

**IN THE HIGH COURT OF THE FEDERAL
CAPITAL TERRITORY, ABUJA
HOLDEN AT ABUJA**

ON TUESDAY, 18TH DAY OF JUNE, 2019

BEFORE HON. JUSTICE SYLVANUS C. ORIJI

SUIT NO. FCT/HC/CV/1793/2016

BETWEEN

**TARI INTERNATIONAL LIMITED
[Suing through its lawful Attorney,
Brondesbury Estate Limited]**

PLAINTIFF

AND

- 1. VOICEWARES NETWORKS LIMITED**
- 2. HON. MINISTER OF FEDERAL CAPITAL
TERRITORY**
- 3. FEDERAL CAPITAL DEVELOPMENT
AUTHORITY**
- 4. ABUJA METROPOLITAN MANAGEMENT
COUNCIL**

DEFENDANTS

JUDGMENT

The plaintiff filed this suit on 23/5/2016 vide writ of summons. The pleadings in this case are: [i] plaintiff's amended statement of claim filed on 12/1/2018; and [ii] 1st defendant's amended statement of defence filed on 9/7/2018.

Trial started on 12/3/2018 with the evidence of Barbara Ufuoma Manuel as the PW1. Before the evidence of PW1, Ibrahim Mohammed, the registrar of then

Court 19 of the High Court of the Federal Capital Territory, Abuja produced several documents pursuant to the *subpoena duces tecum* issued by the Court on 28/2/2018. The documents are certified copies of processes and records in *Suit No. FCT/HC/CV/2240/2010* including processes filed in that suit, record of proceedings, the exhibits, judgment delivered on 19/10/2012, ruling delivered on 19/10/2012 and ruling delivered on 7/2/2014.

The certified copies of the said processes/records in *Suit No. CV/2240/2010* and the receipt of payment for certification were tendered by learned counsel for the plaintiff, F. R. Onoja Esq., from the Bar. The receipt for certification dated 8/3/2018 is Exhibit A; while the processes/records produced by the registrar are together Exhibit B.

Barbara Ufuoma Manuel, the company secretary of Brondesbury Estate Limited [the plaintiff's Lawful Attorney], testified as PW1. She adopted her statement on oath filed on 12/1/2018 and tendered Exhibits C, D & E. Gerry Ekesiani, the chief executive officer of the 1st defendant, gave evidence as the DW1. He adopted his statement on oath filed on 9/7/2018 and tendered bundle of documents as Exhibit F. After the evidence of DW1 on 5/12/2018, A. I. Anuku Esq. informed the Court that the 2nd-4th defendants did not file any process; and will rest their case on the plaintiff's case.

It is necessary to first refer to the facts that gave rise to the present suit. These facts could be gleaned from the processes/records in *Suit No.*

CV/2240/2010 tendered from the Bar as Exhibit B. On 24/8/2010, *Voicewares Networks Limited* [the 1st defendant in this suit] as plaintiff filed a suit vide writ of summons against the *Hon. Minister of the Federal Capital Territory, Federal Capital Territory Administration, Abuja Metropolitan Management Agency* and *Persons Unknown* as 1st, 2nd, 3rd & 4th defendants respectively. The address for service of all the defendants as stated in the writ of summons was at “*Federal Capital Territory, Area 11, Abuja*”.

The claims of *Voicewares Networks Limited* [the plaintiff] in that suit against the defendants jointly and severally were:

- I. A declaration that the plaintiff is entitled to the continued possession and occupation of the property known as Plot No. 1436, Central Area District, Cadastral Zone [A00] Abuja covered by the Statutory Right of Occupancy File Number MISC 103217.
- II. A declaration that any purported or attempted withdrawal of the said plot without strict compliance with the Law, *ab initio* is illegal, unlawful, unconstitutional, null and void and of no legal effect whatsoever.
- III. An order of perpetual injunction restraining the defendants, their officers, agents, servants and privies from evicting or attempting to evict the plaintiff, its agents, servants or privies and/or putting any other person or authority in possession of the said plot.

IV. An order of perpetual injunction restraining the defendants, their officers, agents, servants and privies from trespassing or further trespassing on the said plot of land.

The facts relied upon by the plaintiff [as set out in the judgment of My Lord, *Hon. Justice O. A. Adeniyi*] delivered on 19/10/2012, were that upon its application sometime in 2009, the 1st defendant granted to it a statutory right of occupancy over Plot 563, Cadastral Zone A00, Central Area District, Abuja. Subsequently, 1st defendant withdrew the offer of the said Plot 563 as a result of the wholesome review of the Central Area undertaken by the Federal Capital Territory Administration; and replaced same with the offer of Plot 1436, Cadastral Zone A00, Central Area District, Abuja. It accepted the offer. It thereafter entered into collaboration with foreign partners with a view to erecting a Five Star Hotel on the Plot; and as a result, it entered into Joint Venture Agreement and Development Lease with them.

The plaintiff further averred that about 6/5/2010, the 3rd& 4th defendants, acting as agents of the 1st& 2nd defendants, forcefully pulled down and demolished the perimeter fence of the Plot without any prior notice to it. The plaintiff petitioned the 1st& 2nd defendants through its solicitor over the matter, which yielded no meaningful result. Upon conduct of an independent search on the status of the Plot, sometime in August 2010, it was discovered that the 1st defendant has purportedly withdrawn the plaintiff's allocation over the said Plot since 9/7/2010. The plaintiff then filed the said suit.

In the judgment of the Court delivered on 19/10/2012, the Court granted the claims of the plaintiff. His Lordship, A. O. Adeniyi, J. noted at pages 4-7 of the judgment that:

“The Defendants were promptly served and on their part, the 1st-3rd defendants entered appearance to the suit through their learned counsel ... The matter thereafter proceeded to trial on 20/03/2012 ... Be it noted also that as at this date, the Defendants failed to turn up in Court, without furnishing any excuse whatsoever on the Court and in spite of being aware of the scheduled hearing date, as the records of proceedings bear out; neither have they also filed any defence to the action. ...

It is perhaps expedient at this stage to mention that on 19/07/2012, the date to which judgment in this suit was initially reserved, the 1st-3rd Defendants' learned counsel brought to the attention of the Court, a motion on notice filed by the 1st and 2nd Defendants, on 16/07/2012. Essentially, the purport of the said application, which contained multiple reliefs, was to grant leave to the Defendants to cross-examine the Plaintiff's sole witness and to invariably defend the action.

In a considered Ruling delivered on 19/10/2012, this Court however, dismissed the said application for lacking in merit and substance.”

I pause to remark that in prayer 4 of the said motion on notice No. M/14081/2012 filed on 16/7/2012, referred to in the judgment of A. O. Adeniyi, J., which forms part of Exhibit B, the 1st-2nd defendants prayed for an order of

the Court deeming as duly filed and served the statement of defence and witness statement on oath attached to the motion. The statement of defence of the 1st & 2nd defendants will be referred to later in this judgment.

On 18/9/2013, *Tari International Limited* [sued as the Persons Unknown in these proceedings] filed motion on notice No. M/64/2013 and prayed, *inter alia*, for:

- I. An order of the Court granting leave to the applicant, as the person affected by the judgment of the Honourable Court, to apply for an order setting aside the judgment of the Honourable Court delivered on the 19th of October, 2012, and in the stead of the '*unknown persons*' sued as 4th defendant, and in that regard, to be considered as the unknown persons sued in these proceedings and against whom the judgment of the Court was entered.
- II. An order of the Honourable Court setting aside the judgment of the Honourable Court delivered on the 19th of October, 2012 in *Suit No. FCT/CV/2240/10* between Voicewares Networks Ltd. v. The Honourable Minister of the Federal Capital Territory & Ors.

In a ruling delivered on 7/2/2014, His Lordship, *Hon. Justice A. O. Adeniyi* dismissed the motion. *Tari International Limited* did not take steps to appeal against the said judgment delivered on 19/10/2012 as a person affected by the judgment. It did not also appeal against the ruling delivered on 7/2/2014.

In the present suit, the plaintiff contends, *inter alia*, that the said Plot 1436, which was the subject of the judgment in *Suit No. CV/2240/2010*, forms part of its Plot No. 1036; that the said judgment was obtained by fraud and collusion; and that the 2nd-4th defendants have withdrawn or revoked its title to the said Plot 1036 based on the judgment of the Court in *Suit No. CV/2240/2010*. In paragraph 25 of the amended statement of claim, the plaintiff claims these 6 reliefs against the defendants jointly and severally:

1. An order of this Honourable Court setting aside the judgment of the High Court of the Federal Capital Territory delivered on the 19th of October, 2012 in *Suit No. FCT/CV/2240/10 between Voicewares Network Ltd. v. The Honourable Minister of the Federal Capital Territory & Ors.* by the Honourable Justice O. A. Adeniyi on ground that the said judgment was obtained by fraud practiced on the Court.
2. A declaration that the plaintiff is the owner and entitled to the possession of Plot 1036 in Cadastral Zone AOO Central Area District measuring approximately 9,000 square metres which is marked by the property Beacons PB.3355, PB.3356, PB. 3357, PB.3358, PB. 3359, PB.3360 and covered by Certificate of Occupancy No. 17a3w-9331z-4077r-ea5fu-20 dated 28th day of September, 2010 issued under the hand of the Honourable Minister of Federal Capital Territory and duly registered as No. 45243 at page 1 in Volume 227 of the Certificate of Occupancy Register in the Land Registry office at Abuja at 10 o'clock in the morning of 28th day of September, 2010 by the Deed Registrar, Abuja.

3. A declaration that the revocation or purported revocation of the plaintiff's title in and over Plot 1036 in Cadastral Zone AOO Central Area District measuring approximately 9,000 square metres which is marked by the property Beacons PB.3355, PB.3356, PB. 3357, PB.3358, PB. 3359, PB.3360 and covered by the Certificate of Occupancy No. 17a3w-9331z-4077r-ea5fu-20 dated the 28th day of September, 2010 issued under the hand of the Honourable Minister of the Federal Capital Territory and duly registered as No. 45243 at page 1 in Volume 227 of the Certificate of Occupancy Register in the Land Registry office at Abuja at 10 o'clock in the morning of the 28th day of September, 2010 by the Deed Registrar, Abuja by the 2nd defendant without issuing and causing to be served on the plaintiff, a notice of revocation of title is altogether unlawful, unconstitutional, null, void and of no effect.
4. An order of the Honourable Court setting aside the purported revocation of the plaintiff's title over Plot 1036 in Cadastral Zone AOO Central Area District measuring approximately 9,000 square metres which is marked by the property Beacons PB.3355, PB.3356, PB. 3357, PB.3358, PB. 3359, PB.3360 and covered by the Certificate of Occupancy No. 17a3w-9331z-4077r-ea5fu-20 dated the 28th day of September, 2010 issued under the hand of the Honourable Minister of the Federal Capital Territory and duly registered as No. 45243 at page 1 in Volume 227 of the Certificate of Occupancy Register in the Land Registry office

at Abuja at 10 o'clock in the morning of the 28th day of September, 2010 by the Deed Registrar, Abuja.

5. An order of perpetual injunction thereafter restraining the defendants, their agents, servants, privies and assigns howsoever called and described from trespassing upon, entering or in any manner whatsoever tampering with the plaintiff's ownership or Rights over the piece of land known as Plot 1036 in Cadastral Zone AOO Central Area District measuring approximately 9,000 square metres which is marked by the property Beacons PB.3355, PB.3356, PB. 3357, PB.3358, PB. 3359, PB.3360 and covered by the Certificate of Occupancy No. 17a3w-9331z-4077r-ea5fu-20 dated the 28th day of September, 2010 issued under the hand of the Honourable Minister of the Federal Capital Territory and duly registered as No. 45243 at page 1 in Volume 227 of the Certificate of Occupancy Register in the Land Registry office at Abuja at 10 o'clock in the morning of the 28th day of September, 2010 by the Deed Registrar, Abuja.
6. The sum of four hundred million Naira [N400,000,000.00] general damages [including aggravated damages] for trespass.

At the end of the trial, learned counsel for the parties filed their final written addresses. P. U. Nnoli Esq. filed the 1st defendant's final address on 8/2/2019. F. R. Onoja Esq. filed the plaintiff's final address on 18/2/2019. Aliyu A. Mohammed Esq. filed the 2nd-4th defendants' final address on 26/3/2019. J.

O. Ugboogu Esq. filed the 1st defendant's reply on points of law on 22/3/2019. The final addresses were adopted on 26/3/2019.

Issues for determination:

In the 1st defendant's final address, P. U. Nnoli Esq. submitted these eight [8] issues for determination:

1. Whether the claim of the plaintiff commenced by writ of summons Form 1 instead of Form 3 is maintainable or void against the 1st defendant who is resident outside jurisdiction.
2. Whether the purported donee of the Power of Attorney, Brondesbury Estates Limited, has the lawful authority of the plaintiff as its "Attorney" to maintain the suit against the 1st defendant.
3. Whether the plaintiff's claim is not caught by the doctrine of issue estoppel, and *res judicata* as the same subject matter has been adjudicated upon in *Suit No. CV/2240/10* and *CV/M/64/13*.
4. Whether the plaintiff's claim is not caught up by the equitable doctrine of laches and acquiescence and standing-by.
5. Whether by virtue of the extant provisions of the Evidence Act, the plaintiff has proved fraud, as pleaded, to necessitate the setting aside of the judgment of this Honourable Court in *Suit No. FCT/HC/CV/2240/10* delivered by Honourable Justice O. A. Adeniyi on 19th October, 2012.

6. Whether the presumption of regularity of the official acts of the 2nd-4th defendants were legally rebutted by the plaintiff.
7. Whether it was lawful for the 2nd-4th defendants to withdraw Plot 1036 or to allocate Plot 1436.
8. Whether a certificate of occupancy purportedly issued to the plaintiff on 28th of September, 2010 during the pendency of *Suit No. FCT/HC/CV/2240/2010* is effectual against the 1st defendant's subsisting Plot 1436.

In the 2nd-4th defendants' final address, Aliyu A. Mohammed Esq. posed one [1] issue for determination, to wit:

Whether the plaintiff has proved its case to entitle it to the reliefs sought from this Honourable Court.

For his part, F. R. Onoja Esq. formulated three [3] issues for determination in the plaintiff's final address. These are:

1. Whether the present suit is competent.
2. Whether the plaintiff has established a compelling case for the setting aside of the judgment of *Honourable Justice A. O. Adeniyi* delivered on the 19th October, 2012 in *Suit No. FCT/HC/CV/2240/10*.
3. Whether the plaintiff is thereby entitled to the declaratory, injunctive and other reliefs sought in this action.

Let me make brief remarks on the arguments of learned counsel for the 1st defendant in respect of his Issue Nos. 1, 2 & 3. The crux of his argument on Issue No. 1 is that 1st defendant carries on business in Lagos State as stated on the writ of summons; therefore leave of the Court was required for the issue of the writ of summons to be served on the 1st defendant. Mr. P. U. Nnoli also argued that [i] there was non-compliance with section 97 of the Sheriffs and Civil Process Act, which requires an endorsement that the writ of summons issued in this Court is for service in Lagos State; and [ii] the period endorsed on the writ of summons for the 1st defendant to appear in Court was 8 days, far less than the minimum 30 days provided by the Sheriffs and Civil Process Act. Based on these arguments, learned counsel concluded on behalf of the 1st defendant that the originating process is incompetent and void *ab initio*.

The correct position, as stated by learned counsel for the plaintiff, is that on 23/5/2016, the plaintiff filed motion on notice *No. M/6950/2016* for leave of the Court to issue and serve a concurrent writ of summons and other originating processes on the 1st defendant out of the jurisdiction of the Court. The Court granted the application on 9/6/2016. However, before the concurrent writ of summons could be served on the 1st defendant and before the 30 days within which to enter appearance after service, 1st defendant filed a memorandum of conditional appearance on 1/7/2016 along with its statement of defence. On the same date, 1st defendant filed motion on notice *No. M/8937/2016* to challenge the jurisdiction of the Court to entertain the suit on the ground, *inter alia*, of non-service of originating processes on it.

At the hearing of the motion on 28/11/2016, P. U. Nnoli Esq. withdrew this ground. The 1st defendant cannot validly complain of competence of the writ of summons since leave of the Court was sought and obtained before it was issued. I am also of the view that the 1st defendant cannot validly complain of non-service of the originating processes having actively participated in the proceedings since then.

Assuming there was any irregularity [which is not the case], I agree with Mr. F. R. Onoja that the 1st defendant waived its right to complain having taken steps in the matter. The decisions in Ezomo v. Oyakhire [1985] 2 S.C. 260 and Odua Investment v. Talabi [1997] 7 SCNJ 600 cited by Mr. Nnoli and Mr. Onoja are apposite. The principle enunciated in those cases is that a defendant cannot complain of non-compliance with sections 97 and 99 of the Sheriffs and Civil Process Act if he has taken fresh steps in the matter, which amounts to waiver. I therefore hold that the writ of summons is competent.

With regards to Issue No. 2, Mr. Nnoli did submit that the Power of Attorney granted by the plaintiff to Brondesbury Estates Ltd. [Exhibit D] is a nullity and is not a valid instrument upon which the donee can maintain this action. He argued that the Power of Attorney was not stamped or registered; it is legally inadmissible to prove title; it was not franked or signed by a legal practitioner; it was not sealed; etc. It must be noted that the suit was brought and maintained in the name of the donor of the Power of Attorney [i.e. Tari International Ltd.] and not Brondesbury Estates Ltd.

I agree with Mr. Onoja that the position of the law is that once an action is brought by the donee of a power of attorney in the name of the donor, the power of attorney becomes of little importance to the proceedings. I hold the view that the action is valid and competent since the action was instituted by Tari International Ltd. [suing through its lawful attorney, Brondesbury Estates Ltd.]. Brondesbury Estates Ltd. has no claim in the action.

In respect of Issue No. 3, learned counsel for the 1st defendant posited that the plaintiff's claim is caught by the doctrine of issue estoppel and *res judicata*. It was argued that the same subject matter had been adjudicated upon in *Suit No. CV/2240/2010* and *Motion No. M/64/2013*. Now, the first claim of the plaintiff is an order of the Court setting aside the judgment in *Suit No. CV/2240/2010* on the ground that it was obtained by fraud practised on the Court. It is my opinion that by this relief, the doctrine of issue estoppel or *res judicata* is inapplicable to this case. A judgment that is challenged on ground of fraud cannot be the basis of a plea of issue estoppel or *res judicata*.

Besides, the 1st defendant averred in paragraph 16 of its pleadings that "*she never made any claim against Plot 1036 as alleged or at all. In the whole of the Statement of Claim in Suit No. FCT/HC/CV/2240/10, the 1st Defendant never made any claim or any reference to Plot 1036 ...*" It is clear from this averment that the subject matter and issues in *Suit No. CV/2240/2010* and the present suit are not the same. I therefore agree with learned plaintiff's counsel that the doctrine of issue estoppel or *res judicata* is inapplicable to this case.

Now, having resolved the above preliminary Issues, I now proceed to the merits of the case. From the plaintiff's reliefs and the evidence adduced at the trial, I am of the considered view that there are two main issues for resolution in this action. These issues - which stem from Issue 5 formulated by Mr. P. U. Nnoli, the lone Issue formulated by Mr. Aliyu A. Mohammed and Issue Nos. 2 & 3 formulated by Mr. F. R. Onoja - are:

1. Whether the plaintiff has proved the allegations of fraud and collusion to warrant the setting aside of the judgment of the Court [Coram: *Hon. Justice A. O. Adeniyi*] in *Suit No. FCT/HC/CV/2240/2010* delivered on 19/10/2012.
2. Whether the plaintiff is entitled to its claims.

At this juncture, let me set out the evidence of the plaintiff and the evidence of the 1st defendant, which are relevant or material to the resolution of the above two issues.

Evidence of the plaintiff:

The evidence of Barbara Ufuoma Manuel [PW1] is that the plaintiff is the owner and entitled to possession of the land measuring approximately 9,000 square metres and known as Plot 1036 in Cadastral Zone A00 Central Area District covered by the Certificate of Occupancy No. 17a3w-9331z-ea5fu-20 dated 28/9/2010 issued by the 2nd defendant. The Certificate of Occupancy registered as No. 45243 at page 1 in Volume 227 of Certificate of

Occupancy Register in the Land Registry Office at Abuja is Exhibit C. The said piece of land is demarcated by beacons marked as PB.3355, PB.3356, PB.3357, PB.3358, PB.3359 and PB.3360 as described in the graphic survey map on the reverse side of the said Certificate of Occupancy showing the perimeters of the said Plot 1036. The plaintiff donated a Power of Attorney over the said Plot 1036 to Brondesbury Estates Limited for valuable consideration of N650,000,000.00; the Irrevocable Power of Attorney is Exhibit D.

The plaintiff has been in exclusive possession of the entire Plot 1036 since 1995 and erected a perimeter fence around it. The PW1 said she conducted a search at Abuja Geographical Information Systems [AGIS] which showed that the said Plot 1036 belongs to the plaintiff. The plaintiff's title over the said Plot 1036 remained valid and was never revoked at any time, or even if revoked, no valid notice of revocation was ever issued or served on plaintiff. On 10/5/2016, plaintiff's solicitors conducted a search at AGIS and discovered to their surprise that a statement was entered in the computerized file over the plot that the plaintiff's certificate of occupancy has been revoked pursuant to the judgment of the High Court of the Federal Capital Territory in *Suit No. FCT/HC/CV/2240/2010* filed by 1st defendant against the 2nd & 3rd defendants and "*persons unknown*". The legal search report dated 10/5/2016 is Exhibit E.

The said judgment provided an excuse and a basis for the 2nd defendant to purportedly 'revoke' the plaintiff's title in apparent compliance with the judgment but without issuing and/or serving a notice of revocation on the plaintiff. Upon reading the judgment, she realized that the judgment was given on the assumption that the 1st defendant was already in possession of the land when it was actually the plaintiff that has been in possession of the land since 1995. Investigations were carried out by the plaintiff and it was discovered that the said Plot 1036 had been erroneously subdivided into two plots by unknown persons at AGIS with one of the Plots renumbered as Plot 1436. The said subdivision was later reversed by 2nd-4th defendants when the error was discovered. The 1st defendant took advantage of the error to bring an action for possessory rights over Plot 1436 when the 1st defendant has never been in possession of the Plot of land.

The further evidence of PW1 is that the said judgment was entered against an unascertained portion of plaintiff's land, which was briefly but erroneously known as Plot 1436. The defendants acted in collusion to obtain the said judgment by fraud practiced on the Court. In paragraph 22 of her statement on oath, PW1 relied on the following facts to show that fraud was practiced on the Court before the judgment, to wit:

- a) The said judgment was obtained by fraud, collusion, misrepresentation and concealing of material facts and information from the Court.

- b) The 1st defendant knew or had reason to know that Plot 1436 never really existed but for the error when the plaintiff's said Plot 1036 was subdivided by unscrupulous elements within the 2nd defendant's AGIS.
- c) The 1st defendant knew or had reasons to know that the plaintiff is the owner of, and entitled to, the said Plot 1036 especially as public documents freely available within AGIS and in the offices of the 2nd-4th defendants contain the history of the plot [however numbered or designated] and clearly show the plaintiff's interest over Plot 1036.
- d) The defendants had cause to know that the said Plot 1436 [which does not exist] was an unascertained portion of the plaintiff's own larger Plot 1036, which was erroneously subdivided into two distinct plots but eventually reversed; but they failed to bring this vital information to the attention of the Court.
- e) The 1st defendant deliberately failed to join the plaintiff to the action in order to obtain judgment over a portion of the plaintiff's land behind the plaintiff even when it knew or had reasons to know that the plaintiff had prior and subsisting interest over the whole Plot 1036 including the unascertained portion described as Plot 1436.
- f) A search report dated 18/8/2010 had been issued to Chidi R. Anyanwu, an agent of the 1st defendant, clearly showing that Plot 1436 which apparently falls into the plaintiff's Plot 1036 had been withdrawn due to a '*previous commitment*'.

- g) A diligent enquiry by the 1st defendant would have shown that its allocation was withdrawn because the land fell into the plaintiff's own Plot 1036 as all the records at the Land Registry were available for the 1st defendant to have confirmed that material information which was concealed from the Court that gave the judgment in favour of the 1st defendant.
- h) The defendants, either acting in collusion or singly set up a situation which they know or had reasons to know will result in a successful litigation over Plot 1436, which fell into the plaintiff's plot, in favour of the 1st defendant and to the detriment of the plaintiff.
- i) The successful outcome of the said litigation has now provided the 2nd, 3rd and 4th defendants with the reason to purport to 'revoke' the plaintiff's title even when a court judgment is not one of the grounds for revocation of title.
- j) Learned counsel to the 2nd-4th defendants deliberately refrained from defending the suit and this caused judgment to be entered against the 2nd, 3rd & 4th defendants in default of an active defence in a stratagem carefully designed to ensure that the 1st defendant wins possessory right by means of a judgment of a court of law behind the plaintiff.
- k) The 2nd-4th defendants should have reasonably been aware of, or have in their records, who the 4th defendant simply referred to as the "*persons unknown*" in the suit for which judgment was delivered on 19/10/ 2012,

but failed to bring the information to the attention of the Court or apply that the plaintiff be joined in the action.

l) The plaintiff's right over the said Plot 1036 was revoked by the 3rd defendant relying on the Judgment of the Court delivered on the 19/10/2012.

m) No plot known as Plot 1436 exists in Cadastral Zone A00 Central Area District and the documents presented as evidence before the Court upon which judgment was given in favour of the 1st defendant are false. The documents were only tendered as part of the plan to practice fraud on the Court and obtain judgment against a portion of plaintiff's land.

Barbara Ufuoma Manuel [PW1] further testified that the 1st defendant, relying on the said judgment, has started a campaign of harassment and intimidation against the plaintiff who is in possession of the said Plot 1036 insisting that the judgment of the Court was made against the land presently occupied by the plaintiff. The officers and workmen of the 1st defendant have taken to invading the plaintiff's property demanding that the plaintiff is the company sued as "*unknown persons*"; and that the plot presently occupied by the plaintiff is the subject matter of the said judgment. It is in the interest of justice and proper for the said judgment to be set aside so that the plaintiff will be given the opportunity to show that it is the person entitled to the entire Plot 1036 and that no such Plot of land described as Plot 1436 Cadastral Zone A00 Central Area District exists.

During cross examination of the PW1 by P. U. Nnoli Esq., she stated that they were the “*unknown persons*” in the previous suit. She is not aware that Plot 1036 was revoked in 2005 for continued contravention of the terms of the grant. The nature of the fraud complained of is that the 2nd-4th defendants told the previous Court that the land had been revoked and that the plaintiff was not in possession of the land. She did not have the search report dated 18/8/2010 issued to Chidi R. Anyanwu. She admitted that in her affidavit deposed to in 2016, she said she found out that Plot 1036 was revoked in 2006.

During cross examination of PW1 by A. I. Anuku Esq., she was asked what role the 2nd-4th defendants played in the purported fraud in the previous suit. She stated that 2nd-4th defendants failed to tell the Court that the plaintiff was allocated Plot 1036. The 2nd-4th defendants did not defend the plaintiff’s title over Plot 1036; rather, they presented documents in relation to Plot 1436, which was carved out of Plot 1036. She did not know the processes which were filed by the 2nd-4th defendants in *Suit No. CV/2240/2010*.

Evidence of the 1st defendant:

The evidence of Gerry Ekesiani [DW1] is that no such land described as Plot 1036 in Cadastral Zone, A00 District existed after 4/1/2010. By the 2nd-4th defendants’ letter of 4/1/2010, the 1st defendant’s original Right of Occupancy No. MISC 103217 over Plot 563 Central Area [A00] District was withdrawn and replaced with Plot No. 1436 within the same District. The land measuring

5,964.09 square metres was far less than its earlier allocation of 7,528.41 square metres. The right of the 1st defendant over the said Plot 1436 was conclusively determined in *Suit No. CV/2240/10* by the judgment delivered on 19/10/2012, which has since been complied with by 2nd-4th defendants as per their letter to the 1st defendant dated 15/9/2014. The allocation of Plot 563 and re-allocation of Plot 1436 by the 2nd-4th defendants was for value and without notice of the internal bureaucracy of the 2nd-4th defendants.

DW1 also testified that the 1st defendant did not make any claim against Plot 1036 in *Suit No. CV/2240/10* and no reference was made to Plot 1036. The 1st defendant denied the allegations of fraud, collusion, misrepresentation and concealment. Plaintiff's existence as having interest in *Suit No. CV/2240/10* was a fact known only to 2nd-4th defendants. The 1st defendant only became aware of the plaintiff's alleged interest when it filed motion *No. M/64/13*. The plaintiff was aware or had reason to become aware of the pendency of *Suit No. CV/2240/10*. It chose not to apply to be joined but instead relied on its principal party to represent its interest.

The further evidence of Gerry Ekesiani [DW1] is that the interlocutory order for the maintenance of *status quo* in *Suit No. CV/2240/13* was posted in January 2011 on the walls of Plot 1436, the subject matter. It was peeled off twice by the agents of the plaintiff herein and twice was re-posted by the 1st defendant. The said order was still on the walls on 5/8/2013 when the bailiffs of the Court executed the Warrant for Possession of the premises. The 1st defendant had

since retaken possession of the subject property and is currently developing same with workers and equipment fully mobilized on site.

During cross examination of DW1 by Mr. A. I. Anuku, he stated that the 1st defendant filed *Suit No. CV/2240/2010* because of encumbrance on its Plot 1436 and their property was destroyed. They wrote letters to the 2nd-4th defendants between April and May 2010 to report that unknown persons destroyed their property. They conducted a search in August 2010 and discovered from the search report that the 2nd-4th defendants stated that the property lawfully allocated to them had been withdrawn. From the processes filed by the 2nd-4th defendants in *Suit No. CV/2240/2010*, they stated that the 1st defendant's allocation was withdrawn as they stated in the search report. It is not true that the 2nd-4th defendants conspired with the 1st defendant to scuttle due process of the Court in the earlier suit. There was diligence in defending the case; there was no collusion, inducement or collaboration.

When DW1 was cross examined by Mr. F. R. Onoja, he stated that before the judgment in *Suit No. CV/2240/2010*, he was not aware of Plot 1036. He did not agree that Plot 1436 - in respect of which judgment was given in *Suit No. CV/2240/2010*- falls into Plot 1036. From the site plan of Plot 1436 admitted in evidence as Exhibit P5 in *Suit No. CV/2240/2010*, the beacon numbers of Plot 1436 are PB 6981, PB 3360, PB 3355 and PB 980. From the site plan on the reverse side of the Certificate of Occupancy of plaintiff's Plot 1036 [Exhibit C], the beacon numbers of Plot 1036 are PB 3356, PB, 3360, PB 3361, PB 3357, PB

3359 and PB 3355. Beacon numbers PB 3355 and PB 3360 are on a straight line from top to bottom on the left side of the plan.

Resolution of Issues for determination:

ISSUE 1

Whether the plaintiff has proved the allegations of fraud and collusion to warrant the setting aside of the judgment of the Court [Coram: Hon. Justice A. O. Adeniyi] in Suit No. FCT/HC/CV/2240/2010 delivered on 19/10/2012.

In paragraph 21 of the amended statement of claim, the plaintiff averred that it discovered that the defendants acted in collusion to obtain the judgment in *Suit No. CV/2240/2010* by fraud practiced on the Court. In the particulars of fraud and collusion, the plaintiff averred, *inter alia*, that the said judgment was “*obtained by fraud, collusion, misrepresentation and concealing of material facts and information from the Court.*” In paragraph 22 of her statement on oath, Barbara Ufuoma Manuel [PW1] gave evidence in support of these averments. It is on the basis of these averments that the plaintiff has approached this Court in this action to set aside the said judgment delivered on 19/10/2012 by His Lordship, *Hon. Justice A. O. Adeniyi*.

As rightly stated by learned counsel for the plaintiff, the Court has unfettered power to set aside a judgment on ground that it was obtained by fraud

practiced on the Court. Where a judgment is obtained by fraud, the person against whom it is obtained has several options thus:*[i] he may apply by way of motion to the court that gave the judgment to set it aside; [ii] he may appeal against the judgment; and [iii] he may file a separate action for the judgment to be set aside.*Where a party is able to establish by any of the above means that the judgment against him was obtained by fraud, the judgment will be declared a nullity and accordingly set aside. See the cases of **Oladosu v. Olaojoyetan [2013] 1 NWLR [Pt. 1335] 285** and **Remawa v. NACB C.F.C. Ltd. [2007] 2 NWLR [Pt. 1017] 155.**

As I said earlier in this judgment, the plaintiff utilized the first option when it filed motion No. M/64/2013 on 18/9/2013 to set aside the judgment“*as the person affected by the judgment of the Court ...*”It is worthy of note that the first ground in support of that application was that: “*... the Applicant, who is a necessary party in the proceeding was not joined to the action nor served with the Writ of Summons and other originating processes in the action to enable them respond appropriately to the case.*”The plaintiff urged the Court to set aside the judgment which “*was given in default of appearance of the Applicant sued as ‘persons unknown’ in the proceedings.*”

The Court dismissed the application in its ruling delivered on 7/2/2014.I have referred to the main reason for that application filed about 11 months after the said judgment in order to show that the allegations of fraud and collusion made in the present suit were not made in that motion.On 23/5/2016, which is

about 2 years and 3 months after the said ruling dismissing the motion, the plaintiff filed the present suit alleging fraud and collusion.

Mr. A. I. Anuku is correct that a plaintiff, who is seeking a declaratory relief, has the burden to establish or prove by credible evidence that he is entitled to the reliefs. In the instant case, the plaintiff has the burden to prove that it is entitled to the declaratory reliefs. It is basic law that the plaintiff will succeed on the strength of its case and not on the weakness in the defendant's case. See the case of **Achem v. Edo [2012] 4 NWLR [Pt. 1290] 310.** The crucial question is whether the plaintiff had adduced credible evidence to prove that the said judgment was obtained by the 1st defendant by fraud, collusion, misrepresentation or concealment of material facts and information.

Learned counsel for the 1st defendant argued that the plaintiff has not proved fraud as pleaded. Fraud is a crime; the standard of proof is proof beyond reasonable doubt. He referred to section 135[1] of the Evidence Act, 2011; and **Arowolo v. Ifabiyi [2002] 4 NWLR [Pt. 757] 356.** Mr. Nnoli pointed out that when PW1 was asked under cross examination to explain the nature of fraud alleged by the plaintiff, she stated that the information given to the previous Court were not correct. When asked to explain the information referred to, PW1 stated that the 2nd-4th defendants told the previous Court that the land had been revoked and the plaintiff was not in possession of the land. It was submitted that the allegation of fraud was not against the 1st defendant; it was made against the 2nd-4th defendants. Moreover, the allegation is false. Counsel

also submitted that the plaintiff pleaded collusion and forgery against the defendants; but the allegations were not proved as the standard of proof required is proof beyond reasonable doubt.

Learned counsel for the 2nd-4th defendants submitted that the PW1, who was led in evidence to establish that the 2nd-4th defendants colluded with the 1st defendant to obtain judgment in the said suit, failed to furnish any evidence to establish same. Mr. A. I. Anuku stated that PW1 showed that she was not conversant with the weighty allegations made against the 2nd-4th defendants. He concluded that the plaintiff failed to prove the allegations made against the 2nd-4th defendants.

The standpoint of learned counsel for the plaintiff is that it is not in every case where a party alleges fraud that the standard of proof rises to proof beyond reasonable doubt under section 135[1] of the Evidence Act, 2011. It was argued that the question of fraud must be put in issue by the pleadings of the parties before the requirement of proof beyond reasonable doubt arises. Mr. F. R. Onoja further submitted that the 2nd-4th defendants did not file pleadings to controvert the allegations in paragraph 21[a]-[m] of the amended statement of claim. The effect is that they are deemed to have admitted them.

Also, the 1st defendant did not controvert the substance of the allegations. The 1st defendant made bare general denials or traverse, which are not sufficient denials of the specific allegations in the amended statement of claim. He referred to **U.B.N. v. Chimaeze [2014] 9 NWLR [Pt. 1411] 166.** The learned

plaintiff's counsel further contended that the 1st defendant is deemed to have admitted the allegations in paragraph 21[a]-[m] of the amended statement of claim. Mr. F. R. Onoja concluded that since the defendants admitted the allegations in paragraph 21[a]-[m] of the amended statement of claim, the issue whether the judgment of *Hon. Justice A. O. Adeniyi* was obtained by fraud is not directly in issue in the proceedings and therefore does not require proof or proof beyond reasonable doubt.

The alternative submission canvassed by Mr. F. R. Onoja is that the plaintiff has proved that the said judgment was obtained by fraud. The best guide for determining what amounts to fraud that will vitiate a judgment of court was stated in **Vulcan Gases Ltd. v. G.F. Industries A.G. [2001] 9 NWLR [Pt. 719] 610**; where it was held that fraud in most cases involves dishonesty, and actual fraud takes either the form of a statement which is false or a suppression of what is true.

The plaintiff's counsel reasoned that since the plaintiff's title over Plot 1036 is contained and registered in public records, the law imputes knowledge of the plaintiff's proprietary interest to the defendants and the whole world by virtue of the doctrine of constructive notice. He referred to the case of **Aladi v. Ogbu [2018] LPELR-43691 [CA]** where the doctrine of constructive notice was explained. Once it is established that the 1st defendant knew that the plaintiff owned Plot 1036, the litigation which it commenced in respect of Plot 1436 [which it knew referred to a portion of Plot 1036] was clearly fraudulent

because the Court was misled into granting the reliefs in that case. The case of **Adebiyi v. Adekanbi [2018] 16 NWLR [Pt. 1645] 242** was cited to support the principle that a court has power to set aside a judgment obtained by fraud.

It is true that the 2nd-4th defendants did not file a statement of defence and did not adduce any evidence. The 1st defendant relied on the case of the plaintiff. As I said before, the plaintiff has the burden to adduce credible evidence to prove that it is entitled to the declaratory reliefs sought in this suit; and the grant of the other reliefs is dependent on the success of the declaratory reliefs. The law is well established that a court does not grant a declaration or a declaratory relief on admission of parties. See **Aregbesola v. Oyinlola [2011] 9 NWLR [Pt. 1253] 458.**

In respect of the 1st defendant, I do not agree with Mr. Onoja that the 1st defendant did not challenge the substance of the allegations in paragraph 21[a]-[m] of the amended statement of claim. In the reply on points of law, Mr. J. O. Ugbogu submitted that the 1st defendant denied the allegation of fraud in paragraphs 18, 19, 21, 22-28 and stated facts that contradicted the plaintiff's "*puerile allegation of fraud*". I have already stated the position of the law that a plaintiff seeking a declaratory relief must succeed on the strength of his case and declaratory orders are not granted on the basis of admission by a party. Thus, whether the defendants denied the allegation of fraud or not, the plaintiff is required to adduce evidence to prove the allegation.

What is the standard of proof required in a civil case where fraud is alleged? Section 135[1] of the Evidence Act, 2011 provides that: *“If the commission of a crime by a party to any proceeding is directly in issue in any proceeding civil or criminal, it must be proved beyond reasonable doubt.”* In **Vulcan Gases Ltd. v. G.F. Industries A.G. [supra]**, it was held that *“fraud”* in most cases involves dishonesty; and actual fraud takes either the form of a statement which is false or a suppression of what is true. Also in **Okoli v. Morecab Finance [Nig.] Ltd. [2007] LPELR-2463 [SC]**, it was held that the word *“fraud”* is so elastic in meaning as to cover the commission of crime as well as incidents of mere impropriety. When an allegation of fraud is made, it would have to be supported by particulars. It is not unusual to allege fraud in civil cases without imputing any crime.

Let me also refer to the case of **Arowolo v. Ifabiyi [supra]**, cited by Mr. P. U. Nnoli where the Supreme Court [per *His Lordship, Iguh, JSC*] held that where a strong language is employed to describe one’s conduct or motive in a transaction as was done in that case by the use of the word *“fraudulently”*, that does not *ipso facto* convert the basis of the claim to a crime. It was held that standard of proof required in that case must be the balance of probability or preponderance of evidence and not on the basis of proof beyond reasonable doubt as provided under section 138[1] of the Evidence Act, 1990 [which is now section 135[1] of the Evidence Act, 2011].

I now proceed to consider Mr. F. R. Onoja's alternative submission that the plaintiff proved that the said judgment in issue was obtained by fraud. In paragraph 33 at page 14 of the plaintiff's final address, Mr. Onoja admirably summarized the *"central allegation made in paragraph 21 [a]-[m] of the Amended Statement of Claim [together with the Particulars]"* which is that: *"the Plaintiff's title was valid and subsisting when the 2nd to 4th Defendants surreptitiously carved a parcel out for the 1st Defendant. It was then alleged that the Defendants kept this vital information concerning the subsistence of the Plaintiff's title away from His Lordship, Honourable Justice O. A. Adeniyi, J., in order to obtain a favourable judgment. The inference is that if His Lordship was aware of the interest of the Plaintiff, the Court would not have granted the reliefs sought."*

I have carefully evaluated the evidence of PW1 in support of the allegations of fraud and collusion. With reference to the allegations or particulars of fraud and collusion in paragraph 21[b], [c] & d] of the amended statement of claim made against the 1st defendant, there is no evidence at all that the 1st defendant knew that the plaintiff had any interest over Plot 1036; or that Plot 1436 was part of Plot 1036. It must be borne in mind that the DW1 gave unchallenged evidence that Plot 1436 allocated to the 1st defendant in 2010 was a replacement for Plot 563 in the same Central Area District.

Mr. Onoja relied on the doctrine of constructive notice to argue that the 1st defendant ought to know from public records that the plaintiff was the owner of Plot 1036. With due respect, I do not agree that the doctrine of constructive

notice is applicable to the 1st defendant in this case. I hold that the plaintiff did not prove that the 1st defendant failed or refused to disclose to the Court in *Suit No. CV/2240/2010* that the plaintiff has any interest in Plot 1036; or that Plot 1436 was carved out from, or forms part of, Plot 1036.

In paragraph 21[e] of the amended statement of claim, it was alleged that the 1st defendant deliberately failed to join the plaintiff to *Suit No. CV/2240/2010* in order to obtain judgment over its Plot 1036. The evidence of DW1 during cross examination by Mr. A. I. Anuku is that the 1st defendant noticed that its properties on Plot 1436 were destroyed. Between April and May, 2010, they wrote letters to 2nd-4th defendants to report that unknown persons destroyed their properties. In August 2010, they conducted a search and the search report stated that the 2nd-4th defendants had withdrawn the 1st defendant's allocation of Plot 1436. In *Suit No. CV/2240/2010*, the 1st defendant, through its witness [Engr. Gerry Uche Ekesiani], gave similar evidence.

The plaintiff did not adduce any evidence to prove that the 1st defendant deliberately failed to join it to the previous suit in order to obtain judgment over a portion of its land. In paragraph 22[f] thereof, the plaintiff pleaded a search report dated 18/8/2010 issued to Chidi R. Anyanwu [the 1st defendant's agent] which showed that "*Plot 1436 which apparently falls into the plaintiff's Plot 1036 had been withdrawn due to 'previous commitment.'*" When the PW1 was cross examined, she said she did not have the said search report. There is no evidence that the search report indicated that Plot 1436 was part of Plot 1036;

or that the plaintiff had any right/interest over Plot 1036. From the foregoing, I hold the view that the 1st defendant did not know that it was the plaintiff that was found on Plot 1436. Thus, the 1st defendant was right when it sued the 2nd-4th defendants and “*unknown persons*” in *Suit No. CV/2240/2010*; the 1st defendant did not deliberately fail to join the plaintiff in that suit as alleged.

In paragraph 21[g] of the amended statement of claim, the plaintiff averred that: “*A diligent enquiry by the 1st defendant would have shown that their allocation was withdrawn because the land fell into the plaintiff’s own plot 1036 because all the records at the Land Registry were available for the 1st defendant to have confirmed that material information which was concealed from the court that gave judgment in favour of the 1st defendant.*” I have held that since the PW1 did not tender the search report, the fact pleaded in paragraph 21[f] was not proved. I also hold that the inference made by the plaintiff in paragraph 21[g] does not arise or was not established. I have earlier held that the doctrine of constructive notice arising from public records is not applicable to this case.

In paragraph 22[j] of the amended statement of claim, the plaintiff averred that the learned counsel for the 2nd-4th defendants deliberately refrained from defending the previous suit and thus caused judgment to be entered against the 2nd-4th defendants in default of an active defence in a stratagem carefully designed to ensure that 1st defendant obtained judgment behind the plaintiff. As I said earlier, in *Suit No. CV/2240/2010*, the Court foreclosed the right of the 2nd-4th defendants to cross examine the PW1 and to defend the suit. Their

application filed on 16/7/2012 for leave to cross examine the PW1 and to enter their defence was refused by the Court on 19/10/2012.

I must however point out that in their statement of defence filed along with the motion, the 2nd-4th defendants averred that Plot 1436 was initially part of Plot 1036 which was revoked from Tari International Ltd. on 10/5/2005 and subdivided into two plots i.e. 1435 and 1436 respectively allocated to Steady Resources Ltd. and Voicewares Networks Ltd. Upon a petition by Tari International Ltd. challenging the revocation of its title over Plot 1036 and the re-allocation of same, it was discovered that no notice of revocation was served on Tari International Ltd. Consequently, the allocation of Voicewares Networks Ltd. in respect of Plot 1436 was withdrawn vide letter dated 15/7/2010, which was delivered to it. Tari International Ltd. was reinstated to continue the enjoyment of its title and interest over Plot 1036.

I have referred to the above pleadings to show that in *Suit No. CV/2240/2010*, the 2nd-4th defendants disclosed the interest of the plaintiff over Plot 1036; although they were not granted leave to defend the suit. There is no evidence to prove or suggest that the failure of the 2nd-4th defendants to promptly file their defence in that suit was a trick or plan or "*stratagem carefully designed*" for the 1st defendant to obtain judgment in that suit. There is also no evidence of collusion between the 1st defendant and the 2nd-4th defendants for the 2nd-4th defendants to delay the filing of their defence.

Before I wrap up Issue No. 1, there is an important point that must not be overlooked. That point is that from the facts before the Court, plaintiff was aware, or had reason to be aware, of the pendency of *Suit No. CV/2240/2010* before judgment was delivered on 19/10/2012. Thus, the plaintiff had the opportunity to apply to be joined to the suit to put forward or state its interest over Plot 1036 and to show that Plot 1436 was part of Plot 1036.

My first reason for this view is that the plaintiff did not appeal against the ruling of My Lord, *Hon. Justice A. O Adeniyi* delivered on 7/2/2014, which dismissed its application to set aside the said judgment on the ground that it was not served with the originating processes. In my humble but firm view, the plaintiff's failure to appeal against the ruling amounts to an admission that it was served with the originating processes as "*unknown persons*".

The second reason is that in paragraph 27 of the statement on oath of DW1, he testified that the interlocutory order for the maintenance of *status quo* made in *Suit No. CV/2240/10* was posted in January 2011 on the walls of Plot 1436, the subject matter of the suit. The order was peeled off twice by the agents of the plaintiff herein and twice was re-posted by the 1st defendant. The said order was still on the walls on 5/8/2013 when the bailiffs of the Court executed the Warrant for Possession of the premises. The plaintiff did not deny or controvert this evidence. The inference is that in January 2011 - about 20 months before judgment was delivered on 19/10/2012 - the plaintiff knew of the pendency of *Suit No. CV/2240/10*. So, even though the 2nd-4th defendants

delayed in filing their defence, the plaintiff would have applied to be joined in the suit to challenge the claim of the 1st defendant in that suit; and to put forward its right or interest over Plot 1036.

In the light of all that I have said, I resolve Issue No. 1 against the plaintiff. My decision is that the plaintiff failed to prove or establish the allegations of fraud, dishonestly, collusion, misrepresentation and concealment of material made against the defendants. Therefore, there is no basis to set aside the judgment of the Court [Coram: *Hon. Justice A. O Adeniyi*] in *Suit No. CV/2240/2010* delivered on 19/10/2010.

ISSUE 2

Whether the plaintiff is entitled to its claims.

Relief 1 is an order setting aside the judgment of the Court delivered on 19/10/2012 in *Suit No. CV/2240/2010*. I adopt my decision in respect of Issue No. 1 and hold that this relief lacks merit. It is refused.

In relief 2, the plaintiff seeks a declaratory order that it is the owner and entitled to the possession of the said Plot 1036. Relief 3 seeks a declaration that the revocation of the plaintiff's title over Plot 1036 by the 2nd defendant without issuing and serving a notice of revocation is unlawful, null, void and of no effect. Relief 4 is an order setting aside the revocation of the plaintiff's

title over Plot 1036. Relief 5 is an order of injunction against the defendants in respect of Plot 1036; while relief 6 seeks damages for trespass.

Mr. P. U. Nnoli stated that the DW1 gave unchallenged evidence that the bailiff of the Court executed a warrant of possession issued in *Suit No. CV/2240/2010* in favour of the 1st defendant on 5/8/2013. He submitted that the Court cannot countenance the plaintiff's reliefs 5 & 6 for perpetual injunction and damages for trespass against 1st defendant who is legally in possession by the Order of the Court. Mr. A. I. Anuku is of the view that on the issue of declaration of title to land, the 2nd-4th defendants only gave effect to the judgment of the Court and did not deliberately deprive plaintiff of its title.

For his part, Mr. F. R. Onoja stated that the search report [Exhibit E] appears to indicate that the said Plot 1036 was revoked due to the judgment in *Suit No. CV/2240/2010*. It was submitted that since a notice of revocation was not issued or served on the plaintiff as required by law, the said revocation, for whatever it is worth, is invalid, void and ought to be set aside by the Court.

Now, the Legal Search Report dated 10/5/2016 [Exhibit E] stated that the plaintiff's title over Plot 1036 *"IS REVOKED IN VIEW OF COURT JUDGMENT VIDE SUIT NO. FCT/HC/CV/2240/10 AS AT DATE OF THIS REPORT."* Clearly, the said revocation is inextricably linked to the said judgment of the Court; the former was based on the latter. I take the view that the grant of the plaintiff's

reliefs 2, 3, 4, 5 & 6 will amount to indirectly setting aside or undermining the judgment of the Court in *Suit No. CV/2240/2010*. These reliefs are refused.

CONCLUSION

The plaintiff's suit is dismissed. The parties shall bear their costs.

**HON. JUSTICE S. C. ORIJI
(JUDGE)**

Appearance of Counsel:

1. F. R. Onoja Esq. for the plaintiff; with Alexandria E. Ohiani Esq.
2. P. U. Nnoli Esq. for the 1st defendant.
3. U. M. Yusuf Esq. for the 2nd, 3rd & 4th defendants.