

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**

**IN THE GWAGWALADA JUDICIAL DIVISION**

**HOLDEN AT GWAGWALADA- ABUJA**

**THIS TUESDAY THE 13<sup>TH</sup> DAY OF DECEMBER, 2022**

**BEFORE HIS LORDSHIP: HON. JUSTICE ALIYU YUNUSA SHAFI**

**SUIT NO: FCT/HC/GWD/CV/89/22**

**BETWEEN:**

**1. DIVINE CO-OPERATIVE**

**2. CHIBUKE ANIH ..... CLAIMANTS**

(Suing for himself & on behalf of all members of Divine Cooperative)

**AND**

**ENEOJO PAUL ODIBA..... DEFENDANT**

**JUDGEMENT**

This writ was dated the 28-10-2022 filed on the 28-10-2022.

The claimants claim the following against the defendant.

- 1. A declaration that the claimants as the lawful and equitable owners of plot No: 1068 Cadastral zone BIIKauraStreet 3, measuring approximately 3669.385sqm withinKaura District, Abuja described in the conveyance of Approval dated 18/02/2002 and Right of Occupancy No: FCT/ABU/MISC/11948.**
- 2. A declaration that the actions of the defendant to wit: Forcible entry and trespass, placement of banners on the land, and construction of shanties without the lawful approval of the claimant is illegal, unlawful, arbitral and wrongful and provocative.**

- 3. A declaration that the impersonation of the members of the claimants with the view to deprive the claimants the lawful use and ownership of plot 1068, Cadastral zone B, Kaura streets Kaura District, Abuja, is illegal, wrongful, unlawful, provocative and condemnable.**
- 4. An order of Honourable court mandating the defendant his privies, servant, agents, assigns, or by whatsoever called from impersonating or parading themselves as members of the 1<sup>st</sup> claimant or taking any step that may deprive the claimant the ownership and peaceful possession and development of plot No: 1068, Cadastral Zone BII, Kaura Street 3, Kaura District Abuja.**
- 5. An order mandating the defendant to immediately remove, the shanties, banner and any object placed therein in plot No: 1068 Cadastral Zone BII, Kaura Streets, Kaura District Abuja.**
- 6. An order of perpetual injunction restraining the defendant his agents, servants, privies, assigns or by whatsoever name called from further trespassing on the claimant's land lying and situate at plot No:1068, Cadastral zone BII, Kaura Street 3, measuring approximately 3669. 385sqm within Kaura District, Abuja described in the conveyance of approval dated 18-02-2002 and right of occupancy No: FCT/ABU/MISC/11948.**
- 7. The sum of Fifty Million (N50,000,000.00) being damages for trespass and destructive of the claimant concrete fence.**

Accompany the writ is a statement of claim in accordance to order 2(2) (c) 5 pages and a written address on oath of ChibukeAnih of 4 pages, copies of documents to be relied on at trial, claimants list 8 witness and certificate of pre-Action counselling are the following document pleaded,

- a. offer of terms of Grant/Conveyance of approval with Reg. No: MFCT/LA/MISC/11948 dated the 18-02-2002.**
- b. Acknowledgement of Re-certification and Re-issuance of C of O with file No: MISC/11948 dated the 12-16-2004.**

- c. **Acceptance of offer of grant of right of occupancy within the FCT Abuja from Ministry of foreign Affairs dated the 12-3-2002 addressed to the Hon. Minister M. FCT.**
- d. **Certificate incorporation of Kobowise Nig. Ltd dated the 4- May, 1994 and**
- e. **Payment receipt also attached thereto.**

The process upon being filed, service was effected on the defendants through the defendant solicitor, one C. A. Oboh who acknowledge same dated the 16-11-2022 and memorandum of conditional appearance under order a dated the 16-November, 2022 and the matter fixed for mention dated the 8-12-2022.

On the 8-12-2022 counsels to both the claimant and the defendant were in court by name, E. A. Odeh for the claimant while C. A. Oboh for the defendant, the claimant counsel who informed this court that there were reached out by the defendant in this matter for possible resolution out of court and have concluded all their processes but the parties have not been able to sign the terms of settlement owing to the facts that one of the parties travelled outside the court's jurisdiction. The defendant who told the court that it is the position and hope that they will be able to file and sign the terms of settlement within the shortest possible time and the matter was adjourned till 13-12-2022 for adoption of terms of settlement. This was in compliance with order 26 of the High Court of the FCT, Abuja civil procedure rules 2018, which said rules provides thus:

**“where a matter comes before the court for the first time the Judge shall in circumstance where it is appropriate, grant to the parties, time not more than 30 days within which parties may explore possible for settlement of the disputes”**

In view of the above provision of the law this matter was adjourned to 13-12-2022 to enable parties to possible file their terms of settlement.

Today being 13-12-2022, parties before the court have file the terms of settlement in compliance with order 26 of the High Court Judge Abuja civil procedure Rules, 2018, the terms of settlement dated the 9-12-2022 and file on the 12-12-2022 where both counsels appended their signature and adopted the said terms of settlement.

Before a proceed to adopt same I wish to state here that, an out of settlement is an agreement reached between the parties in a pending lawsuit that resolves the

dispute to their mutual satisfaction and occurs without judicial interventions, supervision, or approval. It provides that the parties relinquish their rights to pursue Judicial remedies.

Therefore, such an agreement or out of court settlement between the parties supersedes the original cause of action altogether and the court has no further Jurisdiction in respect of the original cause of action, which has been so superseded.

It is therefore the rules of the court or judge in adjudication to encourage amiable settlement in a suit where it can adequately meet and satisfy the ends of justice, it is the duty of this court therefore adopting the terms of settlement to examine the entire circumstance of the case in order to determine whether the alleged terms of settlement, which to all intents and purpose are compromise agreement entered into by the parties to the said suit, hence to be scrutinise and made on order of court.

See Galadenchi V Abdulmalic (2015) 1 NWLR (PT. 1440) page 376.

In view of the above, I shall adopt the said terms of settlement as the consent judgement of this court and order as follows:

- 1. That the claimants are the lawful and equitable owners of plot No: 1068 Cadastral zone BII Kaura Street 3, measuring approximately 3669.385sqm within Kaura District, Abuja described in the conveyance of Approval dated 18/02/2002 and Right of Occupancy No: FCT/ABU/MISC/11948.**
- 2. That the claimant lawfully acquire/purchased the land from Kobowise Nigeria Limited for valuable consideration pursuant to power of attorney duly executed between parties.**
- 3. That the defendant shall henceforth stop the impersonation of the members of the 1<sup>st</sup> claimant or taking any step that may deprive the claimants the lawful ownership peaceful possession and development of plot No: 1068, Cadastral Zone BII, Kaura Street 3, Kaura District, Abuja.**
- 4. The defendant is Mandated immediately remove the shanties, banner, and any object placed on the land and thereon at plot No: 1068, Cadastral Zone BII, Kaura Street 3, Kaura District Abuja.**

5. That neither the defendant his agents, servants, privies, assigns or by whatsoever name shall henceforth trespassing on the claimant's land lying and situate at plot No:1068, Cadastral zone BII, Kaura Street 3, measuring approximately 3669. 385qm within Kaura District, Abuja described in the conveyance of approval dated 18-02-2002 and right of occupancy No: FCT/ABU/MISC/11948.
6. That parties affirmed that they have reached this settlement out of their repletious freewill and therefore have agreed that this terms of settlement shall be the judgement in this suit.

The said terms are stated above is hereby adopted as the consent judgement of this court. Hence puts an end to the proceeding which has been compromised or settled for theyare thereby, spent and exhausted, it precludes parties from taking any further steps in this action and therefore supersedes the original cause of action altogether. See Obaviuwana V Edo (1998) 1 NWLR (PT. 535) 670.

This is the judgement of this court. See the attached terms of settlement which forms the bases of this Judgement.

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**HON. JUSTICE A. Y. SHAFI**

**APPEARANCE:**

1. E. A. Odeh for the Claimant.
2. C. A. Oboh for the Defendant.