

IN THE HIGH COURT OF JUSTICE OF THE F.C.T.

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT ZUBA, ABUJA

ON FRIDAY THE 4TH DAY OF APRIL, 2025

BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA
JUDGE

SUIT NO.: FCT/HC/CV/2410/19

BETWEEN:

OLORUNYOMI PHILIP ADEJUMO --CLAIMANT/DEFENDANT TO COUNTER-CLAIM

AND

GLORY OF GOD ACADEMY INT'L LTD -- DEFENDANT/COUNTER-CLAIMANT

JUDGMENT

In this case the Claimant claims ownership of a plot of land known as Plot BDS/382 File No. 41550 CAD Zone at Dutse Sagwari Layout, Bwari Area Council, Abuja, hereinafter known and referred to as the Res.

He wants declaration that his right over the land is still valid and subsisting.

He wants Perpetual Injunction against all the Trespassers and Order of *Quic quid plantateur solo solo cedit*.

As well as Damages of ~~₦~~100, 000,000.00 One Hundred Million Naira.

The Claimant filed a Notice to Discontinue the action against the FCT Minister and the Federal Capital Territory Administration (FCTA), and retained only Glory of God International Academy as the Defendant.

The Defendant filed a Counter-Claim subsequently claiming ownership of the Res Plot BDS/382 measuring about 600 sqm.

A Declaration that it legally acquired same from the original Allottee, Aruwa Mohammed.

That the Right of Occupancy subsequently granted to the Claimant/Defendant to Counter-Claim as claimed in its claim is null, void, and of no effect.

Perpetual Injunction restraining the Claimant, his agents, privies, etc from interfering with the Res.

~~₦~~200, 000,000.00 (Two Hundred Million Naira) as General Damages against the Claimant/Defendant to Counter-Claim for bringing the Defendant/Counter-Claimant to Court.

The Claimant claimed he was offered Terms of Grant dated 19th February, 2007. That he later applied for change of ownership, and new offer was granted dated 22nd February, 2007, File No. TR 41550.

That he paid for Certificate of Occupancy and applied for Regularization at AGIS, and had Acknowledgment issued to him on 13th December, 2008.

That the Defendant is challenging his root of title without tendering any document in relation to the plot. He tendered all the documents referred to above and also the Receipt from Bwari Area Council dated 22nd February, 2007, for processing of Certificate of Occupancy and Receipt for Legal Search dated 14th February, 2013, Letter to Director Development Control, Notification of Trespass from his lawyer, F.N. Oguaju Law Firm dated 23rd January, 2019, Change of Ownership from Aruwa Mohammed dated 19th February, 2007, and Site Plan. He called one (1) Witness.

In his Final Written Address he raised 3 Issues for determination which are:

- (1) Whether the Res, BDS/382 File No. 41550 was validly allocated by the FCT Minister, and if it is still valid and subsisting.**
- (2) Whether EXH 9 is not recognized root of title in the FCTA.**
- (3) Whether whoever owns a land owns all that is on the land (*Quic quid plantateur solo solo cedit.*)**

On Issue No. 1, he submitted that his title to the Res was validly allocated, and that it is still subsisting. He referred to **EXH 1**. That it was issued by the Minister of the Federal Capital Territory through the Federal Capital Territory Administration Urban and Regional Planning Department, Bwari Area Council Zonal Planning Office.

That the Res was not issued by AMAC. That it was signed by the Zonal Land Manager for the Minister. That the Zonal Land Manager conveyed to him Approval of the Hon. Minister FCT of the grant of the Customary Right of Occupancy. Hence, his claim of title was validly issued by the Hon. Minister FCT. Hence, the Allocation and Approval cannot be impugned.

That he applied to AGIS for Regularization, and it was acknowledged on 31st December, 2008, with File No. TR 41550 – **EXH 4**.

That FCT Minister recognized the root of his title to the Res. That he has proved his title to the Res as required by law. He referred to the case of:

**Gbamisola V. Bolarinwa
(2014) 57 NSCQR 1**

That he had proved title by the document he has presented – Customary Right of Occupancy issued by the Minister of FCT, the custodian of the land in FCT. That the Defendant making reference to **S. 49 Land Use Act** does not affect his title to the Res. He referred to **S. 4 (1) of the Land Use Act** for **FCT Land Use Regulation** which provides that Process detailed in Sub-Section 2 – 9 of S. 4 applies in relation to re-certification of Right of Occupancy within FCT. That there is no distinction. That **EXH 4** is evidence of Recertification. He urged Court to hold that he has valid and subsisting title to the Res.

On Issue No. 2, he submitted that **EXH 9** is not a recognized root of title in FCTA. That **EXH 9** which is in letterhead of Bwari Area Council shows that the purported approval is provisional upon fulfillment of centre condition before it will be granted Approval. Besides, that DW1 said that he has no Receipt(s) in respect of **EXH 9**.

That the Defendant claimed she bought from Aruwa Mohammed, meanwhile, DW1 under the fire of Cross-examination stated that she had never met Aruwa Mohammed. That someone brought the paper to her and she paid the person. That the Defendant has no document of title. That the document presented by the Defendant/Counter-Claimant is forged as she has no required documents of title to the Res. Besides, that the Defendant has no credible evidence to prove title to the Res and no AGIS document too.

That he had on several occasions warned the Defendant from trespassing on the Res, but the Defendant refused to heed to that. Then he wrote to FCTA, Department of Development Control who ordered Defendant to vacate the plot as it was marked for demolition. He referred to **EXH 5 & 6**. He urged Court to resolve the second question/Issue in his favour.

On Issue No. 3, he urged Court to resolve the third question/Issue in his favour. He urged Court to hold that he has proved his case on balance of probability, and that he is entitled to the Reliefs sought.

That whoever owns the land owns what is in the land by the doctrine of ***Quic quid plantateur solo solo cedit.*** That such person also owns what is found, attached, and/or affixed on the land. He relied on the case of:

Ikyaaawan V. Ajivah

(1997) 4 NWLR (Pt. 499) 380 @ 381

He concluded by submitting that by the totality of the evidence led by the Claimant in this case that he has proved his case and deserves the grant of the Reliefs sought.

On their part, the Defendant filed a Defence and Counter-Claim claiming the following Orders:

That the Counter-Claimant is the rightful owner of the Res.

That any Right of Occupancy subsequently granted to the Claimant or any other person in respect of the land is null, illegal, and void.

It wants Perpetual Injunction against such person(s), their agent and their privies as well as any Trespasser.

General Damages of **₦200, 000,000.00 (Two Hundred Million Naira).**

They called one Witness – DW1 and tendered five (5) documents marked **EXH 9 – 13**, Right of Occupancy, Deed of Assignment, Power of Attorney from Aruwa Mohammed, and Claimant's Reply and Defence claim of 3rd November, 2020.

In their Final Written Address the Defendant/Counter-Claimant raised 3 Issues for determination which are:

- (1) Whether in view of Onah V. Atanda (2000) 5 NWLR (Pt. 656) 244 which declared that Customary Right of Occupancy does not exist in the FCT, whether the Claimant has a recognizable legal titled documents to entitle him to the Reliefs sought.**
- (2) Having regard to Claimant's pleading and his evidence, whether the Claimant has proved his case on balance of probability so as to earn the Reliefs in this case.**
- (3) Whether the Defendant/Counter-Claimant has proved its Counter-Claim on the balance of probability to be entitled to the Reliefs therein.**

On Issue No. 1, it submitted that the Claimant has no recognizable legal title document to be entitled to the Reliefs as Customary Right of Occupancy does not exist in the FCT by:

Onah V. Atanda

(2000) 5 NWLR (Pt. 656) 244 @ 290 Para D by virtue of **S. 49 (1) Land Use Act** and by **S. 1 (3) of the FCT Land Regulation Act** and **S. 261 (2) of the 1979 Constitution of the Federal Republic of Nigeria.**

That the Claimant is a holder of Customary Right of Occupancy. He referred to paragraph 4 of the Statement of Claim. He referred to Offer of the Terms of

Grant/Conveyance of Approval tendered by the Claimant. That it is only Statutory Right of Occupancy that is recognized in FCT. That Right of Occupancy cannot be said to be a valid title to land in FCT capable of conferring any legal right or interest to Claimant to vest on him the legal ownership of the Res. Hence, the Claimant's title is not capable of conferring any legal title on him in FCT.

ON Issue No. 2, it submitted that the Claimant has not proved his case on balance of probability to be entitled to the Reliefs sought as he does not own any recognizable title to land in FCT. That he traced his title to 2 different sources in that FCT Minister granted him the Customary Right of Occupancy. But that the Defendant got the land from one Aruwa Mohammed, the original Allottee based on sale on 9th February, 2012, and the said Aruwa Mohammed was granted Statutory Right of Occupancy on 15th October, 2001 which was tendered as **EXH 9**. That there was also Deed of Assignment and Power of Attorney executed and donated by Aruwa Mohammed too on the 9th of February, 2012 – **EXH 10 & 11**. That immediately after it took possession effectively and constructed a Building for Nursery and Primary School, and no person showed up to challenge their title, and it went to constructing building for Secondary School.

That the Defendant was able to trace their root of title in the Res to the original Allottee. That the Claimant's sudden averment that the same Aruwa Mohammed is the original Allottee after he had previously denied that he is not, is a ploy to deceive himself and confuse the Court. So also the

document he claimed showing that the initial allocation was cancelled. All are afterthought. Hence, the Claimant is not certain about the root of his title. It referred to the cases of:

Addah V. Ubandawaki

(2015) All FWLR (Pt. 775) 200 @ 212

Adegbayi V. Ishola

(2003) 11 NWLR (Pt. 871) 353 @ 350 – 351

That the evidence of the Claimant as regards the root of his title is contradictory as he is not sure of the root of his title. It referred to the cases of:

Danlami V. Olajuyin

(2014) All FWLR (Pt. 730) 1397 @ 1443

Adeogun V. Fasogbon

(2011) 8 NWLR (Pt. 1250) 427 @ 453

Onuia V. Onyia

(2012) 3 NWLR (Pt. 1286) 182

It urged Court to dismiss the case of the Claimant in that regard.

On Issue No. 3, it submitted that it has proved its Defence and Counter-Claim on balance of probabilities by the testimony of DW1 and the 5 documents it tendered in this case. That it proved the root of its title from the original Allottee – Aruwa Mohammed. That it tendered Deed of Assignment and Power of Attorney. It tendered Statutory Right of Occupancy among other Offer letters and Site

Plan. That all these documents and the testimony of its Witness established the Defendant's title to the Res. That its testimony/evidence is clear, direct and positive as well as credible.

That the Reply of the Claimant that the Bwari Area Council does not grant Statutory Right of Occupancy and that there is no File Number on the document are all false because the Defendant/Counter-Claimant never claimed that Statutory Right of Occupancy granted to Aruwa Mohammed was from Bwari Area Council. That the Defendant acquired the legal ownership from Aruwa Mohammed, the original Allottee who was granted Statutory Right of Occupancy on 15th October, 2001 by Minister of FCT. That it was signed for and on behalf of the Hon. Minister of FCT by the Zonal Manager. He referred to the case of:

**Minanuel Inv. Ltd V. FCT Minister & 2 Ors (unreported)
CV/714/12 on 11/11/13 Per Zenchi J.**

That the FCT Minister post Zonal Manager to Area Councils to sign such Statutory Right of Occupancy for and on his behalf which ipso facto means that they are signed by the Minister himself, and not the Area Council.

That Statutory Right of Occupancy does not come with File Number. That File Number is only necessary where there is need to regularize a title document, where there is defect in the Right of Occupancy.

On the Issue of non-registration of **EXH 10 & 11** – Deed of Assignment and Power of Attorney, he submitted that they were tendered for prove of title to land, and not as evidence or proof of existence of transaction or as Receipt or Acknowledgment of payment of money in respect of a land. They referred to the case of:

**Benjamin & Ors V. Kalio & Anor
(2018) 15 NWLR (Pt. 1641) 38**

They urged Court to hold that it has proved its Counter-Claim and has defended the case of the Claimant, and it is therefore entitled to the Reliefs in the Counter-Claim having proved same on balance of probabilities. He urged Court to dismiss the Suit of the Claimant/Defendant to Counter-Claim and uphold the Counter-Claim.

COURT

This Court has summarized the stances of the parties above. It is imperative to state that in any case premised on tussle of ownership of land, documents is king. It is also the key to unlock the mystery behind the claims, and it helps to establish ownership of such land. In that case, the party with documents which can establish vividly the root of title, has all the chance to carry the day, whether it started from traditional title to the statutory title to the land. Even where there is no statutory title, once a party can vividly establish the title through showing strong and clear traditional origin, such party will win the tussle.

So also where in the allegation of trespass a party shows that he was first in time, the Court will so hold too, as there is no two ways about it. Every other ground of support will naturally fall in place. Hence, the saying that, “first in time in effective possession of land holds summary to it”. So where a party who had claim to land never entered same to take effective occupation – possession of it and another gets in and takes possession, the last possessor carries the day as the party in possession can claim against any subsequent occupier.

It has been held in plethora of cases that proof of title to land can be by traditional evidence, by documents, and by various act of ownership, possession, occupation, and positive warrant of reference of ownership, long possession and enjoyment, proof of possession of adjacent land to the land in dispute. See the time-hormonal case of:

**Idundun V. Okumagba
(1976) 9 – 10 SC 227**

Again, when a party claim to 2 different source of root to title to land, the Court will think twice before it can grant title to such a party. So where a party claims to 2 different title to root of its land, it is clear that such party is not certain about the root, and it means that such party cannot conveniently and vividly trace his title to such land. The right thing to do in such a case is to dismiss the claim. That is what the Court held in the case of:

**Mogaji V. Odofin
(1978) 4 SC 91**

See also the case of:

Ndukwe V. Acha & 4 Ors

5 SC J.E 613 where the Court held thus:

“... where a party adduces two competing histories of his ownership in support of his claim for title to land, he has failed to make the case he sets out to make and his claim must be dismissed.”

See the case of:

Addah V. Ubandawaki supra

Adegbayi V. Ishola sputa

Again where issue of non-registration of registrable instrument is raised in a case of tussle to ownership of land, the Supreme Court has held that where unregistered registrable instrument like Deed of Assignment and Power of Attorney are tendered to prove title to land, it will be admissible as an Issue of Evidence within the Exclusive Legislative List and can be considered on ground of admissibility based on ground of relevancy. See the case of:

Benjamin & Ors V. Kalio & Anor

(2018) 15 NWLR (Pt. 1641) 38

Again the Apex Court also held that a non-registration of a registrable instrument in land matter which is claimed to be inadmissible to prove title by State law cannot stand as admissibility is governed by the Evidence Act which is a Federal Legislation that is superior to a State law. Hence, any evidence or document admissible under the Evidence Act cannot be made inadmissible under any State law.

The Supreme Court went further to hold that a land document which is an instrument of title will not be inadmissible on ground that it is not registered. That land instrument whose registration is made mandatory by a State law (as condition precedent to admissibility to prove title to land) remains admissible even if not registered because such State law is void for being inconsistent with **Item 23 of the Exclusive Legislative List in the 1999 Constitution of the Federal Republic of Nigeria** (as amended).

Based on all the above decisions of the Apex Court and other Courts as referred to and cited above, and having considered the stance of the parties as summarized above, and in answer to the question posed by the parties, it is the humble view of this Court that the Claimant's title was not validly allocated by the FCT Minister going by the decision in the case of **Onah V. Atanda supra** in which the Defendant/Counter-Claimant has succinctly presented solid argument. This Court shall not repeat the said argument and submission which were detailed as that is the position of the law, and there is nothing more to add. This Court deem as if set hereunder seriatim the submission of the Defendant Counsel/Defendant in that regard.

The Court holds that Customary Right of Occupancy does not exist in the FCT. The Claimant has no recognizable legal title to be entitled to the Reliefs sought in that regard.

The Defendant/Counter-Claimant's **EXH 9** is a recognizable root of title to the Res notwithstanding that it is in the letterhead of Bwari Area Council.

To start with, the FCT Minister under whose purview and power allocation of land and statutory right is has power to delegate person and assign and post officers like the Zonal Manager to act on its behalf as in this case. That is why such document of allocation always state thus:

“I am pleased to convey the Hon. Minister's Approval of Statutory Right of Occupancy in respect of ...” (the Res).

(Emphasis in bracket is mine).

By that phrase it is clear that the Approval is from the Hon. Minister. The Zonal Manager is only a “messenger” not the approving authority. Hence, the **EXH 9** tendered by the Defendant/Counter-Claimant is a recognizable root of title. So this Court holds.

The issue of principle of ***Quic quid plantateur solo solo cedit*** is consistent and has not changed. But to be so entitled to inherit what is on the land, one has to prove and establish with credible and watertight evidence that he is the owner of such land. The principle is not enjoyed based on wishful thinking, emotional dream, and/or “trial of luck”. Document must speak louder than human voice and longer than human memory, and Witness testimonies must stand firm and stronger than the rock Gibraltar. It is not based on mere wishful thinking. So where a party fails to

prove ownership of land, he cannot enjoy the fruits and other things found on the land. So proof of ownership must be established before the claim over what is on the land. So whoever proved ownership of the land owns what is on the land.

In this case the Claimant/Defendant to Counter-Claim has **failed** to prove ownership. So he is not entitled to own what is on the land. So this Court holds.

Again, from the pleadings, the testimony of PW1, and the evidence (documents) tendered before this Court, the Claimant/Defendant to Counter-Claim **has not** proved its case on the balance of probabilities, and as such **is not** entitled to the Reliefs sought. Rather, the Defendant/Counter-Claimant has proved its Counter-Claim on balance of probabilities, and is entitled to its Reliefs in her Counter-Claim. So this Court holds.

He who asserts must prove otherwise the assertion cannot stand and will be worthless.

A look at the documents tendered before this Court by the Claimant shows that the Offer of Conveyance of Provisional Approval was issued to him on 22nd February, 2007. It was issued directly to him as he claimed. But in the document it stated first change of ownership. But the Claimant/Defendant to Counter-Claim did not present before this Court any document showing that it was initially granted to another person before it was changed to his name. Though he averred in his Reply to the Counter-Claim that he got the title from one Aruwa Mohammed. He

never presented any document – Power of Attorney or Deed of Assignment to show that there was transfer of ownership/title or allocation to him from the said Aruwa Mohammed. The said averment in the Reply/Response to the Counter-Claim is only an afterthought. Again, it shows that he is claiming root of title from 2 sources which makes his claim to be false, inconsistent, suspicious, and illegal. So this Court holds. The Court refers to the case of:

Mogaji V. Odofin supra

Ndukwe V. Acha & Ors Pg. 613 supra

Hence, the Claimant was not able to consistently trace the root of his title to the Res on how he came into ownership. So this Court holds that he is not entitled to the Reliefs sought in that regard.

Again, a look at the Conveyance of Provisional Approval presented to this Court by the Defendant/Counter-Claimant shows that **EXH 9** was granted as far back as 15th October, 2001. That is about six (6) years before the similar document (**EXH 1**) was granted to the Claimant. In this case, the Defendant/Counter-Claimant was first in time going by the date of Allocation.

Also the Defendant/Counter-Claimant was equally able to show the root of her title to the Res. **EXH 9** was granted to Aruwa Mohammed on 15th October, 2001. The Defendant tendered before this Court **EXH 10** which is the Power of Attorney which was irrevocably donated to the Defendant by Aruwa Mohammed to the Defendant/Counter-Claimant.

The Defendant/Counter-Claimant also tendered **EXH 11** – Deed of Assignment. Though those two (2) documents were not registered, this Court holds that they are admissible based on the decision of the Supreme Court in the case of:

Benjamin & Or V. Kalio & Anor supra where the Court held that the provision of the Evidence Act as Federal Legislation is superior to the laws of a State which provides for registration of registrable instrument before it can be admissible in evidence.

This Court stands with the decision of the Apex Court and hold that the 2 documents are admissible in evidence, and they further established the Defendant/Counter-Claimant's title to the Res as per the root of her title. With those documents the Defendant had proved the origin of its title to the Res in this case as required by law. So this Court holds. The Defendant has also established and proved its Counter-Claim too with the 2 documents.

A look at the Receipts tendered by the Claimant which is the Departmental Receipt as well as Land Fee Receipt – **EXH 2 & 7** shows that they were all signed the same day. **EXH 3** – the Search Fee was issued on 14th February, 2013 – several years after the Allocation of 22nd February, 2007 – **EXH 1**, AGIS Regularization – **EXH 4** of 31st December, 2018, and Letter of Complaint about trespass on the land purportedly written to the Director Development Control on 18th November, 2011, as at the time the Receipt for Search was issued.

Meanwhile, **EXH 2** which is Payment for Processing Fee, Payment of Form and Payment for Certificate of Occupancy; it is surprising that the payment was made on the same day that **EXH 1** – Offer of Terms of Grant/Conveyance of Approval was granted which is on 22nd February, 2007.

Also **EXH 7** is Receipt evidencing payment for the Change of Ownership. All these Receipts bear the name of the Claimant. None showed the name of the person from who the ownership was transferred. It did not also show the date of the Change of Ownership.

It is clear that there is no how anyone can apply for land, make payment for the Form, and the land will be allocated the same day the Form was paid for. There is equally no how that one can pay Processing Fee, for Form, and the same day pay for Certificate of Occupancy, and the Offer/Grant of Conveyance of Approval will be granted the same day. Besides, The Claimant did not show that there is an Executive Fiat in that regard.

The several inconsistencies in the above Receipts makes it difficult for this Court to attach any evidential weight to the said documents in prove of the case of the Claimant/Defendant to Counter-Claim in this case. It is therefore the humble view of this Court that the Claimant has failed to establish and prove its case with those documents – **EXH 2, 3, & 7**.

It is clear that recertification and regularization is for land which was issued by Local Council. Hence, those from the

FCT directly need no such recertification. It is therefore strange that the Claimant who has an inconsistent root of title could present before this Court a document dated 31st December, 2018, which is the AGIS Regularization. He did not even recall that his allocation was based on Change of Ownership which ordinarily, the document should have bore the name of the original Allottee. Failure to reflect the name of the original Allottee where and when it was later changed to the Claimant, has fundamentally adversely affected the claim of ownership of the land by the Claimant in this case.

Since the root of title of the Claimant is defective, any other claim to the land and the documents so tendered by the Claimant in this case cannot stand. So this Court holds. Again, it is strange that the Claimant suddenly dropped the names of the Allottees – FCT Minister and FCTA as parties to the Suit.

Again, a look at **EXH 8** – the Plan TDP tendered by the Claimant, it shows that the one attached to the Statement of Claim bears **Plot 383** for the Right of Occupancy No. **FCT/BZTP/LA/OD550** for Plot 383 while the one he tendered is for Right of Occupancy No. **FCT/BZTP/LA/OD549** for **Plot 382** which is the Plot in issue in this case. The OD550 is dated 2nd September, 2011, while the **EXH 8** is dated 4th October, 2011. These 2 documents are in the Statement of Claim, Reply and Defence to Counter-Claim. These inconsistencies in the two (2) documents makes this Court to hold that the Claimant failed to consistently prove his case on balance of

probability, and he is not entitled to the Reliefs sought in that regard.

It is equally worrisome that the Claimant decided to drop the names of the FCT Minister and FCTA as Defendants in this case. Meanwhile, the duo are the persons/authorities who he claims, gave him the allocation, changed the ownership (though he could not substantiate that fact), yet he dropped them abruptly after they had entered Appearance in the case. It is equally worrisome that the Claimant who had claimed in his initial Reply that Aruwa Mohammed was not the original owner, could turn around and claim that the said Aruwa Mohammed sold the land to him (though he did not present any evidence of Change of Ownership or Power of Attorney.

So based on all those anomalies and approbation and reprobation, this Court holds that the Claimant/Defendant to Counter-Claim has failed to prove its case in this Suit. He is therefore **not** entitled to the Reliefs sought in that regard. So this Court holds.

The Defendant/Counter-Claimant tendered before this Court the TDP which is consistent with the Res which is **BDS/382** unlike the one presented by the Claimant which bears the Plot as just **382**. The Plan shows the Right of Occupancy Number which is consistent with all their other title documents claim to the land as well as showing the co-ordinates as seen in **EXH 12**. That document was signed and dated too.

In **EXH 13** – the Claimant’s Reply to Defence to Counter-Claim dated 2nd November, 2020, it shows that the Claimant had denied that the said Aruwa Mohammed is the original Allottee of the Res in issue as shown in **Para 2 line 3** of the document, but he turned around to claim that the same Aruwa Mohammed is the original Allottee who he claimed root/origin of his title from. This is great inconsistency. It equally portrays the Claimant not be a Witness of truth.

It is also strange that the Claimant who wrote letter of Complaint to the FCT Development Control Director – **EXH 5**, and who also instructed his Counsel to write to the School on the 23rd day of January, 2019, could not take any step to possess the land which he alleged was granted him in 2007.

The Defendant/Counter-Claimant had stated before this Court that immediately after the land was allocated, and the Power of Attorney and Deed of Assignment donated and issued respectively, that it took possession and effectively occupied the Res by building Nursery and Primary School on the land, and by fencing same, and watched to see if there will be encumbrances. That when they had enjoyed the Res and there was no encumbrance, it constructed and built the Secondary School block on the Res. That it continued to enjoy the Res since then until 2019 when the Claimant came to disturb the Defendant/Counter-Claimant’s quiet enjoyment of the Res.

Possession is effective occupation. The Defendant/Counter-Claimant is no doubt in effective occupation as it has proved. The Claimant/Defendant to Counter-Claim could not deny that fact. Besides, a Trespasser in effective occupation can claim against anyone except a person who is first in time.

In this case, the Defendant/Counter-Claimant, by date of allocation, is first in time. Again, the same Defendant was in occupation and had taken possession of the Res first and had quiet enjoyment of same for a long time. The Claimant was not able to prove that it ever took possession or effectively occupied the Res or had any quiet enjoyment of same since it was allocated to him since 22nd February, 2007. Again, he never showed who the allocation was changed from before it was given to him. He did not show any Deed of Assignment or Power of Attorney from anyone including from the Aruwa Mohammed who he later claimed he took root from as the first Allottee.

From all indication the Claimant/Defendant to Counter-Claim having failed to prove the root of his title cannot lay claim to the Res.

The Defendant/Counter-Claimant has been able to trace and prove the root of his title to the Res. It has shown that it was in effective occupation and possession of the Res, and had enjoyed quiet possession and occupation for a long time before the Claimant came to disturb it and claim possession.

The case of the Claimant lacks merit as he was not able to prove its ownership of the Res. He does not deserve and not entitled to the Reliefs sought in this case.

On the other hand, it is the humble view of this Court that the Defendant/Counter-Claimant is entitled to the Reliefs sought in the Counter-Claim. That being the case, this Court grants the Reliefs sought therein to wit:

Reliefs i, ii, and iii granted as prayed.

The Court hereby awards the sum of ₦100, 000.00 (One Hundred Thousand Naira) only as Damages against the Claimant/Defendant to Counter-Claim for bringing this action.

This is the Judgment of this Court.

Delivered today the _____ day of _____ 2025 by me.

K.N. OGBONNAYA
HON. JUDGE

APPEARANCE:

CLAIMANTS' COUNSEL:

NNAEMEKA OGUAJU, ESQ.
G.U. ISAAC, ESQ

1ST DEFENDANT'S COUNSEL:

JOSHUA E. MOSES, ESQ.