

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY ABUJA
IN THE GWAGWALADA JUDICIAL DIVISION
HOLDEN AT COURT NO. 13 GWAGWALADA ABUJA
BEFORE HIS LORDSHIP: HON JUSTICE A. S. ADEPOJU
THIS 4TH DAY OF MARCH, 2024

SUIT NO: CV/1086/2021

BETWEEN:

1. HOUSES FOR AFRICA NIGERIA LTD } -----CLAIMANT/RESPONDENT
2. JONAH CAPITAL NIGERIA LTD }

AND

SIGNATURE FOLIO COMMUNICATIONS LTD -- DEFENDANT/APPLICANT

O. S. ADEBIYI for the Claimant/Respondent.

Defendant/Applicant not in Court.

RULING

The defendant applicant filed a notice of preliminary objection on 20/1/2023 on the following grounds:

1. The Plaintiffs/Respondents lacks the locus standi to bring this action.
2. The 1st Plaintiff/Respondent is not a company registered in Nigeria in accordance with the Company and Allied Matters Act (CAMA), 2020.
3. No cause of action disclosed by the Plaintiffs/Respondents in this suit,
4. The Development Lease Agreement dated 28 May, 2007 relied upon by the Plaintiffs/Respondents is incompetent.
5. The tenure of the Development Lease Agreement between FCDA and the 2nd Plaintiff/Respondent dated 28th May, 2007 which the Plaintiffs/Respondents relied upon to institute this action has expired by effluxion of time.

6. The Plaintiffs/Respondents have no legal or equitable right or interest over Plot No. 971 measuring about 3,611.41Sqm situate at Lugbe 1 Extension Layout FCT Abuja the subject matter of this suit to be protected or preserved by the declaratory reliefs sought for by them in this suit.
7. This honorable court lacks the requisite competence and/or jurisdiction to entertain and/or hear this matter.

In support of the preliminary objection is a sixteen (16) paragraph affidavit deposed to by one **Afam Ezeanu** and Counsel written address settled by **E. G. Shuiabu Esq** of Counsel to the Defendant/Applicant.

Responding to the application, the Claimant filed an eleven (11) paragraph counter-affidavit deposed to by one **Ogechi Ukaego**, the Fallibility Manager of the Claimant. And accompanying the counter-affidavit is the Counsel written submission settled by **O. S. Adebisi Esq**.

I have gone through the grounds upon which the preliminary objection is anchored, the affidavit in support and the written submission of Defendant/Applicant's Counsel. Same with the counter-affidavit and the written submission of Counsel to the Respondent. The issues raised in the preliminary objection are principally based on the validity or otherwise of the Development Lease Agreement which is the basis upon which the claim of the Plaintiff rested. In my view it is improper to determine the validity of the Development lease agreement by way of preliminary objection of the defendant when the defendant have not laid any evidence in denial of the documents. The proper thing was for the defendant to enter his defence by adducing evidence rather than the

short-cut approach to defence by way of preliminary objection. The Development Lease Agreement is an exhibit before the court ascribing probative value to it at this stage of preliminary objection is premature.

On whether the claimant has the locus- standi and a cause of action against the Defendant to institute this action the Counsel to the claimant have rightly submitted in his written address that to determine this, the court is enjoined to consider the writ of summons and the statement claim which is precisely what I have done and come to the conclusion that there is a cause of action against the defendant distilled from the aggregate of facts alluded to by the plaintiff in the statement of claim. It is also in doubt that the claimant have the locus standi to institute the action as constituted. I agree that this preliminary objection is a ploy by the defendant to avoid defending the instant suit. The objection is therefore baseless and a sheer waste of judicial time. It is hereby struck out accordingly. The sum of **N100,000 (One Hundred Thousand Naira)** is awarded as cost against the Defendant for filing the frivolous application.

Case is adjourned to 5/5/2024 for hearing.

SIGN

HON JUDGE

4/3/2024