

**IN THE HIGH COURT 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/081/2023**

**DELIVERED: ON THE 27/02/2024**

**BETWEEN:**

**WOODCOATE PROPERTIES LIMITED.....CLAIMANT/RESPONDENT**

**AND**

- |  |   |                                   |
|--|---|-----------------------------------|
| <ul style="list-style-type: none"><li><b>1. HON. MINISTER, FEDERAL CAPITAL TERRITORY</b></li><li><b>2. FEDERAL CAPITAL TERRITORY ADMINISTRATION (FCTA)</b></li><li><b>3. THE FEDERAL CAPITAL DEVELOPMENT AUTHORITY (FCDA)</b></li><li><b>4. PERSON UNKNOWN</b></li></ul> | } | <b>DEFENDANTS/<br/>APPLICANTS</b> |
|--|---|-----------------------------------|

**JUDGMENT**

The Claimant alleged that it is the title holder of **Plot No. 240 Cadastral Zone B19, Katampe Extension covered by Certificate of Occupancy No. 4BAUW-890BZ-61R-C74CU-10** issued in the name of Emmanuel Ifemadam, and dated 28/11/2005 and registered at page **14930** in volume 74, contained in **File No. DT10013**. The claimant purchased the said Plot 240 Katampe Extension Cadastral Zone B19, Abuja for valuable consideration from the original allottee – Emmanuel C. Ifemadam.

The Power of Attorney and Deed of Assignment were annexed as Exhibit OL A, B and C.

That arising from the failure of Emmanuel C. Ifemadam to deliver the original copy of title document to the claimant, an action was commenced in FCT High Court in Suit No **FCT/HC/CV/2724/2015** for specific performance and to compel hand over of the original certificate of occupancy. The copies of the originating process, proceeding and appeal were annexed as Exhibit **OL-D, E, and H** respectively.

It is the claim of the claimant that it duly brought the foregoing pendency suit to the attention of the defendants through the office of the Director of Lands Administration of the Abuja Geographic Information System before the revocation of the plot.

The claimant then took out the Originating Summons dated and filed the 1<sup>st</sup> November 2023 and formulated the following issues for determination to wit;

- 1. Whether in view of the provisions of Section 6(b) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and the doctrine of lis pendens, the defendants; revocation of the claimant's Right of Occupancy/Proprietary Legal Right and or vested Equitable Interest in and over Plot No. 240 Cadastral Zone B19, Katampe Extension, covered by Certificate of Occupancy No. **4BAUW-890BZ-61BIR-C74CU-10** issue in the name of Emmanuel Ifemadam and dated 28<sup>th</sup> November 2005 and registered at Page 14930 in Volume 74, contained in **File No. DT 10013** lying and situate at Katampe Extension FCT, Abuja when the said land is a subject of litigation before the Supreme Court of*

*Nigeria (in SC.559/2018), amounts to unlawful interference and usurpation of the Judicial Power vested in the courts; and unwarranted violation of the Constitution and an attempt to pervert the course of justice thereby rendering the purported revocation null, void and of no effect whatsoever?*

- 2. Whether in the circumstance of this case it would have been proper, appropriate, warranted, incumbent, justified or right for the claimant to apply/submit building plans for the development of and or proceed to develop Plot 240 Cadastral Zone B19, Katampe Extension covered by Certificate of Occupancy No. **4BAUW-890BZ-61R-C74CU-10** issued in the name of Emmanuel Ifemadam and dated 28<sup>th</sup> November 2005 and registered at Page 14930 in volume 74, contained in **File No. DT 10013-** when there is pending suit before the Supreme Court of Nigeria (in SC.559/2018) on the selfsame Plot No. 240 Katampe Extension notice of which defendants had prior notice at least 4 (four) years before the purported revocation?*
- 3. Whether the Defendants' publication of the purported Notice of Revocation in the Daily Trust Newspaper satisfies Section 28(6) and (7) of the Land Use Act as regards service of the purported Notice of Renovation on the holder of Right of Occupancy or Occupier?*
- 4. Whether the Defendants' purported revocation of the Claimant's interest in Plot No. 240 Cadastral Zone B19, Katampe Extension covered by Certificate of Occupancy No. **4BAUW-890BZ-61R-***

*C74CU-10 issued in the name of Emmanuel Ifemadam, and dated 28<sup>th</sup> November 2005 and registered at Page 14930 in volume 74, contained in File No. DT 10013 is a breach of plaintiff's Constitutional Rights under Sections 43 and 44 of the Constitution of the Federal Republic of Nigeria (1999 as amended)?*

If the issues are resolved in favour of the Claimant, the Claimant sought for the following reliefs against the Defendants to wit;

- 1) *A declaration that the defendants revocation of claimant's proprietary Interest, Extant Equitable Right and or Right of Occupancy in Plot No. 240 Cadastral Zone B19, Katampe Extension covered by Certificate of Occupancy No. 4BAUW-890BZ-61R-C74CU-10 issued in the name of Emmanuel Ifemadam, and dated 28<sup>th</sup> November 2005 and registered at Page 14930 in volume 74, contained in File No. DT 10013, when the said land/plot is a subject of litigation before the Supreme Court of Nigeria (in SC.559/2018), is null, void and of no effect whatsoever.*
- 2) *A declaration that the Claimant's Proprietary Interest, Extant Equitable Right and/or Right of Occupancy in **Plot No. 240 Cadastral Zone B19, Katampe Extension covered by Certificate of Occupancy No. 4BAUW-890BZ-61R-C74CU-10** issued in the name of Emmanuel Ifemadam, and dated 28<sup>th</sup> November 2005 and registered at Page 14930 in volume 74, contained in File No. DT10013 remains valid and subsisting.*

- 3) *An order of perpetual injunction restraining the Defendants whether by themselves, agents or privies from revoking and or expropriating or in any manner howsoever interfering with the subsisting proprietary rights, interests and title of the claimant or effective possession/enjoyment by the claimant in **Plot No. 240 Cadastral Zone B19, Katampe Extension covered by Certificate of Occupancy No. 4BAUW-890BZ-61R-C74CU-10** issued in the name of Emmanuel Ifemadam, and dated 28<sup>th</sup> November 2005 and Registered at Page 14930 in volume 74, contained in File No. DT10013.*
- 4) *An order of this Honourable Court directing the defendants to pay to the claimant the sum of **₦250,000,000.00 (Two Hundred and Fifty Million Naira)** only as General Damages for the defendants' wrongful, unconstitutional act, for usurpation of the Constitutional function of the courts, for acts brazenly expropriatory and in brazen violation of the constitution, and for unlawful revocation of the Claimant's Rights in and over the land described in foregoing reliefs.*
- 5) *The litigation fees and associated expenses incurred by the claimant assessed at the sum of **₦40,000,000 (Forty Million Naira)** only.*

The said Originating Summons was served on the defendant and upon service, the defendants filed notice of preliminary objection challenging the locus standi of the claimant to institute this suit.

All the processes of this court were adopted on 1/2/2024 to pave way for this judgment.

As introduced in the earlier part of this judgment, it is the case of the claimant that after he purchased the land in 2014, he took possession and fenced it and issued a license to a block industry to occupy the land on a temporary basis. Pictures photograph of the fence and certificate of compliance is annexed as Exhibit **OL.J**.

The claimant further stated that, he started paying ground rents due on the land before his attention was drawn to the notice of revocation of allocation published in the Daily Trust Newspaper on Friday 22/9/2023 and that apart from the publication, Claimant was not served with any notice to that effect.

That effort was made for the Defendants to withdrawn the notice, but all proved abortive.

Learned counsel in line with law and procedure filed a written address wherein the following issues were formulated for determination, to wit;

- 1. Whether in view of the provisions of Section 6(b) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and the doctrine of lis pendens, the defendants; revocation of the claimant's Right of Occupancy/Proprietary Legal Right and or vested Equitable Interest in and over Plot No. 240 Cadastral Zone B19, Katampe Extension, covered by Certificate of Occupancy No. 4bAUW-890BZ-61BIR-C74CU-**

**10 issue in the name of Emmanuel Ifemadam and dated 28<sup>th</sup> November 2005 and registered at Page 14930 in Volume 74, contained in File No. DT 10013 lying and situate at Katampe Extension FCT, Abuja when the said land is a subject of litigation before the Supreme Court of Nigeria (in SC.559/2018), amounts to unlawful interference and usurpation of the Judicial Power vested in the courts; and unwarranted violation of the Constitution and an attempt to pervert the course of justice thereby rendering the purported revocation null, void and of no effect whatsoever?**

- 2. Whether in the circumstance of this case it would have been proper, appropriate, warranted, incumbent, justified or right for the claimant to apply/submit building plans for the development of and or proceed to develop Plot 240 Cadastral Zone B19, Katampe Extension covered by Certificate of Occupancy No. 4BAUW-890BZ-61R-C74CU-10 issued in the name of Emmanuel Ifemadam and dated 28<sup>th</sup> November 2005 and registered at Page 14930 in volume 74, contained in File No. DT 10013- when there is pending suit before the Supreme Court of Nigeria (in SC.559/2018) on the selfsame Plot No. 240 Katampe Extension notice of which defendants had prior notice at least 4 (four) years before the purported revocation?**
- 3. Whether the Defendants' publication of the purported Notice of Revocation in the Daily Trust Newspaper satisfies Section 28(6) and (7) of the Land Use Act as regards service of the**

**purported Notice of Renovation on the holder of Right of Occupancy or Occupier?**

- 4. Whether the Defendants' purported revocation of the Claimant's interest in Plot No. 240 Cadastral Zone B19, Katampe Extension covered by Certificate of Occupancy No. 4BAUW-890BZ-61R-C74CU-10 issued in the name of Emmanuel Ifemadam, and dated 28<sup>th</sup> November 2005 and registered at Page 14930 in volume 74, contained in File No. DT 10013 is a breach of plaintiff's Constitutional Rights under Sections 43 and 44 of the Constitution of the Federal Republic of Nigeria (1999 as amended)?**

Counsel argued the above issues citing relevant laws and statutes in urging the court to grant all the reliefs sought in this case.

As stated earlier, the defendants filed a Notice of Preliminary Objection upon receipt of the Originating process of the claimant.

In the notice of Preliminary Objection, with motion number. **M/2584/2024**, the Defendants relied on the ground that the Claimant lacks the requisite locus standi to institute this action, hence the court lacks jurisdiction to entertain this suit.

Particulars of the objection are as follows:-

- a) The claimant is not the title holder in respect of the subject plot.*
- b) The claimant does not have any registered interest in the subject plot at the Land Registry of this 3<sup>rd</sup> defendant.*

*c) The claimant does not have a legal interest over the subject plot.*

*d) The proper parties are not before the court.*

In support of the Notice of Preliminary Objection is an affidavit of 15 paragraphs deposed to by one Saidu Badamasi Abdulkadir wherein the deponent stated that the claimant did not file the suit as Attorney to Emmanuel Ifemadam but in its name and there was no evidence of payment of the purchase price to the original allottee.

A written address was filed wherein learned counsel submitted that, the Claimant lacked the locus standi to institute this suit and therefore same should be struck out.

Similarly, the Claimant filed a counter affidavit of 10 paragraphs against the Notice of Preliminary Objection. The said Counter affidavit was deposed to by one Sarafadeen Ayinla Salimon, a legal practitioner in the Law Firm of the Claimant.

It is the deposition of the claimant that he paid the sum of **₦90,000,000.00 (Ninety Million Naira)** to Emmanuel Ifemadam and failure of the said Emmanuel to delivered original copy of the Certificate of Occupancy being the title document to facilitate the process of Registration constitutes the reason why the case is in Supreme Court and that it has valid legal interest in the subject matter.

I have gone through the Originating Summon of the claimant and the affidavit in support with the exhibit attached in support of same. It is instructive to state from the onset that, the defendants herein did not

filed any counter affidavit in opposition to the claim of the Claimant, but however, a notice of preliminary objection was filed by the defendants challenging the locus standi of the claimant to file this present suit.

I shall proceed to consider the issue of the locus standi raised by learned counsel for the defendants to ascertain the competence of this action in view of its jurisdictional significance.

The issue of locus standi to sue is indeed fundamental in any action in court.

The law is trite that in our civil jurisprudence, defendant, as in this case, can impeach the locus standi of a plaintiff under Section 6(6) of the 1999 Constitution of the Federal Republic of Nigeria (as amended).

Once the issue of locus standi is challenged, the court must resolve same before any further consideration of the matter. It is jurisdictional in nature in view of the fact that the legal capacity of Claimant to have instituted the action in view is being challenged. ***OYEWOMI VS. OSUNBODE (2004) FLWR 9PT. 82) 1919.***

In considering the locus standi of the claimant reference is usually made to the writ of summon and averment in the statement of claim. It is the justifiability of the issue therein that the court considers. ***AGBOOLA VS. AGBODENU & ORS (2008) LPELR 84661.***

The essence of the condition of locus standi is to sieve and separate genuine litigants from mere busy bodies or impulsive who may be

merely mindful to be seen only to fight other people's course against imaginary enemies.

It is also to protect the court from being used as a playground by professional litigants, busy body, meddlesome interlopers and cranks who have no real legal state or interest in the subject matter of the litigation pursued. *P.D.P VS. LAWAL (2012) LPELR 7972*.

It is the contention of the Defendants that the subject matter Plot 240 Cadastral Zone B19, within Katampe Extension District, Abuja with File No. **DT10013** was allocated to Emmanuel C. Ifemadam sometime on 12/12/1995.

That from the records at the Lands Registry at the Department of Lands Administration, the Claimant does not have any registered interest whatsoever in this plot and that the claimant did not file the suit as Attorney to the original allottee but rather decided to file the suit in its personal name.

In response therefore, the Claimant avers that it paid the sum of **₦90,000,000** to the original allottee (Emmanuel Ifemadam) and was vested proprietary legal and equitable interest in the property. The defendant annexed the Power of Attorney and Deed of Assignment as Exhibit **OL-A, B, and C** respectively.

That it was the failure to hand over original documents of the land to the claimant that led to the Claimant suing the said Emmanuel Ifemadam to High Court and that presently the case is in Supreme Court.

In its written address, counsel nominated a sole issue for determination to wit:

“Whether the Claimant/Respondent has requisite locus standi to institute this action as constituted in this instant case.”

In arguing the issue, learned counsel submitted that the claimant is not seeking for the interpretation of a contractual agreement between the Claimant/Respondent and Emmanuel Ifemadam (The Original allottee) as seen is already a subject of the litigation before the Appeal Court. Learned Counsel submitted that this Court can only consider the claimant’s pleadings in determining whether the claimant has locus standi to institute this suit or not. Counsel cited the case of *MUSTAPHA V. CAC (2020) ALL FWLR pg.313 Para. C-E*. Learned Counsel contended that the locus standi or standing of the Claimant/Respondent in this suit in respect of its proprietary legal/equitable interest in and over the subject property in the earlier suit No. **FCT/CV/2724/2015**, the intermediate Appeal that emanated from the trial **CA/A/559/2016** and even in the final Appeal, now pending before the Supreme Court in suit No. **SC.559/2018** has not been challenged, impugned or disclaimed.

Counsel submitted that the Claimant/Respondent has requisite standing or locus standi to prosecute this originating summons.

Counsel relied on the decision in ***ODIMEGWA V. IBEZIM (2020) ALL FWLR pp. 1037-1039 Para H- B.*** The question that must be asked in addressing this is whether the Claimant/Respondent has shown sufficient interest to protect by the filing of this suit.

It is in evidence that the Claimant/Respondent has entered into a sale of land agreement with the one Emmanuel C. Ifemadam over the subject property and had taken possession of same since 2014. This fact is evidenced by Exhibits a sale Agreement, Exhibits **OL – A**, Deed of Assignment Exhibit **OL – B**. irrevocable power of Attorney Exhibit **OL – C**. And where the original allottee failed to hand over the original Certificate of Occupancy to enable the Claimant/Respondent to register the statutory Right of Occupancy in its name, the Claimant/Respondent filed suit No. **FCT/HC/CV/2724/2015** now Exhibit **OL – D** and later Appeal to the Court of Appeal and subsequently to the Supreme Court as in Exhibits **OL – E, OL – F**.

It is in evidence that the Claimant/Respondent through its solicitors wrote two letters intimating the Defendant through the director of lands (AGIS) of the pendency of the matter in both the Court of Appeal and the Supreme Court as seen in Exhibits **OL-G** and **OL – H**.

I agree that the Claimant/Respondent ordinarily cannot sue the Defendants without doing so as lawful attorney of the original allottee, the Deed of Assignment and power of Attorney transfer interest on the subject property having not being registered, it is obvious to the court

why the Claimant/Respondent is yet to register the instrument and he is not contesting title here.

Now, back to the question of locus standi to sue the Defendants.

I find the case of *IDIMEGWE V. IBEZIM (Supra)* Cited by the Claimant/Respondent very instructive here. In that case the Supreme Court held on the question of capacity to sue or locus standi. The Supreme Court held thus:

“---a person is said to have interest in a thing when he has rights, advantage, duties, liabilities losses or the like connected with it whether present or future, ascertained or potential. Provided that the possibility is not too remote. And the question of remoteness, depends upon the purpose which the interest is to serve..... What is more, the fact that the person may not succeed does not have anything to do with his standing to bring the action.”

It is clear to me that there is a pending litigation on the subject property between the Claimant/Respondent and the original allottee and Defendants are aware of the pendency of the matter which invariably leaves the subject property undeveloped. The Defendants revoked the title to the property for reason of non development as seen in Exhibit OL-L. With all these, I am satisfied that the claimant has shown sufficient interest in the action of the Defendant and may seek redress, whether he succeeds is another thing entirely.

Accordingly I find that the Claimant/Respondent has locus standi and the Preliminary Objection fails and it is hereby dismissed.

It is in record that the Defendants did not file a counter affidavit for the Claimant's originating summons. The 1<sup>st</sup> and 2<sup>nd</sup> reliefs sought by the claimant are declaratory in nature predicating the success of other reliefs on them. That being so, it is critical to state that declarations in law are in the nature of special claims or reliefs for which the ordinary rules of pleadings particularly have no Application. It is therefore incumbent on the party claiming the declaration to satisfy the court by credible evidence that he is entitled to the declaration See *EKINE V. WEST (2021) LPELR-56282 (CA)*.

The pertinent point to state here is that it would be futile when a declaratory reliefs is sought to seek refuge on the stance or position of parties in their pleadings. The court must be put in a commanding position by credible and convincing evidence at the hearing of the Claimant's entitlement to the declaratory reliefs.

A convenient starting point is to understand the precise circumstance of the entire case which then provides clarity and insight to the case made out by the claimant.

In this suit there is no real dispute on the fact that by a sale agreement followed by a deed of assignment and power of Attorney, the claimant acquired equitable interest on the subject property and the claimant is presently in court with the seller/original allottee who had failed to

release the original Certificate of Occupancy to enabled the claimant to register his interest with the Defendants. The case is pending as clearly evidenced and narrated in the preceding part of this Judgment. It is in evidences that the Defendants are aware of the pendency of the matter at the Supreme Court.

Considering all the above could the Defendants have lawfully revoked a property on the count of non development which has been and is still subject of a pending litigation. The answer must be in the negative. When a property is subject of litigation no step or action shall be condoned by any party that affects the property in any way. The revocation of the title in respect of the property while the case is pending offends the doctrine of lis pendens and cannot be allowed to stand.

The action of the Defendants renders nugatory the decision of the Supreme Court in respect of the subject property. Without further ado I find that the Claimant has satisfied the court of its entitlement to the reliefs sought. Accordingly the case of the Claimant succeeds. 4 question are answered in the affirmative and the reliefs 1 & 3 are hereby granted as prayed. i.e.

*1.) A declaration that the defendants revocation of claimant's proprietary Interest, Extant Equitable Right and or Right of Occupancy in Plot No. 240 Cadastral Zone B19, Katampe Extension covered by Certificate of Occupancy No. 4BAUW-890BZ-61R-C74CU-10 issued in the name of Emmanuel Ifemadam,*

*and dated 28<sup>th</sup> November 2005 and registered at Page 14930 in volume 74, contained in File No. DT 10013, when the said land/plot is a subject of litigation before the Supreme Court of Nigeria (in SC.559/2018), is null, void and of no effect whatsoever **is hereby granted.***

*3.) An order of perpetual injunction restraining the Defendants whether by themselves, agents or privies from revoking and or expropriating or in any manner howsoever interfering with the subsisting proprietary rights, interests and title of the claimant or effective possession/enjoyment by the claimant in **Plot No. 240 Cadastral Zone B19, Katampe Extension covered by Certificate of Occupancy No. 4BAUW-890BZ-61R-C74CU-10** issued in the name of Emmanuel Ifemadam, and dated 28<sup>th</sup> November 2005 and Registered at Page 14930 in volume 74, contained in File No. DT10013 **is hereby granted.***

Relief 4 is granted in the sum of **₦5Million.** i.e.

*4.) An order of this Honourable Court is granted directing the defendants to pay to the claimant the sum of **₦5,000,000.00 (Five Million Naira)** only as General Damages for the defendants' wrongful, unconstitutional act, for usurpation of the Constitutional function of the courts, for acts brazenly expropriatory and in brazen violation of the constitution, and for unlawful revocation of the Claimant's Rights in and over the land described in foregoing reliefs.*

Relief 5 is granted in the sum of **₦2.5Million**. i.e.

**5.) *The litigation fees and associated expenses incurred by the claimant assessed at the sum of ₦2,500,000 (Two Million, Five Hundred Thousand Naira) only is hereby granted.***

**SIGNED:  
HON. JUDGE  
27/02/2024.**

**APPEARANCE:**

*Tairu Adebayo, Esq, for the Claimant.*

*Ifeanyi Okpor, Esq with Caleb Atakpa, Esq, for the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Defendants*