

**IN THE HIGH COURT OF FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA**

**BEFORE HON. JUSTICE J. ENOBIE OBANOR
ON THIS 31ST DAY OF OCTOBER, 2024**

SUIT NO: CV/7920/23

BETWEEN:

ALHAJI ALI ALIYU CLAIMANT

(Trading under the name and style of
Loyola Ventures)

AND

- 1. VINCENT JOSHUA**
- 2. RICHARD OKOZI (ROKOZI INVESTMENT LTD)**
- 3. HERMON AND HANNIEL LIMITED**
- 4. FAITH WINNERS VICTORY PROPERTIES NIG. LIMITED**
- 5. BOLSEG GLOBAL RESOURCES LIMITED**
- 6. KENIS MUSIC VENTURES**
- 7. IKANG CONGLOMERATE NIGERIA LIMITED**
- 8. DAMJEM ENTERPRISES**
- 9. DOMINION INVESTMENT LIMITED**
- 10. GEOTAG WORLDWIDE RESOURCES LTD..... DEFENDANTS**

JUDGMENT

DELIVERED BY HON.JUSTICE J. ENOBIE OBANOR

The Claimant commenced this suit via a Writ of Summons dated and filed on the 13th of October, 2023, whereof the Claimant claims the following reliefs against the Defendants:

- a. A declaration that the Claimant is the sole beneficiary, lawful holder and owner of statutory Right of Occupancy with Ref No. MFCT/ZA/AMAC/SLE/ED2113 measuring 3.11 hectares granted by

the Honourable Minister of the Federal Capital Territory through the Zonal Manager of Abuja Municipal Area Council (AMAC) dated 11/03/1998 over Plot ED2113 located in Sabon Lugbe East Extension Layout Airport Road Abuja.

- b. A declaration of this Honourable Court that the Claimant who has been in physical possession is the sole bona-fide, beneficial owner and lawful allottee of the property known as and described as Plot No. ED2113 located in Sabon Lugbe East Extension Layout, Airport Road Abuja.
- c. A declaration of this Honourable Court that the Defendants, though numerous, the (10) of them have no right whatsoever to trespass into, interfere with or disturb the Claimant's possession, use and development of the said property known as and called "Plot ED 2113 located in Sabon Lugbe East Extension Layout, Airport Road Abuja."
- d. A declaration of this Honourable Court that the trespassory acts of the Defendants in encroaching upon the Claimant's land, putting their property, dropping containers, building houses and fences on it, demarcating it and destroying the topography of the property amount to wrongful act, it is unconstitutional, unlawful and illegal.
- e. A declaration that the Claimant's Right and OFFER OF TERMS OF GRANT/CONVEYANCE OF APPROVAL NO. FCT/ZA/AMAC/SLE/ED2113 of Plot ED2113 located in Sabon Lugbe East Extension Layout Airport Road Abuja which was originally solely granted to the Claimant, is extant and subsisting.
- f. An order of injunction perpetually restraining the Defendants, any known and the unknown persons by themselves, their directors,

their agents or servants from trespassing into, interfering with or disturbing the Claimant's possession, use and development of the said land known as and called Plot ED2113 measuring 3.11 hectares in Sabon Lugbe East Extension layout, Airport Road, Abuja.

- g. The sum of N200,000,000.00 (Two Hundred Million Naira) only being special and general aggravated damages against the Defendants severally and jointly for trespassing into the Claimant's Land, interfering with and disturbing the Claimant's possession, use and development of the said property and destruction of Claimant's land topography known as and called Plot ED2113 in Sabon Lugbe East Extension Layout Airport Road, Abuja.
- h. A perpetual injunction restraining the Defendants to forthwith stop disturbing and restricting the Claimant's rights of ingress and egress or development thereof of the said Plot ED2113 in Sabon Lugbe East Extension Layout Airport Road, Abuja.
- i. Interest of 10% per annum of the judgment sum from the date of judgment and thereafter until the judgment sum is fully liquidated.
- j. The sum of 10,000,000.00 (Ten Million Naira only) being cost of legal and professional fees for the prosecution of this case to Bar. Isaac Ibuoye, Counsel at Ibuoye Isaac & Associates for filing and Prosecution of this suit.
- k. And for such order or further orders or reliefs as the Honourable Court May deem fit to make in the present circumstances of this case.

The Writ was filed alongside a Witness Statement on Oath deposed to by one Sembefran O. Daniel and Seven Exhibits. The records of this

Court show that the Defendants were served with the Court processes and hearing notices but none of them filed a response or appeared in Court.

Hearing commenced on the 22nd of April, 2024 and CW1 – Mr. Sembrefan O. Daniel gave his testimony. The Claimant's witness tendered Exhibit A-G. Subsequently, at the application of the Claimant due to the Defendants' continued absence, the Defendants were foreclosed from conducting cross-examination and from filing their defence. The Claimant adopted his Final Written Address on the 8th of October, 2024.

Briefly, the case of the Claimant is that the Claimant is the first allottee and beneficiary of OFFER OF TERMS OF GRANT/CONVEYANCE OF APPROVAL of Plot ED2113 measuring 3.11 hectares located in Sabon Lugbe East Layout, Airport Road, FCT Abuja with Ref: MFCT/ZA/AMAC/SLE/ED2113 dated 11/03/1998 with file Number MISC 1154 whose purpose was for Estate Development. The Claimant avers that, by understanding of terms and due payment of adequate processing fee, he was granted 99 years unexpired terms over the said Plot ED2113 measuring 3.11 hectares, with a rent review of five years and title regularization was done by him where he assumed full ownership and possession of the said Plot ED2113 measuring 3.11. The Federal Capital Development Administration in the Department of Land Administration regularized the title document on the 18th of March, 2016 with file number MISC 34058 and the old file number was given as 1154. The Claimant claims that he placed some local men on the plot to continue to farm on it pending when the facility for development would be provided for construction of the plot by the authority. The Claimant

subsequently took possession and approached AMAC to change the title to his name instead of that of the company but was orally informed that the names of some people have found themselves into their system. The officer also claimed that their system has been compromised by some fraudulent staff. The Claimant avers that he had enjoyed quiet possession until August 2022, when the Claimant came back from his journeys and discovered that his landed property of Plot ED2113 measuring 3.11 hectares has been trespassed into by the Defendants.

In his Final Written Address, Counsel for the Claimant raised a sole issue for determination to wit:

Whether the Claimant has proved that it is entitled to all his reliefs sought.

Counsel argued that trespass is not about whether damages is done to the land but about entry without the consent of the owner. Counsel relied on the case of **SHOTAYO ARO & ORS V. BABAYEMI & ANOR (2004) ALL FWLR Pt. 204 Pg. 61 @73 CA**. Counsel argued that where there are competing interests by two or more parties claiming the title to same land, such interest would rank in order of their creation as held in **ILONA v. IDAKWO (2003) 11 NWLR Pt. 830 Pg. 53 at Pg. 91 Paras C-G**. Counsel stated that since the Defendants have failed to proffer any evidence in challenge of the Claimant's case, this Court should consider it as an admission. Counsel also argued that the Claimant is entitled to general damages and relied on the case of **ENYIOKO & ORS V. ONYEMA & ORS (2017) LPELR 24623 (CA)**. Counsel also argued that the Claimant cannot rely on the weakness of the case of the Defendants to prove an action for declaration of title.

The Claimant argued the Defendants' failure to neither come to Court nor file statement of defence has proved that the case of the Claimant should succeed having not been able to controvert the Claims of the Claimant and it remains uncontested. Counsel relied on **SHERIFF V. MINISTER, FEDERAL MINISTRY OF EDUCATION (2022) LPELR – 58707 (CA), ANAGBADO V. FARUK (2018) LPELR – 44909 (SC) and ARIJE V. ARIJE & ORS (2018) LPELR- 44193 (SC)**. The Claimant urged this Court to hold that the Defendants are trespassers and that the Claimant was granted the plot in issue and that there was no revocation, no contention and never any issue of double allocation.

It is a settled law beyond contention that a party who is claiming ownership of land or real property must adduce cogent and credible evidence to show how he is entitled to such land. In other words, he must show how he got title to the land or property in question. See the case of **I.A.D. (NIG) LTD & ANOR V. SALISU & ORS (2022) Pp. 9 Paras. D**. In other words, in a matter of declaration of title to land, the position of the law is that the Claimant must succeed on the strength of his own case rather than relying on the weakness of the defence. – see the cases of **HENSHAW V. EFFANGA (2009) 11 NWLR (PT.1151) P. 65, UKAEGBU V. NWOLOLO (2009) 3 NWLR (PT. 1127) P. 194** and **EDEBIRI V. DANIEL (2009) 8 NWLR (PT. 1142) P. 15 at P. 34 paragraph B**. Specifically, in **DIM V. ENEMUO (2009) 10 NWLR (PT. 1149) P. 353** the Supreme Court held that until the onus is successfully discharged by the plaintiff, the Court is not obliged to look at the Defendant's case.

In the same vein, it is trite that a plaintiff seeking declaration of title to land must prove title to the land claimed in one of the following ways in order to succeed:-

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

See the cases of **EZEONWUKA & ORS v. EZEONONUJU & ORS (2015) LPELR-25743(CA) (Pp. 18-19 paras. E)** and **EZENWA v. EJIKE & ANOR (2018) LPELR-43932(CA) (Pp. 13-14 paras. C-C)**.

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

The Claimant in this case tendered documents in proof of their claim of title to the subject matter including:

1. A copy of OFFER OF TERMS OF GRANT/CONVEYANCE OF APPROVAL from the Ministry of Federal Capital Territory, Abuja Municipal Area Council granted to the Claimant with Ref: MFCT/ZA/AMAC/SLE/ED2113 dated 11/3/98 – EXHIBIT D
2. Federal Capital Administration Regularization of Land Titles and Documents of FCT Area Councils Acknowledgement bearing the

trade name of the Claimant Loyola Ventures with File No. MISC 3408 in respect of Plot ED 2113 Measuring 3.11 hectares dated 18/03/2016- EXHIBIT E

3. A copy of Claimant's copy of Title Deed Plan (TDP) with Ref: FCT/MZTP/LA/98/MISC1154 in respect of Plot ED2113 measuring 3.11 hectares Cadastral Zone 07 showing the Topography and the perimeter of the Plot ED2113 – EXHIBIT G

However, in the case of **MADU V. MADU (2008) 6 NWLR (PT.1083) P. 296**, the Supreme Court restated its position in **LAWSON V. AJIBULU (1997) 6 NWLR (PT.507) P. 14** that in a claim for declaration of title to land, the production of documents of title alone is not sufficient to discharge the onus on the plaintiff to prove the title he claims.

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

"I may pause here to observe that one of the recognised ways of proving title to land is by production of a valid instrument of grant: see IDUNDUN v. OKUMAGBA (1976) 9-

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

- (i) whether the document is genuine and valid;***
- (ii) whether it has been duly executed, stamped and registered;***
- (iii) whether the grantor had the authority and capacity to make the grant;***
- (iv) whether the grantor had in fact what he purported to grant; and***
- (v) whether it has the effect claimed by the holder of the instrument.”***

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

I have thoroughly looked at the exhibits before the Court. All appear to have emanated from the appropriate issuing authority and are all properly signed.

It is an established law and well-settled fact that it is the Minister of the FCT that can validly grant the statutory right of occupancy in respect of land in the FCT. – See the case of **ERIBENNE V. UG & ANOR (2007) LPELR-4172(CA)** and **MADU V MADU (supra)**. By virtue of **Section**

45 of the Land Use Act, the Minister of the FCT can delegate his power to grant right of occupancy and issue a certificate of occupancy.

On the part of the Defendants, they did not give any evidence whatsoever to challenge or discredit the said Exhibits (or any of the documents admitted in evidence at trial through the Claimants for that matter). Therefore, in the absence of anything to the contrary, there is a presumption that the Exhibits tendered were properly issued. The effect of the said Exhibits is that the Claimant has a Statutory Right of Occupancy in the Subject Matter. It follows that the said Exhibits in no doubt support the Claimant's allegation of title.

On record, there was no contrary superior title that has been established to defeat the title shown by the Claimant in the Subject Matter. There is no evidence that challenged the genuineness of the title documents before this Court. Accordingly, this Court will no longer hesitate in declaring the Claimant as the lawful owner of statutory Right of Occupancy with Ref No. MFCT/ZA/AMAC/SLE/ED2113 measuring 3.11 hectares granted by the Honourable Minister of the Federal Capital Territory through the Zonal Manager of Abuja Municipal Area Council (AMAC) dated 11/03/1998 over Plot ED2113 located in Sabon Lugbe East Extension Layout Airport Road Abuja.

Trespass is an unwarranted or unjustifiable entry or intrusion by one person upon the land in possession of another. A person in possession of land or the owner can maintain an action in trespass against anyone who cannot show a better title. See the cases of **MORKA & ORS V. OSADEME (2022) LPELR-58131(CA) (PP. 23-24 PARAS. D) and EGWA V. EGWA (2007) 1 NWLR (PT. 1014) P.71.** The law thus

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

Finally, it is settled that trespass is actionable per se without proof of actual damage. See **AKINTERINWA & ANOR V. OLADUNJOYE (2000) LPELR-358(SC) AT 38-39 (G-A)**, **(2000) 6 NWLR (PT.659) 92**, **STIRLING CIVIL ENGINEERING (NIG) LTD V. YAHAYA (2005) LPELR-3118(SC) AT 23(E)**. The issue of general damages is aptly captured by Per TSAMMANI, J.C.A in **ONYEMEH & ANOR V. IWUEZE & ANOR (2013) LPELR-21879(CA) (PP. 63-64 PARAS. B)** where he posited as follows:

... to succeed in a claim for general damages in an action for trespass, the plaintiff need not prove any injury, as damages on such a claim are awarded to the plaintiff even if he suffers no injury from the wrongful act of the defendant. That is why it is said that trespass is actionable per se. However, where there is no actual injury, the damages to be awarded is nominal. See ELOICHIN (NIG) LTD v. MBADIWE (1986) 1 NWLR (Pt. 14) Pg. 47 at 61.

This Court hereby makes the following orders:

- a. A declaration that the Claimant is the sole beneficiary, lawful holder and owner of statutory Right of Occupancy with Ref No. MFCT/ZA/AMAC/SLE/ED2113 measuring 3.11 hectares granted by

the Honourable Minister of the Federal Capital Territory through the Zonal Manager of Abuja Municipal Area Council (AMAC) dated 11/03/1998 over Plot ED2113 located in Sabon Lugbe East Extension Layout Airport Road Abuja.

- b. A declaration that the Claimant who has been in physical possession is the sole bona-fide, beneficial owner and lawful allottee of the property known as and described as Plot No. ED2113 located in Sabon Lugbe East Extension Layout, Airport Road Abuja.
- c. A declaration of this Honourable Court that the trespassory acts of the Defendants in encroaching upon the Claimant's land, putting their property, dropping containers, building houses and fences on it, demarcating it and destroying the topography of the property amount to wrongful act, it is unconstitutional, unlawful and illegal.
- d. A declaration that the Claimant's Right and OFFER OF TERMS OF GRANT/CONVEYANCE OF APPROVAL NO. FCT/XA/AMAC/SLE/ED2113 of Plot ED2113 located in Sabon Lugbe East Extension Layout Airport Road Abuja which was originally solely granted to the Claimant, is extant and subsisting.
- e. An order of injunction perpetually restraining the Defendants, any known and the unknown persons by themselves, their directors, their agents or servants from trespassing into, interfering with or disturbing the Claimant's possession, use and development of the said land known as and called Plot ED2113 measuring 311 hectares in Sabon Lugbe East Extension layout, Airport Road, Abuja.
- f. The sum of N5,000,000.00 (Five Million Naira) only being general damages against the Defendants severally and jointly for

trespassing into the Claimant's Land, interfering with and disturbing the Claimant's possession, use and development of the said property and topography known as and called Plot ED2113 in Sabon Lugbe East Extension Layout Airport Road, Abuja.

- g. A perpetual injunction restraining the Defendants to forthwith stop disturbing and restricting the Claimant's rights of ingress and egress or development thereof of the said Plot ED2113 in Sabon Lugbe East Extension Layout Airport Road, Abuja.

HON. JUSTICE J. ENOBIE OBANOR

PRESIDING JUDGE

Appearances

For the Claimant- Isaac Ibuoye Esq.