IN THE SUPREME COURT OF NIGERIA

Suit No: SC384/2001

Petitioner: Boniface Anyika & Co. Lagos Nigeria Ltd.
And
Respondent: .Katsina U. D. Uzor

Date Delivered: 2006-06-30

Judge(s): Salihu Modibbo Alfa Belgore , Umaru Atu Kalgo , Niki Tobi , Mahmud Mohammed , Ikechi Francis Ogbuagu

Judgment Delivered

The Plaintiff is the Appellant in this appeal. The Defendant is the respondent. They had a business relationship. It was the clearing of goods. The respondent is a Clearing Agent. The Appellant is the owner of the goods.

The case of the Appellant is that it imported 400 surgical orthopedic chairs into the country and employed the respondent to clear the goods. It paid the sum of NI2, 500.00 inclusive of N300.00 transportation fee to the respondent. The respondent did not deliver the goods as agreed. Upon demand for the goods, the respondent concocted a story that the goods were seized by Customs officials.

The case of the respondent is different. As a Clearing Agent, he was contracted by the Appellant to clear its container purportedly containing 400 surgical chairs. Upon examination by the Board of Customs and Excise, the goods were found to be ordinary chairs, which are prohibited. Customs Officials seized the goods and auctioned them to Messrs Nnawo Enterprises in 1988. The Appellant, though aware of the sale of the goods by Customs officials, filed an action. That is the case of the respondent.

The Appellant sued the respondent and others. It sued for 'damages and Conversion in the sum of N5, 641,600.00, being exchange rate for US $ 68,000.00 paid for, or a return of 400 units of orthopaedic surgical chairs converted by the Defendants as well as the sum of N12, 500.00 paid for clearing goods.'

At the trial, some of the respondents originally sued by the Appellant had their names struck out of the suit. The learned trial Judge gave judgment to the Appellant. He found the Defendant liable in Conversion. The appeal of the respondent to the Court of Appeal was upheld. Judgment against the respondent was set aside and the claim dismissed. It is against that decision that the appeal has come to this Court.

Briefs were filed and exchanged. The Appellant formulated the following single issue for determination:

'Whether a case of Conversion was made against Defendants by the Plaintiff.'

The respondent formulated the following four issues for determination:

'(1) Whether the appeal is competent in view of the fact that the grounds of appeal are grounds of mixed law and fact and no leave was sought by the Plaintiff/Appellant.

(2) Whether the Appellant pleaded and established facts upon which the Defendant/Respondent can be found liable for the tort of Conversion.

(3) Whether Exhibit P4, the document tendered by Plaintiff/Appellant's witness showing that the goods were contraband and was (sic) sold to Nnawo Enterprises supports the contention of the Appellant that the goods were not contraband. In view of the fact that the document emanated from the Department of Customs and Excise, the body charged with the duty of inspecting goods imported into Nigeria.

(4) Whether there was any evidence or inference of collusion between the Defendant/Respondent and Board of Customs and Excise in relation to the Plaintiff/Appellant's forfeited cargo with regard to Exhibit P4-P4J.'

Learned Counsel for the Appellant, F. R. A. Williams (Jnr.) submitted that a case of Conversion was made against the respondent. He cited Ihenacho v. Uzochukwu (1997) 2 NWLR (Pt. 487) 257 at 268. Relying on paragraphs 9, 10 and 11 of the Further Amended Statement of Claim, learned Counsel submitted that when the paragraphs are viewed together with the document copied at pages 98 and 99 of the Record, it will be clearly seen that all the material facts necessary to establish the Conversion have been established. He argued that the document can only come into existence if the imported goods are released to the Clearing Agent and that if the goods were contraband, a seizure note would have been issued instead.

Relying on the evidence of PW2, and other evidence before the Court, learned Counsel submitted that the evidence before the Court confirms that on 7th January 1988, the imported goods were released to the respondent. He contended that the Court of Appeal arrived at a wrong decision, particularly when that Court took Exhibit P4 at face value. He urged the Court to allow the appeal.

Learned Counsel for the respondent, Mr. A. M. Makinde, submitted on Issue No. 1 that as the three grounds of appeal are grounds of mixed law and fact, the Appellant ought to have sought the requisite leave. Failure on the part of the Appellant to seek leave, Counsel contended, renders the appeal incompetent. He cited section 233 (3) of the 1999 Constitution and the following cases: A. C. B v. Obmiaimi Brick and Stone and Sons Ltd. (1993) 5 NWLR (Pt. 294) 399 and Adeyemi v. Y. R. S. Ike Oluwa and Sons Ltd. (l993) 3 NWLR (Pt. 309) 27.

Learned Counsel contended on Issue No 2 that the object of pleadings is to state accurately the issue for trial. He cited Oduka v. Kasumu (1968) NMLR 28. While still on the pleadings of the Appellant, Counsel submitted that the pleaded facts in the Further Amended Statement of Claim did not make the respondent liable for the tort of Conversion as he never at any point have either custody or control of the Appellant's imported goods nor committed any act that is inconsistent with Appellant's title to the goods. He cited Fouldes v. Willoughby (1841) M and W 540; Ogini v. Oluwa (1998) 1 SCNJ 20. He also submitted that the Bill of Entry, Traffic Managers Special Cargo Pass, Tally Way Bill No 55617 obliterates respondent's liability for Conversion.

On Issue No. 3, learned Counsel submitted that Exhibit P4, which emanated from the office of Deputy Director of the Department of Customs and Excise in charge of enforcement is a confirmation of the fact that the goods imported by the Appellant were contraband. He said that Exhibit P4 speaks for itself.

Taking Issue No 4, Counsel still made reference to Exhibit P4 and submitted that the respondent is neither an agent of the 3rd Defendant nor Nnawo Enterprises and that there is no evidence on record nor can any inference of collusion by the respondent be made from available evidence. He urged the Court to dismiss the appeal.

I have examined the grounds of appeal and I do not agree with the submission of learned Counsel for the respondent. Accordingly, Issue No 1 fails.

Pleadings are averments by the party, which he claims to be the facts of the case. As far as the party is concerned, the facts pleaded have the content and the strength to give him judgment in the ease. In the case of the Plaintiff, the pleadings without more, can only give him judgment where the Defendant admits the claim or relief. In a case where the Defendant joins issues with the Plaintiff in his Statement of Defence, the content and strength of the pleadings by way of Statement of Claim must be tested by the Court in the light of oral evidence. This is because the Statement of Claim being Court process does not have the mouth to talk in Court. This is where parol or oral evidence of the witness becomes important and plays a vital role in the truth searching process of the Court. It is the duty of the witness to goad the docile Statement of Claim by ventilating in open Court, the averments contained therein. In the absence of such evidence, the Statement of Claim is moribund and remains useless in the Court's file in a contested case.
There is yet another aspect and it is this. The oral evidence must be accurate in the sense that it brings out the facts as averred in the Statement of Claim. In other words, the oral evidence must dance to the same music as in the Statement

of Claim. Where the oral evidence does not bring out the facts in the Statement of Claim or where there is material contradiction, the Court is entitled to hold and will hold that the Plaintiff did not prove his case. Here the Court uses the Statement of Claim as the reference point because that is where the facts of the case originally germinate.

So much of the law on pleadings. Let me go to the pleadings relied upon by learned Counsel for the Appellant. They are paragraphs 9, 10, and 11 of the Further Amended Statement of Claim. Let me quickly read them.

'9. The Plaintiff was never notified that the said goods were seized by the Customs Department for being contraband goods, as is their usual practice.

10. The Plaintiff avers that a Traffic Manager's Special Cargo Pass No 6180 dated 7.1.88 was issued in respect of the said consignment of goods. From the Traffic Manager's Special Cargo Pass, it can be seen that the Customs Department issued a receipt No. 483476 of 4.1.88. Attached herewith and marked Exhibit BF1 is a copy of the Special Cargo Pass.

11. Further to paragraph 10 above. Plaintiff is aware that the Customs & Excise Department allowed the said goods into Nigeria without seizing them from the Tally Way Bill No. 55617 dated 7.1.88'

Learned Counsel relied on the evidence of PW2 who said at page 86 of the Record:

'After these documents are submitted to the Import Control Officer, they are then taken to the Lugate Officer to the A/C Section of Customs to Studying Seat, to the Bill Examiner to Outgate to Warehouse or where the container is. After this, there is the NPA examination of the goods by Security Agent and Customs officers. The goods are then released to the Agent. When the container is found to contain contraband goods, the Agent will be arrested and Customs will issue a Seizure Note.'

I am in some difficulty to appreciate why learned Counsel relied on the evidence of PW2. While I agree that PW2 gave evidence of Customs practice and the clearance of goods at the port, I do not sec where the evidence he gave is pleaded, particularly the last sentence that Counsel seems to rely upon. And that sentence reads:

'When the container is found to contain contraband goods, the Agent will be arrested and Customs will issue a Seizure Note.'

The law is elementary that parties are bound by their pleadings and facts not pleaded go to no issue. See Adejumo v Ayantegbe (1989) 3 NWLR (Pt.110) 417; Awoyegbe v. Ogbeide (1988) 1 NWLR (Pt. 73) 695; Aguocha v. Aguocha (1986) 4 NWLR (Pt. 37) 566; Akeredolu v. Akinremi (1989) 3 NWLR (Pt. 108) 164; Anyanwu v. Anyanwu (2000) 15 NWLR (Pt. 692) 721.

The question is this: Was the above evidence pleaded' Where did the Appellant plead the arrest of the respondent' Where did the Appellant plead the issuance of a Seizure Note'

Both Counsel dealt with Exhibit P4. It is the Traffic Manager's Special Cargo Pass. Learned Counsel for the Appellant submitted that Exhibiy P4 can only be in existence if the imported goods are released to the Clearing Agent. Learned Counsel for the respondent submitted that the exhibit attests to the sale of the goods to Nnawo Enterprises by the 3rd Defendant.

I have carefully examined the Further Amended Statement of Claim and I cannot place my hands on the submission of Counsel in respect of the Traffic Manager's Special Cargo Pass, Exhibit P4 A-J. The role of Counsel in the litigation process is clear; so too the role of the parties. Counsel, being the expert of the law, supplies his expertise to edify the facts of the case with a view to procuring judgment for his client. He cannot supply the facts, which exclusively belong to his client. All he can supply is the law and the law only. Counsel can only submit on the law to vindicate the facts already before the Court. He cannot introduce facts on his own. In view of the fact that none of the two witnesses for the Appellant gave evidence 'that Exhibit P4 can only be in existence if the imported goods are released to the Clearing

Agent', this Court rejects the evidence emanating from Counsel. This is because Counsel is not competent to give evidence in a case he appears for a party as Counsel qua advocate.

And that takes me to the submission of learned Counsel for the respondent on the exhibit. In my view, it is a submission of law, being a submission on the legal position or strength of the exhibit and it is that the exhibit attests to the sale of the goods to Nnawo Enterprises. Is Counsel correct' Does Exhibit P4 vindicate his position' I think so. Exhibit P4 A-J is a form. It is printed and like most forms, there are spaces to be completed in handwriting. It is addressed to N. P. A Gate Police. In front of the words 'N. P. A Gate Police' and between 'Nigerian Ports Authority and Traffic Managers Special Cargo Pass' (all printed) is written in handwriting the following 'Owner- Nnawo Nig. Ltd.' In the Description Marks column is written in handwriting the 'Containers No, Customs Receipt No, Chairman's Letter No, and R.T.C. Receipt No' whatever that means. From the above particulars in Exhibit P4, I am in agreement with learned Counsel for the respondent that the goods were sold to Nnawo Nigeria Enterprises.

The above apart, the Custom's Receipt at page 94 of the Record issued to Nnawo Nigeria enterprises and Exhibit P4 at page 100 of the Record clearly shows that the goods were sold to Nnawo Nigeria Enterprises. The above apart, paragraphs 8 and 12 of the Further Amended Statement of Claim seem to admit that the goods were sold. The paragraphs read:

'8. The third Defendant through its Department, the Anti-Smuggling Task Force, was responsible for selling the said consignment of goods at an auction for N5, 500.00.

12. The Plaintiff avers that the purported auction referred to in paragraph 8 took place on 31:12:87 as seen from Exhibit BF2 attached herewith.'

The 3rd Defendant was the Board of Customs and Excise. By the above admission, it is clear that the respondent had not the custody of the goods. This was known to the Appellant at the time the respondent was jointly sued with others for Conversion. I regard the admission, as admission against interest and the interest is the contention that 'the respondent concocted a story that the goods were seized by Customs officials.'

And that takes me to the tort of Conversion. Conversion is an act of wilful interference, without lawful justification with any chattel in a manner inconsistent with the right of another, whereby that other is deprived of the use and possession of that chattel. The tort of Conversion is committed where one, without lawful justification, takes a chattel out of the possession of another, with intention of exercising a permanent or temporary dominion over it, because the owner is entitled to the use of his property at all times. The usual method of proving that a detention is adverse is to show that the Plaintiff demanded the delivery of the chattel, and that the Defendant refused or neglected to comply with the demand. See Ihenacho v. Uzochukwu cited by learned Counsel for the Appellant.

A cause of action in Conversion is based on an unequivocal act of ownership by a Defendant of goods of the Plaintiff without any authority or right in that behalf. See Ojini v. Ogo Oluwa Motors Nigeria Ltd. (1998) 1 NWLR (Pt. 534) 353. In that case, Belgore, J.S.C., said at page 363:

'When a person by deliberate act, deals with the chattel of another in a manner inconsistent with that other's right whereby he is deprived of the use and possession thereof, the tort of Conversion is committed. To be liable for Conversion, the Defendant need not intend to question or deny the Plaintiff's right but it is enough that his conduct on the chattel is inconsistent with the Plaintiffs right.'

See also, Owena Bank (Nig) Ltd. v. Nigerian Sweets and Confectionery Co. Ltd. (1993) 4 NWLR (Pt. 290) 698; National Bank of Nigeria Limited v. Mobil Oil Nigeria Limited (1994) 2 NWLR (Pt. 328) 534; Danjuma v. Union Bank (Nig.) Ltd. (1995) 5 NWLR (Pt. 395) 318; (1997) 6 NWLR (Pt. 508) 294; Yusuf v. Mobolaji (1999) 12 NWLR (Pt. 631) 374; Trade Bank Plc. v. Barilux (Nig.) Ltd. (2000) 13 NWLR (Pt. 685) 483.

For the tort of Conversion to be committed, the following ingredients must be present and proved:

(1) The goods belong to the Plaintiff.

(2) The goods do not belong to the Defendant.

(3) The goods are taken out of the possession of the owner, the Plaintiff, without lawful justification.

(4) The Defendant must have the intention of exercising permanent or temporary dominion over the goods.

(5) There must be specific demand for the goods by the Plaintiff, the owner.

(6) That denial must be followed by an unequivocal act of refusal to surrender the goods by the Defendant to the Plaintiff.

The crux of the tort is that the Defendant must deal with the goods of the Plaintiff in a manner inconsistent with the Plaintiff's right of ownership. In view of the fact that ownership is central to the tort, a Plaintiff who cannot prove ownership cannot succeed in an action on the tort of Conversion. Demand is also a vital ingredient. There cannot be Conversion until the Plaintiff formally makes a demand of the goods, followed by a refusal by the Defendant to surrender them. That is when the intention of the Defendant to deny the Plaintiff's right to ownership of the goods comes to the open.

Did the Appellant prove the tort of Conversion' No. The evidence before the learned trial Judge was that the goods, being contraband, were seized by the Department of Customs and Excise and thereafter auctioned. The moment the goods got to the possession of the Department of Customs and Excise, they were completely out of the possession of the respondent, who was the Clearing Agent. And so, any demand for the goods by the Appellant was an exercise in futility. A person can surrender possession of what he has in possession. He cannot surrender possession of what is not in his possession. That is both a factual and legal impossibility. In this case, the raw hands of the law grabbed the goods and there was nothing the respondent could do. He was placed in a most helpless situation as the matter was clearly beyond him. Why should surgical orthopaedic chairs suddenly metamorphose to ordinary chairs' Who did the magic' Is it the respondent' No. But why should the respondent suffer for no fault of his' And the Appellant is not talking about the metamorphosis. Things happen in Nigeria! And what is more, the Appellant had knowledge of the intervention of the law through the Department of Customs and Excise. Paragraphs 8 and 12 tell the story about the knowledge of the Appellant.

In sum, the appeal has no merit and I accordingly dismiss it. It is ordered that the Appellant pays costs of N10, 000.00 to the respondent.

Judgement delivered by
Salihu Modibbo Alfa Belgore, J.S.C.

I read in advance, the judgment of my learned brother, Tobi J.S.C. and I agree entirely with his reasoning and conclusion that the appeal has no merit. I for the same reasons dismiss the appeal with N10, 000.00 costs to respondent.

Judgment delivered by
Umaru Atu Kalgo, J.S.C.

I have had the privilege of reading in draft, the leading judgment of my learned brother Tobi, J.S.C. just delivered in this appeal. I entirely agree with his reasoning and conclusion that the appeal lacked merit and should be dismissed. Tobi, J.S.C. has thoroughly in my view dealt with all the issues raised in this appeal and I have nothing useful to add. I therefore also dismiss the appeal and abide by the order of costs made in the leading judgment.

Judgment delivered by
Mahmud Mohammed, J.S.C.

My learned brother Niki Tobi J.S.C. had permitted me before today to read in draft his judgment, which has just been delivered. I am in complete agreement with him in the manner he considered and resolved the issues arising for determination in this appeal. Really, there is no merit in the appeal which accordingly is hereby dismissed with N10, 000.00 costs to the Respondent against the Appellant.

Judgment delivered by
Ikechi Francis Ogbuagu, J.S.C.

I had the advantage of reading before now, the lead Judgment of my learned brother, Tobi, J.S.C. I entirely agree with his reasoning and conclusion that the appeal deserves being dismissed. However, for purposes of emphasis, I will add a few words of mine.

I note that from the pleading of the Appellant particularly in paragraphs 8 and 12 of the Further Amended Statement of Claim, the Appellant knew that the said goods had been sold. The said paragraphs read as follows:

'8. The Third Defendant through its Department, the 'Anti-Smuggling Task Force', was responsible for selling the said consignment of goods at an auction for N5, 500.00'.

12. The Plaintiff avers that the 'purported' auction referred to in paragraph 8 took place on 31:12:87 as seen from Exhibit BF 2 attached herewith'.

I note that the Appellant was the only party that took part in the trial or hearing at the trial Court and was represented by Counsel. In a very lengthy Ruling of Balogun, J. who first handled the matter, delivered on 7th July 1989, he struck out the names of the 1st and 5th Defendants. (See page 77 of the Records). In his evidence in-chief at page 52 of the Records, the P.W.I stated that the 2nd Defendant - his clearing Agent, paid the Custom duty for the goods and had the receipts for the payment in his possession/custody.

I see at page 100 of the Records, Exhibit P4 dated 30th December 1987, headed 'Sale Of Seized Items' from the Department of Customs and Excise, Deputy Director Division/Branch, Enforcement Headquarters, Airport Road Ikeja, addressed to Nnawo Nig. Enterprises, 19 Oki Lane, Ikeja, in which 'The Committee' approved the sale of Container NO LMCO O15668/3 with 400 chairs (four hundred) for the price of N5, 000.00 (five thousand naira). At page 94 of the Records, the receipt for payment of this amount for the said chairs, by Nnawo Nig. Enterprises appears. The receipt is that of Customs and Excise of Nigeria.

What the above show, that firstly, the said chairs of goods of the Appellant were never in the possession or custody of the Respondent. Secondly, since they were seized goods, they were therefore, contraband goods. Thirdly, there is no evidence that the Respondent, was involved in any conspiracy with the Customs and Excise of Nigeria, or gave his consent or authority, for the said seizure and sale of the said contraband goods. So, at the time the Appellant initiated the action against the Defendants, which included the Respondent, he was aware and had full knowledge of the above facts of the said seizure and sale. His said action was for the tort of Conversion. In effect, Exhibit P4 completely exonerates the Respondent from any suspicion or collusion with the 3rd Defendant that seized and sold by auction, the said chairs.

I therefore, agree with the learned Counsel for the Respondent in the submissions in their Brief, that apart from the evidence of the PW1. relating to giving of documents to be used in clearing of the goods by the Respondent, there is no evidence either from the pleadings of the Appellant or his evidence at the trial, upon which the Respondent, can be found liable for the tort of Conversion as he never at any point in time, have either custody, possession or control of the Appellant's said imported chairs or goods or acted in any way or manner, inconsistent with the Appellant's title to the

said goods/chairs. In effect, the Respondent, did not in any way or manner, interfere with the proprietary right or rights of the Appellant in respect of the said imported chairs/goods.

In other words, the Appellant never proved the tort of Conversion against the Respondent. In the case of Ojini v. Ogo Oluwa (1998) 1 SCNJ. 2O @ 27 (not properly cited by the learned Counsel for the Respondent. It is Ojini v. Ogo Oluwa Motors Nigeria Ltd.), this Court ' per Ogwuegbu, J.S.C., stated inter alia as follows:

'.....This is because the cause of action in Conversion accrues on the date of the Conversion and it is based on an unequivocal act of ownership by a Defendant of goods of the Plaintiff without any authority or right in that behalf, for example, an act such as acquiring, dealing with or disposing of goods which is inconsistent only with the rights of an owner as distinct from the equivocal acts of one who is entrusted with goods. See Beaman v. A.B.I.S. Ltd. (1948) 2 K.B. 89 and Fauldes v. Willoughby (1841) & M & W 544 at 548; 151 E.R. 1153. In order to constitute a Conversion, it is necessary either that the party taking the goods should intend some use to be made of them by himself or by those for whom he acts, or that, owing to his act, the goods are destroyed or consumed to the prejudice of the lawful owner'.

Now, in order to make it abundantly clear that the claim of the Appellant against the Respondent under the tort of Conversion, can never be sustained in law, it must be stressed and this is firmly settled, that Conversion, consists in an act intentionally done inconsistent with another's right in respect of goods. There must be a willful and wrongful interference with the goods, and if such an act, whether intended or not, results in the loss of the goods, it amounts to Conversion. Technically, it requires a positive act. Mere detention may be evidence of Conversion, but it is not conclusive. But a detention which is adverse to the right of the person entitled in the sense of an intention to keep the goods in defiance of his rights, amounts to Conversion. See the cases of Caxton Publishing Co. v. Sutherland Publishing Co. (1939) A.C. 178, 201 - 2O2 - per Lord Porter; and Capital Finance Co. Ltd. v. Bray (1964) 1 WL.R. 323.

In other words, any act, which is an interference with the dominion of the true owner of goods, is a Conversion. See the case of Hollins v. Fowler (1879) L.R. 7 (H/L) 757 @ 766 - per Blackburn, J and also referred to in Baker v. Barclays Bank (1955) 1 WLR 822. Thus, there can be no Conversion, unless, a Defendant's conduct, in relation to the goods, amounts to an unjustifiable denial of the Plaintiff\'s title to them, or an assertion of a right inconsistent with that title. See Winfield on Tort, 7th Edition by Jolowitez and Lewis at page 518; Clark & Lindsell on Torts 13th Edition at page 636 paragraph 1077 and Bullen & Leak ' Jacobs Precedent of Pleadings 12th Edition at page 352.

For our local authorities, see also the recent case of Ihenacho & Anor. v. Uzochukwu (1997) 2 NWLR (Pt. 487) 257@ 268; (1997) 1 SCNJ. 117, referring also to the cases of Caxton Publishing Co. v. Sutherland Publishing Co. and Capital Finance Co. Ltd. v. Bray (supra) and also referred to by the Court below.

In summary, since there is the admitted evidence that the Board of Customs and Excise seized the said chairs or goods and auctioned them as contraband goods to the knowledge of the Appellant, and as the Respondent is neither the Agent nor Staff of the said Board or that of the Purchaser ' Nnawo Nigeria Enterprises, there is no how or way, the Respondent, could or should have been held liable in Conversion. The said chairs or goods were never in the possession or control of the Respondent. The Respondent never acted in any way or manner inconsistent with the Appellant's title to the goods. The action of the Appellant should have been dismissed by the trial Court.

However, the Court below stated at page 219 of the Records, inter alia, as follows:

'P.W.1 said that he gave N12, 500.00 to the 2nd Respondent (i.e. the Respondent) to enable him clear the goods. It was out of this money that duty was paid. P.W.1 did not say that the 2nd Defendant did not file on behalf of the Plaintiff, the needed forms for clearing the goods. It was only that the 3rd Defendant for reasons not quite apparent decided to sell the consignment as a forfeited cargo. There was no evidence that the 3rd Defendant did so in collusion with the 2nd Defendant. There was therefore no basis for the lower Court to have ordered the 2nd Defendant to pay back to the Plaintiff the sum of Nl2, 500.00 which the Plaintiff had given to the 2nd Defendant for the purpose of clearing the consignment.'

Apart from observing that there is/was evidence that the forfeited cargo/chairs/goods were contraband goods, I agree

with the said findings and holding above of the Court below. This appeal is grossly frivolous. It is from the foregoing, that I too, dismiss the appeal. I abide by the consequential order in respect of costs contained in the said lead Judgment.