

IN 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/3386/2012

DATE: 01 – 02 -2024

BETWEEN:

- 1. UACN PROPERTY DEVELOPMENT COMPANY LTD
 - 2. CANES PROPERTIES LIMITED
- }CLAIMANTS

AND

- 1. HON. MINISTER FEDERAL CAPITAL TERRITORY
 - 2. FEDERAL CAPITAL DEVELOPMENT AUTHORITY
 - 3. MOBL PRODUCING NIGERIA UNLIMITED
 - 4. ALHAJI ABUBAKAR SANI
- } DEFENDANTS
- (Trading under the name and style of; Alhaji Sani Nigeria enterprises)

Appearance:

Adetayo Adeyemo Esq with H.A. Dauda Esq for the Claimant.

Chidi Onwuekweikpe. Esq for the 1st and 2nd Defendants.

U.M. Okon Esq with G.C. Umeh Esq for the 3rd Defendant.

JUDGMENT

By a writ of Summons and statement of Claim filed on the 1st day of June, 2012 the Plaintiff commenced the instant action against the Defendants. The Plaintiff’s Writ and Statement of Claim were amended, a number of times with leave of Court,

over the 12 years the matter had been pending, passing through a good number of Judges of this Court in the process. In the extant Plaintiff's Statement of Claim, that is the further, further and further Amended Statement of Claim filed on the 6th of March 2020, the Plaintiff Claim as follow:

1. A declaration that the rights, interest and title conferred on the Plaintiff pursuant to the offer granted by the 1st Defendant and contained in Accelerated Development Programme within the Federal Capital Territory with Reference/File Number MISC 80706 which is dated 03/08/2005 and issued by the 1st Defendant with an offer date, dated 23/07/2005 on an interest which is more particularly edged out and delineated in a Building Plan Approval for Accelerated Development File Number FCTA/AMMA/DC/BP/ACC/PPP/193 dated 22/09/2006 in respect of the land situate, lying being at Plot 1013 Cadastral Zone A00 of CBD District Measuring Approximately 9500.00Sq.m, Abuja, is valid, legal, constitutional and subsisting.

2. A declaration that by the terms of the Accelerated Development Programme within the Federal Capital Territory with Reference/File Number MISC 80706 which is dated 03/08/2005 and issued by the 1st Defendant in favour of the Plaintiff, Plaintiff is entitled to the right to develop the plot of land situate, lying and being at Plot 1013 Cadastral Zone A00 of CBD District Measuring Approximately 9500.00Sq.m, Abuja as same is valid, legal, constitutional and still subsisting.

3. A declaration that the interest of the Plaintiff over and in respect of the land situate, lying and being at Plot 1013, Cadastral Zone A00 of CBD District Measuring Approximately 9500. 00Sq.m, Abuja covered by the Accelerated Development Programme within the Federal Capital Territory with Reference/File Number MISC 80706 which is dated 03/08/2005 and issued by the 1st Defendant with an offer date, dated 23/07/2005 on an interest which is more particularly edge out and delineated in a Building Plan Approval for Accelerated Development File Number FCTA/AMMA/DC/BP/ACC/PPP/193 dated 22/09/2006, is

valid, legal, constitutional, subsisting and supersedes any other interest in the said property, inclusive of the purported interest of the 3rd Defendant hereon.

4. A declaration that the purported suspension of construction works on the said Plot 1013, Cadastral Zone A00 of CBD District Measuring approximately 9500.00Sq.m, Abuja by the 1st Defendant is unjust, unreasonable, high-handed, illegal, null and void.
5. A declaration that the 4th Defendant's purported interest in the Plaintiff's parcel of land situate, lying and being at Plot 1013, Cadastral Zone A00 of CBD District Measuring Approximately 9500.00Sq.m, Abuja which said interest was purportedly transferred to the 3rd Defendant is illegal, illegitimate, suspect, questionable, null and void.
6. A declaration that the presence of the 3rd Defendant on the land situate, lying and being at Plot 1013, Cadastral Zone A00 of CBD District Measuring approximately 9500.00Sq.m, Abuja pursuant to the interest purportedly transferred to it by the 4th Defendant is an act in trespass

contrary to the rights and interests of the Plaintiff over the said land.

7. An order of perpetual injunction restraining all the Defendants either by themselves, servants, agents, privies or through any person or persons howsoever from trespassing or further trespassing, encroaching or further encroaching, demolishing or further demolishing the Plaintiff's property situate, lying and being at Plot 1013, Cadastral Zone A00 of CBD District Measuring Approximately 9500. 00Sq.m, Abuja and which is covered by the Accelerated Development Programme within the Federal Capital Territory with Reference/File Number MISC 80706 which is dated 03/09/2005 and issued by the 1st Defendant with an offer date, dated 23/07/2005 on an interest which is more particularly edged out and delineated in a Building Plan Approval for Accelerated Development File Number FCTA/AMMA/DC/BP/ACC/PPP/193 dated 22/09/2006.
8. An order of perpetual injunction restraining the 1st and 2nd Defendants either by themselves, servants, agents, privies

or through any person or persons howsoever from aiding, encouraging or assisting the 3rd and/or 4th Defendants from entering, trespassing or encroaching on the Plaintiff's parcel of land situate, lying and being at Plot 1013, Cadastral Zone A00 of CBD District Measuring Approximately 9500.00Sq.m, Abuja.

9. An order of perpetual injunction restraining the 1st and 2nd Defendants either by themselves or through their agents, servants or howsoever called, from approving any building plan for the 3rd and/or 4th Defendant in respect of Plot 1013, Cadastral Zone A00 of CBD District Measuring Approximately 9500. 00Sq.m, Abuja.
10. An Order of perpetual injunction restraining the 1st and 2nd Defendants either by themselves, servants, agents, privies or through any person or persons howsoever from aiding, encouraging or assisting the 3rd and/or 4th Defendants from further developing, trespassing or encroaching on the Plaintiff's parcel of land situate, lying and being at Plot 1013, Cadastral Zone A00 of CBD District Measuring Approximately 9500.00Sq.m, Abuja.

11. Special damages against the 3rd and 4th Defendants in the sum of N500, 000, 000 (Five Hundred Million Naira).

In response to the Plaintiff's Amended processes, the 1st and 2nd Defendants filed the 1st and 2nd Defendant's Amended Statement of Defence filed on the 14 day of November, 2022.

The 3rd Defendant's response is the 3rd Defendant's third consequential Amended Statement of Defence filed on the 1st of December, 2020.

In response to the 1st and 2nd Defendants defence the Plaintiff filed further, further and further Amended Reply to the 1st and 2nd Defendants' Statement of Defence filed on the 1st of February, 2023 and the further Amended Reply to the 3rd Defendant's Statement of Defence filed on the 6th of March, 2020.

Upon the close of pleadings, hearing commenced on the 12th day of May, 2022 with the Claimant calling in support of its case, the sole Plaintiff's witness Mrs Folake Kalaro, who testified as PW1. PW1 adopted her 3 Witness Statements on Oath. The three Witness Statements are as reproduced here under.

(1) The main Witness Statement accompanying the Amended Statement of Claim dated 6/03/2020:

1. That the Plaintiff is a Limited Liability Company duly registered under the Laws of Nigeria and also carrying on the business of property development with its registered office at Plot 11, Murtala Square/Race Course Road, Kaduna, Kaduna State.
2. That by a Power of Attorney dated 19th June, 2006, the Plaintiff appointed UACN Property Development Company Plc its Lawful Attorney for the purpose of prosecuting and defending its interest in respect of the subject matter of this Suit. The Plaintiff shall at the trial of this Suit rely on the said Power of Attorney and same is hereby pleaded.
3. That the 1st Defendant is a Minister in the Presidency and Chairman, Federal Capital Development Authority appointed in accordance with constitutional provisions and charged with the responsibilities of administering the FCT.

4. That the 2nd Defendant is a corporate body created by the Federal Capital Territory Act CAP 128 laws of Federal Republic of Nigeria 1990 charged with developing and maintaining the FCT Master Plan.
5. That the 3rd Defendant is an unlimited liability company whose address is at ExxonMobile House 1, Lekki Expressway, Victoria Island, Lagos.
6. That the 4th Defendant purports to be the original allottee of Plot No. 1013, Cadastral Zone A00, Central Business District, Abuja and carries on his business transactions in the name and style of Alhaji Abubakar Sani Nigeria Enterprises registered with the Corporate Affairs Commission (CAC).
7. That in a bid to participate in the actualization of the Abuja Master Plan and thereby contribute its own quota to the development of the Federal Capital City (FCT), Plaintiff made an application, pursuant to the 1st and 2nd Defendants' Accelerated Development Programme, for allocation of land in the FCT to the 1st Defendant. I rely on the said Application dated the 5th day of July, 2005.

8. That pursuant to the said application for allocation of land, the 1st and 2nd Defendants, via the instrumentally of the Abuja Geographic Information Systems (AGIS) a department under the 2nd Defendant issued a letter of offer to the Plaintiff referring to its application and conveying the approval of grant of Plot 1013 in Cadastral Zone A00 of CBD measuring approximately 9,500sq.m. I rely on the said letter dated the 3rd day of August, 2005 “ACCELERATED DEVELOPMENT PROGRAMME WITHIN THE FEDERAL CAPITAL TERRITORY”.
9. That pursuant to the said letter, the Plaintiff indicated its acceptance of the said Plot via its letter of 19th August, 2005 to the 1st Defendant. I rely on the said letter under the heading “*Letter of Acceptance/Refusal of Offer of Grant of Right of Occupancy in the Federal Capital Territory, Abuja*”.
10. That pursuant to the grant of the said Plot of land and at the instance of the 1st and 2nd Defendants, the Plaintiff paid various sums of money on different occasions into the coffers of the said Defendants. These sums include the

N3000. 00 (Three Thousand Naira only) paid into the account of AGIS on the 19th of August, 2005 via Standard Trust Bank deposit slip No. 29833; and, the N1, 000, 000. 00 (One Million Naira only) paid to the Federal Capital Territory Administration-the administration headed by the 1st Defendant-in respect of same Accelerated Development Programme on the 22nd of August, 2005 and for which payment a receipt with number 0050 was issued. I rely on the said Standard Trust Bank Deposit Slip No. 29833 and FCTA's Receipt No. 0050.

11. That in pursuit of the object of timeous/accelerated development of the subject property, Plaintiff brokered a Partnership Understanding/Agreement with a reputable property developer, UACN Property Development Company Plc.
12. That the Plaintiff came up with the designs and working drawings for the subject property and same was submitted before the 2nd Defendant who subsequently approved the said plan in its letter of 22nd day of September, 2006 titled *“CONVEYANCE OF BUILDING PLAN APPROVAL FOR*

ACCELERATED DEVELOPMENT". I rely on the said approval Building Plan.

13. That upon receipt of the building plan approval from the 2nd Defendant, the Plaintiff mobilized to site to commence development of the subject property. I rely on the various aspects of work done as well as materials mobilized to site evidenced in picture photographs together with their negatives.
14. That without any correspondence from the 1st and 2nd Defendants, the 1st Defendant directed the said development in respect of Accelerated Development Scheme on the subject property to be suspended. This directive was made without considering the quantum of work the Plaintiff had already done and the money expended. I know that the Plaintiff has expended over N200, 000, 000. 00 (Two Hundred Million Naira) only covering Acquisition Cost, Planning Approval, Infrastructure Cost and Consultancy Fees.
15. That since development was stopped by the 1st Defendant in respect of the subject property, materials mobilized to

site had suffered depreciation and in other instances they have become damaged beyond repair.

16. That irrespective of series of letters and pleas made to the 1st and 2nd Defendants in respect of the subject matter, the duo have remained adamant and bent on seeing the Plaintiff's good will and efforts in contributing to the swift actualization of the Abuja Master Plan frustrated.
17. That only recently it was brought to our attention that the 3rd Defendant had encroached on the Plaintiff's piece of land and had brought upon the subject property materials to commence development.
18. That the 3rd Defendant in its Statements of Defence (the initial and the consequential amended ones) before this Court consistently maintained that it derived its title from its supposed Predecessor-in-Title, the 4th Defendant who it stated was issued a Certificate of Occupancy dated August 2, 1996.
19. I know as a fact that the said 4th Defendant was/is not even a registered entity to begin with. A search conducted at the

Corporate Affairs Commission yielded no fruits regarding its existence. As such in the eyes of the law, it does not exist and thus could not have been validly or legally allocated land by the 1st and 2nd Defendants. It thus also goes without saying that it cannot validly or legally transfer title in any land purportedly allocated to it. I shall rely on the Search Report obtained from the Corporate Affairs Commission dated 27th December, 2018.

20. That even if registered a business name as it purports to be, the 4th Defendant still could not be validly or legally allocated land let alone transfer title in such a purported allocation as a Business Name is not a juristic personality. The purported allocation to it is thus null and void *ab initio* and of no effect whatsoever.
21. The Plaintiff avers that the 4th Defendant was never allotted Plot 1013, Cadastral Zone A00, Central Business District, Abuja in 1996 or at any other point in time and that the Certificate of Occupancy purported issued to him in respect of same Plot of land must have been fraudulently procured. The 3rd and 4th Defendants are hereby challenged to

produce the root of their title, i.e. Letter of Offer, in respect of their purported allocation.

22. That the 4th Defendant was never allotted Plot 1013, Cadastral Zone A00, Central Business District, Abuja in 1996 or at any other point in time and that the Certificate of Occupancy purported issued to him in respect of same Plot of land must have been fraudulently procured.
23. That in 2004/2005 when the 1st and 2nd Defendants carried out the recertification exercise, the 4th Defendant, obviously did not participate in it hence robbing the 1st and 2nd Defendants of the opportunity to discover his ostensibly fake title.
24. That the 3rd and/or 4th Defendant(s) encroaching on the subject property is a trespasser who has no title and or better title, right and authority to trespass on the subject property.
25. That the Plaintiff did not direct anyone to commence work on the subject property on its behalf.

26. That I know to the best of my knowledge that the Plaintiff did not sell the subject property to anyone.
27. That I know that no Notice of Revocation was served on the Plaintiff.
28. That I know that the purported allocation of the subject land to the 3rd Defendant was not in accordance with the provisions of the Land Use Act as same was borne out of personal motives and desires.
29. That the 3rd Defendant is a trespasser who has no title and or better title, right and authority to trespass on the subject property.
30. That I know that as a result of the Defendants' action, the Plaintiff has suffered damages and injury and that is why the Plaintiff claims against the Defendants as per its Writ of Summons and Statement of Claim.

(2) The Witnesses Statement accompanying the Reply to the 1st and 2nd Defendants' Statement of Defence dated 6th March, 2020:

1. That I am a Legal Practitioner and the Company Secretary/Legal Adviser of UACN Property Development Company Plc. (the lawful Attorney of the Plaintiff).
2. That the contents of paragraph 3(b) of the 1st and 2nd Defendants' Statement of Defence are not true. It is a clear case of approbation and reprobation. At paragraph 3(b), the 1st and 2nd Defendants' averred that allocations under the Accelerated Development Programme were leasehold interests which do not confer title but at paragraph 3(d), they admit that such allocations confer title.
3. The 1st Defendant is statutorily vested with the power to grant Right of Occupancy to persons in respect of the land it was in the exercise of his power that he granted to the Plaintiff Plot 1013, Cadastral Zone A00 of CBD District measuring approximately 9500.00Sqm, Abuja under the Accelerated Development Programme and by this, the Right of Occupancy in respect of the land was granted to the Plaintiff.
4. The content of paragraph 3(d) of the 1st and 2nd Defendants' Statement of Defence is true but only to the extent that the

Accelerated Development Programme had as aim the rapid development of the Federal Capital Territory. However, under the said program, beneficiaries were not to fully develop within six months. Rather, beneficiaries were only to commence development within 6 months and fully develop within 2 years. This much is confirmed at paragraphs 3(g) and 3(h) of the 1st and 2nd Defendants' Statement of Defence.

5. The content of paragraph 3(f) – (k) of the 1st and 2nd Statement of Defence is not true. The Plaintiff did not only indicated/signified its acceptance of the offer but also submitted its building plan for approval timeously. The 22nd day of September, 2006 was the date the Approval came out and not the date the Application for it was made.
6. That the non-development within 2 years does not translate to automatic revocation. Non-development only makes the offer revocable revoked and certainly, not “*withdrawn*” (which is unknown to law); and revocation is subject to observation of the procedure outlined in the Land Use Act.

7. That the Plaintiff's allocation was not "*withdrawn*" as the purported act of withdrawal of allocation is unknown to the land Use Act- the law governing land transactions in the country; more particularly in the Federal Capital Territory, the locale of the subject matter. Suffices to say that a notice or "*letter*" either of "*withdrawal*" or revocation was not served on the Plaintiff.
 8. That what the law knows is a Notice of Revocation which was never served on the 2nd Defendant. Public Announcements and Publications in newspapers are unknown to law. The procedure for revocation is expressly stated in the law.
 9. That I, *MRS. FOLAKE KALARO*, solemnly and sincerely make this solemn declaration/deposition conscientiously in good faith believing contents of same to be true, correct and in accordance with the provisions of the Oaths Act, 2004 Laws of the Federation of Nigeria.
- (3) The Witness Statement on Oath accompanying the Reply to the 3rd Defendant's Statement of Defence dated 6/03/2020:**

1. That I am a Legal Practitioner and the Company Secretary/Legal Adviser of UACN Property Development Company Plc. (the lawful Attorney of the Plaintiff).
2. That except as otherwise stated, all facts deposed herein are within my personal knowledge, information and believe.
3. That with reference to paragraph 2 of the 3rd Defendant's Statement of Defence, the Plaintiff is a duly registered Limited Liability Company. It was incorporated on the 8th day of May, 2001 with RC No. 409863.
4. That in response to paragraph 3(a) & (b) of the 3rd Defendant's Statement of Defence, the 1st and 2nd Defendants are necessary parties in this Suit as they are the only authorities who can confirm the title of the Plaintiff in respect of Plot 1013, Cadastral Zone A00 of CBD District measuring approximately 9500Sqm, Abuja.
5. That in response to paragraphs 5, 6, 7 & 8 of the 3rd Defendant's Statement of Defence, there is a valid offer title to the Plaintiff which offer was duly accepted, all necessary fees paid and pleaded in this Suit. Furthermore,

the Plaintiff duly obtained and signed the development Lease Agreement mentioned in the Letter of Offer. I rely on the said Development Lease Agreement.

6. That what happened between the Plaintiff and its Attorney was just a joint venture-partnering between the two with a view to the development of the subject Plot. It was not a transfer of title and so did not require the consent of the 1st Defendant.
7. That with regards to the recurring averment that the 3rd Defendant's title predated that of the Plaintiff, the Plaintiff avers that their purported root of title/title never existed as same is not known even to the 1st and 2nd Defendants. I hereby put to them on the strictest proof thereof.
8. That I state in furtherance to the above as follows:
 - i. The Deed of Assignment that purportedly transferred the title of the subject land to the 3rd Defendant from one Alhaji Abubakar Sani trading under the name of Alhaji Abubakar Sani Enterprises was neither

registered nor consented to by the Honourable Minister Federal Capital Territory.

- ii. The original owner of the land one Alhaji Abubakar Sani Nigeria Enterprises did not develop the land within two (2) years as stated on the face of the Certificate of Occupancy dated the 9th day of August, 1996.
 - iii. The Power of Attorney dated 2nd day of October, 1997 donated by Alhaji Abubakar Sani Enterprises to the 3rd Defendant is not an instrument with which title in land could be transferred or assigned.
9. That the Plaintiff denied paragraph 12 of the 3rd Defendant's Statement of Defence and puts the 3rd Defendant to the strictest proof of same. The 3rd Defendant was never granted or issued any building plan approval.
 10. That paragraph 13 of the 3rd Defendant's Statement of Defence is false and I hereby put the 3rd Defendant to the strictest proof thereof.

11. That paragraph 15 of the 3rd Defendant's Statement of Defence as it relates to lack of cause of action on the part of the Plaintiff is entirely misconceived. No law requires that any writing be done regarding any claims or interests the Plaintiff has in respect of the subject land. Submission of particulars of any claim or interest in writing to the Executive Secretary Federal Capital Development Authority in respect of the subject Plot of land herein is not a condition precedent to instituting this Suit. The 3rd Defendant is hereby put to the strictest proof of any such requirement.
12. That the Plaintiffs denies paragraph 17(a) – (f) of the 3rd Defendant's Statement of Defence and relies on paragraphs 3, 4, 7, 8 and 9 above in response thereto.
13. That I, *MRS. FOLAKE KALARO* make this solemn deposition conscientiously in good faith believing contents of same to be true, correct and in accordance with the provisions of the Oath Act, 2004 Laws of the Federation of Nigeria.

The following documents were tendered and admitted through PW1:

1. Document evidencing incorporation of Canes Properties Ltd - Exhibit P1.
2. Power of Attorney dated 19/06/2006 - Exhibit P2.
3. Application for Grant/Re-grant of Statutory Right of Occupancy - Exhibit P3.
4. Accelerated Development Programme Grant dated 3/08/2005 – Exhibit P4.
5. Conveyance of Building Plan Approval – Exhibit P5.
6. Cash receipt for Accelerated Development Programme 22/08/2005 – Exhibit P6.
7. Teller Evidencing payment of the sum of N3, 000 – Exhibit P7.
8. Search Report of 27/12/2018 – Exhibit P8
9. List of Accelerated Development for Revocation – Exhibit P9.

The PW1 was cross examined and recalled for further cross examined at 9 later date owing to the 1st and 2nd Defendants amendments and due to consequential amendments that ensued.

The 1st and 2nd Defendants opened their case on the 20th of September, 2023 by calling Ibrahim Babangida Azeez who testified as DW1. DW1 adopted his Witness Statement on Oath before the Court dated 14/11/2020.

The Witness Statement Reads thus:

1. That I am a Land Officer 1 Abuja Geographic Information Systems (AGIS), by virtue of which I am conversant with the statement herein deposed to.
2. That I have the consent of the 1st and 2nd Defendants to depose to this Statement.
3. That I have read the writ of Summons and Statement of claim of the Plaintiff and therefore depose thus:
 - a. That the Federal Capital Territory in a bid to develop the Federal Capital Territory and to make housing available to as many people as possible, initiated a

Mass Housing Programme called Accelerated Development Programme.

- b. That this is not an allocation that confers title but a leasehold interest. It is an offer with special terms and conditions. The Accelerated Development Lease Agreement.
- c. That the Plaintiff applied and was offered Plot 1013, Cadastral Zone A00 of CBD District Abuja, the subject matter of this Suit under the Federal Capital Territory.
- d. That the Accelerated Development Programme was primarily set up by the Federal Capital Territory for rapid development within which to fully develop the said Plot after which title documents would be issued to them.
- e. That the Plaintiff was expected to signify their acceptance of the offer and to equally execute a Development Lease Agreement containing the terms

and conditions of the offer within two weeks from the date on the letter of intent.

- f. That the Plaintiff refused to comply with paragraph 3(e) and applied very late for the Building Plan Approval, which was dated 22nd September 2006, one year after the offer of intent of Accelerated Development Programme was given to the Plaintiff.
- g. That inspite of the latent defects inherent in the Plaintiff's right to the subject matter of this Suit, the 1st and 2nd Defendants, on 28th May, 2007, conducted a file verification exercise of developers who have not commenced development two (2) years after the offer was granted.
- h. Following the field verification exercise conducted in paragraph (h) above, a memo was written to the Honourable Minister, FCT with the list of developers who have not developed two (2) years after allocation. The Plaintiff is No. 16 in the said list.

- i. That the Honourable Minister of FCT therefore approved and withdrew the Plaintiff's allocation of Plot 1013 within Central Area (A00) District for non-performance by a letter dated 28th May, 2007.
 - j. That there was no development by the Plaintiff on the subject matter of this Suit two (2) years after allocation in clear contravention of the terms of offer which requires 100% completion within six (6) months of offer.
4. That by a public announcement published in different Newspapers in Nigeria including This Day Newspaper of Friday 8th May, 2009 all allocations made under the Accelerated Development whose beneficiaries could not satisfy the terms and conditions regulating same were withdrawn.
5. That the Plaintiff's allocation was withdrawn based on the memo to the Honourable Minister of FCT following the field verification exercise in paragraph (h) above.

6. That there was no development whatsoever made in Plot by the Plaintiff.
7. That the Federal Capital Territory Administration by a public announcement in the Daily Trust Newspaper of Friday, December 7, 2012 in page 46 directed the restoration of some specific Plots including Plot 1013, within Central Area (A00) District to the original allottees vide a presidential directive.
8. That the Federal Capital Territory Administration by a letter dated 15th January 2013 addressed to the General Counsel/Secretary Legal Services Secretariat of the Federal Capital Territory Administration directed the General Counsel/Secretary to put measures in place to implement the Presidential directive as contained in paragraph 7.
9. That the file report of 29th September 2022 in respect of Plot No 1013 as it relates to the Plaintiff indicates that the allocation in favour of the Plaintiff was withdrawn.

10. That the file report of 29th September 2022 in respect of Plot No 1013 as it relates to the 3rd Defendant indicates that the allocation in favour of the 3rd Defendant was reinstated.
11. That the Plaintiff is not entitled to their claims as contained in their writ of Summons and statement of claim.

The following documents were tendered through DW1:

1. Letter titled **‘undeveloped Plots in CBD Plot in CBD’** dated 28/05/2007 – Exhibit D1.
2. List of Accelerated Development Programme for Revocation – Exhibit D2.
3. Document dated 15/01/2023 titled *“Implementation of Presidential Approval for Restriction of title in request of Land Allocations made between the 17th and 28th of May 2007”* Exhibit D3.

DW2 was cross examined and discharged paving the way for the Defence of the 3rd Defendant.

The 3rd Defendant opened its case on the 21/09/2023 by calling Olushegun Olajide, who testified as DW2. DW2 adopted his Witness Statement on Oath as his evidence.

The statement reads thus:

1. I am the Manager, Residential Operations and Hotel Services, Environmental and Property Solutions Department of Mobile Producing Nigeria Unlimited, the 3rd Defendant in this Suit, and I have the authority of the 3rd Defendant to represent it in this Suit and to give evidence on its behalf. By virtue of my employment, I am conversant with the facts of this case, and all the facts set out in this statement on Oath, are facts within my personal knowledge, the facts having come to my knowledge in the course of my employment with the 3rd Defendant.
2. It is the case of the 3rd Defendant that the Plaintiff is not registered as a Company in Nigeria. It is also the case of the 3rd Defendant that the Plaintiff has no Title Documents and no Development Lease Agreement with any of the Defendants pertaining to Plot No. 1013, in Cadastral Zone

A00, District CBD situate in the Federal Capital Territory, Abuja.

3. The 3rd Defendant came into lawful and peaceable possession of Plot No. 1013, in Cadastral Zone A00, District CBD situate in the Federal Capital Territory, Abuja and that such possession occurred prior to the alleged application by the Plaintiff in so far as it purports to concern Plot No. 1013, in Cadastral Zone A00, District CBD situate in the Federal Capital Territory Abuja.
4. The Plaintiff did not acquire any title to Plot No. 1013, in Cadastral Zone A00, District CBD situate in the Federal Capital Territory Abuja, by virtue of the alleged Letter of Offer or the purported Letter of Acceptance of August 19, 2005 nor did it sign or obtain the Development Lease Agreement mentioned in the alleged Letter of Offer nor did the 1st Defendant consent to the transfer or confer any title over the property on the Plaintiff.
5. The payments allegedly made by the Plaintiff relating to Plot No. 1013, in Cadastral Zone A00, District CBD situate in the Federal Capital Territory Abuja along with the

purported designs and working drawings and the alleged approval of same relied on by the Plaintiff were purportedly made and given long after the 3rd Defendant came into lawful possession of Plot No.1013, in Cadastral Zone A00, District CBD situate in the Federal Capital Territory Abuja.

6. In protection of the prior interest of the 3rd Defendant as well as the good of the Plaintiff who was disturbing the 3rd Defendant's prior and lawful possession the Federal Capital Development Authority, the 2nd Defendant herein, promptly halted and suspended the Plaintiff's efforts to take possession and commence work on the property.
7. The Fence, Borehole and Security building mentioned by the Plaintiff were built by the 3rd Defendant. The Plaintiff did not mobilize any materials to Plot No. 1013, in Cadastral Zone A00, District CBD situate in the Federal Capital Territory Abuja.
8. The original allottee of the Land in dispute, Plot No. 1013, in Cadastral Zone A00, District CBD situate in the Federal Capital Territory Abuja, was one *'Alhaji San trading under*

the name and style of Alhaji Abubakar San Nigeria Enterprises' to whom a Certificate of Occupancy No MFCT/LA/MISC 13224 and dated August 2, 1996 was duly and properly issued.

9. In 1997, Alhaji Sani appointed the 3rd Defendant, his Attorney with wide powers and also executed a Deed of Assignment in favour of the 3rd Defendant. As Donee of the power, the 3rd Defendant entered into lawful possession of the property in dispute in 1997 and developed same by building a wall fence around it and installing a security house and a borehole thereon.
10. Sequel to the beneficial interest obtained by the 3rd Defendant under the Deed of Assignment executed in their favour by the 4th Defendant, a certificate of occupancy was issued in favour of the 3rd Defendant by the then Honourable Minister of the Federal Capital Territory, Nasir Ahmed El Rufai OFR on December 19, 2004, recognizing the prior interest of the 3rd Defendant which dates back to September 11, 1995. The certified true copy of the Certificate of Occupancy dated December, 19, 2004 issued

in the name of Mobile Producing Nigeria Unlimited is hereby pleaded and will be relied on at trial.

11. A search was conducted in the file of the property in question domiciled at the Abuja Geographic Information System (AGIS) and a search report detailing the chronology interest from the original allottee (the 4th Defendant) to the current owner (the 3rd Defendant). A certified true copy of the Search Report dated January 25, 2011 and certified on March 18, 2019 together with the receipt of payment is hereby pleaded and will be relied on at trial.
12. The certificate of Occupancy of the 3rd Defendant has not been revoked. No notice of revocation was given to the original allottee – Alhaji Sani prior to the issuance of a certificate of occupancy in favour of the 3rd Defendant. The 3rd Defendant as Attorney in possession and as subsequent legal allottee of the property has made various payments to the appropriate Authority under the Federal Capital Territory Act towards further improvement of the property and perfection of title thereto.

13. The 3rd Defendant has since acquiring possession over Plot 1013 Cadastral Zone A00, District made sundry payments over the said Plot which include but are not limited to payments for ground rent, survey fees and stamp duty. The 3rd Defendant has relied on the following receipts from 1997 till date as evidence of its payments in respect of the Plot.

- (a) Receipt No. 459781 dated the 13th of June 1997 for the sum of N341, 998. 50k (Three Hundred and Forty One Thousand, Nine Hundred and Ninety Eight Naira, Fifty kobo), being payment for premium.
- (b) Receipt No. 470909 dated the 2nd of October 1997 the sum of N15, 000. 00 (Fifteen Thousand Naira) being payment for stamp duty.
- (c) Receipt No. 457525 for the sum of 11, 550. 00 (Eleven Thousand Five Hundred and Fifty Naira) being payment for survey fees.
- (d) UBA deposit Slip No 0012306 dated the 27th October 2004 for the sum of N789, 684. 20k (Seven Hundred

and Eighty Nine Thousand, Six Hundred and Eighty Four Naira, Twenty kobo) being payment for outstanding Ground rent.

- (e) Receipt No. 457440 dated the 13th of June 1997 in the sum of N75, 999. 68k (Seventy Five Thousand Nine Hundred and Ninety Nine Naira, Sixty Eight kobo) being payment for 1995 – 1996 ground rent.

14. I make this Witness Statement on Oath in good faith, verily believing all the facts to which I make Oath to be true and correct in every particular and I depose by virtue of the Oaths Act.

The following documents was tendered and admitted in evidence through the DW2; they are

1. Certificate of Occupancy No MFCT/LA/MISC 13224 dated 2/08/1996 – Exhibit D2 (a).
2. Power of Attorney dated 18/9/97 Exhibit D2 (b).
3. Deed of Assignment – Exhibit D2(c).

4. Receipt No 470909 dated 2/10/97 evidencing payment of N15, 000 – Exhibit D2 (d).
5. Receipt No 457525 evidencing payment of N11, 550. 00 – exhibit D2 (e).
6. UBA Deposit Slip dated 27/10/2004 – Exhibit D2 (f).
7. Certified True Copy of 3rd Defendant certificate of Occupancy Exhibit D2 (g).
8. Certified True Copy of Search Report dated 25/01/2011 Exhibit D2 (L).

The Claimant's objection to admissibility of Exhibits D2a, D2c, D2d, D2e, and D2f was deferred to Final Written Addresses.

DW2 was cross examined and the 3rd Defendant closed its Defence paving way for the filing and adoption of Final Written Addresses.

On the 2nd of November 2023 parties adopted their respective Final Written Address and matter was duly adjourned for Judgment.

In the Final Written Address of the 1st and 2nd Defendants, four issues were raised for determination; to Wit:

- 1. Whether the Claimants proved their case to entitle them to judgment.*
- 2. Whether the grant of Plot 1013 Cadastral Zone A00 of CBD District measuring about 9500sq.m to the Plaintiff is a statutory right of occupancy within the meaning of section 5(I)(a) and Section 8 of the Land Use Act Cap 15 LFN 2004 Claimants proved their case to entitle them to Judgment.*
- 3. Whether the Claimant fulfilled the conditions upon which the grant (was) (sic) of Plot 1013, Cadastral Zone A00 of CBD District was made.*
- 4. Whether the grant to the Plaintiff was validly withdrawn.*

On the 1st issue, Counsel submitted that it is trite that claimant seeking Declaratory reliefs must succeed on the strength of his own case. The claimant has failed to prove their case and therefore not entitled to Judgment. The Plaintiff's case rest on

Exhibit P1 (P4), which is an offer of Accelerated Development Programme within FCT. However the learned Counsel submitted, the Plaintiff has not proved that any Development lease Agreement is in existence. And if did, the 6 months limit within which to commence Development and 2 years limit to complete same was not fulfilled by the Plaintiffs.

Counsel urged the Court to hold that the failure to present the Development lease agreement was because if produced, it would be unfavourable to the Plaintiff.

Counsel placed reliance on the cases of EMENIKE V. PDP (2012) ALL FWLR (PART 640) 1261 AT 1281, AREMU V. ADEFORO (2007) SC (PART 11) PI, IBORI VS FRN (2009) 3 NWLR (PART 1127) PAGE 94 and SECTION 167(d) of the Evidence Act 2011.

On the 2nd and 3rd issue whether the grant was a statutory right of occupancy and whether the Claimant has fulfilled the conditions therein, Learned Counsel submitted that the offer granted the Claimant does not qualify as a grant that must be revoked in accordance with the Land Use Act. Counsel relied on the case of UYENEYIN & ANOR V. AKINKUGBE (2010)

ALL FWLR (PART 517) PAGE 597 AT 613. Counsel argued that Exhibit P1 is not a Statutory Right of Occupancy as it does not have a definite term as required by Section 8 of the Land Use Act which must be revoked in accordance with the provisions of the Land Use Act. The Grant was never perfected. The Plaintiff having failed to fulfill the conditions precedent is not entitled to benefit from its breach. The offer was properly withdraw as the Plaintiff could not fulfill the conditions precedent to the perfection of title. Counsel relied on cases of ADDISON UNITED (NIG) LTD V. LION OF AFRICA INSURANCE LTD (2010) 52 WRN PAGE 104 AT 129 and ALTEQ (ICT) LTD V. HON. MINISTER FCT & ORS: Suit no FCT/HC/CV/196/10 (unreported) delivered on 7 March 2013. Counsel urges the Court to dismiss the Suit.

In the Final Written Address of the 3rd Defendant, Learned Counsel formulated two issues for determination; to Wit:

- 1. Whether the Plaintiff's claim of title over Plot 1013 Cadastral Zone A00 CBD District, Abuja, predicated on a purported Allocation under the Accelerated Development Programme is valid and*

prevails over the prior interests of the 3rd Defendant?

2. Whether the Plaintiff has established, on the preponderance of evidence led before this Hon. Court, that it is entitled to the reliefs Sought in its Statement of Claim?

On the 1st issue, Counsel submitted that the Plaintiffs Claim over the property in dispute predicated on the Accelerated Development Programme, lacks merit and is invalid; and urged the Court to so hold. On whether the offer letter constitutes a valid document of title over the property in dispute, Counsel submitted that, the question must be answered in the negative. From the letter, exhibit P1, he argued, it is at best a lease hold agreement over the property which conveys title only after the satisfaction of terms and conditions stipulated in the letter. The Plaintiff led no evidence that the offer was accepted and a Development lease Agreement was submitted or executed or that the letter was validly registered. The offer as such is not valid or enforceable as no contract exists. Counsel relied on the authority in *ACHONU V. OKUWOBI (2017) LPELR – 42102*

(SC) and BFI GROUP CORP V. BPE (2012) LPELR 9339 (SC) where the Court finds that the conveys title it.

On whether the offer supersedes the title of the 3rd Defendant? Counsel argued that the doctrine of priorities will apply where both parties derived their title or interest from the same source. The 1st on time will take priority. The Plaintiff is relying in an offer made under the Accelerated Development Programme in 2005 while the 3rd Defendant had a pre-existing title held as far back as the 8th August 1996. It is clearly seen on Exhibit D2b the Certificate of Occupancy No MFCT/LA/MISC 13224 dated August 2 1996 and Exhibit D2d the Power of Attorney executed by 4th Defendant in favour of the 3rd Defendant dated 18th September 1997 and Exhibit D2 if the Certificate of Occupancy issued in favour of the 3rd Defendant by the 1st Defendant dated 19th December 2004, all preceding the Plaintiff's offer which came about in 2005. Further, the title of the 3rd Defendant was not validly revoked. The Plaintiff has not led evidence proving revocation of the 3rd Defendant's title. Counsel placed reliance on the cases of GOVT. OF RIVERS STATE & ANOR V. GEORGE & ANOR (2018) LPELR- 49211 (CA), DAN. A. D

PETRO & GAS LTD & ANOR V. JIGAWA STATE GOVT. & ORS (2022) LPELR – 5734 (CA) and SECTION 28 OF Legal Unit Agency.

Finally, Learned Counsel argued that the 3rd Defendant had actual possession of the property in dispute during time of the purported grant to the Plaintiff and maintained uninterrupted and undisturbed possession of the property. Counsel submitted that the Plaintiff having failed to discharge the burden of proof placed on it by Section 131 of the Evidence Act 2011, the Court should hold that the Plaintiff's claim fails and dismiss the Suit for lacking in merit.

On the part of the Plaintiff Learned Counsel formulated two issues for determination in its Final Written Address, to Wit:

- 1. Whether, in view of the circumstance of this matter, the Plaintiff has proved its entitlement to the reliefs Sought.***
- 2. Whether, in view of the circumstances of this matter, the 3rd Defendant was able to successfully prove its purported title to the subject property.***

On the 1st issue, Learned Counsel submitted that the Plaintiff has proved all it needs to prove to be entitled to the grant of the reliefs Sought. Counsel argued that by Exhibits P4, P3, P5, P6 & P7 the Plaintiff has proved without equivocation that it was allocated the subject property. None of the 5 Exhibits above was faulted by the Defendants. 1st and 2nd Defendants Exhibit D2 which is the same with Claimants Exhibit P9 list of Accelerated Development for revocation lend credence to the allocation to the Plaintiff, as no revocation, would be recovery for a party land not allocated in the first place, he further argued. Counsel urged the Court to hold that the 1st and 2nd Defendants are approbating and reprobating on the issue of valid allocation and discountenance their argument and submission on the non-allocation to the Plaintiff. Learned Counsel placed reliance on the cases of UNILORIN V. ODULEYE (2007) ALL FWLR (PART 371) 1631 AT 1665 – 1666 AMORI V. AYANDA (2008) 3 NWLR (PART 1074) 250 AT 279, ODI V. IYALA (2004) 4 SC (PART 9) 20 AT 35 & ONISA ODU V. ELEWUSU (2006) 13 NWLR (PART998) 517 SC AT PP 529 – 530 and Section 168(1) and (2) of the Evidence Act, 2011 on the presumption of regularity.

On whether the purported revocation is valid, Learned Counsel submitted that the Plaintiffs allocation was withdrawn as claimed by the 1st and 2nd Defendants in paragraph 4 of the amended Statement of Defence by *“public announcement published in different Newspapers in Nigeria”* as seen in paragraph 3(k) of the amended Statement of Defence. The withdrawal was purportedly done by publication in newspapers but even-though pleaded was never tendered before the Court. Counsel urged the Court to apply the provision of Section 167(d) of the Evidence Act to hold that they are withholding the publication because it would not be favourable to them. Counsel relied on the case of OGWURU V. COOPERATIVE BANK OF EASTERN (NIG) LTD (1994) 8 NWLR (PART 365) 685 AT 700. Counsel further contended that in the absence of the instrument for the purported revocation before the Court, the Court should hold that there was no revocation. And even where it is produced, it would not have amounted to notice contained under Section 44 of the Land Use Act. The laws as in Section 44 (d) was not complied with as such notice was not served on the Plaintiff.

On the argument of the 1st and 2nd Defendants that Exhibit P4 is not a Statutory Right of Occupancy as it does not have a definite form as required by Section 8 of Land Use Act and therefore can be revoked in ways other than the provision of the Land Use Act, Learned Counsel submitted that by the testimony of DW1 under re-examination that the offer/grant was for 9 years and the introducing part of Exhibit P3 which reads ***“This is to acknowledge receipt of original application for Grant/Request of Statutory Right of Occupancy with the following particulars”*** It is clear that it is indeed a grant of Statutory Right of Occupancy which is the only offer possible in Urban areas. Counsel urged the Court to discountenance the argument of the 1st and 2nd Defendants.

On the 3rd issue, which is whether the 3rd Defendant was able to successfully prove its purported title to the subject property, Counsel submitted that the 3rd Defendant who claimed to be entitled to the property it acquired through the 4th Defendant has not proved its entitlement. Counsel contended that the Deed of Assignment the 3rd Defendant tendered it is inadmissible, and the Power of Attorney does not confer title. Counsel relied on

the decision in UDE V. NWARA (1993) 2 NWLR (PART 278) 638, the 3rd Defendant has not established the history or progress from the allocation to the issuance of Certificate of Occupancy. The 1st and 2nd Defendant did not make a single mention of the 4th Defendant through whom the 3rd Defendant claim in their pleading. The Certificate of Occupancy pleaded at paragraph 23(a) of the 3rd Defendant's 3rd consequential Amended Statement of Defence has a different particulars from Exhibit D2a. The two do not correlate. Finally Learned Counsel submitted that even if the Court agrees that there was an allocation of the subject property to the 4th Defendant, it wouldn't have been lawful. The 4th Defendant being a business name lacked Legal personality and allocation cannot be made to a none-entity. Counsel relied on decision in FCDA V. UNIQUE FUTURE LEADERS INTER LTD (2014) 17 NWLR (PART 1436) 382 AT 344 – 345

3rd Defendants reply address:

In response to the Claimants Final Written Address the 3rd Defendant filed a Reply address. In the Reply address Learned Counsel raised a sole issue for determination, to Wit:

Whether the Plaintiff's Claim of title to Plot 1013 Cadastral Zone A00, CBD District, Abuja, predicated on a purported Allocation under the Accelerated Development Programme is valid and prevails over the prior interest of the 3rd Defendant?

In arguing the issue, Learned Counsel submitted that from the evidence before the Court, the Plaintiffs assertion to title regarding the property in dispute is invalid and does not supersede the prior interest of 3rd Defendant.

In response to the objection of the Clamant to the admissibility of Documents tendered by the 3rd Defendant. Learned Counsel submitted that Relevance determine admissibility in respect of the matter in question. Learned Counsel relying on the decision in OWAKAIF V. RSHPDA & ANOR (2022) LPELR – 57950 (SC) urged the Court to hold that the Documents are relevant and admissible in evidence. Further Learned Counsel submitted that Exhibit D2 (e) and D2(c) are photocopies of original and foundation has been laid for their admissibility and it is acknowledged by the Plaintiff in its Final Written Address.

Finally, Learned Counsel submitted that Exhibit P4 which the Plaintiff relies on as his allocation grounding title to the property in dispute is not a valid Document as even though it is signed but the identity of the person who signed the document was not disclosed on the Exhibit. The document ought to be discountenance and expunged, Counsel argued. Counsel relied on the Decisions in BENUE STATE GOVERNMENT V. KLAD & G. CONCEPTS LTD & ANOR (2023) LPELR – 60687 (CA), MANARAT GLOBAL RESOURCES LTD V. POLARIS BANK LTD & ORS (2019) LPELR – 50392 (CA) & BROSSETTE MANUFACTURING (NIG) LTD V.M/S OLA KEMOBOLA LTD & ORS (2007) LPELR – 809 (SC).

COURT:

I have carefully considered the evidence and arguments in support of the Plaintiffs case on the one hand and the evidence and arguments put forward by defence of the Suit by the 1st and 2nd Defendants and the 3rd Defendant on the other hand.

Like stated in the preceeding part of this Judgment, the 4th Defendant has failed to enter appearance, file a defence nor attend proceedings in this case.

It is my view that the following issue are up for determination, to Wit:

- 1. Whether the Plaintiff was granted a Statutory Right of Occupancy over the subject property.***
- 2. Whether the grant, was validly withdraw and revoked.***
- 3. Whether the Plaintiff has proved its entitlement to the relief Sought.***
- 4. Whether the 3rd Defendant was able to successfully prove its title to the subject property.***

But before delving into the issues itemized above, I shall consider and determine the admissibility of 6 documents objected to by the Plaintiffs Counsel for which arguments were deferred to Final Written Address. These documents are Exhibits D3 of 1st and 2nd Defendants. D2 (a) certificate of occupancy no. MFCT/LA/MISC 13224 dated 2/08/1996, Exhibit D2(c) Deed of Assignment. Exhibit D2 (d) Receipt No 470909 dated 2/10/1997 for payment of N15, 000. 00. Exhibit D2 (1) Receipt No. 457525 for payment of N11, 550. 00 & Exhibit D2 (f) UBA Deposit Slip No. 0012306 dated 27/10/2004.

On Exhibit D3 titled *“Implementation of presidential Agreement for restoration of title in Respect of Land Allocations made between the 7th and 28th of May 2007”*, Learned Counsel for the Plaintiff argued that the document was made during the pendency of this Suit. This Suit was filed 1/06/2012 and the document was made on the 15/01/2013 by the 1st and 2nd Defendant themselves. This clearly offends the provisions of Section 83 (3) of the Evidence Act. For Clarity Section 83 (3) provides thus:

Nothing in this Section shall render admissible as evidence any statement made by a person interested at a time when proceedings were pending or anticipated involving a dispute as to any fact which the statement brought tend to established.

Counsel also relied on the case of *GWAR V. ADOLE* (2003) 3 NWLR (PART 808) 516 AT 543. Counsel urges the Court to hold that the document is inadmissible and expunge same.

It is pertinent to note at this point that the 1st and 2nd Defendants that tendered Exhibit D3 did not make any argument on the

admissibility of the Exhibit D3 and did not respond to the argument of the Plaintiffs on the admissibility of same in its Final Written Address.

I have carefully perused Exhibit D3 and I have to agree with the Plaintiff/objectors that it was made during the pendency of this Suit by the 1st and 2nd Defendants and relate to the dispute at Land. Without further ado, I find that it is inadmissible as it offends provisions of Section 83 (3) earlier reproduced and is hereby accordingly expunged from the record of this Court. See *GWAR V. ADOLE* (supra) and *KANKIA V. MAIGEMU* (2003) 6 NWLR (PART 817) 496 AT 518.

On Exhibit D2 A, the Certificate of Occupancy issued to the 4th Defendant on 2/08/1996, Learned Counsel submitted that, it being a public document and a photocopy ought to be certified. It offends Section 89(e) and (f) and Section 90 (1) (c) of the Evidence Act. Counsel urged the Court to discountenance it altogether. The 3rd Defendant's Counsel argued that the Document is relevant and foundation for tendering secondary evidence was laid.

I have perused Exhibit D2 (a) and Studied its form. It is indeed a photocopy and it is not certified as required under the evidence Act. And in the absence of certification, the foundation laid and relevance is of no moment as the document is legally inadmissible, the objections is sustained, Exhibit D2 (a) is inadmissible and is hereby expunged.

See OMISORE V. AREGBESOLA (2015) 15 NWLR (PART 1482) AT 294, G & T I LTD & ANOR V. WATT AND BUSH LTD (2011) LPELR – 1333 (SC).

On the next Document i.e. Exhibit D2 (c). It is a Deed of Assignment Between the 4th Defendant and the 3rd Defendant. It is, as argued by the Plaintiff's Counsel a registrable instrument by Section 15 of the Land Instrument Registration Law of the FCT. And is not registered and therefore inadmissible. Learned Counsel relied on the case of AKINDURO V. AZAYA (2007) 15 NWLR (PART 1057) 312 AT PAGE 330 – 331. Learned Counsel urged the Court to reject the Exhibit D2 (c) and expunge same with the paragraphs of the Amended Statement of

Defence where the Document is pleaded. The 3rd Defendant Counsel did not bother to join issue on this issue with the objectors on this document. The Deed of Assignment Exhibit D2 (c) is indeed a registrable instrument and registration was not done and by law is inadmissible and accordingly rejected and expunged. Same goes for the pleading in paragraphs 5, 6, 23 (b) and (c) of the Consequential Amended Statement of Defence of the 3rd Defendant dated 1/12/2020.

The next Document is Exhibit D2 (d) the receipt issue for payment by the 4th Defendant. It is a photocopy and same was not certified, Learned Counsel argued in objecting the admissibility of same. I have carefully looked at Exhibit D2 (d). It is indeed a photocopy of receipt issued to 4th Defendant but tendered by the 3rd Defendant. It ought to be certified in line with the provision of Section 102 (b) of the Evidence Act and same was not done. It is liable to be rejected and expunged and I so order.

Exhibit D2 (e) is a Receipt evidencing payment of N15, 000. 00. Learned Counsel for the Plaintiff submitted that the receipt was not pleaded because it carries the amount of N15, 000. 00

instead of the sum of N11,550. 00 pleaded at paragraph 23(e) iii of the 3rd Defendants' Statement of Defence. It was not certified as well being a photocopy. Counsel urged the Court to discountenance the Document. I have looked at Exhibit D2 (e), even though it carried the same number with the pleaded document under paragraph 23 (c) (iii) it has a different figure in naira forms and it was not duly certified as required. I hold that for reason of no certification, the document is inadmissible and is hereby accordingly expunged.

And lastly, Exhibit D2 (f) is a UBA Deposit Slip. Claimant's Counsel contended that, not being in its original version, it ought to be tendered through a Banker and not the witness who did. That it amounts to an entry in a Banker's book under Sections 89 (h) and Section 90 (1) (c) of the Evidence Act. Further that the document does not disclose who paid and for what as such carries no evidential value. The 3rd Defendant did not respond to this argument in their reply address. I have looked carefully at Exhibit D2 (f) and it is clear to me that it is a photocopy and not the original or duplicate of the original. Copies ought to come from the Bank, tendered through the Banker attesting to its

correctness in comparison to the Banks record. Here too, I have to agree with the objection that Exhibit in line with provision of Section 90 (1) (e) D2 (f) is not admissible in the form it was tendered and admitted. Accordingly, it is hereby expunged.

In the Reply address of the 3rd Defendant, Counsel submitted that Exhibit P4 of the Plaintiff ought to be discountenance and expunged for being invalid as the Identity of the person who signed it was not disclosed on the document. Counsel contended that where the Identity of a person who signed a document is not disclosed, it is a none starter, it is invalid, incurably bad and of no moment.

In response to this contention, Learned Counsel for the Plaintiffs, in oral submission with leave of Court objected to the argument of the 3rd Defendant in respect of Exhibit P4. Learned Counsel stated that it was akin to an ambush as it was never pleaded and for four years the matter remained pending. It is only made an issue now. Counsel urged the Court to dismiss the objection as incompetent.

I have carefully considered the arguments on the issue of Exhibit P4 – I want to say that I agree with the Learned Counsel for the Claimant that the 3rd Defendant cannot challenge the admissibility of Exhibit P4 in its reply address having not raised it at the time of tendering or any time thereafter to enable the Claimants to properly join issues with them. Again, it is clear to me that the document was signed by Director AGIS. In my view that suffices. The person that signed the document is adequately identified.

Finally, the document is relevant and pleaded and this ought to be admitted in Evidence, as it is not legally inadmissible. It becomes an issue of weight to be attached to the document. See *GBOMA & ANOR V. OGUNDU & ORS* (2019) LPELR – 49026 (CA).

Accordingly, the prayer of the 3rd Defendant to hold that Exhibit P4 is invalid fails and same is discountenanced and dismissed.

Having dealt with issues of admissibility of documents before the Court I shall now consider the 4 issues distilled for determination:

On the 1st issue i.e. ***“Whether the Plaintiff was granted a Statutory Right of Occupancy over the subject property”***.

I want to start by saying that, it is beyond dispute and agreed by parties that the letter of Assignment of grant of Plot 1013 Cadastral Zone A00, Abuja, Exhibit P4 is the Plaintiffs sole foundation for its claim of title to the subject property. However it is the argument of the 1st and 2nd and 3rd Defendants that Exhibit P4 does not constitute a valid document of title as it was merely an offer for a leasehold agreement and the Claimant having failed to fulfill the terms of the offer by accepting and executing a Development lease Agreement containing the forms and conditions of the offer within two weeks, received no document of title and is merely parading a piece of paper as title document.

I have carefully perused Exhibit P4. It is a letter of Approval for Grant of the subject property by the FCTA in the Accelerated Development Programme within the FCT. The letter conveys Approval for grant signed by the Director (AGIS) for the Minister. It is true that the Plaintiff has not led evidence or tendered proof of an executed Development lease Agreement in compliance with the terms on the offers. However, it is in evidence that the Abuja Metropolitan Management Agency, Department of Development Control of the 1st and 2nd Defendants issued the Plaintiff with Building Plan Approval for Accelerated Development dated 22/09/2006 signed by ISA M. SHUAIBU, Director of Development Control (Exhibit P5). Is that not proof that Exhibit P4 is a document of title grounding the validity required for approval of the Building Plan Approval by the 1st and 2nd Defendant's Department of Development Control. Again, as argued by the Plaintiff, why was the purported revocation of the Plaintiff title, along with those of others, necessary if there was no existing title to revoke. Exhibit P5 was issued more than a year after the offer Exhibit P4 was issued. It is also in evidence that payments were made in respect of the subject property as evidence by Exhibits P6 and P7 (the

receipts of payment of FCTA and AGIS respectively). In the case of AMAGBADO V. FARUK (2016) LPELR – 41634 (CA) the Court of Appeal while referring to earlier Decision of the SC in AKINDURO V. AKIAYA (2007) LPELR – 344 (SC) held that the Court in considering a document of title as proof of title must be guided by some or all of the following questions:

- 1. Whether the Document is genuine?*
- 2. Whether it has been duly executed, stamp and registered?*
- 3. Whether the Guarantor had the Authority and capacity to make the grant.*
- 4. Whether in fact the Guarantor has what he purported to grant.*
- 5. Whether it has the effect claimed by the holder of the instrument.*

It is my finding that, Exhibit P4 is an offer of title over the subject property proved by Exhibit P4, P5, P6 and P7. The Guarantor, the 1st Defendant has the authority and capacity to offer the Grant to the Plaintiff. The Guarantor did the offer of the grant giving forth the presumption that it was available for

the offer to the Plaintiff. And finally, I find that the offer has the effect of conveyance of grant of a Statutory Right of Occupancy. I so hold. The 1st issue is resolve in favour of the Plaintiff.

On the 2nd issue i.e. whether the Grant, if granted, was validly withdraw/revoked.

It must be said here that the 1st and 2nd Defendants in a situation best described as a Dilemma want the Court to believe that the offer of grant under the Accelerated Development Programme was a leasehold interest granted to the Plaintiff and not conveying title and yet the offer of granted in Exhibit P4 made the last of allocation to be revoked on Exhibit P9 and D2 of the Plaintiff and 1st and 2nd Defendants respectively. I do not agree with the Defendant's position that the Sections 44 (d) does not apply. Having found that the offer of grant under the Accelerated Development Programme was a grant of Statutory Right of Occupancy, the provision of Section 44 (d) of the Land Use Act applies. For clarity the Section provides thus:

“In the case of an incorporated company or body, by delivering it to the secretary or clerk of the Company

or body at its registered or principal office or sending it in a prepaid registered letter addressed to the Secretary or Clerk of the Company or body at the office....”

By the above provision, the withdrawal or revocation published in a Newspaper which has not been proved, same not tendered, is invalid and of no effect. The law has prescribed how a title can be revoked and it was not done in line with provisions of law thereby rendering the Act as invalid, of no moment. I accordingly resolve the 2nd issue in favour of the Plaintiff.

On the 3rd issue i.e. whether the Plaintiff has proved its entitlement to the relief sought? Having found that the offer of approval for Grant in Exhibit P4 is akin to a Statutory Right of Occupancy which is not revoked, it therefore subsists. The question that begs for an answer at this point is whether the 3rd Defendant had a preexisting title at the time the offer of approval of grant was issued the Plaintiff. Having found that Exhibit D(2) (a) is inadmissible and expunged same and the fact that the Guarantor the (1st Defendant) Granted Exhibit P4 to the Plaintiff leads us to believe that there was no valid existing

allocation of the Land to the 3rd Defendant or any other person. The 3rd Defendant had tendered Exhibit D2 (g) A certificate of Occupancy issued to the 3rd Defendant in year 2004 as proof of a preexisting title at the time the Plaintiff was Granted the offer under the Accelerated Development Programme. The 3rd Defendant through his Counsel argued that where there are two offers of title to Land from the same Guarantor, the former in time ought to prevail. The 3rd Defendant claimed it acquired title from the 4th Defendant, who has remained elusive, and relied on Exhibit D(2) (a) the purported certificate of Company of the 4th Defendant which was expunged, A Deed of Assignment which is Exhibit D(2) (c) which was not registered and duly expunged and some receipts that were not Certified True Copies but photocopies and duly found to be inadmissible and expunged. It leaves the Court with only Exhibit D(2) (g) that is the certificate of Occupancy. It is the position of the law as held on the case of ADELE V. GVAR (2008) 11 NWLR (PART 1099) 562 AT 590 cited by the Plaintiff that:

“A certificate of Occupancy issued on the Land Use Act, it must be stressed, cannot be said to be conclusive evidence of any interest or valid title to

land in favour of the Grantee; it is only prima facie evidence of such right, interest or title without more and may in appropriate cases be effectively challenged and rendered invalid, null and void”

In this case it is in evidence that purported Guarantor issued title to the Plaintiff at a date subsequent to the purported Grant to the 3rd Defendant, it is also clear that the Certificate of Occupancy in Exhibit D(2) (g) is standing alone without a history. I agree with the Plaintiff on the need to inquire how the 3rd Defendant got a certificate of Occupancy without proof of any document justifying the issue of certificate of occupancy. There is no valid evidence before the Court of the root of title and transfer of title from the purported original allottee. In view of no discernable explanation of how the 3rd Defendant came about the Certificate of Occupancy without any documents known in the processes leading to issuance of certificate of Occupancy, I must hold that the certificate of Occupancy is Spurious and I accordingly discountenance same. Accordingly it is my finding that the Plaintiff has by preponderance of evidence made out a case entitling it to the reliefs sought. I so hold.

In view of this finding above and for reasons established above I accordingly find that the 3rd Defendant has failed to establish its entitlement to the subject property.

Accordingly, on the whole the Plaintiffs case is more superior and succeeds and I hereby enter Judgment for the Plaintiff and I make the following orders.

Relief 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 are granted as prayed.i.e

1. A declaration that the rights, interest and title conferred on the Plaintiff pursuant to the offer granted by the 1st Defendant and contained in Accelerated Development Programme within the Federal Capital Territory with Reference/File Number MISC 80706 which is dated 03/08/2005 and issued by the 1st Defendant with an offer date, dated 23/07/2005 on an interest which is more particularly edged out and delineated in a Building Plan Approval for Accelerated Development File Number FCTA/AMMA/DC/BP/ACC/PPP/193 dated 22/09/2006 in respect of the land situate, lying being at Plot 1013 Cadastral Zone A00 of CBD District Measuring

Approximately 9500.00Sq.m, Abuja, is valid, legal, constitutional and subsisting **is granted.**

2. A declaration that by the terms of the Accelerated Development Programme within the Federal Capital Territory with Reference/File Number MISC 80706 which is dated 03/08/2005 and issued by the 1st Defendant in favour of the Plaintiff, Plaintiff is entitled to the right to develop the plot of land situate, lying and being at Plot 1013 Cadastral Zone A00 of CBD District Measuring Approximately 9500.00Sq.m, Abuja as same is valid, legal, constitutional and still subsisting **is granted.**
3. A declaration that the interest of the Plaintiff over and in respect of the land situate, lying and being at Plot 1013, Cadastral Zone A00 of CBD District Measuring Approximately 9500. 00Sq.m, Abuja covered by the Accelerated Development Programme within the Federal Capital Territory with Reference/File Number MISC 80706 which is dated 03/08/2005 and issued by the 1st Defendant with an offer date, dated 23/07/2005 on an interest which is more particularly edge out and delineated in a Building

Plan Approval for Accelerated Development File Number FCTA/AMMA/DC/BP/ACC/PPP/193 dated 22/09/2006, is valid, legal, constitutional, subsisting and supersedes any other interest in the said property, inclusive of the purported interest of the 3rd Defendant hereon **is granted**.

4. A declaration that the purported suspension of construction works on the said Plot 1013, Cadastral Zone A00 of CBD District Measuring approximately 9500.00Sq.m, Abuja by the 1st Defendant is unjust, unreasonable, high-handed, illegal, null and void **is granted**.
5. A declaration that the 4th Defendant's purported interest in the Plaintiff's parcel of land situate, lying and being at Plot 1013, Cadastral Zone A00 of CBD District Measuring Approximately 9500.00Sq.m, Abuja which said interest was purportedly transferred to the 3rd Defendant is illegal, illegitimate, suspect, questionable, null and void.
6. A declaration that the presence of the 3rd Defendant on the land situate, lying and being at Plot 1013, Cadastral Zone A00 of CBD District Measuring approximately 9500.00Sq.m, Abuja pursuant to the interest purportedly

transferred to it by the 4th Defendant is an act in trespass contrary to the rights and interests of the Plaintiff over the said land **is granted.**

7. An order of perpetual injunction restraining all the Defendants either by themselves, servants, agents, privies or through any person or persons howsoever from trespassing or further trespassing, encroaching or further encroaching, demolishing or further demolishing the Plaintiff's property situate, lying and being at Plot 1013, Cadastral Zone A00 of CBD District Measuring Approximately 9500. 00Sq.m, Abuja and which is covered by the Accelerated Development Programme within the Federal Capital Territory with Reference/File Number MISC 80706 which is dated 03/09/2005 and issued by the 1st Defendant with an offer date, dated 23/07/2005 on an interest which is more particularly edged out and delineated in a Building Plan Approval for Accelerated Development File Number FCTA/AMMA/DC/BP/ACC/PPP/193 dated 22/09/2006 **is granted.**

8. An order of perpetual injunction restraining the 1st and 2nd Defendants either by themselves, servants, agents, privies or through any person or persons howsoever from aiding, encouraging or assisting the 3rd and/or 4th Defendants from entering, trespassing or encroaching on the Plaintiff's parcel of land situate, lying and being at Plot 1013, Cadastral Zone A00 of CBD District Measuring Approximately 9500.00Sq.m, Abuja **is granted.**
9. An order of perpetual injunction restraining the 1st and 2nd Defendants either by themselves or through their agents, servants or howsoever called, from approving any building plan for the 3rd and/or 4th Defendant in respect of Plot 1013, Cadastral Zone A00 of CBD District Measuring Approximately 9500. 00Sq.m, Abuja **is granted.**
10. An Order of perpetual injunction restraining the 1st and 2nd Defendants either by themselves, servants, agents, privies or through any person or persons howsoever from aiding, encouraging or assisting the 3rd and/or 4th Defendants from further developing, trespassing or encroaching on the Plaintiff's parcel of land situate, lying and being at Plot

1013, Cadastral Zone A00 of CBD District Measuring
Approximately 9500.00Sq.m, Abuja **is granted.**

Relief 11 is granted as follows:

11. Award of N20 Million is made as damages for Trespass.

SIGNED
HON. JUDGE
01/02/2024.