

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT GWAGWALADA- ABUJA

THIS MONDAY, 7TH NOVEMBER, 2022

BEFORE HIS LORDSHIP: HON. JUSTICE ALIYU YUNUSA SHAFI

SUIT NO: FCT/HC/CV/1237/2022

BETWEEN:

INTERNATIONAL MONITORS COMPANY LIMITED.....APPLICANT

AND

- 1. HON. MINISTER FEDERAL CAPITAL TERRITORY**
- 2. FEDERAL CAPITAL TERRITORY
ADMINISTRATION (FCDA)..... DEFENDANTS**

JUDGEMENT

By the writ of summons dated the 11th April, 2022, the claimant claims the following reliefs from the defendants jointly and severally.

- 1. A declaration that it is entitled to a right of occupancy in and over all that land being and lying at plot 397 Guzape District file No: 58959 Cadastral Zone, A09 Guzape Abuja and Certified by certificate of occupancy No: 18 caw-17e11-15efr-13eju-20 and measuring 1.39 hectares.**
- 2. A declaration that having divested itself of its interest in 2039.39 square meters as carved out in file No: 136497 and renumbered plot 4903 and also 2103.40 square meters also carved out in file No: MISC 136494 and renumbered plot 4903 making a total of 4142.79 square meters the claimants land now remaining is 6958 square meters to which he is, entitled to a right to occupancy over.**

- 3. An order directing the Defendants to forthwith issue to the claimant a right of Occupancy in and over all that remaining land being and lying at plot 397Guzape District Cadastral Zone Abuja which measures 9658 square meters after removing the 2103.40m² sold to Assurance Global Link Ltd and 2039 square meters sold to Muhammad Dalla.**
- 4. An order of injunction restraining the Defendants their agents and all that claim through them from interfering with the claimant's right of occupancy over and in the said remaining 9658 square meters of land being and lying at plot 397 Guzape or whatever new plot number the Defendant's may now give to it as that is simply administrative.**

Upon the assignment of this matter to court 49 dated 16-05-2022, claimant took up the processes and effect service on the defendant's proof of service dated the 26-5-2022 received by one Janet Bala of FCTA legal Services Secretariat around 1.03pm against the 29th June, 2022 fixed for mention.

On the 29-06-2022 when the matter came up for mention one ChemeizeObinnaNwodo appears for the claimant, while there is no appearance for the Defendant, and the matter was again adjointed to 15-07-2022, while the court ordered hearing service to be effected on the Defendant.

On 15-07-2022 one Judith Amarachi Livinus appears for the claimant, while the Defendant was not represented, the claimant counsel who informed this court that, the defendant just entered appearance and had not file their defence and believed that there are still within time to file their defence, hence this matter was again adjointed to 21-9-2022 for hearing.

On the 21-9-2022 one ChemeizeObinnaNwodo appears for the claimant, while there is no appearance for the defendants. The claimant counsel who informed this court that the defendant were not served against todays date, hence apply for another date and this case was again adjointed to 06-10-2022 for hearing.

On the 06-10-2022 same appearance for the claimant, while the Defendant has no representation, having been certified that the defendants had knowledge to today's hearing proof of service dated the 22-9-2022 acknowledged by one Comfort of FCTA legal services secretariat at

10:47am, the claimant counsel applied to proceed with their case and the request was granted.

Now to the claim: the claimant who filed this case dated the 13-4-2022 alongside with the statement of claim of 4 pages whereby his claimed are as stated above. Attached to the statement of claim, is a written statement on oath, of Mr. AkandoNwosu, accompanied with that of witness, list of documents, certificate of pre-action counselling and payment slip from Access bank.

And in the absence of the defendants, the claimant counsel applied that this court enters judgement in favour of the claimant in the absence of the Defendants.

The briefs story of the claim of the claimant are as follows:

That sometimes in the year 2000, the claimant was allocated a plot of land measuring 18 hectares for it to develop a world trade centre. Later owing to some administrative restriction and some redesigning, the allocation was withdrawn and in its stead, the claimant was allocated plot 397 Guzape District cadastral zone A09 measuring 1.39 hectares. This was later certified by a certificate of occupancy No: 18 caw-17e11-15efr-13eju-20.

That owing to certain exigencies, the claimant had to alienate part of the land allocated and it alienated 2103.40m² at the 1.39 hectares originally allocated to it to assurance global Link Nig Ltd and another 2039.39 square meters to Mohammed Dalla

That the defendants in recognition of his alienation created two new files on the land. It created file No: 136497 for the land sold to Mohammed Dalla and renumbered the land plot 4902 and also issued a new right if occupancy over same. In like manner, it also carved out the 2103.40m² alienated to assurance Global; Link Nig. Ltd and created a new file No: MISC/36494 for it and equally issued a new right of occupancy over same.

The claimant's states that, the land originally allocated to it was 1.39 hectares and that 1.39 hectares, convert to 13.800 square meters. The total number of square meters of the original land allocated to the claimant was 13,800 square meters and the land alienated to assurance Global Link Nig. Ltd and Mohammed Dalla sums up to 4142.19 square meters which if you remove from the total measurement land originally allocated to the claimant

leaves 9658 square meters remaining, hence the claim as stated above in this judgement.

Before I proceed I will highlight the position of the law for none appearance of the defendant: in a case before a court of law:

In civil actions, before the court comes to a decision it must put the totality of the testimony on an imaginary scale, the claimant on one side and the defendant on the other side, to see which is heavier. It does not depend on the number of witnesses called by each party but on the quality and probative value of the evidence of those witnesses. See *Onowhose V Odiozuo* (1999) 1NWLR pt. 586 page 173 at 183 paragraph A-B Per Ogwuegbu JSC.

In civil cases facts are proved on the preponderance of evidence. Where there is nothing on the other side of the balance, the onus of proof is discharged on minimal proof. See *Chiadi V Aggo* (2018) 2 NWLR (pt. 1603) page 175 at 211 at 222 paragraph H per Akaáhs JSC

From the record of the court, the Defendants were served with both the writ summons together with the statement of claim of all hearing notices vide certificate of service. Filed by bailiff of court dated 25/05/2022 and 21/09/2022 it is also important to note that despite hearing notice(s) served on the defendant they have failed to appear before the court nor filed their statement of defence in defend of this action, it is trite that, where a defendant fails to present evidence of the plaintiff, the defendant is deemed to have admitted to the facts presented by the plaintiff if the facts are properly before the trial court. See *Oluyede V Access bank plc*(2015) 17 NWNR (PT.4189) page 596.

In compliance with under 10 rule 2 of the High Court of the FCT Abuja civil procedure rules 2018 which provide thus:

“where the defendant fails, to appear the claimant may proceed upon proof of service of the originating process under the appropriate provisions of these rules.

In compliance with these rules of court the claimant who applied to the court to proceed with the matter, as the defendant where duly notified with today’s date by service of hearing notice served on them. This the court granted the said oral notification and ordered the claimant to proceed with his case in the absence of the defendant.

On this the claimant who filed a motion on notice pursuant to order 20 rules 1 & 4 of the High Court of FCT civil procedure rule 2018 for the court to declare the order sought therein on this judgement, and the grounds upon seeking for the order are as follows:

- 1. The claimant brought this action claiming various reliefs against the defendant, and the defendant were served with the writ of summons and statement of claim**
- 2. The defendant after reading the claim conceded same and filed a notice of admission of fact pursuant to order 20 rule 1 of the FCT HIGH Court (civil procedure) rules 2018 admitting the claimants claim.**
- 3. The claimant as thus now applied for judgement pursuant to order 20 rules 1 of the High Court of FCT civil procedure rule 2018, attached to the motion is an affidavit of the claimant/application for judgment of two pages of nine paragraph depose to by one Judith Amarachi Livinus of number 14 Aba plus area 8, Garki Abuja. A written address in support of the application for judgement of three pages.**

On the sight of the defendant, filed a notice of admit facts pursuant to order 20 of FCT High Court of FCT civil procedure rule 2018 dated the 25/07/2022 where in the said notice the defendant counsel one Fatima Adamu ESQ. counsel to the defendant of legal service secretariat FCTA Kapital street area 11 Garki Abuja stated as follows

- 1. The defendant admits the provisions of paragraph 1 to 3 of the claimant's witness statement of claim.**
- 2. The defendant admits paragraph 4 of the statement of claim to the extent that the claimant was allocated plot 397 Guzape District Cadastral Zone A 09 measuring 1.39 Hectares.**
- 3. The defendant admits paragraph 5-6 of the statement of claim and adds that the 2nd defendant created out of plot 397 Guzape file No: 1336497 in favour of Mohammed Dalla and file No: MISC 136494 in favour of Assurance Global Link Nig. Ltd after necessary document of conveyance was served upon the 2nd defendant.**

That till date plot 397 Guzape District Cadastral Zone A09 is still property of the claimant according to the records registry of the 2nd defendant.

In law admission is a phenomenon that in some circumstance discharges the burden of proof that is on the claimant. Where a party against whom a claim is made, had either before or during the proceeding made statement to the effect that such claim is correct, then the court may find that, there is no need for the claimant to engage in further proof of the claim, except there is evidence from the other party dislodging such admission. See *Balophys Ent. Ltd V NDIC*(2019) and *NWLR* (PT. 1674) 252 CA. and *Atlantic Networks Ltd. V Abawa* (2016) *LPELR* – 40368 and by order order 20 rules 1 of the High Court of FCT civil procedure rule 2018. It provides thus:

“any party to a proceeding may give notice by his pleading or otherwise in written that he admits the truths of the whole or facts or any part of the case.

And in the notice of admit facts, the defendant admits the following paragraphs:

Of the claimant statement of claim paragraph 1-6 is as follows:

- 1. That the claimant is a Company incorporated in Nigeria and is engaged in the business of among others acquiring and developing properties with office all over Nigeria including Plot C3 Rumuogbo Estate Port Harcourt, River State.**
- 2. The 1st Defendant is a Public officer to whom the President of the Federal Republic of Nigeria delegated all its powers over all lands in the Federal Capital Territory, Abuja.**
- 3. The 2nd Defendant is the Statutory body headed by the 1st Defendant and is in charge of the physical and administrative development of the Federal Capital Territory including lands Administration.**
- 4. Sometimes in the year 2000, the claimant was allocated a plot of land measuring 18 hectares for it to develop a world Trade Centre. Later owing to some administrative restriction and some redesigning, the allocation was withdrawn and in its stead, the claimant was allocated plot 397 Guzape District Cadastral Zone A09 measuring 1.39**

hectares. This was later certified by a certificate of Occupancy No: No: 18 caw-17e11-15efr-13yu-20 which is hereby pleaded.

- 5. Owing to certain exigencies, the claimant had to alienate part of the land allocated and it to Assurance Global Link Nig. And another 2039.39 square meters to Muhammed Dalla.**
- 6. That the defendants in recognition of his alienation created two new files on the land. It created file No: 136497 for the land sold to Mohammed Dalla and renumbered the land plot 4902 and also issued a new right if occupancy over same. In like manner, it also carved out the 2103.40m2 alienated to assurance Global; Link Nig. Ltd and created a new file No: MISC/36494for it and equally issued a new right of occupancy over same.**

The law is well settled that facts admitted need no proof and the court is expected to act there on. See *Atanda V Iliasu* (2013) 6 NWLR (PT. 1351) page 529 at 551, it is equally correct that facts not disputed or challenge are taking as admitted and need no further proof. *Emeka V Okoroafor* (2017) 11 NWLR (PT. 1577) page 410 at 513 paragraph G-H paragraph Eiko JSC.

In view of the above and the admission of the defendant to paragraph 1-6 of the statement of claim I shall proceed to give Judgement to the claimant as paragraph 1-6 of the statement of claim I shall proceed to give judgement to the clamant as paragraph 1- 6 are not challenge non controverted by the defendants.

It is therefore trite that evidence that is neither challenge nor debunked remains good and credible evidence which should be relied upon by the trial court as the trial court has little or no choice but to accept the unchallenged and uncontroverted placed before it by a claimant if it was not discredited by the defendant.

See *Monkom V Odili* (2010) 2 NWLR (PT. 1179) page 419 at 442 paragraph D-E Per Omokir JCA.

In Summation pursuant to order 20 (Rule) 1 of the Rules of the court I must proceed to enter judgement in favour of the claimant. Judgement is hereby entered for the claimant against the defendant and it is hereby declared as follows:

- 1. A declaration that the claimant is entitled to a right of occupancy in and over all that land being and lying at plot 397 Guzape District**

File No: 58 959 cadastral zone A09 Guzape Abuja and certified by certificate of occupancy No: 18 caw-17e11-15efr-13yu-20 and measuring 1.39 hectares.

- 2. A declaration that having divested of its interest in 2039-39 square meters as carved out in file no 136497 and renumbered plot 4902 and also 2103.40 square meters, also carved out in file no: MISC 136494 and renumbered plot 4903 making a total of 4142.79 square meters the claimants land now remaining is 6958 square meters which he is entitled to a right of occupancy over.**

- 3. It is hereby order that the defendant to forthwith issue to the claimant a right of occupancy in and over all land remaining. Land being and lying at plot 397 Guzape District cadastral zone Abuja which measures 9658 square meters after remaining the 2103.40 square meters sold to Assurance Global link LTD and 2039 square meters sold to Mohammed Dalla.**

- 4. An order of injunction restraining the defendants, their agents, privies and all that claim through them from interfering with the claimants right of occupancy over and in the said remaining 9658 square meters of land being and lining at plot 397 Guzape or whatever new plot number the defendant may now give to it as that is simple administrative.**

This is my judgement.

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HON. JUSTICE A. Y. SHAFI

APPEARANCE:

1. Chimezie Oginna Nwodo for the plaintiff/claimant

