

**IN THE HIGH COURT OF JUSTICE OF THE
FEDERAL CAPITAL TERRITORY ABUJA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT JABI - ABUJA**

BEFORE: HON. JUSTICE O. C. AGBAZA

COURT CLERKS: UKONU KALU & GODSPower EBAHOR

COURT NO: 10

SUIT NO: FCT/HC/CV/483/2014

BETWEEN:

- 1. INDUSTRIAL DYNAMICS NIGERIA LIMITED**
- 2. MURG PROPERTIES NIGERIA LIMITED.....CLAIMANTS**

AND

- 1. THE HON. MINISTER, FEDERAL CAPITAL TERRITORY**
- 2. FEDERAL CAPITAL DEVELOPMENT AUTHORITY**
- 3. INTERLANDS SKILLS NIGERIA LIMITED.....DEFENDANTS**

RULING

By a Notice of Preliminary Objection dated 1/7/2019 and filed same day, brought pursuant to Section 6 (6) (b) of the 1999 Constitution and Order 23 Rule 2 and Order 43 Rule 1 & 6 of the Rules of Court, the 3rd Defendant/Applicant seek the court the following reliefs:-

- (a) An Order striking out/dismissing this Suit as this court lacks jurisdiction to entertain the same because the Plaintiff has no locus standi to institute this action against the 3rd Defendant.

Or Alternatively;

- (b) An Order of this Honourable Court striking out the name of the 3rd Defendant from the Suit as the Plaintiff/Respondent did not

have any direct dealing or contractual relationship with the Applicant.

(c) And the Omnibus relief.

In support of the Preliminary Objection is a 20 Paragraphs affidavit with five (5) Exhibits attached, deposed to by one Innocent Asuelimtien staff of 3rd Defendant. Also filed is a Written Address and adopts same as oral argument in support of the Preliminary Objection.

1st Claimant in opposition to the 3rd Defendant's Preliminary Objection filed a three paragraphs counter-affidavit on 8/10/2020 deposed to by one Joy Nnenna Onyia a Legal Practitioner in the law firm of 1st Claimant/ Respondent's counsel , with 5 (five) Exhibits attached. Also filed is a Written Address and adopts the said Written Address in urging the court to dismiss the Preliminary Objection.

2nd Claimant/Respondent in response filed a 15 (Fifteen) paragraph counter-affidavit on 17/11/2020 sworn to by one Alhaji Ibrahim Abdullahi a staff of 2nd Claimant. Also filed a Written Address and adopts same as oral argument in urging the court to dismiss the Preliminary with substantial costs as same has no nexus with the jurisdiction of court.

1st/2nd Defendant/Respondent did not file any counter-affidavit to the 3rd Defendant's Preliminary Objection, but leave it at the discretion of the court.

3rd Defendant in response to the 1st Claimant/Respondent's counter-affidavit filed a further/Better affidavit in opposition to the 1st Claimant

counter-affidavit of 21 Paragraphs on 21/10/2020 attached are 7 Exhibits. Also filed a Written Address and adopts same in urging the court to refuse the opposition.

The grounds upon which the 3rd Defendant/Applicant objects to the Suit of the 1st Claimant are;

- (i) By virtue of the Provisions of Section 1 and 2 (1) (a) of the Land Use Act of 1978, all land comprised in the territory of the Federal Capital Territory are vested in the Minister of the Federal Capital Territory, Abuja.
- (ii) The Plaintiff plot which is Plot No. 151 Cadastral Zone C16 of Industrial Area 1 and Ext is not the same with the 3rd Defendant's plot which is plot No. 1148 and was later change/replace with plot No.1171 Cadastral Zone C16 of Industrial Area 1 and Ext. as same land in issue has been legally allotted to the 3rd Defendant by virtue of the Letter of Allocation titled Right of Occupancy dated 4th day of June 2013.
- (iii) The said plot No. 1171 in Cadastral Zone C16 of Industrial Area 1 and Ext. Abuja belong to the 3rd Defendant as she have paid all the necessary bill in accordance with the FCT administration policy.
- (iv) The Plaintiff has no legal right to file this Suit against the 3rd Defendant as they have not shown any evidence of ownership

of the said plot No. 1171 in Cadastral Zone C16 of Industrial Area 1 and Ext. Abuja.

- (v) This Honourable Court lacks jurisdiction to entertain this Suit as presently constituted since the Plaintiff has no locus standi.
- (vi) This Suit as presently constituted by the Plaintiff/Respondent is incurably defective as they have no valid title to the said plot of land in issue.
- (vii) The action discloses no reasonable cause of action against the 3rd Defendant. It is an abuse of court process and this court lack the jurisdiction of entertain this Suit in its entirety.

In the Written Address of the 3rd Defendant/Applicant Counsel D.O. Atiku Esq formulated a sole issue for determination;

“Whether or not this Honourable Court can entertain this Suit at this stage in view of the facts that the Plaintiff has no legal title to the said plot of land in issue, nor have any credible evidence to prove her case against the 1st Defendant”.

Submit that the Statement of Claims/pleadings which is the paramount consideration in the determination of the issue of locus standi, does not disclose a prima facie case against the 3rd Defendant as the Plaintiff has no legal title to the said plot of land, urge court to strike out the entire suit or the name of the objector be removed from the suit as a party. Refer to the cases of Sodipo Vs Ogidan (2007) ALL FWLR (PT. 393) 67 @ 92 Paras G – H 93. Paras E – H, Attorney General, Akwa Ibom State Vs Essien

(2004) 7 NWLR (PT.872) 288 @ 321, Madukolu Vs Nkemdilim & Ors (1962) 1 ALL NLR 587 Ibrahim Umar Vs White Gold Ginnery Nig Ltd (2007) NWLR (PT. 1032) 117 and Adeogun Vs Fashogbon (2008) 36 NSCQR 171.

In the same vein, 1st Claimant/Respondent's Counsel Bendo Asin Esq formulated a sole issue for determination that is;

“Whether or not this Honourable Court has jurisdiction to entertain this Suit as presently constituted”

Submits, relying on a Plethora of cases that the 3rd Defendant/Applicant is a necessary party in the Suit, therefore striking her name from the Suit will cause hardship in the just determination of the Suit. Refer to GSK (Nig) Ltd & Anor Vs Oben (2016) LPELR – 40351, Madukolu Vs Nkemdilim (1962) 2 SC NLR 341, Hammanjoda Vs Ugwu (2019) LPELR 48697, Green Vs Green (1987) LPELR – 133 GSK, Amos & Ors Vs Okoya & Ors (2014) LPELR – 22527 CA, Lawson Vs Afani Continental Company Nigeria Ltd & Anor (2001) LPELR – 9155 (CA), Osigwe Vs PSPLS Management Consortium Ltd & Ors (2009) LPELR 2807, FBN Plc Vs Akparabong Community Bank Ltd & Anor (2005) LPELR 7496 (CA) and Ehidismen Vs Ahmadu Musa & Anor (2000) LPELR 1051 (SC) P. 46 Paragraph A.

Submits that the 1st Defendant can only revoke her title under the Provisions of the Land Use Act. And having not discharge any of the obligation imposed on him by law cannot divest the Plaintiff of his Right of Occupancy to the property. Refer to Section 29 (1) Of the Land Use Act and the case of Ibrahim Vs Mohammed (2003) LPELR 1409 (SC) consequently 1st Defendant lack the requisite legal power to do as he has

set out to do in respect of Plaintiff's property. Refer to Nigeria Eng Works Ltd Vs Denap Ltd & Or (2002) 25 @ 18, Nitel Vs Ogunbiyi (1992) 7 NWLR (PT. 2551543; Section 44 (e) of the Land Use Act, the Administrators & Executors of the Estate of Abacha Vs Eke Spiff & Ors (2009)LPELR 3152 (SC), Abuja Investment and Property Development Company Ltd Vs Engr Paul Ibe Vs Okoye & Anor (2016) LPELR 4227 (CA); Dantsoho Vs Mohammed (2003) 6 NWLR (PT. 817) 457, Baba-Iya Vs Sikeli (2006) 3 NWLR (PT. 968) 508. Submit that at the time the Minister purportedly granted the landin dispute to the 3rd Defendants, there was nothing to grant. Refer to Ogunleye Vs Oni (1990) 2 NWLR (PT.135) 745 @ 773.

Submits further that where there are competing interests from a common grantor, such as the Minister in this case, such interest will rank in order of their creation, refer to Ilona Vs Idakwo (2003) 11 NWLR (PT. 830) 53 @ 91 and Attorney General Akwa Ibom State Vs Essien (2004) 7 NWLR (PT.872) 288.

Finally, urge court to dismiss the Preliminary Objection in the interest of Justice and with cost.

In the Written Address of the 2nd Claimant/Respondent, Y.A. Sarki Baba Esq of counsel formulated a sole issue for determination that is;

“Whether or not the court lack power or jurisdiction to try and entertain this Suit”

Submits that court should consider the pleadings of the Claimant to entertain whether or not it has jurisdiction, refer to Olubunmi Oladipo Oni

Vs Cadbury Nig Plc (2016) 9 NWLR (PT. 1516) @ 107 and Alhaji Jubrin Isah Vs Captain Idris Wada & Ors (2016) 18 NWLR (PT. 1544) @ 235 – 276. Submits that the parties are competent and the subject matter of the Suit is within the ambit of the court. Refer to the case of Madukolu Vs Nekemdilim (1962) 2 SCNLR 341 @ 348.

Submits finally that the Preliminary Objection of the 3rd Defendant/Applicant has no nexus whatsoever with the requirements of the law as it affects jurisdiction in the Suit and that the cases relied upon by the Objector is distinguishable from the instant case. Urge court to dismiss the Preliminary Objection with substantial cost.

Having carefully considered the affidavit evidence submission of counsel, the judicial authorities cited as well as the ground for this application. I find that only 1 (One) issue calls for determination which is;

“Whether this court has jurisdiction to entertain and determine this Suit”.

The issue of jurisdiction is so fundamental in nature and once raised, the court has a duty to determine it first before it can proceed to jurisdiction. It is the power or legal authority which a court has to decide matter being litigated before it. If a court is bereft of jurisdiction to hear and determine a matter before it any step taken in the matter is null and void. See the case of Oduko Vs Government of Ebonyi State (2009) 9 NWLR (PT.1147) 439 @ 442. See also Shelim Vs Gobang (2009) 12 NWLR (PT.156) 435 @ 441.

In the instant case, the 3rd Defendant challenged the jurisdiction of court to hear this Suit on the ground that the 1st Claimant have no interest in the land subject matter of the Suit, having not shown evidence of ownership[p of the land thereafter lack the requisite locus to commence this action and the court cannot have jurisdiction to hear the Suit based on that ground; on the other hand, it is the contention of the 1st Claimant that they acquired ownership of the Plot vide Exhibits "MS1", but Exhibit "MS4" reveals thather grant was unlawfully reduced from 1.67 Ha to 8176.2.705qmm and purportedly allotted to the 3rd Defendant/Applicant, thus clothing him with the requisite locus to commenced the Suit. The contention of the 2nd Claimant/Respondent is that the proper parties are before the court and the subject matter of the suit is within the confines of the jurisdiction of court. The question is; Does the 1st Claimant have the requisite locus standi to commence this action against the 3rd Defendant/Applicant?

Locus Standi has been defined in a Plethora of cases. In Nkporinwi Vs Ejire (2011) ALL FWLR (PT. 557) 716 @ 717 as "the legal capacity to initiate and properly invoke the judicial power and authority of a court of law in a case or over a dispute". The sole determinant of whether or not a Plaintiff has locus standi is the Statement of Claim filed bythe Plaintiff. See Nkporinwi Vs Ejire (Supra). Thus to determine the question of whether or not the 1st Claimant has locus standi, the court must consider the Statement of Claim of the 1st Claimant and this the court is empowered to do. See the case of Agbareh Vs Mimra (2008) ALL FWLR (PT. 409) 559 564 Ratio 7. I have taken a careful look at the 1st Claimant's Statement of Claim and I find

that the 1st Claimant's averment in paragraph 4, 5, 6, 7, 8, 9 10, 11, 12, 13, and 14 are narratives of how she came about their interest in the property, subject matter of this Suit, and how the action of the 1st/2nd Defendant brought about far reaching changes in the size and re-numbering of the plot of land earlier granted her and which action is admitted by the 3rd Defendant in paragraph 9, 10 and 11 of her affidavit in support of the Preliminary Objection. All of these, in my opinion, have sufficiently establish the 1st Claimant/Respondent in the plot subject matter of the suit and gives her the capacity to initiate this suit against the Defendants, more so as the 3rd Defendant/Applicant is alleged to be the immediate beneficiary of the 1st/2nd Defendants. Therefore, the parties before this court are competent and the subject matter of the Suit is within the jurisdiction of court to adjudicate upon. I so hold.

On the alternative relief that it is for court to strike out the name of the 3rd Defendant/Applicant's name from the suit, as same party did not have any direct dealings or contractual relationship with the Applicant.

Parties to an action constitute one of the main Preliminary factors that must be considered before commencing an action. A court can only properly resolve dispute if the right parties are before it to contest the claim. In the case of Green Vs Green (1987) 3 NWLR (PT. 61) 480, the Supreme Court identified three different type of parties to a suit, Proper Parties, Desirable Parties and Necessary Parties. I have considered the affidavit evidence as well as the pleadings of the parties, I have found that sufficient depositions have been stated, showing the interest of the parties as well as how the actions of the grantor, the 1st/2nd Defendant affected their various grants

and this, in my view, makes the 3rd Defendant/Applicant a Desirable Parties in this Suit as she might be affected one way or the other by the outcome of the Suit, hence this court will hold that the presence of the 3rd Defendant/Applicant is desirable for the effective determination of the Suit. I so hold.

From all of these and having resolved that the 1st Claimant/Respondent has the requisite locus standi and having also found that the 3rd Defendant/Applicant's presence is required for the effective determination of the Suit, this court therefore holds that the Objection raised by the 3rd Defendant against the Suit of the 1st Claimant/Respondent lack merit and should fail. Accordingly, the Notice of Preliminary Objection dated 1/7/19 and filed same day by the 3rd Defendant is hereby dismissed.

HON. JUSTICE O.C. AGBAZA

Judge

3/2/2021

BENDO ASAN – FOR THE 1ST CLAIMANT/RESPONDENT

Y.A. SARKI –BABA FOR THE 2ND CLAIMANT/RESPONDENT

BETTY UMEGBULEM FOR THE 1ST/2ND DEFENDANT/RESPONDENT

D.O. ARIKO – FOR the 3rd DEFENDANT/APPLICANT

