

IN THE HIGH COURT OF JUSTICE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT JABI, ABUJA

BEFORE HIS LORDSHIP: HON. JUSTICE D. Z. SENCHI

COURT CLERKS: T. P. SALLAH & ORS

COURT NUMBER: HIGH COURT NO. 13

DATE: 18/5/2020

FCT/HC/CV/2036/16

BETWEEN:-

**ZAKARIA OKANGA PROPERTIES NIG. LTD
(SUING THROUGH HER LAWFUL ATTORNEY
DR. HENRY ACHUGBU).**

.....

PLAINTIFF

AND

- 1. PERSONS UNKNOWN**
- 2. HON. MINISTER OF FEDERAL CAP. TERRITORY**
- 3. FEDERAL CAPITAL DEV. AUTHORITY**
- 4. ABUJA METROPOLITAN MANAGEMENT COUNCIL
(DEVELOPMENT CONTROL, LAND DEPARTMENT
AND AGIS)**
- 5. LAM-ANKO NIG. LTD
(SUING THROUGH RANTI ANIFOWOSE)**

DEFENDANTS

JUDGMENT

The Plaintiff originally commenced this action vide Writ of Summons and Statement of Claim dated 22nd February, 2016 and filed on 23rd February, 2016 against the 1st - 4th Defendants. Pursuant to an application brought by it, the 5th Defendant was subsequently joined as a party to the Plaintiff's suit on 29th November, 2016. The Plaintiff thus amended its originating processes with leave of this Court and by its Amended Statement of Claim dated 13th February, 2017, the Plaintiff claims the following reliefs against the Defendants:-

- a) A declaration that the Plaintiff is the title holder, owner and in possession of plot No 293 Cadastral zone B03 Wuye District FCT Abuja.
- b) A declaration that the entering, trespass and continuous entering and trespass of the 1st and 5th Defendants into the land, subject matter of this suit to harass, intimidate and coerce (sic) the Plaintiff and security men is wrongful, illegal, unlawful and unconstitutional and amounts to trespass.
- c) A declaration that the quit notice served by the 2nd, 3rd and 4th Defendants, their agents and privies on the Plaintiff in respect of the land, subject matter of this suit is wrongful, illegal, unlawful, unconstitutional and of no effect, null and void.
- d) A declaration that the withholding of the roofing approval for the Plaintiff's building till date on the basis of the 1st and 5th Defendants' unfounded complaint and the quit notice by the 2nd, 3rd and 4th Defendants, their agents and privies is wrongful, illegal, unlawful, unconditional (sic), ultra vires and arbitrary.
- e) A declaration that the Plaintiff has suffered damages as a result of the delay in the completion of the Plaintiff's building occasioned by the unwarranted withholding of the roofing approval by the 2nd, 3rd and 4th Defendants, their agents and privies since 2014 till date.
- f) An order directing and mandating the 2nd, 3rd and 4th Defendants their agents and privies to release, issue, give or grant the roofing approval for the completion of Plaintiff's building forthwith.
- g) The sum of N50, 000,000 as general damages against the 2nd, 3rd and 4th Defendants for withholding of the roofing approval and delay in the completion of the Plaintiff's building.
- h) The sum of N50, 000,000 as general damages against the 1st Defendant for trespass.
- i) The sum of N50, 000,000 as general damages against the 5th Defendant for trespass.

- j) An order of perpetual injunction restraining the 1st and 5th Defendants, their agents and privies from entering, further entering, trespassing and further trespassing into the Plaintiffs land, subject matter of this suit known as Plot No 293 Cadastral Zone B03 Wuye District FCT Abuja.
- k) An order of perpetual injunction restraining the 2nd, 3rd and 4th Defendants, their agent and privies from revoking, withdrawing, rescinding or retracting the Plaintiff's title and interest in the land, subject matter of this suit known as Plot No 293 Cadastral Zone B03 Wuye District, FCT Abuja for the benefit of the 1st or 5th Defendants or any other person whatsoever.
- l) The sum of N1,000,000.00 as cost of action.

The 2nd - 4th Defendants entered appearance and filed their joint statement of defence with leave of Court granted on 3rd October, 2018. The 5th Defendant filed its Statement of Defence with leave of Court granted on 30th May, 2017 thereafter the Plaintiff filed a reply to the 5th Defendant's statement of defence and a defence to the counter claim on 2nd June, 2017. The Plaintiff equally filed on 4th June, 2018 a reply to the 2nd -4th Defendants statement of defence. The 5th Defendant also on 26th November, 2017 filed a reply to the Plaintiff's statement of defence to the counter claim of the 5th Defendant. And incorporated a Counter Claim by which it claimed the following against the Plaintiff:-

- a. A declaration that the 5th Defendant/Counter-Claimant is the lawful and beneficial owner of the space of land and appurtenances, known and described as Plot 1151 Cadastral Zone B03 Wuye District, measuring 7146.04m² and comprising of the portion purportedly claimed as Plot 293, by the Plaintiff.
- b. A declaration that the purported Right of Occupancy dated 10th May, 2007, with File No: KB 20229, is illegal, null and void and that MAMI FATIMA SANI GWANDU had no valid title to transfer to the Plaintiff/Defendants to the Counter Claim.
- c. A declaration that the Plaintiff/Defendant to this Counter Claim, are not entitled to any portion of the land, known and described

as Plot 1151 Cadastral Zone B03 Wuye District, measuring 7146.04m².

- d. An order of Court setting aside the purported Right of Occupancy dated 10th May, 2007, with File No: KB 20229, same being illegal, null and void.
- e. A declaration that the Plaintiff's forceful entry and disturbance of the quiet possession of the Counter – Claimant over the Plot 1151 Cadastral Zone B03 Wuye District, measuring 7146.04m², amounts to trespass.
- f. The sum of N15,000,000.00 (Fifteen Million Naira only), against the Plaintiff/Defendant to this Counter Claim, for trespass onto Plot 1151 Cadastral Zone B03 Wuye District, measuring 7146.04m².
- g. The sum of N6,700,000.00 (Six Million, Seven Hundred Thousand Naira) only, against the Plaintiff/Defendant to this Counter Claim, as damages for demolition, excavation and landscaping of Plot 1151 Cadastral Zone B03 Wuye District, measuring 7146.04m², after the Plaintiff's unlawful development of same.
- h. An Order of perpetual injunction restraining the Plaintiff/Defendants to this Counter Claim, their agents, privies, assigns, attorneys and/or any person by whatever name so described, from entering, taking possession or disturbing the quiet possession of the Counter Claimant, over the land, known and described as Plot 1151 Cadastral Zone B03 Wuye District, measuring 7146.04m².
- i. The sum of N50, 000,000.00 (Fifty Million Naira) only being general damages against the Plaintiff.
- j. Cost of this action.

For ease of reference, the Plaintiff (and Defendant-to-Counter-Claim) will simply be referred to as the 'Plaintiff' while the 5th Defendant (Counter-Claimant) will simply remain the '5th Defendant' in this judgment.

Pleadings in this case having been duly filed and exchanged, the Plaintiff on 24th April, 2018 opened its case for trial with one Dr. Henry Achigbu testifying as PW1 in support of the Plaintiff's

case. One Ranti Anifowose testified as DW1 on behalf of the 5th Defendant while one Prisca Okpolor testified for the 1st – 4th Defendants' defence. All witnesses adopted their respective witnesses statement on oath as their evidence and they were cross-examined. The following documents were admitted in evidence as exhibits at trial:-

1. Exhibit 1:-Certified True Copy of Application for grant/re-grant of a statutory right of occupancy acknowledgement dated 09th August,2006.
2. Exhibit 2:- Certified True Copy of Offer of Statutory Right of Occupancy issued in favour of Mami Fatima Sani Gwandu dated 10th May,2007.
3. Exhibit 3:-Deposit slip of UBA for payment of Certificate of Occupancy Bill to AGIS dated 8th August,2007.
4. Exhibit 4:-Certificate of Incorporation of Zakaria Okanga Properties Nigeria Limited.
5. Exhibit 5:-Letter dated 4th April, 2008 by Hammart & Co., Barristers & Solicitors to Dr Henry Achugbu.
6. Exhibit 6:-Legal Search Report dated 15th April,2008.
7. Exhibit 6A:-Title Particulars of Legal Search Report.
8. Exhibit 7:- Authority letter to collect Certificate of Occupancy by Mohammed Zakaria.
9. Exhibit 8:-Deposit slip of First Inland Bank Plc dated 9th August,2006.
10. Exhibit 9:- Certified True Copy of Settlement of Building Plan Fees, Conveyance of Building Plan Approval and attached documents.
11. Exhibit 10:-Quit Notice by Department of Development Control on alleged trespass.
12. Exhibit 11:-Letter dated 2nd December,2014 to the Co-ordinator, Development Control on alleged trespass.
13. Exhibit 11A:-Letter dated 7th June, 2015 to the Co-ordinator, Development Control on alleged trespass.
14. Exhibit 11B:- Letter dated 28th August,2015 from the Abuja Metropolitan Management Agency.
15. Exhibit 12:-Deposit Slip of Zenith Bank Plc dated 28th May,2015 to AMMC.

16. Exhibit 14:-Irrevocable Power of Attorney by Mami Fatima Sani Gwandu in favour of Zakaria Okanga Properties Limited.
17. Exhibit 14A:-Irrevocable Power of Attorney between Zakaria Okanga Properties Limited and Dr. Henry Achugbu.
18. Exhibits 15, 15A & 15B:-Three photographs.
19. Exhibit 16:- Certificate of Compliance with Evidence Act 2011.
20. Exhibit17:-Certified True Copy of Certificate of Occupancy issued to Messrs Trade Crafts Nigeria Limited.
21. Exhibit 18:-Certified True Copy of Certificate of Incorporation of Tradecraft Nigeria Limited.
22. Exhibit 19:-Original Certificate of Occupancy issued to Tradecraft Nigeria Limited.
23. Exhibit 20:-Legal Search Report.
24. Exhibit 20A:-Application for Legal Search Report.
25. Exhibit 20B:- Certified True Copy of Certificate of Occupancy dated 9th April,2010.
26. Exhibit 21:-Official Receipt for Building Plan Approval issued by Federal Capital Territory Administration to Tradecraft Nigeria Limited.
27. Exhibit 22:-Conveyance and Building Plan Approval dated 16th March, 2016.
28. Exhibit 23:-Letter to the Coordinator, AMMAC dated 18th November, 2014.
29. Exhibit 24:-Revenue Collector's Receipt for the sum of N10,000 being payment for Certified True Copy of registered documents.
30. Exhibit 24A:- Certified True Copy of Power of Attorney between Messrs Tradecrafts Nigeria Limited and M/S Lam-Anko Properties Nig. Limited.
31. Exhibit 24B:- Power of Attorney donated by Messrs Lam-Anko Properties Nigeria Limited.
32. Exhibit 25:- Certified True Copy of Offer of Terms of Grant/Conveyance of Approval issued to Messrs Tradecrafts Nigeria Limited.
33. Exhibits 25A:-Title Deed Plan.

34. Exhibit 26:- Certified True Copy of Certificate of Occupancy issued to Tradecraft Nigeria Limited.
35. Exhibit 26A:-Title Deed Plan.

At the close of evidence, final written address was ordered to be filed and exchanged. The 5th Defendant's Counsel's Written Address is dated and filed on 20th November, 2018 and filed on 23rd November, 2018 while the 2nd - 4th Defendants' Counsel's written address is dated 18th December, 2018 and filed on 8th January, 2019. The Plaintiff's Counsel's final written address is dated and filed 21st December, 2018 to which the 5th Defendant's Counsel filed on 23rd January, 2019 a reply address. Learned Counsel adopted their respective addresses as their arguments in support of parties' respective cases.

The 5th Defendant's Counsel formulated two issues for the determination of the instant suit to wit:-

1. Whether the Plaintiff has made out a valid claim for title and other reliefs sought.
2. Whether the 5th Defendant/Counter-Claimant is entitled to her counter-claims.

Learned Counsel to the 2nd-4th Defendants for her part formulated three issues for determination to be as follows:-

1. Whether the Plaintiff possesses the locus to institute this action.
2. Whether the Plaintiff has a valid title to the subject matter of this suit.
3. Whether the Plaintiff is entitled to the reliefs sought from this Honourable Court.

The Plaintiff's Counsel on the other hand distilled a whopping number of eleven issues for determination. The eleven issues are:-

1. Whether the 5th Defendant lacks juristic personality to sue, be sued and/or be joined in this suit and therefore not entitled to its counter claim or judgment in respect of Plot 293 Cadastral Zone B03 Wuye District subject matter of this suit and the order of Court for joinder of 5th Defendant was made without jurisdiction.
2. Whether by the "cancellation" and "Without prejudice" declared, stamped/marked on Exhibit 17 by the 2nd - 4th Defendants, the title, interest, right, offer, allocation or reallocation of plots 1151 and/or 293 Cadastral Zone B03 subject matter of this suit purportedly granted in favour of Tradecraft Nig. Ltd is non-existent, nullified, void, and therefore can no longer be transferred, alienated or relied upon as root of title by the 5th Defendant.
3. Whether the offer, allocation or reallocation of plot 293 Cadastral Zone B03 Wuye subject matter of this suit made to Tradecrafts Nigeria Limited in 2011 and the service of Exhibit 10 on the Plaintiff without prior service of notice of revocation of the land/title on Mami Fatima Sani Gwandu (Allottee) or the Plaintiff is wrongful, invalid, unlawful, unconstitutional, null and void, and of no effect.
4. Whether the 5th Defendant is entitled to their counter-claim of ownership to the land and trespass against the Plaintiff in respect to Plot 293 Cadastral Zone B03 Wuye District Abuja, subject matter of this suit when it is clear that they failed to prove title.
5. Whether the failure of the 5th Defendant to prove their allegation of crime made against the offer, allocation or reallocation of Plot 293 Cadastral Zone B03 Wuye subject matter of this suit made in favour of Mami Fatima Sani Gwandu, is fatal to the case and counter claim of the 5th Defendant.
6. Whether the Statutory Right of Occupancy (Exhibit 2) dated 10th of May 2007 granted or issued in favour of Mami Fatima Sani Gwandu by the 2nd - 4th Defendants in respect of Plot 293 Cadastral Zone B03 subject matter of this suit is valid and subsisting and the Plaintiff has the authority to represent the allottee for the reliefs sought in this suit.

7. Whether by the failure of the 5th Defendant to prove the legal personality or registration of Lam-Anko Nigeria Limited, or the 5th Defendant as already argued in the Plaintiff's issue one, Exhibit 24A and 24B are therefore null and void and cannot be used for whatever purpose in connection to Plot 1151 and/or Plot 293 Cadastral Zone B03 Wuye District FCT Abuja subject matter of this suit.
8. Whether the 2nd – 4th Defendants were right when they relied on the alleged previous commitment to issue and serve Exhibit 10 (Notice to quit) on the Plaintiff and proceeded to withhold the roofing approval for the Plaintiff's building.
9. Whether the 2nd – 4th Defendants are restrained under estoppel by conduct having granted the offer, allocation or reallocation and title to Plot 293 Cadastral Zone B03 Wuye District Abuja in favour of Mami Fatima Sani Gwandu and also proceeded to permit, approve or allow the Plaintiff to develop and construct the building on the land and therefore should be stopped from denying, rescinding, withdrawing, disturbing, refusing or revoking Plaintiff's interest and position in Plot 293 subject matter of this suit to the benefit of the 1st or 5th Defendants or any other person whatsoever.
10. Whether the 5th Defendant is estopped by laches and acquiescence having stood by and watched the Plaintiff develop and construct the building on Plot 293 subject matter of this suit, and therefore, must be stopped and not entitled to any claim adverse to the interest and position of the Plaintiff in respect of Plot 293 Cadastral Zone B03 Wuye District Abuja.
11. Whether the Plaintiff having proved his case is therefore entitled to judgment, and all the reliefs sought against the 1st, 2nd, 3rd, 4th and 5th Defendants respectively.

There appears to be quite a lot of proliferation in the issues formulated by Counsel to the Plaintiff. I have noticed a lot of repetition in his arguments. I am of the opinion that all issues distilled can be adequately addressed under the two issues formulated by the 5th Defendant's Counsel. I shall therefore

adopt the two issues distilled by Counsel to the 5th Defendant as my own.

- 1. Whether the Plaintiff has made out a valid claim for title and other reliefs sought.**
- 2. Whether the 5th Defendant/Counter-Claimant is entitled to her counter-claims.**

I shall address the two issues formulated together. I have carefully considered the instant case and have discovered that the issues involved in the Plaintiff's claim are closely related and interwoven with issues involved in the 5th Defendant's Counter-claim. The grounds relied upon by the 5th Defendant in its defence to the Plaintiff's claim are also the grounds relied upon for its counterclaim. By the reliefs sought in its Counter Claim, the 5th Defendant directly seeks a refusal of the Plaintiff's claim. Granting the reliefs sought in the 5th Defendant's Counter-Claim would amount to a direct refusal of the reliefs claimed by the Plaintiff in her Statement of Claim and *vice versa*. Issues raised by the Counter-claim must as of necessity be considered and decided in the process of determining the Plaintiff's claim. It is thus necessary to consider the Plaintiff's claim together with the 5th Defendant's counterclaim. In the case of ***A.-G., KWARA STATE V. OJULARI (2007) 1 NWLR (PT.1016) P. 551*** the Court of Appeal held that although a counterclaim is a separate and distinct action and should be treated as such, where common questions determinative of a claim and a counterclaim arise in a case (as in the instant case), the trial Court is not expected to consider the same questions separately in relation to the claim and counterclaim.

Thus, before I proceed with the substantive issues however, let me quickly address some preliminary points raised by the learned Counsel to the respective parties.

In his oral adumbrations, Counsel to the 5th Defendant submitted that there is no final written address filed by the

Plaintiff before this Court as the written address filed by the Plaintiff is unsigned. He relied on the case of **ONYEAMA V. EGBE (2016) 4 FWLR (PT.840) P. 1285**. Responding, Counsel to the Plaintiff submitted that the final written address was duly signed and therefore proper. As to the name of the Counsel that signed the address, Counsel to the Plaintiff posited that it was an oversight not to tick same.

By virtue of **Sections 2 and 24 of the Legal Practitioners Act**, it is only a legal practitioner that can sign Court processes on behalf of a litigant. A Court process thus signed by a person not authorised under the Legal Practitioners Act or recognized by that Act to practice as a legal practitioner is rendered invalid, null and void. See the cases of **OKAFOR V. NWEKE (2007) 10 NWLR (PT.1043) P. 521** and **COMMUNITY DEVELOPMENT ORGANIZATION & ANOR V. IBRAHIM MOHAMMED (2014) LPELR-23598(CA)**. Any Court process not verifiable to have been signed by either the party himself or his legal practitioner is incompetent and therefore, liable to be struck out. See the case of **DIAMOND BANK V. TRANTER INTERNATIONAL LTD & ANOR (2019) LPELR-47618(CA)** where the Court of Appeal held that:-

*"Nowadays, so strict is the Rule in **OKAFOR V. NWEKE (Supra)** that even where a Court process, including originating process, is signed above the names of two or more Counsel for the party affected but without any indication as to who amongst the several names of Counsel signed the Court process, such a Court process would be held to be incompetent and thus liable to be struck out."*

I have looked at the Final Written Address filed by the Plaintiff in this case. It is signed. There are however four distinguishable names listed under said signature as the Plaintiff's solicitors. A Nigerian Bar Association stamp/seal carrying the name of 'Momoh Olusegun Femi' is affixed to the space near the signature and names. One of the names listed as Plaintiff's

solicitor is 'Momoh O.F.'. Now by **Order 10 of the Rules of Professional Conduct for Legal Practitioners 2007**, a legal practitioner shall not sign any legal process unless he affixes his NBA Seal and Stamp. It follows that the NBA Stamp/Seal of Momoh Olusegun Femi clearly indicates that he signed the Plaintiff's Final Written Address as Momoh O.F. which is one of the names listed under the signature.

In the case of **RONKE V. FRN (2017) LPELR-43584(CA)** the Court of Appeal had held that

*"It is trite that technicalities cannot stand in the face of substantial justice. It is common practice that a legal process can contain the names of two or more legal practitioners. The requirement and purpose of Rule 10(1) of the Rules of Professional Conduct for Legal Practitioners 2007 is that the legal practitioner who signed the legal process must affix his stamp and seal. The rationale behind this requirement in my view, is to checkmate quacks in the legal profession and ensure that legal processes are filed by genuine legal practitioners who are registered members of the Nigerian Bar Association and truly qualified to practice law. See: **TARZOOR Vs. IORAER (2016) LPELR-25975 (SC) Pg. 17-18, and TODAY'S CARS LIMITED vs. LASACO ASSURANCE PLC (2016) LPELR-41260 (CA) pg. 6-8.** In the instant case, where the process bears the name of three legal practitioners and the stamp and seal affixed is that of one of the legal practitioners listed on the face of the process, it will amount to technical injustice to hold that the Respondent's Brief contravenes **Rule 10(1) of the Rules of Professional Conduct for Legal Practitioners 2007.** See: **IKECHUKWU VS. NWOYE (2013) LPELR-22018 (SC) pg. 10, DANKWAMBO VS. ABUBAKAR (2015) LPELR-25716 (SC) pg. 23, and JEV & ANOR VS. IYORTOM & ORS [2015] LPELR-24420 (SC) pg. 38-39."***

I am of the opinion that by virtue of the NBA stamp/seal affixed to the legal process, the particular legal practitioner who signed the Plaintiff's final written address in this suit has been indicated as 'O.F. Momoh'. The 5th Defendant's Counsel's objection to the Plaintiff's final written address is thus without merit and ought to be discountenanced and it is accordingly discountenanced.

Another issue which has been raised is the competence of the Plaintiff's action. Counsel to the 2nd - 4th Defendants has in her address raised the issue of the Plaintiff's *locus standi* to institute the instant suit. Counsel contended that the Plaintiff's *locus standi* must be disclosed by its statement of claim. He submitted that the Plaintiff has no *locus standi* to institute this action as he has no right of action. He further submitted that the Plaintiff claims under powers of attorney and as such cannot sue in its own name but must sue in the name of the donor or principal.

Now the law is that *locus standi* is the legal capacity, based upon sufficient interest in the subject-matter, to institute proceedings in a Court of law to pursue a certain cause. The law is that where a person institutes an action to claim a relief, which on the facts of the case is enforceable by another person, then the former cannot succeed because of lack of *locus standi*. In determining the issue of *locus standi* it is only the Plaintiff's claim (originating processes) that will be considered. See collectively the cases of **ADENUGA V. ODUMERU (2002) 8 NWLR (PT. 821) P. 163**, **BEWAJI V. OBASANJO (2008) 9 NWLR (PT.1093) P. 540** and **AYORINDE V. KUFORIJJI (2007) 4 NWLR (PT. 1024) P. 341**.

I have looked at the Plaintiff's Amended Statement of Claim in this case. The Plaintiff alleged that it is the holder of title and owner in possession of Plot 239, Cadastral Zone B03 of Wuye District, FCT Abuja. That interest in the said plot of land had been transferred to it from the original allottee of the Plot i.e. one Mami Fatima Sani Gwandu. That the 2nd - 4th Defendants

unlawfully stopped the Plaintiff's development of the plot while the 1st and 5th Defendants trespassed on the plot of land. The Plaintiff seeks (inter alia) declaration of title to the plot of land.

It is my considered view that the Plaintiff has, by its Amended Statement of Claim, disclosed a *locus standi* in this case. What is left is to determine whether the Plaintiff's claim (as per its allegations) has been established by the evidence it adduced at trial. The objection of the learned Counsel on the locus standi of the Plaintiff therefore fails and it is accordingly dismissed.

On whether an attorney can sue in his name or in the name of the donor of the power of attorney, it has been firmly established that it depends on the peculiar circumstances of each case. The current position of the law is that in some cases, a donee of a power of attorney can sue in his own name instead of in the name of the donor of the power of attorney appointing him. – see the decision of the Court of Appeal in the case of ***IBRAHIM V. OBAJE (2005) LPELR-11370(CA)*** which decision was affirmed by the Supreme Court on appeal in ***IBRAHIM & ORS V. OBAJE (2017) LPELR-43749(SC)***.

The matter therefore depends on what is proved by the Plaintiff at trial. Be that as it may, learned Counsel to the 2nd – 4th Defendants' objection is misconceived and it is accordingly dismissed.

Finally, another preliminary issue was raised by the Plaintiff's Counsel both in his address and oral adumbrations. Counsel submitted that it is trite law that only natural persons or artificial persons clothed with legal personality can sue or be sued in an action. He contended that the juristic personality of the 5th Defendant was challenged, issues were joined and the 5th Defendant became duty-bound to prove her legal capacity by production of its certificate of incorporation. He argued that the 5th Defendant failed to do this and as such cannot sue or be sued in this suit since it is inexistent. He relied on the cases of ***DAIRO V. REGD. TRUSTEES, TAD LAGOS (2018) 1 NWLR PT. 1599 P. 62*** and ***WITT & BUSH LTD. V. GOODWILL &***

TRUTH INC. LTD (2004) 8 NWLR (PT. 879) P. 179. He finally urged this Court to set aside the order joining the 5th Defendant as a party to this suit, treat all processes filed by the 5th Defendant in this suit as incompetent and strike out the 5th Defendant's counter-claim.

Responding on the issue of the 5th Defendant's legal personality, learned Counsel to the 5th Defendant submitted in his Reply that the Plaintiff cannot be allowed in law to raise the issue at this stage as a person who by his conduct has represented that he is consenting to something cannot be heard to complain about it again. Counsel submitted that the Plaintiff cannot be allowed to approbate and reprobate. He relied on the case of **AJIDE V. KELANI (1985) 2 NWLR (PT. 12) P. 248.** He submitted that the 5th Defendant tendered the certificate of incorporation of Messrs Tradecraft Nigeria Limited. Counsel posited that assuming the 5th Defendant had onus to tender its own certificate of incorporation but omitted to do so, there is an abundance of facts and exhibit before this Court to draw inference from and conclude that the 5th Defendant is a duly registered entity.

Now to resolve this preliminary objection raised by the Plaintiff, the law is that no action can be brought by or against any party other than a natural person (or persons) unless such a party has expressly or impliedly by statute (or by common law) been given legal personality under the name by which it sues or issued or a right to sue or be sued by that name. – see **A.-G., FED. V. A.N.P.P. (2003) 18 NWLR (PT. 851) P. 182.** In other words, only human beings and juristic or artificial persons (such as bodies corporate) are competent to sue and be sued before any law Court.

At paragraph 11 of its Defence to the 5th Defendant's Counter-Claim, the Plaintiff averred as follows:-

12. The Plaintiff/Defendant further states that Messrs Tradecraft Nigeria Limited and Lam-Anko Properties Nigeria

Limited are not registered under the Company and Allied Matters Act (CAMA).

In paragraph 5 of the 5th Defendant's Reply to the Plaintiff's above pleading, the 5th Defendant averred as follows:-

5. The 5th Defendant/Counter Claimant denies paragraph 11 of the Plaintiff's defence and puts her to the strictest proof. In addition, the 5th Defendant/Counter Claimant avers she is duly registered shall at the trial, rely on relevant incorporation documents.

The 5th Defendant in this case is Lam-Anko Nig. Ltd (albeit suing through another person). The 5th Defendant is clearly not a natural person. It is an artificial entity. By alleging that the 5th Defendant is not registered under the Company and Allied Matters Act (CAMA), the Plaintiff is saying the 5th Defendant does not have legal personality. By denying the allegation and further averring that it is duly registered, the 5th Defendant has joined issues with Plaintiff on the issue of its legal personality. I therefore do not agree with the 5th Defendant's Counsel that the legal personality of the 5th Defendant was not in issue. It is clearly in issue. The 5th Defendant had sufficient notice that its legal personality was in issue vide the pleadings exchanged by parties before trial. It is not a new issue suddenly sprung upon the 5th Defendant as suggested by its Counsel. I do not agree that the Plaintiff is approbating and reprobating and cannot raise the argument. The issue of the 5th Defendant's legal personality cannot be considered a mere irregularity. It is an issue that touches on the jurisdiction of this Court. See the cases of ***SOCIO-POLITICAL RESEARCH DEVELOPMENT V. MINISTRY OF FCT & ORS (2018) LPELR-45708(SC)*** and ***OSTANKINO SHIPPING COMPANY LTD (OWNERS OF THE MT "OSTANKINO"??) V. THE OWNERS OF THE MT "BATA 1" (2011) LPELR-4806(CA)***.

The simple question therefore is; has the legal personality of the 5th Defendant been established?

The law is that he who asserts must prove. See the Supreme Court's decision in the case of **OJOH V. KAMALU (2005) 18 NWLR (PT. 958) P. 523**. The onus is therefore on the Plaintiff to adduce evidence at trial in support of the allegation pleaded otherwise it will be deemed abandoned. The Plaintiff did not abandon its averment and did adduce oral evidence through PW1 who adopted all his witness statements on oath as his oral testimony. At paragraph 30 of his witness statement on oath of 2nd June, 2017, PW1 testified that Messrs Tradecraft Nigeria Limited and the 5th Defendant are not registered under the Companies and Allied Matters Act (CAMA).

In the circumstances, the onus shifts to the 5th Defendant who has denied the allegation to call evidence to disprove the fact as the onus of proving or disproving a particular fact in issue is not static but rests on the party who will fail if no further evidence were given. See the case of **OBATUGA & ANOR V. OYEBOKUN & ORS (2014) LPELR-22344(CA)**. DW1 testified for the 5th Defendant and adopted all her witness statements on oath at trial. Her testimony as per paragraph 7 of her witness statement on oath of 26th October, 2017 is that the 5th Defendant is duly registered and relied on relevant incorporation documents. The 5th Defendant however did not produce or tender its own certificate of incorporation at the trial of this matter.

The position of the law is that where the legal personality or juristic status of a company is put in issue, the legal personality of such a company must be proved by producing its certificate of incorporation which is the best evidence of incorporation. – see the cases of **NDUKA V. EZENWAKU (2001) 6 NWLR (PT. 709) P. 494**, **NNPC V. LUTIN INV. LTD. (2006) 2 NWLR (PT.965) P. 506** and **TABIK INVESTMENT LTD. V. GTB PLC. (2011) 17 NWLR (PT.1276) P. 240**.

The Supreme Court held in the case of **SOCIO-POLITICAL RESEARCH DEVELOPMENT V. MINISTRY OF FCT & ORS**

(supra) that once the juristic personality of an artificial person is raised, the party in question can discharge the burden only by producing the certificate of incorporation.

In the case of **WORLD MISSION AGENCY INC. V. CHIEF OLUFEMI SODEINDE & ANOR (2012) LPELR-19738(CA)** the Court of Appeal held that once the juristic personality of an artificial body is challenged, whether *in limine* or on the pleadings, proof of its juristic existence must be established by evidence of a certified true copy of its registration or incorporation as *prima facie* evidence of its corporate status.

It was also held in the case of **DIKKO AND SONS LTD V. CAC (2014) LPELR-23730(CA)** that:-

"Where issue is joined between the parties in a litigation on the legal personality of a company, i.e. whether it has been duly registered or not, the certificate of incorporation should be produced, as it is only by that certificate of incorporation that its legal personality can be proved in such circumstances. Nothing else would be a sufficient discharge of the duty placed on the party asserting, in order to prove the incorporation."

It was further held in **DIKKO AND SONS LTD V. CAC (supra)** that oral evidence or documents other than certificate of incorporation of a company is not sufficient to prove incorporation of that company. It follows therefore, in the instant case, that DW1's oral testimony of due registration of the 5th Defendant is insufficient to prove its legal personality without the actual production of the 5th Defendant's certificate of registration or incorporation before this Court.

The position of the Supreme Court in the case of **FAWEHINMI V. N.B.A. (NO 2) (1989) 2 NWLR (PT.105) P. 558** is that the mere fact that an entity has been dealt with by others as an existing entity does not confer on it legal capacity to sue and be sued.

In view of the foregoing, I must refuse the 5th Defendant's Counsel's invitation to this Court to consider any other evidence apart from the 5th Defendant's certificate of incorporation as proof of its due registration under the law and its legal personality.

The 5th Defendant who had the onus of producing its certificate of registration or incorporation to establish its allegation of due registration under the law did not at any time produce such certificate. It follows therefore that the 5th Defendant has failed to prove its legal personality before this Court. The 5th Defendant having failed to prove its legal personality, the consequence is that it is not a legal entity or juristic person entitled to sue and be sued in law. – see the cases of **BANK OF BARODA V. IYALABANI CO. LTD (2002) 13 NWLR (PT. 785) P. 551** and **OSTANKINO SHIPPING COMPANY LTD (OWNERS OF THE MT "OSTANKINO"??) V. THE OWNERS OF THE MT "BATA 1" (supra)**. The 5th Defendant thus has no legal capacity to defend this suit or counter-claim. The 5th Defendant's name ought to be struck out of this suit. All pleadings or processes filed by or against the 5th Defendant in this suit ought to be discountenanced as being incompetent or not properly before this Court. For avoidance of doubt, the 5th Defendant's statement of defence, counterclaim and other processes filed by it in this suit are hereby struck out.

I believe this automatically settles the second issue for determination which is whether the 5th Defendant is entitled to its Counter-claim. As there is no longer a counter-claim before this Court, the issue becomes academic incompetent and its accordingly struck out as well

Now to address the main issue which is whether the Plaintiff has made out a valid claim for title and other reliefs sought.

The Plaintiff's case is presented by its pleadings and the evidence of PW1. In giving evidence at trial, PW1 adopted his

witness statements on oath deposed to on 13th February, 2017, 2nd June,2017 and 4th June,2018 filed in this case as his oral testimony in support of the Plaintiff's case. It is the Plaintiff's case that the 2nd, 3rd and 4th Defendants acknowledged receipt of an application for grant/regrant for Cadastral zone B03 Wuye FCT Abuja from one Mami Fatima Sani Gwandu. A Certified True Copy of the said acknowledgment dated 09th August, 2006 was admitted in evidence at trial as Exhibit 1. Pursuant to the application, the 2nd - 4th Defendants granted and issued an offer of Statutory Right of Occupancy to Mami Fatima Sani Gwandu on 10th May,2007 vide Exhibit 2 in respect of Plot No. 293 Cadastral Zone B03 Wuye Abuja. That the allottee paid the sum of N1,080,325 to the 2nd - 4th Defendants in settlement of statutory right of occupancy initial bill thus leaving the sum of N1,050,000 to be paid over a period of 5 years. Exhibit 3 is Deposit slip evidencing said payment. PW1 testified that Mami Fatima Sani Gwandu appointed Zakaria Okanga Properties Limited as her lawful attorney in respect of title and interest in Plot No. 293 Cadastral Zone B03 Wuye Abuja and the said Zakaria Okanga Properties Limited (Plaintiff on record) took possession of the land as a body corporate registered under the CAMA. Exhibit 14 is an Irrevocable Power of Attorney by Mami Fatima Sani Gwandu in favour of Zakaria Okanga Properties Limited while Exhibit 4 is certificate of incorporation of Zakaria Okanga. The said Zakaria Okanga Properties Limited offered the plot of land in question to PW1 for sale vide Exhibit 5 pursuant to which a legal search was conducted at AGIS on 15th April, 2008 showing that the plot of land belongs to Mami Fatima Sani Gwandu. Exhibits 6 and 6A were admitted as evidence of legal search.

It is the Plaintiff's case that interest and title to Plot No. 293 Cadastral Zone B03 Wuye Abuja (hereinafter referred to as 'the Subject Matter' of this suit) was subsequently donated or transferred to PW1 as lawful attorney of Zakaria Okanga Properties Limited in 2008 vide Power of Attorney made in 2008. Exhibit 14A was admitted in evidence as an Irrevocable Power of Attorney between Zakaria Okanga Properties Limited

and PW1. That PW1 took over the title and possession of the Subject Matter and took steps with the 2nd – 4th Defendants to develop same using the original allottee's name. In the name of the original allottee, the Plaintiff paid N51,000 to the 2nd – 4th Defendants as land processing fees vide AGIS deposit slip admitted in evidence as Exhibit 8. The Plaintiff also settled building plan fees of the sum of N347,493 in favour of the 2nd – 4th Defendants and got approval of building plan as well as commencement of construction on the Subject Matter in the original allottee's name. The Plaintiff thus commenced construction with necessary approvals up to roofing stage for which the Plaintiff applied. Exhibit 9 contains Certified True Copies of various correspondences with the 2nd – 4th Defendants. It is PW1's testimony that the Defendants however served a quit notice alleging trespass on the Plaintiff in 2014 after the first slab/decking was completed. Exhibit 10 is the CTC of said Quit Notice dated 1st December, 2014. The Plaintiff discovered that the 1st Defendant had made unfounded complaint against the Plaintiff to the 2nd – 4th Defendants pursuant to which the 2nd – 4th Defendants had served the quit notice and withheld approval for roofing of the Plaintiff's structures. The Plaintiff wrote various letters to the 2nd – 4th Defendants informing them of the correct position of title and interest on the Subject Matter but the 2nd – 4th Defendants wrote a reminder of the alleged trespass and later acknowledged the Plaintiff's letter after which they still refused to take any steps to grant the Plaintiff approval for roofing of the building. Exhibit 11 contain Certified True Copy of further correspondences with the 2nd – 4th Defendants. PW1 testified that the Plaintiff was made to pay the sum of N10,000 to the 2nd – 4th Defendants as revalidation fee for building plan despite delay in construction. Exhibit 12 is a copy of deposit slip for N10,000.

The Plaintiff's case is further that the 1st Defendant trespassed into the site to harass and intimidate the Plaintiff and its men there by asking them to vacate the site. That the Plaintiff entered and took possession of the Subject Matter and

developed same with the consent and approval of the 2nd – 4th Defendants. Exhibits 15, 15A and 15B are photographs of the development on the Subject Matter while Exhibit 16 is a certificate of compliance with the law. That the 2nd – 4th Defendants are estopped from revoking or withdrawing the Plaintiff's title and interest in the Subject Matter in favour of the 1st Defendant or any other person. That the 1st Defendant deliberately and knowingly stood by since 2008 when the Plaintiff commenced building and now seek to reap the sweat of the Plaintiff's labour by taking over the Plaintiff's building which the 1st Defendant pretended not to see for 8 years between 2008 till 2016. PW1 testified that the Defendants' acts of trespass, service of quit notice and withholding roofing approval have occasioned damages to the Plaintiff as it has suffered huge financial loss and incurred extra costs. That no revocation of title notice was served on the original allottee or the Plaintiff and the notice to quit served on the Plaintiff is unconstitutional, illegal, null and void.

On the otherhand, by their pleadings, the 2nd – 4th Defendants admit the fact that they made offer of statutory right of occupancy in respect of the Subject Matter to Mami Fatima Sani who made payment for the initial bill. They admit that the Plaintiff made payments and processed land documents with them in the original allottee's name. They admit approving building plan for the Plaintiff and when the Plaintiff applied for roofing approval, they served quit notice on the Plaintiff. The 2nd – 4th Defendants admit withholding roofing approval from the Plaintiff till date and taking no steps to approve same despite acknowledging the Plaintiff's letter of complaint.

The 2nd – 4th Defendants however deny the Plaintiff's claim. DW2 testified in support of the 2nd – 4th Defendants' defence. In doing so, she adopted her witness statement on oath of 25th May, 2018 as her oral evidence in this case. It is the 2nd – 4th Defendants' defence that the quit notice was issued and served on the Plaintiff as soon as they discovered that there was a previous commitment on the Subject Matter. It is the 2nd – 4th

Defendants' defence that the allocation to Mami Fatima Gwandu was withdrawn because of the said commitment. DW2 testified that one Tradecrafts Nigeria Limited was granted Right of Occupancy in 1992 and it was conveyed in 1993. Exhibit 25 was admitted in evidence as Certified True Copy of Offer of Terms of Grant/Conveyance of Approval issued to Messrs Tradecrafts Nigeria Limited while Exhibit 25A is the Title Deed Plan. That Tradecraft Nigeria Limited carried out the mandatory recertification exercise after which its plot was renamed Plot No. 1151 and Certificate of Occupancy No. 1807w-e000z-2d53r-a013u-10 has been issued to it. The Certified True Copy of said Certificate of Occupancy was admitted in evidence as Exhibit 26 while Title Deed Plan is Exhibit 26A.

In its reply to the 2nd – 4th Defendants' defence, the Plaintiff essentially repeated its allegations already made in its amended statement of claim. PW1's further testimony in support of said reply however is that Messrs Tradecraft Nig. Limited is unregistered and the only root of title granted to it is the one dated 15th August, 1995 signed by Lt. Gen. J.T. Useni as the then Minister of FCT in respect of Plot 1151 Cadastral Zone B03 Wuye District which is a merger of some plots of land with the exclusion of the Subject Matter of this suit. Exhibit 17 was admitted in evidence as Certified True Copy of Certificate of Occupancy issued in favour of Messrs Trade Crafts Nigeria Limited. That the said Certificate of Occupancy was later cancelled in 2005 and marked without prejudice by the 2nd – 4th Defendants who allocated the Subject Matter to Mami Fatima Sani Gwandu on 10th May, 2007 at which time there was no encumbrance or commitment by the 2nd – 4th Defendants in respect thereof. It is the Plaintiff's case that allocation, offer, grant or Certificate of Occupancy in respect of either Plot 1151 or the Subject Matter is unlawful, null and void.

Arguing in support of the 2nd – 4th Defendant's case, learned Counsel to the Defendants submitted in her address that the Plaintiff has no valid title to Plot 239 Cadastral Zone B03 Wuye Abuja (Subject Matter of this suit). She argued that the Subject

Matter was offered under a mutual mistake as it formed a part of land already allocated to another. She relied on the principle of *nemo dat quod non habet* to submit that there was nothing for the 2nd – 4th Defendants to convey to Mami Fatima Sani Gwandu having divested themselves of title in favour of another in respect of the Subject Matter. She relied on the case ***OLOBUNDE V. ADEPOJU (2000) FWLR (PT. 24) P. 135***. She contended that the law ascribes possession to the person that proves better title amongst two contending parties. She posited that production of documents of title is one of the ways of proving ownership or title to land but mere production does not necessarily carry with it automatic grant of declaration of title. Counsel contended that the principle is that the Court will not make an order to restrain an act that is already completed. She urged this Court to dismiss this suit.

In his address, Counsel to the Plaintiff for his part submitted that the Plaintiff has convincingly demonstrated that the statutory right of occupancy over the Subject Matter was duly and validly granted to Mami Fatima Sani Gwandu by the 2 – 4th Defendants vide Exhibit 2. He contended that although there is no competing right of occupancy over the Subject Matter, the Plaintiff has nevertheless proved better title. It is Counsel's position that the only way to terminate the subsistence of Exhibit 2 is evidence of revocation notice in line with Section 28(5) and (7) of the Land Use Act. He contended that there is absence of evidence of notice of revocation of the Plaintiff's title to the Subject Matter and as such the title granted to Mami Fatima Sani Gwandu is valid and subsisting. He also referred this Honourable Court to Exhibits 14 and 14A which entitles the Plaintiff to represent Mami Fatima Sani Gwandu in this suit and seek the reliefs sought. It is submitted that Exhibit 17 shows that Plot 1151 allocated to Tradecrafts Nig. Ltd does not comprise of Plot 293 (Subject Matter). Counsel further argued that with the cancellation of Exhibit 17 by the 2nd – 4th Defendants who issued same, all documents subsequently issued to Messrs Tradecraft Nigeria Limited became devoid of any right or interest in respect of Plot No. 1151 or Plot 293

(Subject Matter). He posited that the 2nd – 4th Defendants' reliance on previous commitment is an afterthought and their act of issuing quit notice (Exhibit 10) as well as withholding roofing approval from the 4th Defendant is wrongful. Counsel submitted that the 2nd – 4th Defendants are estopped from denying, disturbing or withdrawing the Plaintiff's interest in the Subject Matter to the benefit of any other person. He submitted that the Plaintiff is entitled to all the reliefs sought, having established its case. Counsel finally urged this Court to enter judgment in favour of the Plaintiff.

Now after due consideration of the pleadings and evidence adduced by the Plaintiff and the 2nd -4th Defendants and their Counsel's final written addresses and the arguments canvassed therein, the first relief of the amended statement of claim of the Plaintiff in the instant suit is a declaration of title to land, i.e Plot no. 293 Cadastral Zone BO3 Wuye, District FCT Abuja.

The position of the law is that the first duty of any claimant of title to land is to show exactly and precisely a defined and identifiable area to which the claim relates. In other words, land to which a declaration is to attach must be sufficiently and satisfactorily identified. – see the Supreme Court cases of ***UKAEGBU V. NWOLOLO (2009) 3 NWLR (PT. 1127) P. 194 and NWOKOROBIA V. NWOGU (2009) 10 NWLR (PT. 1150) P. 553.***

In the instant case, there seems to be no dispute amongst the 1st – 4th Defendants (who are the competent Defendants before this Court) about the identity of the land which the Plaintiff claims. It appears to be sufficiently known. The identity of the land claimed by the Plaintiff is therefore not in dispute. The said land has been described by the Plaintiff as Plot No. 293 Cadastral Zone B03 Wuye Abuja. In otherwords, I believe the land, the declaration of title to which the Plaintiff claims in this suit has been sufficiently identified.

Now, on onus of proof on a party seeking declaration of title to land, it is trite law that such a party must succeed on the strength of his own case rather than rely on the weakness of the defence. – see the cases of **HENSHAW V. EFFANGA (2009) 11 NWLR (PT. 1151) P. 65 at P. 95 paragraphs C; UKAEGBU V. NWOLOLO (SUPRA) at P. 230 paragraphs A-C and EDEBIRI V. DANIEL (2009) 8 NWLR (PT. 1142) P. 15 at P. 34 paragraph B. In DIM V. ENEMUO (2009) 10 NWLR (PT. 1149) P. 353** the Supreme Court held that *until the onus is successfully discharged by the Plaintiff, the Court is not obliged to look at the Defendant's case*. Further to the above, the position is that a party seeking for a declaration of title to land bears the onerous duty in law to adduce credible and admissible evidence in establishment of such title. – see **MADAM LANTOUN OJEBODE & ORS V. AKEEM AKANO & ORS (2012) LPELR-9585(CA)**.

Further, the law is that a Plaintiff seeking declaration of title to land must prove title to that land claimed in one of the following ways in order to succeed:-

- (1) by traditional evidence;
- (2) by the production of documents of title duly authenticated;
- (3) by acts of persons claiming land such as leasing, entering etc. which acts must extend over a sufficient period of time;
- (4) by acts of long possession and enjoyment of land
- (5) by proof of possession of connected or adjacent land.

See the cases of **IDUNDUN V. OKUMAGBA (1976) 1 NWLR PT. 200 P. 210; EDEBIRI V. DANIEL (SUPRA) and NWOKOROBIA V. NWOGU (supra)**.

Successful proof by way of only one of the 5 methods would be sufficient to discharge the burden on the claimant for declaration of title. – see the case of **OLAGUNJU V. ADESOYE (2009) 9 NWLR (PT. 1146) P. 225**.

The Plaintiff in this case tendered documents in proof of its allegation of title to the Subject Matter. It must however be noted that as held in the case of **MADU V. MADU (2008) 6 NWLR (PT. 1083) P. 296** the Supreme Court restated its position in **LAWSON V. AJIBULU (1997) 6 NWLR (PT. 507) P. 14** that in a claim for declaration of title to land, the production of documents of title alone is not sufficient to discharge the onus on the Plaintiff to prove the title he claims.

In otherwords the mere production of title documents in a case such as this does not **ipso facto** entitle a party to declaration of title. The Court has a duty to look at the title documents of parties in order to ascertain the validity and effect of same before granting declaration of title. This Honourable Court is therefore entitled, in fact has a duty, to consider the validity and effect of the documents of title which the Plaintiff tendered and relied on for its allegation of title in the Subject Matter. – See the case of **ROMAINE V. ROMAINE (1992) 4 NWLR (PT. 238) P. 600** where the Supreme Court per Nnaemeka-Agu, J.S.C. (delivering the lead judgment) held thus:-

*"I may pause here to observe that one of the recognised ways of proving title to land is by production of a valid instrument of grant: see **IDUNDUN V. OKUMAGBA (1976) 9-10 S.C.246; PIARO V. TENALO (1976) 12 S.C. 31, P37; NWADIKE V. IBEKWE (1987) 4 N.W.L.R. (part 67) 718**. But it does not mean that once a claimant produces what he claims to be an instrument of grant, he is automatically entitled to a declaration that the property which such an instrument purports to grant is his own. Rather, production and reliance upon such an instrument inevitably carries with it the need for the Court to inquire into some or all of a number of questions, including:*

- (i) whether the document is genuine and valid;
- (ii) whether it has been duly executed, stamped and registered;

- (iii) whether the grantor had the authority and capacity to make the grant;
- (iv) whether the grantor had in fact what he purported to grant; and
- (v) whether it has the effect claimed by the holder of the instrument."

See also the cases of **AKINDURO V. ALAYA (2007) 15 NWLR (PT. 1057) P. 312** and **W.A.C. LTD. V. YANKARA (2008) 4 NWLR (PT. 1077) P. 323**.

Exhibit 1 is a Certified True Copy of Application for grant/re-grant of a statutory right of occupancy acknowledgement dated 9th August,2006. Exhibit 2 is a CTC of Offer of Statutory Right of Occupancy issued in favour of Mami Fatima Sani Gwandu dated 10th May,2007 while Exhibit 3 is deposit slip showing payment of N1,080,325 as C of O bill.

I think it is a fairly settled and a notorious fact that it is the Minister of the FCT (i.e. the 2nd Defendant in this case) that can validly grant statutory right of occupancy in respect of land in the FCT. – see the case of **ERIBENNE V. UG & ANOR (2007) LPELR-4172(CA) and MADU V MADU (supra)**

Out of the documents relied on by the Plaintiff in its claim for declaration of title to the Subject Matter, of particular interest is Exhibit 2 which is the offer of grant by the 2nd Defendant to Mami Fatima Sani Gwandu. Exhibit 2 is signed on behalf of the Minister of the FCT (2nd Defendant). By virtue of **Section 45 of the Land Use Act**, the 2nd Defendant can delegate his power to grant right of occupancy and issue certificate of occupancy. In the absence of anything to the contrary, there is presumption that Exhibit 2 was properly signed and issued on behalf of the 2nd Defendant. Moreover, the 2nd – 4th Defendants have admitted that they did indeed allocate the Subject Matter to Mami Fatima Gwandu. The fact thus remains that Exhibit 2 was issued by the 2nd Defendant.

Exhibit 2 is issued to one Mami Fatima Sani Gwandu. The Plaintiff on record in the instant suit is however not Mami Fatima Sani Gwandu. The Plaintiff in this case is Zakaria Okanga Properties Nigeria Limited (suing through its Attorney Dr. Henry Achugbu). Now in order to justify instituting of this action in the name of Zakaria Okanga properties Limited (suing through its attorney) the Plaintiff tendered two powers of attorney admitted in evidence as Exhibits 14 and 14A in the course of trial of this matter.

Then the 2nd -4th Defendants in her final written address under issues two and three contended that the Plaintiff is not entitled to claims for declaration of title as well as general damages for trespass. The contention of the learned Counsel to the 2nd- 4th Defendants is that by both exhibits 14 and 14(a) and a perusal of the statement of claim of the Plaintiff, the Plaintiff has acquired interest in Plot 293 Cadastral Zone Bo3 Wuye District Abuja. Learned Counsel then posits that exhibits 14 and 14(a) Powers of Attorney were never registered with the 2nd -4th Defendants Lands Registry as required by section 15 of the lands Registration Act, LFN 2004. Secondly, learned Counsel to the 2nd -4th Defendants submitted at paragraphs 5.2-5.7 and paragraphs 6.2-6.9 of the final written address to the effect that the donee of a power of attorney (as in this case the Plaintiff) cannot commence any action/suit in his name but in the name of the donor (suing through its attorney) in this case suing through the instant Plaintiff. The learned Counsel to the 2nd -4th Defendants also posit that the maxim "nemo dat quod non habet" applies in this case as the 2nd -4th Defendants had already divested themselves of interest in plot 293 Cadastral Zone Bo3 Wuye District, FCT Abuja. In a nutshell, learned Counsel to the 2nd- 4th Defendants concluded that the Plaintiff is not entitled to the claim for declaration and general damages for trespass.

Now based on the pleading and final written address of the 2nd- 4th Defendants, it would be extremely difficult to determine claims for declaration of title and award of general damages without first resolving the issues raised by the 2nd -4th

Defendants as earlier aforesaid. Thus, by paragraph 1 of the amended statement of claim of the Plaintiff, it states:-

"The Plaintiff is the holder of the title, owner and in possession of plot No. 293, Cadastral Zone B03 of Wuye District, FCT, Abuja."

Then by paragraphs 11,12,18,19,20,21 and 22 of the amended statement of claim supported by the evidence of PW1,it categorically stated that exhibits 14 and 14(a) were executed and donated to the Plaintiff transferring title and interest in the subject matter of this suit. The question now is can exhibits 14 and 14 (a) validly transfer interest or confer ownership of plot 293 B03 Wuye District on the Plaintiff in the instant case?

Firstly, in law, there exist three categories of power of attorney (1) General power of attorney which is a power of attorney that authorized an agent to transact business for the principal,

(2) Irrevocable power of attorney which is that power that the principal cannot revoke and this is also termed "power of attorney coupled with interest

(3) Special power of attorney which is such power of attorney that limits the agents authority to specific matter(s)

See ***NICHOLAS OKERE V THERESA AKALUKA (2014) LPELR 24287 (CA).***

In the instant case, exhibits 14, and 14 (a) are irrevocable power of attorney which has transferred interest or confer ownership of the subject matter of this suit on the Plaintiff and hence, the principal cannot revoke same.

The next question that requires an answer is what is the legal effect of exhibits 14 and 14(a)?

The answer to the question is not far-fetched and exhibits 14 and 14(a) are documents or instrument affecting land. Section 2 of the land Registration Act Cap 515 LFN 2004 defines an instrument as "a document affecting Land whereby one party (called the grantor) confer, transfers, charges or extinguishes in favour of another (called the grantee) any right or title to, or interest in land and includes a certificate of purchase and a power of attorney under which an instrument may be executed, but does not include a will ."

By the above definition in section 2 of the Act (supra), it is the nature of the right, title or interest, created donated or conferred by the principal that determines whether the power of attorney shall be registered so as to come within the provisions of section 15 of the Land Registration Act Cap 515 LFN 2004.

Now in the case of **ALHAJI ABDULLAHI MAIGWANDU V ABUBAKAR MARADUN & ANOR (2018) LPELR 43982**, the Court of appeal held thus:-

"A registrable instrument is a document affecting land, whereby one party confers, limits, charges or extinguishes in favour of another party any right of title to or interest in land includes a certificate of purchase and a power of attorney under which any instrument may be executed but does not include a will. Therefore, once a document purports to transfer and or confer interest in land or howsoever, described, it becomes an instrument that must be registered, but where the document does not confer title to land it need not be registered,"

See also the case of **ORIANZI V A.G. RIVERS STATE, (2017)6 NWLR (pt1561) page 224 at 283 and IBRAHIM & ORS V OBAJE (supra)**.

In the instant case i have perused exhibit 14, the irrevocable power of attorney created by Mami Fatima Sani Gwandu in favour of Zakaria Okanga Properties Limited. By clauses 2 and 3 of exhibit 14 under the heading; "Now this power of attorney witness," clearly confers ownership of the plot on the Plaintiff and by clause 9, of exhibit 14 it empowers the donee, in this case, the Plaintiff to register and record same in the appropriate Government offices for authenticating and giving full effect to this power of attorney exhibit 14.

The above clauses of exhibit 14 are in tanden with paragraphs 1,11,12,18,19,20,21 and 22 of the amended statement of claim of the Plaintiff supported with the evidence of PW1 to the effect that the Plaintiff is the holder of the title, owner and in possession of plot 293 Cadastral Zone Bo3, Wuye District, FCT Abuja.

Having established by credible evidence that exhibits 14 and 14 (a) especially exhibit 14 is what confers interest or title or ownership of plot 293, it is the contention of the learned Counsel to the 2nd -4th Defendants that exhibits 14 and 14(a) have not been registered with the 2nd -4th Defendants in accordance with section 15 of the Land Registration Act, LFN 2004.

There is no evidence before me that exhibits 14 and 14(a) which purports to transfer interest in Plot No 293 to the Plaintiff have been registered with the 2nd -4th Defendants. In the case of **OBIJURU V OZIMS** the Supreme Court held that the non – registration of a document that qualifies as an instrument under the Land Registration Law makes such document prima facie inadmissible. See also **OBIENDU V OKEKE, (2006) 16 NWLR (pt 1003) page 225 at 239-240.**

In the instant case, exhibits 14 and 14 (a) having been wrongfully admitted in evidence for failure to satisfy the conditions set out under the relevant provisions of the Land Registration Act, Cap 515 LFN 2004, exhibits 14 and 14(a) are inadmissible in evidence. Consequentially, exhibits 14 and 14(a) being inadmissible in law, the Honourable Court has unfettered powers to expunge same from its records. See the cases of **ZENITH BANK PLC V GEORGE IGBOKWE, (2018) LPELR 44777 (CA) RIOYORIC (NIG) LTD V A.G & C.J SOKOTO STATE (2017) LPELA 42506 (CA) and BROSSETTE MANUFACTURING (NIG) LTD V M/S OLA ILEMOBOLA LTD & ORS, (2007) LPELR 809 (SC).**

In the instant case therefore, exhibits, 14 and 14(a), the irrevocable powers of attorney admitted in evidence on 24th April, 2018 were initially tendered not to prove title or documents affecting land. However by the Plaintiff's amended statement of claim and witness testimony including exhibits 14 and 14(a), it is crystal clear that the two powers of attorney are purportedly tendered and admitted in evidence to prove interest or ownership in plot 293. Accordingly therefore exhibits 14 and 14(a) cannot be relied and they are hereby expunged from the records of this case.

In the circumstances, there appears to be a dichotomy in the grant of title to Mami Fatima Sani Gwandu vide Exhibit 2 and the title which the Plaintiff claims to have over the subject matter in this case. There is no credible evidence before this Court to show that title to the Subject Matter has passed from Mami Fatima Sani Gwandu to the Plaintiff as to entitle the Plaintiff to the declaration sought that it is the title holder and owner of the Subject Matter. All the Plaintiff has been able to establish is that a grant of statutory right of occupancy was made in favour of Mami Fatima Sani Gwandu. The declaration sought is however not in favour of Mami Fatima Sani Gwandu but the Plaintiff. The Plaintiff in the circumstances has failed to prove title to the Subject Matter. The relief sought by it for declaration of title to the Subject Matter must fail and it is accordingly dismissed.

The Plaintiff's instant suit also consists of claims for trespass and injunction.

It is now trite law that a claim for trespass and injunction is independent of the claim for declaration of title. A claim for trespass is not bound to fail just because a claim for declaration of title fails. It is settled law that a Plaintiff can succeed on a claim for damages for trespass and injunction even where his claim for a declaration of title fails because a claim for trespass primarily goes to possession. – see the Supreme Court's decision in the cases of **OSAFILE V. ODI (1994) 2 NWLR (PT. 325) P. 125** and **SALAMI & ANOR V. LAWAL (2008) LPELR-2980(SC)**. See also **IZUOGU V. IBE & ANOR (2018) LPELR-44347(CA)**.

Now, trespass to land is an unjustified interference or intrusion with exclusive possession of another person over land/property. A person in possession of land or the owner can maintain an action in trespass against anyone who cannot show a better title. See the cases of **TUKURU V. SABI (2013) 10 NWLR (PT. 1363) P. 442** and **EGWA V. EGWA (2007) 1 NWLR (PT. 1014) P.71**. The law thus places the burden of proof on a

claimant to establish exclusive possession of the land in question or right to such possession in order to succeed in the suit. – see the cases of ***EKONG ARCHIBONG V. UTIN J. UTIN (2012) LPELR-7907(CA)***, ***OFU OSADIM V. CHIEF E. E. TAWO (2009) LPELR-8209(CA)*** and ***ODUM V. UGANDEN (2009) 9 NWLR (PT. 1146) P. 281.***

It does not seem to be in dispute that the Plaintiff obtained building permits from the 2nd – 4th Defendants in the name of the original allottee of Exhibit 2 i.e. Mami Fatima Sani Gwandu. See also Exhibit 9. There is overwhelming evidence before this Court that the Plaintiff commenced construction of building on the Subject Matter which has reached advance stage but which the Plaintiff is yet to complete construction. See also Exhibits 15, 15A and 15B which are photographs of the yet to be completed building constructed by the Plaintiff on the Subject Matter. It is not in dispute that the 2nd – 4th Defendants refused to issue the Plaintiff with roofing permit but rather issued it with a notice to quit the Subject Matter on grounds of trespass. See also Exhibit 10.

The 2nd – 4th Defendants alleged and testified through DW2 that the allocation of the Subject Matter by them to Mami Fatima Sani Gwandu was withdrawn because of another commitment in respect of the Subject Matter. The 2nd – 4th Defendants say that they had earlier granted a Right of Occupancy in respect of the Subject Matter to one Tradecraft Nigeria Limited. However learned Counsel to the Plaintiff has posited that the allocation to Mami Fatima Sani Gwandu can only be revoked by a notice of revocation.

By virtue of **Section 28(6) and (7) of the Land Use Act**, a revocation of right of occupancy is done by issuing the holder with notice to that effect. The grounds for revoking a right of occupancy under **Section 28 of the Land Use Act** are however exhaustive and they are either for *overriding public interest* or for *breach of terms of the grant*. See **Section 28(1) and (5) of the Land Use Act**.

In the instant case, the reasons given by the 2nd – 4th Defendants for withdrawing the allocation to Mami Fatima Sani Gwandu is not that the Subject Matter was required for overriding public interest or for breach of terms of the allocation. The provisions of **Section 28** therefore do not apply *stricto sensu*.

The reason given by the 2nd – 4th Defendants for withdrawing the allocation made to Mami Fatima Sani Gwandu is that they discovered a prior grant of right of occupancy in the same Subject Matter. It is trite law that a right of occupancy cannot be granted over an existing right of occupancy or interest. – see the cases of **C.S.S. BOOKSHOPS LTD. V. R.T.M.C.R.S (2006) 11 NWLR (PT. 992) P. 530** and **YAKUBU WAMBAL V. JAFARU MUSA (2009) LPELR-8186(CA)**.

The position of the law as stated by the Supreme Court is that the Governor (2nd Defendant in this case) has inherent power to correct any mistake of fact relating to the grant of rights of occupancy such that the Governor can cancel any right of occupancy granted in error. – see the cases of **SAUDE V. ABDULLAHI (1989) 4 NWLR (PT. 116) P. 387 at P. 415** and **ILONA V. IDAKWO (2003) 11 NWLR (PT. 830) P. 53 at P. 81 paragraph. F-G**.

In **SAUDE V. ABDULLAHI (supra)**, the Supreme Court per Obaseki JSC posited thus:-

It does not require an express provision of the Law or Act to give power to the Governor to correct errors made by him arising from a misunderstanding of the facts. If A applies for Plot X and B applies for Plot Y and Plot Z and approval for the allocation of the plot applied for is given, if plot Y is mistakenly given to A by the Governor and the mistake is subsequently discovered, the law gives the Governor inherent power to rectify the grant.

Following the above decision, the apex Court in **ILONA V. IDAKWO (supra)** stated thus:-

In the case of SAUDE V. ABDULLAHI supra at p. 415 this Court held that it does not require an express provision of the Law or Act to give power to the Governor to correct errors made by him arising from a misunderstanding of the facts and that the Governor has an inherent power to correct mistakes of facts arising from the grant of right of occupancy by revocation of such grant. By the same token, the Governor can cancel such a revocation on discovering that the revocation was made in error.

The relevant question is; have the 2nd – 4th Defendants established that they had granted a prior existing right of occupancy in respect of the Subject matter to justify the withdrawal of the allocation to Mami Fatima Sani Gwandu and issuance of notice (Exhibit 10) to the Plaintiff to quit the Subject Matter?

In support of their claim of an earlier grant of Right of Occupancy in respect of the Subject Matter to one Tradecraft Nigeria Limited, the 2nd – 4th Defendants relied on Exhibits 25, 25A, 26 and 26A.

Exhibit 25 is a Certified True Copy of conveyance of approval of grant of Right of Occupancy in respect of "Plot Nos 276 – 278 and 292 – 294 within Wuye District" to Tradecrafts Nigeria Limited and it is issued in September, 1993. Exhibit 25A is Certified True Copy of Title Deed Plan showing the land granted as annexed to Exhibit 25. Exhibit 26 is Certified True Copy of Certificate of Occupancy issued on 17th February, 2011 to Tradecraft Nigeria Limited. Certified True Copy of Title Deed Plan is further annexed to Exhibit 26 and marked as Exhibit 26A and shows that the Certificate of Occupancy (Exhibit 26) is in respect of the same right of occupancy and the same land granted vide Exhibit 25 (and 25A) but now referred to as Plot No. 1151 Cadastral Zone B03 Wuye District. DW2's evidence is

that this plot number was assigned to the land during recertification.

Exhibits 25 and 25A identifies the land granted to Tradecrafts Nigeria Limited as "Plot Nos 276 – 278 and 292 – 294 within Wuye District". This clearly means Plot Numbers 276 to 278 and Plot Numbers 292 to 294. Which in essence, the plots that comprise the land granted to Tradecrafts Nigeria Limited vide Exhibits 25 and 25A are Plot Numbers 276, 277, 278, 292, 293 and 294. It follows therefore that Plot 293, which is the Subject Matter of the Plaintiff's instant suit, is amongst the plots of land granted to Tradecrafts Nigeria Limited vide Exhibits 25 and 25A. The Plaintiff's position that the Subject Matter is not covered by the right of occupancy granted to Tradecraft Nigeria Limited cannot be correct and it is accordingly discountenanced.

The Plaintiff's case however is that Tradecraft Nigeria Limited is unregistered and the only root of title granted to it is the one dated 15th August, 1995 vide Certificate of Occupancy signed by Lt. Gen. J.T. Useni as then Minister of FCT in respect of Plot 1151 Cadastral Zone B03 Wuye District. That the said Certificate of Occupancy was later cancelled in 2005 and marked without prejudice. The Plaintiff tendered Exhibit 17 as the CTC of the cancelled Certificate of Occupancy issued to Tradecraft Nigeria Limited.

Before i deal with the issue of exhibit 17, let me quickly mention here that the Certified True Copy of Certificate of Incorporation of Tradecraft Nigeria Limited was admitted in evidence through the Plaintiff's own witness (PW1) and marked as Exhibit 18 at trial. This puts a rest to the Plaintiff's allegation of Tradecraft Nigeria Limited being an unregistered entity.

Now, I have looked at Exhibit 17. Exhibit 17 is a Certified True Copy of Certificate of Occupancy issued to Trade Crafts Nigeria Limited. It is dated 15th August,1995. Exhibit 17 however carries a stamp on the face of it which reads 'Cancelled Without Prejudice 27 APR 2005'.

The 2nd – 4th Defendants (particularly the 2nd Defendant) have power under **Section 5 of the Land Use Act** to grant statutory rights of occupancy in respect of land in the FCT. By virtue of **Section 9** of the same **Land Use Act**, the 2nd – 4th Defendants can issue certificate of occupancy as evidence of such grant of right of occupancy. It follows that a certificate of occupancy can only be issued pursuant to the grant of a right of occupancy. – see the case of **CITEC (INTL) ESTATE LTD V. EYIBOH (2018) LPELR-44458(CA)**. In other words, a certificate of occupancy is not the grant of right of occupancy itself but issued subsequently as evidence of the grant.

While the certificate of occupancy Exhibit 17 might be evidence of grant of right of occupancy, **it is actually not the source of the Right of occupancy itself** as wont to be posited by the Plaintiff. That is not the effect of Exhibit 17 in law. The evidence before this Court shows that the source of the grant of right of occupancy in the land comprising of the Subject Matter to Tradecraft Nig. Ltd is the conveyance of the grant i.e. Exhibit 25 (and 25A).

The Plaintiff neither pleaded nor established that the right of occupancy granted to Tradecraft Nigeria Limited was cancelled. What the Plaintiff pleaded and gave evidence on at trial was that the certificate of occupancy issued to Tradecraft Nigeria Limited, Exhibit 17, was cancelled. Cancellation of certificate of occupancy in law however does not automatically translate to mean cancellation of the Right of Occupancy in respect of which a certificate of occupancy was issued. I have looked at Exhibit 17. It does carry a stamp on it stating “Cancelled Without Prejudice”. While the Plaintiff may have successfully pleaded and proved that Exhibit 17 was cancelled, there is nothing before this Court to show that the Right of Occupancy conferred on Tradecraft Nigeria Limited vide Exhibit 25 was cancelled. Questions were put generally to DW2 under cross examination on the difference between revocation, cancellation and withdrawal. She was not asked any specific questions on

cancellation of right of occupancy of Tradecraft Nigeria Limited. Her answers under cross-examination did not indicate in any way that the Right of Occupancy of Tradecraft was in any way cancelled.

Exhibit 26 (and 26A) is the Certified True Copy of a Certificate of Occupancy issued by the 2nd – 4th Defendants on 17th February, 2011 to Tradecraft Nigeria Limited in respect of Right of Occupancy granted to it over Plot 1151 Cadastral Zone B03 Wuye District (comprising of the Subject Matter). Exhibit 26 confirms that the said Right of Occupancy granted vide Exhibit 25 was still existing as at 2011 (when Exhibit 26 was issued). There is nothing before this Court to show that the said Right of Occupancy is no longer in existence.

Now, the right of occupancy granted by the 2nd – 4th Defendants to Tradecraft Nigeria Limited vide Exhibits 25 and 25A over the land comprising of the Subject Matter was in 1993. The allocation of the Subject Matter by the same 2nd – 4th Defendants to Mami Fatima Sani Gwandu vide Exhibit 2 however indicates the date of the Right of Occupancy as 10th May, 2007. This clearly shows that the Right of Occupancy granted to Tradecraft Nigeria Limited was existing as at 2007 when the 2nd – 4th Defendants granted right of occupancy in the same Subject Matter to the Plaintiff.

The position of the law is that where there is a subsisting right of occupancy, it is good against any other right and a subsequent grant of another right of occupancy over the same piece of land will be merely illusory and invalid. – See the Supreme Court's decision in the case of **ILONA V IDAKWO (2003) 11 NWLR (PT 830) P. 53**. It was also held by the apex Court in the case of **ADOLE V. GWAR (2008) 11 NWLR (PT.1099) P. 562** that where there exist, at the same time, two valid rights of occupancy to different persons in respect of the same land, one must of necessity be valid and the invalid one must be the latter right granted without first revoking the former one.

It follows therefore that the subsequent grant of right of occupancy in respect of the Subject Matter to Mami Fatima Sani Gwandu, during the subsistence of the grant of the same land to Tradecraft Nigeria Limited is illusory, invalid and of no effect. No valid title in the Subject Matter was conveyed to Mami Fatima Sani Gwandu. The 2nd – 4th Defendants were therefore right to have taken steps to correct this anomaly by withdrawing the allocation to Mami Fatima Sani Gwandu and issuing notice to quit (Exhibit 10) to the Plaintiff in view of having earlier committed the Subject Matter to Tradecraft Nigeria Limited vide a prior grant of a subsisting Right of Occupancy. See the cases of **SAUDE V. ABDULLAHI (SUPRA)** and **ILONA V. IDAKWO (supra)**.

Now having stated the position of the law in the instant case, i must also state that this Court is a Court of equity. I have perused the documents tendered in evidence by the Plaintiff especially exhibits 1, the application for grant of a statutory Right of occupancy, exhibit 2, the offer of the statutory right of occupancy, exhibit 9, the settlement of building plan fees together with conveyance of building plan approval. All these exhibits were issued by the 2nd –4th Defendants to Mami Fatima Sani Gwandu. More importantly are exhibits 2 and 9 issued to Mami Fatima Sani Gwandu as a result of which she commenced construction at site as evidenced by exhibits 15,15(a) and 15(b)respectively. I have perused exhibits 15,15(a) and 15(b) closely and i have seen the massive construction carried out on site by Mami Fatima Sani Gwandu pursuant to the approval to develop the property granted to her by the 2nd -4th Defendants on 25th February, 2011. I have also seen exhibit 7, the letter of authority to the 2nd Defendant wherein the Plaintiff granted First Bank of Nigeria Plc or their representative authority to collect the certificate of occupancy. I have equally seen exhibit 11 and the 2nd paragraph states:-

" This said land was purchased by me in May, 2008 through First Bank of Nigeria Plc"

And exhibit 11 which was address to the 2nd 4th Defendants further states:-

" Please find attached all the necessary document in respect of the said land including conveyance approval, setting out approval and decking approval etc..."

The 2nd -4th Defendants with all these relevant information and having full knowledge of exhibits 15,15(a) and 15(b) and the application for approval to roof, now issued exhibit 10 dated 1st December, 2014. The building plan approval for exhibits 15, 15(a) and 15 (b) was issued on 25th February, 2011, four years thereafter before the issuance of exhibit 10.

The 2nd -4th Defendants never contested all these relevant information as contained in the exhibits especially, the documents are that of the 2nd – 4th Defendants.

Having said the above, I will also say that the Plaintiff's Counsel handled his client's case to the best of his knowledge and ability. However he would have done better with the information or facts disclosed or at his disposal in this matter.

In any event, by the facts and records as they were in relation to the action of the 2nd -4th Defendants, certainly, a look at exhibits 15,15(a) and 15(b), huge financial expenditure must have occurred as the result of the direct action of the 2nd -4th Defendants. And the financial expenditure, no doubt, was as a result of Bank financing. And to allow Mami Fatima Sani Gwandu leave the Court room without any equitable remedy concerning the huge financial commitments, would be suicidal. Judicial notice can be taken that most wars occurred as a result of injustices especially in land disputes. Heneous crimes are committed and a times resulting in sudden death or disappearance of well meaning people. Hence therefore such injustices must be addressed by the State actors in favour of the aggrieved.

Thus, in the circumstances and facts of this instant case, in the exercise of my inherent powers as provided by the Constitution of the Federal Republic of Nigeria 1999 (as amended) and under the Rules of this Honourable Court, it is hereby ordered that the 2nd -4th Defendants to provide and allocate alternative plot of

land of equal size and probably in the same location to Mami Fatima Sani Gwandu. Further, it is equally ordered that the 2nd - 4th Defendants to carry out due assessment of exhibits 15, 15 (a) and 15(b) in company of the Mami Fatima Sani Gwandu's Estate Valuers and agree on compensation to be paid to Mami Fatima Sani Gwandu to cushion the effect of the liabilities incurred by her as a result of consent granted by the 2nd- 4th Defendants to commence building on plot no.298.

In conclusion, the Plaintiff in the instant case is not entitled to the reliefs claimed and all the reliefs are hereby dismissed.

HON. JUSTICE D.Z. SENCHI
(PRESIDING JUDGE)
18/5/2020

Plaintiff represented by Dr Henry, the attorney present in Court.
Prince N. Uwagbokwu:-for the Plaintiff.
M.J. Harima :- For the 5th Defendant

Sign
Judge
18/5/2020