Recording of Reason and Consolidation of Suits Comment on the Decisions given by the Federal Supreme Court in File Numbers 41243 and 36353

Tewodros Meheret*

This comment relates to two decisions given by the Cassation Division of the Federal Supreme Court on the same object and the same date. That is the reason why they are made the subject matter of this comment. The cases have both procedural and substantive dimensions. However, the focus of this comment is the procedural issues incidental to the cases which, in fact determined the outcome of the cases with respect to the substantive rights of the parties. Three procedural issues are selected which arise from the two cases. The first is the practice of courts not to record their reasons for decisions which is extensively adopted by appellate courts. The second issue correlates to the specific procedural question of consolidating the two cases which has affected the position the Court has taken. The third issue is the introduction of additional evidence and the discretion of courts in allowing or prohibiting new evidence. These cases have been given final decision after passing through the different courts in the hierarchy of federal judiciary. In this comment we will examine the background of the cases and the issues that arise wherefrom and finally the conclusion to be made.

I. Background

As stated above this comment involves two cases decided in files no 41243 and 36353 by the Cassation Division of the Federal Supreme Court. In both files the parties are the same, albeit with different roles. The decisions are given by the same Division of a court on the same date i.e 22/8/2001 E.C. The disputes in both files relate to the same property.

In file no. 36353, W/ro Menbere Engidawork is the applicant while Ato Betseha Merhawi is the respondent. In file no. 41243 Ato Betseha Merhawi is the applicant while W/ro Menbere Engidawork is the respondent. In both files the object of the dispute is a house located in Addis Ababa Bole Sub-city Kebele 05 whose no. is 067 and the focal point of the dispute correlates to the validity and performance of the sale agreement involving the house concluded on 16/2/1998 E.C.

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* The author holds LLM from Addis Ababa University. Currently he is lecturer and Attorney-at - Law. He can be reached at: tmeheret@yahoo.com. The author is grateful to and acknowledges the valuable comments rendered by Ato Yazachew Belew, lecturer at School of Law, AAU form which this case comment greatly benefited. But errors, if any, are mine.

The decisions of the Cassation Division of the Supreme Court are a simple confirmation of the judgments given by lower courts. They are composed of only two paragraphs Most of the issues are brought about by the dissenting opinion recorded in the decision. Thus, the following issues transpire when we read the dissenting opinion:

- Whether in the cases under consideration consolidation was dispensable
- Whether one of the cases under consideration the court correctly rejected relevant evidence
- Whether courts are at liberty not to state/record reasons in their judgments

In the forthcoming discussion an attempt will be made to address those issues which arise from the cases. Before going deep into dealing with the subject matters, a brief background of the cases is presented below.

1.1 The case initiated by W/ro Menbere Engidawork

In the action instituted in the federal High Court (file no. 22320), she requested the Court to grant the relief that the defendant be ordered to deliver the house which he took possession of by virtue of the power of attorney which is revoked and to pay rent. The defendant replied that he is in possession of the house by virtue of the sale agreement signed on 16/2/1998 E.C , not by a power of attorney. While this case was pending, the plaintiff requested the Court to allow her to submit the judgment of another court which rejected the request of the defendant for transfer of title as per the sale agreement signed on 16/2/1998 E.C. But this request was turned down. The Court rendered judgment on the merit on 4/11/1998 saying that the application lodged by the plaintiff is rejected as it claims that the defendant is holding the house as an agent while in actual fact it is the sale agreement that gives him the right. This judgment is upheld on appeal to the Federal Supreme Court. The Cassation Division also confirmed it by majority. As stated above the judgment of the Division is too brief to reveal the rationale behind supporting the decisions of lower courts. However, the minority opinion is plainly articulated setting forth why it dissents from the position of the majority in the following words:

> *«... በመዝገብ ቁጥር 36353 አመልካች ለተጠሪ ቤቱን አያስረክብም የሚለውን የስር ፍርድ ቤት ውሳኔ አጽንቶ በዚህ መዝገብ (በመ/ቁ 41243 ማለት ነው) ደግሞ በአመልካች የቀረበው የቤት ሽያጭ ውል ተጠሪን አያስገድዳትም የሚለውን የበታች ፍርድ ቤት ውሳኔ ማጽናቱ አመልካችንም ሆነ የተጠሪን መብት በፍርድ እንዲቀጭ*ና ተፈጻሚ *ለማድረግ የማያስችል እርስ በእርሱ የሚቃረን ነው...»*
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> *(Confirming the decision in file no. 36353 which says that the respondent should not deliver the house and the decision in this file which declares that the sale agreement doesn't bind the defendant is self defeating and contradictory and prejudicial to the rights of the parties* (translation mine)).

1.2 The case initiated by Ato Betseha Merhawi

This suit was instituted in the Federal First Instance Court (file no. 10771) by Ato Betseha Merhawi on 27/12/1995 E.C requesting the court to order the defendant, W/ro Menbere Engidawork, to appear before the notary public and sign the form to transfer title of the house he bought from the defendant by a sale contract signed on October 26, 16/2/1998 E.C. The defendant responded by denying the sale contract. The Court framed the issue of whether there is a contract to bind the defendant and rejected the suit by a judgment given on 26/4/1998. The Court reasoned that the thumb-mark of the defendant who is illiterate is not authenticated by a notary, registrar or a judge, thus not binding on her. An appeal to the Federal High court confirmed the judgment of the lower court on the same ground. The Cassation Division of the Federal Supreme Court by majority confirmed the judgments given by the lower courts. Here also, the judgment is too brief to reveal the rationale behind the support for the decisions of lower courts whereas the position of the minority opinion is clearly articulated. The dissenting opinion is not on the merits of the case, but rather on a procedural issue. It contended that the two files should have been consolidated.

II. Issues Arising from the Decisions

The above cases make it clear that we have two cases which refer to the same object and the final decree by the Cassation Division is by majority. Thus, the questions whether the above two cases should have been consolidated, whether additional evidence should have been admitted and whether the court has the discretion to dispense with recording the rationale of its decision arise therefrom. We will examine each of these questions below.

2.1 Consolidation of suits

The first issue to be addressed is whether in those particular cases under consideration consolidation of the two cases was proper as contended by the dissenting judge. The reason why the majority opinion didn't concur on the consolidation of the cases is not to be found in the decision it has rendered and it is not rational to speculate. Rather, the reason stated by the minority opinion will be examined in light of the facts of the cases and the law.

The consolidation of two actions is appropriate only if the legal requirements are fulfilled. Articles 8(1) and 11(1&2) of the Civil Procedure Code lay down the rule for consolidating suits or appeals. The prerequisites are:

- two or more suits or appeals are pending
- they are between the same parties litigating in the same title
- they are pending in the same court (or even in different courts)
- same or similar questions of law or fact are involved

In the cases at hand, we have two cases pending in the same court namely, the Cassation division of the Federal Supreme Court. The parties are the same even if they shift positions as applicant and respondent in the two cases. The only requirement that remains to be appraised profoundly is whether the same or similar question of law or fact arises in the two cases.

The details of the facts of the case are presented above. It has been pointed out that in both files the object of the dispute is a house located in Addis Ababa Bole Sub-city Kebele 05 whose No. is 067. The remedies sought with respect to this same house by the parties were reclaiming possession of the house and transfer of title. W/ro Menbere Engidawork requested the court to order the restoration of occupancy of the house while Ato Betseha Merawi pleaded that ownership must be transferred. The basis for the claim of Ato Betseha was the agreement for the sale of the house concluded on 16/2/1998 E.C while the claim of W/ro Menbere was based on the revocation of the power attorney which was alleged to be the reason why the house was in the possession of Ato Betseha.

Further, one of the grounds that W/ro Menbere invoked for her application to the Cassation Division is that the trial court, ie, the Federal High Court refused to admit as evidence a prior judgment of the Federal First Instance Court which invalidated the sale contract of 16/2/1998 and rejected Ato Betsha's claim of ownership of the house on the basis of this contract... The High Court in rendering its judgment stated that the suit claims that the defendant is holding the house as an agent while in actual fact it is the sale agreement that gives him the right he has over the house.

As a result, we have two judgments giving different effects to the same contract: a court said that it is not binding revoking the sale contract on the basis of which ownership as well as possession was claimed by the purported buyer. Another court held that same contract justifies possession as the defendant adduced the sale contract by which he has become the owner. Hence, a document abandoned by a court is accepted as justifying the defense by another court. Even if apparently the action brought by w/ro Menber was originally possessory, the defendant responded that he has more title than mere possession based on the sale contract he concluded with the plaintiff/seller. First, in both cases it the right arising from the sale agreement which is the basis of claim or defense and the status of this document should be addressed in both files. Second, in both cases ownership is made an issue since Ato Betsha's defense against the claim of possession was the contract which supposedly conferred ownership right on him. Thus, it is obvious that the two suits involve similar (if not the same) questions of law and fact.

Consolidation of the two suits was a point of consideration, in file number 41243 as it can be gathered from the dissenting opinion. The judge who argued in favor of consolidation said that

> ...በዚህ መዝገብ የሰጠውን ውሳኔ የሚቃረንና ችሎቱ በዚህ መዝገብ የሰጠውን ውሳኔ ዋጋ የሚያሳጣ ውሳኔ በሰበር መዝገብ ቁጥር 36353 ሚያዚያ 22 ቀን 2001 ዓ.ም የሰጠ በመሆኑ ሁለቱ መዝገቦች የፍትሐብሔር ሕግ ቁጥር 11/5/ መሠረት ተጣምረው ጉዳዩ መቋጨትና የመጨረሻ ውሳኔ ማግኘት ሲገባው የአመልካችም ሆነ የተጠሪን መብት የሚያጣብብና በእንጥልጥል በሚያስቀር መንገድ መወሰኑ ተገቢ አይደለም በሚል ምክንያት ተለይቻለሁ::
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> *(I have dissented from the majority as the bench has given a decision on April 30, 2009 in file no. 36353 which contradicts and invalidates the decision given in this file while the two files should have been consolidated pursuant to Art 11(5) of the Civil Procedure Code and disposed of rather than deciding the case in such a way that constricts the rights of the parties and leaves the matter unresolved.*(translation mine))

The device of combining actions enables the court to merge several actions into one and renders a single judgment for what has become a single action. Ethiopian law recognizes this device and sets procedural prerequisites which have been discussed above with the conviction that the same issues shouldn't be resolved by two different courts or divisions of a court.[1] These requirements and the rationale behind its adoption are more or less similar in different jurisdictions. Several benefits accrue because of consolidation of actions. First, it increases the productivity of courts by arranging for simultaneous resolution of issues or entire action. Second, it avoids the inconvenience, delay and expense multiple actions entail. [2] It further prevents inconsistent and contradictory judgments in relation to the same issue.

The test for whether actions should be consolidated is essential even if the general perception is that it is purely the discretion of courts whether to allow consolidation or not.[3] In some jurisdictions it suffices if the actions involve at

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[1] R.A.Sedler, Ethiopian Civil Procedure, (HSIU, Addis Ababa, 1968), p.50

[2] Jack H. Friedenthal, M.K.Kane, A. R. Miller, Civil Procedure(3rd ed.), (west group, St. Paul Minn. 1999) p. 323-324

[3] In fact, unlike the gist of Article 11, Article 8 of the Civil Procedure Code implies that courts are prohibited from entertaining "any suit in which the matter in issue is also directly and substantially in issue in a previously instituted civil suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, where such civil suit is pending in the same or any other court in Ethiopia having jurisdiction to grant the relief claimed. One solution suggested in Article 8 when we have suits so closely connected that they cannot properly be tried separately is consolidation. See Art. 8(3) of the Civil Procedure Code.

least one common question of law or fact.[4] Ethiopian law permits consolidation if the same or similar question of law arises. Sedler argues that consolidation is proper if the suits are so closely connected that they cannot be tried separately.[5] The Cassation Division reiterated the importance of consolidation in the case of Sheraton Addis v. Eyasu Megersa et al.[6] In that case the court consolidated two files as the appellate court's divisions had given contradictory judgments which would be very difficult to execute. Consolidating the two files, the Division stressed three purposes to be achieved thereby: speed, avoidance of contradictory judgments, and integrity of judgments.

As rightly enunciated by the dissenting judge, the two cases under consideration should have been consolidated because as the above analysis unravels the legal requirements for consolidation have converged. The dissenting opinion shows the contradiction in the two decisions that a contract does not bind a party and that same contract justifies the possession of the other party. The law allows a court to order consolidation of suits or appeals of its own motion if the legal requirements are met.[7] Consolidation of the two cases was a matter of deliberation among the judges and it should have been ordered. With the limitation to weigh the opinion of the majority in the absence of the rationale behind their decision, it can be said that consolidation was proper. However, the basis for consolidation is article 11(1) of the Civil Procedure Code and not article 11(5) as argued in the dissenting opinion since that latter speaks about cases pending in different courts.

2.2 Additional evidence

The request to introduce additional evidence was raised in the High Court by the plaintiff, W/ro Menbere. In the middle of the proceeding, she requested the Court to allow her to adduce a decision of the Federal First Instance Court (the same decision confirmed by the Cassation Division in file no. 41243) as additional evidence. The decision stated that the sale contract which was the basis for the defense is not binding on the plaintiff. Generally, if the document is relevant and the party has good cause for the delay, it should be admitted. Let us examine the relevance of the document and the reason why it was not produced earlier in order to determine whether it was appropriate for the court to deny admission.

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4 Ibid.

5 Supra note 11, p. 373

6 See የፌዴራል ጠቅላይ ፍርድ ቤት ሰበር ሰሚ ችሎት ውሳኔዎች ቅጽ 8 ገጽ 67. This decision was given seven days after the cases at hand were decided.

7 Civ. Orc. Code , Art. 11(1)

The evidence the plaintiff sought to introduce pertains to the sale agreement which is the ground of defense. If a party relies on a document to assert his claim or defense and that very document is invalidated by a court, it is obvious that it is relevant for the disposal of the case. The evidence is relevant because the argument of the defendant with respect to the power of attorney is that it is conferred on him for the purpose of facilitating the execution of the sale. In other words, he was cotending that the power of attorney is just an extension of the sale contract by which ownership is transferred to him. The evidence was pertinent and it was necessary to decide the case. If the document is relevant, it should have been admitted so long as the plaintiff can show that she was in good faith and not reckless.

The law provides that parties should introduce all the evidence they have in support of their pleadings at the time of lodging their claim or defense. Such pleadings should be supported by the list of witnesses to be called at the hearing and of the documents on which a party relies and certify the list to be complete.[8] The assumption is that all the evidences relevant to the case are produced by the parties and nothing is left. Thus, the principle is that parties are precluded from producing evidence afterward. The law recognizes two exceptions to this general rule. They are:

1. Where the parties or their pleaders produce, at the first hearing of the suit, a documentary evidence (Art 137(1) Civ. Proc. C)[9]
2. Where evidence which should have been produced is not produced due to good cause, (Art 256 Civ. Proc. C)

In addition to these exceptions, the court may order additional evidence to be adduced where it considers that the issues cannot be correctly framed without the examination of some person not before the court or without the inspection of some document which it deems relevant. [10] Based on its relevance to the facts of the cases, we will focus on the second procedural remedy for failure to introduce evidence together with pleadings.

The law is palpable as it doesn't allow the presentment of any document which should have been but is not annexed to or filed with the pleading or produced at the first hearing, the only exception being the remedy under art. 256 of the Civil Procedure Code. [11] It gives room for the introduction of such evidence if

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[8] Civil Procedure Code of Ethiopia, Art 223(1) and 234(1)

[9] The application of Article 137 is controversial. Courts and scholars are not at one, either. Some argue that such evidence is one which has already been included in the annex while others insist that it includes documents not mentioned in the annex.

[10] Civil Procedure Code, Art 249

[11] Art 137(3) of the Civil Procedure Code of Ethiopia In fact the interpretation of Art 137 is not the same among courts. I have observed courts accepting evidence which is not

there is good cause.[12] The new evidence was not available at the time of instituting the action and the plaintiff cannot be at fault of producing the evidence. It is not, therefore, due to the negligence or the fault of the plaintiff that the evidence was not submitted together with the pleading or at the hearing. The courts are expected to be liberal[13] in admitting new evidence if they are above suspicion such as fabrication after the suit. By the same token, Sedler argues that there should be good cause unless the party made no effort to produce the evidence.[14]

One important consideration worth raising here is whether it is mere discretion of the court not to admit evidence even if it is discernible that there is serious and sufficient reason. The law states that refusal of a court to admit evidence which ought to have been admitted[15] is ground for admission of additional evidence in the appellate court. In other words, if the lower court unjustifiably turns down the admission of relevant evidence, then the appellate court can alleviate the ensuing injustice. This is a control mechanism by which the exercise of discretion by a lower court can be checked even though this is also the discretion of the appellate court. In file No 29861, a case between w/ro Hitsehat Fisehatsion and w/ro Almaz Terefe et al, the Cassation Division emphasized the importance of admitting relevant evidence in a similar case and reversed the decision of lower courts for their failure to examine such evidence. In other words, it is a fundamental error of law to ignore evidence which was brought to the attention of the court as per the procedural rules.[16]

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mentioned in the annex at the first hearing and courts rejecting to introduce such evidence. But sub-article 2 elucidates that it is not a requirement to include the evidence in the annex in order to produce it at the hearing. Further, sub-article 3 makes reference to both as alternatives.

[12] Comparing the two versions of the Code on can reach at different conclusions. The English version seems to underline default of a party in which case the court has two options while the Amharic version appears to envisage two possibilities: default of a party and good cause for each of which a different solution is provided for

[13] Supra note 9 , p. 848

[14] Supra note 11, P. 177, note 101

[15] The term "ought to have been admitted" was interpreted to mean should be admitted in the exercise of sound discretion." See C.K. Takwani, p.290

[16] የፌዴራል ጠቅላይ ፍርድ ቤት ሰበር ሰሚ ችሎት ውሳኔዎች ቅጽ 8 ገጽ 37. It is interesting to note that in that case the decisions of lower courts were quashed because they didn't examine the judgement of another court which was relevant to dispose the case.

2.3 **Recording of Reasons**

The selected cases are typical in exposing the practice of ending cases summarily by appellate courts without recording reasons. The final pronouncement of the decision of the Cassation Division has two parts: the position of the majority and the dissenting opinion. The majority simply stated that the decision of the lower court is confirmed. One possible explanation is that it need not rewrite the reasoning of the lower court to which it subscribes. Ignoring the substantive challenge to be posed against such a contention, in one of the cases we have an issue which is not touched upon by the lower courts: consolidation of the cases. In other words, there is no reason given by any of the lower courts and by the Cassation Division as to why the two suits or appeals should not be consolidated.

But before going to particulars of the cases at hand, it is prudent to raise the general question whether courts are at liberty to choose not to state their justifications for a particular way of ending a dispute. It can be observed that it has become commonplace for appellate courts to close appeals instantaneously without recording reasons. It is particularly alarming to witness summary closure of cases which were heard in appeal. This is also the practice in the Cassation Division of the Supreme Court. In fact, it can be said that this could ease the burden of courts, i.e., writing reasons for those cases which have no ground at all. It can also be a good reason for the speedy disposal of cases and timely judgment. But, apart from such practical considerations which, of course, can be challenged by overriding interests, such practice is proper only if it is backed by the law.

The power of the appellate court is either to confirm, vary or reverse the decision of a lower court from which an appeal is preferred.[17] Presumably, the need to state reason is not to be disputed in reversing or varying a decision. We will have, however, a practical problem when appellate courts confirm decisions.[18] In this regard, the law appears to have introduced two options.[19] The first is dismissal at once. Accordingly, Article 337 of the Civil Procedure Code empowers the court to "dismiss the appeal without calling on the respondent to appear, if it thinks fit and agrees with the judgment appealed from." The second alternative is to give judgment as per Article 347 of the

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[17] Art 348 of the Civil Procedure Code of Ethiopia.

[18] The Cassation Division is subject to the same rules even if it is not an appellate court. It is Article 348 on which the Cassation Division basis its decision on. See also Art. 7 of Federal Courts Proclamation no. 25/1996

[19] Art 339/2/ of the Civil Procedure Code seems to have introduced the third alternative by which the court could dismiss the case after calling but without hearing the respondent.

Civil Procedure Code which goes as "the Appellate Court, after hearing the parties or their pleaders and referring to any part of the proceedings, whether on appeal or in the court from whose decree or order the appeal is preferred, to which reference may be considered necessary, shall pronounce judgment."

A judgment is defined as the statement given by a court of the grounds of a decree or order[20]. As to its contents, it is provided that the judgment contains the points for determination, the decision thereon and the reasons for such decision. These are the fundamental components of a judgment and when the appellate court reverses or varies the judgment appealed from, it is required to state in addition the relief to which the appellant is entitled.[21] It is evident that an appellate court should state the reason for its decision when it reverses[22], varies or confirms a judgment from which the appeal is preferred. Recording of reason is recognized as one of the duties of appellate courts and its importance is accentuated as follows:

> *Recording of reasons in support of a judgment may or may not be considered to be one of the principles of natural justice, but it cannot be denied that recording of reasons in support of a decision is certainly one of the visible safeguards against possible injustice and arbitrariness and affords protection to persons adversely affected.*[23]

But judicial reasoning, which refers to the process of thought by which a judge reaches a conclusion and to the written explanation of the process in a published judgment, accomplishes other purposes, as well. The process of thought doesn't suffice as its clandestine nature could curb enforcement of judicial accountability. Further, it is underscored that an explanation of the reasons for a decision is owed not only to the unsuccessful litigant, but to everyone with an interest in the judicial process, including other institutions of government and ultimately the public.[24] The absence of reason in a judgment affects the reliability of a judgment and in some jurisdictions it is established

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[20] Civil Procedure Code of Ethiopia, Art 3

[21] Civil Procedure Code of Ethiopia, Art 182

[22] In fact this can also be an issue and we cannot take it for granted even if the law is unambiguous that to reverse a decision of a lower court, appellate courts would give a reason. The cassation has given a binding decision in file no. 38844 in the case of Addis Ababa Roads Authority v. Gad Business PLC saying that appellate courts cannot reverse the decision of a lower court without recording reason. See የፌዴራል ጠቅላይ ፍርድ ቤት ሰበር ሰሚ ችሎት ውሳኔዎች ቅጽ 8 ገጽ 90.

[23] C.K. Takwani, Civil Procedure (Eastern Book Company,Delhi, 1997) p. 236

[24] Tony Blackshield,, Judicial Reasoning, http://www.win-more-cases.com/toolkit/extras/how-judges-decide-cases.html, visited on September 2,2011

that such decisions will be reversed by the appellate court on the ground of failure of the lower court to discharge its duties.[25]

Distinction can be drawn between the situation whereby the court confirms the decision of the lower court without calling on the respondent to appear, and after hearing the defendant. Article 347 is clear in that judgment must be given and consequently reason must be recorded when the court has called and heard the defendant. The issue is whether the court is relieved from stating reasons when it summarily dismisses an appeal. The law merely empowers the court to dismiss the appeal if it agrees with the judgment appealed from. In effect it consents and adheres to the judgment appealed from and the reasons incorporated therein. The question that follows is as to what justifies requiring the court to state its reason when it subscribes to the position of the lower court. It can be presumed that the court gives an order closing the file in which case there is no reason to be recorded.

At any rate, it has become obvious that the court is under legal obligation to record its reasons for the decision where it has called the defendant and heard the parties. Accordingly, in disposing the case at hand the majority have not recorded their reasons as required by the law despite the fact that the respondents were called in both cases and heard. If the law is clear, the courts are not at liberty to disregard it. As has been exposed above the law requires them to give judgment and record their reasons. That being the letters of the law, judges should abide by them as they "shall be directed solely by the law."[26]

If the appellate court dismissing appeal under Art 337 may not have to record its reasons for dismissing the appeal (because there is no reason to be recorded as the appellate court agrees with the holding and reasoning of the lower court), why should the same court be expected to record its reasons for confirming the holding and reasoning of the lower court simply because it heard the respondent? Don't you think that a court (whether trail or appellate) has to reason out whenever it gives a decision?

III. Conclusion

It has become conspicuous from the above discussion that the dissenting opinion was correct in addressing the procedural problems the cases presented. The consolidation of the cases could have resulted in a decision which can be consistent and conclusive in resolving the dispute. One of the explanations for the doctrine of consolidation is the consistency or integrity of

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[25] D. F. Mulla, The Code of Civil Procedure, (13th ed. Edited by P.M. Bakshi) (Butterworths, New Dalhi,200), p.907

[26] FDRE Constitution , Article 79/3/

judgments which is what is missing in the decisions given in the files at hand. Further, if relevant evidence is turned down, it will result in injustice. It could also entail inconsistency as witnessed in the cases considered which gave two contradictory effects to a single contract.

The majority in simple terms confirmed the judgment of lower courts. In these particular cases, no reason has been given as to why the actions should not be consolidated or the evidence shouldn't be admitted. Assessment of the reason of the majority was not possible as no reason is recorded with respect to any of the issues critical or incidental to the cases. The decision contains only the decree without stating the reasons thereto. Under the circumstances, the court was required to render judgment which naturally comprises, among other things, the rationale for the decision. This is not a discretion rather a duty for courts since the law compulsorily calls for them to record their reasons.

Apart from resulting in compliance with the law, recording of reasons serves other purposes. A decision of a court primarily brings to an end a particular dispute between litigants. But that is not the only purpose particularly taking into account that decisions of the Cassation Division of the Supreme Court and the interpretation contained therein are binding on lower courts. Thus, a decision is a statement of law as such decisions stand as precedents. The legal system and its development is a function of the application of the law particularly by courts of law. Decisions of courts will be used as reference in understanding, testing or explaining existing law. It might provoke the amendment of an existing law or initiation of a new legislation. It may inspire academic research or illustrate a particular legal theory or enrich legal discourse. But, the above benefits are hardly realistic unless the majority opinion or a judgment is backed up by the reason why the issues are resolved in that particular way.