

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT COURT 10, AREA 11, GARKI, ABUJA

BEFORE HIS LORDSHIP: HON. JUSTICE S. B. BELGORE

MOTION NO. FCT/HC/CV/2935/2024

M/9692/2024

DATE: 07/10/2024

BETWEEN

GRAND BUSINESS SYSTEMS LTD. } CLAIMANT/APPLICANT

AND

**1. HON. MINISTER OF THE FEDERAL
CAPITAL TERRITORY
2. FEDERAL CAPITAL DEVELOPMENT
AUTHORITY
3. UNKNOWN PERSONS } DEFENDANTS/RESPONDENTS**

R U L I N G

(DELIVERED BY HON. JUSTICE S. B. BELGORE)

This Ruling concedes a Motion on Notice vide M/9692/2024 just moved by the Learned Counsel for the Applicant.

The application is dated 20th June, 2024 and filed 24th June, 2024. The application premised under Order 42 and Order 43 of our Rules in the main prayed for a sole relief in the main to wit:

An Order of interlocutory injunction restraining the Defendants/Respondents particularly 3rd Defendant herein, their servants, assigns, agents and/or privies for further building or/and erecting any structure or further committing acts of trespass on the land which is the subject matter of this suit. Plot 900 Cadastral Zone C03, Gwarinpa II, Abuja measuring appropriately 2 hectares pending the hearing and final determination of the substantive suit.

There are three grounds for so praying which are listed on the case of the Motion paragraph.

In support is a 23 paragraph affidavit with 10 Exhibits i.e. Amina1 - 10 attached. There is also a written address. The Learned SAN relied on all the paragraphs of the affidavit adopted the written address as is argument and urged me to grant the application.

Learned Counsel to the Respondents conceded the facts of non-filing of any counter affidavit. Mr. Abubakar of Counsel to the Defendants however opposed the application on ground of law, filed no further argument but made his submission orally.

According to him, this application need not come because even on the principle of lispendis, parties are not to transact any business on account of this case in Court. The Respondents' Counsel referred to paragraph 19 of the affidavit in support and submitted that the facts of trying to sell the land is not imperative.

He urge me to order the parties to maintain status quo also order accelerated hearing.

I have considered this application, the supposed objection to the grant of is actually no objection in substance. I say this because even from the submission of Mr. Abubakar, he has in this real sense agreed that the purpose of this application for an injunctiveorder is proper and meritorious but perhaps for purposes of learned, I should say a view word as regard law and facts of this case.

1. This Respondent has filed no counter affidavit i.e. means they agreed with all the facts in the supporting affidavit and the Court can safely rely on them. This is trite see the case of **NWOSU v. IMO STATE ENVIRONMENT PROTECTION BOARD.**
2. In an application for interlocutory injunction such as this one under scrutiny, there are some hurdles to be crossed by the application. They are;
 1. Legal Issues
 2. Legal right to be protected
 3. Balance of convinces
 4. Inadequacy of damages
 5. Under taken to pay damages

See **KOTOYE vs. SARAHI, SARAHI v. CBN, OBEYA MEMORIAL SPECIALIST HOSPITAL vs. FEDERATION (1987) 3 N.W.L.R. (PART 60) 325; KOTOYE v. CBN (1989) 1 N.W.L.R. (PART 98) 419; etc.**

The real question is; has the Applicant crossed these hurdle, my answer is Yes. How? By virtues of paragraphs 3 – 13, Exhibits Amina 1 – 8 shows

the Applicant has legal right to the 'res' and that there are serious issues of law and fact to be trashed out in this case.

Secondly, the balance of convenience is in favour of granting this application. See paragraph 20 of the supporting affidavit which is not denied.

Thirdly, there is inadequacy of damages – see paragraph 21 of the supporting affidavit which is not denied.

Fourthly, having regard to the principle of lispendis ably enunciated by the Respondents' Learned Counsel, it is clear to me that granting this application will meet the justice of this case for this moment.

In effect therefore, having regard to the facts and principles of law involved, I find merit in this application and it is therefore granted as prayed.

.....
S. B. Belgore
(Judge) 7- 10 - 2024