

**IN THE HIGH COURT OF JUSTICE OF FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT JABI HIGH COURT NO.5
BEFORE HIS LORDSHIP, HON. JUSTICE A.A.I. BANJOKO-JUDGE
DELIVERED ON THEOF DECEMBER 2020**

SUIT NO: FCT/HC/CV/413/2018

BETWEEN:

CENTURY AGRICULTURAL TECHNOLOGIES LIMITED..... CLAIMANT

AND

MINISTER OF THE FEDERAL CAPITAL TERRITORY DEFENDANT

- **KALU ONUOHA ESQ. FOR THE CLAIMANT**
- **R.J. GOYOL ESQ. FOR THE DEFENDANT**

JUDGMENT

This is a Transferred Case from the Court of Late Hon. Justice Valentine Ashi, and it is a Writ of Summons dated and filed on the 3rd December 2018, wherein the Claimant is praying this Court for the following Relief: -

1. A Declaration that the Claimant is the Holder of the Statutory Right of Occupancy dated 3rd Day of June 2002, referenced [File No. MFCT/LA/MISC 18551] over Plot No. 968 within Idu District, Abuja.
2. A Declaration that the Claimant's Statutory Right of Occupancy over Plot No. 968 within Idu District, Abuja, is valid and subsisting.
3. A Declaration that the Payment of Two Million, Eight Thousand, Eight Hundred and Sixty-Five Naira, (N2, 008, 865) being the Total Assessed Rent, Fees, Premium, Survey Fees, Development Levy, etcetera for the issuance of Certificate of Occupancy, represents Full Payment by the Claimant is valid and subsisting.
4. An Order directing the Defendant to issue the Claimant with the Certificate of Occupancy over Plot No. 968 within Idu District, Abuja

5. An Order of Perpetual Injunction restraining the Defendant whether by himself, Agents or Privies from unlawfully revoking and or expropriating or in any manner howsoever interfering with the Rights, Title of the Claimant or Possession by the Claimant of Plot No. 968 within Idu District, Abuja covered by [File No. MFCT/LA/MISC/18551] and Statutory Right of Occupancy dated the 3rd day of June 2002.
6. An Award of the Sum of Ten Million Naira (10, 000, 000.00) as General Damages against the Defendant.

The Claimant filed a Witness Statement on Oath dated the 3rd of December 2018, and Documents in support.

In response, the Defendant filed a Statement of Defence on the 5th of March 2019, dated the 4th of February 2019.

Trial commenced on the 27th of January 2020, and Mr. Ajaezu Ikechukwu testified in proof of the Claimant's Case as PW1. He adopted his Two Witness Statements on Oath dated the 3rd of December 2018 and 12th of March 2019, and tendered the following Documents in evidence: -

1. Offer Letter dated the 3rd of June 2002 admitted as **Exhibit A**
2. Payment Receipt for Land Application Form dated the 8th of September 1999, admitted as **Exhibit B**
3. Land Application Form dated the 8th of September 1999, admitted as **Exhibit C**
4. Acceptance of Offer dated the 5th of June 2002, admitted as **Exhibit D**
5. Right of Occupancy dated the 23rd of December 2002, admitted as **Exhibit E**
6. Payment Receipt for Certificate of Occupancy dated the 30th of December 2002, admitted as **Exhibit F**
7. Survey Plan dated the 18th of December 2002, admitted as **Exhibit G**
8. Application for Re-certification, received on the 22nd of March 2005, admitted as **Exhibit H**
9. Affidavit dated the 19th of October 2018, for the loss of the Original Deposit Slip issued by the Abuja Geographical Information System (AGIS), admitted as **Exhibit I**

10. Photocopy of the Deposit Slip for Payment for Recertification, dated the 24th of March 2005, admitted as **Exhibit J**
11. Payment Receipt for Site Plan dated the 16th of December 2002, admitted as **Exhibit K**

He then urged the Court to grant his Reliefs sought.

Under Cross-Examination, PW1 stated that he has been the Managing Director of the Claimant Company since 2011, but he could not remember the year the Claimant Company was incorporated. He also could not remember the Date the Claimant made the Application for the Land off head, that he was not a Managing Director of the Company at the time of the Application.

He was further questioned on the date of issuance of the Right of Occupancy, and he stated that he did not know it off head as well, as they are contained in the Documents he tendered. Aside from the Documents tendered, no other Document has been issued to the Claimant validating the Title of the Claimant yet, and he confirmed that the Lands Department of the FCT put the Claimant in possession.

When asked whether they informed the Defendant about the missing Deposit Slip, PW1 answered in the negative, that they did not because it is a Private Document.

PW1 was referred to **Paragraph 14** of his Witness Statement on Oath, where he alleged that the Defendant had been holding out that it misplaced the Claimant's File, and as such could not recertify the Title to the said Plot. Learned Counsel then asked him what was the source of his Information, and PW1 answered that the Desk Officers told him after resubmission for recertification.

He stated further that the Land in question has a fence around it, and he is yet to obtain a Building Approval. He confirmed his Written Statement that the Claimant's Staff were harassed by Officers of the Defendant, and that the Title is about to be reallocated.

PW1 stated that a Staff of the Company paid for the Right of Occupancy, and the Payments for Processing the Land Application was done on the same date the Form was submitted.

No Re-Examination was done for this Witness, and the Claimant closed his Case.

On the 11th of March 2020, the Defendant opened their Defence and Garuba Safiya testified as DW1 in proof of the Defendant's Case. She was sworn to by Affirmation and adopted her Witness Statement on Oath dated the 5th of March 2019. She testified in line with Paragraph 24 of her Witness Statement that from Satellite Imagery the Plot in issue is a green area, and tendered the following Documents in evidence: -

1. List of Land Application, admitted as **Exhibit L**
2. Satellite Imagery admitted as **Exhibit M**.

Under Cross Examination, she testified that she was employed on the 16th of September 2009, and she has been working with the Department of Land Administration. She is responsible for the Release of Certificates of Occupancy, Vetting and Checking of Documents, Writing of Reports, and the Release of Applications.

She confirmed that to obtain a Certificate of Occupancy in the FCT, an Application must be made and if approved, a Right of Occupancy would be issued. She pointed out that the Defendant does not usually give the Applicant a List containing the names of other Applicants.

DW1 was shown the Exhibits tendered by the Claimant, and she identified the Right of Occupancy in **Exhibit E**, the Land Application Form in **Exhibit C**, the Letter of Acceptance in **Exhibit D**, the Right of Occupancy Rent Bill in **Exhibit F**, the Site Plan in **Exhibit G**.

As regards **Exhibit L**, she stated that it is a Printout by her Boss from the Data Base of the Defendant, which she stated was not meant to be signed but certified by the Defendant's Lawyers. On **Exhibit M**, it was also printed and certified by the same Officer.

She was then asked whether she was aware that Federal Capital Territory Administration collected the Sum of N2, 088,865 from the Claimant and she answered in the negative. She was also not aware that they collected the sum of N52,800, as it was not reflected in their Records.

DW1 alleged that **Exhibit F** and **Exhibit E** did not emanate from the Defendant and they were forged documents. Further, she acknowledged Mallam Kalgo as the former Director of Lands, who had retired by the time she was employed and had never worked under him. However, she was familiar with him personally because he is her in-law, and therefore could identify his Signature both officially and on a personal basis.

When shown **Exhibit A**, DW1 disputed the fact that the Signature inserted therein belonged to Mallam Kalgo and alleged that it was forged. According to her, the Defendant had several other Rights of Occupancies raised at the same time in their Records but **Exhibit A** was not included in their Database. When she became aware that it was forged, they queried it in the System, in their Database, and found that it was not in their Records. She stated further that the Ministerial Approvals are listed in Batches, and there is a List for Fresh Application. No two persons can have the same number because it is unique to an Application. When asked, she stated that she did not have the Land Allocation and Payment documents belonging to Willands Holding Nigeria Limited.

DW1 further claimed that **Exhibit B, C, E, and F** are not in their Records and are therefore forgeries. **Exhibit H, J, G, K and D** did not also emanate from the Defendant, and they do not have them in their Records. She maintained that she could not admit to Documents not in the Defendant's Database, insisting that these Documents are not in their Records, even though she was not in charge of the Database, she still had access to it. According to her, the FCTA Land Documents have been computerized since 2004, with distinct Officers having different tasks of capturing Fresh Applications, and Approvals.

Finally, she admitted that she did not take any steps to report the issue as a Fraud.

There was No Re-Examination of this Witness, and the Defendant closed their Case.

Parties were then ordered to file their Respective Final Addresses.

The Defendant filed his Final Written Address dated the 15th of September 2020, and formulated Two Issue for Determination, namely: -

1. Whether the Claimant has any Valid Title over Plot 968 within Idu District, Abuja the Subject Matter of this Suit.
2. Whether on the Preponderance of Evidence, the Claimant is entitled to his Claim in this Suit.

The Claimant also filed his Final Written Address dated the 28th of September 2020, and formulated Two Issues for Determination, namely: -

1. Whether having regard to the State of Pleadings and the evidence led by the Parties, the Claimant has proved its Case so as to be entitled to the Reliefs sought in its Writ of Summons and Statement of Claim
2. Whether the Defendant proved beyond reasonable doubt that the Claimants' Title Documents for Plot No. 968 within Idu District, Abuja are forgeries?

All arguments of Counsel are duly not on Record.

After a Careful Consideration, this Court finds a Sole Issue for Determination, ***whether the Claimant has proved his Claims, for the Court to grant him the Reliefs sought.***

Now, the Case of the Claimant is essentially that he made a Land Application on the 8th of September 1999, vide a Land Application Form, and made the Requisite Payment on the same date. An Offer was made to him, and he accepted it on the 5th of June 2002. The Defendant on the 30th of December 2002 issued the Claimant with a Bill for the Right of Occupancy, Rents and Fees, including the premium for the Certificate of Occupancy, Survey Fees and Development Levy. The Defendant also issued the Claimants with a Site Plan on the 18th of December 2002, and put the Claimants in possession.

When the Re-Certification Process began, the Claimant claimed he filled and submitted the Re-Certification Form, and paid the required Processing Fee, and then submitted the Letter of Offer and the Statutory Right of Occupancy to the Defendants.

According to the Claimant, the Defendant ever since has been holding out that the File was misplaced, and therefore could not recertify. The Claimant alleged that the Defendant is about to re-allocate the Plot to another Allottee.

On the part of the Defendant, they denied holding out to the Claimant that the File was misplaced, or showing up at the Property to harass the Claimant.

According to them, the Defendant did not apply for Land and was not allocated Plot 968 Cadastral Zone C16, Idu District, Abuja, on the 3rd of June 2002. They explained the Procedure for Allocation of Land within the FCT, stating that after the Payment of and after completion of the Application Form, the Applicant will be issued an Acknowledgment, wherein the Accompanying Documents will be ticked to evidence submission.

Further, that the Land Application Form from a Company is accompanied by a Certificate of Incorporation, Tax Clearance Certificate, Memorandum and Article of Association, Feasibility Report of the Project and Bank Draft for the Payment of the Application Fee. The Claimant submitted none of these Documents.

Immediately the Documents and Proof of Payment are submitted, a File Number will be generated for the Applicant. This File Number follows a Chronological Order and is not duplicated or shared between Two Applicants. Once the Plots are allocated, the Allotted Plots are compiled in a Table Format by the Director of Lands Administration and then forwarded to the Minister for Approval.

When the Minister grants his Approval, the Director of Lands will then issue the Allottees with Letters of Conveyance of Offer of Statutory Right of Occupancy, and same has to be accepted in writing. They will also be issued with the Right of Occupancy Settlement Fees Bill.

The Defendant maintained that the Claimant did not follow this Procedure, and there is no Record of his Application within the Land Registry. The Defendant has no Record of granting a Ministerial Approval to the Claimant in respect of the said Plot.

Further, that the Claimant did not submit any Title Document for Re-Certification, and they issued no Site Plan, as there was no Proof of Payment for a Site Plan. According to the Defendant, the Right of Occupancy the Claimant is relying on is different from those issued on the 3rd of June 2002, both in Character and Signatures.

The Defendant claimed that the File Number the Claimant is relying on was issued to Willands Holding Nigeria Limited on the 22nd of June 2001, a different entity entirely, adding that Plot 968 Cadastral Zone C16, Idu District, Abuja is an Open Space/Green Area, which is meant to be a Protected Drainage Court, and not allocated to any interest.

Now, the Case of **JULES VS AJANI (1980) NSCC 222** has clearly established, quite a while ago now, that where in a Claim for Declaration of Title to Land the Defendant alleges that the Document relied on by the Claimant for the Title he seeks is a Forgery, the Burden is on the Defendant who so alleges to prove that fact.

Notwithstanding the general onus, which rests on the Claimant to prove his entitlement to the Declaration he claims, the Evidential Burden of proving Certain Facts occasionally shifts to the Defendant. Such as the burden of proving the Allegation that the Document, which the Claimant relies on is a Forgery.

In the Application of the General Principle that he who alleges must prove, there is no distinction between the Claimant and the Defendant.

When an Allegation of Forgery of a Document, or, for that Matter, a Criminal Act is made in a Civil Proceeding, Evidence that would discharge the Burden of Proof on the Person who made the Allegation must be clear and unequivocal. When Evidence intended to discharge that Burden is ambiguous or is capable

of several Interpretations, not at all pointing to the Criminal Act alleged, the Burden cannot be said to have been discharged. See **ADEROUNMU & ANOR VS OLOWU (2000) LPELR-141 (SC) Per AYOOLA, JSC (P. 11, PARAS A-B)(P. 12, PARAS B-E)**

The Question now before the Court is what Evidence has the Defendant put before this Court to discharge the Evidentiary Burden upon him, who has alleged that the Documents in Exhibits A – K, presented by the Claimant as Proof of Title to the Plot are forgeries.

Now, the Defendant both in their Pleadings and Oral Testimony before this Court stated that Exhibits **A – K** did not emanate from them and is not in their Records. The Defendant's Sole Witness made heavy weather on the fact that the Document in **Exhibits A-K** did not follow the laid down Procedure of acquiring Property in the FCT, and completely denied received any of the Payments made by the Claimants. She stated further that the Signature on **Exhibit A** did not belong to Mallam Kalgo, and from their Records the Claimant did not have a Ministerial Approval for the said Plot.

To crown it all, she stated that the Plot in question is an Open Space/Green Area meant to be a Protected Drainage Course, and the File Number relied upon by the Claimant belongs to another Applicant. In proof of these facts the Defendant tendered **Exhibit M and L**, from which the Court can see the Aerial Shot of the Plot, and the Analysis that the Plot is a Green Area. **Exhibit M** is a Computer Printout of the List of Applicants, showing the File No. MISC 18551 being attributed to a Willands Holdings Nigeria Limited, situated at SE 118 Sabon Gari Road, Minna, Niger State.

These Two Exhibits are the only Documents tendered by the Defendant in proof of their Claims and Allegations before the Court. **Exhibit L**, has only shown that the Claimant's File Number was assigned to another Applicant on the 22nd June 2001. Whilst the Claimant's Offer Letter in **Exhibit A**, dated the 3rd of June 2002, bears the same File Number MISC 18551. The Defendant's Witness in reaction to this fact claimed the Signature in the Document was forged and different in Character from the Offer Letters issued about the same date.

Having made this allegation, the Court expected that the Defendant would supply the Court with Offer Letters issued around the time **Exhibit A** was purportedly issued to show the alleged difference and forgery, but they failed to do this. DW1 never informed the Court that she was an Expert for the Court to rely on her assessment of the Claimant. She also failed to call Mallam Kalgo who she would have easily called since he is an in-law of hers, to come and prove to the Court that the Signature in Exhibit A does not belong to him.

All the Defendant did was to make Oral Allegations of Forgery without Proof before the Court by Credible Evidence showing that **Exhibit A** was a Forgery. The fact that a Party makes an Allegation without more does not then make that fact the truth, such a Party must go a step further to demonstrate and prove to the Court that such facts are indeed true. Without such Proof, the Court is only left with mere allegations.

The Supreme Court in the Case of **PAM & ANOR VS MOHAMMED & ANOR (2008) LPELR-2895 (SC) Per TOBI, JSC (Pp. 95-96, PARAS D-A)** it was held that Forgery as an Offence must be proved beyond reasonable doubt. The Court referred to the Case of **DOMINGO VS QUEEN (1963) 1 ALL NLR 81** that one of the intents set out in **Section 465 of the Criminal Code** must be proved. In the Offence of Forgery, the Prosecution must prove that the Document is a Forgery and that it was forged by the Accused. The Prosecution must prove facts, which will enable the Court to infer *Mens Rea*. See **DR. AINA VS JINADU (1992) 4 NWLR (PT. 233) 91**. Where a Party denies making a Document, which is a Forgery, the Burden of Proof is on the Party alleging the Forgery, and Proof is by Evidence, and Evidence can only be procured by Facts.

Relying on the above Supreme Court Decision, this Court is dissatisfied with the Defendant's discharge of the Burden of Proof upon him, as he has failed to present before the Court clear and unequivocal evidence to justify his Allegations of Forgery.

On the issue that the Documents in **Exhibits A-K** did not emanate from the Defendant's Records, the Claimant averred that he was told that the File was lost when he sought to re-certify his Title Documents. When he was

confronted under cross-examination he stated that he was told orally, which invariably meant he had no Documentary Proof of the loss. On the part of the Defendant, they stated the Documents were nowhere in their Records, and failed to demonstrate through their Database and their Records, that ALL the Documents in **Exhibits A-K** are nowhere reflected in their Records. Rather, they opted to just make a blanket claim that they do not know these Documents. This is not enough.

The Defendant who are being confronted with the existence of these Document said to have been issued by them, a Public Authority, ought to have presented this Court with their 'Records' to show that indeed these Document flew in from the Air. They ought to have shown further from their Records how the Payments claimed to have been made by the Claimant were never received by them, and the Receipts of Payments issued to the Claimant were false. All these issues they left them unresolved. Again, it is not enough to state that the Documents do not emanate from the Defendant, they ought to prove by Evidence and facts that it did not emanate from the Defendant's Records.

Finally, turning to the issue of the File Number, the Defendant under Cross Examination had stated essentially that a File Number is always unique to each Applicant, and no two persons can have the same File Number. She explained the Procedure in obtaining a File Number to be after an Applicant has submitted their Land Application Documents and Proof of Payment that a File Number will be generated for the Applicant.

From **Exhibit C**, the Claimants Land Application Form dated the 8th of September 1999, the Court can see the File Number MFCT/LA/99/MISC 18551 was issued to the Claimant's Application Form, which date precedes that of the Applicant stated in **Exhibit M**, which the 22nd of June 2002.

It is apparent based on this anomaly that from the Defendant's presentation, there seems to be an obvious internal administrative incompetence being the root cause of this squabble. From the Two Documents in **Exhibit A, B, C and M**, it is clear that the Defendant had to have issued Two Applicants with the same File Numbers, barely two years apart. The Defendants cannot therefore

attempt to cloak this Administrative Mistake with a Blanket Denial of the existence of the Claimants Documents without proof.

The Court is satisfied that from the Claimant's Documents in **Exhibits A-K** that the Claimant duly applied to the Defendant for Land Allocation in 1999, was made an Offer in 2002, which he accepted. He paid the Required Fees and was issued with a Right of Occupancy on the 23rd of December 2002 for Plot 968 Idu District, Abuja. A Payment in the Sum of Two Million, Eight Thousand and Sixty-Five Naira (N2, 088, 065.00) was also made to the Defendant, bearing the Defendant's Stamp. All the Documents tendered by the Claimant bear the Recertification Stamp, evidencing that the Claimant submitted Documents for recertification.

The Defendant had also vehemently claimed that the Claimant did not follow the laid down Procedure for Companies who apply for Land Allocation. On this allegation, the Court expected that the Defendant would have presented a Proper Application showing the due process, which ought to be followed. This they failed to do also, and cannot hide under statements of facts without proof.

It is noteworthy that this allegation of Fraud was not reported to the Police. An Adjournment was granted on the 11th of March 2020, to the Defendant to produce certain Documents from their Database, to prove Forgery and the fact that the Claimant's Documents did not emanate from them. At the next day of Adjournment, Learned Counsel representing the Defendant stated that the Defendant had reconsidered their Position and would no longer be tendering any more Documents in proof of their Case. He then applied to close the Case for the Defendant on the evidence they had adduced thus far.

Therefore, from the totality of the Case, and in the absence of these Documents of proof from the Defendant, the Court is satisfied that the Defendant has failed to prove that the Claimant was not issued a Right of Occupancy for Plot 968, Idu District, Abuja.

In conclusion, the Court finds as follows: -

1. A Declaration of Court is made that the Claimant is the Holder of the Statutory Right of Occupancy dated 3rd Day of June 2002, referenced [File No. MFCT/LA/MISC 18551] over Plot No. 968 within Idu District, Abuja.
2. A Declaration is further made that the Claimant's Statutory Right of Occupancy over Plot No. 968 within Idu District, Abuja, is valid and subsisting.
3. The Court declares that the Payment of Two Million, Eight Thousand, Eight Hundred and Sixty-Five Naira, (N2, 008, 865) being the Total Assessed Rent, Fees, Premium, Survey Fees, Development Levy, etcetera for the issuance of Certificate of Occupancy, represents Full Payment by the Claimant is valid and subsisting.
4. An Order of Court is made directing the Defendant to issue the Claimant with the Certificate of Occupancy over Plot No. 968 within Idu District, Abuja.
5. An Order of Perpetual Injunction is made restraining the Defendant whether by himself, Agents or Privies from unlawfully revoking and or expropriating or in any manner howsoever interfering with the Rights, Title of the Claimant or Possession by the Claimant of Plot No. 968 within Idu District, Abuja covered by [File No. MFCT/LA/MISC/18551] and Statutory Right of Occupancy dated the 3rd day of June 2002.
6. An Award of the Sum of Two Million Naira (2, 000, 000.00) as General Damages against the Defendant.

Judgment is entered in favour of the Claimant.

HON. JUSTICE A.A.I. BANJOKO

JUDGE

