

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT COURT NO. 4, MAITAMA

ON THE 12TH DAY OF FEBRUARY, 2024

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

SUIT NO. FCT/HC/CV/4046/2023

MOTION NO. M/8772/2023

COURT CLERKS: *JOSEPH ISHAKU BALAMI & ORS.*

BETWEEN:

THE REGISTERED TRUSTEES OF THE GAMES VILLAGE RESIDENTS ASSOCIATION, ABUJA	}	CLAIMANTS/ APPLICANTS
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AND

1. CITY GATES HOMES & RESORT LTD 2. CHIEF MIKE EJIUGU	}	DEFENDANTS/ RESPONDENTS
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RULING

The Claimant/Applicant's application on Notice is dated 25/04/2023 but filed on the 26/04/2023. It prays the Court for:

- (1) An Order of interlocutory injunction restraining the Defendants whether by themselves, agents, privies or any person responsible to or claiming through them

howsoever defined or designated, from constructing, developing, building and or carrying out any infrastructural development within and around Plot No. 1755 in Cadastral Zone B11 of Kaura District, Abuja, FCT pending the determination of the suit.

- (2) An Order of interlocutory injunction restraining the Defendants from obstructing, entering, and going out or interfering with the right of ingress and egress of residents/visitors of the estate known as Games Village pending the determination of this suit.
- (3) And any Order or further Orders as the Court may deem fit to make in the circumstance.

The application is supported by a 27-paragraph Affidavit sworn to by Brenda Ononiwu, the General Manager of the Claimant. She deposes that:

The 1st and 2nd Defendants do not have property in the aforesaid estate as they are neither allottees nor registered attorney. They are also not residents.

That Games Village was originally built by the Federal Government for athletes who participated in the All African Games in 2003.

That after the games, the houses were sold to public servants and members of the public.

That Claimant was saddled with the responsibility of managing the facility.

That the Federal Government mandated the disposal of the remaining facilities and unbuilt lands. Exhibit A is the extracts of the conclusion of the meeting.

That by that resolution, 30 numbers of commercial plots were reserved for FCDA to allocate through public bidding and no residential plot for individual Estate Development was reserved for the FCT Minister to allocate.

That the FCT Minister being misled by the officials of the FCDA allocated residential plots, open spaces and recreational spaces to individuals and companies for residential purposes contrary to the resolutions of the

Federal Executive Council which had reserved the open spaces for the residents.

That the 19 numbers of residential buildings reserved for the then Ministry of Housing and Urban Development were to be allocated and built in accordance with the prototype houses in the Games Village.

That based on the illegal allocations of plots for residential purposes, the officers of the Claimants protested to the Honourable Minister. He ordered a stop to the development pending a review.

Aggrieved by the directive, Bridge Poles Energy Ltd claiming to be a beneficial owner of Plot No. 1755 Cadastral Zone B11, Kaura took out a suit against Claimant. The matter is still pending. It is Exhibit B.

There is an Order of Injunction against all parties to maintain status quo. The Defendants are making attempt to carry out building and infrastructural development on Plot 1755 Cadastral Zone B11 of Kaura District, Abuja

when they are not an allottee or registered attorney of an allottee.

That on 31/03/2023, the 1st Defendant wrote to the Claimant requesting for access to mobilize building materials to the said plot to enable them continue development. The letter is Exhibit D.

That officials of the 1st Defendant blocked the gate of Games Village on 4/04/2023 with armed Policemen and truckloads of building materials trying to force themselves into the Estate.

That the Defendants' act of blocking the Games Village Gate caused monumental inconvenience to residents and their visitors.

It took serious efforts of the Estate security personnel to repel the savage attempts of the Defendants.

That on 5/04/2023, the Claimant's attorney wrote the 1st Defendant warning same not to be a meddlesome interloper. The letter is Exhibit E.

The Defendants are still making attempts to carry out further infrastructural development on the said plot.

The Defendants filed and relied on a 9-paragraph Counter Affidavit dated 5/10/2023 deposed to by Adeyemi Adeyeye, Esq. A Counsel deposing to an Affidavit in a case in which he is Counsel. The Defendant's Counsel who is the deponent of this application even argued the Motion.

The law is that a lawyer cannot depose to an Affidavit and act as Counsel in the same matter.

See **MARIGOLD vs. NNPC (2022) LPELR-56858 SC.**

OBUDARA & ORS. vs. PRESIDENT OF IBADAN WEST DISTRICT GRADE B CUSTOMARY COURT (1964) LPELR-25219 SC.

See **Rule 20 (1) & (6) of the Rules of Professional Conduct.**

Lawyers ought to be weary of this practice. It is becoming too rampant. The Counter Affidavit is incompetent. It is accordingly struck out.

I have read the Affidavit of Claimant and considered the Written Addresses of Counsel.

In an application for the grant of interlocutory injunction pending the determination of the substantive claim such as this, the Court has a duty to ensure that it does not in the determination of the application determine the same issues or rights that would arise for determination in the substantive suit.

See **OKOMO vs. UMOETUK (2004) 10 NWLR (PT. 882) 526.**

An interlocutory injunction is an equitable remedy and he who comes to equity must come with clean hands.

See **ADEFARATI vs. GOV. ONDO STATE (2006) 1 NWLR (PT. 960) 145.**

Before an Applicant for interlocutory injunction can succeed, he must establish the following:

- (1) There is a legal right.
- (2) The balance of convenience is on his side.
- (3) That damages cannot be an adequate compensation for his damage or injury, if he succeeds at the end of the day.

- (4) That his conduct is not reprehensible.
- (5) That the injunction is to preserve the res which is in imminent danger of being destroyed.

See **KOTOYE vs. CBN (1989) 1 NWLR (PT.98) 419 SC.**

I have read the Claimant's Affidavit. There is no deposition to the effect that the balance of convenience is on his side.

That damages will not be an adequate compensation. There is no undertaking as to damages. There is no deposition to the effect that the *res* is in imminent danger.

The Claimant has not been able to prove his entitlement to the reliefs sought.

The application fails and it is dismissed.

HON. JUSTICE U. P. KEKEMEKE

(HON. JUDGE)

12/02/2024

Parties absent.

Lawrence John, Esq. for the Claimants/Applicants.

E. A. Nwa-Uwa, Esq. for the Defendants/Respondents,
with me A. E. Adeyeye, Esq. and G. A. Ogbasin
(Mrs.)

COURT: Ruling delivered.

(Signed)
HON. JUDGE
12/02/2024