

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT COURT 9, AREA 11, GARKI, ABUJA

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

SUIT NO. FCT/HC/CV/2796/2021

DATE: 21/1/2025

B E T W E E N

MOHAMMED A. SADIQ

}

CLAIMANT

AND

1. SHEIK JIBRIL IBRAHIM

2. STATS GLOBAL HOMES LIMITED

}

DEFENDANTS

J U D G M E N T

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

The Claimant commenced this suit by a writ of summons dated 25th October, 2021 against the Defendants claiming for the following reliefs:-

1. A declaration that the Claimant is the lawful owner/allottee of Plot No. 202 within Sabon Lugbe East Layout of about 2500m² with reference No. MFCT/ZA/AMAC/SLE 202 to the exclusion of the

Defendants having been allocated same vide offer of Terms of Grant/Conveyance of Approval dated 11th March, 1998.

2. A declaration that the acts of the Defendants in entering into the said Plot No. 202 within Sabon Lugbe East Layout of about 2500m² with reference No. MFCT/ZA/AMAC/SLE 202 Abuja FCT, clearing and bulldozing all trees without the authority and consent of the Claimant amount to trespass.
3. A declaration that the acts of the Defendants in entering into the said Plot No. 202 within SabonLugbe East Layout of about 2500m² with reference No. MFCT/ZA/AMAC/SLE 202 Abuja FCT, clearing and bulldozing all trees without the authority and consent of the Claimant is illegal and constitute a violation of the rights of the Claimant as guaranteed by the 1999 Constitution and the Land Use Act.
4. An Order ejecting and removing the Defendants, their agents, privies or any person whatever name so called from the said Plot No. 202 within Sabon Lugbe East Layout of about 2500m² with reference No. MFCT/ZA/AMAC/SLE 202 Abuja FCT.
5. An Order of perpetual injunction restraining the Defendants, their agents, privies or whatever name so

called from further interference or trespass over Claimant's interest in Plot No. 202 within Sabon Lugbe East Layout of about 2500m² with reference No. MFCT/ZA/AMAC/SLE 202 Abuja FCT.

6. An Order for the sum of ~~N~~50,000,000.00 (Fifty Million Naira) only against the Defendants for trespass.
7. An Order for the sum of ~~N~~30,000,000.00 (Thirty Million Naira) only for general damages against the Defendants.
8. The sum of ~~N~~5,000,000.00 (Fifty Million Naira) against the Defendants being the cost of prosecution of this case.

The case of the Claimant as contained in his statement of claim and as given life to in the witness statement on oath is that he is the owner/allotee of Plot No. 202 within SabonLugbe East Layout of about 2500M2 with reference No. MFCT/ZA/AMAC/SLE 202 having been allocated same vide an Offer of Terms of Grant/Conveyance of Approval dated 11/3/1998 by Ministry of Federal Capital Territory through Abuja Municipal Area Council. That after the allocation, he took possession of the plot and planted

economic trees and continuously farmed in the plot awaiting the construction of infrastructures in the plot for proper developments. That he never sold the plot or transferred his interests to another person nor alienated the plot in any way since the allocation of the plot. That on or about June/August, 2021, he visited the plot as has been his routine from time to time and saw that the entire plot has been cleared in preparation for development and construction by persons who do not have his authority in that respect and who he later identified to be the Defendants. That he never sold the said plot belonging to him and known as Plot No. 202 within SabonLugbe East Layout of about 2500M2 with reference No. MFCT/ZA/AMAC/SLE 202 to the Defendants, any other person, individual or organization and never granted the Defendants permission in any manner whatsoever to enter into the plot. That the Defendants are now illegally constructing in the plot and have denied him access to his plot.

The Defendants who were served with the Writ of Summons and other processes in line with the orders of this Court

variously on the 7th April 2022, 28th June 2022, 26th January 2023, 2nd February 2023 and 15th March 2023 respectively did not enter appearance nor file any defence to the case of the Claimant and or challenge the case of the Claimant in any way whatsoever.

In proof of his case, the Claimant testified in person on 26th January 2023 and adopted his witness statement on oath as his evidence and tendered the following documents as Exhibits which were admitted as follows;

- (i) Identity Card – Exhibit A
- (ii) Offer of Terms of Grant/Conveyance of Approval dated 11/3/1998 over Plot No. 202 within SabonLugbe East Layout of about 2500M2 with reference No. MFCT/ZA/AMAC/SLE 202 – Exhibit B.
- (iii) Pictures with certificate of compliance – Exhibit C

The Claimant thereafter closed his case and was not cross examined as the Defendants shunned the Court despite services of hearing notices.

It needs to be emphasized that the Defendants in this case neither filed any statement of defence nor made any

representation to defend this case and after exhausting opportunities given to them were foreclosed from defending the case.

Mr. C. C. Agidi of counsel to the Claimant, submitted that bearing in mind the pleadings and the evidence adduced, the only issue that arises for determination is;

“Whether the Claimant has proved his case on the preponderance of the evidence to be entitled to the reliefs sought”?

He responded to this question in the affirmative. He submitted that in civil cases the burden of proof lies on the Claimant and that burden is discharged on the balance of probabilities. See **Section 134 of the Evidence Act.** In **SAKATI VS. BAKO & ANOR. (2015) L.P.E.L.R. – 24739 (SC)**, The Supreme Court held:

*“The burden of proof here means the burden of adducing evidence and this may shift depending on the preponderance of evidence. It rests on the party who would fail if no evidence at all or no more evidence were led on either side. See **MESSRS LEWIS & PEAT (NRI) LTD. v. A. E. AKHIMIEN (1976) 1 ALL NLR (PART 1)***

460 at 468 – 469 wherein this Court held, *inter alia*: “It is an elementary principle in civil proceedings that civil cases are decided on a balance of probabilities based on preponderance of evidence” Per NGWUTA, JSC (PART 34) Paras. C – E)”

As mentioned earlier, the Claimant in the discharge of this burden of proof testified as a sole witness and tendered the following documents as Exhibits. The documents were admitted without opposition and they are;

- (i) Identity Card – Exhibit A
- (ii) Offer of Terms of Grant/Conveyance of Approval dated 11/3/1998 over Plot No. 202 within SabonLugbe East Layout of about 2500M2 with reference No. MFCT/ZA/AMAC/SLE 202 – Exhibit B
- (iii) Pictures with certificate of compliance – Exhibit C

Exhibit A is the Claimant’s Identity Card, Exhibit B is the right of occupancy titled: Offer of Terms of Grant/Conveyance of Approval dated 11/3/1998 over Plot No. 202 within SabonLugbe East Layout of about 2500M2 with reference No. MFCT/ZA/AMAC/SLE 202 – Exhibit B while Exhibit C is pictures of the illegal construction.

The main relief of this suit is a declaration of title to land. The law is settled on the different way titles to land can be proved. The five ways are as follows;

1. Proof of traditional history or traditional evidence
2. Proof by grant or the production of document of title,
3. Proof by acts of ownership extending over sufficient length of time, numerous and positive enough to warrant the inference that the person exercising such acts are true owners of the land,
4. Proof by acts of long possession, and
5. Proof by possession of connected or adjacent land in circumstances rendering it probable that the owner of such would in addition be the owner of the land in dispute. See **IDUNDUN VS. OKUMAGBA (1976) 10 SC, 277.**

Again, it has been established with certainty that, proof of title in the Federal Capital Territory is by production of document or grant issued by the Honourable Minister of the Federal Capital Territory or any person acting in his stead, showing that there has been a valid grant to the person by the Honourable Minister of the Federal Capital Territory, Abuja. See **MADU VS. MADU (2008) 6 N.W.L.R. (PART 1083) 296,**

ONA VS. ATENDA (2005) 5 N.W.L.R. (PART 656) page 244 at page 267, paras. C – D, and thereafter, showing that the particular plot of the land has indeed been granted to whoever is laying claim to same.

It is already established that for a person seeking a declaration of title to land, the identity of the plot over which the declaration is sought must be clear.

In tandem with the above position of the law, the Claimant in his paragraph 4 of his Adopted Witness Statement on oath stated thus;

“That I am at all material time the owner/allottee of plot No 202 within SabonLugbe East Layout of about 2500M2 with reference No. MFCT/ZA/AMAC/SLE 202 having been allocated same vide an offers of Terms of Grant/Conveyance of Approval dated 11/3/1998 by the Ministry of Federal Capital Territory through Abuja municipal Area Council”

In line with this statement the Claimant tendered Exhibits A, B and C, which were admitted. The Claimant was never cross examined on the Exhibits, as a matter of fact, the Defendants refused to enter defence showing that they had none. The

Defendants did not challenge the case of the claimant in any way.

The law is that unchallenged evidence is deemed admitted. In **CHUKWU VS. STATE (2012) L.P.E.L.R. – 9829 (SC)**, the Court held;

“The Appellant was not cross-examined on this evidence that gave the details of what happened. Thus the evidence remained unchallenged and uncontroverted and the Court ought to have acted on it. See DENNIS IVIENAGBOR VS. HENRY BAZUAYE (1999) 6 S.C.N.J. 235” Per MUNTAKA – COOMASSIE, JSC (page 14 paras. B).

Also, the Court in **OWNER OF M/V GONGOLA HOPE & ANOR. VS. SMURFIT CASES (NIG.) LTD. & ANOR. (2007) L.P.E.L.R. – 2849 (SC)**, held;

“...Also firmly settled, is that where the evidence of a Plaintiff is unchallenged and uncontroverted and particularly, where the opposite party or side, had the opportunity to do so, it is always open to the trial Court seized of the manner, to accept and act on

such unchallenged and/or uncontroverted evidence before it. There are too many decided authorities in respect thereof. See ODULAJA VS. HADDAD (1973) II SC 357; ISAAC OMOREGBE VS.LAWANI (1980) 3 – 7 SC 108 at 117 and recently; CHIEF DUROSARO VS. AYORINDE (2005) 3 S.C.N.J. 8 at 18, (2005) 8 N.W.L.R. (PART 927) 407; (2005) 3 – 4 SC 14 and NEWBREED ORGANISATION LTD. VS. ERHOMOSELE (2006) SC (PART 1) 136 at 150; (2006) 2 S.C. N.J. 198; (2006) 5 N.W.L.R. (PART 974) 499; (2006) 1 J.N.S.C. (PART 1) 1 and (2006) Vol. 140 L.R.C.N. 2064; (2006) 5 N.W.L.R. (PART 974) 499” Per Ogbuagu, JSC (pages 30 – 31 para. E).

Failure to also cross examine a witness on a material issue amounts to admission.

In **O.A.N. OVERSEAS AGENCY (NIG.)LTD. VS.BRONWEN ENERGY TRADING LTD. & ORS. (2022) L.P.E.L.R. – 57306 (SC)**, the Apex Court held;

“Interestingly, this same material piece of uncontroverted evidence was picked from the witness statement of the 1st Respondent’s witness and restated by

the Appellant in paragraph 4.25 of the Appellant's brief. This evidence was uncontroverted and still unchallenged under cross examination. Failure to cross examine on a matter is acceptance of the fact. See GAJI VS. PAYE (2003) 8 N.W.L.R. (PART 823) 583 AT 605. No further proof is required"
Per Peter-Odili, JSC (page 31 para. C).

"It is a settled principle of law that where an adversary or a witness called by him testifies on a material fact in controversy in a case, the other party should, if he does not accept the witness's testimony as true, cross-examine him on that fact, or at least show that he does not accept the evidence as true, where, as in this case, he fails to do either, a Court can take his silence as an acceptance that the party does not dispute the facts. After all, one of the main purposes of cross-examination is to test the veracity of a witness. See AJAO VS. ALAO (1986) 5 N.W.L.R. (PART 45) 802. Per Nnaemeka-Agu, JSC (page 20, paras. A – C).

It is Mr. Agidi's submission that in line with **Sections 131, 132, 133 and 134 of the Evidence Act**, the Claimant has proved his case and he urged me to so hold.

The Sections provide;

Section 131(1) says:

“Whoever desires any Court to give Judgment as to any legal right or liability dependent on the existence of facts which he asserts shall prove that those facts exist. (2) When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person”.

Section 132 provides:

“The burden of proof in a suit lies on that person who would fail if no evidence at all were given on the other side”.

Section 133(1)says:

“In civil cases, the burden of first proving existence or non-existence of a fact lies on the party against whom the Judgment of the Court would have been given if no evidence were produced on either side, regard being had to any presumption that may arise on the pleadings. (2) If the party referred to in subsection (2) of this section adduces evidence which ought reasonably to satisfy the Court that the fact sought to be proved is established, the burden lies on the party against whom Judgment would be given if no evidence were adduced, and so on successively, until all the issues in the pleadings have been dealt with”.

Section 134 says:

“The burden of proof shall be discharged on the balance of probabilities in all civil proceedings”.

On the other hand, upon the tendering of the Exhibits A, B and C the burden of disproving and or dislodging the existence of those documents shift to the Defendants.

The law is that in civil proceedings, the burden of proof is not static and oscillates between the parties. In **OKOYE & ORS. VS. NWANKWO (2014) L.P.E.L.R. – 23172 (SC)**; the Court held:

“The burden of proof in civil cases has two distinct meanings, viz: (a) The first is the burden of proof as a matter of law and the pleadings usually referred to as legal burden or the burden of establishing a case; (b) The second is the burden of proof in the sense of adducing evidence usually described as the evidential burden. While the legal burden of proof is always stable or static the burden of proof in the second

sense i.e. evidential burden of proof may oscillate constantly according as one scale of evidence or the other preponderates. In civil cases, while the burden of proof in the sense of establishing the case initially lies on the Plaintiff, the proof or rebuttal of issues which arise in the course of proceedings may shift from the Plaintiff to the Defendants and vice-versa as the case progresses. **FEDERAL MORTGAGE FINANCE LTD. VS. EKPO (2004) 2 N.W.L.R. (PART 856) 100 at 130** PerOlagunju, JCA; **BALOGUN VS. LABIRAN (1988) 3 N.W.L.R. (PART 80) 66; NWOSU VS.UDEOJA (1990) 1 N.W.L.R. (PART 125) 188; ELEMO VS.OMOLODE (1968) N.M.L.R. 359; CHIGWU VS.BAPTIST CONVENTION (1968) 2 ALL N.L.R. 294; ADEGOKE VS.ADIBI (1992) 5 N.W.L.R. (PART 242) 410**”Per Peter-Odili JSC (pages 25-26, paras. F – E).

The Defendants who were given ample opportunities to defend the case and or challenge the case of the Claimant never did. There is nothing more left for this Honourable

Court to do than to grant the reliefs of the Claimant as the non-entry of defence by the Defendants, show that they have no evidence in rebuttal to the one offered by the Claimant.

The powers of the Minister of the Federal Capital Territory to allocate land through the Zonal Managers posed at Area Council is not in doubt. My Brother, Hon. Justice Peter O. Affen J. (now JCA) in **BLESSED AND PRECIOUS CHILDREN ACADEMY LTD. AND 2 ORS. VS. FEDERAL CAPITAL TERRITORY AND 2 ORS.** Suit. No. FCT/HC/2138/2010 delivered on March, 2011 was faced with a similar issue and he resolved it in favour of such allocation. Also in **MINANUEL INVESTMENT LTD. VS. THE HON. MINISTER OF FEDERAL CAPITAL TERRITORY & 2 ORS** in Suit No. FCT/HC/CV/714/2012 Per Hon. Justice D. Z. Senchi J. (as he then was) (now JCA) delivered on 11/11/2013, wherein His Lordship at pages 72 – 78 of the Judgment adopted the reasoning of My Lord, Hon. Justice Peter O. Affen J. (now JCA) in **BLESSED AND PRECIOUS CHILDREN ACADEMY LTD. AND ORS. VS. FEDERAL CAPITAL TERRITORY AND ORS. (supra)** to hold and affirm as valid, land allocation issued by Zonal Managers on behalf of the Hon. Minister of FCT.

The Exhibit B which is Offer of Terms of Grant/Conveyance of Approval dated 11/3/1998 over Plot No. 202 within SabonLugbe East Layout of about 2500M2 with reference No. MFCT/ZA/AMAC/SLE 202 is in all fours with the allocation documents referred to in the cases cited above. At pages 72 – 73 in **MINANUEL INVESTMENT LTD. VS.THE HON. MINISTER OF FEDERAL CAPITAL TERRITORY & 2 ORS. (supra)**, His Lordship held;

“The question to ask now is what is the root of title of the Plaintiff? In other words, what title documents does the Plaintiff possess on Plots ED 1425, ED 1427, ED 1428 and ED 1430? The Plaintiff at paragraph 5 of its Amended Statement of Claim pleaded title documents of the plots, the subject matter of this suit. The title documents were received in evidence through PW1 as Exhibits 2, 3, 4 and 5 respectively. The said Exhibits are being relied on by the Plaintiff to prove its title to the plots in question. However, the position of the Defendant is that the title of the Plaintiff in the said plots are Customary Right of Occupancy which by combined effect of Sections 297(2) and 302 of the 1999 Constitution and Sections 5(1)(a) and 49 (1) of the

Land Use Act and Sections 1 and 18 of the FCT Act and the decision in MADU VS. MADU; ONA VS. ATANDA etc. There is no Customary Right of Occupancy in the FCT.

The facts and evidence in this case is that the Plaintiff is a holder of Statutory Right of Occupancy in Plot ED1425, ED1427, ED1428, ED1429 and ED1430. On the face of Exhibits 2, 3, 4 and 5, it is titled "Offer of Terms of Grant/Conveyance of Approval" The first paragraph and sentence on each of the Exhibits read thus:

I am directed to refer to your application for Statutory Right of Occupancy with the Federal Capital Territory dated December 1997 and to convey the Honourable Minister's Approval of a Grant of Right of Occupancy in respect of"

From the contends of Exhibits 2, 3, 4 and 5, what was conveyed to the Plaintiff was Statutory Right of Occupancy in Plots Ed1425, ED1427, ED1428, ED1429 and ED1430. The documents i.e. of Exhibits 2, 3, 4 and 5 speak for themselves and it is the law that oral evidence would not be allowed to vary, add or contradict the contents of a document. See UBN

VS. SAX (NIG.) LTD. & UNION BANK OF (NIG) VS. PROF. OZIGI (supra)”

I am persuaded by this sound reasoning of My Brothers above and indeed other reasoning contained in the full Judgment and coupled with the fact that the Claimant has presented virile and unchallenged evidence in support of the Claimant's case.

Mr. Agidi now concluded by saying that;

- (i) The Claimant has discharged the burden of proof on him in line with the Evidence Act;
- (ii) The Claimant tendered admissible documentary evidence which established that Plot No. 202 within Sabon Lugbe East Layout of about 2500M2 with reference No. MFCT/ZA/AMAC/SLE 202 DATED 11/3/1998 was originally and is still allocated to the Claimant in exclusion to any party whatsoever;
- (iii) The evidence of the Claimant has not been challenged and or contradicted in any way;
- (iv) It is meritorious to grant all the reliefs as prayed in this case.
- (v) The Claimant further prays the Court to grant the reliefs of the Claimant.

I agree in toto with the submissions and arguments of Mr. Agidi in this one-sided case. And to save the judicial precious time, I grant reliefs 1 – 5 of the Claimant and I award the sum of **N5,000,000.00** (Five Million Naira Only) as general damages against the defendants and in favour of the Claimant.

This is the Judgment of this Court.

Signed
S. B. Belgore
(Judge) 21/1/2025