

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

**CLERK:** CHARITY ONUZULIKE  
**COURT NO.** 10

**SUIT NO:** FCT/HC/GAR/CV/40/2022  
**DATE:** 28/6/2024

**BETWEEN:**

**AMAZING GRACE GLOBAL NETWORK LTD.....CLAIMANT**

**AND**

- |  |   |                   |
|--|---|-------------------|
| <ul style="list-style-type: none"><li>1. THE AUTOGRAPH ARCADE LIMITED</li><li>2. FEDERAL HOUSING AUTHORITY</li><li>3. THE HON. MINISTER, FEDERAL CAPITAL TERRITORY</li><li>4. THE FEDERAL CAPITAL TERRITORY ADMINISTRATION</li></ul> | } | <b>DEFENDANTS</b> |
|--|---|-------------------|

**JUDGMENT**  
**(DELIVERED BY HON. JUSTICE S. B. BELGORE)**

The Claimant Company Amazing Grace Global Network Ltd – vide an Originating Summons, dated 15/12/2022 and filed on the 16/12/2022, posited some questions for determination and claimed subsequently the reliefs specified in sequence: The question are:

- (1) WHETHER having regards to the provisions of Sections 3, 4, 10 and 11 of the Federal Housing Authority Act Cap. F14 LFN 2004, the 2<sup>nd</sup> Defendant has the authority and the vires to allocate property vested in her to persons be it corporate or individuals and including the Claimant in Nigeria?
- (2) WHETHER having regards to the provisions of Sections 3, 4, 10 and 11 of the Federal Housing Authority Act Cap. F14

LFN 2004, such property vested on the 2<sup>nd</sup> Defendant and particularly property vested on the 2<sup>nd</sup> Defendant and particularly property known as **Parcel No. C. 134B, Along 4<sup>th</sup> Avenue, Gwarinpa 11 Estate, Abuja of about 1,700 square meters** which has been allocated to the Claimant can be compulsorily acquired or interfered with by the 3<sup>rd</sup> and 4<sup>th</sup> Defendants in the form of allocating an area which covers the said **Parcel No. C. 134B, Along 4<sup>th</sup> Avenue, Gwarinpa 11 Estate, Abuja of about 1,700 square meters** to 1<sup>st</sup> Defendant for passive recreation purpose?

- (3) WHETHER having regards to the provisions of Sections 3, 4, 10 and 11 of the Federal Housing Authority Act Cap. F14 LFN 2004, the Claimant does not have right to develop and or possess the said property known as **Parcel No. C. 134B, Along 4<sup>th</sup> Avenue, Gwarinpa 11 Estate, Abuja of about 1,700 square meters** which has been allocated to her by the 2<sup>nd</sup> Defendant to the exclusion of the 1<sup>st</sup> Defendant?
- (4) WHETHER having regards to the provisions of Sections 3, 4, 10 and 11 of the Federal Housing Authority Act Cap. F14 LFN 2004, the 1<sup>st</sup> Defendant has any legal right over such property vested on the 2<sup>nd</sup> Defendant and particularly the property known as **Parcel No. C. 134B, Along 4<sup>th</sup> Avenue, Gwarinpa 11 Estate, Abuja of about 1,700 square meters** which has been allocated to the Claimant by the 2<sup>nd</sup> Defendant under the guise of purported passive recreation issued by Parks and Recreation Department of the 3<sup>rd</sup> and 4<sup>th</sup> defendants? and whether such interference by the 1<sup>st</sup> Defendant is not unconstitutional, illegal, void and of no effect whatsoever?
- (5) If the answers to the questions above are in favour of the Claimant: WHETHER the interference or encroachment of the 1<sup>st</sup> Defendant on the area covered by and within **Parcel No. C. 134B, Along 4<sup>th</sup> Avenue, Gwarinpa 11 Estate, Abuja**

**of about 1,700 square meters** in the name and guise of the purported passive recreation issued by Parks and Recreation Department of the 3<sup>rd</sup> and 4<sup>th</sup> defendants is not unconstitutional, illegal, void and of no effect whatsoever?

The reliefs are:

- (1) A Declaration that the Claimant is entitled to an exclusive possession and development of **Parcel No. C. 134B, Along 4<sup>th</sup> Avenue, Gwarinpa 11 Estate, Abuja of about 1,700 square meters** in line with the allocation issued by the 2<sup>nd</sup> Defendant dated 20<sup>th</sup> November, 2019 with Ref. No. FHA/BD/GWA11/C.134B.
- (2) A Declaration that the act of the 3<sup>rd</sup> and 4<sup>th</sup> Defendants through Parks and Recreation Department in approving and or issuing permit to the 1<sup>st</sup> Defendant to develop purported passive recreation in an area which will encroach on the said **Parcel No. C. 134B, Along 4<sup>th</sup> Avenue, Gwarinpa 11 Estate, Abuja of about 1,700 square meters** allocated to the Claimant by the 2<sup>nd</sup> Defendant is unconstitutional, null and void.
- (3) A Declaration that the acts of the 1<sup>st</sup> Defendant in encroaching and interference with the Claimant's possession of **Parcel No. C. 134B, Along 4<sup>th</sup> Avenue, Gwarinpa 11 Estate, Abuja of about 1,700 square meters** is unconstitutional, null, void and of no effect whatsoever.
- (4) An Order of injunction restraining the 1<sup>st</sup> Defendant from further interference and or encroaching on the area covered by **Parcel No. C. 134B, Along 4<sup>th</sup> Avenue, Gwarinpa 11 Estate, Abuja of about 1,700 square meters** which was allocated to the Claimant by the 2<sup>nd</sup> Defendant.

- (5) An Order of injunction restricting the 1<sup>st</sup> Defendant possession and right to such area in her purported passive recreation not touching on or encroaching on **Parcel No. C. 134B, Along 4<sup>th</sup> Avenue, Gwarinpa 11 Estate, Abuja of about 1,700 square meters**

AND for such Order(s) as the Honourable Court may deem fit to make in the circumstance.

There are four (4) named Defendants in the Summons. They are in that order:

1. **THE AUTOGRAPH ARCADE LIMITED**
2. **FEDERAL HOUSING AUTHORITY**
3. **THE HON. MINISTER, FEDERAL CAPITAL TERRITORY**
4. **THE FEDERAL CAPITAL TERRITORY ADMINISTRATION**

Upon receipt of the Summons, the Defendants reacted variously & swiftly. The 2<sup>nd</sup> Defendant filed a Preliminary Objection i.e. M/10307/2023. It is dated 2/6/2023 and filed same date. They also filed a counter affidavit of 14-paragraph deposed to by one Muhammed Labaran Musa. It was filed on 25/1/2024.

The 1<sup>st</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants filed no preliminary objection but filed counter-affidavits to the main affidavit of the claimant in support of the Originating Summons.

The counter-affidavit of the 1<sup>st</sup> Defendant is of 14-paragraphs and dated and filed on 13/3/2023. There is also a written address attached.

Like I said before, the 2<sup>nd</sup> Defendant filed a counter-affidavits to the Originating Summon. It is of 14-paragraphs and dated and filed on 25/1/2024. No written address was attached to it.

The 3<sup>rd</sup> and 4<sup>th</sup> Defendants also filed a counter-affidavits dated and filed on 28/4/2023. It is of 20-paragraphs. There is also a written address attached to it.

On the 20/5/2024, both the Preliminary objection and the main case were argued together. Counsel adopted their written addresses and urged the Court in favour of their respective contentions.

The full arguments of Counsel are on record and would be referred to as appropriate in this Judgment.

First, let deal with the Preliminary Objection of 2<sup>nd</sup> Defendant. It was made pursuant to M/10307/2023. It prays for a lone prayer: to wit: an order striking out the Claimant/Respondent's Originating Summons for being incompetent. And in support of same is an 8-paragraphs affidavit dated and filed on 2/6/2023 and deposed to by Muhammed Labaran Musa. There is also a written address in support of same. The gravamen of the objection are as captioned in paragraph 5 & 6 of the affidavit. I reproduce them below:

Paragraph 5:

***"I know that the facts of this case are contentious and largely in dispute, hence this suit has been wrongly commenced by Originating Summons procedure."***

Paragraph 6:

***"I know that there will be need to adduce oral evidence including cross examining the Claimant's witnesses in order to ascertain the veracity of the Claimant's allegations of trespass particularly contained in paragraphs 12, 13, 14, 17, 18, 19 & 20 of***

***its affidavit in support of the Originating Summons.”***

Learned Counsel for the 2<sup>nd</sup> Defendant/Objector, adopted his written address as his argument to ground the objection and relied on the follows case *inter alia*; **DAGAZAU VS. BOKIR INT’L CO. LTD;** (2011) 14 NWLR (PT. 1267) 261; **INAKOJU VS. ADELEKE** (2007) 4 NWLR (PT. 1025) 423; **GEB PLC VS. ODUKWU** (2009) ALL FWLR (PT. 491) 924; **OSUNBADE VS. OYEWUNMI** (2007) VS. FWLR (PT. 368) **1004**. He finally urged me to uphold their Preliminary Object and strike out this suit.

In reaction to the above, the Claimant’s filed a 12-paragraphs counter-affidavits deposed to by one Emmanuel Chinda on 19/6/2023. It was filed in Court on the same day. Paragraphs 4, 5 and 6 deals specifically on the claimant’s reaction to the objection paragraph 4 states:

***“That this suit bothers and relates to interpretation of statutes and that facts are not in dispute.***

Paragraph 5 states:

***“That the facts which I deposed to in paragraphs 12, 13, 14, 17, 18 and 19 of the affidavit in support of the originating summons relates principally to the acts of the 1<sup>st</sup> Defendant.***

Paragraph 6 states:

***“That the 1<sup>st</sup> Defendant in her affidavit filed in this suit admitted those facts as contained in the said paragraphs 12, 13, 14, 17, 18 and 19.***

The Claimant’s Counsel adopted his written address as his argument in opposition to the objection and urged me to reject it. He quoted copiously for the decision of the Supreme Court in **INAKOJU & ORS. VS. ADELEKE & ORS.** (2007) LPELR – 1510 (SC).

I don't need to beat about the bush in this Preliminary Objection. It is very simple and straightforward. Are there issues of disputed facts? The answer is a capital No. On this I firmly agree with the Claimant's Counsel. The truth is that a close scrutiny of the case presented by the claimant would show that only issues bothering on interpretation of instruments and laws, particularly sections 3, 4, 10 & 11 of the Federal Housing Authority Act Cap. F14 LFN 2004 calls for determination here. There are no disputed issues as the only issues raised against the 1<sup>st</sup> Defendant was roundly admitted by them. So nothing left to resolve as regard issues of facts.

See the depositions of the 1<sup>st</sup> Defendants wherein they admitted paragraphs 12, 13, 14, 17, 18 and 19 of the Claimant's affidavit in support of the originating summons. Afterall, facts admitted need no further proof. See **MBA VS. MBA (2018) LPELR 44295 (SC); SOLANA VS. OLUSANYA & ORS. (1975) LPELR – 3097 (SC).**

It is thus clear that what is left in this case is interpretations of the relevant laws submitted by the Claimant vis-a-vis the facts that are presented and which facts are not in controversy.

It is principally for all the foregone that I find no merit in this objection. It is liable to be dismissed and I so do.

I now move to the main issues in the Originating Summons.

This Originating Summons was brought pursuant to Order 3 Rules (9), of the Federal High Court (Civil Procedure) Rules 2019.

The Summons is supported by a 26-paragraph affidavit sworn to by Mr. Emmanuel Chinda who is the Managing Director/CEO of the Claimant. He rely on all the paragraphs of the said affidavits and the annexures thereto.

The Claimants are seeking for the reliefs set out on the face on the Originating Summons.

### **Introductory Facts**

Claimant is a Company registered in Nigeria and in that capacity applied for and was allocated Parcel No. C. 134B, Along 4<sup>th</sup> Avenue, Gwarinpa 11 Estate, Abuja of about 1,700 square meters vide allocation letter dated 20<sup>th</sup> November, 2019 with Ref. No. FHA/BD/GWA11/C.134B for the development of commercial complex. Claimant in a bid to commence the construction in line with the allocation discovered that the 3<sup>rd</sup> and 4<sup>th</sup> Defendants through Parks and Recreation Department approved a large expanse of land to 1<sup>st</sup> Defendant for the development of Neighbourhood Park.

The said Neighbourhood Park was designed to cover an area approximately 7187.56sqm which is about five times more than the size of the Parcel No. C134B, Along 4<sup>th</sup> Avenue, Gwarinpa 11 Estate, Abuja of about 1,700 square meters allocated to the Claimant.

The 1<sup>st</sup> Defendant has now on the guise of the said purported approval for the development of the Neighbourhood Park tried to encroach on the Claimant's plot. The 1<sup>st</sup> Defendant can conveniently construct her Neighbourhood Park and limit the size to an area that will not encroach or touch on the Claimant's plot.

This suit is therefore instituted to stop this anomaly and a flagrant breach of the Claimant's right and to make the 1<sup>st</sup> Defendant confine and limit her construction to a size and an area not touching on the Claimant's allocation.

### **Issues for Determination**

Claimant's Counsel has submitted a loan issue for determination to wit:



***“Whether having regards to the facts and circumstance of this case, the Claimant is entitled to the reliefs sought?”***

## **Argument**

Learned Counsel argued that the Federal Housing Authority has the legal powers and vires to allocate land in line with the dictates of the Act establishing her. He referred to **OLASEINDE & ORS V. FHA & ORS (2015) LPELR-24532 (CA)**, the Court on this issue held; **“It is clear that the only valid authority to allocate a Federal Housing Flat is the Federal Housing Authority. The Federal Housing Authority is created by the Federal Housing Authority Act Vol. 6 LFN F14 2004 which established it to be a body corporate with perpetual succession and a common seal is conducted by a board of Directors of the Authority (Chap 1 & 2) and its functions include execution of such housing programmes as may be approved by the Government. By virtue of Section 4(1) of the Act, the Authority has the power to sell, let lease or otherwise dispose of any property vested in the authority. Section 7 of the Act empowers the Minister to give to the board of directors of a general or special nature with respect to any of the function of the Authority under this act and it shall be the duty of the board to comply with such discretion.”** Per **OBASEKI-ADEJUMO, J.C.A (Pp. 11 paras. A)**.

The Claimant in clear terms in the affidavit in support of this summons has categorically narrated that she was allocated Parcel No. C134B, Along 4<sup>th</sup> Avenue, Gwarinpa 11 Estate, Abuja of about 1,700 square meters vide allocation letter dated 20<sup>th</sup> November, 2019 with Ref. No. FHA/BD/GWA11/C.134B for an unexpired term of 85 (Eighty Five) for the development and construction of commercial complex. The said Parcel No. C134B, Along 4<sup>th</sup> Avenue, Gwarinpa 11 Estate, Abuja of about 1,700 square meters which the 2<sup>nd</sup> Defendant allocated to the Claimant by is vested on the 2<sup>nd</sup> Defendant.

The law is that property vested on the 2<sup>nd</sup> Defendant cannot be compulsorily acquired under any enactment. Section 11(1) of the Federal Housing Authority Act provides;

***“Property vested in the authority shall not be liable to be acquired compulsorily under any enactment; and notwithstanding anything in any other enactment, no mining operations shall be carried on, in or under any land vested in the Authority or any other land over which the Authority is entitled to rights of support for benefit of lands so vested, except with the prior approval in writing of the President.”***

It is therefore my view that a community reading and interpretation of the provisions of Sections 3, 4, 10 and 11 of the Federal Housing Authority Act Cap. F14 LFN 2004, the 3<sup>rd</sup> and 4<sup>th</sup> Defendants cannot exercise any legal and legitimate right over Parcel No. C134B, Along 4<sup>th</sup> Avenue, Gwarinpa 11 Estate, Abuja of about 1,700 square meters already allocated to the Claimant by the 2<sup>nd</sup> Defendant under any guise. The purported approval granted to the 1<sup>st</sup> Defendant to develop a Neighbourhood Park which will touch on the portion of the plot allocated to the Claimant will automatically amount to an illegality and as such void and of no effect whatsoever.

The entire wordings in Sections 3, 4, 10 and 11 of the Federal Housing Authority Act Cap. F14 LFN 2004 which is the subject of interpretation in this suit is plain and they beget no ambiguity. The law is that plain words in an enactment should be given their plain and literal meaning.

In **IBRAHIM V. MOHAMMED (2003) LPELR-1409 (SC)**, the Apex Court held;

***“It has been well established that where the words of a statute are plain, clear, and unambiguous, it is not necessary to read anything into them other than to apply their ordinary meaning. See NABHAN V. NABHAN (1967) 1 ALL NLR 47; OGUNMADE V. FADAYIRO (1972) 8 – 9 SC 1. But the rules of construction and interpretation of statutes also Counsel and in particular cases dictate, that all related provisions of a statute as well as the statute as a whole must be read together. See MATARI V. DANGALADIMA (1993) 3 NWLR (PT. 281) 266; MOBIL OIL (NIG) LTD VS. F.B.I.R (1977) 3 SC 53; UNIVERSITY OF IBADAN V. ADAMOLEKUN (1967) 1 ALL NLR 213. It is my view therefore that Section 5(2) of the Act cannot be read in isolation but it must be read together with all related provisions of the Act in order to achieve the intention of law makers.” Per KALGO, J.S.C (Pp. 23 paras. B).***

In the whole circumstances of this matter, the Honourable Court is minded to answer the questions posited in this Originating Summons in favour of the Claimant and grant the application.

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**S. B. Belgore**

(Judge) 28/6/2024