

**IN THE HIGH COURT OF JUSTICE OF THE FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT JABI, ABUJA.**

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

**HON. JUDGE HIGH COURT NO. 12.**

**COURT CLERKS – T. P. SALLAH & ORS**

**DATE: 17/12/2020**

**BETWEEN:**

**FCT/HC/CV/363/2012**

**HAIDA PROPERTIES LTD**

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**PLAINTIFF**

**AND**

**1. MINISTER OF THE FEDERAL CAPITAL TERRITORY**

**2. FEDERAL CAPITAL DEVELOPMENT AUTHORITY (FCDA)**

**3. EAGLE ALUMINIUM INDUSTRIES LTD**

**4. BAREWA OLD BOYS ASSOCIATION**

**DEFENDANTS**

**JUDGMENT**

The Plaintiff commenced this suit on the 12<sup>th</sup> October, 2012 initially against the 1<sup>st</sup> and 2<sup>nd</sup> Defendants claiming the following reliefs:-

1. A declaration that the Plaintiff is the Rightful Owner/Allottee holder of the Statutory Right of Occupancy over the plot No. 291 lying, situate and being at Cadastral Zone A00, Central Area Abuja measuring 6000square metres and covered by an offer of Statutory Right of Occupancy dated 28<sup>th</sup> May, 2007 with file No. MISC 89813.
2. A declaration that the Defendants cannot in law divest, confiscate, revoke, or acquire the Plaintiff's parcel of land to wit: Plot No. 291 lying, situate and being at Cadastral Zone A00, Central Area Abuja measuring 6000square metres and

covered by an offer of Statutory Right of Occupancy dated 28<sup>th</sup> May, 2007 with file No. MISC 89813 same not being in strict compliance and observance of the provisions of the Land Use Act, 1978 and Constitution of the Federal Republic of Nigeria 1999 (as amended).

3. A declaration that the purported revocation of the Plaintiff's plot No. 291 lying, situate and being at Cadastral Zone A00 Central Area, Abuja measuring 6000 square metres and covered by an Offer of Statutory Right of Occupancy dated 28<sup>th</sup> May, 2007 with file No. MISC 89813 by the Defendants is null and void and of no effect whatsoever as same is a flagrant violation of the provisions of the Land Use Act 1978 and the Constitution of the Federal Republic of Nigeria 1999 (as amended).
4. An order of perpetual injunction restraining the Defendants either by themselves, agents, privies, assigns or whatsoever so called from interfering or doing anything whatsoever including revocation, alienation, re-allocation of the Plaintiff's right of enjoyment over the said plot No. 291 lying, situate and being at Cadastral Zone A00, Central Area, Abuja.
5. General damages in the sum of ₦100,000,000.00 for trespass committed by the Defendants on the said plot of land.

The first and 2<sup>nd</sup> Defendants were duly served with the writ of summons, statement of claim and other processes filed by the Plaintiff. Subsequently, on the 17<sup>th</sup> April, 2013 the Plaintiff opened their case for hearing by calling only one witness, Tony I. Eseigbe who testified as PW1. He was cross examined by the 1<sup>st</sup> and 2<sup>nd</sup> Defendants' Counsel and then PW1 was discharged.

On the 7<sup>th</sup> June, 2013 the Plaintiff closed its case against the 1<sup>st</sup> and 2<sup>nd</sup> Defendantson record. Then the 1<sup>st</sup> and 2<sup>nd</sup> Defendants' Counsel, S.J Ehimoni Esq, submitted thus:-

*"We have not filed our statement of defence. However the cause of action no longer exist in this case. The validity of allocations tagged "May 27<sup>th</sup> and 28<sup>th</sup> of 2007" have been ratified. I have no defence to the matter."*

The case was then adjourned to 18<sup>th</sup> June,2013 for adoption of finalwritten addresses. The Plaintiff filed its final written address on 17<sup>th</sup> June,2013. On the 17<sup>th</sup> June,2013, the Plaintiff's Counsel adopted his final within address on behalf of the Plaintiff. The case was then adjourned to 31<sup>st</sup> July, 2013 for judgment.

Then on 27<sup>th</sup> June, 2013, Eagle AluminumIndustries Limited filed a motion on notice to be joined as a defendant in the instant suit. Another application was filed on 9<sup>th</sup> July,2013 by the Registered Trustees of Barewa Old Boys Association to be joined as a party in this suit. On the 17<sup>th</sup> July, 2013 the two applications were granted and Eagle AluminumIndustries Limited and Barewa Old Boys Association were joined as the 3<sup>rd</sup> and 4<sup>th</sup> Defendants respectively in this suit.

Consequent upon the joinder of the 3<sup>rd</sup> and 4<sup>th</sup> Defendants, the Plaintiff on the 11<sup>th</sup> September, 2013 amended its writ of summons and statement of claim to reflect the 3<sup>rd</sup> and 4<sup>th</sup> Defendants in this suit.

Thus, by the amended statement of claim of the Plaintiff, the Plaintiff claims against the Defendants jointly and severally as follows:-

- a. A declaration that the Plaintiff is the rightful owner/allotteeor holder of the Statutory Right of Occupancy over the Plot No.291 lying, situate and being at Cadastral Zone A00, Central Area, Abuja measuring 6000.00 square metres and covered by an offer of Statutory Right of Occupancy dated 28<sup>th</sup> May, 2007 with file No. MISC 89813.

- b. A Declaration that the 1<sup>st</sup> and 2<sup>nd</sup> Defendants cannot in law divest, confiscate, revoke, or acquire the Plaintiff's parcel of land to wit, Plot No.291 lying, situate and being at Cadastral Zone A00, Central Area, Abuja measuring 6000.00squaremetresand covered by an Offer of Statutory Right of Occupancy dated 28<sup>th</sup> May, 2007 with file No. MISC 89813 same not being in strict compliance and observance of the provisions of the Land Use Act 1978 and the Constitution of the Federal Republic of Nigeria 1999 (as amended).
- c. A declaration that the purported revocation of the Plaintiff's plot No. 291 lying, situate and being at Cadastral Zone A00, Central Area, Abuja measuring 6000.00 square metresand covered by an offer of Statutory Right of Occupancy dated 28<sup>th</sup> May, 2007 with file No. MISC 89813 by the 1<sup>st</sup> and 2<sup>nd</sup> Defendants is null and void and of no effect whatsoever as same is a flagrant violation of the provisions of the Land Use Act 1978 and the Constitution of the Federal Republic of Nigeria 1999 (as amended).
- d. An order of perpetual injunction restraining the Defendants either by themselves, agents, privies, assigns or whatsoever so called from interfering with or doing anything whatsoever including revocation , alienation, re-allocation of the Plaintiff's right or enjoyment over the said plot No. 291 lying, situate and being at Cadastral Zone A00, Central Area , Abuja.
- e. General damages in the sum of ₦100,000,000.00 (One Hundred Million Naira) for trespass committed by the Defendants on the said plot of land.

The 3<sup>rd</sup> and 4<sup>th</sup> Defendants were served with the amended processes of the Plaintiff on the same date i.e the 11<sup>th</sup> September, 2013. The case was then adjourned for defence on 5<sup>th</sup> November,2013. On the 20<sup>th</sup> January, 2014, by an order of this Court granted, the 3<sup>rd</sup> Defendant filed its statement of defence out

of time. The case was further adjourned to 7<sup>th</sup> February, 2014 for defence.

The 4<sup>th</sup> Defendant, by the order of this court granted on 7<sup>th</sup> February, 2014 filed its statement of defence out of time. On the 7<sup>th</sup> February, 2014 the 3<sup>rd</sup> and 4<sup>th</sup> Defendants still failed to open their respective defence. The case was then adjourned again to 24<sup>th</sup> February, 2014 for defence. However, on the 19<sup>th</sup> February, 2014 the Plaintiff filed a reply to the 4<sup>th</sup> Defendant's statement of defence and defence to counter claim and on 28<sup>th</sup> February, 2014 the Plaintiff filed a defence to counter claim of the 3<sup>rd</sup> Defendant.

Further, on 28<sup>th</sup> February, 2014 there was a notice of change of Counsel filed on behalf of the 1<sup>st</sup> and 2<sup>nd</sup> Defendants. The 1<sup>st</sup> and 2<sup>nd</sup> Defendants equally filed a motion on notice to file its statement of defence out of time which application was granted on 3<sup>rd</sup> March, 2014.

The 3<sup>rd</sup> Defendant, even though its witness has testified on 24<sup>th</sup> February, 2014, filed two applications i.e one for recall of PW1 and the other to amend its statement of defence. Both applications were granted on 3<sup>rd</sup> March, 2014. On the same 3<sup>rd</sup> March, 2014 PW1 was cross examined by the Counsel to the respective Defendants and PW1 was later discharged. The 3<sup>rd</sup> Defendant then closed its case on the same 3<sup>rd</sup> March, 2014.

Having granted on the 3<sup>rd</sup> March, 2014 the 3<sup>rd</sup> Defendant's application for amendment, on the 10<sup>th</sup> March, 2014 it filed another application for amendment of its statement of defence with motion FCT/HC/M/2367/2014. The 3<sup>rd</sup> Defendant also filed a motion FCT/HC/M/2366/2014 on 10<sup>th</sup> March, 2014.

The position of this Court on the two applications is contained in proceedings and ruling of this Court on 12<sup>th</sup> March, 2014 which is a subject of appeal before the Court of Appeal. I therefore refrain myself from commenting on same. In any event, the

3<sup>rd</sup> Defendant despite filing its final written address on 2<sup>nd</sup> April, 2014, in concert with the two sets of Defendants, especially the 4<sup>th</sup> Defendant, continued to employ all means available by filing all manner of applications with a clear view and intention to frustrate the final determination of the instant case. These frustrations did not only affect the Court to hear and determine this suit but it also invariably affected the Plaintiff and his Counsel with the resultant blame heaped on the Court for over-indulging the three (3) sets of defendants especially the 3<sup>rd</sup> Defendant. Thus, on the 20<sup>th</sup> October, 2014 and 15<sup>th</sup> December, 2014, after these long adjournments and the Plaintiff and its Counsel were not in Court and the Defendants equally absent in Court (except the 3<sup>rd</sup> Defendant Counsel that showed up on 20<sup>th</sup> October, 2014), the matter was put in abeyance and no date fixed for hearing with the understanding that the 3<sup>rd</sup> Defendant and the Plaintiff will pursue the interlocutory appeal at the Court of Appeal, Abuja. Within this period of 2015 to 2020 a period of over 5 years, a lot of complaints were directed against the Trial Judge for aiding the 3<sup>rd</sup> Defendant instead of proceeding to determine the case one way or the other. And within this period, it appears the Court was the darling of the 3<sup>rd</sup> Defendant until on the 22<sup>nd</sup> September, 2020 when the Plaintiff's Counsel wrote a letter to the Court drawing the attention of the Court to the effect that there was no order for stay of proceeding either by this Court or the Court of Appeal and that an interlocutory appeal does not amount or constitute a stay of proceedings.

Pursuant to the letter of the Plaintiff's Counsel under reference, hearing notices were issued and served on the 3 sets of Defendants with the return date fixed for the 7<sup>th</sup> October, 2020.

On the 7<sup>th</sup> October, 2020, the 3 sets of Defendants were not in Court and no reason given for their absence despite knowledge of the notice of hearing. For reasons given on record on 7<sup>th</sup> October,

2020, the case was further adjourned to 28<sup>th</sup> October, 2020. The Plaintiff's Counsel further filed an ex parte motion seeking for injunctive orders and same was granted on 13<sup>th</sup> October, 2020. As a result of the interim injunctive orders served on the Defendants, the 3<sup>rd</sup> Defendant then filed, as usual, different applications. Within the period of November/December, 2020, the 3<sup>rd</sup> Defendant filed the following motions on notice:-

(1) FCT/HC/M/11628/2020 filed on 9<sup>th</sup> November, 2020 for staying further proceedings. In respect of this motion, this Court on 29<sup>th</sup> November, 2020 drew the attention of Counsel to its order of 7<sup>th</sup> October, 2020. Then Counsel to the 3<sup>rd</sup> and 4<sup>th</sup> Defendants pleaded for a short date to file their respective final written addresses. And the 3<sup>rd</sup> Defendant's Counsel on record, Esume Felix Dumebi Esq, filed on 27<sup>th</sup> November, 2020 the 3<sup>rd</sup> Defendant's final written address. The same Counsel, Esume Felix Dumebi Esq on the same 27<sup>th</sup> November 2020 filed further motions- FCT/HC/M/12451/2020 for an order to amend the 3<sup>rd</sup> Defendant's statement of defence;

(2) FCT/HC/M/12451/2020 for an order setting aside the Court order made on 25<sup>th</sup> November, 2020 Counsel on the same 27<sup>th</sup> November, 2020 wrote a letter to the Court giving notice of his withdrawal in this suit on behalf of the 3<sup>rd</sup> Defendant. Thus, one Sopolu Ezeonwuka Esq on 1<sup>st</sup> December, 2020 appeared on behalf of the 3<sup>rd</sup> Defendant. He equally wrote a letter dated and filed on 1<sup>st</sup> December, 2020 applying for certified true copies of the proceedings of 1<sup>st</sup> December, 2020.

In any case, the proceedings of 1<sup>st</sup> December, 2020 are crystal clear as the 3<sup>rd</sup> Defendant and his purported new Counsel are set once again to frustrate the determination of this suit. Thus, having indulged the Defendants especially the 3<sup>rd</sup> Defendant too much, the Court therefore had to retrace its steps and final addresses filed by the respective parties were either adopted or

deemed adopted in line with the Rules of this Court. The preliminary objection also filed shall be considered in the course of this judgment and either of the parties that feels dissatisfied can approach the Court of Appeal at a later date rather than in a piecemeal approach thereby delaying the determination of the substantive suit.

Having put the facts on record as they were, the brief facts and evidence of the Plaintiff's case as presented by PW1, Esegbe I. Tony, the Legal Adviser and Company Secretary of the Plaintiff is to the effect that by an application for Statutory Right of occupancy, the Plaintiff applied to the 1<sup>st</sup> and 2<sup>nd</sup> Defendants for a piece of land within the Federal Capital Territory for commercial purpose. According to the Plaintiff as avers at paragraphs 6-12 of the amended statement of claim that the 1<sup>st</sup> Defendant, pursuant to its application for a grant of commercial plot, allocated to it plot NO. 291 lying, situate and being at Cadastral Zone A00, Central Area Abuja measuring 6000 square metres. The offer of Statutory Right of Occupancy by the 1<sup>st</sup> Defendant dated 28<sup>th</sup> May, 2007 with file no. MISC 89813 to the Plaintiff was received in evidence as exhibit 1.

The Plaintiff avers further that it accepted the offer of the 1<sup>st</sup> Defendant and then proceeded to put up a building plan for the development of the plot in compliance with the terms of grant, exhibit 1. PW1 avers on behalf of the Plaintiff that after taking full possession of the plot and deployment of men and materials and carrying out development, the officials of the 1<sup>st</sup> and 2<sup>nd</sup> Defendants of the Development Control Department verbally ordered the Plaintiff to stop further development of the plot and that its title over the plot had been revoked.

PW1 states on behalf of the Plaintiff that it was never served with a notice of revocation of its title over the plot or given the opportunity to make any presentation to the 1<sup>st</sup> and

2<sup>nd</sup> Defendants over their intention to revoke its allocation. PW1 at paragraph 15 of his adopted witness statement on oath deposed to on 11<sup>th</sup> September, 2013 states that the Plaintiff invested a lot of financial resources and time on the subject matter of dispute before this sad development unfolded.

Further, exhibits 4 and 5 certified true copies of Corporate Affairs Commission letter with attached documents and page 46 of Daily Trust Newspaper of Friday, December, 7<sup>th</sup> 2012 of the 2<sup>nd</sup> Defendant's Public Announcement was admitted in evidence on behalf of the Plaintiff from the bar on 3<sup>rd</sup> March, 2014.

Thus, after PW1 was cross examined and re-examined on 3<sup>rd</sup> March, 2014, he was discharged.

The 3<sup>rd</sup> Defendant on the 24<sup>th</sup> February, 2014 opened its defence. One witness testified on behalf of the 3<sup>rd</sup> Defendant. He is Evangelist Linus Ukachukwu M.O.N and he testified as DW1. DW1 adopted his witness statement on oath he deposed to on 5<sup>th</sup> November, 2013. Two documents were tendered in evidence on behalf of the 3<sup>rd</sup> Defendant and they were accepted in evidence as exhibits 2 and 3 respectively. After DW1 was cross examined by the Plaintiff's Counsel and 4<sup>th</sup> Defendant's Counsel, DW1 was later discharged without objection by the Plaintiff and 4<sup>th</sup> Defendant's Counsel and on the 3<sup>rd</sup> March, 2014, Counsel to the 3<sup>rd</sup> Defendant applied to close their case and the case of the 3<sup>rd</sup> Defendant was accordingly closed.

The brief facts and evidence of the 3<sup>rd</sup> Defendant's case as narrated by DW1 is that the 1<sup>st</sup> and 2<sup>nd</sup> Defendants did not issue any Certificate of Occupancy to the Plaintiff and that if any was issued, it was issued out of a misguided impression created by the Plaintiff that it was entitled to the land.

At paragraphs 7-11 of the amended statement of defence/counter claim, the 3<sup>rd</sup> Defendant avers to the effect that the alleged plot

No. 291 lying and situate at Cadastral Zone A00, Central Area measuring approximately 6528 square metres was granted to it vide an Offer of Statutory Right of Occupancy dated 13<sup>th</sup> August, 2009. The offer letter granted to the 3<sup>rd</sup> Defendant and the site plan were admitted in evidence through DW1 as exhibits 2 and 3 respectively.

The 3<sup>rd</sup> Defendant avers that the Plaintiff did not at any time accept any offer since there was no valid offer made to it neither did it establish any possessory right on the land in dispute as the 3<sup>rd</sup> Defendant is currently in exclusive possession to the said plot No.291 lying and situate at Cadastral Zone A00, Central Area Abuja.

The 3<sup>rd</sup> Defendant, through DW1, states that the Plaintiff has no development on the site and that the purported development if any being carried out by the Plaintiff was done in violation of the 2<sup>nd</sup> Defendant.

The 3<sup>rd</sup> Defendant, in its Counter Claim, counter -claims against the Plaintiff as follows:-

- (a) A declaration that the 3<sup>rd</sup> Defendant is the Rightful Owner/Allottee of the Statutory Right of Occupancy over plot 291 lying and situate at Cadastral Zone A00, Central Business Area, Abuja measuring approximately 6528 square metres and covered by an Offer of Statutory Right of Occupancy dated 13<sup>th</sup> August, 2009 with new file number MISC 102135.
- (b) An order of perpetual injunction restraining the Plaintiff either by themselves agents, privies, assigns or whatsoever called from interfering with the 3<sup>rd</sup> Defendant's right or enjoyment of the said plot No. 291 lying and situate at Cadastral Zone A00 Central Area, Abuja.

The 3<sup>rd</sup> Defendant relied on its earlier pleadings filed in this case.

The 1<sup>st</sup>, 2<sup>nd</sup> and 4<sup>th</sup> Defendants filed statements of defence but failed to call witness (es) to support their pleadings. In fact, the 4<sup>th</sup> Defendant's right to call witness (es) in this case was foreclosed by the order of this Court granted on the 12<sup>th</sup> March, 2014. On the part of the 1<sup>st</sup> and 2<sup>nd</sup> Defendants, I had earlier in the course of this judgment stated the position of the 1<sup>st</sup> and 2<sup>nd</sup> Defendants' Counsel whereinhe (i.e. S.J EhimoniEsq) submitted that the 1<sup>st</sup> and 2<sup>nd</sup> Defendants have no defence to the matter.

Be that as it may, on the 28<sup>th</sup> November, 2020 finalwritten addresses was ordered to be filed and exchanged. The Plaintiff filed its final written address on 23<sup>rd</sup> October, 2020. The 3<sup>rd</sup> Defendant filed their final written address on 27<sup>th</sup> November, 2020. The 1<sup>st</sup>, 2<sup>nd</sup>and 4<sup>th</sup> Defendants did not file any address. The Plaintiff's final written address filed on 23<sup>rd</sup> October, 2020 was adopted by its Counsel on 1<sup>st</sup> December, 2020. Equally, the 3<sup>rd</sup> Defendant's final written address was also deemed adopted and argued on 1<sup>st</sup> December, 2020 and the case was then reserved for judgment.

However, before I proceed to consider the issues formulated by the Plaintiff and the 3<sup>rd</sup> Defendant, it would be recalled that both the Plaintiff and the 3<sup>rd</sup> Defendant had earlier filed final written address. That of the Plaintiff was filed on 17<sup>th</sup> June, 2013 while that of the 3<sup>rd</sup> Defendant was filed on 2<sup>nd</sup> April, 2014. It appears both the Plaintiff and the 3<sup>rd</sup> Defendant have abandoned these addresses and thus the addresses filed on 17<sup>th</sup> June,2013 and 2<sup>nd</sup> April, 2014 are hereby struck out having filed later addresses that are adopted on 1<sup>st</sup> December,2020.

### **ISSUES FOR DETERMINATION**

The Plaintiff in her final written address distilled the following two issues for determination:-

- (1) Whether the Plaintiff is a juristic person.

(2) Whether having regard to the evidence before this Honourable Court the Plaintiff is entitled to the declaration of title and injunction sought over the subject matter of this Court.

The 3<sup>rd</sup> Defendant on the otherhand formulated the issues for determination as follows:-

1. Whether the Plaintiff was a juristic person at the time of the purported allocation of the plot of land, the subject matter of this suit to the Plaintiff in 2007.
2. Whether the Plaintiff was a juristic person at the time of the institution of this action.
3. If issues 1 and 2 above are answered in the negative, whether this action of the Plaintiff is competent and whether the 1<sup>st</sup> and 2<sup>nd</sup> Defendants could have validly and competently issued and allocated plot No. 291, situated at Cadastral Zone A00, Central Area, Abuja-FCT to the Plaintiff in 2007.
4. Whether the change of name from HaidaInvestment Limited to HaidaProperties Limited on 25<sup>th</sup> day of August, 2014 effected during the pendency of this action was proper in law.
5. Whether the Plaintiff's PW1's testimony at the trial is worthy of reliance and credence in view of the non- juristic personality of the Plaintiff right from the time this action was instituted to when the Plaintiff gave evidence.
6. Whether the Plaintiff is entitled to the reliefs sought in the circumstances of this case and the evidence adduced so far.

7. Whether the 3<sup>rd</sup> Defendant has proved its counter- Claim in order to be entitled to the reliefs sought therein.
8. Whether this Honourable Court has the jurisdiction to further proceed with this case in view of the pendency of the two appeals in this case with appeal numbers: CA/A/201/2014 and CA/ABJ/CV/927/2020 and for the fact that this matter was earlier on adjourned sine dine.

I have carefully perused the issues submitted for determination by the Counsel to the respective parties. I am of the view that the Plaintiff's issues distilled for determination are adequate enough to determine the contending issues raised by both Counsel. In other words, all the issues formulated by the 3<sup>rd</sup> Defendant can be collapsed and addressed under the Plaintiff's issues for determination. I therefore adopt the two issues for determination as set out by the Plaintiff's Counsel thus:-

- (1) Whether the Plaintiff is a juristic person.
- (2) Whether having regard to the evidence before this Honourable Court the Plaintiff is entitled to the declaration of title and injunction sought over the subject matter of this Court.

In its final written address, learned senior Counsel on behalf of the Plaintiff submitted that the Plaintiff is a juristic personality and he referred the Court to the exhibit, i.e certificate of incorporation of the Plaintiff attached to the Plaintiff's counter affidavit in opposition to the 3<sup>rd</sup> Defendant/Applicant's motion filed on 10<sup>th</sup> March, 2014 challenging the juristic personality of the Plaintiff.

At paragraphs 3.3- 3.6 of the final written address of the learned senior Counsel, he submitted that the corporate status of an incorporated body is established by the production of its

certificate of incorporation. He relied on the cases of **G&T INVEST.LTD V WITT & BUSH LTD (2011) 8 NWLR (PT1250) PAGE 500 AT 540 PARAGRAPHS D-H, CITEC INT'L ESTATE LTD V E INT'L INC & ASSOCIATES (2018) 3 NWLR (PT 1606) PAGE 344, LUTIN INV. LTD V NNPC, (2006) 2 NWLR (PT965) PAGE 506 AND DAIRO V REGD TRUSTEES, T.A .D LAGOS (2019) I NWLR (PT770) PAGE 501.**

In respect of whether the Plaintiff is entitled to declaration of title and injunction, learned Senior Counsel referred me to the evidence of PW1 and exhibit 1 dated 28<sup>th</sup> May, 2007 and then submitted that the 1<sup>st</sup> , 2<sup>nd</sup> and 4<sup>th</sup> Defendants did not give evidence save the 3<sup>rd</sup> Defendant who tendered in evidence exhibit 2 through DW1.

At paragraphs 4.3 and 4.4 of the final address of the Plaintiff's Counsel, he submitted that in respect of the other Defendants, the Plaintiff's evidence remains uncontroverted and unchallenged. The effect of this in law, learned senior Counsel submitted is that the Plaintiff's evidence is deemed admitted by the 1<sup>st</sup>, 2<sup>nd</sup> and 4<sup>th</sup> Defendants. He relied on the case of **IBRAHIM V OGUNDE (2009)6 NWLR (pt1137) page 404** and other plethora of judicial cases cited therein.

In conclusion, he urged me to grant the Plaintiff's reliefs.

The 3<sup>rd</sup> Defendant on the otherhand, in her final written address at paragraphs 3. 02-3.20, learned Counsel submitted to the effect that exhibit 1 purported allocated to the Plaintiff. That by the Plaintiff's statement of claim and witness statement on oath, the Plaintiff was not registered in 2007 and therefore not a juristic person at the time of the purported allocation of the plot of land in dispute.

Learned Counsel submitted on behalf of the 3<sup>rd</sup> Defendant that exhibit A1 is a certificate of change of name from **HAIDA**

**INVESTMENT LIMITED to HAIDA PROPERTIES LIMITED,** which was effected or done on the 25<sup>th</sup> August, 2014, seven years after the plot of land was purportedly issued and allocated in the name of the Plaintiff.

The 3<sup>rd</sup> Defendant's Counsel submitted that the import of the above development is that as at 2007 the Plaintiff was not juristic person. He relied on the cases of **BAWA V I.T.A.G.M (2007) 8 WRN 53 at page 62, LAGOS STATE TRAFFIC MANAGEMENT AUTHORITY & ORS V JOHNSON O. EZEZOBO (2017) 5 NWLR (pt1559) page 350** and other cases cited on the same point.

On the fourth issue for determination of the 3<sup>rd</sup> Defendant, learned Counsel submitted that it is in evidence that following the 3<sup>rd</sup> Defendant's challenge of the competence of this suit as well as the jurisdiction of the Honourable Court, the Plaintiff proceeded to change the name from Haida Investment Limited to Haida Properties Limited so as to make it a legal personality. Learned Counsel referred me to the doctrine of LisPendens and also relied on the case of **MRS. OLUFUNMILAYO AKIBOYE & ANOR V ISHOLA A. ADEKO (2011) 6 NWLR (pt1244) page 415 at 435 paragraphs F-G.**

On the testimony of PW1, 3<sup>rd</sup> Defendant's Counsel referred me to his evidence under cross examination elicited on 3<sup>rd</sup> March, 2014 and submitted that PW1's Evidence is not true and cannot be relied upon.

On whether the Plaintiff is entitled to the reliefs sought, at paragraphs 3.29 -3.31 of the final written address of the 3<sup>rd</sup> Defendant's Counsel, he submitted that the Plaintiff was not a juristic person or incorporated at the time of the institution of this case. He further submitted that the Plaintiff's failure to produce or

tender the purported letter of revocation at the trial is fatal to this action.

On whether the 3<sup>rd</sup> Defendant has proved its counter claim, the 3<sup>rd</sup> Defendant tendered exhibits 2 and 3 in respect of the subject matter in dispute and he then referred me to the evidence of DW1 that the Plot in dispute was allocated to it by the 1<sup>st</sup> and 2<sup>nd</sup> Defendants following the extinguishment of the Plaintiff's rights over the plot of land.

In conclusion, Counsel urged me to grant the reliefs sought in the counter claim.

On whether this Honourable Court has the jurisdiction to further proceed with this case in view of the pendency of the two appeals, Counsel referred to and relied on the case of ***KANTIOK IRMIYA ISHAKU & ANOR V BARR. EMMANUEL BAKO KANTIOK & ORS (2012) 7 NWLR (pt1300) page 457 at 504 paragraphs E-F.***

In conclusion, the 3<sup>rd</sup> Defendant's Counsel urged me to dismiss this suit with substantial cost and grant the reliefs of the 3<sup>rd</sup> Defendant in her counter claim.

In the resolution of the issues for determination, before I proceed to consider the two issues, let me quickly state for the records that the 1<sup>st</sup>, 2<sup>nd</sup> and 4<sup>th</sup> Defendants filed statements of defence but they failed to adduce or call evidence in support. The records of this Court including its proceedings will clearly show and established that despite all opportunities granted to the 1<sup>st</sup>, 2<sup>nd</sup> and 4<sup>th</sup> Defendants to call evidence in support of their defence, they blatantly refused, failed or neglected to do so. All the Counsel to the two sets of Defendants i.e the 1<sup>st</sup> and 2<sup>nd</sup> Defendants and the 4<sup>th</sup> Defendant are interested is to ensure that this case is not heard and determined. And the tactics they employed was to continue filing different processes and changing Counsel at will until when eventually they were foreclosed.

Though the 1<sup>st</sup> and 2<sup>nd</sup> Defendants' Counsel, at the initial stage before he was changed, had submitted before the Court that the 1<sup>st</sup> and 2<sup>nd</sup> Defendants have no defence to the action of the claimant.

Be it as it may, the law is trite on the effect of a statement of defence filed and the defendant fails to give evidence at trial. The law is that the statement of defence filed by the 1<sup>st</sup>, 2<sup>nd</sup> and 4<sup>th</sup> Defendants are deemed to have been abandoned. See the cases of **AIR FRANCE VOKWUDIAFOR(2010) LPELR 3664 (CA), MASON V H.E S. (NIG) LTD (2007) 2 NWLR (pt1018) page 211. In the case of DUROSARO V AYORINDE (2005) 8 NWLR (pat 927) page 407**, the Supreme Court held that failure to lead evidence in support of averments contained in a statement of defence amounts to an abandonment of the statement of defence and it would be deemed as such.

Having said the above, the first issue for determination is whether the Plaintiff is a juristic person. The 3<sup>rd</sup> Defendant pursuant to the order of this Court on 7<sup>th</sup> October, 2020 filed a notice of preliminary objection on 27<sup>th</sup> October, 2020 also on the ground that at the time of the institution of this suit i.e as at 2012, the Claimant/Respondent was not a juristic person capable of suing and being sued. The notice of preliminary objection also raised the issue of legal personality of the Claimant and that this Court lacks the jurisdiction to entertain this suit.

At paragraph 3 of the affidavit in support of motion to preliminary objection, Blessing Chinyere Okwunebe, a Counsel in the law firm of Felix Dumebi & Co. deposed that:-

- (a) That at the time of the institution of this suit, the claimant/Respondent was not registered and never existed.

- (b) That the Claimant/Respondent, at the time of filing this suit, was not a legal or juristic person capable of suing or being sued.
- (c) That this Honourable Court lacks jurisdiction to entertain this suit.

The Claimant in response to the motion of the 3<sup>rd</sup> Defendant filed a counter affidavit of 8 paragraphs deposed to by one Mark Irile, a Litigation Secretary in the law firm of Sam Ologunorisa SAN & Co. Counsel to Claimant.

In the counter affidavit the Claimant denied paragraphs 4 (a)- (b) and 5 of the 3<sup>rd</sup> Defendant's affidavit and then deposed at paragraphs 6 and 7 of its counter affidavit that the claimant is a registered company and exhibit A1 was attached as its certificate of incorporated.

In response to the counter affidavit, the 3<sup>rd</sup> Defendant filed a further affidavit of four main paragraphs. At paragraph 3 (d) (e) (f) and (g) of the further affidavit, the 3<sup>rd</sup> Defendant deposed to facts to show that the change of name as shown in exhibit A1 on 25<sup>th</sup> August, 2014 does not retrospectively cloth the Claimant with any legal personality at the time of the institution of this suit and that the Claimant was not registered at the time of such allocation of the subject matter in dispute.

Both Counsel captured their arguments in their respective final written addresses.

In answer to the issue of the juristic personality of the claimant, this issue ought not have been an issue of controversy. The reason being that by the statement of defence of the 3<sup>rd</sup> Defendant filed on 5<sup>th</sup> November, 2013 and the amended statement of defence of the 3<sup>rd</sup> Defendant granted by this Court on 3<sup>rd</sup> March, 2014, in both statements of defence, the 3<sup>rd</sup> Defendant admitted the juristic personality of the Claimant at its

paragraph 1. In the amended statement of defence filed on 6<sup>th</sup> March, 2014 at paragraph 1, it says:-

(1) The 3<sup>rd</sup> Defendant admits paragraph 1 of the statement of claim.

And paragraph 1 of the claimant's amended statement of claim states:-

(1) The Plaintiff is a limited liability company duly incorporated in Nigeria and carrying on business in many States of Nigeria including Abuja, the Federal Capital Territory."

The 3<sup>rd</sup> Defendant having admitted paragraph 1 of the Claimant's amended statement of claim, this ought to have put to rest the issue of juristic personality of the Claimant.

In any event, the law is trite that where there is a challenge on the legal personality of a corporate body, it is to produce the certificate of incorporation. In the case of **UKPE V THE REGISTERED TRUSTEES OF THE APOSTOLIC CHURCH OF (NIG) & ANOR, (2012) LPELR 19709**, the Court of Appeal held thus:-

*"The law that incorporation of a body is to be proved by the production of the Certificate of Incorporation is demanded when that is made an issue on the pleadings."*

See also **RANDLE V KWARA BREWERIES (1986) 6 SC 15**. In the case of **ACB & ANOR V EMO STRADE LTD, (2002) FWLR (pt104) page 540**, the Supreme Court held:-

*"The legal personality of a corporate body can only be established as a matter of law, by the production in evidence of Certificate of Incorporation, admission inter partes notwithstanding. Therefore whatever might have*

*been the admission of one of the parties to the suit as to the status of an alleged corporate entity, if there is no evidence before the Court that it is ever incorporated, the admission alone, cannot suffice."*

See also ***NNPC V LUTIN INVESTMENT LTD (2006)2 NWLR (pt965) page 506.***

Thus, in the instant case even though the 3<sup>rd</sup> Defendant had admitted paragraph 1 of the Claimant's amended statement of claim, the 3<sup>rd</sup> Defendant having filed a notice of preliminary objection with affidavits, the claimant has the onerous responsibility to produce the evidence of incorporation. In the counter affidavit of the claimant, exhibit A1 is attached as the evidence of incorporation of the claimant. However at paragraphs 3 (d), (e), (f) and (g) of the further affidavit, the 3<sup>rd</sup> Defendant alleged that the change of name does not operate retrospectively and that the change of name was hurriedly and deliberately done during the pendency of this suit and even after the jurisdiction of the Court and competence of this suit was challenged.

It appears the contention of the 3<sup>rd</sup> Defendant is well settled in the case of ***NAGARTA INTEGRATED FARMS LIMITED V IBRAHIM MUDI NAGODA & ORS (2016) LPELR 40266***, Court of Appeal decision.

The summary of the facts in the above case is that the Applicant's motion dated 13<sup>th</sup> November, 2014 is for the following reliefs:-

- (a) An order of this Honourable Court substituting the Appellant/Applicant's name Nagarta Integrated Farm Limited with a new name Skymate Associates Nigeria Limited and reflecting this substitution in all the processes before this Honourable Court.

- (b) An order of this Honourable Court deeming all processes filed by the parties in this appeal amended to read SkymateAssociates Nigeria Limited wherever Nagarta Integrated Limited appears
- (c) And for such further order (s) that this Honourable Court may deem fit to make in the circumstances of this case.

The reason given by the Appellant for the application are that they registered the name "Mustang International Limited" and were granted the same by the Corporate Affairs Commission on 5<sup>th</sup> November, 1992. Yet again, the name of the company was changed to Skymate Associates Nigeria Limited. Opposing the motion, the Respondent filed a counter affidavit deposed to by Ibrahim MudaNagoda, the 1<sup>st</sup> Respondent. The contention of the Respondent is that at the time the Appellant instituted the action in the lower Court on 22<sup>nd</sup> July, 2004, the name of the company "Nagarta Integrated Farms Limited" was not in existence as a corporate body at the register of Corporate Affairs Commission. Following a search made by the respondents, it was found that there was no such name registered, in consequence of which they (Respondents) applied and registered that name viz Nagarta Integrated Farms Limited. The issue of change of name to Skymate is now just being raised after 9 years of the commencement of the dispute. Since at the time the suit was instituted, there was no juristic personality capable of instituting this action in the name of Nagarta Integrated Farms Limited, the various transformation of the company have put an end to the said company.

Then the Court of Appeal held:-

*"On the whole, the application have merit and it was granted"*

The Court of Appeal held further:-

*"As pointed out by the Appellant's Counsel and which I agree with, by section 31 (6) of the Companies and Allied Matters Act (supra) the change of name does not affect its rights and obligations under the former names or render defective any legal proceedings by or against it."*

Now I have looked at exhibit A1, the certificate of incorporation of the Claimant. On the certificate exhibit A1, it reads:-

*"Certificate of Incorporation of a company, I hereby certify that HAIDA PROPERTIES LIMITED*

*Previously called HAIDA INVESTMENT LIMITED which name was changed by special Resolution and with my authority on the Twenty-Fifth day of August, 2014 was incorporated under the Companies and Allied Matters Decree 1990 as a Limited Company, on the Sixth day of November, 1997.*

*Given under my hand at Abuja*

*This Twenty-Second day of October, 2014"*

The legal implication of the change of name in the instant case is that the doctrine of dating back applies. In other words HAIDA PROPERTIES LIMITED, the Claimant, by the amended name is deemed registered on the 6<sup>th</sup> November, 1997. Further, section 83 (3) of the Evidence Act 2011 (as amended) does not apply in the instant case that exhibit A1 was made during the pendency of this suit. The Corporate Affairs Commission which issued exhibit A1 under the hand of the Registrar General was issued in an official capacity without any interest of any kind.

Thus, by exhibit A1 and the position of the law as stated above, the claimant is a registered legal entity and the allocation of the subject matter by the 1<sup>st</sup> Defendant on the 28<sup>th</sup> May, 2007 was

proper in law. Hence therefore, I hold the view that the claimant is competent to institute the instant suit and the instant suit was properly commenced and this Honourable Court has the jurisdiction to entertain and adjudicate on same and I so hold. Thus, the first issue for determination is hereby resolved in favour of the Claimant and against the 3<sup>rd</sup> Defendant.

The next issue for determination is whether having regard to the evidence before this Honourable Court the Plaintiff is entitled to the declaration of title and the injunction sought over the subject matter of this suit.

The first three reliefs of the Claimant i.e relief (a) (b) and (c) are declarations sought. The onus of proof on a party seeking declaration of title to land, it has been held that such a party must succeed on the strength of his own case rather than rely on the weakness of the defence. See **HENSHAW V EFFANGA (2009) 11NWLR (pt1151) page 65, EDEBIRI V DANIEL (2009)8 NWLR (pt1142) P.15. in the case of DIM V ENEMUO (2009)10 NWLR (pt 1149) page353**, 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.

Thus, in the instant case, the Plaintiff has the onerous duty in law to adduce credible and admissible evidence in the establishment of such title to the land, the subject matter of dispute in this case. See the case of **MADAMLANTOUN OJEBODE & ORS V AKEEM AKANO & ORS (2012) LPELR 9585 (CA)**.

The position of the law also is that the claimant who is seeking declaration of title to land must prove title to that land claimed in one of the following ways in order to succeed:-

- (a) By traditional evidence
- (b) By the production of documents of title duly authenticated;

- (c) By acts of persons claiming land such as leasing entering etc, which acts must extend over a sufficient period of time.
- (d) By acts of long possession and enjoyment of land;
- (e) By proof of possession of connected or adjacent land.

See the case of ***IDUNDU V OKUMAGBA (1976)1 NWLR (pt 200)page 210, EDEBIRI V DANIEL (supra) andNWOKOROBIA v NWOGU, (2009)10 NWLR (pt1150) page 553.***

The Claimant can successfully establish his title to the subject matter of dispute by way of only one of the five methods earlier enumerated. See also ***OLAGUNJU V ADESOYE (2009)9 NWLR (pt 1146) page 225.***

Further, production of the title documents alone is not sufficient to discharge the onus on the Claimant. See ***MADU V MADU (2008)6 NWLR (pt 1083) page 296.*** In otherwords, the mere production of title document does not ipso facto entitle the party to declaration of title and the supreme Court had in the case of ***ROMAINE V ROMAINE (1992)4 NWLR (pt238) page 600*** held that the Court need to inquire into some or all of a number of questions including:-

- (1) Whether the document is genuine and valid;
- (2) Whether it has been duly executed, stamped and registered;
- (3) Whether the grantor had the authority and capacity to make the grant;
- (4) Whether the grantor had in fact what he purported to grant; and
- (5) Whether it has the effect claimed by the holder of the instrument.

In the instant case, the claimant's evidence was presented by its Company Secretary/Legal Adviser Tony I. Esegibe who testified as PW1. Exhibits 1 and 5 were tendered and admitted in evidence on behalf of the Claimant. Exhibit 1 is the Offer of Statutory Right

of Occupancy dated 28<sup>th</sup> May, 2007 issued to the Claimant by the 1<sup>st</sup> Defendant. And exhibit 5, the Federal Capital Territory Administration Public announcement re-affirms exhibit 1 that the President and Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria has graciously approved the restoration of titles whose plots were hitherto alleged to have been irregularly allocated within the time frame i.e 17<sup>th</sup> and 28<sup>th</sup> of May, 2007. Then by paragraphs 5,8,9 and 10 of PW1's witness statement on oath, he avers that the 1<sup>st</sup> Defendant granted to the Claimant a Right of Occupancy over Plot 291 lying and situate at cadastral Zone A00 Central Area Abuja measuring about 6000 square metres.

From the evidence of PW1 and exhibits 1 and 5, the Claimant has traced its grant or title to the 1<sup>st</sup> Defendant. And by the powers conferred on the 1<sup>st</sup> Defendant in relation to lands comprised in the Federal Capital Territory, by sections 1 and 18 of the FCT Act sections 297 (2) and 302 of the Constitution of the Federal Republic of Nigeria 1999(as amended) and section 49 of the Land Use Act and the cases of **MADU V MADU (supra)**, it is only the 1<sup>st</sup> Defendant that can grant a statutory right of occupancy. And in this case, it is crystal clear that it was the 1<sup>st</sup> Defendant, i.e the Minister of Federal Capital Territory that granted the offer of Statutory Right of Occupancy to the Claimant. There is no evidence before the Court that the title of Plot 291 granted to the Claimant by virtue of exhibit 1 has been extinguished. In fact, the submission of Counsel on behalf of the 1<sup>st</sup> and 2<sup>nd</sup> Defendants binds the 1<sup>st</sup> and 2<sup>nd</sup> Defendants. Learned Counsel submitted thus:-

*"We have not filed our statement of defence. However the cause of action no longer exist in this case. The validity of allocations tagged "May 27<sup>th</sup> and 28<sup>th</sup> of 2007 have been ratified. I have no defence to the matter."*

The above submission of the 1<sup>st</sup> and 2<sup>nd</sup> Defendants' Counsel adds credence to exhibits 1 and 5.

Thus, by the evidence of PW1 and exhibits 1 and 5, the claimant is claiming title to the land in dispute by virtue of instrument of title i.e Offer of Statutory Right of Occupancy offered to it by the 1<sup>st</sup> Defendant. And the 1<sup>st</sup> Defendant, by exhibits 1 and 5, all the inquiries or questions to be raised are in conformity with the authority of the 1<sup>st</sup> Defendant by virtue of the powers to allocate land in the Federal Capital Territory vested in him by the Federal Capital Territory Act, the 1999 Constitution of the Federal Republic of Nigeria (as amended) and the Land Use Act.

The 3<sup>rd</sup> Defendant is also laying claim to the same Plot of land in dispute by virtue of exhibit 2, a statutory right of occupancy granted to the 3<sup>rd</sup> Defendant by the 1<sup>st</sup> Defendant. The 3<sup>rd</sup> Defendant, through DW1 under cross examination, testified as follows:-

*"I can see exhibit 1. The date on exhibit 1 is 28<sup>th</sup> May 2007. I can see exhibit 2. The date on exhibit 2 is 13<sup>th</sup> August, 2009."*

The above elicited evidence from DW1 by the Claimant's Counsel established the fact that the claimant's interest was first in time, having been granted to it by the 1<sup>st</sup> Defendant on 28<sup>th</sup> May, 2007 and that of the 3<sup>rd</sup> Defendant was on 13<sup>th</sup> August, 2009.

In the case of ***GEGE V NANDE & ANOR (2006) LPELR 7679***, the Court of Appeal held:-

*"The principle has long been established that where, as in this case, there are competing interests by two or more parties claiming title to the same land from a common grantor, the position, both in law and equity, is that such competing interests will prima facie rank in*

*order of their creation based on the maxim "quil prior est tempore portio est jure" which simply means " he who is earlier in time is stronger in law."*

See also **MOHAMMED v BELLO (2019) LPELR 4894 (CA)**.

From the evidence of PW1, exhibits 1 and 2 and the elicited evidence from DW1 during cross examination, the claimant in the instant case was first in time and therefore stronger in law. The 1<sup>st</sup> Defendant having earlier granted Plot 291, the subject of dispute to the Claimant, the 1<sup>st</sup> Defendant has divested himself of plot 291 and therefore has no title to grant to the 3<sup>rd</sup> Defendant or any other person. Thus, in line with the position of the Supreme Court in the case of **ROMAINE V ROMAINE (supra)**; whether in this case the grantor, the 1<sup>st</sup> Defendant had the authority and capacity to make such a grant having earlier granted same to the Claimant? And whether the grantor, the 1<sup>st</sup> Defendant, had in fact what he purported to grant?

The enquiries or questions raised as regards the allocation to the 3<sup>rd</sup> Defendant is answered in the negative because the maxim '*nemodat quod non habet*' applies in the circumstances of this case. This is to say the 1<sup>st</sup> Defendant, having dispossessed himself of the subject matter in dispute in favour of the Claimant, cannot give that which does not belong to him to the 3<sup>rd</sup> Defendant. See **OJENGBEDE V ESAN & ANOR (2001) LPELR 2372 (SC)**.

In the instant case therefore, I hold the view that the grant by the 1<sup>st</sup> Defendant to the 3<sup>rd</sup> Defendant is unconstitutional, illegal, null and void and of no legal consequences whatsoever and I so hold.

Thus, by the testimony of PW1, exhibits 1 and 5, I hold the view that the claimant is entitled to reliefs A, B and C of the amended

statement of claimant I so hold. Accordingly the reliefs are hereby granted as prayed.

In respect of the order for perpetual injunction restraining the Defendants or their agents or assigns, the evidence of PW1 clearly established the fact that the claimant is in possession and has commenced development by digging a foundation as well as awaiting the approval of the Development Control Department. The claimant in the instant case has established his legal right or interest over plot 291 the subject of dispute duly granted to it by the 1<sup>st</sup> Defendant. I therefore hold the view that the Claimant is entitled to an order of perpetual injunction against the Defendants and their agents and I so hold. Accordingly, relief (d) of the amended statement of claim is hereby granted as prayed.

The last relief sought by the Claimant is general damages of ₦100,000.000.00 for trespass by the Defendants on the said plot of land.

The law is that a party can succeed on a claim for damages for trespass even where his claim for declaration of title to land fails because trespass primarily goes to possession.

See the cases of ***OSAFIRE V ODI (1994) 2 NWLR (pt325) page 125, SALAMI & ANOR V LAWAL (2008) LPELR 2980 (SC) and IZUOGU V IBE & ANOR (2018) LPELR 4437 (CA)***

Trespass to land is an unjustified interference or intrusion with exclusive possession of another person over land or property. A person in possession or the owner can maintain an action in trespass against anyone who cannot show a better title.

See ***TUKURU V SABI, (2013) 10 NWLR (pt1363) page 442 and EGWA V EGWA (2007) I NWLR (pt1014) page 71.***

The proof of allegation of the tort of trespass is on the preponderance of evidence or balance of probabilities. See

**AMADI V ORISAKWE (2005) 7 NWLR (pt 924) page 385  
AND EZEMBA V IBENEME, (2004) 14 NWLR (pt 894) Page  
617.**

In the instant case, as I said earlier the evidence of PW1 is that while carrying out development at site with the deployment of men and materials, officials of the Development Control of the 2<sup>nd</sup> Defendant came to the land and verbally ordered the Claimant to stop further work. There is no evidence to suggest that the Defendants trespassed into plot 291, the subject matter of dispute. The claim for general damages therefore failed and it is accordingly dismissed.

In sum, the Claimant's claims succeed in part. Accordingly, reliefs A-D, as I have said earlier, are hereby granted as prayed while relief (e) is hereby dismissed.

In respect of the 3<sup>rd</sup> Defendant's counter claim against the claimant, having declared exhibit 2 of the 3<sup>rd</sup> Defendant unconstitutional, illegal, null and void and of no legal consequence, it follows that the 3<sup>rd</sup> Defendant is not entitled to her counter claim. Accordingly the counter claim against the claimant failed and it is hereby dismissed.

That is the judgment of this Court.

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**HON. JUSTICE D. Z. SENCHI**  
**(PRESIDING JUDGE)**  
**17/12/2020**

Parties:-Absent

Eniola Abalowo:- For the Plaintiff.

Ifeanyi M. Nriaike:- For the 3<sup>rd</sup> Defendant.

1<sup>st</sup>, 2<sup>nd</sup> and 4<sup>th</sup> Defendants not represented by Counsel.

**Sign**

**Judge**

**17/12/2020**