

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
HOLDEN AT JABI, ABUJA

THIS WEDNESDAY THE 23RD DAY OF NOVEMBER, 2022.

BEFORE: HON. JUSTICE ABUBAKAR IDRIS KUTIGI -- JUDGE

SUIT NO: CV/159/2020

BETWEEN:

1. MRS MABEL NDIFE

2. MR. ULOKO SIMON

}**CLAIMANTS**

AND

MR. ALOZIE EXCEL CHIEDOZIE.....DEFENDANTS

BENCH RULING

I have carefully evaluated the submissions above on both sides with respect to the admissibility of the 6 documents sought to be tendered by the Defendant.

Generally when the issue of admissibility is raised, 3 issues are addressed by court:

1. Is the document relevant
2. Is it pleaded
3. Is it admissible in law.

It is the pleadings that streamlines the issues in dispute that provides basis to answer some or all of the posts above. I take the documents seriatim. Now with respect to the perimeter survey sought to be tendered, the witness did not tender it as a photocopy but he tendered it as what he was given in evidence when he bought the land in dispute. Learned counsel to the Plaintiff submission that the document is a photocopy is simply a subjective impression and cannot be conclusive evidence with respect to the true character of the document. The contention that the document has no stamp or name of the maker in my opinion goes more to the issue of weight than admissibility. They may be related concepts in law but admissibility of a document is distinct from the weight that ultimately will be attached to the document which is a function of other variable. I leave it at that.

The objection to the document is thus discountenanced.

Now with respect to the deposit slip, building plan, the document titled identification of survey plan and the receipt issued by Joka, the witness PW1 gave evidence to the effect that the originals are lost and he cannot find them. It is true as rightly argued by counsel to the Plaintiff that witness did not lead evidence or say anything about all the possible search that may have been made to secure the originals within the purview of **Section 89a(c)** but I am of the considered opinion that sufficient foundation has been laid with respect to the loss of the original documents to allow for the reception of the secondary evidence. I incline to the view that too much unnecessary strain need not be put on these provisions in a way that will serve to defeat the cause of justice.

Finally with respect to the 6 pictures taken by Defendant himself, I have carefully gone through the certificate of compliance and in my opinion paragraph 1-4 of the certificate sufficiently complies with the requirements of Section 84. It has streamline when the pictures were taken, it has identified the phone used in taking the pictures and how it was printed using a HP Printer. The certificate also indicated that at the time the pictures were taken both the phone and printer were in **“perfect working condition as they are regularly used”**

As I round up, I note that most of these documents are not together or clear but there are issues which ultimately go to what probative value if any, they may ultimately have which is not our issue for now. On the whole, objections to the admissibility of the documents fail and the documents are admitted as follows:

1. Copy of perimeter survey of plot No:C26/30-31D is admitted as **Exhibit D1**.
2. Copy of deposit slip nos. 2435115 and 2435337 admitted as **Exhibits D2(a and b)**
3. Copy of document identified as building plan admitted is **Exhibit D3**
4. Document titled identification of survey map admitted as **Exhibit D4**
5. Copy of receipt issue by Joka Surveys Nig Ltd admitted as **Exhibit D5**
6. 6 photographs with the certificate of compliance admitted as **Exhibit D6(1-7)**

Signed
Hon. Judge
23rd November, 2022