

**THE HIGH COURT OF JUSTICE OF THE 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/2352/2022**

**DATE: 27/06/2024**

**BETWEEN:**

SULEIMAN MOHAMMED NAZIF-----CLAIMANT

(Suing through his Lawful Attorney Tochukwu Peter Tochukwu Esq.,  
Practicing law, under the name & style T.P. Tochukwu & Co)

AND

ODIGBO PROPERTIES LIMITED-----DEFENDANT

**Appearance:**

*U.C. Ezeukwu, Esq, for the Claimant.*

*Olufemi .M. Balogun, Esq, for the Defendant.*

**JUDGMENT**

The Claimant instituted an action before this Honourable Court by way of a Writ of Summons wherein the Claimant is claiming for the following under listed reliefs against the Defendant:

1. Judgment of this Honourable Court effectively invalidation any purported sale of plot No. 369 (formally plot 1125), measuring about 2588.34m<sup>2</sup> Cadastral Zone B14, Dutse District, Abuja as the alleged sale was illegal, irregular, null

and void, the consent of the Claimant and that of his Lawful Attorney having not either been sought prior to the transaction or so soon thereafter obtained.

2. Judgment of this Honourable Court directing the Defendant to forthwith deliver the Original title documents of plot No. 369 (formally plot 1125), measuring about 2588.34m<sup>2</sup>, Cadastral Zone B14, Dutse District, Abuja to the Registrar of this Honourable Court for onward collection by the Claimant or his Lawful Attorney.
3. An order of perpetual injunction restraining the Defendant, his agents, assigns, privies, managers, children, donees, purchasers, assignees, successors-in-title or however described from interfering or carrying on with acts capable of undermining, disturbing or challenging exclusive ownership and possessory rights of the Claimant and that of his Lawful Attorney overall that plot No. 369 (formally plot 1125), measuring about 2588.34m<sup>2</sup> Cadastral Zone B14, Dutse District. Abuja.
4. Exemplary damage in the sum of ₦10,000,000.00 (Ten Million Naira Only) for the financial trauma, emotional torture and psychological shock suffered by the Claimant as a result of the Defendant's injurious acts against the Claimant by selling the property and retaining the proceeds for well over six (6) years.

5. General damages in the sum of ₦10,000,000.00 (Ten Million Naira) Only flowing from the devious conduct of the Defendant that prevent the Claimant from putting the property up for sale over all these years and the re-investment of the money in more lucrative business when \$1 was equivalent to ₦200.

**Or in the Alternative;**

1. Judgment of this Honourable Court directing the Defendant to forthwith pay ₦13,000,000.00 (Thirteen Million Naira) Only being the proceeds realized from the purported sale of plot No. 369 (formally plot 1125), measuring about 2588.34m<sup>2</sup>, Cadastral Zone B14, Dutse District, Abuja since March 9<sup>th</sup>, 2016 which sum was not remitted to the Claimant for ratification of the purported sale till date.
2. Judgment in the sum of ₦11,700,000.00 Eleven Million, Seven Hundred Thousand Naira) Only in favour of the Claimant against the Defendant as 15% interest per annum (₦1,950,000.00) for the six (6) years period the Defendant held back the proceeds of the purported sale calculated from the 9<sup>th</sup> March, 2016 to 9<sup>th</sup> of March, 2022.
3. Judgment in favour of the Claimant against the Defendant in the sum of ₦162,500.00 (One Hundred and Sixty-Two Thousand, Five Naira, only) representing 15% monthly interest on the retained proceeds of the purported sale

calculated on monthly basis from the 9<sup>th</sup> of March, 2022 until the date of Judgment.

4. Judgment of this Honourable court directing the defendant to pay monthly 10% interest on the cumulative Judgment sum the date of Judgment till full and final liquidation.
5. Exemplary damages in the sum of ₦10,000,000.00 (Ten Million Naira) only for the financial trauma, emotional torture and psychological shock suffered by the Claimant as a result of the Defendant's injuries acts against the Claimant by selling the property and retaining the proceeds for well over six (6) years.
6. General damages in the sum of ₦10,000,000.00 (Ten Million Naira) Only flowing from the devious conduct of the Defendant that prevented the Claimant from putting the property up for sale over all these years and the re-investment of the money in more lucrative business when \$1 was equivalent to ₦200.
7. The sum of ₦5,000,000.00 (Five Million Naira) only as cost of action.

This case first came up on 31<sup>st</sup> of October, 2022 and this Honourable Court was informed that the Defendant was duly served the Originating process. A memorandum of Appearance was entered on behalf of the Defendant by Sechap A. Tsokwa

Esq dated 20<sup>th</sup> January, 2023. The court is satisfied that the Defendant is aware of the pendency of the suit. The Defendant however, failed to appear or file its defense throughout the length of the trial despite service of hearing notices against each date the case came up.

The case proceeded into hearing. Pw1 stated that the Claimant is the Original Allottee of plot No. 369 (formally plot 1125), measuring about 2588.34m<sup>2</sup> Cadastral Zone B14, Dutse District, Abuja vide an Irrevocable Power of Attorney donated by the Claimant, Tochukwu Peter Tochukwu Esq became his Lawful Attorney exercising all rights of ownership and possession to the exclusion of every other person over the said plot.

That on the 9<sup>th</sup> of March, 2016 while the Claimant's Lawful Attorney was heading out to a Magistrates' Court, Mr. Chikezie Odigbo accosted him and claimed he needed to conduct search at AGIS and under this pretext, fraudulently collected some of the Original documents; when the Claimant's Lawful Attorney visited the Defendant on the 3<sup>rd</sup> day of May, 2016 to request that the documents be returned, the Defendant's alter-ego immediately started pleading for leniency as he Claimed he had sold the property (without the consent and authority of the Claimant or his Lawful Attorney) and collected the sum of ₦13,000,000.00 (Thirteen Million Naira) only as consideration for the sale of the property.

It is further the testimony of pw1 that, the Defendant's alter-ego issued two Guaranty Trust Bank Cheques drawn in the sum of

₦10,000,000.00 (Ten Million Naira) and ₦3,000,000.00 (Three Million Naira); there was no contrary instruction from the Defendant in respect of the presentation of the Cheques and they were presented but were NOT honoured. When the Defendant was reminded of the implication of issuing dud cheque, the Defendant's alter-ego pleaded profusely for a grace period of 3 months to either remit the money so collected or return the land documents but up-til the time of institution of this Suit, the Defendant has neither returned the title documents nor remitted the funds and it has been well over six (6) years since then.

The PW1 tendered the following documents:

- (i) Power of Attorney – P1A**
- (ii) Contract of Sale – P1B**
- (iii) Acknowledgment of Title Documents – P2**
- (iv) Cheque (Ten Million Naira) – P3A**
- (v) Cheque (Three Million Naira) – P3B**
- (vi) CTC of Petition – P4**
- (vii) Letter of JOE AGI, SAN & Associates – P5A**
- (viii) Letter of T. P Tochukwu & Co – P5B**
- (ix) Chats & Text Messages – P6**
- (x) Legal Fees – P7.**

As stated in the preceding part of this Judgment, the Defendant has failed/refused to defend this action even though hearing Notices were duly served on him.

After series of adjournments at the instance of the Defendant, both its right to cross examine the PW1 and Defence were foreclosed.

The Claimant filed and adopted its final written address wherein the issue; *“whether in view of the circumstances of this case, the claimant has had credible, cogent and believable evidence entitling him to the grant of the relief sought”* was formulated.

Learned counsel argued the above issue citing authorities in urging the court to grant the relief sought.

it is the law that where evidence is unchallenged and uncontroverted, the court is obliged to accept it as the truth. See *C.B.N VS IGWILLO (2007) 14 NWLR (Pt. 1054) 393 at page 435.*

The averments in pleadings and depositions in affidavit must be frontally and categorically met. Once a traverse is not made directly, the Defendant is taken to have admitted it. That is, specific allegation of facts in a statement of claim must be specifically denied in the statement of defence. Otherwise, the same is taken as not denied in the statement of defence and it requires no further proof by evidence. See *UNION BANK OF NIGERIA PLC VS LUOBAL NIGERIA LTD (2008) 2 NWLR (Pt. 1071) at 213 – 440*

It is elementary law that where parties have entered into a contract agreement, they are bound by the provision of the contract or agreement.

This is because a party cannot ordinarily reverse out of a contract or agreement just because he later found that the condition of the contract or agreement is not favourable to him. This is the whole essence of the doctrine of sanctity of contract or agreement. The court is bound to construe the terms of the contract or agreement and the terms only in the event of an action thereof. ***IARJAY LTD & ORS VS A.M.S LTD (2003) 2 – 3 SC 1***

A perusal of exhibits P1 to P6 will reveal that the Claimant is the owner of the subject matter of litigation and that the Claimant has not transferred his interest in the subject matter to the Defendant. It is clear from the evidence before the court that the Defendant tricked the claimant and obtained the document of the land on the basis of conducting search. And it is also in evidence that the Defendant sold the subject matter of litigation without the consent of the Claimant.

Indeed the law is trite that fraud vitiates even the most solemn of all transaction and any documents or land instrument tainted with fraud cannot transfer interest in land which it purportedly relates. See ***AFEGBAI v. EDO STATE AND ANOR [2001] LPELR 47276 CA.***

The claimant herein has by an avalanche of uncontroverted evidence proved the commission of a wrong against the Claimant by the Defendant and is therefore entitle to the judgment of this court.

It is my judgment that the Claimant has established his case on preponderance of evidence and judgment is hereby entered for the Claimant. Consequently, I hereby order as follows:-

- 1. Judgment of this Honourable Court effectively invalidating any purported sale of plot No. 369 (formally plot 1125), measuring about 2588.34m<sup>2</sup> Cadastral Zone B14, Dutse District, Abuja as the alleged sale was illegal, irregular, null and void, the consent of the Claimant and that of his Lawful Attorney having not either been sought prior to the transaction or so soon thereafter obtained is hereby granted.**
- 2. The court hereby order the Defendant to forthwith deliver the Original title documents of plot No. 369 (formally plot 1125), measuring about 2588.34m<sup>2</sup>, Cadastral Zone B14, Dutse District, Abuja to the Registrar of this Honourable Court for onward collection by the Claimant or his Lawful Attorney.**
- 3. An order of perpetual injunction restraining the Defendant, his agents, assigns, privies, managers, children, donees, purchasers, assignees, successors-in-title or however described from interfering or carrying on with acts capable of undermining, disturbing or challenging exclusive ownership and possessory rights of the Claimant and that of his Lawful Attorney overall that plot No. 369 (formally plot 1125), measuring about**

**2588.34m<sup>2</sup> Cadastral Zone B14, Dutse District. Abuja is hereby granted.**

- 4. Exemplary damage in the sum of ₦2,000,000.00 (two Million Naira Only) for the financial trauma, emotional torture and psychological shock suffered by the Claimant as a result of the Defendant's injurious acts against the Claimant by selling the property and retaining the proceeds for well over six (6) years is hereby awarded against the defendant.**
- 5. General damages in the sum of ₦1,000,000.00 (one Million Naira)**

Signed  
Hon. Judge  
27/06/2024.