendant admits paragraphs 13, 14 (i) (ii) (iii) of the statement of claim but maintain that the contract signed with the plaintiff which is far above the plaintiffs and improvement on the land were based on representation and the defendant at all material times never intended to give the plaintiff as compensation, more than the land space in Plot A/13 Alderton Pocket Road Layout and improvement thereon.**

The learned trial judge in his judgment considered the evidence produced by the cross-appellants but was wobbling on the evaluation. Let me reproduce the part of the trial court's judgment from pages 364 to 367 of the record as follows:

> **It is evidence that the plaintiffs especially in respect to the improvements so far made on**

the land in dispute then, presented receipts of purchases of building material used on the improvements. These receipts, tendered as Exhibits 10 – 10N were not objected to. All the learned counsel for the Defendant submitted was that the receipts have no connection with the improvement on the land because they do not show that the materials shown in them were used to effect those improvements. My answer to that it that since the P.W.1 tendered them as receipts of building materials he purchased for the building of the uncompleted houses on the land, the onus was on the defendant to show that the materials shown in the receipts has no connection with those improvements. The law is that he who asserts proves. The evidence of the party's show that the plaintiffs did not withhold any facts from the defendant during the many meetings and negotiations leading to the signing of the contract agreement. It is therefore, my view that there was no misrepresentation by the plaintiffs respecting the said contract. The contract agreement, which was admitted in evidence as Exhibit P6 was freely entered into by the parties. Consequently, they are bound by it.

....

As regards the fifth issue for determination, I agree with the learned counsel for the defendant that special damage must be specifically proved before it can be awarded. The question is: did the plaintiff prove specific damages in this suit?

The second plaintiff put up the sum of ₦4,064,359.00 (Four Million and Sixty-Four Thousand, Three Hundred and Fifty-Nine

Naira) being expenses he incurred in the developments on the land in dispute, which improvements the defendant destroyed and also ₦326,000.00 (Three Hundred and Twenty-Six Thousand Naira) being cost of travelling to Enugu from Abuja to honour several invitations by the defendant for negotiations for settlement. It is not disputed that the second plaintiff incurred expenses on the construction of buildings and other improvements on the land. What appears to be in dispute is whether the amount or expenses as set up by the second plaintiff concerning the improvements constitutes special damages in the understanding of the parties. The defendant, from evidence, does not dispute the amount set up by the second plaintiff as cost of improvement on the land in dispute.

....

It is to be noted that both parties had already agreed that special damages should be paid and the special damages should be the cost of improvement on the land in dispute. But the amount was not agreed upon by the parties. This is clearly borne out in Exhibit P6, the contract agreement.

....

It is not contested that the plaintiff's claim for special damages stems from the wrongful invasion of their land. I agree that there is no other way of proving special damages on trespass than leading evidence to show illegal entry into land. But as I held earlier, the quantum of such special damages must be certain either as set up by the party claiming it or as agreed by the parties if such

is made party of the contract of the parties as in this case.

A cursory look at the evidence before the trial court will show clearly that the cross-appellants indeed have proved their claim for special damages. The two lower courts were in grave error in denying them the special damages. The cross-appellants expended money in putting up the structures the cross-respondents destroyed when they trespassed into the land of the cross-appellants. It is therefore, proper for the cross-appellants to be paid the special damages which they have from the evidence before the trial court proved as required.

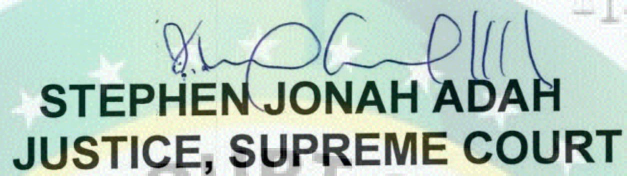
From the foregoing therefore, it is clear and certain that this issue two should be resolved and it is hereby resolved in favour of the cross-appellants.

In conclusion, since issue one is partly resolved in favour of the cross-appellants and issue two fully resolved in favour of the cross-appellants, the appeal is allowed in part. The cross-appellants shall be paid the special damages of ₦4,064,359= (Four Million, Sixty-Four Thousand, Three Hundred and Fifty-Nine Naira) in addition to the reliefs granted by the lower court in their judgment delivered on the 7th day of December, 2017, in **Appeal No.CA/E/247/2013**.

Then, the cross-respondent shall pay a sum of ₦10,000,000= (Ten Million Naira), for the encroachment in respect of Plots 63 and 90.

Parties are to bear their respective costs.

Cross-Appeal Allowed in part.



STEPHEN JONAH ADAH
JUSTICE, SUPREME COURT

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APPEARANCES:

Prof. R.A. Achara, Esq., with O. Marx Ikongbeh, Esq., and V.C. Uche, Esq., **for the Cross-Appellants.**

C.J. Oguejiofor, Esq., **for the Cross-Respondents.**