

**IN THE HIGH COURT OF FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT MAITAMA – ABUJA
BEFORE HIS LORDSHIP: HON. JUSTICE .H. MU’AZU
SUIT NO: FCT/HC/CV/1110/2024
DELIVERED ON THE 24/02/2025**

BETWEEN:

ADAMU ARGUNGU MAJIDADI.....CLAIMANT

(Suing Through His Lawful Attorney Gidan Ibra Nigeria Limited)

AND

- 1. THE HON. MINISTER, FEDERAL CAPITAL
TERRITORY ADMINISTRATION**
- 2. FEDERAL CAPITAL DEVELOPMENT**

}DEFENDANTS

JUDGMENT

This suit was commenced by the Claimant against the Defendants jointly and severally by way of originating summons and filed on the 02/02/2024.

The originating summons filed by the Claimant against the Defendants raised following question, to wit:

Whether the 1st Defendant can in exercise of its executive powers revoke and/or in any manner whatsoever deal with the statutory Right of Occupancy of the Claimant in respect of, relating to or pertaining and concerning plot No. 439 measuring approximately

989.36m², Cadastral Zone B19, Katampe Extension, Abuja, during the pendency of suit No. FCT/HC/CV/3081/2013, STEVEN NDER ANDZENGE V. ADAMU ARGUNGU MAJIDADI & 4 ORS, a suit in which the 1st Defendant herein is a party.

And upon the favourable determination of the above question, the Claimant claims from the Defendants jointly and severally the following reliefs:

- 1. A **DECLARATION** that the exercise of the Executive power of the Hon. Minister of the Federal Capital Territory by revocation of the statutory right of Occupancy of the Claimant over plot No. 439 Cadastral Zone B19 Katampe Extension Abuja on account of breach of the conditions of the grant or any other condition or ground whatsoever is null, void and of no effect in view of the pendency of suit No. **FCT/HC/CV/3081/2013** between **STEVEN NDER ANDZENGE V. ADAMU ARGUNGU MAJIDADI & 4 OTHERS** before the High Court of the Federal Capital Territory Abuja for the determination of the extent of rights and interests of parties in the suit to plot No. **439** Cadastral Zone **B19** Katampe Extension, Abuja.*
- 2. An order of the Honourable Court invalidating and setting aside the purported revocation of the said statutory Right of Occupancy of the Claimant over plot No. **439** having an area of approximately 989.76m Cadastral Zone B19 Katampe Extension, Abuja made by the 1st Defendant.*

3. *An order of the Honourable Court directing the Defendants not to take any step whatsoever and however called or described regarding plot No. 439 Cadastral Zone **B19** Katampe Extension pending the hearing and determination of suit No. **FCT/HC/CV/3081/2013** between **STEVEN NDER ANDZENGE V. ADAMU ARGUNGU MAJIDADI & 4 ORS** pending before the High Court of the Federal Capital Territory, Abuja.*

The Defendants were duly served with the processes of this court and entered an appearance by way of memorandum of appearance dated the 29th May, 2024 and filed on the same date.

The Claimant's application dated the 2nd February, 2024 and filed on the same date is supported by a seventeen (17) paragraph affidavit sworn to by one Alhaji Abdulbaki Ahmed, the manager of the Claimant's attorney (**GIDAN IBA NIGERIA LIMITED**). The affidavit is also accompanied with Exhibits 1 - 7 respectively and a written address duly adopted as oral argument of the learned counsel for the Claimant.

The Claimant's affidavit in support of this application could be summarised thus: the deponent, Alhaji Abdulbaki Ahmed is the Manager of the Claimants Attorney (**GIDAN IBRA NIGERIA LIMITED**). The affidavit shows that the Claimant applied for and was conveyed the approval by the Minister of the Federal Capital Territory offer of statutory Right of Occupancy over plot No. **439** having an area of approximately **987.76m²** Cadastral Zone **B19** Katampe Extension, Abuja evidenced by allocation

letter dated the 25th March 2013 which is attached as Exhibit **Argungu I**. The Claimant also stated having an acceptance letter submitted in respect of plot No. **439** Cadastral Zone **B19** Katampe Extension as Exhibit **Argungu 2**. In the same vein, the Claimant deposed to the fact that he donated a power of Attorney to the Attorney (**GIDAN IBRA NIGERIA LTD**) to take over, manage and generally act in relation to plot No. **439** dated the 14th April, 2015 also attached as exhibit **Argungu 3**. The Claimant also attached as exhibit **Argungu 4** an excerpt of the further amended statement of claim filed in the 04/02/2016 in respect of the existence of suit No. FCT/HC/CV/308142013 between **STEVEN NDER ANDZENGE V. ADAMU ARGUNGU MAJIDADI & 4 ORS**. The Claimant has also annexed as exhibit **Argungu 5** the Record of Proceedings to show that the Hon. Minister of the FCT Abuja, the Federal Capital Development Authority and the Abuja Geographic Information System (AGIS) are parties to suit No. **FCT/HC/CV/3081/2013** which is still pending in court and that they were at all material times represented in court.

The Claimant further averred that in spite of the pendency of suit No. **FCT/HC/CV/3081/2013** it came to his notice that the subject matter of this suit was listed as one of the revoked plots by the Hon. Minister of the FCT and attached as exhibit **Argungu 6** is the publication there to. As a result of the alleged revocation of plot No. **439**, the subject matter of suit No. **FCT/HC/CV/3081/2013** his counsel Chris Ohene Esq had to write to the Hon. Minister, FCT Abuja on the need to delist plot

No. **439** Cadastral Zone **B19** Katampe Extension from the list of revoked plots; and that the said letter is annexed as exhibit **Argungu 7**.

According to the Claimant the 1st and 2nd Defendants failed, neglected and refused to reply to or accede to the request of the Claimant herein to delist plot No. **439** Cadastral Zone **B19** Katampe Extension with File No. **KB60463** evidenced by conveyance of statutory Right of Occupancy dated the **25/03/2013** from the list of revoked plots and has continued to carry on with its intention to revoke the said statutory Right of Occupancy.

The Claimant therefore averred that the action of the Defendant is unlawful as it will affect the subject matter and the outcome of the suit.

He further averred that the action of the Defendants amount to seeking to foist on the HighCourt of FCT a state of hopelessness which will undermine the sanctity of the Constitutional powers of the court to grant the Claimants prayers in this suit.

In a bid to convince this Hon. Court to give a favourable consideration to this application, the learned counsel for the Claimant, OSITA SOLOMON MBAMALU Esq in his written address submitted that this Hon. Court is called upon to determine the correct interpretation and extent of application of sections 6(6) and 257 of the 1999 Constitution (as altered) and section 28(5) of the Land Use Act, Laws of the Federation 2004. He has justified the mode of commencement of this suit by

originating summons by referring this Hon. Court to Order 2 of the High Court of the FCT (Civil Procedure Rules) 2018 and the case of **NATIONAL BANK OF NIGERIA V. ALAKIJA (1978) 2 LRN pg 78 at pg 86.**

The Claimant formulated a sole issue for the determination of this Hon. Court to wit:

"WHETHER the 1st Defendant can in exercise of its executive powers revoke and/or in any manner whatsoever deal with the statutory Right of Occupancy of the Claimant in respect of Right of Occupancy of the Claimant in respect of relating to or pertaining and concerning plot No. 439 measuring approximately 989.36m² Cadastral Zone B19 Katampe Extension, Abuja during the pendency of suit No. FCT/HC/CV/3081/2013, STEVEN NDER AND ZENGE V. ADAMU ARGUNGU MAJIDADI & 4 ORS, a suit in which the 1st Defendant herein is a party".

The learned counsel to the Claimant referred to the provisions of section 6(1 - 5) and particularly section 6(5)(b) of the 1999 Constitution of the Federal Republic of Nigeria. Section 6(5)(b) of the 1999 Constitution of Nigeria provides as follows:

"The judicial powers vested in accordance with the foregoing provisions to this section (b) shall extend to all matters between persons, or between government or authority and to any proceedings relating thereto, for

the determination of any question as to civil rights and obligations of that person".

He referred to sections 257(1) and 251 of the 1999 Constitution of the Federal Republic of Nigeria wherein the jurisdiction of the High Court of FCT, Abuja is spelt out. The learned counsel further submitted that the pendency of suit No. **FCT/HC/CV/3081/2013** precludes all parties in the suit from taking any step regarding the subject matter so that the judicial powers of the court consistent with section 6 of the 1999 Constitution is not impugned and rendered nugatory. He equally referred to exhibit **Argungu 6** which is the (Publication/list of revoked plots of land) which clearly bears out the fact that the 1st Defendant herein (who is the 2nd Defendant in suit No. **FCT/HC/CV/3081/2013**) purports to have taken steps that would overreach the power of the court to hear and determine the suit aforementioned wherein ownership of plot No. **439** Cadastral Zone **B19** Katampe Extension is in issue by purporting to revoke same. He further submitted that the purported exercise of executive powers by the Hon. Minister of FCT vide section 28(5)(a) & (b) of the Land Use Act 1978 in revoking plot No. **439** during the pending of suit No. **FCT/HC/CV/3081/2013** wherein the ownership of the plot in question from the subject matter of that suit is a flagrant violation of section 6(6) of the 1999 constitution of the Federal Republic of Nigeria (as amended).

The learned counsel referred to the case of **ADEBOYE V. ADEKO (2011) 6 NWLR (pt. 1244) pg 415 at pg 420** where the court of Appeal alluded to the Latin Maxim "pendente lite nihil in in o etur" meaning "nothing should change during the pendency of an action ". He referred to a number of judicial authorities to drive home his point of the doctrine of Lis pendens which include **RT. HON. ROTIMI CHIBUIKE AMAECHI V. INEC (2008) 5 NWLR (PT. 1080) PG 229 AT PG 266** and **DR. ALAKIJA V. ALHAJI ABDULLAI (1998) NWLR pt. 557) pg 16** wherein the conditions to be met by the Claimant relying on the doctrine of LIS PENDENS were stated to include:

- 1. The object of the suit must be to recover or assert title to specific property.**
- 2. The property must be real property and**
- 3. At the time of sale or interference with the property the suit in question was pending.**

He therefore submitted that the Claimant has met all the above conditions making the doctrine applicable to this case.

According to the learned counsel for the Claimant the implication of the above doctrine lies in restraining all the parties in the litigation from further taking any action relating to the subject matter including carrying out any development on the plot No. **439** Cadastral Zone **B19** Katampe Extension by the Claimant or revocation of the Claimant's title on account of breach of the terms of the offer of statutory Right of Occupancy. He therefore submitted that the purported revocation is null and

void as nothing must interfere with the status quo during the time of litigation and urged this Honourable Court to so hold. He also referred this court to **ORDER 4 Rule 9 of the High Court of FCT Rules 2018** which mandates the Registrar to endorse all writs which is itself an injunction for the parties to maintain the status quo. In a bid to further convince this court to invalidate the revocation of the said plot No. **439**, the subject matter of the suit No. **FCT/HC/CV/3081/2013** by the 1st Defendant, the learned counsel for the Claimant referred to the case of **REGISTERED TRUSTEES, APOSTOLIC CHURCH V. OLUWOLEN OLUWOLENI (1990) 6 NWLR (pt. 158) at pg 514** where the Supreme Court held that:

"Once parties have turned their dispute over to the courts for determination, the right to resort to self-help ends. So, it is not permissible for one of the parties to take a step during the pendency of the suit which may have the effect of foisting upon the court a situation of complete helplessness or which may give the impression that the court is being used as a mere subterfuge, to tie the land of one party while the other party helps himself extra judicially. Both parties are expected to await the result of the litigation and the appropriate order of court before acting further".

He further re-emphasised the importance of the rules of court and particularly the essence of the provisions of **Order 4 Rule 9 of the High Court of FCT (Civil Procedure Rules 2018)** as an

equitable remedy to protect all existing rights, interests and obligations consistent with the inherent power of the court donated by section 259 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and that such Rules of court ought to be obeyed. On this premise he referred to the case of **CHISCO INT. LTD V. P.M. LTD (2016) 4 NWLR (pt. 1491) at pg 282 paragraph C - E** where it was held that:

"Rules of court have the force of law and must be obeyed, they are not mere rules, but they partake of the nature of subsisting legislations by virtue of section 18(1) of the interpretation act and therefore have the force of law".

He finally submitted that Rules of court are made as a road map to discover Justice not to choke justice. He therefore urged this Honourable Court to resolve the sole question for determination presented by the Claimant in his favour and grant the reliefs sought on the face of this summons.

In response, the Respondents/Defendants filed an 18-paragraph counter affidavit deposed to by one Babalola Olaoluwa, a counsel in the legal department of FCDA Area 11 Garki, Abuja. The counter affidavit has no exhibits attached to it but a written address adopted by the learned counsel to the Defendants/Respondents as his oral argument in support of their position in this case. The learned counsel for the Defendant/Respondents Yusuf B. A. Esq submitted that by virtue of the content of their counter affidavit this Hon. Court

lack jurisdiction to hear and determine this matter as it is instituted based on hearsay, assumption and abuse of court process.

It will be in the interest of Justice to peruse the content of the Defendants counter affidavit with a view to justifying the prayers of the learned counsel for the Defendant/Respondents. The counter affidavit of 18 paragraphs of the Defendants/Respondents depicts the crux of the claim of the Claimant as being based on a purported action taken by the 1st Defendant in respect of plot No. **439** measuring about **989.36sqm**, Cadastral Zone **B19** Katampe during the pendency of suit No. **FCT/HC/CV/3081/2013, STEVEN NDER ANDZENGE V. ADAMU ARGUNGU MAJIDADI & 4 ORS** wherein the said plot is the subject matter of the suit.

The Defendants state that the institution of this suit by the Claimant who is aware of the pendency of suit No. **FCT/HC/CV/3081/2013** constitute an abuse of court process by the Claimant who relied on hearsay, rumour and unverified statement to institute this present suit. He further averred that the Originating summons filed by the Claimant as presently constituted is speculative as they have not shown any evidence that the plot which is the subject matter of suit No. **FCT/HC/CV/3081/2013, STEVEN NDER ANDZENGE V. ADAMU ARGUNGU MAJIDADI & 4 ORS** is/was among the plots revoked by the 1st Defendant in exercise of its statutory responsibility.

He equally averred that the Claimant ought to have made relevant application before the FCT High court handling case No. **FCT/HC/CV/3081/2013** wherein they are parties over the same subject matter and same parties. The Claimant therefore urged this Honourable Court to dismiss this suit as presently constituted for being abuse of Court process and speculative and thus robs the court of jurisdiction.

The learned counsel to the Defendant/Respondent in a bid to justify the position of the Respondents formulated the following issues for the determination of this Honourable Court to wit:

- (a) Whether the Claimant can rely on hearsay, unverified and unsubstantiated assertion to institute a suit.**
- (b) Whether this suit as presently constituted not amount to abuse of ongoing case in suit No. FCT/HC/CV/3081/2013, STEVEN NDER ANDZENGE V. ADAMU ARGUNGU MAJIDADI & 4 ORS.**
- (c) Whether this Honorable Court has jurisdiction to entertain this matter as presently constituted in light of suit NO.FCT/HC/CV/3081/2013, STEVEN NDER ANDZENGE V. ADAMU ARGUNGU MAJIDADI & 4 ORS which is ongoing?**

In substantiating his argument, the learned counsel to the Defendant/Respondent submitted that there is nothing before this court that the said plot which is the subject matter of suit

No.FCT/HC/CV/3081/2013 was among the plots of land revoked by the 1st Defendant in exercise of its statutory responsibility.

The learned counsel referred to the case of **SIMEON V. STATE (2018) 13 NWLR (pt. 1635) pg 128 SC** and **OMISORE V. AREGBESOLA (2015) 15 NWLR (pt. 1482) pg 205 SC** where the court categorically stated that:

"Hearsay evidence lacks probative value". He urged this Honourable Court to hold that the content of the averments in paragraph 11 of the supporting affidavit amounts to hearsay and lacks probative value".

He equally referred to the cases of **MOHAMMED V. STATE (1991) 5 NWLR (PT. 192) PG 438 SC** and **UBA PLC V. A.C.B. (NIG) LTD (2005) 12 NWLR (PT.939) PG 232** where it was held that:

"Assumption is a belief or feeling that something is true or that something will happen, although there is no proof".

On the second issue for determination the learned counsel referred to the cases of **USMAN V. BABA (2005) 5 NWLR (pt. 917) pg 113 CA**, **NWOSU V. PDP (2018) 14 NWLR (pt. 1640) pg 532 SC** and **ADEGBANKE V. OJELABI (2023) 4 NWLR (pt. 1875) pg 481 SC** where it was held thus:

"An abuse of court process constitute a fundamental defect of which will lead to dismissal of the process,

which is abusive. In other words, once the court is satisfied that a proceeding before it amounts to an abuse of court process, it has the right to invoke the coercive power to punish the party in abuse of its process and quite often, that power is exercised by dismissal of the action, which constitute the abuse....."

He therefore urged this Honourable Court to hold that instituting this present suit on the face of suit No. **FCT/HC/CV/3081/2013** constitute an abuse of court process and should be dismissed.

The learned counsel to the Defendants finally submitted that the present suit as presently constituted robs the court of jurisdiction as it is based on hearsay, assumption and abuse of court process thereby robbing this court the jurisdiction to entertain this suit. He referred to the case of **MRS OLUBUNMI OGUNDE V. GATEWAY TRANSIT LTD SURAJU MUBI LAWAL (2010) 8 NWLR (pt. 1196)** where it was held that:

"Jurisdiction is radical and crucial question of competence this is because if the court has no jurisdiction to hear a case, the procedures are and remain a nullity however well conducted and brilliantly decided".

He therefore urged this Honourable Court to dismiss the Claimant's suit.

In order to do Justice, this Honourable Court has adopted the issue formulated by the Claimant but with little modification to wit:

"Whether the 1st Defendant can be said to have wrongly exercised its executive powers in the absence of any documentary evidence in revoking and/or in any manner whatsoever deal with the statutory Right of Occupancy of the Claimant in respect of relating to or pertaining and concerning plot No. 439 measuring approximately 989.36m² Cadastral Zone B19 Katampe Extension, Abuja during the pendency of suit NO.FCT/HC/CV/3081/2013, Steven Nder Andzenge V. Adamu Argungu Majidadi & 4 ors, a suit in which the 1st Defendant herein is a party".

The sole question that the Claimant urged this Honourable Court to answer can conveniently be answered only after considering the ancillary issue raised in paragraphs 9, 10, 15 and 16 of the counter affidavit wherein the Respondent wondered why the present application was not filed in the same court handling suit No. **FCT/HC/CV/3081/2013, STEVEN NDER ANDZENGE V. ADAMU ARGUNGU MAJIDADI & 4 ORS**, a suit in which the 1st Defendant herein is a party.

The possible and only appropriate answer to the above question lies in the fact that this suit invites the answer the question of whether the Revocation in respect to the subject property during the pendency of the other suit on the same property is proper. It

is my firm view that the issues are different though the subject matter and parties are in part similar in both cases. In the case of **OYEWUMI V. GOVERNOR OF OYO STATE & ORS. (PP. 34-35 PARAS. E)** Per **OJO, J.C.** the court held on what constitute abuse of court process thus:

"The concept of abuse of judicial process is imprecise. However, its one common denominator is the improper use of judicial process by a party in litigation to interfere with due administration of justice. It is an abuse when a party improperly uses the judicial process to irritate and annoy his opponent and to truncate the effective administration of justice. In ARUBO VS. AIYELERU (1993) 3 NWLR (PT. 280) 126, it was held by this Court that to re litigate a case already decided is an abuse of Court process even where the matter is not strictly res judicata.

To seek for an adjournment to bring an application for leave to raise issues of fact already decided by a competent Court has also been held to be an abuse of the process of Court. See ALADE VS. ALEMULOKE (1988) 1 NWLR (PT. 69) 207. I wish to emphasise that it is the improper and irregular exercise of the right that constitutes an abuse. It is the purpose of bringing the application and not the application itself."

Having been so guided, I find that this matter is proper in the circumstance and does not constitute an abuse of court process. I shall now return my attention to the substantive matter.

The gravamen of the Claimant's application is as contained in the affidavit in support of this application. The content of the 17-paragraph affidavit in support of this application particularly paragraphs 11 and 12 clearly shows that in the month of September, 2023 it came to the notice of the Claimant that plot No. **439** Cadastral Zone **B19** Katampe Extension, Abuja of which statutory Right of Occupancy was granted to Adamu Argungu Majidadi and which is the subject matter of suit NO. **FCT/HC/CV/3081/2013** was listed as one of the revoked plots by the Hon. Minister of the FCT. The Claimant went further to attach exhibit **Argungu 6** as a documentary evidence to prove this information. The Claimant equally attached exhibit **Argungu 7** to show that as a result of the information regarding the revocation of plot No. **439**, his counsel, Chris Ohene Esq wrote a letter to the Hon. Minister of FCT Administration reminding him of the pendency of suit **NO.FCT/HC/CV/3081/2013** wherein **Plot No. 439** is the subject matter and for which it was unlawful for any party to take any step that will affect the subject matter and the outcome of the suit.

The Claimant equally averred that inspite of the above steps taken by his counsel, the 1st and 2nd Defendants failed, neglected and refused to accede to the request by the Claimant herein, to

delist plot No. **439** from the list of revoked landed property and infact continued to carry on with its intention to revoke the said statutory Right of Occupancy.

Upon the aforementioned events the Claimant took up this originating summons urging this Hon. Court to determine whether or not the 1st Defendant can in exercise of its executive powers revoke and/or in any manner whatsoever deal with the statutory Right of Occupancy of the Claimant in respect of relating to or pertaining and concerning plot No. 439 measuring approximately **989.36m²** Cadastral Zone **B19** Katampe Extension, Abuja, during the pendency of suit **NO.FCT/HC/CV/3081/2013 STEVEN NDER ANDZENGE V. ADAMU ARGUNGU MAJIDADI & 4 ORS**, a suit in which the 1st Defendant herein is a party and urged this Hon. Court to declare the action of the 1st Defendant as null, void and of no effect.

In response to the 17-paragraph affidavit and seven (7) Exhibits filed by the Claimant, the Defendants jointly filed an 18-paragraph counter affidavit.

Curiously enough the content of the counter affidavit, particularly, paragraphs **6, 7, 10, 11** and **12** respectively appear to be laughable and disingenuous on the part of the Defendants. This is because I am unable to comprehend how these averments could have been made on the face of Exhibits **5, 6** and **7** attached to the affidavit in support of this application. It is most astonishing for the averments in paragraphs **6** and **11** of the

counter affidavit to be appreciated wherein the Defendants averred as follows:

Para 6:

"That by the Claimant assertion in paragraph 11 of his affidavit in support of the originating summons, he rely on hearsay, unverified statement and rumour to file this case".

Para 11:-

"That the Claimant has not shown any evidence either by search result or documentary evidence that the plot which is the subject matter of suit NO.FCT/HC/CV/3081/2013..... is/was among the plots revoked by the 1st Defendant in exercise of its statutory responsibility ".

I am compelled to observe that the fact that documentary evidence is not only a physical evidence but also the best evidence to be relied upon by a court that is interested in doing justice. It is contained in paragraphs 11 of the supporting affidavit and Exhibited by Argungu 6 a publication containing the list of revoked plots titled ***"FEDERAL CAPITAL TERRITORY ADMINISTRATION, REVOCATION OF LAND, KATAMPE EXTENSION (B19) DISTRICT*** wherein plot No. 439 appears at serial No. 36 as one of the revoked plots. This Honourable Court wonders what further documentary evidence that is being referred to as lacking in paragraph 11 of

the Defendant's counter affidavit. The only interpretation that could be given in this situation is that this paragraph of the affidavit and other averments made by the Claimant have not been controverted. This Court is therefore bound to believe and act on same.

Furthermore, the content of Exhibit **Argungu 7**, contained in paragraph 12 of affidavit in support of this application also speaks volume about the revocation of plot No. 439 B19. The said exhibit Argungu 7 titled **"RE: REVOCATION OF LAND GRANTED TO ARGUNGU MAJIDADI (PLOT NO. 439 CADASTRAL ZONE B19 KATAMPE EXTENSION WITH FILE NO. KB 60463** was addressed to the Hon. Minister FCT Administration Area II, Garki, Abuja.

There is no doubt that both Exhibits Argungu **6 & 7** speak for themselves and none has been controverted by the Defendants. Thus, in the case of **OGEDENGBE SURAJUDEEN OLA V. UNIVERSITY OF ILORIN & 2 ORS (2014) 15 NWLR (pt. 1431) at pg 457 and 459 Ratio 3** it was held that:

"By virtue of section 124(1) of the Evidence Act 2011 (as amended) the unchallenged deposition of facts in an affidavit are deemed admitted by the opposing party. Such facts would require no further proof and the court is enjoined to accept, consider and act on them as correct, true and established".

It is therefore the finding of this Court that paragraphs 9-15 and particularly paragraphs 11 and 13 were never controverted by

the Defendants notwithstanding that these paragraphs contain the main ground upon which this present application is grounded, the issue of the revocation of plot No. **439** and the refusal by the 1st Defendant to delist the said plot from revocation. The publication of the list of revoked plots which include plot No. **439** was attached as exhibit Argungu 6 which is enough documentary evidence of the alleged violation of the constitutional rights of the Claimant to own property. There is therefore no iota of doubt in believing the content of the affidavit and Exhibits attached to this application. Infact, I dare observe that the counter affidavit is bare, scanty and evasive of the true position of the facts particularly when the Defendants keep on referring to the suit as being based on hearsay, assumption and speculative even on the face of exhibit **Argungu 6**. In effect, the Respondents cannot be said to have opposed the application.

On a final note, let me reiterate the fact that it will not be in the interest of justice to have filed this present application before the same court hearing suit No. **FCT/HC/CV/3081/2013** because of the special nature of fundamental rights proceedings which is of a special class that are not governed by the regular principles in ordinary civil litigation.

In view of the foregoing reasonings this Hon. Court is of the humble view that this is a proper application that has been proved before this Honourable Court. The prayers of the Claimant ought to be given a favourable consideration especially

in the absence of any serious opposition on the side of the Respondents.

The sole question formulated by the Claimant ought to be answered in the affirmative to the effect that the 1st Defendant wrongly exercised its executive powers in revoking and/or in any manner whatsoever deal with the statutory Right of Occupancy of the Claimant in respect of relating to or pertaining and concerning plot No. **439** measuring approximately **989.36m²** Cadastral Zone B19 Katampe Extension, Abuja, during the pendency of suit **NO.FCT/HC/CV/3081/2013, STEVEN NDER ANDZENGE V. ADAMU ARGUNGU MAJIDADI & 4 ORS**, a suit in which the 1st Defendant herein is a party. The action of the 1st Defendant is indeed a violation of the fundamental rights of the Claimant and is hereby declared null, void and of no effect in view of the pendency of suit **NO.FCT/HC/CV/3081/2013**. Similarly, I find no difficulty in granting the 1st declaration sought and the 1st order invalidating and setting aside the purported revocation of the said statutory right of Occupancy of the Claimant over plot No. **439** having an area of approximately **989.76m²** Cadastral Zone **B19** Katampe Extension, Abuja made by the 1st Defendant. In addition, an order of this Hon. Court is hereby made directing the Defendants not to take any step whatsoever and however called or described regarding plot No. 439 Cadastral Zone **B19** Katampe Extension pending the hearing and determination of suit No. **FCT/HC/CV/3081/2013** between **STEVEN NDER ANDZENGE V. ADAMU ARGUNGU MAJIDADI & 4 ORS**

pending before the High Court of the Federal Capital Territory, Abuja.

I am able to reach this conclusion without hesitation because the Respondents did not properly defend the action at all as they were evasive and economical with the true facts of the case. This is the price they have to pay for their indulgence or lack thereof.

**SIGNED:
HON. JUDGE
24/02/2025.**

Appearance:

Osita Mbamalu, Esq, for the Claimant

Yusuf Bolaji Abdulrahman, Esq, for the Defendants