

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
HOLDEN AT JABI**

THIS MONDAY, THE 12TH DAY OF DECEMBER, 2022.

BEFORE: HON. JUSTICE ABUBAKAR IDRIS KUTIGI – JUDGE

SUIT NO: CV/26/2018

BETWEEN

RIMDAN OONE. NANLE..... CLAIMANT

AND

1. CHRISTIAN O. OGBONNA 2. REMY NJOKU 3. MURTALA IBRAHIM 4. JOACHIM AKPONYE 5. ENAIFOYE DOGNAS 6. FEDERAL CAPITAL TERRITORY DEVELOPMENT AUTHORITY (FCDA)	}DEFENDANTS
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BENCH RULING

I have carefully considered the submissions on both sides of the aisle. The issue on admissibility is one to be resolved on fairly settled legal principles. It is trite principle that whenever the question of admissibility arises, three (3) questions are addressed:

- 1. Is the document pleaded**
- 2. Is it relevant to the subject of inquiry**
- 3. Is it admissible in law.**

The pleadings which has streamlined the issues in dispute provides a template or basis in resolving the above issues.

In this case the objection is narrowed to the first and second elements above; the questions of pleading and whether the document is admissible in the form it is sought to be admitted.

Now on the resolution of the question of pleadings, we must take our bearing from paragraph 21 of the defence which counsel contends provides the factual basis and link to the document sought to be tendered. Paragraph 21 provides thus:

“That the 4th Defendant avers that he knows all the plots of land allocated to Mrs Caroline Agada Okafor in Doma D Series Extension Layout to wit: Plot 62 Doma D Extension Series Layout with the name Caroline Agada; Plot 61 Doma D Series Extension Layout with the name Agada Caroline; Plot 118 Doma D Series Extension Layout with the name Mrs Caro Okafor.”

The above paragraph is clear. It denotes specifically the allocations of plots of land to Mrs Caroline Agada Okafor in Doma D Series Extension Layout to wit: **Plot 62, Plot 61 and Plot 118.**

If there should be any allocations to be tendered, it should be clearly in respect of these three (3) plots. No more.

What however is been tendered is an allocation to nearly **574 allottees** which clearly is not what was pleaded. Undoubtedly, the 3 allocations referred to in paragraph 21 may be in this document but the pleading was not couched to reflect this tendency or reality.

To avoid accusations of being unduly technical or pedantic, I will reluctantly accept that the pleadings here suffices even if much more can and should have been done.

On the issue of frontloading, I agree that the Rules provide for the frontloading of documents and indeed the courts encourage the frontloading of documents but I don't accept that in law, it is a requirement of admissibility. The pleadings remains the fulcrum or pivot that provides the cases parties are to meet in court so that nobody is taken by surprise. Once the document is thus pleaded, sufficient notice has been given in my opinion. If a document is not frontloaded, the best to make out of it is to adjourn and perhaps give time for the adversary to be furnished with the document(s). As an aside, nothing stops the adversary from asking for the frontloaded document to be furnished before trial. Our courts are courts of justice and the mantra that guides all courts is the doing of substantial justice, unfettered by technical considerations.

Finally on the last ground of whether the document is admissible in law, it is not in dispute that once a document is a public document within the meaning of **Section 102 of the Evidence Act**, then the only admissible copy of the document is the original or a C.T.C within the confines of **Section 83, 89e, 90(1) (c) of the Evidence Act**.

In this case, the documents in issue are titled **Doma D. Series Extension Layout Gwagwalada**. There is no clear indication as to its source but paragraphs 2, 3, 4, 10-12 and 20 of the statement of defence of 4th Defendant situates clearly that designs and layout of the Doma Series was overseen by the Land Survey Department which was then headed by the **4th Defendant**. Indeed in paragraph 20, it was indicated that whenever the 3rd Defendant, the then Zonal Land, Manager was to allocate land to staff, he writes the list and sends to 4th Defendant who cross-checks the list. It is obvious that it is from these public records that the 4th Defendant made this list of allottees in his capacity as a public officer.

I am in no doubt that these records of list of allottees he wants to tender clearly forms part of the record of official acts of Gwagwalada Area Council relating to the list of allocations in **Doma D Extension Layout, Gwagwalada**.

In the circumstances, I am in no doubt that the said list is a public document and as stated earlier, for purposes of admissibility, it is either you have the **original** and where the original is not available, then a C.T.C of the secondary evidence or copy.

In this case, I am in no doubt that this is not the original. It has no source to reflect it is a document of Gwagwalada Area Council as situated in the statement of defence. If it is a photocopy as it appears, it clearly has not been certified as required by law under **Section 104 of the Evidence Act**. The fact that 4th Defendant signed the document with a bare pen does not situate proper certification and neither does it elevate it to a status of an original. The particular document may be relevant but it has not crossed or met the required legal threshold and thus inadmissible and is to be marked, tendered and rejected.

Signed

Hon. Judge

12th December, 2022