

**IN THE HIGH COURT OF THE 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/5264/2024

MOTION NO: M/2962/2025

DELIVERED ON THE 26/05/2025

BETWEEN:

ANTHONIUS CONTINENTAL VENTURES LTD.....CLAIMANT/APPLICANT

AND

**1. THE MINISTER OF FEDERAL CAPITAL TERRITORY
2. FEDERAL CAPITAL DEVELOPMENT AUTHORITY
3. PERSONS UNKNOWN** }**DEFENDANTS/
RESPONDENTS**

Appearance:

BERNARD YAKUBU Esq, for the Claimant/Applicant

G.I. UMAR Esq, for the 1st & 2nd Defendants/Respondents.

RULING

The Claimant/Applicant vide motion No. M/2962/2025 approached this Court seeking for an Order of Interlocutory Injunction, restraining the Defendants, their agents, privies or anyone claiming through them from trespassing, building or carrying on any development or building project in any part of plot 87 having an area of approximately 20.21 hectares in Cadastral Zone E04, Gousa District Abuja pending the hearing and determination of the substantive suit.

The grounds upon which the application is brought is as follows:

- (1) The Claimant/Applicant has a legal right over plot No. 87 an approximately area of 20.21 hectares in Cadastral Zone E04,***

Gousa District Abuja, covered by offer of Statutory Right of Occupancy 15/10/2024 that ought to be protected.

- (2) The activities of the 3rd Defendant if unchecked will alter the nature of the Res, thereby prejudicing the outcome of the suit.***
- (3) The overall interest of justice would be better served by preserving the Res pending the determination of the substantive suit.***

The application under consideration is supported by an affidavit of 12 paragraphs deposed to by one Norah Azuowu in support.

The Applicant stated in the supporting affidavit that the subject matter been plot No. 87 having an approximate area of 20.21 hectares in Cadastral Zone E04, Gousa District Abuja covered by Statutory Right of Occupancy dated 15/11/2024 was allocated to it and it did carried out a legal search on the property in 2024 with a clean search report in favour of the Claimant.

That the 3rd Defendant who is a party unknown commenced construction work on the subjectmatter of litigation despite the pendency of the suit in Court.

A written address was filed, wherein the issue ***“whether having regard to the facts disclosed and the circumstances of this case, the Court ought to exercise its discretion by the grant of this application and preserve the Res”*** was formulated for determination.

Learned Counsel argued the above issue succinctly in urging the Court to grant this application in the interest of justice.

I have carefully review the affidavit in support of the application for interlocutory injunction and the annexures therein on one hand, and the failure of the Defendants/Respondent to oppose to same. To my mind only one issue called for determination, to wit; ***“whether there is any legal right to be protected or preserved.”***

The following condition must be met by Applicant for a Court approached for an order of interlocutory injunction to grant same:

- (1) *Applicant must have a legal right in the subject matter which he seeks to prevent by the conduct of the Defendant to violate.*
- (2) *There must exist serious or substantial issue or case to be tried.*
- (3) *The preservation of the Res which is the subject matter of the suit.*
- (4) *Balance of convenience, the opposite of balance of inconvenience.*
- (5) *The Applicant must show by evidence questions of real urgency and not caricature of it.*
- (6) *The gravity of injury and the fact that the loss is irreparable.*

See **UNIVERSAL TRUST BANK LTD & ANOR. VS. DOLMERCH PHARMACY NIG. LTD (2007) ALL FWLR (Pt. 385) 434 at 454 – 455 para H – R (SC).**

A look at the evidence before the Court, the Claimant/Applicant stated in the affidavit in support of the application that, the subject matter was allocated to him vide Statutory Right of Occupancy dated 15/11/2024 and has been in possession of same since allocation.

The Claimant annexed document to show his interest in the subject matter. Exhibit A annexed by the Claimant is Statutory Right of Occupancy and Exhibit B is search Report.

It is instructive to state here that the essence of interlocutory injunction is to serve as a stop-gap measure. It is granted usually at an early but critical stage in the life and pendency of the substantive case before the Court has had opportunity to fully hear and weigh the evidence and determine one way or another.

It is similarly important to note that the jurisdiction of Court to grant interlocutory injunction is equitable, the manner of the exercise of the discretion depends upon the precise nature of the particular rights which is sought to be protected and upon all the materials and circumstances. This is so because relief for interlocutory injunction like most other reliefs, is punitive and therefore should be

granted after due process of the law which involves given parties fair hearing, as done in this case. See **RANSTON PROPERTIES LTD VS. FBN PLC (2007) ALL FWLR (Pt. 392) 1954 at 1965 – 1986 – C – D.**

Indeed, when an application for an interlocutory injunction to restrain a Party from doing an act alleged to violation of Claimant's legal right is made upon contested facts, the decision whether or not to grant an interlocutory injunction has to be taken at a time when hypothetically, the existence of the right or the violation of it is or both are uncertain until final Judgment is given in the action. The practice of granting the Claimant's relief by way of interlocutory injunction arose to mitigate the risk of injustice to him during the period the uncertainty could be resolved. See **STALLION (NIG) LTD VS. EFCC (2008) 7 NWLR (Pt. 1087) 461 at 473 paragraph A – C.**

In granting an interlocutory injunction, the scope usually is limited to the actual Res in the suit. It is usually based on specific claims or relief sought in the substantive suit. See **NWANNEWNINE VS. NWANNEWNINE (2007) NWLR (Pt. 1059) 1 at 13 para. B – C.**

It has been decided in plethora of cases that all an Applicants need to prove in an application for an interlocutory injunction is the existence of a legal right which ought to be protected. **A. G. LAGOS STATE VS. A. G. FEDERATION (2004) 18 NWLR (Pt. 9041) 1.**

In determination of the legal right is not whether the action will succeed at the trial but whether the action donates such a right by reference to the enabling law in respect of the circumstances of the action.

Hence relevant documents are annexed, I shall for this purpose of law and posterity preserve the res from annihilation and or any structural disfigure. Court of law must avoid delving into the facts of cases at the stage of considering interlocutory application.

On the whole, after a careful study of the affidavit in support of the motion on Notice and on sound reasoning, I have come to a conclusion that the

Claimant/Applicants has establish a case for an order of interlocutory injunction to be granted. Accordingly, I hereby ordered as follows:

An Order of interlocutory injunction restraining the Defendants, their privies, agents, assign or anybody claiming title from the Defendant from further trespassing, building or carrying on development or project on any party of plot 87 having an area of approximately 20.21 hectares in Cadastral Zone E04, Gousa District, Abuja pending the hearing and determination of the substantive suit is granted.

Signed
Hon. Judge
26/05/2025.

Counsels: - We are grateful.

Signed
Hon. Judge
26/05/2025.