

IN THE HIGH COURT OF JUSTICE FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT HIGH COURT MAITAMA – ABUJA

BEFORE: HIS LORDSHIP HON. JUSTICE S. U. BATURE

COURT CLERKS: JAMILA OMEKE & ORS  
COURT NUMBER: HIGH COURT NO. 24  
CASE NUMBER: SUIT NO. FCT/HC/CV/2884/2020  
DATE: 9/6/2023

BETWEEN:

NOAH O. AGADA.....CLAIMANT  
(SUING THROUGH HIS LAWFUL ATTORNEY NATHANIEL AMEH)

AND

MATTHEW APOSO.....DEFENDANT

**APPEARANCES:**

Okpe Emmanuel Esq for the Claimant.  
Defendant absent and unrepresented.

**JUDGMENT**

The Claimant filed this suit against the Defendant via a Writ of Summons dated the 12<sup>th</sup> day of October, 2020. Claiming the following reliefs:-

***“(1). An Order of Perpetual Injunction of this Honourable Court restraining the Defendant, his agents, privies and servants from further interfering with the Claimant’s use and enjoyment of the parcel of land with Plot No. CD-18, measuring approximately 2000sqm situate at Pasali Extension Layout, Kuje, Abuja, FCT.*”**

- (2). A Declaration of this Honourable Court declaring the Claimant as the rightful owner of the parcel of land with Plot No. CD-18 measuring approximately 200sqm situate at Pasali Extension Layout, Kuje, Abuja FCT.**
- (3). An Order of this Honourable Court mandating the Defendant, his agents, privies and servants to forthwith without any delay evacuate all equipments and materials they have introduced upon the Claimant's land with Plot No. CD-18 measuring approximately 200sqm situate at Pasali Extension Layout, Kuje, Abuja FCT.**
- (4). An Order of this Honourable Court mandating the Defendant to pay the sum of One Million Naira (N1, 000, 000.00) to the Claimant as cost for the destruction of his perimeter fence by the Defendant.**
- (5). An Order of this Honourable Court mandating the Defendant to pay the sum of Two Million Naira (N2, 000, 000.00) to the Claimant as general damages.**
- (6). An Order of this Honourable Court mandating the Defendant to pay the sum of One Million, Five Hundred Thousand Naira (N1, 500, 000.00) to the Claimant as cost of this suit."**

The Writ which was issued by Okpe Emmanuel Esq and Thomas Onoja Egaji Esq, Counsel to the Claimant, is supported by the Statement of Claim, Witness Statement on Oath of Mr. Nathaniel Ameh, the lawful Attorney of the Claimant Mr. Noah Agada, a Certificate of Pre-action counseling, list of witnesses to be called, list of documents to be relied upon and exhibits tendered at the trial.

Personal service upon the Defendants could not be effected, therefore Claimant's Counsel filed a Motion Ex-parte for substituted service dated the 24<sup>th</sup> day of November, 2020 which was accompanied by a 5 paragraph Affidavit deposed to by one Okpe Emmanuel Counsel to the Claimant and supported by a Written Address. The application was granted and service was effected via pasting on the res i.e the subject matter of this suit being

Plot CD-18, Pasali Extension Layout, Kuje Abuja, FCT with proof of service attached.

The Defendants upon being served with the originating processes, filed a Motion on Notice for extension of time brought pursuant to Order 43 Rule 1 of the Rules of this Honourable Court dated the 30<sup>th</sup> day of March, 2021. The motion was accompanied by a nine (9) paragraph affidavit deposed to by one Emmanuel Oche, Counsel to the Defendants, and supported by a Written Address equally dated the 30<sup>th</sup> day of March, 2021. The application was granted.

Consequently, the Defendants filed a Notice of Preliminary Objection dated 30<sup>th</sup> day of March, 2021.

In response, the Claimant filed a Reply to the Preliminary Objection dated the 1<sup>st</sup> of July 2021.

The Preliminary Objection was however dismissed by a Ruling of this Honourable Court delivered on the 13<sup>th</sup> day of December, 2021 and the matter was adjourned to 17<sup>th</sup> day of March, 2022 for hearing.

When hearing commenced on 17<sup>th</sup> of March, 2022, CW1 in person of Nathaniel Ojonugwa Ameh was examined in chief he adopted his Witness Statement on Oath and the following documents were tendered in evidence:-

- (1). An Irrevocable Power of Attorney created by Bala Ibrahim (Donor) in favour of Noah O. Agada (Donee) dated 22<sup>nd</sup> October, 2018 and marked Exhibit A.
- (2). A Power of Attorney donated by Mr. Noah O. Agada to Mr. Nathaniel Ameh on the 20<sup>th</sup> Day of November, 2018 marked Exhibit B.
- (3). Offer of Terms of Grant/Conveyance of Approval dated 17<sup>th</sup> October, 2021 marked Exhibit C.
- (4). A 2-page Site Plan and survey data marked Exhibits D1 and D2 respectively.

- (5). 5 receipts issued by F.C.T Kuje Area Council Abuja received by Bala Ibrahim with receipt No. 215640, 215304,215305, 215641 and 215642 marked Exhibits E1 – E5 respectively.
- (6). A petition addressed to the Inspector General of Police dated 5<sup>th</sup> Jun2 2020 and marked Exhibit F

By a Notice of Withdrawal of appearance dated the 15<sup>th</sup> day of June, 2022, Counsel for the Defendants withdrew his legal representation of the Defendants.

On the 8<sup>th</sup> of December, 2022, Counsel to the Claimant while addressing the Court stated that his sole witness was in Court, and the Defendant despite being duly served against the day's hearing was once again absent and unrepresented. Counsel to the Claimant therefore applied for foreclosure of the Defendant's right to cross-examine Claimant's witness. The application was granted. The matter was further adjourned for defence.

On the 31<sup>st</sup> of January, 2023, when the matter came up for defence Counsel to the Defendants was again absent. Claimant's Counsel therefore made an application for the Defendants' right to open his defence to be foreclosed due to his consistent absence in this suit. The application was granted and the matter was further adjourned for adoption of final Written Addresses as stipulated by Order 33 of the Rules of the High Court of the FCT (Civil Procedure) Rules 2018.

On the 30<sup>th</sup> of March, 2023, Counsel to the Claimant mentioned that the Defendants were duly served but were once again absent. The Court therefore granted the adoption of their final Written Address dated 2<sup>nd</sup> March, 2023 and adjourned for judgment.

In the said final Written Address of the Claimant dated the 2<sup>nd</sup> of March 2023, Counsel to the Claimant formulated two issues for determination to wit:-

***“Issue 1: Whether having regard to the evidence in this case, the Claimant has validly and effectively proved his***

***case against the Defendant warranting this Court to give judgment in his favour.***

***Issue 2: Whether or not trespass was committed by the Defendant against the Claimant's land to warrant the issuance of an Order of Perpetual Injunction by this Court against the Defendants."***

In arguing the first issue, Counsel to the Claimant stated that the facts of this case are crystal clear. He stated that the Claimant had acquired a parcel of land from one Mr. Bala Ibrahim vide Exhibit A an Irrevocable Power of Attorney dated 22<sup>nd</sup> October, 2018 in respect of Plot CD-18 situate at Pasali Extension Layout Kuje, Abuja FCT.

The Claimant further transferred superintendory powers to CW1 via Exhibit B, a Power of Attorney donated to Mr. Nathaniel Ameh dated 20<sup>th</sup> day of November 2018.

Counsel to the Claimant stated that the Defendant encroached into the said parcel of land and demolished the Claimant's fence. Upon the confrontation of the Defendant by Cw1 who subsequently reported him to the Police for his trespass but failed to honour the invitation by the Police, and went ahead to write a petition (Exhibit F) addressed to the Inspector General of Police against Cw1. The Defendant then resurfaced and claimed that the land in question is his property.

Counsel to the Claimant reproduced an excerpt of Exhibit A (the Irrevocable Power of Attorney donated to the Claimant by Mr. Bala Ibrahim) in his Written Address which provides thus:-

***"That Noah O. Agada is the lawful successor-in-title to one Mr. Bala Ibrahim over the parcel of land with Plot CD-18, measuring approximately 2000 sqm situate at Pasali Extension Layout, Kuje Abuja, FCT vide a Power of Attorney dated 22<sup>nd</sup> October, 2018."***

Counsel to the Claimant further reproduced excerpts of the Witness Statement on Oath evidencing each by the various exhibits tendered in evidence before this Honourable Court which include:

- (a). Offer of Terms of Grant/Conveyance of Approval dated 17<sup>th</sup> October 2001 and marked Exhibit C.
- (b). A 2 paged site plan and survey plan of the land dated 27<sup>th</sup> June 2004 and marked Exhibit D and D1.
- (c). 5 original receipts issued by F.C.T Kuje Area Council Abuja received by Bala Ibrahim with receipt nos. 215640, 215304, 215305, 215841 and 215642 marked Exhibits E 1 - E5.

Counsel submitted that the testimony of Cw1 was not controverted or contradicted. He urged the Court to act on those testimonies as true, relying on the case of **FOLORUNSHO & ANOR V SHALOUB (1994) NWLR (Pt.333) Page 413 @ 433.**

In another submission Counsel stated that what a Claimant needs to establish to the satisfaction of the Court in an action for declaration of title to land as in the instant case are:

***“(a). The precise nature of the title, that is whether it is title by virtue of original ownership, customary grant, conveyance, sale under customary law, long possession or otherwise; and***

***(b). Evidence establishing title of the land claimed.”***

Counsel therefore referred to the case of **BASSEY V PAMOL (NIG) LTD (2009) 6 NWLR (Pt.1136) @ 59, Paras D –E.**

Counsel further submitted that in the instant case, the Claimant traced the original ownership of the land in dispute to Bala Ibrahim who then sold to the Claimant vide Exhibit A, an Irrevocable Power of Attorney and in addition acquired Exhibit C, the Offer of Terms of Grant/Conveyance of Approval, Exhibits D and D1 the site plan and survey data of the said land.

He stated also that, there is no contradiction that the land in dispute originally belonged to Mr. Bala Ibrahim who sold it to the Claimant. Counsel further stated that Exhibits C, D, D1, E1 –E5 all emanated from

the Federal Government of Nigeria and have not been challenged or disproved by the Defendant.

In a further submission, Counsel stated that the Claimant has proved without contradiction or challenge before this Honourable Court that Exhibit A which gave him the original ownership of the land in dispute was issued by Mr. Bala Ibrahim, the original owner of the land and urged the Court so hold.

He also stated that based on the totality of evidence adduced and the exhibits tendered by Cw1, the Claimant is the legal owner of the land in dispute while the Defendant is an ill adventurer who intended to take away the land of the Claimant and urged the Court to so hold.

In his final submission on the issue, Counsel to the Claimant stated that with the totality of evidence adduced and the exhibits tendered the identity of Plot CD -18, Pasali Extension Layout, Kuje Abuja, FCT in question is not in doubt. He further submitted that the Claimant by his evidence through Cw1 has successfully proved their case and urged the Court to resolve the issue in their favour.

In arguing the second issue, Counsel to the Claimant made reference to the unchallenged evidence of Cw1 dated 12<sup>th</sup> October 2020 at precisely paragraphs 14, 15, 16 and 18 of Cw1's Statement on Oath which are reproduced as follows:-

***“Paragraph 14: That sometimes around May – June 2019, the Defendant encroached on the land and when I challenged him, the Defendant said that he bought the land from the son of a chief.”***

***Paragraph 15: That the Defendant told me that he was going to collect his money from the person that sold the land to him and we all dispersed.”***

***Paragraph 16: That after this encounter, the Defendant went back to the land and commenced building a house on the land.”***

**Paragraph 18: That after the Defendant became evasive I went to fence the land only to be attacked by the Defendant and his thugs and my materials for the construction of the fence were destroyed and the fence demolished by the Defendant and his thugs.”**

Counsel submitted that the evidence above was a direct testimony of trespass on the property of the Claimant by the Defendant and urged the Court to deem it true as it is trite law that unchallenged evidence is taken to be true.

Counsel further emphasized on the testimony of Cw1 on the demolition of the fence erected on the Claimant’s land by the Defendant, calling it trespass and relied on the case of **ANYANWU V UZOWUAKA (2009) 13 NWLR (Pt.1159) @ 445 particularly 448 Paras E –A** where Tabai JSC held:-

**“Trespass to land is wrongful entry into the land in actual or constructive possession of another. Consequently all a Plaintiff needs to prove is that he has exclusive possession of the land in dispute. In other words, any unlawful interference with possession, however slight, amounts to trespass.”**

Counsel to the Claimant also stated that the testimony of Cw1 on the demolition of the fence by the Defendant and construction of a house on the said land is direct, relevant and admissible evidence against the Defendant. Counsel also relied on the case of **ALON V DANDRILL NIG. LTD (supra)**.

Counsel submitted that the acts of the Defendant constituted trespass and urged the Court to so hold.

Counsel further prayed this Honourable Court to resolve the second issue in favour of the Claimant.

Conclusively, Counsel to the Claimant submitted that a Perpetual Injunction is based on a final determination of the rights of parties in a dispute and it is intended to prevent permanent infringement of those rights and obviate the

necessity of initiating action after action in respect of every such infringement. He stated that once there is a finding of trespass, an injunction must be granted so as to protect a party's possession of the land trespassed upon.

Counsel relied upon the case of **ANYANWU V UZOWUAKA (supra) @ 475 – 476 Paras E – D** and urged this Honourable Court to uphold the Claimant's claims.

I have carefully considered the originating processes of the Claimant to wit; the Statement of Claim, Witness Statement on Oath, list of witnesses relied upon, list of documents relied upon, the various annexures and evidence adduced at the trial both oral and documentary. I have also considered the final Written Address filed by the Claimant.

Having painstakingly done these, and considering the circumstances of this suit, it is my humble view that the issue for determination is thus:

***“Whether or not the Claimant has proven his case on the preponderance on evidence as required by law to be entitled to the reliefs sought.”***

The law is that he who asserts must prove. This has clearly been elucidated in Section 131 of the Evidence Act, 2011 which provide thus:-

***“Section 131(1): Whoever desires any Court to give Judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist.***

***(2). When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.”***

See also the case of **OKEKE V OKEKE (2019) 17 NWLR, (Pt.1701) at P. 288, Paras B – E, per Umar JCA** where it was held thus:-

***“Under Section 131 of the Evidence Act 2011 (as amended), the burden of proof lies on the party whose claims will fail if no***

***evidence is adduced. In essence, in civil actions, the initial burden of proof lies on the party against whom would be given judgment if evidence was not adduced on their side.”***

In civil cases such as this, the burden of first proving the existence or non-existence of a fact lies on the party against whom the judgment of the Court will be given if no evidence were to be produced by either side.

Section 133(1)(2) of the Evidence Act 2011 provides thus:

***“Section 133(1): In civil cases, the burden of first proving existence or non-existence of a fact lies on the party against whom the judgment of the Court would be given if no evidence were produced on either side, regard being had to any presumption that may arise on the pleadings.***

***(2). If the party referred to in sub-section (1) of this section adduces evidence which ought reasonably to satisfy the Court that the fact sought to be proved is established, the burden lies on the party against whom judgment would be given if no more-evidence were adduced, and so on successively until all the issues in the pleadings have been dealt with.”***

See also the case of ***IROAGBARA V UFOMADU (2009) LPELR-1538 (SC)***.

In the instant case, the Claimant stated in exactly paragraph 4 of Cw1 Witness Statement on Oath that he is the lawful successor-in-title to one Mr. Bala Ibrahim over a parcel of land with Plot No. CD-18 Pasali Extension Layout, Kuje, Abuja FCT and annexed a Power of Attorney dated 22<sup>nd</sup> October, 2018 and marked “Exhibit A” in proof of same. The Claimant further stated in paragraph 6 of his Witness Statement on Oath that at the time of purchasing the said land, he was given the original Offer document with no. MISC-20261, dated 17<sup>th</sup> October, 2001 in the name of Bala

Ibrahim and attached it as an annexure and marked as Exhibit C to support his claim.

Moreso, Claimant stated in paragraph 7 of his Witness Statement on Oath that at the time of purchasing the said land, he was given the original survey date of the land dated 27<sup>th</sup> June 2004, surveyed by Ralph and Son, which he attached as an annexure and marked as Exhibits D and D1 respectively.

To further prove his claim, Claimant attached five (5) receipts issued by the F.C.T. Kuje Area Council Abuja with receipt nos: 215640, 215304, 215305, 215841 and 215642 all marked Exhibits E1 – E5 respectively.

In paragraph 13 of the Claimant Witness Statement on Oath it was stated that ever since the Claimant purchased the said land in 2018, he has had quiet possession and occupation of same without let and hindrance from anyone until the trespass of the Defendant.

He further stated in paragraph 14 of his Witness Statement on Oath that the Defendant encroached the said land sometime in May/June 2019 and when he challenged the Defendant, the Defendant said he bought the same land from the son of a chief. He also stated that the Defendant informed him that he was going to collect his money from the person who sold the land to him and they all dispersed. However, the Defendant returned to the land and commenced building a house on the said land.

Having noticed this, the Claimant approached Kuje Police Station and reported a case of trespass against the Defendant, but the Defendant ran away and refused to honor the invitation of the Police. Therefore, the claimant said he fenced the land.

Moreso, in paragraph 18 of the Claimant's Witness Statement on Oath, the Claimant stated that the Defendant and his thugs destroyed the fence and construction materials on the land. That when the Claimant confronted him, the Defendant threatened to deal with him and stated that he had brothers in the Police Force.

In furtherance of this threat, the Claimant stated in paragraph 20 of his Witness Statement on Oath that the Defendant wrote a petition against him

to the Inspector General of Police through the Deputy Commissioner of Police, IGP STS FHQ, Abuja dated 5<sup>th</sup> June 2020 wherein he alleged that the Claimant was a kidnapper, armed robber and was in illegal possession of firearms. A copy of which was attached as an annexure marked Exhibit F, in proof of his claim.

Furthermore, the Claimant stated that the Defendant is still constructing the building on his land and that, there was no time he transferred ownership of his land to the Defendant or to anybody whomsoever. He further stated that the act of the Defendant was an infringement on the use of his property and is injurious to his interests. Therefore he Claimant based his reliefs upon these claims.

It is important to note that the testimonies of Cw1 is uncontroverted and uncontradicted as the Defendant was absent for cross examination and urged the Court to take same as true.

I shall adumbrate on the effect of failure to conduct a cross-examination in the latter part of this judgment.

Now to the humble opinion of this Honourable Court. With respect to the establishment and declaration of a party's ownership and title to land, I refer to the case of DAVID ITUAMA V FRIDAY JACKSON AKPE-IME (2000) 7 S.C.N.J 40 at 48-49; (2000) 12 NWLR (Pt.680) 156 at 168 -169, where the Supreme Court held:

***“...In a claim for declaration of title to land, the onus is on the Plaintiff to satisfy the Court that he is entitled on the evidence brought by him to the declaration he seeks. The Plaintiff must rely on the strength of his own case and not on the weakness of the Defendant's case if the onus is not discharged, then the proper judgment is for the Defendant.”***

See also the case of ***KODILINYE V ODU (1935) 2 WACA 336.***

The Claimant in his Witness Statement on Oath provided the evidence to his claim which I shall reproduce hereunder. Paragraph 4 states thus:-

***“That Noah O. Agada is the lawful successor-in-title to one Mr. Bala Ibrahim over the parcel of land with Plot CD-18, measuring approximately 2000sqm situate at Pasali Extension Layout, Kuje Abuja, FCT vide a Power of Attorney dated 22/10/2018.”***

From the facts of this case, it can be seen that the Claimant has rigorously proven his claim of ownership over the land in question, putting forth title documents, receipts and various other annexures as exhibits to buttress his claim.

Therefore, considering the totality of evidence tendered before this Honourable Court, it is my humble view that the Claimant has satisfied this Court that he is entitled to the declaration he seeks. I so hold.

On the other hand, the Defendant throughout the proceedings failed to elicit any evidence or provide any defence to his case. Due to the consistent absence and failure on the part of the defence to attend proceedings and defend his case, the Defendant as stated earlier was foreclosed from cross-examination and subsequently foreclosed from defence.

Let us recall that the onus of proof in this case was on the Claimant to adduce evidence of his title to the land in contention (ie. Plot CD-18, Pasali Extension Layout, Kuje Abuja, FCT) of which he has done to the satisfaction of this honourable court. Now the burden of proof has shifted to the defendant. This principle of law with regards to where the onus of proof lies and when it shifts has aptly been elucidated in section 133(2) of the Evidence Act 2011.

Moreso, as was rightly held in the Ituama’s case, in civil cases the burden of proof is not static. While the burden of proof initially was on the Claimant, the proof or rebuttal of the title asserted by the Claimant has now shifted from the Claimant to the Defendant. In the absence of such, it will be right to imply that the Defendant has conceded to the Claimant’s claim. In the case of ***EMODI & ORS V EMODI & ORS (2013) LPELR-21221(CA) per AKEJU JCA CP.23, Paras B- D*** it was held thus:-

***“...Where thereof a Plaintiff files his Statement of Claim raising an allegation of fact against the defendant(s) who do/does not***

***admit the truth of the allegation must file a defence to conduct, controvert, challenge or deny the allegation. Where no defence is filed, the Defendant is deemed to have admitted the assertion and the Court may pre-emptorily enter judgment against the defendant.”***

Also, in the case of ***RABE V F.R.N (2019) 4 NWLR (Pt.1662) per RHODE-VIVOUR JSC at Pg. 329, Para A***, it was held:-

***“Where evidence is unchallenged, the unchallenged and unrebutted facts are to be taken as true.”***

By the defendant’s refusal or neglect to defend his case or even adduce any evidence to support his claim over the said land, he has conceded that the radical title over the land in question is in the claimant. I so hold.

On the issue of the effect of failure to conduct cross-examination on the part of the Defendant as I earlier pointed out, it has been held in a plethora of cases that when a party completely refuses or fails to cross-examine a witness, such a party will be deemed to have accepted the testimony of the said witness. In the case of ***AWAZIE V OKOROAFOR (2015) LPELR-40210 (CA)***, the Court held:-

***“It is elementary position of the law that the effect of failure to cross-examine a party or witness upon a particular matter is a tacit acceptance of the truth of the evidence of the witness or party.”***

It was also held in the Supreme Court case of ***CBN & ORS V OKOJIE (2015) LPELR-24740 (SC) per RHODES-VIVOUR JSC*** thus:

***“...A litigant who fails to file a statement of defence and further fails to cross-examine the adverse party, in this case the respondent, has by his own hands shut himself out from the proceedings in which the Plaintiff/Respondent makes serious allegations, claims against him. The Defendant has abandoned any defence he might have and the Court is expected to accept the Plaintiff’s unchallenged evidence to establish the facts the Plaintiff seeks to establish...”***

Based on my above opinion, in juxtaposition with the circumstances of this case as earlier pointed out, it is my humble view that the Defendant has failed to offset the burden upon him to defend his case. I so hold.

Conclusively, it is trite law that in civil cases, the burden of proof is discharged upon the balance of probabilities. Section 134 of the Evidence Act 2011 provide:-

***“134: The burden of proof shall be discharged on the balance of probabilities in all civil proceedings.”***

However, in the circumstance, where no evidence is adduced from the other side to put on the balance then the onus of proof will be based upon minimal proof. This was the position in the case of ***SHEMOFEYO VENTURES LTD V AMCON (2021) LPELR-55701 (CA)*** where the Court held:-

***“The settled position of law is that whether an issue of evidence comes from one side and this is unchallenged, it ought normally to be accepted on the principle that there is nothing to put on the other side of the balance, unless of course, it is of such quality that no reasonable tribunal should have believed it. So when evidence goes one way, the onus of proof is discharged on a minimal proof.”***

See also the case of ***BABA V NIGERIA CIVIL AVIATION & ANOR (1991) LPELR-692 (SC) P.52, Paras A – D; OGUNJUMO & ORS V ADEMLU & CO (1995) LPER-2337 (SC) PP.23-24.***

Therefore, after considering the entire evidence adduced in this case, I will rightly say that the Claimant has proven his case as required by law to be entitled to his claims. I so hold.

Finally, on the Claimant’s claim of One Million, Five Hundred Thousand Naira (N1, 500, 000.00) as cost of this suit. It is a principle of law that a successful party seeking to be indemnified for cost of a suit must plead same in his pleadings. Once the amount is not unreasonable and it has been proven, usually by receipts, such a claim can be maintained in favour

of such party. See the cases of **NAUDE & ORS V SIMON (2013) LPELR-20491 (CA) PER AKOMOLAFE WILSON JCA at page 24 -28; AJIBOLA V ANISERE & ANOR (2019) LPELR-48204 (CA) PER MOHAMMED JCA, PP.29-30, Para C.**

The claimant having pleaded the sum of **One Million Five Hundred Thousand Naira (₦1,500,000.00)** in his pleading, this Honourable Court has taken judicial notice of the fact that he has incurred expenses in acquiring the services in acquiring the services of a legal practitioner to handle his matter.

As rightly held in the above cited case of **NAUDE & ORS (supra)**, it is an established principle of law that a successful party is entitled to be indemnified for cost of litigation where same is pleaded and proven.

Based on the foregoing, it is my humble opinion that the claimant is entitled to the cost of this suit. I so hold.

Consequently and without further ado, I hereby resolve the issue for determination in favour of the Claimant against the Defendant. It is hereby ordered as follows;

1. The Claimant is hereby declared the rightful owner of the parcel of land with Plot CD-18, measuring approximately 2000sqm situate at Pasali Extension Layout, Kuje Abuja, FCT.
2. An Order of Perpetual Injunction is hereby granted against the Defendant restraining the Defendant, his agents, privies and servants from further interfering with the Claimant's use and enjoyment of the parcel of land with Plot CD-18, measuring approximately 2000sqm situate at Pasali Extension Layout, Kuje Abuja, FCT.
3. The Defendant, his privies and servants are hereby ordered to evacuate with immediate effect all equipments and materials they have introduced upon the Claimant's land with Plot CD-18, measuring approximately 2000sqm situate at Pasali Extension Layout, Kuje Abuja, FCT.
4. The Defendant is hereby ordered to pay the sum of **One Million Naira (₦1, 000, 000.00)** to the Claimant as cost, for the destruction of

the perimeter fence erected by the Claimant on Plot CD-18, measuring approximately 2000sqm situate at Pasali Extension Layout, Kuje Abuja, FCT.

5. **Two Million Naira (N2, 000, 000.00)** is hereby awarded as general damages in favour of the Claimant to be paid by the Defendant.
6. The Defendant is hereby ordered to pay the sum of **Five Hundred Thousand Naira (N500, 000.00)** to the Claimant as cost of this suit.

***Signed:***

***Hon. Justice S. U. Bature  
9/6/2023.***