

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT COURT NO. 4, MAITAMA

ON THE 17TH DAY OF APRIL, 2024

BEFORE HIS LORDSHIP: HON. JUSTICE U. P. KEKEMEKE

SUIT NO. FCT/HC/CV/2192/2016

COURT CLERKS: *JOSEPH ISHAKU BALAMI & ORS.*

BETWEEN:

MRS. NONYE EUGENIA OKAFOR CLAIMANT

(Suing through her lawful attorney,

MR. HENRY EJIEKPE)

AND

1. EUSTON SCHOOLS LIMITED

2. FEDERAL HOUSING AUTHORITY

3. THE HONOURABLE MINISTER,
MINISTRY FOR THE FEDERAL CAPITAL
TERRITORY ADMINISTRATION (FCTA)

}

..... DEFENDANTS

J U D G M E N T

The Claimant's Writ of Summons and Statement of Claim against the Defendants is dated 18/07/2016 but amended on the 28th day of March 2018. She prays the Court for:

- (1) A Declaration that it is the 2nd Defendant and not the 3rd Defendant has authority to allocate the plot of land in issue and having allocated the same to the Claimant, same cannot be reallocated by the 3rd Defendant to the 1st Defendant or anyone else at all without proper and valid revocation of the plot by the 2nd Defendant herein.

(2) A Declaration that the Claimant is the *bona fide* owner, and entitled to exclusive possession of the piece of land known as and called Plot C3, 69 (A) Road Gwarinpa II, Abuja, identified by Beacon Nos. 10289, 10290, 10291, 10298 and 10288 measuring approximately 1,600 square metres and more particularly described in Survey Plan FHA/GW 25-G/C2-C10 produced by Messrs Babatunde Alo & Associates, a private consultant.

(3) A Declaration that the action of the 1st Defendant in breaking into the plot in issue and erecting a structure therein is wrongful and unlawful and amounts to trespass/continuing trespass.

(4) The sum of ~~N~~100 Million only being special and general damages against the 1st & 3rd Defendants for trespass/continuing trespass to Plot C3, 69 (A) Road, Gwarinpa II, Abuja.

(5) Perpetual injunction restraining the Defendants, their servants and or agents from committing further acts of trespass upon the land in issue.

OR IN THE ALTERNATIVE

(i) An Order directing the 2nd Defendant to pay the Claimant special damages in the sum of ~~N~~38,045,000 if it turns out that the 2nd Defendant had no powers to have allocated the plot in issue.

(ii) The sum of ~~N~~100 Million only being special and general damages against the 2nd Defendant for unlawfully allocating the plot in issue to the Claimant.

(iii) 10% interest per annum until judgment.

(iv) ~~N~~5 Million as cost of this action.

The 1st Defendant filed a Statement of Defence dated 7/02/2017 denying the claims while the 2nd and 3rd Defendants' Statements of Defence are dated 20/06/2018 and 17/01/2018 respectively.

The only Claimant's witness is Henry Ejiekpe who was living at 72 Iwaya Road, Yaba, Lagos. He is a

businessman. He knows the Claimant. They are family friends. She appointed him as her Attorney to represent her in this case.

He deposed to a Witness Statement on Oath dated 31/01/2017. He adopted same as his oral evidence.

In the said Witness Statement, he deposes that he was appointed by Claimant via a Power of Attorney dated 13/01/2014 to superintend over the management of Plot C3, 69 (A) Road, Gwarinpa II, Abuja.

That Claimant is a Lagos based business woman and the *bona fide* owner of Plot C3, 69 (A) Road, Gwarinpa II, Abuja.

That Eunice Ukamaka Egwu, whose husband, Sam Egwu was the Minister of Education at the time the incident giving rise to this action arose, is the MD/Alter Ego of the 1st Defendant.

That sometime in the early 2004, the Claimant made an application to the 2nd Defendant for allocation of a commercial plot of land within Abuja and was subsequently allocated Plot C3, 69 (A) Road, Gwarinpa II, Abuja.

The Claimant accepted the Offer and subsequently paid ₦2,295,000 only as demanded by the 2nd Defendant to cover such sundry charges as premium fee, capital development fees, survey, ground rent and application fee to signify her acceptance.

The 2nd Defendant issued receipt. That 2nd Defendant has power to allocate the plot of land.

That 2nd Defendant's officials of the Survey Department using maps and GPRS device took the Claimant to the location where she was shown the beacons and boundaries of the said plot.

The Claimant instructed him to mobilize men and materials to site, in preparation to erecting a perimeter fence.

That he discovered that some of the beacons on the plot had been removed probably by those farming on the site.

The Claimant thereafter applied to the 2nd Defendant for the re-establishment of beacons on the said plot with a further application for fencing approval. The Claimant paid ₦100,000 for same.

That 2nd Defendant conveyed approval for the fencing and took over undisturbed possession.

He completed the fence, he built a makeshift wooden structure to provide temporary accommodation for a security guard pending approval of her building plan by the 2nd Defendant.

The Claimant instructed him to write on a board boldly, “THIS LAND IS NOT FOR SALE, BUYERS BEWARE.”

That on 18/06/2009 the Claimant submitted her title documents to AGIS for recertification and regularisation.

On or about September 2014, he called the Claimant on phone to report that the security guard stationed in the plot in issue reported that certain persons claiming to be acting for the 1st Defendant had broken down the perimeter fence

of the land with bulldozers and chased him away from the site.

That Claimant was bewildered but nevertheless instructed him to move to site to see for himself. He got to site and saw about 30 workmen developing a structure on the land. They said they were contracted by the 1st Defendant to develop a multi-storey building.

That he went to the office of the 2nd Defendant to report the incident and to ascertain whether the plot in issue, i.e. Plot C3, 69 (A) Road, Gwarinpa II had perhaps been revoked and reallocated to the 1st Defendant.

The officials of 2nd Defendant informed him that they had neither revoked or reallocated the plot to the 1st Defendant.

The 2nd Defendant sent out field officers to the plot to confirm that there is a third party claimant on the land.

The Claimant formally wrote to the 2nd Defendant complaining about the encroachment. She also followed up with several visits to 2nd Defendant's office at Asokoro, Abuja.

That neither the letter or visits produced any tangible result. That 2nd Defendant's officials informed her that 1st Defendant had the backing of very powerful people within the corridors of power.

A search conducted on the 1st Defendant's company revealed the very powerful people behind 1st Defendant as Eunice Ukamaka Egwu, MD/Alter Ego of the 1st Defendant company whose husband, Sam Egwu was a two term Executive Governor of Ebonyi State and a very influential member of PDP which was in control of government at the Federal level and a Federal Minister of Education at the material time.

That upon unveiling the personalities, the Claimant instructed her solicitors to write 1st Defendant's MD and her husband with a view of exploring possible ways of resolving the matter amicably. There was no reply to the overtures.

That Claimant's architects had finished work on the plaza the Claimant planned to build on Plot C3, 69 (A) Road, Gwarinpa II and sought to submit same to 2nd Defendant for approval, but was told to hold on until the matter of the adverse claim had been resolved.

That 1st Defendant company had since fully developed a three-storey building on the aforesaid plot and surrounding plots which is now used as a school despite not having been allocated the plot by 2nd Defendant who has or purports to have authority over the plot.

The Claimant's Surveyor carried out a valuation of the plot.

That the action of the 1st Defendant is wrongful and unlawful. Claimant claims as per the Statement of Claim.

The witness tenders Exhibit A – the Power of Attorney, the Letter of Conveyance of Allocation dated 7/07/2004 which is Exhibit B.

Exhibits C – C1 – AGIS Teller on Bank PHB dated 5/04/2009 and Receipt of FHA, Asokoro, Abuja dated 25/02/2005.

Exhibit E is a copy of the Receipt from FHA Homes Ltd for N100,000.

Exhibit F – Letter dated 17/09/2015 addressed to MD/CEO, FHA by Claimant.

Exhibit G is another letter from Onyebienji Nwaokenye & Co. dated 11/11/2015 addressed to MD/CEO, FHA.

Exhibit H is CTC of Form C07 Particulars of Directors of 1st Defendant while Exhibit I is the Claimant's Proposed Building Plan for a Plaza.

Under Cross-Examination by 1st Defendant, the witness confirmed he is Claimant's Attorney. That he knows everything about the land.

That Claimant was not allocated Plot 11 Cadastral Zone C11 Sector Centre E, Gwarinpa.

There was no approval for fence because Claimant did not apply for approval. That Exhibit B is the only Allocation Letter.

To a question, he said he is aware that he was given two years to develop the land. He is not aware that he was required to pay the charges within 60 days.

To another question, he said he is not aware that he did not comply with the above terms. He answered that FHA had problems with FCDA which is the reason why the process was delayed.

On being cross-examined by the 2nd Defendant's Counsel, he answered as follows:

He is not a land grabber. That 2nd Defendant allocated to his principal. The 2nd Defendant did not revoke the land.

There was no access road until the Catholic Church made a temporary road. The 2nd Defendant did not stop them from gaining access to the land.

That when he saw their beacons destroyed, he wrote to 2nd Defendant but they did not respond.

On being cross-examined by the 3rd Defendant, he confirmed that he got his allocation from FHA. Plot C3, 69 (A) Road, Gwarinpa is not stated in Exhibit A.

That it is not true that Claimant did not appoint him.

The 3rd Defendant has not approved the Building Plan before the incident happened. The 2nd Defendant did not give approval.

The above is the case of the Claimant.

The 1st Defendant's witness is Gbue Joseph. He is the Head Teacher and a promoter of the 1st Defendant.

That the land occupied by the 1st Defendant is Plot 11 Cadastral Zone C19, Sector Centre E of the Federal Capital Territory and not Plot C3, 69 (A) Road, Gwarinpa II, Abuja.

That the said Plot 11 has an area of 8,428.43m² and not 1,600 -m² as claimed by the Claimant. The land is bordered by beacons PB19, PB379, PB380, PB381 and PB32 as identified in the FCT Site Plan from AGIS and showing Plot Sector Centre E/C19/11.

That there was no beacon from FHA on the land as FHA has no authority to allocate the land being part of the land still in the FCT and under the Minister of FCT who rightly and legally allocated same to Setco Nig. Ltd through which Euston School derived her title.

There was nobody in possession of the land when the 1st Defendant took possession. There was also no perimeter fence on the land. The 1st Defendant engaged a

construction company to erect her multi-level school building.

After acquiring the property, they applied for Building Plan Approval which was granted on the 20/02/2015.

That Eunice Egwu is the MD/Alter Ego of 1st Defendant but denies that her husband was the Minister of Education in 2014.

That the land in possession of the 1st Defendant was validly allocated by the 3rd Defendant to one Setco Nig. Ltd who transferred her interest to Euston School Ltd.

The 1st Defendant's application for Building Plan Approval was granted on 20/02/2015. They paid for Occupancy. That no redesigning was done on the plot.

That 1st Defendant did not trespass but is in lawful possession. That the Court should dismiss the case.

The DW1 tendered Exhibit J – Offer of Statutory Right of Occupancy dated 1/03/2010.

Exhibit K – Irrevocable Power of Attorney dated 5/09/2014.

Exhibit L is the Site Plan showing Sector Centre E/C19/11.

Exhibit M is the Building Plan Approval dated 20/02/2015.

Revenue Collector's Receipt from AGIS dated 16/04/2015 is Exhibit N.

Under Cross-Examination by the Claimant's Counsel, he answered:

That when they acquired the property, they applied for Building Plan Approval and conducted a search from FCDA.

That Setco was in charge of the land. FCDA allocated the land to Setco.

He was not aware that Eunice Egwu's husband was a Minister of Education in 2014. He was a Minister in Nigeria.

On being cross-examined by 2nd Defendant's Counsel, he said he is not a shareholder of 1st Defendant but a Director.

That his signature is not in Exhibit K. He was seeing Exhibit K for the first time.

That Exhibit L is not a CTC and no payment was made. It was not produced by him. It was produced by AGIS. He is not aware that some lands are under FHA.

The DW2 is Surveyor Eyong Ibor Eyong. He is an Assistant General Manager, Surveyor of the Federal Housing Authority. He deposed to a Witness Statement on Oath on 21/06/2018. He adopts same as his evidence.

He said the Claimant applied to the 2nd Defendant for land and was allocated Plot C3, 69 (A) Road, Gwarinpa II, Abuja, the subject matter of this suit within the authority enabling her.

The 2nd Defendant has not revoked or reallocated the said Plot C3, 69 (A) Road, Gwarinpa. The 2nd Defendant has the responsibility of providing mass housing to citizens of Nigeria and Abuja.

To achieve the above, any State in Nigeria including Abuja make available areas and plots specifically set aside and conveyed to the Federal Government of Nigeria through the 2nd Defendant.

That all the lands/plots forming a larger portion of the area designated and called Gwarinpa II is amongst the lands and plots in various areas of Abuja FCT conveyed to the 2nd Defendant by the preceding administration of the 3rd Defendant for mass housing scheme of the Federal Government.

That Plot C3, 69 (A) Road, Gwarinpa II Layout, Abuja forms part of the larger area conveyed by the past administration of the 3rd Defendant to the 2nd Defendant pursuant to her role and function of provision of housing for the people on behalf of the Federal Government.

The whole area conveyed to the 2nd Defendant by the predecessor of the 3rd Defendant is covered by a Survey Plan which said Plan included Plot C3, 69 (A) Road, Gwarinpa II and the Survey Plan of the whole area known as Plot No. 1139 Cadastral Zone C2 was conveyed to the 2nd Defendant. That 2nd Defendant is not liable.

The witness tendered Exhibits O – O1 Survey Plans.

Upon being cross-examined by 1st Defendant's Counsel, he said the area is conveyed to the 2nd Defendant by the 3rd Defendant.

The copy of the conveyancing document is in their office.

That beacons were established by the Consultant Surveyor, Babatunde Alo.

That the Global Perimeter Survey was drawn. That the land falls under FHA. He does not know if perimeter fence approval was granted.

Under Cross-Examination by the 3rd Defendant's Counsel, he answered that the Claimant applied for land. He did not bring it because he was not told it will form part of the proceeding.

On being cross-examined by Claimant's Counsel, witness answered that 2nd Defendant has power to allocate the land in issue to Claimant.

That Claimant was issued with title deeds plan. The said title deed is Exhibit P.

To a further question, he answers that for the conflict, the FHA should have started issuing sublease to the allottees.

The DW3 is Efosa Kate. She said she swore to a Witness Statement on Oath on 17/01/2018. She adopted same as her oral evidence. She states:

That the Claimant is not the lawful owner of the plot, the subject matter of this suit. That Claimant's Power of

Attorney is not registered by the Department of Lands Administration.

That Claimant is not the beneficial owner of the land as 3rd Defendant never allocated same to her.

That the Honourable Minister of the FCT never delegated or authorized Federal Housing Authority to allocate any land on his behalf.

That 3rd Defendant never issued the Claimant with any Conveyance of Approval or Statutory Right of Occupancy.

That Setco Engineering Ltd applied for grant of a Statutory Right of Occupancy in the FCT.

That the valid and subsisting owner of the plot which is the subject matter of this case is Setco Engineering Ltd and that by an Offer of Statutory Right of Occupancy dated 01/03/2010, the 3rd Defendant granted a Right of Occupancy in respect of Plot No. 11, having an area of approximately 8428.43m² | Cadastral Zone C19 of Sector E to Setco being the plot in dispute.

That Claimant was not in possession. That Claimant never applied to 3rd Defendant for Building Plan approval.

That the allocation by 2nd Defendant to the Claimant was not done with the authority of the 3rd Defendant.

That the allegation of the Claimant is unfounded as there is no oppression or discrimination whatsoever. The case is frivolous and unfounded.

The above is the case of the 3rd Defendant.

Parties were ordered to file Written Addresses. The 1st Defendant's Final Written Address is dated 6/02/2023. It raised two issues for determination:

(1) Whether the Claimant has been able to prove her case against the 1st Defendant so as to entitle her to Judgment.

(2) Whether the Claimant can validly institute this action that borders on Plot C3, 69 (A) Road, Gwarinpa II, Abuja in view of Exhibit A.

On Issue 1, Learned Counsel canvasses that the Claimant was not able to discharge the onus of proof.

That the evidence of the Claimant in proof of title to the land in issue is documentary evidence. The documents he contends are not authenticated and duly executed.

He canvassed that a party who seeks declaration of title of land is under an obligation to present cogent and credible documentary evidence upon which this is founded. That

Claimant has failed to produce cogent and credible documentary evidence.

That a declaration of ownership of land is made in favour of a party that proves a better title. That Exhibit P which is the title deed plan is not cogent and weighty enough to confer title to the Claimant.

That the title deed plan is for Block 25-C of FHA, Gwarinpa II different from Exhibit O1 made in respect of Plot 1139.

That mere production of document of title is not enough to establish genuine title to land.

The 2nd Defendant was unable to prove that 3rd Defendant conveyed to it the authority to allocate land in Gwarinpa II.

That Exhibit O1 is a Survey Plan and not a Conveyance.

That without evidence of a Conveyance by the 3rd Defendant to the 2nd Defendant placed before this Court, the 2nd Defendant could not have passed a good title to the Claimant.

On Issue 2, Learned Counsel canvasses that nothing in Exhibit A to show that indeed the Attorney has a right to deal with Plot C3, 69 (A) Road, Gwarinpa II.

If the Claimant wanted the Attorney to do so, she would have expressly stated it in Exhibit A. Exhibit A did not give power to the Claimant to manage the property in issue.

The property in issue was also not specifically mentioned in Exhibit A. He urges the Court to resolve Issue 2 in its favour.

Finally, Learned Counsel urges the Court to hold that Claimant has woefully failed to prove his claim against the 1st Defendant and that the case should be dismissed.

The 2nd Defendant's Counsel's Final Written Address is dated 1/12/2022. He posited a sole issue for determination:

Whether by the combined reading of Section 3 (a), (b), (c), 4 (1), (b), (f), (3) (3); 10 (1), (2)(a), 3(a) & (b), 5(a), (b) & (c) of the Federal Capital Territory Act (Cap F6) LFN, 2004, the 2nd Defendant has the power to allocate Plot C3, 69 (A) Road and plots in the designated areas set aside for use of the Government of the Federal Republic of Nigeria (Public Housing Estate).

He canvasses that the issue of *locus standi* and agency does not arise. The Statement of Claim disclosed sufficient interest and the present and continuing threat of injury.

That the 1st Defendant did not clearly identify the plot to which her claim relates.

Refers to Section 34 of the Land Use Act. The Claimant has priority of interest and estate.

Learned Counsel submits that the allocation made by the 2nd Defendant to the Claimant was done in the valid exercise of authority conferred by the enabling Acts.

He urges the Court to resolve the issue in favour of the Claimant.

The 3rd Defendant's Final Written Address is dated 22/11/2022. He posited two issues for determination:

(1) Whether the Claimant has capacity and locus to institute this action.

(2) Whether the Claimant has proved his case so as to be entitled to Judgment.

Learned Counsel canvasses that the Claimant is not properly before the Court. The Donee of the Power of Attorney has no power to sue in respect of the plot in issue. That Exhibit A does not give power to the Donee to institute this action.

That in a claim for declaration of title, the onus is on the Claimant to prove his case. That where a party's root of

title is pleaded, that root of title has to be established by the Claimant.

The Claimant has failed woefully to discharge the burden placed on him. A Power of Attorney as in Exhibit A is not a document of title.

The Claimant's Final Written Address is dated 31/02/2023. Learned Counsel adopted same and posited a lone issue for determination which is:

Whether as between the 2nd Defendant who allocated Plot C3, 69 (A) Road, Gwarinpa II, Abuja and the 3rd Defendant who subsequently redesigned the plot in issue and adjoining plots and allocated same to Setco

Engineering Ltd, who purportedly devolved same to the 1st Defendant, who has jurisdiction over the land.

He argues that Exhibit P clearly identified the plot in issue and adjoining lands.

That by the combined reading of Exhibits P, Q & Q1, the Claimant has produced sufficient evidence to ascertain the definite and precise boundaries of the land claimed in order to be entitled to the grant.

That Setco Nig. Ltd is not the same as Setco Engineering Ltd. See Exhibits J & K.

That a Power of Attorney cannot convey an interest in land.

That there is nothing in Exhibit K to suggest the plot devolves to the 1st Defendant. It does not give the Donee, the 1st Defendant power to exercise any right of ownership.

That the 2nd Defendant allocated the said plot to the Claimant six years earlier than the 3rd Defendant's allocation to the 1st Defendant.

That Section 19 of the FCT Act ousts the power of FCT Minister to reallocate the land in issue.

Learned Counsel to the Claimant finally submits that the Claimant has made out a case deserving of the grant of

the reliefs contained herein. He urges the Court to grant the reliefs sought.

I have read the evidence and considered the Written Addresses of Counsel as summarized. The issue for determination in my humble view is:

Whether the Claimant has proved his case by cogent and credible evidence so as to entitle her to the reliefs sought.

The land the subject matter of this suit is situate at Plot C3, 69 (A) Road, Gwarinpa II, Abuja, FCT and described as Centre E/C19/11.

The power of the Minister of the Federal Capital Territory to allocate land to any person in the Federal Capital Territory is not in doubt.

It has received judicial approval more than two decades ago and the Courts have continuously restated the law.

In MADU vs. MUDA (2008) 2-3 sc (PT.2) 109 particularly at p.138 paragraphs 15-30, the Supreme Court held:

“Be it noted that it is well settled that ownership of the land comprised in the Federal Capital Territory Abuja is absolutely vested in the Federal Government of Nigeria vide ONA vs. ATANDA (2000) 5 NWLR (PT.656) p.244 at p.267 paragraphs C-D. See also Section 297 (1) & (2) of the Constitution of the Federal

Republic of Nigeria, 1979, Section 236 of the Constitution of the Federal Republic of Nigeria, Section 1 (3) of the Federal Capital Territory Act Cap 503, Laws of the Federation of Nigeria, 1990 vests power in the Minister of the FCT to grant Statutory Right of Occupancy over lands situate in the Federal Capital Territory to any person.”

By this law, ownership of land within the Federal Capital Territory vest in the Federal Government of Nigeria who through the Minister of the FCT vest same to every citizen individually upon application.

The evidence of the Claimant is that her plot of land was allocated to her by the Federal Housing Authority being the 2nd Defendant in this suit.

The 2nd Defendant is an agency of the Federal Government of Nigeria.

The evidence is that the Claimant was allocated the plot of land in issue by the 2nd Defendant, the Federal Housing Authority while on the other hand, the 1st Defendant was allocated that same land by the 3rd Defendant, the Honourable Minister of the Federal Capital Territory.

The Claimant traced her root of title to the 2nd Defendant while the 1st Defendant traced its root of title to the 3rd Defendant.

The 2nd Defendant, the Federal Housing Authority is an agency of the Federal Government on which the ownership of lands comprised in the Federal Capital Territory is vested via the case cited and Section 1 of the Federal Capital Territory Act.

Section 19 of the Act states:

“The powers delegated to the Minister under the provisions of this Act shall not include

(1) The exercise within the Federal Capital Territory of any executive or other functions of the

Federation, by the President, the Judicial Service Commission or any other Federal Government authority.

(b) any power expressly excepted under any other law, instrument or otherwise howsoever.”

What the above means is that the power delegated to the Minister under Section 18 of the FCT Act does not include the exercise of executive functions by the Federal Government amongst others within the Federal Capital Territory. The power of the 2nd Defendant in respect of land comprised in the FCT is ousted.

The 2nd Defendant, the Federal Housing Authority is an agency of the Federal Government.

By Section 4 of the Federal Housing Authority Act, the Authority shall have power to do anything which in its opinion is calculated to facilitate the carrying out of its functions including (without prejudice to the generality of the foregoing) the power to

- (a) Sue and be sued in its corporate name.
- (b) Acquire, hold and manage movable or immovable property.
- (c) Acquire, construct and maintain dwelling houses, schools, communal and commercial buildings and other structures.

(d) Enter into contracts for the construction, maintenance, management or repairs of any property, etc.

The Claimant's evidence is that she is the *bona fide* owner of the plot in issue. That she made an application to the 2nd Defendant for the allocation of a commercial plot of land within Abuja and was subsequently allocated Plot C3, 69 (A) Road, Gwarinpa II, Abuja to the Claimant.

The Allocation Letter is Exhibit B dated 7/07/2004. I shall reproduce the relevant portion:

"Following your application for a commercial plot of land in Abuja, it is confirmed that approval has been

given for you to be allocated Plot C3, 69 (A) Road, Gwarinpa II Estate, Abuja for commercial development purposes.”

“3. If you accept these terms and conditions, you are required to forward a bank draft in favour of Federal Housing Authority to the tune of ₦2,295,000.00 only being charges due for the plot within 60 days.”

Exhibit C is a deposit slip of Abuja Geographic Information Systems in respect of the above amount, while Exhibit C1 is the Receipt of Payment of the said amount made on 25/02/2005 in the sum of ₦2,295,000.00.

Exhibits D – D1 and E show acts of the Claimant exercising authority over the parcel of land in issue.

The 2nd Defendant (DW2) gave evidence in support of the Claimant's claim. He is Surveyor Eyong Ibor Eyong, an Assistant General Manager of the Federal Housing Authority.

He confirmed that Claimant applied to the 2nd Defendant for land and was allocated Plot C3, 69 (A) Road, Gwarinpa II, Abuja the subject matter of this suit. He said the 2nd Defendant has not revoked or reallocated the said plot.

He gave evidence that the 2nd Defendant has the responsibility of providing mass housing to citizens of

Nigeria consequently every State in Nigeria including Abuja make available areas and plots specifically set aside and conveyed to the Federal Government through the 2nd Defendant.

That all lands/plots forming a larger portion of the area designated and called Gwarinpa II is amongst the lands and plots in various areas of Abuja FCT conveyed to the 2nd Defendant by the preceding administration of the 3rd Defendant for mass housing scheme of the 3rd Defendant.

He said the whole area conveyed to the 2nd Defendant by the 3rd Defendant is covered by a Survey Plan which said plan included the subject matter. The Survey Plan is Exhibits O and O1.

Upon being cross-examined, the witness said the copy of the Conveyancing document is in their office.

The only way to arrive at a decision in a Court of law is by evidence. The Court does not guess or speculate or substitute or add to the evidence of parties.

What goes into the imaginary scale is the evidence of parties and no other.

What excludes the power of the Minister of the FCT, 3rd Defendant from interfering in the subject matter is an evidence that by executive power or decision, the plot in issue formed part of a larger portion conveyed to the 2nd Defendant for mass housing.

That singular, vital and conclusive evidence was not tendered before the Court.

This Court cannot take judicial notice of that fact which may amount to descending into the arena.

He who asserts a fact must prove that that fact exists.

A Claimant who seeks declaration of title to land must prove his root of title to the land. Where he traces his title to a particular person or authority/agency as in this case, he must further prove how that person or authority came to have title vested in him.

The burden of proof on the Claimant is not discharged even where the scales are evenly weighed between the parties.

See ARCHIBONG vs. EDAK (2006) 7 NWLR (PT. 980) 485

DIKE vs. OKOLOEDO (1999) 10 NWLR (PT. 623) 359 SC.

OTANMA vs. YODUBAGHA (2006) 2 NWLR (PT. 964) 337 SC.

The Exhibit B is the grant by the Federal Housing Authority, the 2nd Defendant. Production of a Deed of Conveyance or document of title does not automatically entitle a party to a claim in declaration.

Amongst others, the Claimant must prove that the Grantor has the authority or capacity to make the grant, that the Grantor has in fact what he purports to grant.

See KYARI vs. ALKALI (2001) FWLR (PT. 60) 1481 SC.

DABO vs. ABDULLAHI (2005) 7 NWLR (PT. 923) 181 SC.

In the circumstance of this case, the 2nd Defendant decided to keep back what would have tilted the case in favour of the Claimant which made the Claimant's case rudderless thereby making it to capsize.

I am sad because an ordinary citizen such as the Claimant seeking the protection of this Court cannot get justice because of the ineptitude of the 2nd Defendant.

The 1st Defendant escaped by the whiskers. What it does mean is that the Claimant has not been able to prove her

case on the preponderance of evidence and balance of probability so as to entitle her to Judgment.

The case fails and it is accordingly dismissed.

HON. JUSTICE U. P. KEKEMEKE, ACIArb (UK), FICMC
(HON. JUDGE)
17/04/2024

Parties absent.

Benjamin Nwaokenye, Esq. for the Claimant.

A. N. Zaphaniah, Esq. for the 1st Defendant.

T. A. Suleiman, Esq. for the 3rd Defendant.

COURT: Judgment delivered.

(Signed)

HON. JUDGE

17/04/2024