

**IN THE HIGH COURT OF JUSTICE OF THE F.C.T.**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT KUBWA, ABUJA**  
**ON WEDNESDAY 13<sup>TH</sup> MAY, 2020**  
**BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA**  
**JUDGE**

**SUIT NO.: FCT/HC/BW/CV/19/17**

**BETWEEN:**

**MICHAEL NDUBUISI ONU**                    -----                    } **PLAINTIFF**

**AND**

**NWAFOR THEOPHILUS O.**                    -----                    } **DEFENDANT**

**JUDGEMENT**

On the 13<sup>th</sup> day of December, 2017 Michael Ndubuisi Onu instituted this action claiming the following: that he is the beneficial owner of and entitled for the Certificate of Occupancy of Plot C 79 Mpape Layout as he is the person in possession of the said Plot (herein after called the Res). He want an Order of Perpetual Injunction to restrain the Defendant, Nwafor Theophilus, his representatives, agents, privies, assigns, successors in title and heirs, from trespassing into the Res.

He equally want Fifty Million Naira (~~₦~~50, 000,000.00) as compensation/general damage from the Defendant for the alleged trespass on the Res.

The Plaintiff called one Witness who is the Plaintiff himself. He tendered documents, six (6) in all marked as EXH 1 – 6.

The Defendant filed a Statement of Defence and Counter Claim. He also claims ownership and possession of the Res claiming he got possession from Abubakar Usman and sold to Danladi Boro who carried out the Change of Ownership and a new provisional Approval was issued in his name and previous conveyance Approval was cancelled. That Danladi Boro made payment for re-certification and regularization. He also sold the land to the Defendant for ₦3.5 Million as evidenced in the Power of Attorney executed by the Defendant with Danladi Boro (Junior).

The Defendant fenced the land, built a gate and a gate house in 2008 and leased out to Philomena who he appointed as his Caretaker. She runs a local restaurant and bar in the Res. That the Defendant was in possession until 2016 when the Plaintiff came claiming ownership. It was at this point that the Plaintiff came to Court. Hence this Suit.

In the Final Address the Defendant raised 2 Issues for determination which are:

- 1. “Whether the Plaintiff has established and proved ownership and possession of the land in dispute to be entitled to Judgement of this Court in his favour”.**
- 2. “Whether Plaintiff has proved his case to tilt the scale of justice in his favour to entitle him to the Reliefs claimed”.**

In the Counter Claim the Defendant raised 1 Issue for determination which is:

**“Whether in the circumstances of the case, the Defendant/Counter-Claimant is entitled to succeed in the Reliefs sought in his Counter Claim”.**

In the Counter Claim the Defendant claimed for declaration that having applied for and paid for regularization of the Res on the 6<sup>th</sup> of May, 2007 he is entitled to the new Certificate of Occupancy. That he has been in possession had uninterrupted occupation and had developed the Res erecting perimeter fence and gate house. That he is entitled to exercise right of possession over the Res without any interruption and disturbance.

He also want Perpetual Injunction against the Plaintiff and his agents, privies, successor in title etc, in addition to Fifty Million Naira (~~₦~~50,000,000.00) as compensation/general damage.

It is important to note that the Defendant Counsel seeks for Fifty Million Naira in words and ~~₦~~10,000,000.00 in bracket as general damages. This Court finds it difficult to know the actual amount the Defendant wants as damages for the alleged trespass by the Plaintiff. He also wants Two Million Naira (N2,000,000.00) as cost of the Suit.

The Defendant called two (2) Witnesses – himself and Mrs. Philomena Divine Julius Tooohukwu. He tendered 6 documents challenging the Power of Attorney of the Plaintiff