

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT HIGH COURT 18 GUDU – ABUJA**  
**DELIVERED ON WEDNESDAY THE 4<sup>TH</sup> DAY OF DECEMBER, 2024**  
**BEFORE HIS LORDSHIP; HON. JUSTICE MODUPE. R. OSHO-ADEBIYI**  
**SUITNO.CV/1263/2019**

**BETWEEN:**

**MRS. MARY MAMUNETU EROMOBO----- CLAIMANT**

**AND**

- 1. KYC INTER-PROJECT LTD -----DEFENDANTS**
- 2. HON. MINISTER, FEDERAL CAPITAL TERRITORY**

**JUDGMENT**

The Claimant on the 7<sup>th</sup> of March, 2019 filed a writ of summons and in her amended statement of Claim, she is praying for the following: -

1. A DECLARATION of this Honourable Court that the Claimant is entitled to the piece of land situate at plot 252 within Sabon Lugbe East District Abuja, by virtue of the Conveyance of Approval dated 11<sup>th</sup> March, 1999 and Re-Certification and Reissuance of Certificate of Occupancy dated 30<sup>th</sup> June, 2005 by the then Ministry of the Federal Capital Territory now the Federal Capital Territory Administration.
2. A DECLARATION by this Honourable court that the 1<sup>st</sup> Defendant's occupation of any part of plot 252 within Sabon Lugbe District, Abuja amounts to the act of trespass.
3. AN ORDER of perpetual injunction restraining the 1<sup>st</sup> defendants, their operatives, agents, privies, and any other person acting on their directive to desist from any form of encroachment on the piece of land situate at plot 252 within Sabon Lugbe East District, Abuja.
4. AN ORDER of this Honourable Court awarding the sum of N10,000,000.00 (Ten Million Naira Only) against the 1<sup>st</sup> defendant as general damages.
5. AN ORDER of this Honourable Court awarding the sum of N5,000,000.00 (Five Million Naira Only) against the 1<sup>st</sup> defendant being the cost of this action.

The defendants were served the court processes on the 2/4/2019; the 1<sup>st</sup> defendant filed its statement of defence on 19/11/2019 but was foreclosed for lack of diligent prosecution of its defence after the Claimant closed its case on the application of the Claimant. The 2<sup>nd</sup> defendant filed only its memorandum of appearance on the 25/4/2024 and rests its case on that of

the Claimant. Thus, it is only the facts and evidence of the claimant that is before this court.

Hearing commenced on 21/11/2019. The claimant, Mrs. Mary Mamunetu Eromobor testified as PW1. She identified/adopted her witness statement on oath and tendered the following documents:

1. Letter of administration issued by FCT High Court, Probate division dated 3<sup>rd</sup> /07/17 admitted in evidence and ruled \_ Exhibit A
2. Acknowledgment for re-certificate and re-issuance of C of O dated 06/03/05 admitted in evidence – Exhibit B.
3. Offer of terms of grant/conveyance of approval of a Grant of right of occupancy in respect of subject matter dated 11/3/1999 – Exhibit C.
4. A letter addressed to the Director Development Control FCTA Zone 6 Wuse, Abuja as regards encroachment of subject matter of suit and signed by AgbonheseAgbonherse& CO – Exhibit D
5. Duplicate Tellers of payment into Ecobank:
  - a. Deposit slip No. 003354 for Ecobank in the sum of N100,000 –Exhibit E1
  - b. Duplicate letter of payment into Ecobank No. 003354 for the sum of N100,000 – Exhibit E2.
  - c. Abuja GIS payment for N100,000 – Exhibit E3.
  - d. Duplicate copy of teller from U.D.A. NO. 0048437 dated 16/11/2005 for the sum of N100,000 – Exhibit E4.
  - e. Duplicate copy UBA teller No. 0010416 for the sum of N100,000 dated 11/07/05 – Exhibit E5.
  - f. Duplicate copy of U.B.A. teller No. 0048258 paid into A/C 1142030002030 dated 30/06/05 with amount not clearly legible – Exhibit E6.
6. Department of Land, Planning & Survey of FCDA in respect of Plot Number 252 with total square meters being 3280.63 – Exhibit F.

From the facts deposed, it is the case of the Claimant that she is the widow of Ambassador P.S.O. Eromobor. That she is the administrator of her late husband's estate, including the land in question, following his death in 2016. That her husband was granted ownership of the land through an Offer of Grant from the second defendant, and she has applied for a Certificate of Occupancy for the property. That despite paying the required fees and being in possession of the land's original documents, she has faced ongoing interference from the first defendant, who has used thugs to disrupt her efforts to develop the land, including damaging a fence she built. That she has made formal complaints to relevant authorities, including the Federal Capital Territory Administration, and sought intervention, but the trespassing has continued. That the 2<sup>nd</sup> defendant confirmed her husband's ownership and warned the 1<sup>st</sup> defendant, but the

trespassing persists, leading her to send a formal letter to the 1<sup>st</sup> defendant through her lawyers to stop the disruptions.

At the end of her evidence the PW1 was cross examined by counsel for the 1<sup>st</sup> defendant wherein he elicited that the land document was issued in her husband's name by FCDA. That she has paid for C of O and for ground merit. That she had fenced the land. That she was informed by the people that went there to work that thugs chased her workers from the land.

The claimant closed her case and later applied to reopen her case and call PW2 which said application was granted by the court and Claimant reopened her case on 25/5/2022. The PW2 David Okoloise adopted his witness statement on oath and tendered the following documents in evidence;

- a. Nine (9) pictures of site admitted in evidence and marked Exhibit G1 to G9.
- b. Certificate of compliance marked Exhibit G10.

From the facts deposed, the PW2 averred that he is a carpenter and site supervisor. That he was tasked by the Claimant to organize labor for the construction on the property and he oversaw the start of construction and brought masons to the site. That he was paid by the Claimant to construct a fence, which was later demolished by the 1<sup>st</sup> Defendant. That in 2018, while re-fencing the land, the 1<sup>st</sup> Defendant's agents threatened him and his team, forcing them to leave the site. That upon returning with the Claimant, they found that the fence and boundary beacons had been demolished by the 1<sup>st</sup> Defendant, who extended their own fence onto the Claimant's property. That the Department of Development Control intervened in 2018, confirmed the boundaries, demolished the 1<sup>st</sup> Defendant's structure, and instructed them to stop encroaching. That despite this, the 1<sup>st</sup> Defendant continued to trespass and demolish the Claimant's fence.

The PW2 was also cross examined by counsel to the 1<sup>st</sup> Defendant and re-examined by the Claimant's counsel.

Despite the hearing notices served on the 2<sup>nd</sup> defendant they failed to appear in court. Claimant closed her case and the matter was adjourned for defence. On the subsequent days slated for defence, the defendants failed to appear in court. Learned counsel for the Claimant applied that the Defendants be foreclosed from defence. The application was granted and the matter was adjourned for adoption of final written addresses.

On the 6/7/2023 Claimant counsel filed a written address, learned counsel adopted the final written address filed on behalf of the claimant, wherein he formulated two (2) issues for determination, to wit;

1. **Whether the Claimant's evidence and testimony being unchallenged and not contradicted can be deemed admitted and the consequences thereof.**
2. **Whether by virtue of the letters of administration, the Claimant is entitled to the said land.**

In summary, learned counsel submitted that evidence neither contradicted nor challenged is deemed admitted. That it is trite that uncontroverted pleadings and evidence are deemed waved and admitted. With regards to the 2<sup>nd</sup> issue counsel submitted that a letter of administration is similar to a grant of probate. That it vests the property left behind by a deceased person into the administrators of a specific estate. Counsel submitted that it is trite that interest in property owned by a deceased is moved to the administrators of his estate along with all assets and liabilities. Counsel further submitted that the Claimant having established that her late husband remained with title and interest in the said land until his demise and having been duly granted letters of administration over the estate of the deceased husband which includes the land which is subject of this suit, it is only just and equitable for the reliefs sort by the claimant in the writ of summons be granted. Counsel urged the court to grant all the reliefs as sought by the Claimant. Counsel relied on the following authorities amongst others; **NWOKOLO V. NWOKOLO (2018) LPELR-45035 (CA); YUSUF & CO. LTD V. KEBBI STATE GOVERNMENT (2010) LPELR-5113 (CA); RUWANFILI V. STATE (2017) LPELR-42504 (CA); SARKI V. SARKI & ORS (2021) LPELR-52659 (CA); Admin./Exec., Estate, Abacha (Deceased) v. Eke-Spiff&Ors. (Supra); UGWU & ORS V. EZEANOWAI & ORS (2017) LPELR-41888(CA) (Pp. 58-59, paras. D-A).**

As stated earlier, the defendants failed to defend this matter. The 1<sup>st</sup> defendant was foreclosed for lack of diligent prosecution of his defence while the 2<sup>nd</sup> defendant filed only memorandum of appearance and rested his case on that of the Claimant. Fair hearing is a fundamental element of every trial process and it has some key attributes: these include that the court shall hear both sides of the divide on all material issues and also give equal treatment, opportunity and consideration to all the parties as held in **Usani V Duke (2004) 7 N.W.L.R (pt.871) 116 and Eshenake V Gbinijie (2006) 1 N.W.L.R (pt.961) 228.** However, no party has till eternity to present or defend any action. The Defendants here have been given every opportunity to defend the allegations of the Claimant which opportunity they failed to utilize. In law, it is now an accepted principle of general

application that in such circumstances, the defendants are assumed to have accepted the evidence of the plaintiff and the trial court is entitled or is at liberty to act on the plaintiff's unchallenged evidence as held in **Tanarewa (Nig) Ltd V Arzai (2005) 5 N.W.L.R (pt.919) 593 at 636 C-F; Omoregbe V Lawani (1980) 3 – 7 SC 108; Agagu V Dawodu (1990) N.W.L.R (pt.160) 169 at 170.** Notwithstanding the above general principle, the court is however yet still under a duty to examine the established facts of the case and then see whether it entitles claimant to the relief(s) she seeks. It is trite law, that in civil cases, the burden of first proving the existence or non-existence of a fact lies on the party against whom the judgment of the Court would be given if no evidence were produced on either side, regard being had to any presumption that may arise on the pleadings. **Section 131(1) of the Evidence Act** states that whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist. **Section 132 of the Evidence Act** states that the burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side. **Section 133(1) of the Evidence Act.** In **Nnamdi Azikiwe University V. Nwafor (1999) 1 N.W.L.R (pt.585) 116 at 240-242,** the court of Appeal per Salami J.C.A (as he then was) held:

*“The plaintiff in a case is to succeed on the strength of his own case and not on the weakness of the case of the defendant or failure or default to call or produce evidence... The mere fact that a case is not defended does not entitle the trial court to overlook the need to ascertain whether the facts adduced before it establishes or proves the claim or not. In this vein, a trial court is at no time relieved of the burden of ensuring that the evidence adduced in support of a case sustains it irrespective of the posture of the defendant...”*

It is also the trite position of law in cases where the Claimant seeks for declaratory and injunctive reliefs that the Claimant must establish his entitlement to such reliefs with credible evidence; and in so doing, he succeeds only on the strength of his own case and not on the weakness of that of the defence as held in **ADDAH & ORS v. UBANDAWAKI (2015) LPELR-24266(SC), per Fabiyi, JSC at pages 19 – 20, paras. E – F;** The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side as held in **MTN NIGERIA COMMUNICATIONS LTD v. OLAJIRE A. ESUOLA (2018) LPELR-43952(CA).**

The burden of proof in this present suit lies on the Claimant to establish her case on a balance of probability by providing credible evidence to

sustain her claims irrespective of the presence and/or absence of the defendants. The sole issue for determination here is:

**“Whether the Claimant has proved that she is entitled to the prayers sought”.**

The Claimant bears the duty in law to adduce credible and admissible evidence in establishing her claim. It becomes most expedient to ascertain the root of title of Claimant first and foremost.

Before I delve into the evidence and pleadings as presented by the Claimant, I need to state the law regarding matters on declaration of right to title to land in the Federal Capital Territory, Abuja. It is not in doubt that the ownership of all lands comprised in the Federal Capital Territory, Abuja is vested in the Government of the Federal Republic of Nigeria as vested by **Section 297 (2), 299 (a), (b) (c) of the 1999 constitution of Federal republic of Nigeria (as amended)**. Also, by virtue of Section 302 of Constitution the President has the power to appoint for the Federal Capital Territory, Abuja a Minister who shall exercise such powers and perform such functions as may be delegated to him by the President from time to time. Also, **Section 1 (3) of the Federal capital Territory Act, 2004** is also in conformity with **S. 297 (2) of the 1999 constitution of Federal republic of Nigeria (as amended)**. **Section 297 (2) of 1999 Constitution provides thus: -**

“The ownership of all lands comprised in the Federal capital territory, Abuja shall vest in the government of the Federal Republic of Nigeria”.

**Section 1 (3) of the Federal Capital Territory Act also provides as follows:**

“The area contained in the Capital Territory shall, as from commencement of this Act, cease to be a portion of the states concerned and shall henceforth be governed and administered by or under the control of the Government of the Federation to the exclusion of any other person or authority whatsoever and the ownership of the lands comprised in the Federal capital Territory shall likewise vest absolutely in the Government of the Federal Republic of Nigeria”.

In the FCT, it is trite law that the only means of acquiring a valid title to land is by grant of a statutory right of occupancy by the Honourable Minister of the FCT. This means that within this territory the only means of proving title to a plot of land in the FCT is by tendering valid documents of title attributed to the Honourable Minister. In this case, Claimant came about the subject matter of litigation by virtue of being the administrator of the estate of P. S. O. Eromobor (**Exhibit A**). The Black's Law Dictionary 6th Edition, page 905 defined Letters of Administration as a formal

document issued by probate Court appointing one as an administrator of an estate of a deceased person. The effect of the letter of administration is that the Claimant is given powers to act as administrator of the land allocated to the Claimant's husband P. S. O. Eromobor from whom the Claimant derived her rights to the land. It is the duty of the Claimant who is claiming inheritance to prove before the Court that the deceased husband has exclusive ownership of the land in dispute at the time of his death and the land in dispute is free from any encumbrance.

It is the claim of the Claimant that her husband P. S. O. Eromobor was allocated and issued offer of terms of grant/conveyance of approval with reference **No.MFCT/LA/ED. 2937** dated 11/3/1999 by the Minister of Federal Capital Territory, Abuja (**Exhibit C**) and RE-CERTIFICATION AND RE-ISSUANCE OF THE CERTIFICATE OF OCCUPANCY ACKNOWLEDGEMENT DATED 6/3/2005 (**Exhibit B**) issued to P. S. O. Eromobor. It therefore follows that Claimant's right to land is derived from the documents allocated to P. S. O. Eromobor the original allottee (i.e offer of terms of grant/conveyance of approval aforementioned (**Exhibit C**) and acknowledgement of submission of document for RE-CERTIFICATION AND RE-ISSUANCE OF THE CERTIFICATE OF OCCUPANCY DATED 6/3/2005 (**Exhibit B**). Both documents were granted by the Minister of Federal Capital Territory, Abuja. Also, in evidence are Exhibits E4, E5, E6 and F being receipts of payment for application for issuance of Certificate of Occupancy issued by Abuja Geographic Information Systems (AGIS). This Court has examined in depth Exhibits A, B, C, E4, E5, E6 and F and has come to the conclusion that it has established the Claimant's deceased husband as the lawful/allottee that entitles the Claimant to the reliefs sought in this action.

Also, the 2<sup>nd</sup> defendant who is the issuing authority of Exhibits B and Exhibit C did not challenge, contradict nor controvert the authenticity of the said documents or the Claimant's averments. As earlier pointed out, the 2<sup>nd</sup> Defendant chose not to call evidence in defence but rather rested its case on that of the Claimant. In **SEGUN AJIBADE V. THE STATE (2012) LPELR - 15531 (SC)** the Apex court held that;

*"When an Appellants elected not to give evidence in his defence but to rest its case on that of the prosecution. The election is within his right under the law but the legal effect of said election is to leave the Court of trial free to accept the uncontradicted evidence of the prosecution in proof of the charge..."*

The position of the law is that where an adversary fails to adduce evidence to put on the other side of the imaginary scale of justice, minimum

evidence adduced by the other side would suffice to prove its case as held in **ADUDA V. PEPPLE(2024) LPELR-61886(CA)**. Hence, I have considered the evidence, and I do hold that the claimant has proved that her deceased husband was the rightful allottee of the subject matter plot with credible and cogent evidence by production of documents of offer and allocation of land and also letter of administration of the said land and there is no contrary evidence before this court. In fact, the office of FCT minister who is the 2<sup>nd</sup> Defendant rested its case on that of the Claimant thereby corroborating Claimant's testimony that the office of the FCT minister has confirmed ownership of the land as being that of the Claimant and warned 1<sup>st</sup> Defendant to desist from troubling the Claimant. The documents before this court are clear evidence of allocation of the land in dispute to the Claimant's husband. In view of the above, I hereby resolved the sole issue in favour of the Claimant.

The Claimant is also claiming for perpetual injunction. Per **MOHAMMED BABA IDRIS, JCA in OYELEKE V. OYEDIRAN ((2020) LPELR-52098 (CA))** the court held thus

*"An order of perpetual injunction is based on the final determination of the rights of the parties and it is intended to prevent permanent infringement of those rights and obviate the necessity of bringing action after action in respect of every such infringement... The above means that a perpetual injunction is usually given as a necessary consequential relief to protect a land from being broken into, where declaration of title has been made in favour of a party. It is therefore a consequential relief which naturally flows from the declaratory order sought and granted. The Supreme Court has held that the grant of an order of perpetual injunction to a successful party is consequent upon the final determination of the rights of the parties to the dispute, is meant to prevent permanently, the infringement by the losing party of the rights of the successful party, and to obviate the necessity of bringing multiplicity of actions."*

This Court having declared the Claimant the rightful allottee of the subject property, the Claimant is therefore entitled to an order of injunction against the 1<sup>st</sup> defendant to protect her right on the subject matter, and it is so granted.

On the issue of General damages, the claimant is claiming N10,000,000.00 (Ten Million Naira) against the 1<sup>st</sup> Defendant. General damages are the losses that flow from the adversary and it is generally presumed by law as it need not be pleaded or proved. The grant of general damages is purely at the discretion of the court. the Claimant has stated that her fence was

damaged on three different occasions by the 1<sup>st</sup> Defendant not minding that the 2<sup>nd</sup> Defendant has informed 1<sup>st</sup> Defendant that Claimant's husband was the rightful allottee of the land. The 1<sup>st</sup> Defendant did not deny this and even the 2<sup>nd</sup> Defendant who choose to rest its case on the Claimant did not deny it. I therefore hold that Claimant is entitled to damages.

The Defendant is also seeking for cost in the sum of N1,000,000.00. The Court in **MEKWUNYE VS EMIRATES AIRLINES (2019) LPELR 46553(SC)**, the Supreme Court stated that

*"In a civil suit, a successful party is generally entitled to be compensated by way of cost, the amount of which the Court has discretion to determine regardless of whether it was pleaded and/or proved."*

I therefore hold that Claimant is entitled to cost.

Consequently, it is hereby ordered as follows;

1. That the Claimant is entitled to all that piece of land situate at plot 252 within Sabon Lugbe East District Abuja, by virtue of the Conveyance of Approval dated 11<sup>th</sup> March, 1999 and Re-Certification and Reissuance of Certificate of Occupancy dated 30<sup>th</sup> June, 2005 by the then Ministry of the Federal Capital Territory now the Federal Capital Territory Administration.
2. That the 1<sup>st</sup> Defendant's occupation of any part of plot 252 within Sabon Lugbe District, Abuja amounts to an act of trespass.
3. AN ORDER of perpetual injunction is hereby granted restraining the 1<sup>st</sup> defendants, their operatives, agents, privies, and any other person acting on their directive to desist from any form of encroachment or trespass on that all piece of land situate at plot 252 within Sabon Lugbe East District, Abuja.
4. The 1<sup>st</sup> Defendant (**KYC INTER-PROJECT LTD**) is hereby ordered to pay to the Claimant, "**MRS. MARY MAMUNETU EROMOBO**", the sum of N5,000,000.00 (Five Million Naira) Only as general damages.
5. The 1<sup>st</sup> Defendant (**KYC INTER-PROJECT LTD**) is hereby ordered to pay forthwith to the Claimant, "**MRS. MARY MAMUNETU EROMOBO**", the sum of N500, 000. 00 (Five Hundred Thousand Naira) as cost of this suit.

**Parties:** Absent

**Appearances:** Dr. James Agbonhese appearing with U. M. Udeelyofor the Claimant. Defendants are not represented.

**HON. JUSTICE MODUPE R. OSHO-ADEBIYI**  
**JUDGE**  
**4<sup>TH</sup> DECEMBER, 2024**