

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT MAITAMA

BEFORE HIS LORDSHIP: HON. JUSTICE Y. HALILU

COURT CLERKS : JANET O. ODAH & ORS

COURT NUMBER : HIGH COURT NO. 13

CASE NUMBER : SUIT NO: CV/2445/2013

DATE: : FRIDAY 25TH OCTOBER, 2024

BETWEEN

MR. EMMANUEL AKANOM ENEBONG
(Doing business under the name and style of Kabom Developers) } **CLAIMANT**

AND

1. FED. CAP. TERR. ADMINISTRATION
2. HON. MINISTER OF FCT.
3. THE CHAIRMAN BWARI AREA COUNCIL
4. DANTATA TOWN DEVELOPMENT LTD.
5. FRESH FRUITS ENTERPRISE (INT'L) LTD. } **DEFENDANTS**

JUDGMENT

By a Writ of Summons dated and filed on the 11th August, 2014, the Plaintiff instituted this suit against the Defendants claiming the following:-

1. A declaration that the allocations made by the 2nd Defendant through the Zonal Land Manager of Bwari Area Council, contained in the allocation letters dated 15th May, 2001 in favour of Kabom Developers for Plots 48 & 51 and 49 & 50 were validly and properly made.
2. A declaration that the two certificates issued pursuant to the allocation above registered as number BAC 33 at page 33 in Vol.27 dated 29th August, 2003 were validly and properly made.
3. A declaration that the 10 units of 2 Bedroom Bungalows with 1 unit 3 Bedroom Bungalow, boys quarters and security post built by Kabom Developers Ltd. on Plot Nos. 48 & 51 and 49 & 50 are validly, legally and properly built to the specification of the allocation letters, building plan approvals by the 1st and 2nd Defendants.

4. A declaration that the entrance of 4th Defendant into the property Plot Nos. 48 & 51 and 49 and 50 allotted to Kabom Developers Ltd. amounts to trespass to Kabom Developers Limited.
5. A Declaration that Quit Notice dated 31st May, 2012 and pasted on the walls of the buildings in Plot Nos. 48 & 51 and 49 & 50 was wrong illegal, invalid, null and void and amounted to trespass to Kabom Developers Limited.
6. An Order of Perpetual Injunction restraining the Defendants from trespassing or further trespassing on Plot Nos. 48 & 51 and 49 and 50 of Kubwa Annex Layout, Kubwa – Abuja, belonging to Kabom Developers Limited.
7. General Damages of N50,000,000.00 (Fifty Million Naira) against the Defendants, jointly and severally for trespass to Plot Nos. 48 & 51 and 49 and 50, situate at Kubwa Annex Layout, Bwari Area Council.

In alternative

8. An Order directing the Defendants jointly and severally to pay the sum of N220,000,000.00 (Two Hundred and Twenty Million Naira) only as compensation or in the alternative

special damages for Kabom Developers Ltd. at Kubwa Annex Layout consisting of 10 units of 2 bedroom flats, 1 unit of 3 bedroom flat, boys quarters and security post registered as number BAC 33 at page 33, in Vol. 27 dated 29th August, 2003 and number BAG 82 at page 82, in Vol. 27 dated 29th August, 2003.

9. An Order directing the Defendants jointly and severally to pay the sum of N700,000,000.00 (Seven Hundred Million Naira) only as exemplary damages for arbitrary, oppressive and callous actions of the Defendants in recklessly deceiving and misleading the Plaintiff into believing that he had valid title to the property all these years, and causing him to waste many valuable years developing the estate and extending huge sums of money in the process.

Upon service of the Amended Writ of Summon and Statement of Claim on the Defendants, 1st and 2nd Defendants i.e FCTA and Hon. Minister of FCT and 4th and 5th Defendants i.e Dantata Town Development Ltd. and Fresh Fruits Enterprise (Int'l) Ltd., filed their respective joint statements of Defence.

Permit me to place it on record that the 3rd Defendant, (Bwari Area Council) did not defend this action.

The case of the Plaintiff as distilled from the testimony of the subpoenaed witness PW1 (Dodo Vincent Friday) who is a Civil Servant with Bwari Area Council, works department posted by Area Council Service Commission, and who came to court at the instance of the Zonal manager (Mr. Audu Sanya) who is staff of the 1st Defendant, is that Kubwa annex Layout was prepared by one Salihu Ishaq who is a staff of 1st and 2nd Defendants and that the signatures on the said Layout were those of staff of the said Defendants...Sobpoena and CTC of Kubwa layout were tendered and admitted in evidence as Exhibits 'A' and 'B' respectively...

As part of his schedule of duties, PW1 further stated that he designs layout, investigates dispute relating to land, serve notices i.e stop work notice, quit notice and demolition notice and survey work.

PW1 further testified that the then Bwari Area Council Chairman was vested with the power by Hon. Minister of FCT to sign such documents. It is around 2001 – 2003 but he was not a staff then that he started working in the year 2009.

PW1 stated that the Area Council Chairman signed the certificates of occupancy as their records shows in the office and that they stopped signing the certificates of occupancy in 2003.

That he further testified that he don't know Ishaq Salilhu personally, he only knows him as the Zonal land manager through their records in the office.

PW1 tendered the following documents.

1. Subpoena Ducs Tecum/Testificandum tendered and admitted in evidence as Exhibit "A".
2. Certified True Copy of Kubwa annex layout tendered and admitted in evidence as Exhibit "B".

PW1 was cross – examined and subsequently discharged.

PW2 (Mr. Emmanuel Akabom Enabong) stated in his evidence that sometimes in 2001, the 2nd Defendant allocated 4 Plots of land to the Plaintiff in his business name Kabom Developers and the zonal land manager of Bwari Area Council Mr. Ishaq Salihu, a staff of the 1st and 2nd Defendants signed the letters of allocation.

That the Plots were numbered as Plots 48 & 51 measuring about 2500sqm and Plots 49 & 50 measuring about 1250Sqm allocated, lying and situate at Kubwa Annex, Layout, Kubwa, Bwari Area Council, Federal Capital Territory. The Plots were allocated vide two (2) letters of allocation both dated 15th May, 2001. The said

letters of allocation for Plots 48 & 51 and 49 & 50 are hereby pleaded.

The Plaintiff states that in 2003 he was issued two certificates of occupancy for the said Plot Nos. respectively in his business name as aforesaid, though the certificate of occupancy were erroneously described as customary, they are in fact statutory. The said certificate of occupancy are hereby pleaded respectively.

Plaintiff further states that for reasons of convenience, the 1st, 2nd and 3rd Defendants combined two plots in one certificate of occupancy resulting in plots 48 and 51 and 49 & 50 being covered by two certificates of occupancy.

The said certificates of occupancy had attached thereto the official and signed survey plan i.e Technical Drawing Plan (TDP) of the respective Plots as combined. The said Survey Plans/TDP is hereby pleaded.

Plaintiff contends that the plots allocated to him were for residential purposes and development thereon was done by the Plaintiff.

That on or about 9th July, 2006, the Plaintiff complied with the requirement of the 2nd Defendant for regularization of land titles

and documentation of Area Councils Land within Abuja and submitted the certificates of occupancy for Plots 48 and 51 and 49 & 50 for Regularization at the land Registry Department. The said (AGIS) acknowledgement letters are hereby pleaded. That the purpose of the 1st and 2nd Defendants regularization was to unify the land titles in FCT and rectify those land titles that were allocated by the 1st and 2nd Defendants through the 3rd Defendant.

That Plaintiff submitted his building plan and got approval and developed the said Plots Nos. 48 and 51 and 49 & 50 in line with his building plans submitted to the 1st and 2nd Defendants' zonal planning office at Bwari Area Council. The said building plans including the letters of approval of the building plans are hereby pleaded.

That in line with the two (2) building plans approvals, the Plaintiff built 10 units of two bedroom flat, 1 unit of 3 bedroom flat, boys quarters and security post on the plots of land.

That the building had since been completed and have been occupied since 28th June, 2003.

Plaintiff further avers that surprisingly, sometime in early 2008, the Plaintiff saw some people trying to put up property beacons very close to the Plaintiff's buildings.

That Plaintiff immediately wrote to the 2nd Defendant notifying him of the activities of the people claiming to be 1st Defendant's staff who were putting up property beacons beside his property and Plaintiff further informed the 2nd Defendant in the letter that the act would create double allocation on the already subsisting allocations.

Plaintiff further gave evidence that despite repeated reminder from Plaintiff, the 2nd Defendant did not reply the said letter nor did it stop its officers from any further trespass on the Plaintiff's Plots of land.

That sometime in February, 2013, some people claiming to be from Development Control, a Department of the 1st Defendant pasted a document titled Quit Notice on the walls of the Plaintiff's building. The said Quit Notice is hereby pleaded.

That when the Plaintiff inquired, he was informed that the 2nd Defendant had allocated the Plots of land to 5th Defendant

notwithstanding the buildings legally completed by the Plaintiff on the Plots of land.

Plaintiff avers that to his surprise, the 4th Defendant's workers moved into the layout where the Plaintiff's plot are located, planted a sign post, started excavations and began erecting houses around the Plaintiff's buildings. That the Defendant is constructing a fence around the 10 units of 2 bedroom flats, 1 unit of 3 bedroom flat, boys quarters and security post belonging to the Plaintiff making the flats part of the 4th Defendant's Estate. The Plaintiff and all tenants occupying the buildings are being caged inside his buildings.

The Plaintiff took photographs of the 4th Defendant's constructions and threatening excavations around his buildings and the said pictures and negatives are hereby pleaded.

Plaintiff avers further that the workers at the Zonal Office Bwari Area Council are staff of the 1st and 2nd Defendants and are acting for and on their behalf.

Plaintiff avers that Plots Nos. 48 and 51 and 49 & 50 situate at Kubwa, Annex Layout, Bwari Area Council are valued by Oyom & Co. Estate Surveyors and valuers to be worth at least

N220,000,000.00 (Two Hundred and Twenty Million Naira) only today.

Plaintiff further avers that it cost him a lot when he built such a beautiful estate in 2003. That he had to sell his other properties to be able to raise the money used to complete the building on the said Plot Nos. 48 and 51 and 49 & 50.

That the 1st and 2nd Defendants authorized the occupant of the officer of the 3rd Defendant to allocate land and sign certificates of occupancy in the Six (6) Area Councils since the inception of the Federal Capital Territory in 1976.

That since the act of trespass by the 1st, 2nd, 4th and 5th Defendants particularly from 2008, some of the Plaintiff's tenants terminated their tenancy because they feared the property may be demolished anytime.

That since late 2008 when the Defendants trespassed into the Plaintiff's property, the Plaintiff only generates N2,600,000.00 (Two Million Six Hundred Thousand Naira) from the tenant as rent.

That he has suffered a lot of hardship as a result of the Defendant's acts.

That the actions of the 1st, 2nd and 3rd Defendants were oppressive, arbitrary and callous, warranting the award of exemplary damages against them jointly and severally.

That the said Defendants knowingly and willfully accepted the Plaintiff's application for land and they knowingly processed and approved the Plaintiff's applications in respect of the Plaintiff's property described as Plot Nos. 48 and 51 and 49 & 50 in Kubwa.

That the Minister led the Plaintiff to believe that he had a valid title and in spite of the above facts, the 1st and 2nd Defendants now shamelessly and brazenly claim that the Plaintiff has no valid title and now claim that the Plaintiff's title is void.

PW2 tendered the following documents in evidence:-

1. Certificate of Registration of Kabom Developers.
2. Conveyance of Provisional Approvals (2 in Nos.)
3. Building Plans (2 in No.)
4. Acknowledgment letter (2 in No.)
5. Letter of protest to FCT Minister.
6. Quit Notice.

7. 2 Certificates of Occupancy.
8. Rent Receipt.
9. Valuation Report.
10. CTC of Daily Independent Newspaper.
11. 2 building plans.

PW2 was then cross – examined and subsequently discharged.

The 1st and 2nd Defendants, who were served with the Plaintiff's amended writ of summons and statement of claim, filed joint statement of defence wherein they generally traversed the claims of Plaintiff and specifically denied ever allocating the said land to the Plaintiff and further stated that the power to allocate land in FCT is exclusively that of the FCT Minister who is a delegate of the President FRN and who is the Governor of FCT, hence cannot re-delegate the said power. 1st and 2nd Defendants distanced themselves from the claim of Plaintiff, but confirmed the fact that 5th Defendant was allocated the said land indicated in Exhibit "D1" i.e Certificate of Occupancy.

DW1 (David Sarki Msheliza) adopted his witness statement on oath. It is the case of 1st and 2nd Defendants through DW1 that

since the creation of the FCT Abuja in 1976, the ownership of the entire area land space comprising the FCT (Kubwa District inclusive) became vested on the Federal Government of Nigeria.

That the Hon. Minister of the Federal Capital Territory never authorized the Bwari Area Council Chairman or any other person to allocate any plot or issue any letter of allocations to the Plaintiff on his behalf.

That there was no instrument whatsoever authorizing the said purported allocations to the Plaintiff and that the allocation in question has been allocated by the 2nd Defendant to various Applicants, the 5th Defendant inclusive.

That the purported allocation of Plots 48, 49 and 51 Kubwa Annex Layout Kubwa, Abuja to the Plaintiff was not made by the 2nd Defendant.

That sequel to the application of the 5th Defendant to the 1st Defendant for the allocation of a plot of land in the FCT, Abuja, sometime in March, 1989, that the 2nd Defendant allocated a plot within the North/East of Kubwa Resettlement Area adjacent to the Energy Citizen Farms measuring about 201.76 hectare and

that the 5th Defendant applied for the issuance of certificate of Occupancy with respect to the said plot allocated to her.

That sometime in 1990, a certificate of occupancy was granted to the 4th Defendant.

That the regularization of the documents does not translate that the title is valid or has been validated.

That some of the illegal structures are sitting on the road corridor and high tension wire which is contrary to the approved design of that area.

That the Plaintiff's only squatters and are very much aware that their illegal structures will be pulled down.

That the said plots have been allocated by the 2nd Defendants.

That this Honourable court is urge to dismiss this suit as granting the Plaintiff's claim will only encourage illegality, and urge this Honourable Court to dismiss the suit with substantial cost for being frivolous, vexatious, gold digging and lacking in merit.

DW1 was cross – examined and discharged.

DW2, **Sodangi Yusuf Abdullahi** gave evidence to the effect that he is a Principal Technical Officer II with the 1st and 2nd

Defendants under the Department of Development Control, and that no such approval was given to the Plaintiff to erect any building on the said land and that it is only Abuja Geographic Information System (AGIS) that processes/updates records with relation to land in the FCT. He was cross – examined and discharged.

4th and 5th Defendants filed their amended statement of defence dated the 28th November, 2014, wherein they maintained that the land Plaintiff is laying claim to does not belong to Plaintiff and that they were allocated their land by FCT Minister.

DW3 (Moses Olabiwoninu Brown) adopted his witness statement on oath, the case of the 4th and 5th Defendants as distilled from the statement of defence and witness statement on oath of DW3 is as follows:-

That the 3rd Defendant (Bwari Area Council Chairman) does not oversee the administration of land in Bwari Local Government Area, but the Administration of land in Bwari Local Government Area including all lands within the FCT is administered by the 1st and 2nd Defendants.

That the search conducted by the 4th and 5th Defendants reveal that 1st and 2nd Defendant did not allocate any land within Bwari Local Government Area describe as Plot Nos. 48 and 51 measuring about 2500sqm situate at Kubwa Annex Layout, Kubwa to the Plaintiff and that the 1st and 2nd Defendants did not issue the letters of conveyance of provisional approval dated 15th May, 2001. The said letters emanated were issued by the 3rd Defendant who has no relationship with the 1st and 2nd Defendants in land transactions.

The Plaintiff has never had any existence on the said land from the search the 4th and 5th Defendants carryout from the record of the 1st and 2nd Defendants, and part from this the Plaintiff were never at any time allocated in anyway the subject matter of this suit at all by the 1st and 2nd Defendants.

The search conducted by the 4th and 5th Defendants from the records of the 1st and 2nd Defendants reveal that the 1st and 2nd Defendant did not issue the Plaintiff any customary certificate of occupancy for Plot No.'s 48 & 51 and 49 & 50 respectively. The description/delineation pleaded by the Plaintiff does not fit the 1st and 2nd Defendant's property in Bwari Local Government Area. The customary certificates of occupancy and the survey plan

pleaded by the Plaintiff did not emanated from and were not issued by the 1st and 2nd Defendants.

That 4th and 5th Defendants various meetings with the 1st and 2nd Defendants and the Plaintiff on the issue reveal that regularization is not to bring the customary and statutory titles in to one level, it is for the 1st and 2nd Defendants to have records of irregular allocation within the Federal Capital Territory with genuine concerns assessed from the documents submitted with a view to compensating them and that the certificate of regularization does not confer title to the holder.

That the search conducted by the 4th and 5th Defendant from the records of the 1st and 2nd Defendants revealed that the 1st and 2nd Defendants did not receive any building plan from the Plaintiff for approval and that they did not grant Plaintiff and approval to develop plot Nos. 48 & 51 and 49 and 50 respectively. Infact from the records of 1st and 2nd Defendants there is no property described as Plot No. 48 & 51 and 49 & 50 or structures/building legally erected at the area where the 1st and 2nd Defendants planted beacons as at 2003.

The 1st and 2nd Defendants in-fact did not issue the Plaintiff any certificate of occupancy in respect of Plot Nos. 48 and 51 and 49

& 50 and in one of the inquiries made by the Plaintiff, the 1st and Defendants informed the Plaintiff in the presence of the 5th Defendant that the 1st and 2nd Defendants never allocated any land with such descriptions to the Plaintiff.

The 1st and 2nd Defendants further told the Plaintiff that the land has since long been allocated to the 5th Defendant since 1990.

That there is no error in the description of the certificates issued to the Plaintiff by the 3rd Defendant, the description confirms the fact that the document emanated from the 3rd Defendant and such certificates are available to 3rd Defendant in cases where she has power to deal with a property. Regarding the subject matter in dispute the, 3rd Defendant has no power to so deal.

That 4th and 5th Defendants extensively checked the records of the 1st and 2nd Defendants before the earlier and subsequent grant made to the 5th Defendant and the inception of this suit to get all the facts presented.

That the 4th and 5th Defendants lawfully entered the plot of land described as Plot No. 3440 with approximate area of about 57.39 hectares situate at Cadastral Zone F14 Kubwa covered by Certificate of Occupancy No. FCT/ABU/MISC. 85303 issued by the

1st and 2nd Defendant validly allocated to the 5th Defendant. That the construction works by the 4th and 5th Defendants on the said land is according to the design and specification submitted and validly approved by the 1st and 2nd Defendants. The approved design of the 4th and 5th Defendants is hereby pleaded and shall be relied upon at the trial.

That from the search carried out by the 4th and 5th Defendants from the records of the 1st and 2nd Defendants, no land staff at Bwari Area Council is working for the 1st and 2nd Defendant as an employee and that the 1st and 2nd Defendants did not authorize the 3rd Defendant to act for him in any land transaction.

Defendants further states that sometime in 1990, the 5th Defendant was first allocated the said land by certificate of occupancy No. 5265 with approximately 201.76 hectares for agricultural purposes when the area was a farmland/forest. The said certificate of occupancy is hereby pleaded and shall be relied upon at the trial.

That 5th Defendant later decided to use the said piece of land for residential purpose by building housing estate and the 5th Defendant applied to 1st and 2nd Defendant for change of use of the said agricultural to residential purpose.

That the application was approved by the 1st and 2nd Defendants, but unfortunately, the area piece of land on approval by the 1st and 2nd Defendants was reduced from 201.76 hectares to 57.39 hectares.

That when the 1st and 2nd Defendants approved the change of use of the said land granted to 5th Defendant, the 1st and 2nd Defendants recalled the first certificate of occupancy No. 5265 dated 5th April, 1990 earlier issued to the 5th Defendant in exchange for certificate of occupancy No. FCT/ABU/85303 dated 23rd April, 2012 reissued covering the same land indicating the new purpose. The certificate of occupancy no. 5265 dated 5th April, 1990 is hereby pleaded and shall be relied upon at the trial and 1st and 2nd Defendants are hereby put on notice to produce the original certificate of occupancy No. 5265 at the trial.

That the 5th Defendant protested to the 1st and 2nd Defendants against the reduction in size of the area originally allocated to her but 1st and 2nd Defendants appealed to the 5th Defendant in the mean time to start developing the area currently allocated to her while considering her protest.

That the 5th Defendant accepted and went on to the land to hand over the said land as reallocated to her the 4th Defendant to start

development and on getting to the land, he notice the encroachment/trespass of the Plaintiff on the 5th Defendant's land.

That the 4th and 5th Defendants called the attention of the Plaintiff to the Plaintiff's encroachment/trespass. The Plaintiffs rebuffed the 4th and 5th Defendants threatening brim stones. The 5th Defendant reported the issue to the 1st and 2nd Defendants.

That the area encroached upon is within the area allocated to the 5th Defendant and described in the new title documents.

That during the negotiation of the partnership with the 4th Defendant to develop the said land, the 4th Defendant drew the attention of the 5th Defendant to the names on the certificates and the 5th Defendant noticed for the first time that her names in the Certificates of Occupancy issued to her was incorrect. The 5th Defendant caused her Solicitors to write a letter to the 1st and 2nd Defendants notifying them of the error and possible correction. The said letter is hereby pleaded and shall be relied upon at the trial. The 1st and 2nd Defendants are hereby put on notice to produce the said letter.

The area the 4th and 5th Defendants are building on his within the area allocated to the 5th Defendant by the 1st and 2nd Defendants covered by certificate of Occupancy No. FCT/ABU/MISC. 85303.

That the 4th Defendant carried out a search with the 1st and 2nd Defendants and confirmed that the 5th Defendant is the rightful owner of the said land.

That the Plaintiff vowed to frustrate the 4th and 5th Defendants on their Housing project.

That the funding of the project is sourced from bank loans with time target.

DW3 tendered the following documents:-

- i. Certificate of Occupancy issued to the 5th Defendant, Exhibit "D1"
- ii. Site Plan issued to the 5th Defendant, Exhibit "D2".
- iii. Letter from 5th Defendant's solicitor, Exhibit "D3".
- iv. Copy of Memo and Article of Association of the 5th Defendant.

DW3 was cross – examined and subsequently discharged.

On the part of Plaintiff, Plaintiff filed amended reply to 1st and 2nd Defendants' statement of defence dated the 2nd March, 2015, wherein Plaintiff denied paragraphs 8 – 16 of the 1st and 2nd Defendants' statement of defence and states that since the creation of Area Councils in the Federal Capital Territory in 1976, the 1st and 2nd Defendants have authorized the 3rd Defendant to allocate land and sign certificates of occupancy for land located in Bwari Area Council just as they have authorized other area councils to allocate land within their territories. The certificates were erroneously described as "customary" where as they are in fact statutory. The mis-description was a mere misnomer, as there are no rural areas in the Federal Capital Territory in the context of the Land Use Act. That the authorization given by the 1st and 2nd Defendants was partly by conduct, not less than 10,000 Plots of land have been developed by various persons in Bwari Area Council who all got their allocations through the council with the knowledge of the 1st and 2nd Defendants, who in turn never protested and never disapproved of the grants, and in each case including the instant one, the letter of allocation expressly stated that it was conveying the approval of the minister of the Federal Capital Territory) and this was known to the 1st and 2nd Defendant who never protested.

That it has been well over 35 years since the 3rd Defendant has been allocating land on behalf of or with the knowledge and acquiescence of the 1st and 2nd Defendants.

That during the variation exercise in 2006, the 1st and 2nd Defendants accepted the Plaintiff's two certificates of occupancy for verification and up to this moment, the 1st and 2nd Defendant have not canceled or revoked the grants.

That in response to paragraph 11 of the 1st and 2nd Defendants' statement of defence, Plaintiff asserts that until the policy of regularization of land titles and documentation in 2005/2006 in the Federal Capital Territory allocation of land in all the Area Councils has been effected by staff of the 1st and 2nd Defendants posted to each area council, including the 3rd Defendant. It was in 2006 that the 1st Defendant placed a temporary embargo on the allocation of land by Area Councils.

In further response to paragraphs 12 – 16 of the 1st and 2nd Defendants statement of defence, Plaintiff asserts that the 2nd Defendant recently lifted the said embargo and publicly announced that the 3rd Defendant and other Area Councils are again authorized to allocate land on behalf of the 2nd Defendant

in the Area Council and this was reported in the Daily Independent Newspaper report.

That in answer to paragraph 17 of the 1st and 2nd Defendants' statement of defence, Plaintiff avers that the survey map/layout reflecting Plots Nos. 48 and 51 and 49 & 50 was prepared by the 1st and 2nd Defendants and that till date, the zonal manager, zonal planning officer, survey and several other staff in the Area Council are staff of the 1st and 2nd Defendants including those posted to the 3rd Defendant's Area Council for the purpose of land allocation and administration. The Plaintiff contends that by this reason, the 1st, 2nd and 3rd Defendants are estopped from denying the validity of the Plaintiff's title.

Plaintiff similarly aver further that the allocation of 201.76 hectares to the 5th Defendant in 1990 never took place because the 5th Defendant was only incorporated in 2006, by reason thereof, certificate of occupancy No. 5265 is a false document fraudulently procures.

That the certificate of occupancy pleaded in paragraph 22 was only issued in 2012, 10 years after the Plaintiff was allocated his land.

It is also the evidence of Plaintiff that the zonal planning officers of the six Area Councils making up the FCT having approving building plans with the knowledge and consent of the 1st and 2nd Defendants for over 35 years and Plaintiff avers that his plots of land and structures thereon conform to the required distance from the high tension wires in the area, it is the 4th and 5th Defendants' buildings that are under the high tension wires, contrary to law and applicable regulations, and that at the moment the Federal Government of Nigeria is constructing a railway line that runs across the land claimed by the 4th and 5th Defendants and Plaintiff further asserts that the 1st and 2nd Defendants' structures constitutes a distortion of the Federal Capital Territory Master plan.

Plaintiff filed Amended reply to 4th and 5th Defendants' amended statement of defence.

It is also the reply and evidence of Plaintiff that since the creation of Area Councils in the Federal Capital Territory in 1996, the 1st and 2nd Defendants have authorize the 3rd Defendant to allocate land and sign certificate of occupancy for land located in Bwari Area Council, the certificate were erroneously described as "customary" where as they in fact statutory. That the mis-

description was a mere misnomer, as there are no rural area in the FCT in the context of the Land Use Act, the authorization given by the 1st and 2nd Defendants to the 3rd Defendant was partly by conduct, and that not less than 10,000 plots of land have been developed by various persons in Bwari Area Council who all got their allocations through the council with the knowledge of the 1st and 2nd Defendants who in turn never protested and never disapproved of the grants.

That in each case including the instant one, the letter of allocation expressly stated that it was conveying the approval of the Minister of the FCT and this was known to the 1st and 2nd Defendants who never protested.

That it has been well over 35 years since the 3rd Defendant has been allocating land on behalf of or with the knowledge and acquiescence of the 1st and 2nd Defendants.

That during the verification of titles exercise in 2006, the 1st and 2nd Defendants accepted the Plaintiff's two certificates of occupancy for verification up to this moments, the 1st and 2nd Defendants have not cancelled or revoked the grants.

In further answer to the Defendants statement of defence, the Plaintiff avers that the survey map/layout reflecting plots 48 & 51 and 49 and 50 was prepared by the 1st and 2nd Defendants' staff, Plaintiff further gave evidence that there was never any meetings before and during the pendency of this suit between the parties in this suit, further, until the policy of regularization of land titled and documentation in 2005/2006 in the FCT allocation of land in all the area council has been effected by staff of the 1st and 2nd Defendants posted to each area council including the 3rd Defendant. It was in 2006 that the 1st Defendant placed a temporary embargo on the allocation of land by area councils.

That the 2nd Defendant recently lifted the said embargo and publicly announced that the 3rd Defendant and other area councils are again authorized to allocate land on behalf of the 2nd Defendant in the area councils. This was reported in the Daily Independent Newspaper report of 18th September, 2013.

Above represents the respective cases of Plaintiff, on the one hand, and Defendants, on the other hand... Parties proceeded to file their final written addresses in line with procedure and law.

On the part of 1st and 2nd Defendants, the following issues were formulated for determination to wit:-

- a. **Whether the Claimant has the locus standi to maintain this action against the Defendants.**
- b. **Whether the Claimant has proved ownership of Plot No. 48, 49 and 51 Kubwa Annex Layout, as to be entitled to the declaration and possession being sought.**
- c. **Whether the Claimant has the legal capacity or personality to acquire or own land in law.**

On issue One, **Whether the Claimant has the locus standi to maintain this action against the Defendants.**

It is the submission of learned counsel that anyone coming to court to invoke the jurisdiction of the court must have an interest, an existing legal right for which he came to court to seek protection from unlawful violation by the action of another (as in this case the Defendants).

Learned counsel further submitted that the Hon. Minister of the Federal Capital Territory is the one vested with the right to allocate land in the Federal Capital Territory and that the Federal Capital Territory was created by Decree No.6 of 1999 (Now FCT Act Cap. F6). The court is humbly refers to section 1(3) of the

FCT Act 2004 and section 299 (2) 1999 Constitution as amended).

Learned counsel submits that the averment of the Claimant in their statement of claim has failed to show that the Claimant has any right hence he did not acquire a title that is valid in the face of the law, thus in the absence of a legal right, there is nothing relating to his legal position which the court can pronounce upon and that there is no deemed rights in the Federal Capital Territory. Learned counsel refers the court sections 6(3) and (4) and 18 of the Federal Capital Territory Act and sections 50 & 51 of the Land Use Act.

Counsel further submits that any anyone relying or laying claim to any piece of land within the Federal Capital Territory other than in accordance with the law cannot be said to have any legal right as in this present case.

It is further the contention of the learned counsel that the ownership of land in the Federal Capital Territory is vested in the president who has delegated such powers to the Hon. Minister of the Federal Capital Territory and from the foregoing therefore, the Claimants has no legal right over the said plot. He cited

GRACE MADU VS. DR. BETRAM MADU (2008) 6 NWLR (Pt. 1083) SC Page 296 at 324 – 325 Paragraph A – C.

Counsel urge the court to decline jurisdiction and strike out and/or dismiss this suit.

On issue Two, ***Whether the Claimant has proved ownership of Plot No. 48, 49 and 51 Kubwa Annex Layout, as to be entitled to the declaration and possession being sought.***

Arguing on the above, learned counsel answered in the negative and further submits that in view of the Defendants clear denial of the Claimant's claim, the onus of proof now lies on the Claimant not only to produce the documents of grant but to also prove amongst others the validity of the grant. ***AKINDORE VS. ALAYA (2007) 15 NWLR (Pt. 1057) page 312 at page 329 paragraphs D – G.***

Learned counsel submits that in the light of the above cited authorities, the onus of proof is on the Claimant to prove the validity of the purported conveyance of approval and customary certificate of occupancy admitted in evidence, were issued by the Bwari Area Council under the hand of the Chairman of the Bwari Area Council or the purported Rural Land Use adjudication

committee. Council added that as from March 1976, all land comprising of the Federal Capital Territory shall be administered under the control of the Government of the Federation. He cited section 1(3) of the FCT Act.

Counsel further submits that one of the functions vested in the Hon. Minister who is the 1st Defendant includes the alienation of land within the Federal Capital Territory either by way of allocation, sale or by gift of which Bwari Area Council is inclusive wherein the land in dispute is situate. The Claimant has not by any stretch of imagination been able to prove that he was allocated the said property by the appropriate authority.

It is the counsel's submission that the Claimant is occupying the subject plot illegally as the title documents tendered at the trial of the suit were of customary nature and are not recognized under the law as document that can serve as proof of title to land in the Federal Capital Territory, the court is therefore urge to so hold.

On issue three, **Whether the Claimant has the legal capacity or personality to acquire or own land in law.**

Arguing on the above issue, learned counsel answered in the negative and further submits that Claimant is not a juristic person

known to law and consequently is incapable of holding or owning any interest in land as all the title documents tendered i.e Exhibits "E" and "I" bears the name KABOM DEVELOPERS which is not a juristic person capable of owing interest in land. Counsel further added that an incorporated body like a registered business name is not a juristic person and so cannot enter into any contract or transaction including land or real property transactions in its business. See **FEDERAL CAPITAL DEVELOPMENT AUTHORITY & 2ORS. VS. UNIQUE FUTURES LEADERS INTERNATIONAL LIMITED (2014) 17 NWLR (Pt. 1436) Page 213 at 217 was cited.**

Learned counsel further submits that it is a trite law that an unincorporated body is not a juristic person and cannot enter into a contract and on/owe land in its unincorporated name, the Claimant does not have any proof of evidence to identify them as business name. He cited **BANKOLE & ORS. VS. EMIR INDUSTRIES LTD. (2012) LPELR 19719 (CA) and section 37 of the Companies and Allied Matters Act. 2020.**

Counsel in conclusion submits that the Claimant's claim fails in its entirety as one cannot put something on nothing and expect it to stand as stated by Lord Denning in **U.A.C VS. Macfoy**. The court

is humbly urge to dismiss the Claimant's claim in its entirety as lacking in merit and with substantial cost.

On their part, 4th and 5th Defendants filed their final written address wherein, two issues were distilled for determination to wit:

1. **Whether the conveyance of provisional approval was not made by Bwari Area Council.**
2. **Whether from the state of the pleadings and evidence placed before this court, the reliefs of the Plaintiff should not be dismissed.**

On issue One, **Whether the conveyance of provisional approval was not made by Bwari Area Council.**

It is the submission of the counsel for the 4th and 5th Defendants that the evidence of the Plaintiff was substantially documentary and it shows clearly on the face of the Exhibits without any shred of doubt that they were made and emanated from the 3rd Defendant, Bwari Area Council, it should therefore be resolved that the conveyance of provisional approval, Exhibit "D" Plot No. 48 & 51 and 49 and 50, in-fact all the Exhibits were made and issued by the 3rd Defendant, Bwari Area Council, further a careful

study and interpretation of the documents gives a head in the resolution of the issues raised that it was the 3rd Defendant who on his own issued Exhibit "D", it is the rule of interpretation that where the words in a documents are clear and unambiguous, the courts are enjoined to accord them their plain and ordinary meaning, without embellishment. He cited the case of ***IRONENGE VS. UGONDO (2016) at WLR (Pt. 859) 914 at 942 Paragraphs A – B.***

Learned counsel argued further on the title of the Plaintiff, that it is the law that there are five ways of establishing title to land, among which is the production of documents, it becomes obvious therefore that by the basket full of documents tendered by the Plaintiff, the Plaintiff is relying on the documents as one of the ways to proof his title. The case of ***NWAETUK VS. NWAETUK (2016) AFWLR (Pt. 843) 63 at Paragraphs E – G was cited.***

Learned counsel added that the courts are enjoined to look at the documents for its satisfaction. He cited the case of ***AYANWALE VS. ODUNSAMI (2012) AFWLR (Pt. 610) 1246 at 1261 Paragraphs E – G.***

Counsel contended that from the averment of the Plaintiff in paragraphs 5 and 8 of the Claimant's witness statement on oath and the evidence of the subpoenaed witness, at first to impress the court that Bwari Area Council acted on the instruction of the Hon. Minister of the FCT and that Mr. Ishaq Salihu is a member of staff of the 1st and 2nd Defendants, unfortunately those features of delegation or authorization to act on behalf of the Hon. Minister of Federal Capital Territory as stated by the subpoenaed witness under cross – examination of the counsel to the 4th and 5th Defendants are not present in Exhibit "D", It is therefore clear that Mr. Ishaq Salihu did not write Exhibit "D" in a representative capacity of the 1st and 2nd Defendants.

Learned counsel argued that the inability of the Plaintiff to tender the employment letter of the zonal manager Mr. Ishaq Salihu discredits the evidence of the Plaintiff as to whether Mr. Ishaq Salihu was employed by the 1st and 2nd Defendants, in determining issues of employment, the employment letter of the party is fundamental. He cited ***ORGAN & ORS. VS. NIGERIA LIQUEFIED NATURAL GAS LTD. & ANOR (2013) LPELR – 20942 (SC).***

It is further the argument of counsel that, the burden of proof is on the Plaintiff who made all these assertions and having failed to prove the fact of delegation and who employed the zonal manager Mr. Ishaq Salihu, he fails in his assertions as the law is trite that he who asserts must prove. He cited ***CARDOSO VS. DANIEL & ORS. (1986) 2 NWLR (Pt. 20) 1 was cited.***

Counsel submits that the courts do not speculate, parties are to state the nature and positions of their claims clearly, an ambiguous claim will only put the Claimant at a disadvantage. The case of ***DANIEL VS. INEC (2015) AFWLR (Pt. 789) 993 at 1031 Paragraph C was cited.***

Learned counsel urged the court to resolve this issue in favour of the 4th and 5th Defendants that the zonal manager Mr. Ishaq Salihu did not sign Exhibit "D" with the directive of the 1st and 2nd Defendants, and he is not a member of staff of the 1st and 2nd Defendants.

On issue two, ***Whether from the state of the pleadings and evidence placed before this court, the reliefs of the Plaintiff should not be dismissed.***

Counsel contends that from the state of the pleadings and evidence placed before this court the reliefs of the Plaintiff are not grantable and therefore the reliefs should be dismissed and that the Plaintiff as constituted lacks capacity to hold and own property, therefore any allocation made to him is void. Learned counsel further added that the Plaintiff being registered as a business name under part A of the companies and Allied Matters Act, cannot hold and own property. ***FCDA VS. UNIQUE FURNITURE LEADERS INTERNATIONAL LTD. (2014) 17 NWLR (Pt. 1436) 213 at 244 Paragraphs E – F was cited.***

Counsel further argued and urge the court to invoke section 101 (1) of the Evidence Act 2011 as amended, to compare the two signature on the witness statement on oath on one hand and the signature on the back page of form 2 purportedly signed by the same person.

Learned Counsel argued that throughout the pleadings and evidence of the Plaintiff before this court, the Plaintiff did not proof his root of title by producing his application for the grant or allocation of the land in dispute. That it is not enough for a party to merely aver that he applied for the land, he must produce the

application and show evidence of payment. See case ***ONI VS. OLOKUN (1999) 1 NWLR (Pt. 370) was cited.***

Learned counsel further argued that throughout the testimony of the Plaintiff, the Plaintiff did not produce any evidence or inform the court that he accepted the offer of conveyance of provisional approval being a condition precedent to the grant of the land in dispute to the Plaintiff, once the condition is not fulfilled there will be no contract and having failed to fulfill the condition of the contract, there cannot be a contract. ***SUBERV VS. A.I.S.L LTD. (2009) 10 NWLR (Pt. 1043).***

It is further the argument of counsel that PW2 told the court that the zonal manager, Mr. Ishaq Salihu was an employee or representative of the Federal Capital Development Authority (FCDA), it is the submission of counsel that the 1st and 2nd Defendants on one hand and the Federal Capital Development Authority on the other hand are two distinct and separate juristic persons created by status, they maintain their routine of member of staff separately, the Plaintiff needs specific proof to show that a member of staff of the FCDA is the same as or work for the 1st and 2nd Defendants.

Learned counsel submits that the purported customary certificate of occupancy (Exhibit 1) to which the said registration particulars attached was wrongly admitted as an Exhibit at the trial, the court is urge to expunge same. He cited ***AFOLABI VS. ALAREMU (2013) AFWLR (Pt. 691) 1621 at 1633 – 1634 Paragraphs G – A.***

Learned counsel further argued that Exhibit "1C" the valuation report in page 7 paragraph 9 that the interest in the property valued is vested in **KABOM DEVELOPERS (NIG.) LTD.**, this mean therefore the property does not belong to the Plaintiff, this evidence is very fundamental and goes to the root of the status of the Plaintiff in this case, apart from the contradiction that the property belongs to the Plaintiff.

On the whole, counsel submits that the evidence of the Plaintiff is materially contradictory; going to the root of the case of the Plaintiff, the consequences of this is obvious that, the evidence is unreliable and the court cannot rely on it. The court cannot choose between two versions of evidence to belief and which not to belief, contradictory evidence amounts to no evidence and cannot be used or relied on by the court. ***OBIDIGWE VS.***

I.C.K.C LTD. (2016) AFWLR (Pt. 815) 261 at 305, Paragraphs C – F was cited.

Counsel for the Plaintiff filed his final written address wherein three issues were distilled for determination to wit:

- i. **Whether by the two conveyances of provisional approval dated the 15th of May, 2001 and the two certificates of occupancy with file Nos. FCT/BZTP/LA/MISC/2003/2288 and FCT/BZTP/LA/MISC/2003/2289, the Claimant is not bonafide owner of plots 48, 49, 50 and 51 situate at Kubwa Annex Layout, Kubwa – Abuja.**
- ii. **Whether title in land can be allocated to an unregistered company.**
- iii. **In the absence of a counter – claim against the Claimant, can title be given to the 5th Defendant.**

On issue One, **Whether by the two conveyances of provisional approval dated the 15th of May, 2001 and the two certificates of occupancy with file Nos. FCT/BZTP/LA/MISC/2003/2288 and FCT/BZTP/LA/MISC/2003/2289, the Claimant is not**

bonafide owner of plots 48, 49, 50 and 51 situate at Kubwa Annex Layout, Kubwa, Abuja.

Arguing on the above, learned counsel answered the above in affirmative as the total evidence on record shows that the Claimant is the owner of Plots 48, 49, 50 and 51 situation at Kubwa Annex Layout, Kubwa – Abuja, that it is a well settled principle of law that there are five known methods to establishing ownership to land. He cited ***OBINECHE VS. AKUSOBI (2010) 12 NWLR (Pt. 1208) 383 at 408 – 409 was cited.***

It is the contention of the learned counsel that the detail examination of the CTC of Kubwa Annex (Exhibits “D” and “E”), certificate of occupancy (Exhibit “I”) and building plan (Exhibit “M”) can only lead to one irrefutable conclusion, which is the 2nd Defendant allocated the land to the Claimant.

Counsel argued that in a bid to expedite the urbanization of the Federal Capital Territory, the 2nd Defendant set up the Rural land Adjudication Committee, aid the administration of lands in the Federal Capital Territory the mandate of the committee was to allocate residential plots within the area councils of the FCT to interested Applicants in collaboration with the council chairman to ensure the successful allocation of lands in the respective area

councils, that Exhibit "L" which is the Daily Independent Newspaper publication with the caption FCT Minister lifts embargo on allocation of residential plots lays further credence to the fact that the zonal manager alongside the 3rd Defendant/Respondent had the mandate of the 2nd Defendant to allocate plots of land to intending interested parties in Bwari Area Council. He made reference to the 3rd Defendant paragraph of the said Exhibit "L" and that this is in tandem with the evidence of PW1, PW2 and "L" during their evidence in chief. That this piece of evidence was never contradicted by the 1st, 2nd, 4th and 5th Defendants in their pleadings neither was it contradicted during cross – examination. The case of ***IKPONMWOSA VS. EGHAREVBA & ORS. (2009) LPELR – 4685 (CA) Page 62 Paragraph E. was cited.***

Learned counsel urge the Court to take cognizance of the emboldened phrases in the above extract and gives it the ordinary interpretation, a simple interpretation of the phrase "I am directed to" connotes that the author is doing so in a delegated capacity or on the instruction of a superior, furthermore the "convey" means to impact or communicate by statement, suggestion or gesture or appearance. He cited ***INEC VS. ASUQOU (2018) 9 NWLR (Pt. 1624) 305 SC.***

Learned counsel submits, that by the actions and acquiescence, the 1st and 2nd Defendants are estopped from denying the validity of the Plaintiff's title or denying the fact that it mandated the rural land adjudication committee to allocate land to interested parties in conjunction with the 3rd Defendant. Counsel cited Section 169 of the Evidence Act, 2011.

The court is urged to hold and resolve this issue in favour of the Claimant.

On issue two, **whether title in land can be allocated to an unregistered entity?**

It is the submission of the learned counsel that for a company to own land in Nigeria, it must be registered with the Corporate Affairs Commission, the effect of registration of a company has been stated in plethora of cases and it is only when a company is incorporated or registered in line with companies and Allied Matters Act that it becomes a legal entity separate and distinct from its members or another company, and vested with the right to do business and own land. Counsel cited ***UBA PLC. VS. INVESTMENT CO. LTD. (2013) LPELR – 44886 (CA) Page 29 - 30 Paragraph P.***

Learned counsel further argued on the above that the 5th Defendant alleged that it was first allocated the property as far back as 1990, and the 5th Defendant was eventually registered with Corporate Affairs Commission on the 19th June, 2006 as Fresh Fruit Enterprise International Limited (Exhibits "D4" and "D6") and the Claimant had already developed the property. It is the submission of learned counsel that exhibits from part of the record of proceedings of the Court in respect of the case, they must be examined, scrutinized and assessed for the just determination of the case.

Learned counsel contends, that the 5th Defendants has failed to connect the thread as to how it obtained title in 1990, watched the Claimant take full possession and developed the said Plots and then was re-allocated the same property albeit in different name and size. It is clear that pieces of evidence are inconsistent and are mutually repayment or contradictory. Counsel cited ***OYOVWIKIGHO VS. STATE (2019) LPELR – 47466 (CA)***.

Learned counsel contends further that DW2 alleged further that there was an application for change for the property, but he failed to tender this application in evidence. He further submits,

that an official search report is usually issued upon conclusion of search at the lands registry.

Learned counsel submits, that if the 4th and 5th Defendants had produced those search reports, the report would have revealed that the Plaintiff is the owner of the Plots in question. That the search report would have been unfavorable to their case and thus close to withhold the evidence. Counsel cited ***OKPOKAM VS. TREASURE GALLERY LTD. & ANOR (2017) LPELR – 42809 (CA) Page 23 Paragraph B.***

It is further the contention of the learned counsel that a person in possession is presumed entitled to the land he occupies against the whole world except the true owner, it is a presumption that is rebuttable only by a person who proves a good root of title. That the law postulates that acts of possession may be taken as acts of ownership if the circumstances are such that the person in possession ought to be regarded as the owner. Counsel cited ***FASIWA VS. OGUNKAYODE (2005)12 NWLR (Pt. 938) 147*** and Section 143 of the Evidence Act.

In totality, learned counsel submits, that the entirety of the 4th and 5th Defendants' pleadings is at variance with the evidence tendered and there are legions of decided cases on this issue and

it is settled law that any evidence which is at variance with the averment of the pleadings goes to no issue and should be disregarded by the Court. Counsel cited ***OKHUAROBO ORS VS. AIGBE (2002) LPELR – 2449 (SC) Page 34 Paragraph F.***

The Court is urge to so hold and resolve this issue in favour of the Claimant.

On issue three, ***in the absence of a counter-claim against the Claimant can title be given to the 5th Defendant?***

Learned counsel submits on the above, that even in the event that this case is decided against the Claimant, the 5th Defendant will still not be entitled to the grant of title of the property. That for a Defendant to get title, he must prove it where the action of a Plaintiff seeking declaration of title is dismissed, such dismissal or judgment in the absence of a successful counterclaim by the Defendant does not amount to a declaration of any right to the Defendant, therefore, where a Claimant claims title to land and the Court dismiss his claim for failing to prove title, the Defendant who has not counter-claimed for declaration of title to the same land, does not automatically become entitled to the land. Counsel cited ***PADA VS. GALADIMA & ANOR (2017) LPELR 41761 (SC).***

Learned counsel further replies to 4th and 5th Defendants in paragraph 4.15 – 4. 29 of the Defendant’s final address that Exhibit “L” clearly reveals the authenticity at veracity of the evidence of PW1 and PW2, the Defendants especially the 1st and 2nd Defendants did not deny the fact that the 2nd Defendant did not set up the Rural Land adjudication Committee neither did they deny the Zonal Land Managers are not staff of the 1st and 2nd Defendants, furthermore, PW1 and PW2 were not cross-examined on this piece of evidence and that by virtue of Section 148 of the Evidence Act, the contents of Exhibit “L” are genuine.

It is further the contention of the learned counsel that the 4th and 5th Defendants made several arguments to the fact that Claimant did not tender the letter of employment of Mr. Ishaq Salihu to clearly show that he is a staff of the 1st Defendant. That this much has been settled and deserves no recognition, first and foremost, the Federal Capital Development is an arm of the Federal Capital Territory Development Authority, saddled with the responsibility to oversee the infrastructural and physical development of the Federal Capital Territory, by virtue of the above, FCDA is an agent of the 1st Defendant and all staff of Federal Capital Development Authority are by extension staff of the 1st Defendant working on the instruction of the 2nd Defendant,

it is an effort of futility to try to separate the working mechanism of the FCDA and the 1st Defendant. He added that an agency relationship exists between a principal and agent, and is characterized by the agent acting on behalf of the principal bears the liability and enjoys the benefits arising therefrom. It would be an abuse of Court process to sue the FCDA, Mr. Ishaq Salihu and all other persons who took part in allocating the Plot of land to the Claimant. He cited ***OSIGWE VS. PSPLS MANAGEMENT CONSORTIUM LTD. & ORS (2009) LPELR – 2807 (SC)***.

Learned counsel contends that the 4th and 5th Defendants have also argued that Mr. Ishaq Salihu signed Exhibit "D" as the Secretary to the Rural Land Use Adjudication Committee but sealed and stamped the document with the stamp of the Zonal Land Manager, this argument however ingenious can barely hold water, whether as the Secretary to the Rural Land Use Adjudication Committee or the Zonal Manager Mr. Ishaq Salihu is the same person, Mr. Ishaq signed the document as the Secretary to the Rural Land Use Adjudication Committee and sealed/stamped the document with the stamp of the Zonal Land Manager as a staff of the 1st and 2nd Defendants tasked/empowered to allocate and monitor the development of land in Bwari Area Council.

Learned counsel further contends that 4th and 5th Defendants in paragraph 4:30 – 4:34 made hilarious submission as to the ambiguity of the word minister as expressed in Exhibit “D”, in response learned counsel submits that the meaning of an ordinary word of English language is not a question of law and that even if there is any ambiguity in interpreting the word “minister”, Exhibit “D” be construed fortissimo contra preferences in favour of the Claimant. Counsel cited ***ABIOYE & ORS VS. SA’ADU YAKUBU & ORS (1991) LPELR 43 SC.***

Learned counsel further responds on the issue that the allocation was done in favour of business name, Kabom Developers having no juristic personality, had no contractual capacity to own land therefore the allocations to the Claimant in his business name were null and void, learned counsel submits on the above that a business name is the name under which any business is carried on either by an individual or a corporation, needless to say business can only be carried on by entering into contracts, he further submits that no business transaction can be done without the parties entering into a contract or contracts, business without contract is as meaningless as breathing without air or without food. See the case of ***FAWEHINMI VS. UBA (NO. 2) (1989) 2 NWLR (Pt. 105) 558 was cited.***

Learned counsel further submits that the Claimant and his business name are one and the same. He cited the case ***THAWARDAS VS. BRITHISH INDIA GEN. INS. CO. (NIG.) LTD. (1994) AFRICAN LR (COMM) 304.***

Counsel further submits that the 1st, 2nd and 3rd Defendants who have earned fees from the Claimant, whether application fees, ground rent, building plan approval fees and have even benefited from the Claimant's urbanization and development of the area are estopped in law from turning around to around to argue that the agreement was void, after they have benefited from the same agreement. ***B.B APUGO& SONS LTD. VS. ORTHOPAEDIC MANAGEMENT BOARD (O.H.M.B) (2016) 13 NWLR (Pt. 1529) 206 at 239 – 240 F.A was cited.***

It is the submission of counsel that all the arguments canvassed by the 4th and 5th Defendants in his brief to the effect that the Claimant title is void because it issued in his business name, has no atom of merit whatsoever and court is urge to discountenance the 4th and 5th Defendants' contention.

Counsel further argue that in paragraphs 4.36 – 4. 60 of its final address, the 4th and 5th Defendants alluded to the fact that there exists no valid contract because there was no acceptance of the

offer of conveyance. Counsel submits that in this regard that the 1st and 2nd or even 3rd Defendant would have been in a better position to thread this path, that the 4th and 5th Defendants are not privy to the contract between the Claimant and 1st and 2nd Defendants. It is the law that only the privy to a contract can enforce it. ***REICHIE VS. NIGERIA BANK FOR COMMERCE AND INDUSTRY (2016) LPELR 40051 (SC) was cited.***

It is also the argument of counsel that regarding the date the building plan was obtained and when the building was completed, counsel further submit in this regards and adopt the maxim of equity which states that equity sees as done which ought to be done.

Learned counsel also submits that the regularization does not in any manner deflate the Claimant's robust title in Plots 48, 49, 50 and 51, rather it goes to strengthen the Claimant' evidence and submission in this address, the Claimant has established his case and has given sufficient evidence to support his claim.

In conclusion, counsel submits that it is crucial to note that no amount of brilliance in a fine speech can make up for lack of evidence to prove and establish or disprove and demolish a claim, this is to say that if the case of a party is not made out by

evidence, no amount of ingenuity in terms of a final written address would give him judgment. ***HADI SULE VS. STATE (2018) ALL FWLR (Pt. 953) 164 was cited.***

The court is urged to enter judgment in favour of the Claimant.

COURT:-

I have gone through the pleadings of parties and the ensuing oral and documentary evidence in support of their respective cases, on the one hand, and the legal arguments contained in their respective final written addresses. From the issues formulated by both Plaintiff and Defendants, which have been well discussed in the preceding part of this Judgment and needless, therefore, to reproduce the said issues...

From the afore-formulated issues for determination, the 1st issue formulated by the Plaintiff seem most apt and all-encompassing in the resolution of this matter. For above reason, I hereby adopt same as issue for determination. The issue is:-

Whether by the two conveyance of provisional approval dated the 15th May, 2001 and two Certificate of Occupancy with File Nos. FCT/BZTP/LA/MISC/2003/2288 and FCT/BZTP/LA/MISC/2003/2289, the Claimant is not

bonafide owner of Plots 48, 49, 50 and 51 situate at Kubwa Annexed Layout, Abuja.

Indeed a party who seeks Judgment in his favour, is required to produce evidence to support his pleadings, in view of the fact that pleadings are not evidence but facts, and where no evidence is led in support, same is deemed abandoned.

Similarly, evidence led without any facts in support, goes to no issue.

See the case of ***ALECHENU VS. MTN COMMUNICATION LTD. ELC (2021) 3520 SC.***

Reliefs 1, 2, 3, 4 and 5 sought by Plaintiff in the Amended Writ and Claim are declaratory in nature thereby predicating the success of the other reliefs on their success.

It is an established position of law that in cases where declaratory reliefs are claimed as in the present case, the Plaintiff must satisfy the Court by cogent and reliable evidence that he is entitled to such reliefs.

AGBAJE VS. FASHOLA & ORS (2008) 6 NWLR (Pt. 1082).

The imperativeness of this arises from the fact that the Court has discretion to grant or refuse to grant such declaration, as declaratory reliefs are not granted as a matter of course.

See ***SAMESI VS. IGBE & ORS (2011) LPELR 4412.***

The foregoing authority remains good law and binds this court as well.

On whether Plaintiff in the case in view is entitled to the reliefs claimed or not, it becomes most expedient to ascertain his root of his title, first and foremost...

I need mention at this juncture that, judicial pronouncement are ad-idem that declaratory reliefs are never granted based on admission or on default of filing defence. ***MOTUNWASE VS. SORUNGBE (1988) WNLR (Pt. 92) 90.***

The Claimant in an effort to sway this Court to give judgment in its favour, called two (2) witnesses who adopted their witness statements on oath and tendered documents as reflected in the preceding part of this Judgment.

On the part of the Defendants, 1st and 2nd Defendants who filed Joint Statement of Defence fielded two (2) witnesses i.e Sodengi Yusuf and David Sarki M. as DW1 and DW2 whereas, the 4th and

5th Defendants who also filed a Joint Statement of Defence fielded only one witness i.e Moses Brown who gave evidence as DW3.

My take off point would be to examine the law with respect to land in FCT, Abuja, and how such can be acquired.

There are generally five ways of proving ownership to land that are recognized by judicial decision. One or more of the mode are usually used in proof. They are:-

- a. Traditional evidence
- b. Production of documents of title
- c. By proving acts of ownership numerous and positive enough to warrant an inference that the person is the owner.
- d. Act of long possession and
- e. By proof of possession of connected or adjacent land.

See ***AKAOSE VS NWOSU (1997) 1 NWLR (Pt. 482) 478 at 492 paragraphs B – D;***

IDUNDUN VS. OKUMAGBA (1976) 9-10 (SC) 224.

As captured from both the oral and documentary evidence in the preceding part of this Judgment, whereas Plaintiff is relying on a

grant by Bwari Area Council Chairman vide two (2) Customary Rights of Occupancies both dated 12th December, 2003 and both in the name Kabom Developers, which culminated into the issuance of Certificate of Occupancy numbers 2288 and 2299 which were tendered and admitted as Exhibits "F" and "I", the 5th Defendant is relying on a Statutory Grant made by the FCT Minister vide Certificate of Occupancy in the name of Fresh Fruits Enterprises (Nig.) Ltd. with Certificate of Occupancy number 657265 dated 23rd April, 2012 which was tendered and admitted in evidence as Exhibit "D1".

I pause here to state the law as regards the importance of documentary evidence. It has been held by a number of court decision that documentary evidence is the yardstick or a hanger by which to assess the veracity of oral testimony or its credibility.

OGBEIDE & ANOR VS. OSIFO (2006) LPELR 627 (CA).

I must state here that, the court is under obligation to interpret every document accurately not to add or subtract from the content of the document.

The implication of tendering Exhibit, including documentary evidence before a court of law is captured by MUKHTAR JCA (as

he then was) in ***JOHN M. BUBA VS. THE STATE (1992) NWLR (Pt. 215) 1 at 168 as thus;***

"Exhibits are not tendered and admitted in court for the fun of it. They are for the purpose albeit to assist in determining the relevance of the Exhibits to the case. Secondly, one this form part of the record they must be examined, scrutinised and assess or the just determination of the case, if they are not scrutinised as they apply to the facts of the case, then of what use are they admitted admittance in evidence."

Similarly in ***FAGUNWA VS. ADIBI (2004) 17 NWLR (Pt. 903) 544 at 567 paragraph D-E.***

I shall therefore, examine these documents to ascertain where both parties stand in the eyes of the law.

I am however inclined to state at this point that though there are numerous ways of proving title to land, generally, as it affect lands within the FCT, only grants by FCT Minister is recognized.

I need only state at this juncture that the Federal Capital Territory came into being by Decree no 6 of 1976, with 4th February, 1976 as the commencement date.

Section 297 (2) of the 1999 constitution of the Federal Republic of Nigeria as amended vests absolute ownership of land within the Federal Capital Territory in the Federal Government of Nigeria.

The said provision is in pare material with section 1(3) of the Federal Capital Territory Act 2004.

For ease of reference, I shall attempt to reproduce the said sections 297 (2) of the 1999 constitution of Federal Republic of Nigeria as amended and 1(3) of the FCT Act.

Section 1(3) FCT Act.

"The area contained in the capital Territory shall, as from the commencement of this Act, cease to be a portion of the states concerned and shall henceforth be governed and administered by or under the control of the Government of the Federation to the exclusion of any other person or authority whatsoever and the ownership of the lands comprised in the Federal Capital Territory shall likewise vest absolutely in the Government of the Federation."

Section 297(2) of the 1999 Constitution.

“The Ownership of all lands comprised in the Federal Capital Territory, Abuja shall vest in the Government of the Federal Republic of Nigeria.”

Question ... Who then has the power to grant title to land within the Federal Capital Territory?

For all intents and purposes, the intention of the law makers on the status of Federal Capital Territory is deliberate.

What Government and the makers of the Federal Capital Territory Act intended was for a vast expanse of land devoid of any form of cultural or hereditary inclination to be set aside for the development of the capital city.

No little wonder, even the original inhabitants who had occupied their ancestral lands were merely paid compensation and asked to move on, regardless of the fact that generations were buried on such lands. See section 6 of the Federal Capital Territory Act.

Were the Land Use Act meant to apply to Federal Capital Territory, the original inhabitants would have been granted deemed grant and remained on their various lands within the Territory. The Land Use Act must not be read in isolation.

It is trite that where the language, terms, intent or words to any part or section of a written contract, document or enactment are clear and unambiguous as in the instant case, they must be given their ordinary and actual meaning as such terms or words used best declare the intention of law maker unless this would lead to absurdity or be in conflict with some other provision thereof. It therefore presupposes that where the language and intent of an enactment or contract is apparent, a trial court must not distort their meaning.

See ***OLATUNDE VS. OBAFEMI AWOLowo UNIVERSITY (1998) 5 NWLR (Pt. 549) 178.***

A certificate of occupancy properly issued and where there is no dispute that the document was properly issued by a competent authority raises the presumption that the holder of the documents is the owner in exclusive possession of the land.

The certificate also raises the presumption that at the time it was issued, there was not in existence a customary owner whose title has not been revoked. It should however be noted that the presumption is rebuttable because if it is proved by evidence that another person had a better title to the land before the issuance of the certificate of occupancy the said certificate of occupancy

stands revoked. See ***MADU VS. MADU (2008) 2-3 SC (Pt. 11), 109.***

Poser... Who issued the said certificate of occupancy to the Plaintiff?

Poser...Was it the Federal Capital Territory Minister?

It is clear from the preamble to the Land Use Act (LUA) and the provision of section 1 of the Land Use Act (LUA) that the provisions of the Act are meant to vest all land in the territory of each state, excluding land vested in Federal Government or its agencies, in state governors who would hold same in trust for the people of the said state.

It must be mentioned at this juncture that the purpose of a preamble is to explain certain facts which are important to be explained for better appreciation of the enactment. Preamble is therefore part of the Act and indeed a veritable tool in construing the said enactment especially when there is ambiguity and or conflicting views as to the exact meaning of the enactment in which case the view that best fits the preamble shall be preferred.

See ***POWELL VS. KEMPTON PACK RACE COURSE CO. LTD (1999) AC 143.***

It follows therefore, that in line with the position expressed in the preamble and section 1 of Land Use Act (LUA), section 49(1) of Land Use Act (LUA) specifically excludes the application of provisions of Land Use Act (LUA) to title to land held by the Federal Government or any agency of the Federal Government at the commencement of the Act.

In the same analysis, it is most crystal clear from both the preamble to the FCT Act and section 1(3) of the Act that all land comprised in the Federal Capital Territory vest absolutely in the Federal Government of Nigeria.

For the purpose of clarity, I shall re-produce the preamble to the Land Use Act (LUA) 1978 and FCT Act respectively.

Preamble to FCT Act

“An Act to establish for Nigeria, a Federal Capital territory and to provide for the constitution of a Federal Capital Development Authority for the purpose of exercising the various powers set out in this Act, to execute other projects connected

therewith, to provide for the laws applicable to that Territory and for appeals from the Upper Area Court and the law applicable thereto; and to provide for the delegation to the Minister of Federal Capital Territory of the executive powers vested in the President and those vested in him and the Government of a State under the applicable laws.”

Preamble to Land Use Act

"An Act to vest all land comprised in the territory of each State (except land vested in the Federal Government or its agencies) solely in the Government of the State, who would hold such land in trust for the people and would henceforth be responsible for allocation of land in all urban areas to individuals resident in the State and to organizations for residential, agricultural, commercial and other purposes while similar powers with respect to non – urban areas are conferred on Local Government.”

Now that it is very clear that the provision of the Land Use Act are not applicable to lands held by Federal Government and her agencies, on the one hand, and the fact that all lands comprised

in the FCT – Abuja belongs to the Federal Government, on the other hand, the issue of Urban and non-Urban Area which is creation of the Land Use Act cannot apply, thereby making all lands in FCT Urban Land.

It follows naturally and legally speaking therefore that, ownership of land within the Federal Capital Territory vests in the Federal Government of Nigeria who through the Minister of Federal Capital Territory vest same to every citizen individually upon application.

Impliedly therefore, without allocation or grant by the Hon. Minister of Federal Capital Territory, there is no way any person or group of persons, could acquire land in the Federal Capital Territory.

It is also instructive to mention at this point that, though learned counsel attempted to rely on the Plaintiff's longevity in occupation of the disputed land in aid of its claim, I dare say that this line of argument though intelligently stated, cannot stand as it relates to lands in the Federal Capital Territory, Abuja in view of the settled position of the law... were this argument to be given any efficacy, at all, those original inhabitants who were merely given compensation pursuant to section 6 of the FCT Act, would have

remained on their ancestral lands and issued deemed grants and eventually issued with Certificate of Occupancy.. Alas, that was not to be.

I have similarly seen Exhibit "L" i.e the Daily Independent News Paper Publication of 18th September, 2013 wherein the erstwhile FCT Minister Bala Mohammed lifted embargo on allocation of residential Plots in the Area Councils of the FCT.

I need to emphasize at this juncture that the powers exercised by the FCT Minister, are those of the President Federal Republic of Nigeria pursuant to section 297(2) of Constitution.

By implication, therefore, they are delegated powers. The FCT Minister to that extent, therefore cannot re-delegate his delegated powers.. this is expressed in the maxim, - Delegatus non potest Delegare.

See the cases of ***NNPC & ANOR VS. TRINITY MILLS INSURANCE BROKERS (2002) LPELR 7142 (CA);***

FHA VS. EKPUNOBI & ORS. (2021) LPELR 55741 (CA).

The fact that the 3rd Defendant was allegedly given the go ahead vide the publication in Exhibit "L" to allocate land within his Area Council, albeit in error and frontal violation of the provision of the

constitution and the FCT Act, on the one hand, and the fact that 3rd Defendant did act on the said go ahead aforementioned, does not and could not have validated such right, constitutionally speaking.

What is more, learned counsel for Plaintiff contended in evidence and legal arguments that the said allocations made to the Plaintiff by the 3rd Defendant (Bwari Area Council) were authenticated through the regularization exercise vide Exhibit "E" i.e Federal Capital Territory Administration Regularization of land titles and documents of FCT Area Councils Acknowledgment, dated 9th July, 2006 respectively.

Let it be known to all and sundry that the mere brandishing of acknowledgment letter from Abuja Geographic Information Systems (AGIS) as evidence of submission of Area Council title documents for regularization does not amount to validation of such a title.

For any such area council allocation, so called, to be in conformity with the statutory provisions of law, the Federal Capital Territory Minister ought to withdraw the said so called Area Council allocation and issue a statutory title.

Poser .. What is the meaning of regularization in English language?

The new lexicon Webster's dictionary of the English language defines it to mean – "***to make regular or cause to conform to a rule, principle.***"

Poser .. Why are all Area Council allocations being regularized?

Certainly it is to bring them in conformity with the provisions of law on the issue of allocation which is the exclusive preserve of the Federal Capital Territory Minister who enjoys the delegated powers of the President Federal Republic of Nigeria, under section 18 of Federal Capital Territory Act.

I am not a law maker, but an interpreter of law made by a law maker.

The objective of any interpretation is to unravel the intention of the law maker which often, can be deduced from the usage of language.

The duty of court is to interpret and give adequate and as close as possible accurate and ordinary meaning to the words used.

The best form of evidence is documentary evidence which is always used as a hanger from which to test the veracity of evidence, be it oral or by deposition. Documents, indeed speak for themselves.

On this point, the case of ***GBILEVE & ANOR. VS. ADDINGI & ANOR (2012) LPELR – 14281 CA***, is instructive.

From the available evidence, both oral and documentary vis – a – vis the settled position of law and statutes, Plaintiff who seem to have relied on the so called allocations made by the Chairman Bwari Area Council, albeit – illegally, can at best be described a trespasser on the said land in view of the fact that the said allocation made to him was made without any atom of authority and or legal justification... such allocation which abinito are not just null, void and unconstitutional, cannot be the basis upon which Plaintiff seeks to lay claim to the land in question.

Plaintiff in another breath raised the fact that the allocation made by the 1st and 2nd Defendants was fraudulent in that 5th Defendant at the time of the allocation was not in existence as a registered company. The allegation of fraud is a serious one, the prove therefore, is beyond reasonable doubt.

See ***MOHAMMED BELLO VS. STATE (2019) 77 NSCQR 594;***
ANDREW EKWENUYA VS. STATE ELC (2024) 7917 (SC)
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Plaintiff who raised the allegation of fraud, never led any such evidence in aid of the said allegation.

The Court cannot speculate on the said facts. I say no more.

Defendants are therefore very right in law to have challenged the locus standi of the Plaintiff to maintain the instant action.

Indeed, you cannot put something on nothing and expect it to stand. On this principle, the case of ***MCFOY VS. U.A.C. LTD. (1962) A C – 150.***

The case of the Plaintiff has no legal or constitutional bearing, at all.

I am not left in any doubt that Defendants, especially 1st and 2nd, have been able to show that 2nd Defendant having not allocated the said land in question to the Plaintiff, Plaintiff could not then have had any such interest legally speaking to have put any development on the said land.

Any such development put on the said land, belongs to the land.

Now that 4th and 5th Defendants have come with allocation from the FCT Minister, Plaintiff who is a trespasser on the land in issue, ought to disappear from the said land covered by the Certificate of Occupancy i.e Exhibit "D1".

The claim of the Plaintiff is clearly ill-fated and destined to fail in view of the established position of the law which has been tasted.

On the whole, therefore, Plaintiff's claims are liable to be dismissed... they are hereby so dismissed.

Justice Y. Halilu
Hon. Judge
25th October, 2024

APPEARANCES

Timileyin Kehinde, Esq. – for the Claimant.

Betty U., Esq. with Olanike Jimoh, Esq. – for the 1st and 2nd Defendants.

Prosper George, Esq. – for the 4th and 5th Defendants.