

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT GARKI ABUJA

CLERK: MRS VICTORIA SILAS ADINOYI
COURT NO. 9

SUIT NO: FCT/HC/CV/393/2023
Date: 3/2/2025

BETWEEN:

HILARY ONYEOSHA EKWURIBE.....CLAIMANT

AND

- | | | |
|---|---|-------------------|
| <ol style="list-style-type: none">1. OAK CLIFF GLOBAL SYNERGY LTD2. CHRISTOPHER OGHENEOVE UZIEWE | } | DEFENDANTS |
|---|---|-------------------|

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

In the instant case, Claimant in the writ of summons and statement of claim are as the claims or reliefs sought by the follows:-

- 1. A DECLARATION** of this Honourable Court that the Defendants' failure to issue title documents and allocate the 500SQ² 3 Bedrooms Penthouse plot of land in their Crystal Estate located at Pyakasa District Abuja-FCT to the Claimant since 4th day of March 2021 till date despite receiving the sum of **N3,500,000.00** (Three Million Five Hundred Thousand Naira) as payment for the plot of land is a breach of sale of land contract between the Claimant and the Defendants.

- 2. A DECLARATION** of this Honourable Court that the Defendants are in breach of contract for failure to excavate and dig the foundation for the 500SQ² 3 Bedrooms Penthouse plot of land for the Claimant in its Crystal Estate located at Pyakasa District Abuja-FCT after

receiving the sum of **N300,000** (Three Hundred Thousand Naira) from the Claimant for excavation.

3. **A DECLARATION** of this Honourable Court that the afore-stated actions of the Defendants to wit; refusal to issue the Claimant with allocation documents, failure to allocate a plot of land to the Claimant and excavate same despite receiving payments for that has caused enormous economic and psychological loss to the Claimant hence the Claimant is entitled to general and punitive damages from the Defendants.
4. **AN ORDER** of this Honourable Court directing the Defendants to forthwith issue title documents and to allocate to the Claimant the 500SQ² 3 Bedrooms Penthouse plot of land, on ground, in their Crystal Estate located at Pyakasa District Abuja-FCT.
5. **AN ORDER** of this Honourable Court directing the Defendants to forthwith excavate and dig the foundation for the 500SQ² 3 Bedrooms Penthouse plot of land in their Crystal Estate located at Pyakasa District Abuja-FCT.
6. **IN THE ALTERNATIVE, AN ORDER** of this Honourable Court directing the Defendants to forthwith refund to the Claimant the sum of **N3,800,000** (Three Million Eight Hundred Thousand Naira) being the sum received by the Defendants from the Claimant for the sale and excavation of the 500SQ² 3 Bedrooms Penthouse plot of land on ground in their Crystal Estate located at Pyakasa District Abuja-FCT.
7. **AN ORDER** of this Honourable Court directing the Defendants to pay to the Claimant the sum of **N20,000,000.00** (Twenty Million Naira) as general and punitive damages for the economic loss and psychological trauma the Claimant suffered as a direct consequence of the actions of the Defendants.

8. **AN ORDER** directing the Defendants to pay the Claimant the sum of **N2,000,000** (Two Million Naira) being the cost of instituting and maintaining this action in Court.

After settlement of the Preliminary issues the Court started hearing on 17/7/2024, the Claimant testified on affirmation as PW1. Exhibits A1, A2 & A3, B, C1, C2, D1, D2, E and F were tendered in evidence through this witness.

We then adjourned to 30/10/2024 to enable the PW1 to be cross-examined by the Defendants.

On 30/10/2024, the Defendants were absent in Court and their right to cross-examine the PW1 was foreclosed.

In spite of service of the Originating Processes and several hearing notices on the Defendants, they failed to appear in Court or put up a defence to the action. The Claimant has closed his case without any form of opposition from the Defendant this application for summary judgment.

- Exhibit A:** Status Report documents generated on 6/7/2023
- Exhibit A2:** A Whatsapp chats dated 14/10/2022 – 14/2/2023 on phone numbers 08037867366.
- Exhibit A3:** A Certificate of Compliance with section 84 (4) of the Evidence Act
- Exhibit B:** Abia State University Certificate of BSc Degree in Science (Architecture) Second Class lower division with respect to Ekweribi Onyeosha Hilary dated 13/10/2008.
- Exhibit C1:** Access Bank Transfer Receipts dated 14/3/21 in the sum of N2,500,000.00

- Exhibit C2:** Access Bank Transfer Receipts dated 27/5/21 in the sum of N1,300,000.00
- Exhibit D1:** Official Receipt of Oak Cliff Global Energy Ltd dated 4/3/21 evidencing receipt of N2,500,000.00 from one Ekwuribe Hilary of Block 26; Flat L, Kings Court Estate Jabi Airport Road, Abuja.
- Exhibit D2:** Official Receipt of Oak Cliff Global Energy Ltd dated 28/5/21 evidencing receipt of N1,300,000.00 from one Ekwuribe Hilary of Block 26; Flat L, Kings Court Estate Jabi Airport Road, Abuja.
- Exhibit E:** A Demand Letter on the Letterheaded paper of Prince Amaechi Nweke & Co., dated 26/4/2023
- Exhibit F:** An official receipt from Prince Amaechi Nweke & Co. Dated 24/4/2023 and evidencing payment of N2,000,000.00 by one Hilary Onyeosha Ekwuribe.

We adjourned the case to 9/12/2024 to enable the Defendants enter their defence. On 9/12/2024, the Defendant were absent in Court and their defence was foreclosed. On that day the learned Counsel to the Claimant informed the Court that he intend to file an application for summary judgment.

I adjourned the matter to enable the Claimant's Counsel do so.

A few minutes ago, the application for summary judgment vide M/1971/2024 and pursuant to Order 11 Rule 1 of the Rules of this Court was taken. The Motion prayed the Court for the following reliefs:

- (1) **AN ORDER** of this Honourable Court for leave to enter Summary Judgment for the Claimant/Applicant in terms of the reliefs sought in the Statement of Claim.

(2) **And for such further Order or Orders** as this Honourable Court may deem fit to make in the circumstance.

In support is a 32-paragraph affidavits to which is attached Exhibits 1 – 6

Exhibit 1: The Qualifying Certificate of the Claimant

Exhibit 2: Copies of the transfer slips

Exhibit 3: Payment receipt issued by the Defendants

Exhibit 4: Whatsapp messages

Exhibit 5: Demand Letter dated 26th April, 2023

Exhibit 6: The receipt of payment to the Claimant Solicitor dated the 24th April, 2023

There is also a written address attached.

Learned Counsel to the Claimant, Prince Amaechi Nweke moved the application summarily.

I have considered same. It is noteworthy, that the Defendants from inception of this case has not appeared in Court. They have not filed any process despite the service of all the originating process and hearing notices on them. They were given ample opportunity to defend this case but they remain unperturbed.

The only witness of the Claimant (PW1) testified some months ago and many documents were tendered in Court as Exhibits I had earlier referred to them. I need not repeat them.

I firmly, in the circumstances of this case agree with the learned Counsel to the Claimant when he wrote as follows at paragraph 4.25 of his address:

***“In this instant case, the Claimant has been able to establish before this Honourable Court that he had a land purchase contract with the Defendant; that after fulfilling his part of the contract, the Defendants refused to allocate the land to him. Further, he has made several demand for the allocation and the Defendants refused to honour the agreement between them. And a careful study of the processes of the Claimant reveals that the Defendants do not have any defence to this action hence their consistent absence from the matter.*”**

Order 11 Rule 1 provides thus:

“Where a Claimant believes that there is no defence to his claim, he shall file with his originating process the statement of claim, the exhibits, the depositions of his witnesses and an application for summary judgment which application shall be supported by an affidavit stating the grounds for his belief and a written brief in support of the application.”

In this case and application they filed the following processes;

- (1) Statement of claims
- (2) Exhibit A – F
- (3) Deposition of witness and in this case PW1
- (4) Application for summary Judgment – (M/1971/2024)
- (5) 32 – paragraphs supporting affidavits
- (6) A written address.

This means the provision of Order 11 Rule 1 has been complied with. Having regards to all the above, I find merit in this application for summary Judgment and it is therefore granted. In clarity, Judgment is hereby entered in favour of the Claimants against the two Defendants and I make the following orders:

1. **A DECLARATION** of this Honourable Court that the Defendants' failure to issue title documents and allocate the 500SQ² 3 Bedrooms Penthouse plot of land in their Crystal Estate located at Pyakasa District Abuja-FCT to the Claimant since 4th day of March 2021 till date despite receiving the sum of **N3,500,000.00** (Three Million Five Hundred Thousand Naira) as payment for the plot of land is a breach of sale of land contract between the Claimant and the Defendants is hereby granted.
2. **A DECLARATION** of this Honourable Court that the Defendants are in breach of contract for failure to excavate and dig the foundation for the 500SQ² 3 Bedrooms Penthouse plot of land for the Claimant in its Crystal Estate located at Pyakasa District Abuja-FCT after receiving the sum of **N300,000** (Three Hundred Thousand Naira) from the Claimant for excavation is hereby granted.
3. **A DECLARATION** of this Honourable Court that the afore-stated actions of the Defendants to wit; refusal to issue the Claimant with allocation documents, failure to allocate a plot of land to the Claimant and excavate same despite receiving payments for that has caused enormous economic and psychological loss to the Claimant hence the Claimant is entitled to general and punitive damages from the Defendants is hereby granted.
4. **AN ORDER** of this Honourable Court directing the Defendants to forthwith issue title documents and to allocate to the Claimant the 500SQ² 3 Bedrooms Penthouse plot of land, on ground, in their Crystal Estate located at Pyakasa District Abuja-FCT is hereby granted.

5. **AN ORDER** of this Honourable Court directing the Defendants to forthwith excavate and dig the foundation for the 500SQ2 3 Bedrooms Penthouse plot of land in their Crystal Estate located at Pyakasa District Abuja-FCT is hereby granted.

ALTERNATIVELY

6. **IN THE ALTERNATIVE, AN ORDER** of this Honourable Court directing the Defendants to forthwith refund to the Claimant the sum of **N3,800,000** (Three Million Eight Hundred Thousand Naira) being the sum received by the Defendants from the Claimant for the sale and excavation of the 500SQ2 3 Bedrooms Penthouse plot of land on ground in their Crystal Estate located at Pyakasa District Abuja-FCT is hereby granted.
7. **AN ORDER** of this Honourable Court directing the Defendants to pay to the Claimant the sum of **N20,000,000.00** (Twenty Million Naira) as general and punitive damages for the economic loss and psychological trauma the Claimant suffered as a direct consequence of the actions of the Defendants is hereby granted.
8. **AN ORDER** directing the Defendants to pay the Claimant the sum of **N2,000,000** (Two Million Naira) being the cost of instituting and maintaining this action in Court is hereby granted.

That is the Judgment of this Court.

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S. B. Belgore
(Judge) 3/2/2025