

**IN THE HIGH COURT OF FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT MAITAMA – ABUJA
BEFORE HIS LORDSHIP: HON. JUSTICE .H. MU’AZU
SUIT NO: FCT/HC/CV/6845/2023
DELIVERED ON THE 13/06/2024**

BETWEEN:

MR. BEN ADAMA..... APPLICANT

AND

- 1. THE COMMISSIONER OF POLICE F.C.T,
COMMAND**
 - 2. THE DEPUTY COMMISSIONER OF POLICE
CRIMINAL INVESTIGATION DEPARTMENT
F.C.T, COMMAND**
 - 3. THE OFFICER INCHARGE (OC) DEPARTMENT
OF GENERAL INVESTIGATION CRIMINAL
INVESTIGATION DEPARTMENT F.C.T, COMMAND**
 - 4. CAPON PATRICK (I.P.O)**
 - 5. MRS. MARYROSE OBIAGELI UZUEGBUNAM**
- ...RESPONDENTS**

JUDGMENT

This is an Application for the Enforcement of the Fundamental Human Right of the Applicant dated the 12th July, 2023 and filed on the 17th July, 2023. Where the Applicant is praying this Honourable Court for the following reliefs:

A. A DECLARATION that it is the Constitutional right of all citizens, the Applicant inclusive to freedom and liberty

inclusive of the right to ownership of properties and contractual engagement in economics, without let or hindrance except in accordance with law, rule of law the extant constitution of the Federal Republic of Nigeria and the African Charter on peoples and Human Right.

B.A DECLARATION that the 1st – 4th Respondents are not debt collectors or in any way a Court of Law to adjudicate on issues civil in nature and totally devoid of criminality concerning civil transactions between the Applicants and the 5th Respondents in respect of sale **Plot No. 2556, Jikwoyi Village Extension Layout, F. C. T, Abuja.**

C. AN ORDER OF PERPETUAL INJUCTION restraining/prohibiting the 1st – 4th Respondents and all its agents from further inviting, arresting, detaining, interfering, tempering or in any way however whatsoever restrict, limit or abridge the Fundamental Rights of the Applicant with regard to all matters/issues or issues bothering on civil transactions between the Applicant and the 5th Respondents in respect of sale **Plot No. 2556, Jikwoyi Village Extension Layout, F. C. T, Abuja.**

D. AN ORDER directing the 5th Respondent to approach any competent civil court of law for ventilating her grievances

and seek redress for all matters/issues or issues bothering on civil transactions between her and the Applicant.

E. **₦10,000,000.00** (Ten Million Naira) only as Compensatory, Exemplary Damages payable to the Applicant by Respondents jointly and severally for the Breach of his Fundamental Human Rights.

F. The sum of **₦500,000.00** (Five Hundred Thousand Naira) only as cost of this suit payable to the Applicants by the 5th Respondents.

G. **AND FOR SUCH FURTHER** or other Orders as this Honourable Court may deem fit to make in the circumstances of this Application.

In compliance with the Fundamental Right Enforcement Procedure Rules the Applicant filed a statement in support of his Application as on the face of the Motion Paper.

The Application is predicated upon 4 grounds to wit:

- i. It is unconstitutional and a violation of Fundamental Rights of the Applicant for the Respondents to take any steps towards the arrest, intimidation, harassment or detaining the Applicant on a spurious allegation that is totally devoid of any criminality but purely Civil in Nature

bothering on civil transactions between the Applicant and the 5th Respondent in respect of sale **plot No. 2556, Jikwoyi Village Extension Layout, F. C.T, Abuja.**

- ii. It is the Rights of the Plaintiff to engage in Economic activities pursue means of livelihood. Own properties without let or hindrance as guaranteed by the constitution and the African charter to do otherwise will be a violation of the Applicant Rights under the law.
- iii. That determination of all issues relating to civil transactions between the Applicant and the 5th Respondent in respect of sale **plot No. 2556, Jikwoyi Village Extension Layout, F. C.T, Abuja,** like in the present case is not that of the 1st – 4th Respondents and any steps taken towards that area is unlawful and clearly contrary to the extant laws.
- iv. That in as much as the 1st Respondent has the right to investigate crime; such right must not be exercised in contravention of the constitution and all extant laws of the land.

The Applicant in support of his Application filed a 4 paragraph affidavit deposed to by the Applicant himself wherein he deposed thus:

That he is a business man, into diverse area of business within the Capital Territory.

That the 1st Respondent is the Head of the Federal Capital Territory Police Command.

That the 2nd Respondent is the officer in charge of the Criminal investigation department, CID of the Federal Capital Territory Police Command.

That the 3rd Respondent is the officer in charge of department of General Investigation Federal Capital Territory Police Command, Criminal Investigation Department.

That the 4th Respondent is a police officer attached to the General Investigation Department (CID) and working under the 2nd Respondent.

The 5th Respondent is a staff of Community Staff Primary and Secondary School Asokoro, Federal Capital Territory Abuja within the Jurisdiction of the Honourable Court.

That sometime ago in 2007, he was opportune to purchase a plot of Land in Jikwoyi village extension from Emmanuel Hassan the original allottee. The said is **plot No. 2556, Jikwoyi village extension layout, FCT, Abuja.**

That he held onto the plot and never developed it, it due to his financial standing till the year 2018 when he was

approached by one Hussein who claimed to be an agent of the 5th Respondent with entreaties that the 5th Respondent is interested in buying the said land from him.

That After much negotiation with the 5th Respondent and the said Hussein he agreed to sell the said land to the 5th Respondent at the sum of **₦800, 000, 00. (Eight Hundred Thousand Naira).**

That after agreement as to price he gave the said Hussein and the 5th Respondent copies of his title document for verification and clarification at the relevant authorities within Federal Capital Territory.

That after the 5th Respondent and her agent Hussein concluded at the relevant verification as to the genuineness of the title document relevant authorities within the Federal Capital Territory, they confirmed the authenticity of the document and paid him the agreed sum of **₦800, 000, 00. (Eight Hundred Thousand Naira)** to which he then executed a power of Attorney and a Deed of Assignment to conclude the sales of his land to her.

That because of the constant encroachment by land grabber in Abuja, he advise the 5th Respondent to immediately settle the locals for economic trees and start development on the

land, but all his advice when to daft ears, as the 5th Respondent at certain point queried him as to why he was worried and disturbing her as the land is no longer his but hers to lose.

That after the above incident he took his eyes off the land and went his way.

That in early 2023 around February, he received a call from the 5th Respondent enquiring where he was as she found out that somebody has fenced the said land and built a security house on it. Which he replied her, where was she when the said construction was going on to stop the trespass of the said person.

That in trying to resolve the matter he went to the land which is now fenced with a security house, upon enquiry from the neighbor he was informed that the said fenced land has been under lock and keys for over three months as the owner travelled and has not been seen for sometimes now as informed he relayed back to the 5th Respondent and ask her to allow time for the person to return for investigation to be done as the person has a defective title.

That upon informing her of the above she started shouting and threatening hell and brimstone that she was going to deal

with him and that he will rot in jail as she has connections with the police and other security agencies.

That to confirm her threat two days later he was summoned by the 4th Respondent to the department of general investigation Federal Capital Territory Police Command C. I. D. Abuja at the instruction of 1st and 2nd Respondent.

That upon receiving this summoned and not being afraid having committed any wrong he immediately went to the office of the 1st, 2nd, 3rd and 4th Respondents to answer the summons.

That on getting to their office with the belief that Justice in the matter will be done as he has done no wrong, he was shock at the procedure that greeted him, as the 5th Respondent sat at the head of affairs dishing out instructions to the 4th Respondent on how he should carry out his investigations and keep him under lock and key.

That he could only get bailed after writing his statement, due to the fact that the 5th Respondent was called at her place of work and could not stay as the 1st, 2nd, 3rd and 4th Respondents office till late in the night he was then instructed to return back the next day before the 5th Respondent visits the police station.

That the next day being the 22th of June, 2023 he reported to the office of the 1st, 2nd, 3rd and 4th Respondents and pleaded with them in front of the 5th Respondent that he don't want trouble and will refund the money paid to him by the 5th Respondent for peace to reign and get back his document so as to fight the intruder of the said land.

That to his shock the 5th Respondent out rightly stated that she can only back down from the case and let him go if he paid her **₦4,000,000.00** (Four Million Naira) in excess of the money she paid to him.

That he refused as she only paid him **₦800,000.00. (Eight Hundred Thousand Naira)** for the land, he even offered to pay her additional **₦200,000.00** (Two Hundred Naira) for her stress but she refused and stock on the **₦4, 000, 000.00** (Four Million Naira).

That the intention of the 5th Respondent is to use the 1st – 4th Respondents to subdue and collect his Money from him.

That he know as of fact that the 1st – 4th Respondent are not court of law to mitigate between parties in both civil matters and matters.

That he know as a fact that the function of the 1st – 4th Respondent criminal in nature and does not involve civil transactions.

That it will be in the interest of justice that the court grants the Application to free the Applicant from looming hammer of the Respondents.

The Counsel to the Applicant filed a written address wherein he formulated a sole issue for the determination of this Honourable Court to wit:

“Whether the Respondents can arrest/detain or threaten to arrest/detain, harass, intimidate and generally infringe, restrict, limit, abridge the Applicant’s Fundamental Rights to liberty and human dignity in breach of their Fundamental Rights/Rights enshrined in the Constitution of the Federal Republic of Nigeria and the African charter on Human and peoples Right in a matter civil in nature and bothering on title to land.”

Counsel in arguing his case relied on section 46 (1) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and Order 2 Rule 1 of the Rules of this Court stating

that this Court has the Jurisdiction to hear determine this Application.

He argued that the Applicant has in paragraph 3 of his affidavit in support placed sufficient material facts before this Honourable Court to aid the court in arriving at a just conclusion and that the question as to whether the Respondents are allowed under our laws to carry on with the crass impurity manifest in the affidavit having regards to the constitution, the African charter on Human and people's Rights (Ratification and Enforcement) Act and the freedom of information Act 2011? Counsel submitted that answer in the negative.

Counsel submitted that the provision of the laws have secured the Fundamental Rights of the Applicant to be free from any impediment to his Rights he cited the case of *GEORGE V. FEDERAL REPUBLIC OF NIGERIA (2014) ALL FWLR (Pt. 718) 879* where the Apex Court reaffirmed the principles in *AOKO V. FAGBEMI (1961) 2 ALL NLR 400* that No Man should suffer for an offence unknown to law.

Further counsel argued that it is trite that an Applicant need not wait until he is hauled into a dungeon before he enforces his Fundament Right he cited the case of *MACHIKA V. KADUNA*

STATE HOUSING AUTHORITY (2011) 3 NWLR (pt. 1233) 15, 47 A-B where it was held thus:

“The court have stated in many cases that a person does not have to wait for actual infringement or breach of his right guaranteed in chapter 4 of the Constitution before he can take action for redress in the High Court and that he can approach the court to prevent or stop the breach of such right before it can actually occur”

Counsel submitted that Fundamental Rights are no longer favours dispensed to the citizens at the whims and caprices of Men in authority but as the Supreme Court stated per UWAIFO JSC (as he the was) in *FRN & ANOR VS. IFEGWU (2003) 15 NWLR (pt. 842) 113, 135 B.*

“Fundamental Rights are regarded as part of Human Rights the trend in every modern society where the Rule of law operates is to protect them from the Enforcement of Human dignity and liberty.”

Counsel submitted that the Act of the Respondents is what made the Applicant to approach this court seeking redness as there is a groundswell of plan by the Respondents to embarrass, intimidate, harass, arrest or detain the Applicant. He urged the

court to hold that the right of the Applicant is likely to be contravened by the 1st – 4th Respondents.

He further argued that it is the duty of this Honourable Court to help in the Enforcement of the Fundamental Rights of the Applicant. He cited *FEDERAL CIVIL SERVICE COMMISSION VS. NOYE (1998) 2 NWLR (pt.16) 650, 702 D-F*.

Finally counsel relied on the Preamble to the 2009 Rules and emphasised on the laws and Rules cited in urging this Court to grant the Application and Reliefs therein.

Until the date for hearing of this Application, None of the Respondents responded to the Application, they were not present in court and not represented even though they were all served, the 5th Respondent was served by substituted means via pasting on her last known address by the order of this Court granted on the 20th of March, 2024.

Thus, in the light of the authorities and statutes relied upon , I hold the firm view that the Applicant's fundamental rights are likely to be breached not by the invitation to be interviewed by the Police who are on a fact-finding mission in the course of their investigations into the allegations known to the Applicant, But by

the procedure carried out during the investigation based on the affidavit of the Applicant which was not denied

It is indeed our collective responsibilities to ensure all hands are on deck for all agencies of government to work well and achieve the desired results.

However, that cannot be done in utter disregard for the constitutionally provided rights, which are well guaranteed.

It is my considered judgment that although the Applicant has not been able to prove that the Respondents are in breach of his right by threatening to arrest, detain and torture him as he alleged, it will however constitute an infringement of his fundamental rights to continue to call his attention in the investigation based only on being an assignor of the property in question which is likely to infringe on his rights.

The Applicant who made efforts to sway this court via his affidavit deposition, has legally convinced this court of his entitlement to the grant of some of the reliefs sought. Which the Respondents did not deny. It is trite that an uncontroverted affidavit is deemed as admission to the facts so not denied. See the case of *BWALA VS. ASHAKA CEMENT PLC (2010) LPELR-3898 (CA)*.

On the whole I find this application to partly succeed as reliefs A-D is granted as prayed while E-F is refused.

SIGNED:
HON. JUDGE
13/06/2024.

Appearance:

S. A. Oyageshio, Esq, for the Applicant

Respondents absent and not represented