

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE NYANYA JUDICIAL DIVISION
HOLDEN AT COURT 8, NYANYA ON THE 26TH DAY OF
NOVEMBER 2020
BEFORE HIS LORDSHIP, HON. JUSTICE U. P. KEKEMEKE
SUIT NO. FCT/HC/CV/1995/13.

COURT CLERK: JOSEPH BALAMI ISHAKU.

BETWEEN:

BARR. KELECHI C. NWOSU.....CLAIMANT

(carrying on business in the name and Style

“K.C Nwosu & Co.”)

AND

1. MRS. ANGELINA EGBUNA	} DEFENDANTS
2. SEN. ATAI AIDOKO		
3. MR. OLUGBENGA FALAIYE		

JUDGMENT

The Claimant’s Writ of Summon dated 22nd day of February 2013 but amended vide an Order on 16/06/14 claims from the 1st and 3rd Defendants as follows:

- a. A Declaration that throughout the transactions culminating in the sale of Plot 887 Guzape District, Abuja to the 2nd Defendant herein, the Claimant acted as Solicitor to the duo of 1st and 3rd Defendants and is therefore entitled to 10% (Sellers Solicitors fee) of Value of the residue of

Plot 887 Guzape District, Abuja after obligations attached to the 14 number of Plot have been settled.

- b. A Declaration that the very moment that the 2nd Defendant made a part payment of N35 Million cash, out of the purchase price of N400 Million to the 3rd Defendant as stated in paragraph 36 above, the Claimant had perfected the instructions to sell Plot 887 Guzape District, Abuja and has earned his fee without further ado Or alternatively a declaration that by allowing and or conniving with the 2nd Defendant to replace the Claimant with another Counsel when the Claimant was always ready and willing to complete the sale of Plot 887, Guzape District, Abuja to the 2nd Defendant, the 1st and 2nd Defendant extinguished the Claimant's obligation to conclude the sale and the Claimant automatically earned the commission of 10% (being Solicitors fee) of the value of the residue of Plot 887 Guzape District Abuja after

obligations attached to the Plots have been settled.

- c. The sum of N30 Million only being 10% Solicitors fee of the sum of N308,5000,000 only being what is left of the N400 Million purchase price for Plot 887 Guzape District, Abuja after obligations attached to the 14 numbers of Plots have been settled.

The Claimant claims against the 2nd Defendant as follows:

- a. A declaration that throughout the transactions culminating in the purchase of Plot 887 Guzape District, Abuja from the 1st and 3rd Defendants herein, the Claimant acted as Solicitor to the 2nd Defendant and is therefore entitled to 5% (Buyers Solicitors Fee) of the purchase price of the Plot of land.
- b. A declaration that the very moment that the 2nd Defendant made a part payment of N35 Million cash, out of the purchase price of N400 Million to

the 3rd Defendant as stated in paragraph 36 above, the Claimant had perfected the instructions to help the 2nd Defendant purchase Plot 887 Guzape District Abuja and had earned his fee without further ado OR Alternatively, a declaration that by allowing and or conniving with the 1st and 3rd Defendants to replace the Claimant with his own Counsel when the Claimant was always ready and willing to complete the sale of Plot 887 Guzape District, Abuja to him, the 2nd Defendant extinguished the Claimant's obligation to conclude the sale to him and automatically earned the commission of 5% of the value of the Plot as buyer's Solicitor/agent's fee.

- c. The sum of N20 Million only being 5% buyers' Solicitors fee in respect of Plot 887 Guzape District, Abuja which Plot was sold for N400 Million
- d. The sum of N3,300,000 only being money payable by the 2nd Defendant to the Claimant as agent/Solicitors to 2nd Defendant in relation to several transaction carried out on the instructions

of the 2nd Defendant as per attached Bill of Charges dated 19/12/12 or otherwise in quantum meruit.

e. Interest at the rate of 10% per annum from the date of Judgment until final liquidation.

The Claimant claims against the Defendants jointly and severally as follows:

1. N20 Million as general damages for psychological trauma inflicted in the Claimant by the conduct of the Defendants.
2. Cost of N500,000 only

The 1st Defendant filed a Statement of Defence dated 23/06/14. The 2nd Defendant's Statement of Defence is dated 20/11/13 but filed on 21/11/13 while the 3rd Defendant's Statement of Defence is dated 30/10/13.

The Claimant opened his case and gave evidence for himself and called no other witness.

On the 24th day of March 2015 the Claimant gave evidence as follows:

He is Kelechi C. Nwosu of Basement B20 Omega Centre, Wuse 2, Abuja. He is a Legal Practitioner. He knows the Defendants in this case.

He remembers deposing to a Witness Statement on Oath on the 6/06/14.

He adopts same as his evidence.

I shall succinctly state the evidence of Claimant in the said Written Statement on Oath.

The Claimant is at all material times Solicitor to 1st Defendant and at various times also acted as Solicitor to the 2nd and 3rd Defendants.

That 1st Defendant is a civil servant and a real estate investor.

The 2nd Defendant is a serving senator at the time of the action and a Managing Director of Africc Concept Construction Ltd, a Real Estate Investment Company.

The 3rd Defendant is an estate agent, who claims he could perfect title documents to landed properties within Abuja.

That 1st Defendant went into an agreement with the law firm of Messrs Akoma & Associates in which she was paid N35 Million only to perfect the title holdings to three Plots of land.

In the course of seeking to perfect the above, the 1st Defendant was in 2018 introduced to 3rd Defendant who represented that he had connection to perfect any title document at the Land Registry.

That based on the above, the 1st Defendant paid 3rd Defendant various sums of money amounting to N91,500,000 only to perfect the title documents to the three Plots of land as well as 11 other Plots of land making a total of 14 Plots all situate within the Federal Capital Territory.

The 3rd Defendant could not perfect the said documents or refund the money collected.

Frustrated and exasperated, the 1st Defendant instructed the Claimant to use his position as a Lawyer to recover from the 3rd Defendant either the 14 Plots of

land for which he was paid N91,500,000 or her money by a Memorandum of Understanding/Authority dated 28/01/11, the 1st Defendant undertook to pay the Claimant a legal fee of N10% of the value of the Plot so recovered.

Pursuant to the instructions stated above, he piled pressure on the 3rd Defendant with a view to recovering the 1st Defendant's 14 Plots of land or her money. He had series of meetings with 3rd Defendant with persistent phone calls and text messages.

He also wrote a Petition to the Inspector-General of Police dated 18/01/11 over the matter

That the 3rd Defendant was detained at Police Headquarters where he made promises to pay and issued Dud Cheques. He still failed to deliver the 14 Plots of land or refund the money to the 1st Defendant.

As recovery efforts became slow, the 1st Defendant's numerous customers including Messrs Akoma & Associates became jittery over the delay.

The 1st Defendant instructed him to liaise with the said Messrs Akoma & Associates with a view of resolving the imbroglio. The parties had series of meetings amidst several exchange of correspondence, phone calls and text messages in pursuance thereto.

That Messrs Akoma ran out of patience with 1st Defendant and wrote Petition against 3rd Defendant.

The 1st Defendant again instructed him to represent her interest in the unfolding events and he made appropriate representations by making several visitations to the offices of EFCC, Inspector-General of Police and Federal Ministry of Trade and Investment with a view of extricating the 1st Defendant from her entanglement.

The Claimant wrote a letter dated 03/03/11 to Messrs Akoma & Associates explaining the challenges that made it difficult for the 1st Defendant to deliver on the title documents to the Plots. Messrs Akoma also proposed a way out.

That in one of the meetings with EFCC, Messrs Akoma & Associates (acting for Messrs Crown Realities Plc) executed an agreement dated 13/04/11 wherein they agreed to pull out of the land transactions upon the condition that 1st Defendant paid back the sum of N35 Million only which they paid for the three Plots of land within a particular time frame following which they would execute a Deed of release to enable the 1st Defendant dispose off the Plots to interested parties.

That the 3rd Defendant being unable to perfect the title documents of the 3 Plots of land first mentioned, identified and offered to replace same with three different other plots processed in the name of three persons in Guzape District.

The Offer for replacement was communicated to Claimant who in turn communicated same to the 1st Defendant who accepted same after initial doubt.

That the Claimant's relentless pressure on the 3rd Defendant yielded fruits and 3rd Defendant with the help of others were able to secure Plot 887 Guzape District, Abuja measuring 4.7071 Hectares in the name

of Messrs Crown Realities Plc clients of Messrs Akoma & Associates.

Upon securing the Plot, both 1st and 3rd Defendants discovered that the new Plot was much bigger in commercial terms than the Plot originally earmarked for and paid for by Messrs Akoma & Associates same having been valued for N400 Million only.

Notwithstanding, the 1st Defendant through the Claimant informed Messrs Akoma & Associates of the nearly secured Plot whereupon Akoma & Associates on the instructions of Messrs Crown Realities Plc, their client again told 1st Defendant in writing through Claimant that if she paid them back the principal money paid for the 3 Plots plus interest of 22% on the sum before 18/12/11, they would in turn execute a Deed of Release to enable the 1st Defendant dispose of the Plot to interested parties.

That 1st and 3rd Defendants met again and came to the following clear cut understanding:

- (1) That the sum of N35 Million be raised to pay back Messrs Akoma & Associates for three Plot of land which they paid for.
- (2) That after the pay off, Plot 887 Guzape District Abuja measuring 4.7071 Ha and valued at N400 Million would be applied to discharge obligations attached to the remaining 11 Plots of land.
- (3) That whatever sum of money left after the obligation might have been settled would them be shared equally as profit between the 1st and 3rd Defendants.
- (4) That the Claimant was to act as Solicitor to the 1st and 3rd Defendants in respect of the sale of Plot 887 Guzape District, Abuja.

That despite agreeing with the terms as above, the 3rd Defendant who had custody of the original title documents to Plot 887 Guzape District secretly sought to sell same to the 2nd Defendant without informing him of the 1st Defendant's interest in the same.

The 2nd Defendant agreed to buy Plot 887 Guzape District, Abuja for N400 Million and issued the 3rd Defendant a draft for N35 Million in favour of Messrs Akoma & Associates presumably to discharge the encumbrance attached to Plot 887 Guzape District, Abuja.

Messrs Akoma & Associates who had already reached an understanding with the 1st Defendant through the Claimant refused to have any dealing over Plot 887 Guzape District, Abuja with the 3rd Defendant without the involvement of the Claimant or the 1st Defendant. Frustrated, the 3rd Defendant was forced to go back to the Claimant for help in selling the Plot of land and confessed his failed attempt to sell the aforesaid Plot of land to the 2nd Defendant. He solicited the Claimant's cooperation to perfect the ale and handed over the N35 Million draft issued by the 2nd Defendant in favour of Messrs Akoma & Associates.

That Claimant was not happy about the 3rd Defendant's failed attempt to sell the Plot 887 Guzape District to 2nd Defendant.

The Claimant demanded N2 Million as a fresh and separate sum to manage information concerning the land deal and to perfect the sale.

The 3rd Defendant told him to hold on to the Cheque as he did not have sufficient funds in his Account.

That at the time of the transaction 1st Defendant was still out of jurisdiction so that he and 3rd Defendant went to meet the 2nd Defendant in his office at Afric Concepts Ltd during which meeting, the Claimant as Solicitor to the 1st and 3rd Defendants made full disclosures appertaining to Plot 887 Guzape District including the fact that the 3rd Defendant was still owing him N2 Million as agreed.

The 2nd Defendant was desirous of concluding the transaction relating to the purchase of Plot 887 Guzape District Abuja and promised on his own volition to pay Claimant N2 Million to discharge the obligation owed the Claimant by 3rd Defendant.

That despite the promise by the 2nd Defendant, the Claimant pleaded severally with the 2nd Defendant to

make good his promise and he finally got the 2nd Defendant to pay the N2 Million on behalf of the 3rd Defendant. That 1st Defendant through Claimant and 2nd Defendant agreed to sell and did sell Plot 887 Guzape District Abuja to the 2nd Defendant for N400 Million.

The 2nd Defendant after collecting the original title documents to the said Plot from the 3rd Defendant and upon executing a sale agreement prepared by the Claimant himself dated 15/12/11, a cash payment of N35 Million was made to the 3rd Defendant to enable him pay Messrs Akoma & Associates.

The 2nd Defendant paid cash because he did not want the lodgment to be traced to him.

The 2nd Defendant also promised to pay the balance of the purchase price for Plot 887 Guzape District and the Claimant Solicitors fee of 5% as soon as Messrs Akoma executed a Deed of Release in his favour.

The N35 Million was eventually paid to Messrs Akoma & Associates before the deadline.

That Messrs Akoma & Associates refused to execute a Deed of Release to enable Claimant properly dispose of

the Plot to 2nd Defendant because the 2nd Defendant did not pay 22% interest on the N35 Million.

The 2nd Defendant on his own accord approached and instructed the Claimant to help exploit possible legal means of compelling Messrs Akoma & Associates and their Client.

Messrs Crown Realities Plc to execute a Deed of Release, promising to pay the Claimant a professional fee of N3 Million.

The 2nd Defendant paid an initial sum of N500,000 only in cash out of the professional fees of N3 Million. That Claimant lodged same into his account.

Thereafter, the 2nd Defendant requested the Claimant to accompany him to see his lawyer PIN Ikwueto SAN in the latter's office with a view to rubbing minds on the pending Court action on how to cause the duo of Messrs Akoma & Associates and Crown Realities Plc to execute the Deed of Release.

That at various sessions of brain-storming between parties, the following understanding was reached between the Claimant and the 2nd Defendant.

- a. That 2nd Defendant would sue 1st Defendant along with the duo of Messrs Akoma & Associates and Crown Realities Plc as co-Defendants for specific performance of the contract of sale of Plot 887 Guzape District, Abuja or alternatively the 1st Defendant was to sue Messrs Akoma & Associates and Crown Realities Plc as co-Defendant for specific performance of the aforesaid contract of sale.
- b. The Claimant was to represent the 1st Defendant herein in either of the matters.
- c. That however way the matter was filed in Court, the Claimant and P.I.N IKWUETO SAN were to work together to ensure the success of that action and the Claimant was to provide relevant documents appertaining to the sale of Plot 887 Guzape District, Abuja, for the Action to be filed in Court.

d. The 2nd Defendant would foot the Claimant's legal fee in that action.

To the consternation and displeasure of Claimant, he discovered that P.I.N. Ikwueto SAN compromised the Lawyer/Client relationship which the Claimant hitherto enjoyed with the 1st Defendant, by proceeding to Court on behalf of the 1st Defendant to seek to conclude the matter which the Claimant initiated and sustained contrary to the understanding reached without informing the Claimant about it and without ensuring that the Claimant was duly paid for his effort thus made so far.

That when he complained about the impropriety of P.I.N Ikwueto SAN's apparent misconduct as it relates to the rules of professional conduct, the latter denied knowing the Claimant.

The 1st and 2nd Defendants denied the matter was in Court.

He sought to rely on the Court processes filed by P.I.N Ikwueto SAN.

That he was always ready and willing to complete the said sale of Plot 887 Guzape District, Abuja to the 2nd Defendant by ensuring that Messrs Akoma & Associates and their client Messrs Crown Realities Plc did execute the Deed of Release in favour of the 2nd Defendant.

That he is not happy about the surreptitious manner that was used to supplant him with another lawyer but resolved notwithstanding to collect his outstanding professional fees from the 1st and 2nd Defendants on one part and the 3rd Defendant on the other part since they are at liberty to hire a lawyer of their choice.

That throughout his legal representation of the 1st Defendant from 2009 till about 2012 when the matter came to an end, the latter did not pay him his due recompense always promising.

The 1st Defendant did not make good her promise whereupon he served her and 2nd Defendant separate Bill of Charges for work done dated 19/12/12.

That he also acted as Solicitor on the instruction of the 1st Defendant in sundry other matters as highlighted in the Bill of Charges such as writing and issuing

correspondence to several persons and establishments in respect of different property transactions involving various parties, drafting/re-drafting and perusing of legal documents appertaining to same, attending meetings in connections therewith which services were to fetch the Claimant a cumulative sum of N17,900,000 only out of which sum the 1st Defendant disbursed a paltry N450,000.

That apart from acting as Solicitor to the 2nd Defendant in connection with the purchase of Plot 887 Guzape District Abuja for which he is entitled to 5% commission as Solicitors fee, he also rendered sundry other legal services to the 2nd Defendant as per the Bill of Charges dated 19/12/12 amounting to a total of N3,800,000 only out of which N500,000 only has been paid.

That up till the time of institution of this action, the Defendants have refused, neglected and or failed to pay him as Solicitor in various capacities despite repeated demands.

The Claimant tendered the following Exhibits.

Exhibit A – List of 14 Plots of land.

Exhibit B – Memorandum of Understanding/Authority executed by Claimant and 1st Defendant dated 28/01/11.

Exhibit C – Letter from Claimant dated March 3, 2011 to Messrs Akoma & Associates.

Exhibit D – copy of Agreement dated 13/04/11 between 1st Defendant and Barrister Akoma.

Exhibit E – Skye Bank Cheque dated 9/12/11 issued in the name of Claimant for N2 Million.

Exhibits F – F₂ – Three handwritten receipts.

Exhibits G and G₁ – Two Sales Agreement dated 15/12/11 and 16/12/11 between 2nd and 3rd Defendants.

Exhibits H – H₃ – 4 Tellers of Sterling Bank dated 15/12/11.

Exhibit I and I₁ – Acknowledgement Receipts by Claimant for N500,000.

Exhibit J and J₁ – Letter from 1st Defendant's daughter and E-mail.

Exhibit K and K₁ – Letter of demand by Claimant dated 27/11/12 and reply.

Exhibit L – Statement of Claim filed on 18/7/12 with documents.

Exhibit M and M₁ – Nipost Certificate of posting dated 21/12/12 and Bill of Charges from Claimant dated 19/12/12.

Exhibit N – Documents relating to sundry services rendered.

Exhibit O and O₁ – Bill of Charges and certificate of posting.

Exhibit P – Letter from Claimant to Akoma & Associates dated 5/03/12.

Exhibit O – Documents containing text messages, E-mail etc.

Under Cross-examination by 1st Defendant's Counsel, the witness answers as follows:

That Exhibit A is the list of properties which 1st Defendant engaged him to recover from 3rd Defendant.

That Exhibit A is issued by 1st Defendant.

That 1st Defendant's name is Number 11.

That there is nothing on the face of the Exhibit A to show the person who issued it.

It does not contain the name of the person to whom it was issued.

There are values tabulated on properties.

The total value is N91,500,000.

That Exhibit B is Memorandum of Understanding. It conveyed to him an assignment engaging his services to recover N91,500,000 which was obtained by the 3rd Defendant under false pretences or fraudulent practice.

To another question, he answered that 3rd Defendant also issued dud Cheques that were dishonoured.

Exhibit B shows that he was acting on the instruction before it was embodied in Exhibit B.

See paragraph 3.

In paragraph C – The instruction is definite.

He recovered properties valued at N400,000,000 which are listed in Exhibit A.

That there are documents to show that the properties were recovered.

That from the beginning to the end he was involved in the recovery exercise. That at a point, the 3rd Defendant had difficulties in the recovery of the said N91 Million.

He does not know if the deal between him and 3rd Defendant is tainted with fraud.

That there is no written agreement between him and the 1st Defendant to vary the agreement from N90 Million to N400,000,000. The only instruction he has is from the 1st Defendant.

That there was no agreement that the Police will share out of the 5 or 10% of his fees.

That Exhibit B Clients Column was signed by 1st Defendant.

Exhibit D last page was also signed by 1st Defendant.

That Exhibit J1 is not a title.

Exhibit J is handwritten by him. It is not addressed to anybody.

It is his jotting of her instructions. It is not signed.

In J₁ some are typewritten while others are handwritten.

The signatures in Exhibits B and D are not the same as in Exhibit J1.

That Exhibit M1 is Bill of Charges received by Ojanuga G.A.

There is no letter from 1st Defendant asking him to deal with 2nd and 3rd Defendants.

That paragraph 20 of his Oath does not contain the value of the Plots.

He does not know of any records where he was paid N1.5 Million from 2009 up to the point of his service of the Bill of Charges.

That he was paid for performing his duties. He did not act outside any instruction.

That 2nd and 3rd Defendants are not adverse parties. He acted for 2nd Defendant. He also acted for 1st Defendant. He did not use his position as Counsel to the 1st Defendant to defraud her.

That it is 1st Defendant's instruction that linked him to 2nd and 3rd Defendants.

That Exhibits B and paragraphs 57 and 58 of his Oath are the same.

Under Cross-examination by the 2nd Defendant's Counsel, the witness answered as follows:

That Exhibit B is instruction to recover some properties and get some commission.

That Exhibit B does not include any express instruction to represent any person.

In Exhibit B, commission is based on the recovery of any property or part thereof.

That Exhibit D showed that he prepared it because it is in his handwriting. He signed it as witness for the 1st Defendant.

He prepared it and signed it as witness.

He don't know that in commercial transactions receipts are issued and both parties countersign.

That Exhibits F, F1 and F2 are tendered to prove payment. They are documents he wrote and signed by himself.

The signature of the 2nd Defendant is not on them.

That Exhibit J1 is not a Valuation Certificate.

That Exhibit dated 18/10/11 marked 'Rejected' is the same as document contained in a bundle marked Exhibit N.

There is no written instruction from the 2nd Defendant.

There is no particulars of items in Exhibits O – O₁.

Exhibit Q does not reflect any phone numbers on the Certificate but it reflects name.

That the Computer documents marked 4 are also instructions.

That the contract is in the nature of Innovation.

He acted by writing letters, supervised and employ the services of Police, had meetings and sessions.

Under Cross-examination by the 3rd Defendant's Counsel, the witness answers as follows:

Referring to paragraph 7 a – c of his Oath, there are other land transactions between 1st and 3rd Defendants.

That as at the time Exhibit B was issued, the lands were not yet processed.

That pursuant to paragraph 7(a) of his Oath, his mandate as contained in Exhibit B was not to perfect title.

That 3rd Defendant was not to deliver three Plots to Crown Realities.

That he does not know the position of 1st Defendant in her workplace.

He had other business relationship with the 1st Defendant.

See Exhibit M – Item 3.

That his instruction does not include registration of any Power of Attorney.

He does not know the alter ego of 1st Infrastructure Ltd. Peanut Petroleum is one of her business interest.

There is no evidence before the Court to show that 1st Defendant owned the above Companies.

That he completed the sale of Plot 887 Guzape to 2nd Defendant and therefore entitled to commission.

Referring to paragraph 49 of his Oath, he said he did not get the Deed of Release because another lawyer bulldozed his way. That he completed the sale.

That he is claiming commission for the sale of Plot 887 Guzape from the 2nd and 3rd Defendants and indeed all the Defendants.

That as at the time of transaction, there was no conflict of interest. That he acted for all the parties all the time.

That there is no conflict of interest.

See Exhibit B paragraph 2, there is no conflict of interest despite the above paragraph.

To another question, he answered that he is not aware that Crown Realities has executed a Deed of Release in favour of the 2nd Defendant.

That mid stream to the transaction 3rd Defendant came into a pact with the 1st Defendant after the property in question was recovered to oversee the sale of the property to a 3rd party which he did.

To another question he answered that there were 14 Nos. of property.

That one of them was eventually purchased.

Because 1st Defendant relied heavily on his judgment, she still asked him to help out in the sale of the property which he did.

He was merely asked to sell Plot 887 Guzape District.

That he never know the 2nd Defendant.

That it is 3rd Defendant who sold Plot 887 Guzape District to 2nd Defendant in alliance with 1st Defendant.

That he had a joint mandate to act as their Counsel in the entire sale procedure.

That the property was duly sold to 2nd Defendant and part payment made. Ikwueto SAN was responsible for his replacement and he used all his documents.

The 2nd Defendant never paid him any money with respect to the sale of the land.

That he is the only Lawyer that acted in the transaction which is Exhibits Q page 8.

That it does not amount to do double payment.

That it is necessary to serve Bill of Charges for the recovery of professional fee.

There is also a scale of charges.

That he used one but cannot readily get at it now.

That it is necessary to use the right scale of charges.

That he cannot with mathematical precision determine his scale of charges.

To a further question he answered that his scale of charges is correct.

That 3rd Defendant informed him that he instituted a Suit against the 1st and 2nd Defendants HC/CV/13033/13 in this Court.

That inspite of the above, he prepared for the 1st Defendant's Power of Attorney prior to the institution of the action.

The 1st Defendant was not involved as she was not present.

He answered that he represented the 1st Defendant in the registration and eventual sale.

That the 3rd Defendant's suit in the Court borders on the refusal of the 2nd Defendant to fully pay for the Plot 887 Guzape District because he told him.

He will not be surprised to hear that 1st Defendant is claiming that 3rd Defendant is not a co-owner of pot 887 Guzape District because anybody can claim anything.

That it will surprise him to hear that the agreement is for the sale of land for N220 Million and not N400 Million in the above suit.

To a further question, he answered that he is not a party to that suit.

That by November 2012, the sale of Plot 887 Guzape District had been finalized.

That his evidence in paragraph 25(d) and 37 is to the effect that 1st and 3rd Defendants jointly owned Plot 887 Guzape District.

He further confirmed that he was meant to recover 14 Plots of land.

That paragraphs 22-23 of his Oath are correct.

That 3rd Defendant was only able to secure one Plot out of 14.

There was agreement between 1st and 3rd Defendants in respect of the Plot that was recovered.

He supervised the agreement between 1st and 3rd Defendant in respect of the land that was recovered as a lawyer acting for both of them.

Under re-examination, he said the case between 3rd and 1st and 2nd Defendants was filed after this case.

The above is the case of the Claimant.

The 1st Defendant witness is Mrs. Angelina Alaba Egbuna.

On 25/06/14 she made a witness Statement on Oath. She adopted same as her evidence.

She is the 1st Defendant in this case.

The Claimant was not part of the initial agreement between her and the 3rd Defendant but the Claimant's legal Service was retained by her to write a Solicitors letter and use his skill on her behalf for payment as agreed in the Memorandum of Understanding signed on 28/01/11 for **his** professional fees and not quantum merit.

She instructed Claimant to write Solicitors letters to Messrs Akoma & Associates and follow up with the Claimant's professional competence but surprisingly it was discovered that Claimant Exhibited incompetence,

indulgent and delay in the handling of her instructions which led Messrs Akoma & Associates to petition the 1st Defendant to EFCC for investigation with a view of recovering the money paid to the 1st Defendant.

That she gave instruction to the Claimant through the Memorandum of Understanding signed on 28/01/11 specifically to

1. Recover the sum of N91,500,000 from 3rd Defendant who defrauded her.
2. Ensure that he (3rd Defendant) refunded back to her money collected from her by false pretence promising to use his connection to process land documents from AGIS Abuja for 14 Plots of land situate within Abuja metropolis.

That Claimant was only entitled to 10% of any money recovered from 3rd Defendant and nothing more.

The Claimant was to handle the recovery process from the 3rd Defendant.

That Claimant lacks professional competence to evaluate and fix the value of the said land for N400 Million.

That the value of NN400 Million is a figment of the Claimant's imagination.

She did not engage the Claimant or any Estate valuer for valuation of the said land.

She did not reach any agreement with Claimant and 3rd Defendant.

That Claimant failed woefully to recover her Plots of land/money from 3rd Defendant.

That Claimant introduced himself to 2nd Defendant. She did not instruct him to mediate or sell Plot of land at 887 Guzape District.

That she personally sourced and paid N35 Million from 2nd Defendant and paid Messrs Crown Realities Plc.

That Claimant never acted as agent on her behalf in the payment to Messrs Crown Realities Plc to execute any Deed of Release or Transfer of Title Document.

That her instruction to the Claimant was clear and unambiguous.

That Claimant abandoned her instructions and worked with 3rd Defendant without her consent.

That Claimant never disclosed to her his interest in working for 3rd Defendant in the cause of his legal duties to her and all the accruing financial gain. She did not instruct Claimant to execute or initiate any legal action on her behalf.

She only instructed P.I.N. Ikwueto to institute action against Akoma & Associates.

That Claimant is not entitled to any N17 900,000 as legal fee. That Claimant failed to deliver any result on her instruction within the content the content of the signed Memorandum of Understanding dated 28/01/11.

That the agreed percentage in the Memo had not fallen due at the time of the institution of this case.

That contrary to the Memorandum of understanding the Claimant engaged in unethical behaviour by dealing with 3rd Defendant and abandoned her instruction. That Claimant collected money from 2nd and 3rd Defendants at various times and acted contrary to her instructions, interest and briefs.

That Claimant engaged in unprofessional acts, he abandoned her instructions and turned himself into a

gold digger by collecting money from the 2nd and 3rd Defendants or whoever he chooses in defiance of her instruction.

That she instructed P.I.N. Ikwueto to institute legal action against Crown Realties Plc and their Solicitor Chimere Akoma Esq. for failing to issue a Deed of Release despite the receipt of N35 Million.

That Judgment was delivered in that Suit on 18/02/14.

That Claimant's failure to act within his instruction and authority led to all the confusion between her and other people including the 3rd Defendant who had defrauded her of the sum of N91,500,000.

That Claimant did not act with due care and diligence, took advantage of her, engaging in collecting money from 2nd and 3rd Defendant respectively and thereby abandoning her instructions.

That he worked against her for another fee from 3rd Defendant.

The Claimant breached the Memorandum of Understanding reached.

That he frustrated her as he Exhibited a lot of illegal conducts in the discharge of his professional job.

That his incompetence in handling the brief led to all the embarrassment.

That Claimant was not committed and devoted in the handling of her instruction.

That Claimant was paid money in various sums by her even when his fees have not fallen due.

The Claimant never served on her any Bill of Charges.

That the allegations of Claimant against her in this suit are unfounded, vexatious and otiose and is borne out of greed and mischief to make quick money.

That she is not indebted to the Claimant of any sum.

That he has not carried out the professional service he was engaged for.

That he is not entitled to any amount. She stated orally that she did not receive Exhibit M and M1. The Claimant knows his number and how to get her.

She does not know the person who received it.

She did not sign Exhibits M and M1.

Under cross-examination by 2nd Defendant's Counsel she answered as follows:

That the instruction to Claimant as contained in Exhibit B is to recover N91.5 Million which was duped from her. The Claimant has not recovered any money.

To another question, she answered that there is no other arrangement or Memorandum in respect of any other thing.

That she also signed Exhibit D aside Exhibit B.

She did not author Exhibit J1.

That it is forged.

She denies all the allegations of the Claimant.

On being cross-examined by the 3rd Defendant's Counsel, she answered that she did not engage the services of the Claimant with the 3rd Defendant to transact the sale of Plot 887 Guzape District.

That it is not N63 Million that she deposited for the perfection of the title documents.

That it is the 3rd Defendant who duped her of N91.5 Million.

That she paid him some money on several occasions for several Plots of land.

To another question, she answered that she has agreement with him. He was to process and get Plot 887 which is 4.71 Hectares. He gave her a forged paper.

That she did not agree with 3rd Defendant to sell it to the 2nd Defendant.

She did not sell the said land because they are still in Court.

To another question, she answered that she was with the Ministry of Trade and Investment.

She is not engaged in buying and selling of real estates.

She was introduced to 3rd Defendant as a P.A to Honourable Member of the Federal House on the ground that he could facilitate the process of obtaining a Right of Occupancy.

She is not aware that 3rd Defendant got 33 Plots in the name of Crown Realities.

She did not engage the Claimant to act for her or the 3rd Defendant. He has not recovered anything neither has he carried out her instructions.

On being cross-examined by the Claimant's Counsel, she answered that she complained to the President of NBA in Benin.

She does not have any Complaint against the Claimant before the Police.

She was contacted by Barrister Chimere Akoma to process Plot 887 Commercial, 576 and 770 Residential. She has the Agreement.

The case is in Court. She won the case in the High Court. It is on appeal.

She identified the documents showing her Agreement in relation to those Plots.

That Plot 887 Guzape District, in Exhibit A was not given to him. She did not give him the whole Plots.

She does not have an e-mail account. She never instructed her daughter to receive e-mail from Claimant.

She did not give him instruction to recover Plots. She instructed Claimant to recover N91.5 Million and that she will pay him 10% of the recovered amount.

He has not recovered One Naira. This is the first time she is seeing Exhibits G and G1.

To a question she answered that it is not possible to sell a land that is a subject of litigation.

She became aware that she is being sued for N91.5 Million on 26/04/17.

That she is not lying.

That she is the owner of Plot 887 because she gave the 3rd Defendant money to process the land for her.

They sold it to her.

She got money to pay Crown Realities N35 Million and part payment N25 Million for 887, N7 Million for Plot 770 and the balance for Plot 576.

She received the money from the person who duped her. She gave the money to Crown Realities.

That Exhibit L is the case on appeal.

The Claimant was told to recover N91.5 Million. She did not see any result. She recognizes Exhibit Q.

On 28/11/12, a week or two before then, she asked Claimant to give her all her documents.

He took all her documents and told them she was at the point of death.

He refused to give her the said documents. He blackmails people to get money.

She gave him agreements which she signed with Barrister Akoma. She also gave him other documents given to her by 3rd Defendant in respect of a Plot in Asokoro.

All the documents are signed by 3rd Defendant all to show that she parted with N91.5 Million.

She also gave him a bounced Cheque given to her by the 3rd Defendant for N21 Million.

They are to show that she was given fake documents.

She reported him to the Police because her signature was forged.

That she cannot give him money since he refused to comply with the Memorandum of Understanding.

The 2nd Defendant reacted to the Originating Process by filing a Notice of Preliminary Objection dated 14/07/14 and a Witness Statement on Oath dated 16/07/14.

In the said Notice of Preliminary Objection dated 13/03/20 and filed the same date, the issue for determination is whether or not the Claimant's suit ought to be dismissed in its entirety on the ground that same is incompetent the res being illegal or otherwise tainted with illegality. That there is a feature in the case which is patently illegal by reason of Rules 7(2) (a) and (b) of the Rules of Professional conduct.

Learned Counsel to the Claimant posited that there is nothing patently illegal in the conduct of the Claimant as to render the Suit incompetent. The Claimant's conduct did not lead to an infraction of Rules of Professional Conduct.

That there is no evidence adduced at the trial which shows that the Claimant acted other than as a Solicitor.

That there is no evidence that the Claimant personally acted in the business of buying and selling.

I have read the Notice of Objection and the Claimant's reply.

In considering whether a Court such as this Court has jurisdiction to entertain a matter, the Court is guided by the claim before it by critically looking at the Writ of Summons and Statement of Claim.

See *ONUORAH VS. KRPC (2005) 6 NWLR (PT.921) 393.*
TUKUR VS. GOVERNMENT OF GONGOLA STATE 1989
4 NWLR (PT.117) 517.

The Claim of the Claimant from the Writ of Summons and Statement of Claim is his entitlement to 10% of Solicitors fees against the 1st and 3rd Defendant and 5% interest as buyer's Solicitor's fee.

I have also read Rules 7(1) and (2) of the Legal Practitioners Rules of Professional Conduct.

The 2nd Defendant did not show by Affidavit evidence that the Claimant acted in a capacity different from that

of a Solicitor or that during the trial the transaction was tainted with fraud or an illegality.

That he was engaged in buying and selling personally or was acting as a commission agent.

I find the Notice of Objection unmeritorious and it is accordingly dismissed.

The 2nd Defendant's Witness Statement on Oath was sworn to by 2nd Defendant. It is dated 16/07/14. He stated that the Claimant is not entitled to any of the claims he seeks.

That he never engaged the Claimant to be his Solicitor nor did he ever agree or promised the Claimant that he shall represent him in any capacity whatsoever in respect of the transactions leading to this case.

That he did not make a promise of any fee, commission or payment of any percentage.

That he did not engage him to act for him in respect of or purchase of Plot 887 Guzape District Abuja or any company associated with him as Solicitor or in any other capacity.

He denied having a meeting between him and his lawyer P.I.N. Ikwueto SAN and Claimant.

That he was served with a Bill of Charges dated 19/12/12 by the Claimant.

That there was no basis or justification for the false, fictitious heads of claim in the Bill of Charges.

That he did not see his Solicitor in respect of the transaction for the sale of the Plot 887 Guzape District, Claimant does not know the agreed value of the said Plot.

That he agreed to buy the said Plot for N220 Million and not N400 Million as Claimant imagines.

That sometime in November/December he was approached by 3rd Defendant on behalf of 1st Defendant to assist her in buying a Plot of land at Guzape District Abuja over which the 1st Defendant then had outstanding issues with her erstwhile partners. That he agreed to the sale and decided to transact the sale of the land through one of his Companies Afric Concept Ltd.

He was informed by 1st and 3rd Defendants that an initial sum of N35 Million was required as down payment towards settling Messrs Crown Realities Plc who provided the initial sum for processing of the title documents.

By a sales agreement dated 16 December 2011, the 3rd Defendant acknowledged the receipt of the sum of N35 Million.

He met the Claimant in the company of 1st Defendant and was introduced to him as her lawyer in the course of the negotiation over Plot 887 Guzape District. That at no time whatsoever did he meet or promise to pay the Claimant any sum of money to discharge whatever obligation or monies, the Claimant avers 3rd Defendant owed him. That upon being introduced as a Senator Claimant perceived him as an easy access to unearned money. That Claimant cashed in and invented all sorts of sympathetic tales aimed at extorting monies from him.

At a point he pleaded for money to undergo IVF for his wife. That Claimant collected the sum of N4 Million as

a cash gift/assistance as a result of the sympathetic tales. The above money was not pursuant to any services rendered to him by the Claimant. That despite the payment of N35 Million, the 1st and 3rd Defendants were not able to persuade Crown Realties Plc to execute the Deed of Transfer of title to the Guzape Plot in favour of his Company. The 1st Defendant instituted an action against CROWN Realties as a result. That he was not in connivance with 1st Defendant to replace Claimant.

He has no business with Claimant. He was not a party to the case wherein 1st& 3rd Defendants sought to recover title to Plot 887 Guzape District, Abuja. The Court delivered Judgment in favour of the 1st Defendant on 18/02/14. That Claimant had written his Counsel stating that the case mentioned above was filed with documents generated by him. That Claimant wrote to several important persons accusing P.I.N Ikwueto SAN of collaborating with 1st Defendant and 2nd Defendant to reap where he did not sow. The President of the NBA wrote his lawyer requesting him to submit his written

response. That he vigorously accused his lawyer of professional misconduct. At the end, the NBA found that no prima facie case of professional misconduct was made against his lawyer. That he wrote a complaint dated 8/05/13 to the General Secretary of the Bar against the Claimant. It's still pending before the NBA. That the allegations of misconduct against him are unfounded and borne out of mischief and sheer greed.

That the Claimant has not disclosed a cause of action against him. That Claimant is not entitled to any amount and or interest. The DW2 tendered Exhibits R – R3:

1. Sales agreement in respect of Plot 887 Guzape District.
2. Sales agreement dated 16/12/11 between 2nd Defendant & 3rd Defendant.
3. Letter dated 27/11/12 Written to Claimant.
4. Letter by the NBA stating there is no prima facia case.

Under cross-examination by the 1st Defendant, he said. He knew the 1st Defendant since about 8 or 9 years. That he met Claimant through the 3rd Defendant. The 1st Defendant did not give him instruction to meet the Claimant.

On being cross-examined by the 3rd Defendant he answered that three of them were involved in the transaction. That 3rd Defendant did not introduce Claimant to him to act as Solicitor in respect of the land. There was no agreement entered into by three of them to suggest that the Claimant will be entitled to any commission.

When cross-examined by the Claimant, he answered that he knows Exhibit R – R3. He cannot say which one comes first. The 1st Defendant introduced Claimant as her lawyer. That he met Claimant after they had concluded the transaction. The 3rd Defendant brought Claimant and pleaded that he should assist him. That he

gave him money. As soon as he knew that he was a Senator he started extorting him. That one William Agogo is a witness in that transaction. He used to be his staff. There are communications between him and the Claimant. That Exhibit Q is a clear case of extortion. The document is concocted. That it is not from the telephone company. That his phone no. is not in Exhibit Q. The Exhibit Q cannot be from him.

The Claimant was not there throughout the transaction. To a question he answered that there were so many documents from so many lawyers. That the case is in the Court of Appeal. That he is not the subject matter of Exhibit L. That no lawyer was involved in the transaction until after the transaction. He does not know if 3rd Defendant engaged a lawyer. That he has paid the total purchase price. He did not engage the Claimant to do any work for him. He gave Claimant money out of charity. That he shares the view of P.I. N Ikwueto SAN in Exhibit R2. The above is the case of the 2nd Defendant.

The 3rd Defendant also gave evidence for himself. He is Olugbenga Falaiye of Plot 5 Tomabinna Street, Wuse 2, Abuja. He filed a Witness Statement on Oath dated 30/10/13. He adopted same as his oral evidence.

In the said Witness Statement on Oath he deposes. That from the onset, he made it abundantly clear to 1st Defendant that the process of obtaining land in the Federal Capital Territory takes a long period due to the usual bureaucratic hiccups associated with land allocation within the FCT partly due to frequent change of FCT Ministers. The Claimant acted as Solicitor to the 1st Defendant by lodging a Petition against him to the Office of the Inspector General of Police on two occasions. The cumulative total sum paid by the 1st Defendant to him is N63,000,000.00 with a balance of N37 million to be paid on conclusion of the transaction. Claimant actually wrote a Petition to IGP against him on behalf of 1st Defendant but his detention was as a result of the unfounded and spurious allegation of threat to life

of the 2nd Defendant. He personally sought and obtained approval from the Office of the Honourable Minister of the FCT for a large expanse of land measuring 4.17 hectares which is bigger in size than what the 1st Defendant and he had bargained and agreed for.

That he agreed with the 1st Defendant to sell Plot 887 Guzape District Abuja for N400 Million to the 2nd Defendant and till date he 2nd Defendant has paid N200,000.00 which includes N35 M refund to Mesrs Akoma & Associates leaving the balance of N200 Million. That Claimants claim is unfounded.

Upon Cross Examination by 1st Defendant's Counsel, he answered that he is not a land expert. He is not a land valuer. That it is through 1st Defendant, that he met Claimant. The money 1st Defendant paid him was for him to facilitate getting a land at Guzape. He stands by paragraph 7 of his Oath.

On being cross examined by Claimant, he answered that they agreed that he should get a commercial land for all the money given to him. They were no more dealing with the other lands. That there is only one reason why Claimant called him which is how to get the money back from 1st Defendant. To a question he answered that the plots in Exhibit A are not part of the plots they were to recover. To another question he answered that Plot 3 in Exhibit A is one of them. He is aware of Exhibit E. It was made when Claimant was trying to recover the money for 1st Defendant. He was trying to buy time and accommodate the whole tension that he issued the cheque. The agreement is between Claimant & 1st and 2nd Defendants. To a question, he answered that 2nd Defendant paid N200 Million. He does not know what happened to the balance. He does not know the phone number in Exhibit H.

Parties were ordered to file Written Addresses. The 1st Defendant's Written Address is dated and filed on the 14/11/19. Learned Counsel adopted same as his oral

argument. He posited lone issue for determination which is Whether the Claimant is entitled to be paid remuneration (professional fees) by the 1st Defendant for services not rendered. He argues that it is unprofessional for a legal practitioner to charge excessive fees. Refers to Rule 48(3) of the Rules of Professional Conduct for Legal Practitioner 2007. That it is unprofessional to charge for fees on services not rendered. That Exhibit B spelt out the terms and conditions guiding the relationship between the Claimant & 1st Defendant. It is to recover lands from the 3rd Defendant. The Claimant cannot even claim above 10% of any amount recovered. That Claimant woefully failed to perform. That Claimant is in clear breach of the contract in Exhibit B having failed to recover the said land or money.

He failed to perform. He cannot claim remedies. He cannot create new terms into the contract outside the terms contained in Exhibit B. Claimant is in breach of trust and abuse of confidence. The Claimant failed to

abide by the terms and conditions contained in Exhibit B. He finally urges the Court to dismiss the suit.

The 2nd Defendant also adopted his Final Written Address dated and filed on 15/01/20. He also posited one issue for determination. Whether the Claimant adduced credible and sufficient evidence before the Court to justify the grant of the reliefs sought. Learned Counsel canvasses that a Claimant such as this Claimant must succeed on the strength of his case. He submits that the Claimant has woefully failed to discharge the burden of proof of his claims.

That the reliefs sought are verbose and speculative. That his evidence is at variance with the pleadings, irrelevant and commands no probative value. That Exhibit A is undated and unsigned. The name of author and the address is not on it. An unsigned document is worthless. He urges the Court to discountenance same. That Exhibit B is the heart and soul of the Claimant's case. That 1st Defendant did not instruct the Claimant to recover 14 Plots of land or money in Exhibit B.

That Exhibit B supports the oral evidence of the parties that the only instruction the 1st Defendant gave to Claimants was to recover N91.5 Million. He urges the Court to find and hold so. That Exhibit B does not support Claimants case. That if Exhibit B is discountenanced, the foundation of Claimant's case has collapsed and he has not led credible and sufficient evidence. That Exhibit C, D, E do not justify the grant of reliefs sought. They may have shown that Claimant made some efforts in discharging his obligation, there is nothing to show that Claimant discharged the mandate. There is no evidence to show that he recovered N91.5 Million from the 3rd Defendant for which he would have been entitled to any commission Exhibit F, F1 & F2 are of dubious origin.

They are not credible. They are not signed or acknowledged by 2nd Defendant but only the Claimant. It is not safe to rely on same Exhibits G, G1, H, H1, H2 and H3 do not prove the Claimant's entitlement to the reliefs sought. The N35 Million was to be used to offset the debt obligation of Crown Realities Plc.

Exhibits H, H1, H2 and H3 are Sterling Bank Tellers vide which 1st Defendant paid the sum of N35 Million provided by the 1st Defendant to Crown Realities. That it is not safe to rely on the above documents. That Exhibit J & J1 tendered by the Claimant is a rogue document and of dubious origin. It is not written by Claimant. It is not addressed to anyone. It is not signed. That the 1st Defendant's signature in Exhibit B and D is different from the signature in Exhibit J1.

A signature by an unknown person is an incompetent signature. That Exhibits K1, K2 and L do not aid the Claimant. Exhibits M, M1 & N are unuseful. That where there is no valid contract, the principle of novation cannot apply. There can only be novation of contract where there is an original contract that is valid. Claimant has not led any direct, positive and credible evidence. That 2nd Defendant instructed him to render professional services. That Claimant has failed to prove his entitlement to the reliefs sought. He urges the Court to dismiss the suit.

The 3rd Defendant's Final Written Address which Learned Counsel adopted is dated 23/12/19 but filed on 8/01/20. He canvassed that the law and procedure for recovery of fees are provided under Section 16 of the legal Practitioners Act Cap 207 Laws of the Federation. That Claimant did not plead or aver in any of the paragraphs of his claim that he served the 3rd Defendant with a bill of charges nor was any evidence led to establish the fact. That the service of a bill of charges is a condition precedent to the assumption of jurisdiction. The Court therefore lacks the jurisdiction to entertain this action against the 3rd Defendant. Learned Counsel further argued that the Claimant has failed woefully to establish his claim against the 3rd Defendant. That it is not the business of a lawyer to sell land refers to Rules 7(1) & (2) of Rules of Professional Conduct for Legal Practitioner 2007. Refers to paragraph 24, 25, 27, 28, 30, 32, 33, 34, 35, 36, 38, 39 and 48 of the Claimant's amended Statement of Claim. That it will be against public policy and the law to grant the reliefs sought by the Claimant. The

Claimant's Claim is not justifiable having been caught in the web of professional misconduct. He finally urges the Court to dismiss the suit.

The Claimant adopted his Final Written Address dated and file on the 15/01/20. Learned Counsel canvases that the Claimant did recover and is therefore entitled to 10% commission for recovery efforts made to the benefit of the Claimant as it appertains to the 14 plots of lands he instructed to recover. That the Claimant part performed substantially. That the failure to conclude the sale of Plot 887Guzape District to the 2nd Defendant by the execution of the deed of release was not the fault of the Claimant but that of 1st& 2nd Defendants. That the Claimant is entitled to 10% commission for acting as Solicitor to 1st& 3rd Defendants who had become joint owners of an encumbered parcel of land. That Claimant laid out sufficient evidence to justify the grant of the declaratory relief. The issue for determination in this cause in my view is Whether the Claimant adduced

credible and sufficient evidence to justify the grant of the reliefs sought.

The kernel of the Claimant's case is that he rendered professional services to the 1st, 2nd and 3rd Defendants in respect of some land transactions hence entitled to 10% and or 5% of what he called commission, outstanding professional fees, solicitor fees/buyers solicitors fees/agent fees, damages and cost of the action. The Claimant's pleading and evidence in paragraph 6, 7, 8, 9 are as follows:

6. Long before the Claimant became acquainted with the 1st Defendant herein in 2009, the latter went into an agreement with the law firm of Messrs Akoma & Associates in which she was paid the sum of N35 Million only to perfect the title holdings to three plots of land.

a. 1st plot of land measuring about 4.71 H. A at Guzape, Cadastral Zone A09 was to be processed in the name of Messrs Crown Realities Plc.

b. 2nd Plot of land measuring about 1803.73 Sqm at Guzape was to be processed for Mr. Ajagba Omerenma.

c. 3rd plot of land measuring about 1820.01 Sqm at Guzape was to be processed for Mr. Darl C. Uzo.

7. In the course of seeking to perfect the agreement above, the 1st Defendant was introduced to 3rd Defendant in 2008 as a person with contact and connection to perfect any title document at the land registry (AGIS).

8. That based on the above, the 3rd Defendant was paid N91.5 Million only to perfect the title documents to the three Plots of land and another 11 plots of land making 14 plots.

9. That 3rd Defendant could not perfect the title documents to all the 14 plots of land.

10. Frustrated and exasperated the 1st Defendant instructed the Claimant to use his best endeavor as a lawyer to recover from the 3rd Defendant,

either the 14 plots of land for which she had been paid N91.5 Million or her money. That by a Memorandum of Understanding/Authority dated 28/01/11, the 1st Defendant undertook to pay the Claimant a legal fee of 10% of the value of the plots so recovered or 10% of the monies recovered.

From the above, the kernel of the Claimant's case is the Memorandum of Understanding/Authority. The law is that when a contract is reduced to the form of a document, it is binding on the parties. Where there is any disagreement between parties to such written agreement or any particular point, the only reliable evidence and legal source of information to resolve the claim is the written contract executed by the parties.

See *S.P.D.C (NIG.) LTD VS. EMEHURU (2007) 5 NWLR (PT. 1027) 347.*

I shall reproduce the said Memorandum of Understanding/Authority which embodies the instruction to the Claimant.

“MEMORANDUM OF UNDERSTANDING/AUTHORITY”.

This memorandum of understanding (MOU) is entered this Day of January 2011 and binds, Mrs Angela Alaba Egbunna whose address is No. 6 Sam Nujoma Crescent, Asokoro Abuja and Barrister Kelechi C. Nwosu of K. C. Nwosu & Co Legal Practitioners of suite BF9, Old Banex Plaza, Aminu Kano Crescent, Wuse II, Abuja....

2. This MOU has the following terms:

a. That client has engaged the services of Solicitor from the month of January 2011 to go after one Mr. Olugbenga Falaiye and recover from him the sum of N91.5 Million which sum the said Olugbenga Falaiye fraudulently obtained from client on the pretence that he has the business standing contract and connections to process at the land registry (AGIS) Abuja 14 plots of land in various parts of Abuja FCT and has since failed to deliver on the promises and assurances. He has equally failed to return all the moneys he collected from the client in spite of the several demands made on him by the client to return same. That he also equally

issued a dud/dishonoured cheque to the client pursuant to the repayment of the said money.

b. That client has handed over this matter completely to Solicitor and Solicitor has been doing everything in the best interest of Client to recover the said money.

c. That Solicitor shall be entitled to 10% of the said money or any part of it recovered from the said Mr. Olugbenga Falaiye.

d. That Solicitor shall handle the entire matter in the best interest of Client and as demanded by Justice.

Where the intention of the parties to a contract are expressed in a document such as Exhibit B, the Court cannot go outside in search of other documents not forming part of the intention of the parties.

See *DALEK (NIG.) VS. OMPADEC (2007) 5 NWLR (PT. 1027) 347.*

Therefore from Exhibit B paragraph 2(c), the fees the Claimant is entitled to is explicit upon the performance of his obligation in paragraph 2(a). He is entitled to

10% of the said money or 10% of the value of any part of it recovered from the said Mr. Gbenga Falaiye. The 1st, 2nd and 3rd Defendants are parties that are involved in this land transaction as described in paragraph 3, 4 and 5 of Claimant's pleadings and evidence.

I have gone through the Claimant's pleadings and evidence. There is nothing to suggest that any sum or part or the full N91,500,000 was recovered or any plot or plots as contained in Exhibit A are recovered. Exhibit A does not contain Plot 887 Guzape District Abuja. The Claimant in paragraph 20 & 21 his Oath states:

“20: ...the 3rd Defendant being unable to perfect the titled documents to the 3 plots in paragraph 7 of the Oath identified and offered to replace same with 3 other plots as stated under...” which includes Plot No. 887 Guzape District”.

“21: The offer of replacement as stated in paragraph 20 above was communicated to me and I in turn communicated the same to the 1st Defendant, who also accepted same despite her initial doubts about the authenticity of same...”

The law is that while an oral agreement has the legal capacity to re-order or change the content of an earlier written agreement, the party alleging such agreement must prove it. Accordingly, where a party alleges the existence of an oral agreement, which is a unique method and procedure, he must give credible evidence as to the modalities of such agreement. In other words a party alleging an oral agreement is duty bound to prove such an agreement to the hilt.

See *A.G. LAGOS STATE VS. PURIFICATION TECH. (NIG.) LTD (2003) 16 NWLR (PT. 845) 1 SC.*
ARCHIBONG VS. ITA (2004) 2 NWLR (PT. 858) 590 SC.

I have also taken a cursory look at the Statement of Claim and the evidence of Claimant as contained in paragraph 25, 26, 27, 28, 29, 30 and 31 – 46. It is my view that the evidence is not sufficient and credible enough to admit same as part of the agreement envisaged in Exhibit B. In other words the subsequent agreements are not proved. I have also perused the bundle of Exhibits tendered. Pursuant to the instruction contained in Exhibit B, there is abundance of evidence suggesting that the Claimant made efforts to discharge his obligation under the agreement i.e Exhibit B which terms are explicit. The result is that the Claimant was not successful in that assignment. He could not recover any part of the N91.5 Million or any of the plots thereon. Reliefs 56 (a) & (b), 57 (a) & (b), 58 (a) & (b) are declaratory reliefs.

In all action seeking declamatory reliefs, a party must succeed on the strength of his own case. The evidence must be credible, convincing and unequivocal. Exhibits F, F1 and F2 are authored by Claimant. They are not

witnessed by any person. They were said to be receipt issued and served on the payer.

Exhibit I: Claimant's handwritten receipt. Exhibit J alleged to be 1st Defendant further instruction to Claimant. The signature of the said J1 is not the same as the one in the original instruction contained in Exhibit B. The Exhibit J is not signed. Exhibit E bounced. It does not show that Claimant recovered any sum. There is no evidence sufficient and cogent enough to enable the Court grant a declaratory relief.

As it relates to 2nd & 3rd Defendants, the question is whether they also instructed/engaged the Claimant to render services to them.

The 1st, 2nd and 3rd Defendants, repeat are all engaged in the same transaction. At a point, the 1st Defendant who is the Client of the Claimant is a buyer/seller in the whole imbroglio of selling, buying and or perfecting land. It is a dark, unclear and irregular deals in land. The Claimant was engaged to recover from the 3rd Defendant the 1st Defendant's N91.5 Million. The

Claimant evidence is that at a point the 3rd Defendant engaged him.

The basis of the above claim could be garnered from paragraph 24 of the averment and 25 of the Claimant's Witness Statement on Oath. He states:

“The 1st and 3rd Defendants there upon met again and came to the following clear cut understanding to wit:

- a. That the sum of N35 Million, only be raised immediately and be paid back to Messrs Akoma & Associates for the three plots of land which they paid for, in accordance with their demand stated in paragraph 24 above.
- b. That after paying off Messrs Akoma & Associates, Plot 887 Gusape District Abuja measuring 4.7071 HA and valued at N400,000,000 only would then be applied to discharge obligations attached to the remaining 11 Plots of land earlier mentioned in paragraph 7 above.
- c. That whatever sum of money left after the obligation appertaining to the 11 Plots of land have

been settled, would then be shared equally as profit between the 1st and 3rd Defendants.

d. That I was to act as Solicitor to both the 1st and 3rd Defendants in respect of the sale of Plot 887 Guzape District, Abuja.

From the above averment and deposition, the Claimant was not in the meeting. There is no evidence of how he got to know the outcome of the meeting. However the 1st Defendant in paragraph 9 and 10 of her pleadings and paragraph 6 of her Oath states:

“... I had no meeting with the Plaintiff and 3rd Defendant to reach any agreement. That the Plaintiff woefully failed to recover 1st Defendant plots/money from 3rd Defendant. The Plaintiff failed to discharge his legal duty to me in accordance with the required skill, honesty, carefulness and devotion....

that she did not instruct the Plaintiff to mediate or to sell plot of land at 887 Guzape District Abuja. The 3rd Defendant also denied employing the Claimant as his Solicitor. The onus falls on the Claimant to prove that he was instructed to act for the 1st and 3rd Defendants

in respect of the sale of Plot 887 Guzape District, Abuja. The Claimant in my humble view failed to discharge that burden of proof. It is obvious that the 2nd and 3rd Defendant are adverse parties to the 1st Defendant in this transaction. It is not therefore professionally possible for the Claimant to act for 2nd and 3rd Defendants.

It is the duty of the Claimant to devote his attention, energy and expertise to the service of his client and to act in a manner consistent with the best interest of the client. It is also his duty as a Lawyer not to do any act for his personal benefit or gain wherein he takes advantage of the confidence reposed on him by 1st Defendant. See Rules 23 and 24 of Rules of Professional Conduct. The Claimant would have breached the above rules if it was found that he actually acted for 2nd and 3rd Defendants. The 2nd Defendant in paragraph 6 of his Oath denied engaging the Claimant as his Solicitor in any capacity. That he did not make promise of any fee, commission or payment of any

percentage whatsoever. The Claimant also failed to prove with credible evidence that he was engaged by the 2nd Defendant.

In totality, I find no merit in the suit. The Claimant failed to prove the Claim on the preponderance of evidence and balance of probability with credible evidence. The suit fails and it is accordingly dismissed.

.....
HON. JUSTICE U.P. KEKEMEKE
(HON. JUDGE)

26/11/20

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE NYANYA JUDICIAL DIVISION
HOLDEN AT COURT 8, NYANYA ON THE 26TH DAY OF
NOVEMBER 2020
BEFORE HIS LORDSHIP, HON. JUSTICE U. P. KEKEMEKE
SUIT NO. FCT/HC/CV/1995/13.

COURT CLERK: JOSEPH BALAMI ISHAKU.

BETWEEN:

BARR. KELECHI C. NWOSU.....CLAIMANT

(carrying on business in the name and Style

“K.C Nwosu & Co.”)

AND

3. MRS. ANGELINA EGBUNA	} DEFENDANTS
4. SEN. ATAI AIDOKO		
3. MR. OLUGBENGA FALAIYE		

Claimant present.

3rd Defendant present.

1st and 2nd Defendants absent.

Benjamin Nwaokenye for the Claimant.

Hafsat I Usman for the 1st Defendant.

C.C. Emekekwe with Adaeze Anosike for the 2nd Defendant.

Ibrahim Idris for the 3rd Defendant.

Court: Judgment Delivered.

Signed.

Hon. Judge.

26/11/2020

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE NYANYA JUDICIAL DIVISION
HOLDEN AT COURT 8, NYANYA ON THE 9TH DAY OF JULY
2020
BEFORE HIS LORDSHIP, HON. JUSTICE U. P. KEKEMEKE
SUIT NO. FCT/HC/CV/1995/13.

COURT CLERK: JOSEPH BALAMI ISHAKU.

BETWEEN:

BARR. KELECHI C. NWOSU.....CLAIMANT

(carrying on business in the name and Style

“K.C Nwosu & Co.”)

AND

1.MRS. ANGELINA EGBUNA	} DEFENDANTS
2.SEN. ATAI AIDOKO		
3. MR. OLUGBENGA FALAIYE		

Claimant present.

3rd Defendant present.

1st and 2nd Defendants absent.

Benjamin Nwaokenye for the Claimant.

Hafsat I. Usman for the 1st Defendant

Chinedu Ezeh with C.D. Okafor for the 2nd Defendant.

Ibrahim Idris for the 3rd Defendant.

Signed.

Hon. Judge.

9/07/20.

