

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT NYANYA- ABUJA

THIS THURSDAY THE 24TH DAY OF OCTOBER, 2024

BEFORE HIS LORDSHIP: HON. JUSTICE ALIYU YUNUSA SHAFI

SUIT NO: FCT/HC/CV/4500/2014

BETWEEN:

ALHAJI MUSA AUDU MFR.....PLAINTIFF

AND

- 1. CHIEF MICHEAL EJOGU }DEFENDANTS**
2. CITIGATE HOMES & RESORTS LIMITED }

JUDGMENT

The claimant commenced this suit by a writ of summons with Suit No. FCT/HC/CV/149/2024 dated 22nd March, 2024 and filed the same date.

Before the commencement of this suit, the claimant filed a motion on notice with Motion No. M/5844/2024 dated 15/03/2024 and filed on the 23/03/2024, the said motion is seeking for a restraining order and an interlocutory injunction on plots No. D – 3 and D – 22 lying and situate at Citygate Homes Kachuba Phase II and plot 524 Cadastral Zone Boo, Kubwa District Abuja FCT to the claimant. The motion was moved and the order/reliefs on the face of the motion no. M/5844/2024 was granted on the 10/06/2024.

Upon the grant of the Motion No. M/5844/2024 the claimant's counsel informed the court that they were served with a notice of preliminary objection filed by the defendant's counsel and then applied for a date to file a copy of the notice of preliminary objection. The matter was adjourned to 11/07/2024 for hearing of the notice for preliminary objection.

On the 11th July, 2024 when the matter came for the hearing of the notice of preliminary objection both counsel were in court, Martin Luther Okere for the claimant while J. AAudu with N. C. Ulasi appeared for the defendants. These matter could not go on as slated and the defence counsel informed the court to respond to the notice of preliminary objection. The matter was again adjourned to 03/10/2024 for hearing of the motion on notice on preliminary objection.

On the 03/10/2024 the defence counsel one J. AAudu informed the court that the claimant's counsel called for settlement out of court. Based on this development the matter was adjourned to 24/10/2024 for report of settlement and possible adopts the terms of settlement.

Today being the 24/10/2024 both counsel for the claimant and the defendant are all in court, and the claimant's counsel informed the court that they have filed terms of settlement and parties have duly signed the terms of settlement. This the defendant's counsel informed the court that it was the position of the parties to settle amicably out of court.

The claimant on the above submission adopted the mutual terms of settlement filed and dated the 24/10/2024 and prayed the court to adopt same as the consent judgment of this court. The defence counsel on it's side also informed the court that it is also their position and prayed the court to enter the terms of settlement as consent judgment of this court.

In the mutual terms of settlement filed, the claimant claims against the defendants the following reliefs:

- a. A DECLARATION OF THIS HONOURABLE COURT that the purported notice of force majeure dated the 26th day of February, 2024 being Increment on cost of 6(six) Bedrooms fully detached carcass on Plots no. D-3, and D-22 lying and situate at Citigate Homes Kukwaba Phase 11, on Plot 524 Cadastral Zone B00, Kukwaba District, Abuja-FCT made at the instance of the Defendants is void, illegal, unlawful being contrary to the allocation letter dated the 17th day of January, 2024 as agreed by the parties and unconstitutional for being a violation of the Clalmant's fundamental rights to ownership of property under section 43 of the Constitution of the Federal Republic of Nigeria 1999 as amended.*

- b. A DECLARATION OF THIS HONOURABLE COURT that the parties remain bound by the final terms being the allocation letter dated the 17th day of January, 2024 and the Claimant remains the bona-fide owner of Plots no. D-3, and D-22 lying and situate at Citigate Homes Kukwaba Phase 11 Abuja- FCT on Plot 524 Cadastral Zone B00, Kukwaba District, Abuja-FCT.***
- c. A DECLARATION OF THIS HONOURABLE COURT that the Claimant being the bona-fide owner of Plots no. D-3, and D- 22 lying and situate at Citigate Homes Kukwaba Phase 11 Abuja-FCT on Plot 524 Cadastral Zone B00, Kukwaba District, Abuja-FCT is entitled to the completion and Immediate handover of the completed carcasses having paid the Infrastructural levy which is the only condition to the finishing works of the carcasses after the acknowledgement of full and final payment as expressed in the allocation letter dated the 17th January, 2024.***
- d. A DECLARATION OF THIS HONOURABLE COURT that the Claimant is entitled to enjoy peaceable possession, uninterrupted enjoyment and the exercise of all the valid rights of ownership of the said expectedly completed carcasses of Plots no. D-3, and D-22 lying and situate at Citigate Homes Kukwaba Phase 11, on Plot 524 Cadastral Zone B00, Kukwaba District, Abuja-FCT and free from interference by the Defendants by themselves, servants, agents, privies, or otherwise howsoever called.***
- e. A DECLARATION OF THIS HONOURABLE COURT barring the Defendants by themselves, servants, agents, privies, or otherwise howsoever called from taking any steps towards giving effect to the notice of force majeure dated the 26th day of February, 2024 being increment on cost of 6(six) Bedrooms fully detached carcass on Plots no. D-3, and D-22 lying and situate at Citigate Homes Kukwaba Phase 11, on Plot 524 Cadastral Zone B00, Kukwaba District, Abuja-FCT Abuja- FCT either by diverting, misusing, mismanaging the sum of N110,000,000.00 (One Hundred and Ten Million Naira) only paid by the Claimant on each plot or by prolonging the Claimant's possession/takeover or ejecting them,***

and/or interfering with the Claimant's ownership/peaceable possession of completed carcasses over Plots no. D-3, and D-22 lying and situate at Citigate Homes Kukwaba Phase 11, on Plot 524 Cadastral Zone B00, Kukwaba District, Abuja-FCT or re-allocating the said plots to third parties in any guise.

- f. A DECLARATION OF THIS HONOURABLE COURT that any act and/or inactions, and steps already taken by the Defendant towards the implementation of the notice of force majeure dated the 26th day of February, 2024 being increment on cost of 6Bedrooms fully detached carcass on Plots no. D-3, and D- 22 lying and situate at Citigate Homes Kukwaba Phase 11, on Plot 524 Cadastral Zone B00, Kukwaba District, Abuja-FCT Including but not limited to the diversion of the amounts paid by the Claimant into the personal plots of the 1st Defendant in the 2nd Defendant remains illegal, unconstitutional, null and void for non-compliance with terms and for being a violation of the laws of the federal republic of Nigeria.*
- g. A DECLARATION OF THIS HONOURABLE COURT restraining the Defendants by themselves, servants, agents, privies, or otherwise howsoever called from diverting and continuing the diversion of the materials meant for the construction of the Claimant's carcasses for the construction of the Defendants' own on Plots no. D-3, and D-22 lying and situate at Citigate Homes Kukwaba Phase 11, on Plot 524 Cadastral Zone B00, Kukwaba District, Abuja-FCT.*
- h. AN ORDER OF THIS HONOURABLE COURT voiding the purported notice of force majeure dated the 26th day of February, 2024 being increment on cost of 6(six) Bedrooms fully detached carcass on Plots no. D-3, and D-22 lying and situate at Citigate Homes Kukwaba Phase 11, on Plot 524 Cadastral Zone B00, Kukwaba District, Abuja-FCT.*
- i. AN ORDER OF THE HONOURABLE COURT that the Claimant being the bona-fide owner of completed carcasses over Plots no. D-3, and D-22 lying and situate at Citigate Homes Kukwaba Phase 11, on Plot 524 Cadastral Zone B00, Kukwaba District, Abuja-FCT is entitled to enjoy*

peaceable possession and uninterrupted enjoyment and the exercise of all the valid rights of ownership of the said plots and free from interference by the Defendants by themselves, servants, agents, privies, or otherwise howsoever called.

- j. AN ORDER OF HONOURABLE COURT*** *barring the Defendants by themselves, servants, agents, privies, or otherwise howsoever called from taking any steps towards giving effect to the notice of force majeure dated the 26th day of February, 2024 either by diverting, misusing, mismanaging the sum of N110,000,000.00 (One Hundred and Ten Million Naira) only paid by the Claimant on each plot or by prolonging the Claimant's possession/takeover or ejecting them, and/or Interfering with the Claimant's ownership/peaceable possession of completed carcasses of Plots no. D-3, and D-22 lying and situate at Citigate Homes Kukwaba Phase 11, on Plot 524 Cadastral Zone B00, Kukwaba District, Abuja-FCT or re- allocating the said plots to third parties.*
- k. AN ORDER OF MANDATORY INJUNCTION*** *directing the Defendants to retract/disown the purported notice of force majeure dated the 26th day of February, 2024 over and in respect of completion and handover of carcasses of Plots no. D-3, and D-22 lying and situate at Citigate Homes Kukwaba Phase 11, on Plot 524 Cadastral Zone 800, Kukwaba District, Abuja-FCT to the Claimant for non- compliance with the law.*
- l. AN ORDER OF PERPETUAL INJUNCTION*** *restraining the Defendants by themselves, servants, agents, privies, or otherwise howsoever called from taking steps, actions and/or further steps and actions towards the purported notice of force majeure of Plots no. D-3, and D-22 lying and situate at Citigate Homes Kukwaba Phase 11, on Plot 524 Cadastral Zone B00, Kukwaba District, Abuja-FCT.*
- m. AN ORDER OF PERPETUAL INJUNCTION*** *restraining the Defendants by themselves, servants, agents, privies, or otherwise howsoever called from construction and/or continuing the construction of their own carcasses which is being done with the materials meant for the Claimant*

on Plots no. D-3, and D- 22 lying and situate at Citigate Homes Kukwaba Phase 11, on Plot 524 Cadastral Zone B00, Kukwaba District, Abuja-FCT.

- n. DAMAGES In the sum of N1, 000,000,000 (One Billion Naira) only in favour of the Claimant and against the Defendants for the emotional, psychological and mental stress Imposed on the Claimant by the defendants by reason of the Defendants malicious Interruption and/or threatened Interruption against the completion and handover of Claimant's carcasses of Plots no. D-3, and D-22 lying and situate at Citigate Homes Kukwaba Phase 11, on Plot 524 Cadastral Zone B00, Kukwaba District, Abuja-FCT.***

- o. EXAMPLARY DAMAGES in the sum of N5,000,000,000.00 (Five Billion Naira) only for the deliberate, outrageous, cruel, unlawful interruption by notice of force of majeure Issued by the Defendants against the Claimant.***

On this I wish to state that the basis of the terms of settlement is anchored on the provisions of order 26 of the High Court of the Federal Capital Territory, Abuja (Civil Procedure) Rules, 2018, the said order 26 provides thus:

“When a matter comes before the court for the first time, the judge shall in circumstance where it is appropriate, grant to the parties, time not more than 30 days within which parties may implore possibilities for settlement of the disput”

Based on these provisions, the court adjourned this matter/suit to allow parties file and adopt their terms of settlement.

On this I wish to state that, a settlement like in the instant suit is a resolution between disputing parties about a legal case reached either before a court begins. An out of court settlement is an agreement reached between the parties in a pending lawsuit that resolves the dispute to their mutual satisfaction and occurs without judicial intervention, supervision or approval. It provides that, the parties relinquish their rights to pursue judicial remedies. Further, it is a scenario where the respective parties of a legal case come to a resolution without a lengthy trial process. It is a legal arrangement initiated and completed outside of the formal

judicial process without the involvement of court or a judge but usually with the active involvement of counsel representing opposite parties. See Wechie V Okwuworlu (2015) 11 NWLR (Pt 1469) P 95.

The mutual terms of settlement constitute a new and independent agreement or bargain between the parties made for good consideration and its effect is as follows:

1. It puts an end to the proceedings which have been compromised or settled for they are thereby spent and exhausted.
2. It precludes parties from taking any further steps in the action.
3. It supersedes the original cause of action altogether.

See Haleomeni V Abdulmalik (2015) 1 NWLR (Pt 1440) P. 376.

In view of what I have stated above the mutual terms of settlement dated 25/07/2024 and filed on the 24/10/2024 is hereby adopted as the consent judgment of this court. The terms of settlement is adopted as hereby attached.

This is my judgment.

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Hon Justice A. Y. Shafa

Appearance:

1. Jacob M. Jai for the claimant.
2. N. C. Olasi for the 1st & 2nd defendant