A Refreshing Perspective ON The Means Of Proof Of Contents Of Public Documents UNDER THE NIGERIAN LAW (published in madonna university journal of commercial, private and industrial law, vol. 1 no. 2, 2015, pages 228-253)

By

Abdulhakeem Tijani Abdulqadir* LL.B,LL.M, B.L

&

P.E. Oamen* LL.B,LL.M, B.L

Abstract

The use of credible and admissible evidence, oral or documentary, in proof of a fact in question in any judicial proceeding, is a sine quo non to the success of a case. In the case of documentary evidence, whether private or public, the law requires that same is preferably proved by producing the primary evidence and, in its absence, secondary evidence of varying kinds. With respect to a public document, the means of proving same is, nonetheless, unchanged save however, that its exclusive secondary means of proof is by producing a certified true copy thereof. This paper attempts to examine the concept of public documents as a means of proving facts in evidence, its underlining principles and other prevailing trends, including misconceptions, amidst legal authors, practitioners and judicial officers.

Introduction

The use of credible and admissible evidence, oral or documentary, in proof of a fact in question in any judicial proceeding, is a sine quo non to the success of a case. In the case of documentary evidence, whether private or public, the law requires that same is preferably proved by producing the primary evidence and, in its absence, secondary evidence of varying kinds.[1] With respect to a public

* Lecturer in the Department of Jurisprudence and International Law, Faculty of Law, Ambrose Alli University, Ekpoma, Edo State, Nigeria. Email Address of the author is **hakeemesq@gmail.com or abdulhakeemtijaniabdulqadir@gmail.com**

* Lecturer in the Department of Private and Property Law, Faculty of Law, Ambrose Alli University, Ekpoma, Edo State, Nigeria. Email Address of the author is philipoamen1@gmail.com

[1] See section 85 of the Evidence Act, 2011

document, the means of proving same is, nonetheless, unchanged save however, that its exclusive secondary means of proof is by producing a certified true copy thereof.

Though quite direct and simple in stance, there has been some measure of mystery behind the misunderstanding of this well known position by law students, legal authors and practitioners and even judicial officers. Perhaps, this is rooted in the approach of most famous academic discourse on the point or in the negligent/loose expressions by some, who ought to be expounders of the law or, just maybe, the individual reader has not been attentive enough to the crux of the resource materials.

This paper therefore attempts taking a shot at the concept of document and its types, with particular concerns on public document, the means of proof of its existence, condition and contents and other compelling imperatives and trends. The paper further identifies some misunderstanding/loose expressions from some of the afore-stated major legal actors, while effort is exerted to redirect the legal minds on the pristine path of the law.

Document Defined

Before a meaningful discourse on the subject could be engaged in, it is imperative making a general comment on the concept of document. Before 3rd June, 2011 in Nigeria[2], the word 'document' used to be defined around the premise of "Books, maps, plans, graphs, drawings, photographs, and also includes any matter expressed or described upon any substance by means, intended to be used or which may be used for the purpose of recording that matter".[3] Although the repealed Evidence Act made use of the word 'includes' in defining 'document',[4] the courts had only understood the term 'document'

[2] When the extant Evidence Act came into force
[3] See section 2(1) of the repealed Evidence Act
[4] When a piece of legislation lists items or situations to be covered by a law with the prefix "includes" or "including", as in section 258 of the Act, it means the list is not exhaustive. See **F.R.N. v. Fani Kayode** [2010] 14 NWLR (Pt. 1214) 481 @ 503D-F; **Madam Alice Okesuji v. Fatai Alabi Lawal** [1991] 1 NWLR (Pt. 170) 661 @ 676 (*Per* Akpata JSC) and **Lawrence Jirgbagh v. U.B.N Plc.** [2001] 2NWLR (Pt. 696) 11 @ 30, *Per* Chukwuema- Ene, JCA.

within this ambit. Thus, it was not difficult for the court in **F.R.N. v. Fani Kayode**[5] to embrace 'computerized statement of accounts', which in the view of the court encompasses 'computerized bank statement of accounts', as document while the court in **Udoro v. Gov., Akwa Ibom State**[6] found classifying a video tape as a document beyond the reach of the statutory provisions.[7]

Over time, the courts have also had their *bits and pieces* of the definition of the term 'document'. Thus Darling J. in **R v. Daye**,[8] defined a document as any written thing capable of being evidence. Similarly, the Court in **Udoro v. Gov., Akwa Ibom State**[9] defined document as "an instrument on which is recorded, by means of letter, figures, or marks, the original, official, or legal form of something, which may be evidentially used. In this sense, the term 'document' applies to writing, to words printed, lithographed, or photographed; maps or plans; to seals, plates, or even stones on which inscriptions are cut or engraved. In the plural, the deeds, agreements, title-papers, letters, receipts and other written instruments used to prove a fact. Within the meaning of the best evidence rule, document is any physical embodiment of information or ideas; for example, a letter; a contract, a receipt, a book of account, a blue print, or an x-ray plate".

Post that era[10], however, **Section 258 of the Evidence Act, 2011**[11] **(the "Act")** now defines documents to include:

a. Books, maps, plans, graphs, drawings, photographs, and also includes any matter expressed or described upon any substance by means, intended to be used or which may be used for the purpose of recording that matter;

---

[5] *Supra* @ 506 B-D
[6] [2010] 11 NWLR (Pt. 1205) 322
[7] The courts may now conveniently admit video tapes in evidence as document under the expanded scope of the extant Evidence Act
[8] [1908] 2 KB 333 @ 340
[9] *supra* @ 335-336G-A
[10] Before 3rd June, 2011
[11] The extant Evidence Act

b. Any disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodies so as to be capable (with or without the aid of some other equipment) of being reproduced from it; and

c. Any film, negative, tape or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced from it; and

d. Any device by means of which information, is recorded, stored or retrievable including computer output.

While a "copy of a document" is defined under the same section as including:

a. In the case of disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced from it, a transcript of the sounds or other data embodied in it;

b. In the case of disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced from it, a reproduction or still reproduction of the image or images embodied in it whether enlarged or not;

c. In the case of disc, tape, sound track, film, negative or other device in which sounds or other data (whether or not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced from it, such a transcript together with such a still reproduction; and

d. In the case of documents, not being film, negative, tape or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced from it, but of which a visual image is embodied, a reproduction of that image, whether enlarged or not.

Imperatives For Admissibility Of Document Established

Documentary evidence[12] is the best form of evidence in the proof of a case.[13] Sometimes it may be necessary for a party to a proceeding in court to rely on the contents of a document in proof of his case. In such instance, he is required to bring the contents of the document to the notice of the court[14], whether by primary or secondary means.[15] A party relying on a document in proof of his case must specifically relate each of the documents to that part of his case in respect of which the document is tendered in support of his case.[16] This portends that there must be a nexus between the document and the specific area of his case, and this is why documents are usually tendered in the course of a trial at a point where the witness (through whom the document is to be tendered) is giving testimony in respect of facts which the document is probative of. No court will assume the responsibility of tying each of the bundles of documentary exhibits to specific aspects of the case for a party when the party has not himself done so.[17] A court can only determine an issue on legally admissible evidence. The courts have no discretion to act, even with the consent of the parties, on evidence made inadmissible by the express provision of a statute[18] just as the courts do not form or condone the habit of speculating on the contents of a document not tendered or produced before it.[19]

---

[12] It is a statement contained in a document produced as a means of establishing or proving a fact.
[13] **A.G., Rivers State v. A.G., Bayelsa State** [2013] 3 NWLR (Pt. 1340) 123 @ 163H; see also **Ogologo v. Uche** [1998] 11 NWLR (Pt. 572) 34
[14] See T.A. Aguda ***The Law of Evidence***, Ibadan: Spectrum Books Limited, *(4th Edition; 1999)*, Pg. 171
[15] This is discussed under the sub-head "General Means of Proof of the Contents of Document"
[16] See **Ucha v. Elechi** [2012] 13 NWLR (Pt. 1317) 330
[17] See **ANPP v. INEC** [2010] 13 NWLR (Pt. 1212) 549 @ 596-597H-B; See also **ANPP v. Usman** [2008] 12 NWLR (Pt. 1100) 1; and **Alao v. Akano** [2005] 11 NWLR (Pt. 935) 160
[18] See **Udoro v. Gov., Akwa Ibom State** *(supra)* @ 336H; **Lawson v. Afani Continental Co. Ltd.** [2002] 2 NWLR (Pt. 752) 585 @ 615D-E; **Yero v. UBN** [2000] 5 NWLR (Pt. 657) 470
[19] **Gbajor v. Ogunburegui** [1961] 1 All NLR. 853; **Oparaji v. Ohanu** [1999] 9 NWLR (Pt. 618) 290; **Odusole v. Mil. Gov., Ogun State** [2002] 10 NWLR (Pt. 776) 566 @ 602G-H

It is noteworthy that documents made when proceedings are pending or anticipated by an interested party are inadmissible.[20] Note also that the substance used in making the document or on which the writing may be inscribed is immaterial at all times.[21]

On a related note, any document to be tendered before the court must be in the language of the court.[22] Therefore, a document written in a language other than English Language needs to be translated into English Language, before the court can take full advantage of its content. Before the court can properly use such a document, its translation ought to be produced in evidence along with the document or a witness could be put in the witness box to do the translation. Where such document is not translated and it is used by the court, the use will be improper as the court would have combined its role as adjudicator with that of a translator who ordinarily ought to be called to testify in-chief, crossed examined and, if need be, re-examined. Under such circumstance,[23] the only course left to the court is to discountenance it. Thus, in **Lawson v. Afani Continental Co. (Nig.) Ltd.**[24] where the trial court admitted a document written in Hausa Language without its translation, the Court of Appeal, *coram* Salami JCA, while holding that the trial court was wrong in admitting the document in evidence, observed as follows:

> *"if the appellant left the document untranslated until he closed his case, the only course left to the court is to discountenance it. By charting the course it did, it abandoned its toga of impartiality and descended into the arena on the side of the party who produced the document that requires translation and did not translate it into the language of the court, English".*

---

[20] See **section 83 (3) of the Act and Arab Contractors (O.A.O) Nig. Ltd. v. Umanah** [2013] 4 NWLR (Pt. 1344) 323 @ 346-347G-H. See also **Alliance International Ltd. v. Saam Kolo International Ent. Ltd.** [2010] 13 NWLR (Pt. 1211) 270 @ 303-304E-A; **Ugwu v. Ararume** [2007] 12 NWLR (Pt. 1048) 365; **Gbadamosi v. Kabo Travels Ltd.** [2000] 8 NWLR (Pt. 668) 243

[21] See **R v. Daye** *[supra]*; See also Aguda op. cit.

[22] That is English Language

[23] That is where such document is left un-translated

[24] *Supra* @ 612D-H

Similarly, in **Abolarin v. Ogundele,**[25] where an un-translated document written in Yoruba was in issue, the same Court, *per* Denton-West JCA, again had this to say:

> *"It is axiomatic that English Language is the lingua franca of the superior courts in Nigeria. Hence, a document written in the dialect of the parties and which is not translated into the English Language is of no evidential value and should be discountenanced...as it is inadmissible...for such a document to be admissible, it must be translated into English Language...the translation must be done either by a competent witness called by the party to the proceedings who need to prove his case or by the official interpreter of the court. This is not court's responsibility."*

Furthermore, a document admitted in evidence may later in the same proceedings or even at the stage of the final judgment, be rejected by the court and expunged from its record, if found to be legally inadmissible and the court ought not to have admitted it in evidence in the first instance.[26] Also, where such document is wrongfully received in evidence at the trial court, even when no objection is raised, it is the duty of the appellate court to reject it and decide the case on legal evidence.[27] These principles have been recognized by the decision of the Supreme Court in **Nwosu v. Udeaja**[28], *per* Nnaemeka-Agu JSC, where it observed as follows:

> *"I very much doubt the propriety of the procedure whereby a judge admits some judgments as exhibits and later turns round to reject them as inadmissible. This procedure has not the support of decided*

---

[25] [2012] 10 NWLR (Pt. 1308) 253 @ 275-276F-A; see also **Ojengbede v. Esan** [2001] 18 NWLR (Pt. 746) 771; **Bello v. Sanda** [2012] 1 NWLR (Pt. 1281) 219 @ 243A-C ; **Asiniola v. Fatodu** [2009] 6 NWLR (Pt. 1136) 184 @ 198

[26] See **Ebenighe v. Achi** [2011] 2NWLR (Pt. 1230) 65 @ 79D-E; See also **Shanu v. Afribank** [2002] 17 NWLR (Pt. 795) 185

[27] See **Jacker v. International Cable Co. Ltd.** [1888] 5 T.L.R. 13; See also **Lawson v. Afani Continental Co. (Nig.) Ltd.** *(supra)*

[28] [1990] 1NWLR (Pt. 125) 188 @ 219

cases, unless, of course the original decision to admit them was null and void".

Generally, the triad criteria of pleading, relevancy and legality govern the admissibility of a document in evidence.[29] Thus, where a document is pleaded and established by proof of evidence, it cannot be rejected by the court.[30] The mere fact that a document is relevant does not automatically make it admissible without complying with the provision of the Act.[31] However, it is worthy of note that jurists have diverged in their views on this point. Thus, in **Ogunleye v. Aina,**[32] the Court of Appeal, *per* Agube JCA, stated as follows:

"assuming I am wrong in holding and in view of the settled position of the law that relevancy is and should be the determining factor in the admissibility of documents be they public or private and we can not run away from the facts that the documents impugned by the learned Dayo Akinlaja Esq. are all relevant to this appeal".

While his lordship, Rhodes-Viviour JCA (as he then was), in **Oghoyone v. Oghoyone**,[33] observed, in another regard, that:

"if I may add for emphasis, facts are pleaded and documents tendered in support of facts pleaded. Facts are pleaded and not documents".

In his wisdom, Garba JCA in **Ogu v. M.T. & M.C.S. Ltd**[34] saw the difference in opinion on this point as a matter of legal evolution where he observed that:

"I would say that by the initial position of the judicial authorities, before documents are allowed or become admissible in evidence, they must have been pleaded by either of the parties but more

[29] See **Anaja v. UBA Plc.** [2011] 15 NWLR (Pt. 1270) 377@404D-F; see also **Okonji v. Njokanma** [1991] 7 NWLR (Pt. 202) 131 and **Udoro v. Gov., Akwa Ibom State** *(supra)*
[30] See **Uzor v. D.F. (Nig.) Ltd.** [2010] 15 NWLR (Pt. 1217) 553 @ 574C-D
[31] See **Jacob v. A.G., Akwa Ibom State** [2002] 7 NWLR (Pt. 765) 18 @ 39E-F
[32] [2011] 3 NWLR (Pt. 1235) 479 @ 541A
[33] [2010] 3 NWLR (Pt. 1182) 564 @ 587B-C
[34] [2011] 8 NWLR (Pt. 1249) 345 @ 371G-H

particularly the party intending to use or tender it in evidence at the trial of a case. See Lawal v. G.B. Olivant (Nig.) Ltd (1972) 1 All NLR 207; Akande v. Alaga [1999] 4 NWLR (Pt. 86) 1; and Oyediran v. Alebiosu [1992] 6 NWLR (Pt. 249) 550 @ 559 where it was held inter alia by the Supreme Court that 'in civil proceedings, for a document to be admissible, it must not only be pleaded, it must also be relevant'. However, that position has been modified to the effect that where the document is the evidence by which a party seeks to prove or support the facts contained in his pleadings or pleadings of the other party, it need not be specifically pleaded before it becomes admissible in evidence. In the case of Allied Bank (Nig.) Ltd v. Akubueze [1997] 6 NWLR (Pt. 509) 374 @ 403, it was held that: 'documentary evidence in order to be admissible in evidence needs not be specifically pleaded so long as the relevant facts and not the evidence by which such document is covered are pleaded'... this later position is in line with the established principle of law that pleadings must contain and state only facts and not evidence by which the facts are to be proved...."

With due respect to their lordships, it is the authors' view that relevancy ipso facto does not determine admissibility of a document. Documents may be rejected where they are not pleaded (to enable their admissibility at least by reference to facts portraying their existence)[35] and where they do not comply with the provisions of the Act on admissibility, even though they are relevant to the proceedings before the court. In a related vein, documents may be pleaded by simply asserting or denying facts relating to its existence, or contents,[36] and later tendered in evidence. This is particularly so for two perceived reasons. First, the mere mention of the existence of a document in a pleading does not, without more, translate to pleading evidence. Documents in the instance would

[35] Even if not specifically pleaded as the Supreme Court tried establishing in **Allied Bank (Nig.) Ltd v. Akubueze** *[supra]*

[36] The aim essentially is to avoid springing surprises arising therefrom on the other party

very well qualify as facts[37] waiting to be proved in evidence. Second, it is trite law that reference to a document in a pleading makes the document part of the pleading.[38] This proposition is further reinforced by the position of the Supreme Court, *curam* Fabiyi JSC, in **Nigerian Ports Plc. v. B.P. PTE Ltd.,**[39] where it held as follows:

> *"the 3rd serious issue canvassed relates to the document in respect of clean report of findings which was rejected by the trial court. The document was rightly rejected since it was not pleaded by the appellant. As such, the trial court could not make any inference from the clean report of finding or give any judgment based on it".*

Document: Types & Discourse

There are two (2) types of documents recognized under the Act[40]:

1. Public Document; and
2. Private Document

Public Document

Lord Blackburn defined public document in **Sturla v. Freccia**[41] as "a document that is made for the purpose of the public making use of it, and being able to refer to it. It is meant to be where there is a judicial or quasi-judicial duty to inquire, as might be said to be the case with the bishop acting under the writs issued by the crown". This account by Lord Blackburn also represents the English Common Law description of public documents and serves as the basis upon which the set criteria for testing whether or not a document qualifies as public document were formed at Common Law. The criteria are:

a. Public duty to inquire and record;
b. Public matter;

---

[37] 'Fact' is defined under **section 258 of the Act** "as anything, state of things, or relation of things, capable of being perceived by the senses...."
[38] See the decision of the court in **N.M.A. Inc. v. N.M.A.** [2012] 18 NWLR (Pt. 1333) 506 @ 535-538G-G; 551B-E; 553F-H
[39] [2012] 18 NWLR (Pt. 1333) 454 @ 489-490H-A
[40] See sections 102 & 103 of the Act
[41] [1880] 5 AC. 623 @ 643-644

c. Retention; and
d. Public retention.

It is based on these criteria that lord Blackburn in that case[42] held inadmissible as public document the report of a committee appointed by the Genoese government on the fitness of a candidate for the post of consul which contained a statement of his age as evidence of that fact. The basis of arriving at this judgment Colin Tapper expressed in the following words:

> *"the grounds on which the House of Lords held that the evidence should be rejected were that the report was not made under a strict duty to inquire into all the circumstances it recorded, it was not concerned with a public matter, it was not intended to be retained and it was not meant for public inspection".*[43]

Quite disparate from the Common Law dimension on the subject, **section 102 of the Act** defines public document as:

a. Documents forming the acts or records of the acts of:
    i. The sovereign authority;
    ii. Official bodies and tribunals; or
    iii. Public officers, legislative, judicial and executive, whether of Nigeria or elsewhere; and
b. Public records kept in Nigeria of private documents.

A cursory look at the afore-reproduced statutory provisions would reveal that the Act's definition of public document, as against the Common Law position, is in 2 folds. Under the first arm, the Act recognizes documents forming the acts or records of the acts of sovereign authority, official bodies and tribunal and other public officers in Nigeria or elsewhere. This arm aligns superficially[44] with the Common Law definition on public document. But where they both

[42] **Sturla's case** *(supra)*
[43] C. Tapper, ***Cross & Tapper On Evidence,*** London: Butterworth, *(8th Edition: 1995)*, Pg. 639
[44] Not exactly

completely differ is on the second arm, which embraces public records kept in Nigeria of private documents. Aguda in his writing on Evidence flagged this crucial point, though left same unaddressed where he posited that:

> *"this definition under the Act must be distinguished from the definition of 'a public document' under the English Common Law, as laid down in Sturla v. Freccia…."*.[45]

Notwithstanding the above, the definition of public document offered by the Common Law, it is humbly suggested, may render useful extrinsic guide to understanding/opening up the first arm of the definition under the Act.[46] This is so because while the Act speaks of public documents in terms of documents forming the acts of given categories of public authorities and officers in Nigeria or elsewhere, or records of such acts, it does not say in specific terms what would constitute those acts, for instance, whether or not it includes routine functions or restricted to special assignments of such authorities or officers. This, it is humbly submitted, explains the difficulty of the court in **R v. Taoridi Lawani**[47] in determining whether or not a Police Accident Report Book **("PARB")** constitutes a public document. Although, the Court in that case[48] held that the PARB does not constitute a public record as it is not a document forming the acts or records of the acts of public officers as 'the acts' in the definition under the Act do not envisage inquiries which a police officer may make. The arising poser therefore is "what acts then constitute 'the acts' referred to by the Act?". It is accordingly suggested that there should be some identified bases/parameters for determining what is or is not covered by 'the acts' under the Act. It is further submitted that the position of the Court on PARB in that case[49] might have been different had the Court been guided by the Common Law criteria, given that:

---

[45] Aguda op. cit. Pg. 172
[46] This is without prejudice to the trite principle of law that where an Act of Parliament exists on a legal principle covered under Common Law, the provisions of the Act prevails
[47] (1959) LLR. 97
[48] **R v. Taoridi Lawani** *(supra)*
[49] ibid

- PARB is used for recording a Police officer's finding on accident cases (routine public duty of a Police officer);
- Accident may be a public matter[50];
- The PARB is not a one-off document but usually retained at the Police Station and used for all such records; and
- The PARB may serve as a reference point to the public.

The Court of Appeal, *per* Peter-Odili JCA (as she then was), reasoned in this direction, when it observed in **Amadu v. Yantumaki**[51] that**:**

> *"The definition of a public document needs to be made known as much as it is possible for one to attempt. The attributes of a public document are that it is created over a public matter, preserved for the good of the public and open for public inspection and use.... the principles upon which a public document is admissible is that there should be a public inquiry, a public document and made by a public officer. In other words, a public document is a document that is made for the purpose of the public making use of it and being able to refer to it. The very object of it must be that it should be made for the purpose of being kept public so that the person concerned in it may have access to it afterwards."*

Similarly, the Supreme Court jumped the gun in **Araka v. Egbue**[52] when it abruptly affirmed the decision of the court below that a letter written by a public officer in libel of another amounted to public document. In that case, the appellant, as plaintiff, filed an action claiming the sum of ₦10,000,000 as damages for libel against the respondent in a letter dated 10th September, 1984, written by the respondent concerning the appellant and in the way of his office as Chief Judge of Anambra State. After joining issues, the appellant opened his case, called his first witness and tendered a photocopy of the said letter through him, after stating that the original copy could not be found. The lower court

[50] Even though, it does not concern the entire community. See **Sturla's case** ***(****supra)*
[51] [2011] 9 NWLR (Pt. 1251) 161 @ 185A-C
[52] [2003] 33 WRN 1; [2003] 17 NWLR (Pt. 848) 1

admitted the letter in evidence but on appeal and further appeal to the Supreme Court, the letter was held to be a public document, the only secondary evidence admissible of which is a certified copy. It is very difficult, with due respect to their lordships, to understand why the Supreme Court did not first ascertain whether or not a mere official correspondence between judicial officers[53] amounts to a public document before uncritically affirming with the decision of the court below that the only secondary evidence of the letter written by the respondent to the appellant admissible is a certified copy. Key to getting this right[54] is that such document, apart from the fact that it should have emanated from a public office/officer, it must have been created over a public matter, preserved for the good of the public and open for public inspection and use.[55] Thus, in **Shyllon v. University of Ibadan**[56] where a letter addressed to the appellants, who were senior staff of the respondent, by the Senior Staff Disciplinary Committee of the respondent was called to question as to whether or not same amounted to a public document. The trial court held that the letter was a public document and, having not been properly brought before it, expunged same from its records. However on appeal, the Court, while remitting the application for an order of certiorari back to the lower court for hearing on the merit, held, and rightly so, that the letter did not amount to a public document but a mere official correspondence as there is nothing public about notifying an individual of a Committee's decision about him. This principle was re-echoed by the court in **House of Reps. v. S.P.D.C.N.**[57] where it observed that:

> *"A public document is a document made for the purpose of the public making use of it, especially in a judicial or quasi judicial duty. The feature of a public document is that it is created over a public matter, preserved for the good of the public and always*

[53] Particularly having nothing to do with public inquiry of any sort and does not involve a public matter or subject to public reference, inspection or use
[54] That is, from the premise of the first arm
[55] See **Amadu v Yantumaki** [supra]
[56] [2007] 1 NWLR (Pt. 1014) 1 @ 13-16H-C, *per* Augie JCA
[57] [2010] 11 NWLR (Pt. 1205) 215 @ 252A-B

accessible for public inspection and use especially by all those having something to do with it"

On the second arm of the definition under **section 102 of the Act,** public documents also include all 'public records kept in Nigeria of private documents'.[58] This arm of the definition covers all private documents deposited, whether by requirement of the law or otherwise, in public places and indeed intended for retention in such public places, public inspection and reference.[59] Also, a document, in the form of certificate or otherwise, issued by a public authority to private persons may qualify as a public document under this head.[60] It goes without saying therefore that where a private document is kept in a public place, it becomes a public record of the document, and the document, though a private document, acquires the status of a public document and its contents may be proved in evidence as such.[61]

On the other side of the typological divide, ***Private Documents*** are defined under **section 103 of the Act** as "all documents other than public documents".

Document: General Means of Proof

The contents of documents may be proved either by primary or secondary evidence.[62]

Primary Evidence means the document itself (original copy) produced for the inspection of the court.[63] This is an application of what is known at Common Law as 'the Best Evidence Rule'. It is the best and most natural way of proving the contents of a document and involves bringing the original copy of the

[58] But not usually put into perspective by authors in considering public documents

[59] A survey plan lodged with the Surveyor-General has been held to constitute a public document within the definition of the Act. See **Ariyo v. Adewusi** [2010] 15 NWLR (Pt. 1215) 78 @ 89E

[60] Thus, a certificate of incorporation of a company and Voter's Card have been held to constitute public documents in **House of Reps. v. S.P.D.C.N** [supra] @ 251-252H-A and **Ogboru v. Uduaghan** [2011] 2 NWLR (Pt. 1232) 538 respectively.

[61] See **Bob-Manuel v. Woji** [2010] 8 NWLR (Pt. 1196) 260 @ 273A-B

[62] See section 85 of the Act. see also the decision of the court in **Ogu v. M.C.S. Ltd.** *[supra]* @ 373C-D where the court stated that: "undoubtedly, these plain everyday language words used in the provisions leave no room for any viable argument against the position that the fair purport is to give the option, choice or discretion for a party to prove the contents of documents in general in judicial proceedings either by primary or secondary evidence thereof".

[63] See section 86 (1) of the Act. see also **Jacob v. A.G., Akwa Ibom State** *(supra)*

document before the court in proof of the statements made therein or other facts in issue.[64] A document executed in several parts, each part is primary evidence of the document.[65] While a document executed in counterpart, each counterpart, having been executed by one or some of the parties only, is primary evidence as against the parties who executed it.[66] Also, where a number of documents have been made by one uniform process, as in the case of printing, lithography, photography, computer or other electronic or mechanical process, each copy of the document is primary evidence of the contents of the rest, but where they are all copies of a common original, they are all primary evidence of the contents of the original.[67] Note that once a primary document is pleaded and established by proof of evidence, it cannot be rejected.[68]

On the other hand, ***Secondary Evidence*** includes certified copies of documents prescribed under the Act, copies made from the original by mechanical or electrical processes which in themselves ensure the accuracy of the copy, and copies compared with such copies, copies made from or compared with the original, counterparts of documents as against the parties who did not execute them and oral accounts of the contents of a document given by some person who has himself seen it.[69] Aguda has opined that:

> *"the Act does not make one type of secondary evidence superior to the other and it may be safely suggested that, following the English Common Law (as in Doe D. Gilbert v. Ross (1840) 7 M. & W. 138; 151 ER. 711) there are no degrees of secondary evidence in this*

[64] F. Nwadialo, ***Modern Nigerian Law of Evidence***, Ring Road, Benin-City: Ethiope Publishing Corporation, 1981, Pg. 131; see the decision of the court in **Ogu v. M.C.S. Ltd.** *[supra]* @ 374D-G where the court observed that "the law as far as the judicial practice on the application of the provision of sections 93 & 94(1) of the Evidence Act (now repealed) is concerned, has been that the best evidence of the contents of a document is the production of the document itself. Thus, the contents of a document may be proved by the production of the document in its original form, which is called the best evidence or by the production of a certified copy given under the relevant provisions of the Evidence Act, which is the secondary evidence of such document". See also **Fagbero v. Arobadi** [2006] 7 NWLR (Pt. 978)172 and **Ezemba v. Ibeneme** [2004] 14 NWLR (Pt. 894) 617

[65] See section 86 (2) of the Act

[66] See section 86 (3) of the Act

[67] See section 86 (4) of the Act

[68] See **Omoregbe v. Lawani** [1980] 3-4SC. 108; **Nigerian Maritime Services Ltd. v. Afolabi** [1978] 2SC. 79

[69] See section 87 of the Act

country. Once it is impossible to produce the original of a document, and it is a case in which secondary evidence of the contents is admissible, such secondary evidence may take the form of any of the documents listed in a-d above, or it may take the form of oral evidence".

While this assertion carries a level of precision, it need be added that the form of secondary evidence to be used under any circumstance depends also on the statutory prescription in that regard. This will be the case with public documents where any other form of secondary evidence, but a certified copy, is not admissible in proof of its contents in court.[70]

Aside the above, the Act also prescribes the circumstances under which secondary evidence may be used in proof of the existence, condition or contents of a document. The Act provides that secondary evidence may be given of the existence, condition or contents of a document when the original is shown or appears to be in the possession or power of a person against whom the document is sought to be proved or a person legally bound to produce it and has refused to do so after due notice to him.[71] It is also permissible under circumstances where the original of the document is admitted in writing by a person against whom it is proved or by his representative in interest or where the original has been destroyed or lost and in the latter case, all possible search has been made for it.[72] Again, where the original, in nature, is not easily movable, or is a public document, within the definition of the Act or a document of which a certified copy is permitted to be given in evidence by the Act or any other Law in force in Nigeria, or the document is an entry in a banker's book or consists of numerous accounts or documents which cannot conveniently be examined in

[70] See section 90 of the Act on the nature of secondary evidence admissible under section 89. See also **Araka v. Egbue** *[supra]* @ 26C-G
[71] Section 89(a) of the Act
[72] Section 89(b & c) of the Act

court and the fact to be proved is the general result of the whole collection, secondary evidence may also be given of the original.[73]

Furthermore, **section 90 of the Act** spells out the nature of secondary evidence admissible in evidence with respect to the various original documents mentioned under **section 89 of the Act**. Trimmed to this discourse, the only secondary evidence admissible of a public document is a certified copy thereof and no other.[74]

Public Documents: Means of Proof Under the Act

It is essential to start with here that the means of proof of documents generally is also the means of proof of public documents.[75] Thus, in the old case of **Ministry of Lands, Western Nigeria v. Azikiwe,**[76] the Supreme Court expounded the law that the categories of public documents that are admissible in evidence are either the original documents themselves or in the absence of such original copies their certified true copies and no other type of secondary evidence.[77]

The Act appears to tacitly classify public documents, for purposes of determining the means of proving their existence, condition or contents, into general documents and other official documents.[78] First category involves all public documents which any person has a right to inspect, a certified true copy thereof is sufficient for proof in evidence.[79]

Public documents under the second category may be proved by various other means prescribed by the Act. Thus, Acts of the National Assembly, Laws of the House of Assembly of a State or bye-laws of a Local Government Council, proclamations, treaties, or other acts of State order, notifications, nominations, appointments and other official communications of the Federal, State and Local

[73] Section 89(d-h) of the Act
[74] Section 90(c) of the Act
[75] That is, by primary and secondary evidence
[76] (1969) 1 All NLR 49
[77] See also **Araka v. Egbue** [supra]; **S.P.D.C. v. Aswani Textile Ind. Ltd.** [1991] 3 NWLR (Pt. 180) 496 @ 505; and **Nzekwu v. Nzekwu** [1989] 2 NWLR (Pt. 104) 373
[78] Combined reading of sections 104, 105 and 106 of the Act
[79] See section 105 of the Act

Council Governments in Nigeria may be proved by a gazette copy, or by a certified copy either issued by the officer who authorized or made such order or communication or by the appropriate head in charge of a government department whence such document emanates or by a government printed copy.[80] The proceedings of any of the Houses of National Assembly, the House of Assembly of a State or Local Government Council may be proved by the minutes of that body, by published laws or by copies printed by order of government.[81] Also, the Acts or Ordinances of any part of the Commonwealth and the subsidiary legislation made under their authority may be proved by a copy purporting to be printed by the government printer of such country.[82]

Meanwhile, proclamations, treaties or acts of State of any other country can be proved by journals published by their authority or commonly received in that country as such, or by a copy certified under the seal of the country or sovereign.[83]

As for books printed or published under the authority of a foreign country, and purporting to contain the statute, code or other written law of such country and also printed and published books of reports of decisions of the courts of such country, and books proved to be commonly admitted in such court as evidence of the law in such country, a copy of same may be admissible as evidence of the law of such foreign country.[84] However, judgment, order or other judicial proceeding outside Nigeria, or any legal document, filed or deposited in any court may be proved by a copy sealed with the seal of a foreign or other court to which the original document belongs, or, in the event of such court having no seal, to be signed by the judge, or if there be more than one judge, by any one of the judges of the said court and such judge must attach to his signature a statement in writing on the said copy that the court of which he is judge has no seal.[85] Alternatively, such documents may be proved by a copy which purports to

[80] Section 106(a)(i-iv) of the Act
[81] Section 106(b-d) of the Act
[82] Section 106(e) of the Act
[83] Section 106(f) of the Act
[84] Section 106(g) of the Act
[85] Section 106 (h)(i) of the Act

be certified in any manner which is certified by any representative of Nigeria to be the manner commonly in use in that country for the certification of copies of judicial records.[86]

Finally, public documents of any other class elsewhere than in Nigeria may be proved by the original or by a copy certified by a legal keeper of such document, with a certificate under the seal of a notary public or of a consul or diplomatic agent that the copy is duly certified by the officer having the legal custody of the original, and upon proof of the character of the document according to the law of the foreign country.[87]

Certified True Copies of Public Documents: Sundry Matters

A public officer having custody of a public document which any person has a right to inspect, on demand for it and payment of the prescribed fees, is required to give a copy of same to such person, certify at the foot of such copy that it is a true copy of the document or part thereof as the case may be, duly dated and signed with his name, official title and seal (if authorized by law as such).[88] On the backdrop of the foregoing statutory provision, the courts have found that a public document is duly certified, and thus admissible in evidence, where there is an endorsement/certification that it is true copy of the original in question, dated and signed by the officer responsible for certification with his name and official title and duly paid for.[89] Any officer who, by the ordinary course of his official duty, is authorized to deliver such copies, is deemed to have the custody of such document.[90] It is not necessary that such officer be called as a witness or subpoenaed to tender same. The document may infact be tendered by counsel from the Bar.[91]

Certified copies are deemed by law to be originals. Thus, where there is no certification, the presumption of regularity/genuineness will not be ascribed to

[86] Section 106(h)(ii)of the Act
[87] Section 106(i) of the Act
[88] Section 104(1-2) of the Act. See also **S.G. (Nig.) Ltd. v. Galmas International Ltd.** [2010] 4 NWLR (Pt. 1184) 361 @ 379C-H
[89] See **Tabik Investment Ltd. v. G.T.B. Plc.** [2011] 17 NWLR (Pt 1276) 240 @ 262A-B
[90] See section 104(3) of the Act
[91] See **Ogunyiya v. Okudo** (1979) 6-9 S.C. 32; (1979) All NLR. 105; **Orlu v. Gogo-Abite** [2010] 8 NWLR (Pt. 1196) 307 @ 335F

the document.[92] It is crucial to admissibility therefore that a copy of a public document, intended to be tendered in evidence, be certified so that the court is left with no alternative but to accept the authority of its contents.[93] Unlike other secondary evidence, a person tendering a certified copy of a public document in evidence needs not lay foundation as to the whereabouts of the original. Thus, in **Bob-Manuel v. Woji**[94] the respondent instituted the action against the appellant over the title to a parcel of land in Port-Harcourt. While the respondent claimed title by inheritance, the appellant claimed to have bought from one Patrick Okorie via a conveyance dated 5 June, 1973 and accordingly registered same at the Lands Registry in Port-Harcourt, a CTC of which he tendered in evidence. The respondent's counsel objected on the ground that since the document sought to be tendered was a CTC of the conveyance, foundation ought to be laid as to the whereabouts of the original and that, the appellant haven failed to do so, the CTC was inadmissible. In response, the appellant argued that since the document was certified from the Lands Registry, it was unnecessary to lay foundation. In its ruling, the trial court held that foundation ought to have been laid and accordingly rejected the document. On Appeal, the Court held *inter alia* that:

> *"When a private document is kept in a public place, it becomes a public record of the private document. Under section 91(2) of the Evidence Act, the court is empowered to dispense with the production of the original document if a certified copy of the original document is produced in lieu. This section does not require a witness to explain where the original is. Under section 95 of the Evidence Act, all kinds of secondary evidence are listed, this includes 'certified copies'. In giving secondary evidence of all categories, except certified true copy, as provided for in section 97 (1)(a-d, g&h) of the Evidence Act, evidence of the whereabouts of the original must be given."*

[92] See section 146 of the Act
[93] **Tabik Investment Ltd. v. G.T.B. Plc.** *[supra]* @ 262B-C
[94] *Supra* @ 273B-E

Furthermore, there has been divergence of juristic views on the admissibility of photocopy of a certified copy of a public document. On the one hand, some believe that the photocopy of a CTC needs no further certification[95], yet, others remain resolute, and rightly so, that same must be re-certified to render it admissible in evidence.[96] His lordship, Niki Tobi JSC, in **Araka v Egbue**[97] rationalized this position, where he observed that:

> *"...in this age of sophisticated technology, photo tricks are the order of the day and secondary evidence produced in the context of section 97(2)(a) could be tutored and therefore not authentic. Photo tricks could be applied in the process of copying the original document with the result that the copy, which is secondary evidence, does not completely and totally reflect the original and therefore not a carbon copy of the original. The court has not the eye of an eagle to detect such trick."*

Aside the above, this position is more tenable on a number of legal grounds. First, a combined reading of sections 89(e) and 90(c) of the Act leaves no scintilla of doubt that the Act contemplates at all times that the only secondary evidence admissible of a public document is a CTC thereof. Second, the essentials to render such copy admissible also stand in the way of a photocopy qualifying for admissibility.[98] Third, reliance on section 89(f) of the Act for its admissibility further complicates the issue when read against the backdrop of section 90(c) of the Act.[99]

Note however that, public documents exhibited as secondary copies in affidavit evidence need not be certified. This is so because, documents exhibited in an

---

[95] See **D.T.N. v Williams** [1986] 4 NWLR (Pt. 36) 525 @ 536; **I.M.B. Nig. Ltd. v. Dabiri** [1998] 1 NWLR (Pt. 533) 284; **Kabo Air Ltd. v. Inco. Bev. Ltd.** [2003] 6 NWLR (Pt. 816) 323 @ 339; **Iheonu v. Obiukwu** [1994] 1 NWLR (Pt. 322) 594; **A.C.B. Plc. v. Nwodika** [1996] 4 NWLR (Pt. 443) 470; **Daniel Taylor Trans. Ent. Ltd. v. Busari** [2001] 1 NWLR (Pt. 695) 482; **Kerri v. Ezunaka Bros. Ltd.** [2003] 25WRN 54 @ 63

[96] See **S.P.D.C (Nig.) Ltd. v. Nwolu** [1991] 3 NWLR (Pt. 180) 496 @ 504; **Kubor v. Dickson** [2013] 4 NWLR (Pt. 1345) 534 @ 579B-F; **Ogboru v. Uduaghan** *[supra]* @ 571-574C-B

[97] *Supra*

[98] As upheld by the Court in **Tabik Investment Ltd. v. G.T.B. Plc.** *[supra]* that there should be an endorsement/certification that it is true copy of the original in question, dated and signed by the officer responsible for certification with his name and official title and duly paid for

[99] As the courts attempted doing in **Ogunleye v. Aina** [2011] 3 NWLR (Pt. 1235) 479 @ 538-539G-A and **Alade v. Olukade** (1976) 2 SC

affidavit are already exhibits/evidence before the court. They form part of the evidence adduced by the deponent and are deemed to be properly before the court.[100]

Public Documents: Misconception On Means of Proof

In spite of the well settled position of the law that public documents may be proved by the production of the original[101] or, in its absence or ready availability, a certified true copy thereof, there appears to be some level of conscious/unconscious misconception from some quarters. A holistic read of majority of the text on the Law of Evidence would convey this pristine legal stance. However, an exclusive assessment of the topic under consideration, with due respect, poses some level of misdirection to its readers. Hence the level of misunderstanding demonstrated on the subject by law students, legal authors, legal practitioners and, sometimes, judicial officers. Examples abound in this regard.

Aguda in his book stated that "the general method of proving a public document is by the production of a certified copy of it or of the parts of it that are required for the proceeding in court".[102] On his part, Fidelis Nwadialo expressed this thus: "Secondary evidence mainly is used in the proof of the contents of public documents.... apart from this general method of proof of public document....".[103]

The Courts had, occasionally, made loose expressions in this regard Thus in **Buhari v. Obasanjo**[104] the Supreme Court observed that:

> *"Public documents in private possession must be certified to be admissible in evidence. It is immaterial whether they are pleaded and are relevant to the proceedings."*[105]

[100] See **British American Tobacco (Nig.) Ltd. v. International Tobacco Co. Plc.** [2013] 2 NWLR (Pt. 1339) 493 @ 520-521A-E
[101] Which, at all times, remains the best evidence
[102] Aguda op. cit. Pg. 173
[103] Nwadialo op. cit. Pg. 135
[104] [2005] 13 NWLR (Pt. 941) 1
[105] See also **Uduma v. Arunsi** [2012] 7 NWLR (Pt. 1298) 55 @ 143F-G

Similarly, the Court in **House of Reps. v. S.P.D.C.N**[106] had held that it is trite law that only certified copies of public documents are admissible in evidence in legal proceedings.

Amazingly, where a public officer was subpoenaed to produce some documents in his custody in **Chief Philip Anatogu & ors. v. Igwe Iweka II (Eze Obasi)**[107], the Supreme Court, *per* Uwais JSC, held inter alia that:

> *"...This is not the procedure followed by the respondents. Instead they called for the public registers in their original form to be produced. There is no provision of the Evidence Act which specifically applies to the production of the original copies of public documents... the latter section allows for the certified copies of the documents to be produced but even then, what were sought to be tendered in this case were not certified copies but the original public documents."*[108]

Aside the above, it is also widely misconceived by some jurists, and as already dealt with[109], that a photocopy of the CTC of a public document is admissible in evidence.[110]

Redirection

Without doubt, the various academic texts on the Law of Evidence in circulation, whether cited here or not, carry the proper message with respect to the means of proof of the contents of public documents in evidence, but for one reason or another, there appears to be a disconnect in the general message conveyed to readers in this regard.[111] This is most apparent when the simplicity

---

[106] *(supra)* @ 252C
[107] [1995] 8 NWLR (Pt. 415) 547 @ 571E-C
[108] See also **Bob-Manuel v. Woji** *(supra)*
[109] Discussed under the head "Certified True Copies of Public Documents: Sundry Matters"
[110] See the decisions of the courts in **Magaji v. Nigerian Army** [2008] All FWLR (Pt. 420) 603 at 640; **D.T.N. v Williams** *[supra]*; **I.M.B. Nig. Ltd. v. Dabiri** [supra]; **Kabo Air Ltd. v. Inco. Bev. Ltd.** *[supra]*; **Iheonu v. Obiukwu** *[supra]*; **A.C.B. Plc. v. Nwodika** *[supra]*; **Daniel Taylor Trans. Ent. Ltd. v. Busari** *[supra]*; **Kerri v. Ezunaka Bros. Ltd.** *[supra]*
[111] Hence the portions from the texts cited

of the subject is juxtaposed with the position oft-maintained by some[112] on the point.

There is nothing in the Act that prevents the proof of the contents of public documents by primary evidence, whether by the public copy if readily available and convenient[113] or any other original copy thereof.[114] In the rationalizing words of Fidelis Nwadialo:

> *"Practical considerations make the use of secondary evidence inevitable in proof of public documents in court. First, there is the problem that will arise if the original of the same public document is required in two or more courts at the same time. There is also the disorganizing effect on the public service by frequent productions of public records in court...."*[115]

This assertion, on its merit, is correct, though not entirely, when viewed from the precinct of the first arm of **section 102** of the Act on the definition of public document. It may not be so if tested on the second. The danger in the position maintained by the learned author is that it leaves the impression in its readers that the only original copy of such document is that in the custody of the public authority and that may not always be correct. For instance, where the law requires a title owner of a landed property to register the instrument of his title at the appropriate Lands Registry[116], this does not automatically convert all other executed copies of the title document to secondary copies of the copy thereby deposited. This instance is also true about documents such as Power of Attorney and Survey Plans deposited at the appropriate public offices,[117] and even Certificates[118] emanating from public authorities. Thus, the mere fact that certain public places have been identified as depositories for public reference does not thereby convert documents so deposited as exclusive original copy

[112] Particularly legal practitioners and lower courts
[113] See **Chief Philip Anatogu & ors v. Igwe Iweka II (Eze Obasi)** *[supra]* @ 572
[114] See **Ogu v. M.T & M.C.S Ltd.** *[supra]* @ 373B-D
[115] Nwadialo op. cit.
[116] Which by its essence is a public office
[117] Lands Registry, Town and Urban Development Planning
[118] See **House of Reps. v. S.P.D.C.N** *[supra]*

thereof, and requiring proof of any other by certified true copy.[119] The Court of Appeal, *curam Opene JCA*, in **Ebu v. Obun**[120] expressed its shock where an original copy of a document was requested to be certified as follows:

> *"I do not know how the learned counsel came about this argument. when a copy of a document is certified, it is certified to be a true copy of the original, if then the original is to be certified, what will it be certified to be? Will it be certified as a true copy of itself (original)?"*

Primary evidence, at all times, remains the best means of proof of the contents of a document. It is only in its absence or ready availability that recourse may be had to secondary evidence, hence the need to lay foundation before adducing same. The express provisions of section 89 of the Act, in its opening phrase, make this point abundantly clear, by the use of the word 'may'.[121] The word operates in the provision to give a party the option or discretion to prove the contents of a document generally in judicial proceedings either by primary or secondary evidence.[122] The CTC of a document, being a secondary copy in character, cannot, therefore, displace or override the original, if still in custody of the original holder.

On the other note relating to the admissibility of photocopy of a CTC of a public document, with due respect, this misconceived position is legally unpopular and unsupported on the grounds earlier advanced in this regard. Moreover, the best purpose such photocopy could serve is as secondary copy of the CTC, which, in its own right, is inadmissible, as the only admissible secondary copy of a public document is a CTC of the original and not any other type of secondary copy

---

[119] The definition of primary document should be constantly borne in mind
[120] [2004] 14 NWLR (Pt. 892) 76 @ 88
[121] While this may not be the proper forum for discussing the varying judicial interpretations of the word "may", it has been held to connote permissive action, even though in exceptional circumstances, it may mean mandatory or compulsory action. See **Nigerian Navy v. Labinjo** [2012] 17 NWLR (Pt. 1328) 56 @ 77G-H
[122] See **Ogu v. M.T & M.C.S Ltd.** *[supra]*

thereof.[123] To be admissible therefore, such photocopy requires a recertification by the appropriate authority to render it admissible in evidence.

Conclusion

In this paper, attempt was made to examine the concept of public documents as a means of proving facts in evidence, its underlining principles and other prevailing trends, including misconceptions, amidst legal authors, practitioners and judicial officers.

The point was made that to take the definition of public document under the first arm of **section 102 of the Act**, a document must emanate from a public office/officer, created over a public matter, preserved for the good of the public and open for public inspection and use. However, under the second arm, the document, though officially acquires the public document status, still subsists in private custody, thereby making available other copies of the original document for proof of its contents in evidence where the need arises.

Hence, contrary to assertions in some quarters rendering the most viable means of proving the existence, condition or contents of public document in evidence as secondary evidence, the law remains settled that public documents may be proved by the production of the original or, in its absence or ready availability, a certified true copy thereof. The original being at all times the best evidence.

Also, it was established that the only secondary evidence admissible of a public document, of a general nature, is a certified copy thereof. To qualify as duly certified, the document must have been issued by the appropriate public authority, with endorsement/certification as to the authenticity of the copy, dated, signed with the officer's name and title and duly paid for. These essentials, among other flagged legal bases, explain the inadmissibility of photocopy of a certified copy of a public document in evidence, less such

[123] See the decisions of the courts in Araka v Egbue *(supra)*; **S.P.D.C (Nig.) Ltd. v. Nwolu** *[supra]*; **Kubor v. Dickson** *[supra]*; **Ogboru v. Uduaghan** *[supra]*

photocopied public documents exhibited to an affidavit. Yet, the Act spells out some special means of proving some specified public documents.

Lastly, whilst this paper benefitted heavily from the invaluable authorities of existing legal works[124] and judicial decisions on this stale legal point, the cause of the interminable misunderstanding of this clear legal point by a section of the major legal actors remains unresolved.

[124] Particularly those cited herein