

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT ABUJA

BEFORE HIS LORDSHIP: HON JUSTICE ASMAU AKANBI – YUSUF  
DELIVERED THE 4<sup>th</sup> DAY OF MAY, 2023  
SUIT NO. CR/HC/CV/2793/2020

BETWEEN

BUAME LIMITED

..... PLAINTIFF

(suing for itself and on behalf of

Gouba Global Links limited)

AND

1. HON. MIN, FCT
2. FEDERAL CAPITAL DEVELOPMENT AUTHORITY ... DEFENDANTS

#### JUDGMENT

On the 30/9/2020, the claimant filed a writ of summons, statement of claim and other accompanying processes against the defendants claiming the following: -

1. A Declaration that the Claimant is the bona fide, rightful and beneficial owner of all that piece or parcel of land known as Plot 1031 Mabushi District, Cadastral Zone B06, Federal Capital Territory, Abuja, measuring about 2,210.61 square metres and covered by a Certificate of Occupancy No. 17a3w-92d1 z-552br- dee4u-20 dated 2nd November, 2005 with File No. 55875 and registered as No. 13381 at page 13381 in Volume 66 of the Certificate of Occupancy Register in the Land Registry Office at Abuja.
2. A Declaration that the said Certificate of Occupancy No. 17a3W-92d1z-552br-dee4u-20 dated 2nd November, 2005 with File No. 55875 and registered as No. 13381 at page 13381 in Volume 66 of the Certificate of Occupancy Register in the Land Registry Office at Abuja, is valid.
3. A Declaration that the purported revocation/acquisition Claimant's said land by the Defendants is illegal, unconstitutional null and void.
4. An Order of Court setting aside the purported revocation/acquisition of the Claimant's said land by the Defendants.

5. An Order for perpetual injunction restraining the Defendants by themselves, their officers, agents, privies or any other person howsoever described and/or claiming through them from entering into the Claimant's said land, i.e., Plot 1031 Mabushi District, Cadastral Zone B06, Federal Capital Territory, Abuja, or attempting to enter same or doing anything whatsoever to interfere with the Claimant's title and possession thereto.
6. The sum of ₦3,000,000 (Three Million Naira) being the cost of this litigation.

The defendant upon being served with the originating process filed its statement of defence and other accompanying processes on the 29/3/21. Also, pursuant to the Order of the court made on the 15/2/2021, the amended statement of claim filed by the claimant on the 12/2/2021 was deemed properly filed and served on the defendants.

The claimant opened its case on the 7/12/2021, Uche Okeke, a businessman testified as the PW1. He adopted his witness statements on oath of 12/2/21 and 20/8/21 as his evidence and tendered the following exhibits;

1. The certified true copy of the Certificate of incorporation of the claimant [Buame Ltd], marked as Exhibit A.
2. Power of Attorney donated by Buame Nig Ltd to Wakili Trading Company Nig Ltd marked as Exhibit B1.
3. Deed of Assignment between Buame Nig Ltd and its Attorney Wakili Trading Company Nigeria Ltd) to Gouba Global Links Ltd dated the 6<sup>th</sup> March, 2012, marked as Exhibit B2.
4. Irrevocable Power of Attorney between Wakili Trading Company Ltd and Gouba Global Links Ltd dated the 6<sup>th</sup> March, 2012 and marked as Exhibit B3
5. Valuation Certificate marked as Exhibit C.

After the close of the Pw1's evidence in chief, he was cross examined. There was no reexamination.

On the 1/6/22, the Defendants' witness, Bukar Mohammed Manjeri, a principal estate officer in the Federal Capital Land Department, testified as DW1. He adopted his witness statement on oath of 29<sup>th</sup> March, 2021 and tendered the following Exhibits;

1. Request for a piece of land (Plot 1502) to construct a Police Station in Mabushi District Abuja marked as Exhibit 1.
2. Status Report on Plot proposed for the Police Station in Mabushi District are marked as Exhibits 1a, b & c.
3. Request for a piece of land (Plot 1502) to construct a Police Station in Mabushi District Abuja marked as Exhibit 2.

4. CTC of the notice of revocation of the R of O with reference file No. MISC 50214 marked as Exhibit 3

The Dw1 was also cross examined by the counsel to the claimant. At the close of the defendants' case, and pursuant to the rules of this court, parties filed and exchanged their final written addresses.

The defendants' final written address was filed on the 21/7/22; Chukwuka J. Oliobi Esq. settled the final written address on behalf of the defendants. He formulated a sole issue for determination, to wit:

1. Whether having regard to the facts contained in the Claimant's Statement of claim and the 1<sup>st</sup> and 2<sup>nd</sup> Defendants' joint Statement of Defence and also evidence before this Honourable Court, the Claimant has sufficiently made out a case to warrant this Honourable court to grant him the reliefs sought.

On the part of the claimant, Chinedu D. Ezeh Esq, settled the final written address of the claimant and same was filed on the 27/9/2022. Learned counsel for the claimant raised two issues for determination, that is:

1. whether the unregistered Deed of Assignment and Power of Attorney (Exhibits "C1" and "C2") made between the Claimant and its lawful Attorney (Gouba Global Links Limited) confers any right or interest over the land in dispute on Gouba Global Links Ltd.
2. Whether in the absence of evidence of service or proof of service of the letter of revocation of the land in dispute on the Claimant, the Defendant's purported revocation of the land in dispute is valid in law.

On the 24/10/2022, the claimant was represented by its counsel, while the defendants were unrepresented. Learned counsel for the claimant argued and adopted his final written address and also urged the court to deem the final written address of the defendants as adopted. Thereafter, the matter was adjourned for Judgment. In the course of writing the judgment and given the reliefs sought by the claimant vis a vis the pleadings and evidence before the court, I suo motu raised the issue of parties and called on parties to address me on the composition of the claimant as constituted in this suit.

On the 10<sup>th</sup> February, 2023, counsel for the claimant moved an application with motion no: M/4131/2023, wherein he sought for an amendment of the writ of summons, statement of claim, reliefs sought, additional witness statement on oath and for the claimant to re-open its case as well as recall the Pw1.

The defendants did not controvert or rebut the depositions stated in the application and in the absence of any contrary evidence, the application was granted on the 3<sup>rd</sup> May, 2023 and the matter was adjourned till today. i.e

the 4<sup>th</sup> May, 2023 for the recall of the claimant's witness. Now, upon the grant of the reliefs sought in Motion/4131/2023, the Pw1 was recalled. He adopted his additional witness statement on oath of 1/2/2023. Counsel for the defendants, chose not to cross examine him.

In the further amended statement of claim of 1/2/2023, the claimant, Buame Limited suing for itself and on behalf of Gouba Global Links Limited, claims against the defendants jointly and severally as follows:

1. A Declaration that the said Certificate of Occupancy No. 17a3w-92d1z- 552br-dee4u-20 dated 2<sup>nd</sup> November, 2005 with File No. with File No. 55875 and registered as No. 13381 at page 13381 in Volume 66 of the Certificate of Occupancy Register in the Land Registry Office at Abuja issued by the 1<sup>st</sup> defendant to the claimant is valid.
2. A Declaration that by virtue of the Deed of Assignment dated 6<sup>th</sup> March, 2012 executed between the claimant and Guoba Global Links Limited, Guoba Global Links Limited acquired equitable interest and became the equitable owner of all that piece or parcel of land known as Plot 1031 Mabushi District, Cadastral Zone B06, Federal Capital Territory, Abuja measuring about 2,210.61 square meters and covered by a Certificate of Occupancy No. No. 17a3w-92d1z- 552br-dee4u-20 dated 2<sup>nd</sup> November, 2005 with File No. 55875 and registered as No. 13381 at page 13381 in Volume 66 of the Certificate of Occupancy Register in the Land Registry Office at Abuja.
3. A Declaration that the purported revocation/acquisition of claimant's said land by the defendants is illegal, unconstitutional, null and void.
4. An Order of Court setting aside the purported revocation/acquisition of the Claimant's said land by the Defendants
5. An Order of perpetual injunction restraining the Defendants by themselves, their officers, agents, privies or any other person howsoever described and/or claiming through them from entering into the Claimant's said land, i.e., Plot 1031 Mabushi District, Cadastral Zone B06, Federal Capital Territory, Abuja, or attempting to enter same or doing anything whatsoever to interfere with the Claimant's title and possession thereto.
6. The sum of ₦3, 000,000 (Three Million Naira) being the cost of this litigation.

I have taken a careful consideration of the entire evidence put forward by parties and it is my considered view that the issue raised by the defendants' counsel will adequately determine the case, that is;

Whether having regard to the facts contained in the Claimant's Statement of claim and the 1<sup>st</sup> and 2<sup>nd</sup> Defendants' joint Statement of Defence and also evidence before this Honourable Court, the Claimant has sufficiently made out a case to warrant this Honourable court to grant him the reliefs sought.

Now, in the case at hand, the facts and evidence placed before the court by the claimant are as follows;

That by a Certificate of Occupancy No. 17a3w-92d1z- 552br-dee4u-20 dated 2<sup>nd</sup> November, 2005 with File No. 55875 and registered as No. 13381 at page 13381 in Volume 66 of the Certificate of Occupancy Register in the Land Registry Office at Abuja, the 1<sup>st</sup> defendant granted to BUAME LIMITED a Right of Occupancy over a piece or parcel of land known as plot 1031 Mabushi District, Cadastral Zone B06, Federal Capital Territory, Abuja, measuring about 2,210.61 square meters [now referred to as the subject matter]; see paragraph 2 of the further amended Statement of claim as well as evidence of the Pw1. The defendants in one breadth denied this assertion and, in another breadth, admit that the title of the claimant over the subject matter was revoked by the 1<sup>st</sup> defendant for overriding public interest vide a revocation notice dated 03/12/2013. See paragraphs 1 & 16 of the statement of defence and defendants witness statement on oath. I must also state that the claimant didn't tender either the Certificate of Occupancy or the Right of Occupancy in respect of the subject matter.

The Cw1 continued that by exhibit B1, an irrevocable Power of Attorney was donated by the claimant, BUAME NIG. LTD, the Donor to WAKILI TRADING COMPANY NIG. LTD, the Donee. The defendants denied this assertion and put the claimant to the strictest proof. Going further, the claimant asserts that by exhibit B2, a Deed of Assignment dated 6<sup>th</sup> March, 2012, BUAME LTD, being the beneficial owner of the land, acting through her attorney, WAKILI TRADING COMPANY NIGERIA LTD assigned to GOUBA GLOBAL LINKS LIMITED the unexpired term granted by the certificate referred to in exhibit B2 and in furtherance that, the WAKILI TRADING COMPANY NIGERIA LTD executed exhibit B3, an irrevocable power of attorney on the 6<sup>th</sup> March, 2012 in respect of the subject matter, in favour of GOUBA GLOBAL LINKS LTD. The Pw1 pleaded the Certificate of Occupancy, powers of attorney and the Deed of Assignment. While testifying, the Pw1 tendered in evidence, the Deed of Assignment and the powers of attorney earlier mentioned. The Pw1 states that the documents were pleaded and tendered as evidence of the transactions between the parties. I state again, no Certificate of Occupancy in respect of the subject matter was tendered by the claimant. The defendants in response to the assertions of the claimant, denied knowledge of the exhibits B2 & B3 and states that they are not aware of the said exhibits as the instruments were not registered with the 2<sup>nd</sup> defendant. See paragraphs 7 and 8 of the statement of defence.

Going further, the Pw1 states that by virtue of exhibit B2, GOUBA GLOBAL LINKS LIMITED went into possession of the subject matter and has been in possession of same till date, exercising its rights as the beneficial owner of the unexpired residue in the subject matter; that GOUBA GLOBAL LINKS LIMITED fenced the subject matter and put tenants in possession of the subject matter; the Pw1 stated that he was shocked when he went to conduct a search at the 2<sup>nd</sup> defendant's office sometime in 2015 and discovered that the subject matter has been revoked/ acquired by the defendants; that the claimant was not served with any Notice of Revocation of the land by the defendants as required by law; that as at 2014, the value of the subject matter was #170,000,000.00. He pleaded exhibit C, the valuation certificate issued to the claimant by Osas & Osas Oseji estate surveyors & valuers; that the defendants cannot whimsically and justifiably deny the claimant the enjoyment of his legal rights and interests; that due to the rapid developments around the area the subject matter is located, the value of the subject matter has now appreciated to over ₦250, 000,000.00. He urged the court to grant the reliefs sought.

Basically, the defendants denied the assertions of the claimant and put the claimant to the strictest proof, save for the fact that the subject matter was revoked for overriding public interest.

It is the submission of counsel for the defendants that from the totality of the pleadings and evidence put forward by the claimant, the claimant does not have a valid title over the subject matter, same having been revoked by the 1<sup>st</sup> defendant in accordance with the provisions of the Land Use Act, 2004. He submits that section 28 of the Land Use Act 2004 and many judicial authorities such as DANTSOHO V. MOHAMMED (2003) 6 NWLR pt. 817, 457 482 483 (H-D) states the grounds for the revocation of a statutory Right of Occupancy.

Learned counsel for the defendants submits that the reason stated in the revocation letter issued to the Claimant was "overriding public interest". In other words, the claimant's title over the plot was purportedly revoked because the subject Plot fell into the land carved out in the Abuja Master Plan for a Police Station in Mabushi District. He referred to the provision of s. 28 (1) of the Land Use Act 2004 which provides that a Statutory Right of Occupancy can be revoked for overriding Public interest which includes the requirement of the land by the Government for public purposes is that which led to the revocation of the subject plot and as such an alternative plot are required to be allocated to beneficiaries.

He submits that it is also the duty of the party seeking a declaratory relief to adduce evidence that he is entitled to that relief and the court has the discretion to grant or refuse the declaration; that the success of a claimant in such an action depends entirely on the strength of his case not on the weakness of the defence. Counsel further argued that in the present case, the Claimant having failed to adduce enough evidence in support of its claim, is not entitled to the declaratory reliefs. He referred to *ADEMOLA VS SEVEN UP BOTTLING CO PLC* (2004) 8 NWLR PT 874p1340148-14(G-D). He stated that the Claimant in paragraph 11 of her relief asked this court for an order of perpetual injunction against the Defendant. Therefore, counsel submits that a relief of perpetual injunction can only be granted after full trial and where the applicant has established his right and an actual or threatened infringement of that right. That, an order of Perpetual injunction is only granted to protect a Claimant's established right. Counsel cited *U. B. A PLC VS. OKEKE* (2004) PI 872, 973 (F-G) 412 (G-H) and *ADENIRAN VS ALAO* (1992) 2 NWLR PT 223, 350 372 and urged the court to dismiss the Claimant's claim as it lacks merit.

On the other hand, Counsel for the Claimant submits that under cross-examination of the Pw1 by the Defendants' Counsel, the Pw1 confirmed in line with its pleading that upon purchasing the land vide these documents, Gouba Global Links Ltd. (whom the witness represented) went into possession of the land and has carried out several acts of possession thereon, including erecting a fence and a security house thereon, as well as taking the building design to the Department of Development Control of the Defendants for approval; that they had to stop when he realized that the land had been purportedly revoked; that the evidence as to possession was not controverted nor impugned by the Defendants under cross-examination. He urged the court to resolve in the favour of the claimant.

On the other hand, Counsel for the Claimant submits that the authorities relied on by the defendants are not applicable to the instant case. Learned counsel for the claimant argued that the defendants are challenging the authenticity of exhibits C1 and C2 as pleaded by the claimant; that the defendants are not challenging the title of Buame Ltd over the subject matter as can be gleaned from the pleadings and evidence of the defendants. He cited *OGBIRI V N.O.A.C LTD* (2010) 14 NWLR (PT. 1213) 208 AT 224 and some other authorities to support his argument that fact admitted are the best evidence.

He argued that the Defendant's grouse or quarrel is only on the effect of alleged non-registration of the documents. Learned counsel posed a

question, that whether an unregistered registrable instrument such as Exhibits C1 and C2 are inadmissible in law and confer no rights whatsoever on their holder. He, then referred the court to these authorities OKOYE v. DUMEX NIG. LTD. & ANOR. (1985) 6 S.C, ABU v. KUYABANA (2002) 4 NWLR (Pt. 758) 599 at 615D-E, AGWUNEDU v. ONWUMERE (1994) 1 NWLR (Pt. 321) 375; (1994) 1 SCNJ 106; BABALOLA v. ARIMORO (1973) NSCC 108 at 13; AKINGBADE v. ELEMOSHO (1964) 1 All NLR 146; FAKOYA v. ST. PAUL'S CHURCH, SHAGAMU (1966) 1 All NLR 74 and OKON v. OKON (2014) LPELR 22648 (CA) and stated that an unregistered registrable instrument is admissible if the purpose is to show that there was a transaction between the grantor and grantee or to prove an equitable right.

He submits that under cross-examination of the Pw1 by the Defendants' Counsel, the Pw1 confirmed in line with its pleading that upon purchasing the land vide these documents, Gouba Global Links Ltd. (whom the witness represented) went into possession of the land and has carried out several acts of possession thereon, including erecting a fence and a security house thereon, as well as taking the building design to the Department of Development Control of the Defendants for approval; that they had to stop when he realized that the land had been purportedly revoked; that the evidence as to possession was not controverted nor impugned by the Defendants under cross-examination. He urged the court to resolve in the favour of the claimant.

Now in determining the status of exhibits B1, B2 and B3. Starting with exhibit B1, i.e the undated power of attorney. The law is clear that a power of Attorney merely warrants and authorizes the donee to do certain acts in the stead of the donor and so it is not an instrument which confers, transfers, limits, charges or alienates any title to the donee: rather it could be a vehicle whereby these acts could be done by the donee for and in the name of the donor to a third party. So even if it authorizes the donee to do any of these acts to any person including himself, the mere issuance of such a power is not per se an alienation or parting with possession. So far, it is categorized as a document of delegation: it is only after, by virtue of the power of attorney, the donee leases or conveys the property, the subject of the power, to any person including himself then there is an alienation. See GREGORY OBI UDE v. CLEMENT NWARA & ANOR (1993) LPELR-3289(SC).

Also, the Black's Law Dictionary defines an attorney as *“one who is designated to transact business for another as a legal agent or the means through which an instruction is given via a power of attorney. A power of attorney is a formal instrument which on person empowers another to*

*represent him or act in his stead for certain purposes. It may confer general or particular powers."*

Guided by the above, it then means that a power of attorney, empowers an agent to perform an act on behalf of the principal. Going through the exhibit B1, it can be gleaned from the content of the undated exhibit B1, that it was registered on the 3<sup>rd</sup> of March, 2011 in respect of the piece and parcel of land situate and known as Plot 1031 and adjoins plot 1031 Cadastral Zone B06 located within Mabushi District of the Federal Capital. The donee in exhibit B1, was appointed by the donor, to amongst other things, enter into contracts, covenants and arrangements of all kinds in respect of the subject matter, to mortgage same, assign and generally deal with the property as he deems fit, to take over in his own name and prosecute or continue to prosecute and defend all legal actions in respect of the said property and above all, exhibit B1 was given for a valuable consideration. The claimant equally averred that exhibit B1 is pleaded and given in evidence as proof of transactions between the parties. See paragraph 4 of the further amended statement of claim as well as the evidence of the claimant.

The defendants here, didn't controvert this assertion, meaning that the fact alleged by the claimant is admitted by them. The law is that fact admitted need no further prove. See s. 123 of the Evidence Act.

I find and hold that exhibit B1 is admissible in evidence and same shall be countenanced with, where necessary in the course of the Judgment.

Going further, and with regards to exhibit B2. Deed of Assignment dated 6<sup>th</sup> March, 2012, BUAME LTD, being the beneficial owner of the land, acting through her attorney, WAKILI TRADING COMPANY NIGERIA LTD assigned to GOUBA GLOBAL LINKS LIMITED the unexpired term granted by the certificate referred to in exhibit B2. The claimant states that exhibit B2 was pleaded to show evidence of transaction between the donor and the donee and nothing more; that following the execution of exhibit B2, GUOBA GLOBAL LINKS LTD took possession of the subject matter and has been in possession of same till date in the exercise of its rights as the beneficial owner of the unexpired residue in the plot; that it fenced the plot of land and also put tenant in possession of the plot of land. The defendants contend that exhibit B2 was not registered with the 2<sup>nd</sup> defendant and as such the donee has no recognizable right to the subject matter in question.

Given the state of pleadings and evidence presented by parties, particularly paragraph 5 of the further amended statement of claim, it is clearly not in doubt that GUOBA GLOBAL LINKS is claiming ownership of the subject matter vide exhibit B2. Paragraph 5 is to the effect that upon the execution of exhibit

B2, the Deed of assignment between the attorney of BUAME LIMITED and GOUBA GLOBAL LINKS LTD, GUOBA GLOBAL LINKS LIMITED went into possession of the subject matter in exercise of its rights as the beneficial owner of the unexpired residue of the subject matter and there is no evidence that the claimant, being the donor of exhibit B2 applied for and obtained the consent of the 1<sup>st</sup> defendant before he assigned the unexpired residue to the donee as provided for in s. 22(1), s.26 Land Use Act. Specifically, s.22 provides thus: It shall not be lawful for the holder of a statutory right of occupancy granted by the Governor to alienate his right of occupancy or any part thereof by assignment, mortgage, transfer of possession, sublease or otherwise howsoever without the consent of the Governor first had and obtained: Provided that the consent of the Governor-

- (a) shall not be required to the creation of a legal mortgage over a statutory right of occupancy in favour of a person in whose favour an equitable mortgage over the right of occupancy has already been created with the consent of the Governor; See MRS. ROSEMARY ONWUSOR v. YAH I MAINA & ORS(2021) LPELR-53368(CA)

Also, s.26 Land Use Act states that, any transaction or any instrument which purports to confer on or vest in any person any interest or right over land other than in accordance with the provisions of this Act shall be null and void.

Therefore, the claimant has a bounden duty to prove that exhibit B2 was executed in accordance with the law and where it is shown that the consent of the 1<sup>st</sup> defendant was not applied for and obtained, the assignment of a certificate of occupancy; the effect is that the transaction is rendered null and void and therefore not capable of transferring any right or interest. See CALABAR CENTRAL COOPERATIVE THRIFT & CREDIT SOCIETY LTD V EKPO (2008) 2-3 SCNJ 307; OLALOMI IND. LTD V NIG. IND DEVT BANK (2009) 10 NWLR (PT. 1167)

It is glaring that the donor of exhibit B2 had no power to do so. The law is that the production of instrument or document of title is not conclusive proof of title to land. It carries with it the need for a court to inquire into the following

- (a) Whether the document is genuine and valid;
- (b) Whether the document has been duly executed, stamped and registered;
- (c) Whether the grantor had the authority and capacity to make the grant;
- (d) Whether the grantor had in fact what purported to grant; and whether it had the effect claimed by the holder of the document. See *Oveneyiti v Akinkugbe* (2010) 4 NWLR (pt. 1184) 265

In the case at hand and just like the sister case, there is no evidence whatsoever that the consent of the 1<sup>st</sup> defendant was applied for and obtained before and after the execution of exhibit B2 and this clearly negates the provisions of s. 22 & 26 of the Land Use Act. The established fact is that BUAME LIMITED had no authority and or capacity to assign the subject matter to GOUBA GLOBAL LINKS NIG. LTD.

Going further, despite the pleadings and evidence of the Pw1 that exhibit B2 was produced to show evidence of transaction between the parties, it does not appear so considering the entire evidence adduced and the reliefs sought, particularly the relief 2 claimed. It is clear that exhibit B2 was tendered not only to give validity to the transaction of the donor and donee as against the defendants in this case; it's effect is to further grant ownership of the subject matter on the donee, GOUBA GLOBAL LINKS NIG. LTD. And by the provisions of the Land Use Act herein stated, exhibit B2 is null and void, having failed to execute same in accordance with the provisions of the law.

Also, in ALHAJI AMINU JUBRILLAH ABDULLAHI & ORS V. MRS. CHRISTIANA IYABO ADETUTU (2019) LPELR-47384(SC); the court declared as follows:

“The arguments under this issue are almost ubiquitous arguments in land matters. I must note right away that the admissibility or otherwise of an unregistered registrable instrument depends on the purpose for which it is being sought to be admitted.....an unregistered instrument, sought to be tendered for the purpose of establishing or proving title to land or interest in land, would be inadmissible under section 15 of the Land Instruments Registration Law.....”

An unregistered registrable Land Instrument is only admissible in evidence to prove the existence of a transaction and (or) payment of money, but not admissible to prove title to land. The facts and circumstances of this case are such that exhibit B2 is inadmissible and same is hereby expunged, having been improperly admitted. Thus, I find and hold that GUOBA GLOBAL LINKS NIG. LTD has no right over the subject matter. Relief 2 hereby fails.

With regards to the search and possession pleaded by the claimant, the Pw1 in its pleadings and evidence, states that upon the execution of exhibit B2, the Guoba Global Link Ltd went into possession of the subject matter and has been in possession of the subject matter till date in its exercise of its rights as

the beneficial owner of the unexpired residue in the plot; that the subject matter in issue was fenced; that the Pw1 was shocked when he conducted a search at the 2<sup>nd</sup> defendant's office sometime in 2015 and discovered that the subject matter had been revoked or acquired by the defendants. Under cross examination, the Pw1 stated thus;

Q: Has your company developed the subject plot as at today;

A: Yes, development has commenced;

Q: Tell the court to what extent

A: Upon the conclusion of the transaction, we took possession completely, fenced the plot and provided it with a security house. The main construction was to commence upon the approval of the Development control which was in progress at the time.

There is no evidence to buttress the fact that the subject matter was fenced or that tenants were put into possession. In law, possession means the occupation or physical control of land either personally or through an agent or servant. See SOLARU V. TEJUMOLA (2014) LPELR-22551(CA). In order to establish possession, a Claimant shall prove acts which may include cultivation of the piece of land, erection of a building or a fence and demarcation of the land with pegs at its corners. See MRS. LYDIA OMOWARE THOMPSON & ANOR v. ALHAJI JIMOH AROWOLO (2003) LPELR-3240(SC); MWO BENSON NJIMOGU v. MR PATRICK OKPE (2022) LPELR-57425(CA). Thus, the mere ipsi dixit of the claimant's witness, without placing credible evidence is not tenable in law.

As stated earlier in the course of this Judgment, none of the parties tendered the Certificate of Occupancy pleaded in paragraph 2 of the further amended statement of claim. I am not unmindful of the fact of exhibit B1. i.e the irrevocable power of attorney between BUAME NIG. LTD V WAKILI TRADING COMPANY NIG. LTD; however, exhibit B1 cannot confer title or replace genuine title document required to confer ownership. It is trite law, that the production of an instrument or document of title is not conclusive proof of title to land.

It carries with it the need for a court to inquire into the following:

- (e) Whether the document is genuine and valid;
- (f) Whether the document has been duly executed, stamped and registered;
- (g) Whether the grantor had the authority and capacity to make the grant;

- (h) Whether the grantor had in fact what purported to grant; and whether it had the effect claimed by the holder of the document. See *Oveneyiti v Akinkugbe* (2010) 4 NWLR (pt. 1184) 265

As rightly argued by counsel for the defendants, the law places heavy burden on a claimant claiming declaration of title or right to Statutory Right of Occupancy to lead positive or cogent evidence to show his root of title and entitlement to declaratory reliefs he claims and other ancillary reliefs accompanying claim for declaration of title to Statutory Right of Occupancy. The appellate Courts have laid down the methods or various ways by which a claimant must establish his title. See *EKANEM EKPENYONG v. SALISU IBRAHIM JEGA* (2019) LPELR-47694(CA) The claimant will only rely on the strength of his own case and not on the weakness of the Defendant's case. He must prove the identity of the land with precision. It is not granted on admission of Defendant or failure to file a Defence. The claimant must lead strong and believable evidence. The claimant here cannot rely on paragraph 16 of the statement of defence to argue that the defendants admit the existence of a Certificate of occupancy. The claimant has a bounden duty to present credible evidence i.e title document which will aid the court to do justice in this matter; the claimant must succeed on its own strength, the reliefs been declaratory. Therefore, where all the reliefs claimed by the claimant are predicated on ownership or exclusive possession of the land in dispute, failure to prove ownership or exclusive possession of the land will automatically also affect the other reliefs which must necessarily fail. See *ONOVO V MBA* (2014) 14 NWLR 319 PG 433, PARAS F-G. The claimant has the duty to establish his root of title before any consequential acts flowing therefrom can properly qualify as acts of ownership. See *FASORO V BEYIOKU* (1988) 2 NWLR (PT.76) 263. Specifically, there must be a foundation, which in the instant case, is the root of the claimant's title before the issue of revocation/acquisition of the subject matter can be dealt with.

Consequently, I find and hold that the evidence placed before this court by the claimant lacks evidential value which the court is not expected to act upon. I hold that the claimant failed to prove his title to the land and as such all other reliefs fails. Suit No: CV/2793/2020 is hereby dismissed.

ASMAU AKANBI – YUSUF  
[HON. JUDGE]

APPEARANCES:

C. D Okafor Esq and J. U Nwosu for the Claimant  
T. I Nnaji Esq. for the Defendant.