

**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/7652/2023  
MOTION NO: FCT/HC/M/14373/2024  
DELIVERED: ON THE 15/05/2025**

**BETWEEN:**

1. JAFARU MAI-ANGUWA DUNIYA
2. MOHAMMED Y. MAIYAKI
3. MOHAMMED DAUDA
4. ISIAKA ZARMAI
5. AMINU JAFARU
6. ZAKARI MAGAJI

*(Suing for themselves and on behalf of Kafuwa/Damu Community, Bassan Jiwa, Airport Road, Abuja)*

...CLAIMANTS/RESPONDENTS

**AND**

1. HON. MINISTER FEDERAL CAPITAL TERRITORY, ABUJA } .....DEFENDANTS/
2. FEDERAL CAPITAL DEVELOPMENT AUTHORITY } APPLICANTS
3. NIGERIAN METROLOGICAL AGENCY (NIMET).....DEFENDANT/RESPONDENT
4. DIRECTOR, DEPARTMENT OF RESETTLEMENT & }  
COMPENSATION, FCDA } .....DEFENDANT/APPLICANT

**RULING**

This Ruling is at the instant of the 1<sup>st</sup>, 2<sup>nd</sup> and 4<sup>th</sup> Defendants/Applicants who through a Notice of Preliminary Objection with Motion No. **M/14373/2024** approached this Hon. Court for an order striking out and/or dismissing this suit on the following grounds:

*The Claimants suit was filed in the year 2024 while the cause of action accrued in 1976, a period of about 48 years thereafter the land was acquired for the creation of the Federal Capital Territory.*

*The Claimant's suit is statute barred for compensation as it is instituted well over one (1) year after the alleged Act, if any contrary to the provision of Federal Capital Territory Act 1976.*

*The Claimants suit is statute barred as it was brought well over 48 years after the alleged act of or against public officers.*

*The Claimants' suit is based on Customary Right of Occupancy by inheritance which is not justiciable same being contrary to the provision of section 6(3) and (4) of the Federal Capital Territory Act and section 297 (1) and (2) of the 1999 Constitution as amended.*

*The Claimants' suit is statute barred as it is instituted well over twelve (12) years after the alleged Act, if any contrary to the provision of Land Use Act.*

*The Court is bereft of the jurisdictional competent to entertain this suit against the 1<sup>st</sup>, 2<sup>nd</sup> and 4<sup>th</sup> Defendants.*

*The Claimants' case discloses no reasonable cause of action or any cause of action at all.*

The said Notice of Preliminary Objection is supported by written address wherein (4) four issues were formulated for determination to wit;

**Whether the Claimants' suit is not statute barred by virtue of section 15(2) of the Limitation Act, Laws of the Federation, 2014.**

**Whether the Claimants' suit is not caught by section 2(a) of the Public Officer Protection Act.**

**Whether in view of the decision of the Supreme Court of Nigeria in the case of Madu Vs. Madu (2008) 6 NWLR (1083) 296 Customary Right of Occupancy do exist in the Federal Capital Territory, Abuja which is the fulcrum of the Claimant's case.**

**Whether the Claimants' suit is not caught by the provision of section 6(3) and (4) of Federal Capital Territory Act and whether this suit discloses any cause of action or reasonable cause of action**

**to clothe this Court with the necessary jurisdiction to entertain this suit.**

Learned Counsel argued the above issues succinctly in urging the Court to strike out or dismissing this suit in the interest of justice.

Reacting to the application, the Claimant filed a 14-paragraph affidavit deposed to be Aminu Jafaru the 5<sup>th</sup> Claimant in this case.

It is the deposition of the Claimant that they are not claiming compensation from the Federal Government of Nigeria but the trespass on their land only which occurred in 2020.

That the agent of the Defendants came to survey the land and upon inquiry, they discovered that the land wherein they lived for many years was allocated to the 3<sup>rd</sup> Defendants.

That the Defendants can only benefit from the Public Officer's Protection Act only when they act within the confines of the law.

A written address was filed wherein the issue, "**whether or not the application of the 1<sup>st</sup>, 2<sup>nd</sup> and 4<sup>th</sup> Defendants before the Court is meritorious and grantable**" was formulated for determination.

Learned Counsel argued the above issue succinctly in urging the Court to dismiss this application.

On the part of the Court, I have gone through the Notice of Preliminary Objection of the 1<sup>st</sup>, 2<sup>nd</sup> and 4<sup>th</sup> Defendants/Applicants cum the elaborate written address therein, I have also read through the counter affidavit of the Claimants and the written address. I shall be brief in addressing the issue as raised by the parties in the interest of justice.

In the Court opinion two issues call for determination, to wit;

**Whether the present suit is statute barred by virtue of section 2(a) of the Public Officer Protection Act.**

**Whether the suit discloses reasonable cause of action.**

On issue one, whether the present suit is not caught by section 2(a) of the Public Officer Protection Act. It is the contention of the applicants that the action commenced vide a writ of summon for acquisition of

land that was acquired in 1976 while this present action is filed in 2024, 48 years after and therefore caught up by the provision of section 15(2) of Limitation Act.

What then is a cause of action? A cause of action is the fact which established or gave rise to a right of action. That is the factual situation that give rise to a judicial relief. It is constituted by the bundles or aggregates of facts which will be recognized as giving the Claimant a substantive right to make the claim against the relief or remedy sought.

**UBA PLC VS. ABDULLAHI (2003) 3 NWLR (PT. 807) 359.**

Indeed, an action is said to be statute barred when the party suing brings his action beyond the period laid down by the limitation law.

**ARAKE VS. AJEAGWU (2000) 12 SC (Pt. 1) at 99.**

If an action is statute barred, a Claimant who might have had a cause of action loses the right of enforcement of such cause of action or claim in Court of law as result of the expiration of the prescribed period.

**EDOIGBA VS. NNPC (1994) 5 NWLR (PT. 347) 649.**

It is trite position of the law that time begins to run for the purpose of limitation law when the cause of action arose, that is when the Claimant becomes aware that his legal right has been breached by the Defendant. time will equally begin to run where there is in existence, a person who can sue and another who can be sued. See **INEC VS. ADP & ANOR (2023) LPELR 60 333 (CA).**

The period of limitation is determined by looking at the writ of summon and statement of claim alleging when the wrong was committed that gave the Plaintiff a cause of action and by comparing that date with the date on which the writ of summons was filed. See **ADEKOYA VS. FHA (2000) 11 NWLR (PT. 1099) 529.**

Section 15(2) of the Limitation Act stipulates time frame within which an action against recovery of land can be brought. For avoidance of doubt, the section provides:

**“15(2) No action by a person to recover land (a) shall, subject to paragraph (b) of this subsection, be brought after the expiration of twelve (12) years from the date on which the right of action accrued to the person bringing it or, if it first accrued to the same person through whom he claims to that person.”**

Whereas section 2 (1) (a) of the Public Officer’s Protection Act provides:

**“Where any action, prosecution or other proceeding is commenced against any person for any act done in pursuance or execution or intended execution of any Act, or Law, or of any Public duty or authority, or in respect of any alleged neglect or default in the execution of any such Act, law, duty or authority, the following provision shall have effect (a) limitation of action, the action, prosecution or proceeding shall not lie or be instituted unless it is commenced within three months next after the Act, neglect or default complained of or in a case of continuance of damage or injury within three months next after the ceasing thereof; provided that in the action, prosecution or proceeding be at the instance of any person for cause arising thereof. See INEC VS. ADP & ANOR (2023) LPELR 6337 (CA).”**

I have gone through the originating writ of the Claimants before me, it is pertinent to state here that the entire gamut of the claims has to do with the surveying of the Claimants land without their consent and the allocation of same to the 3<sup>rd</sup> Defendant. The Claimants also claimed that they are original inhabitant of the Federal Capital Territory Abuja whose forefathers had been on their ancestral land for hundreds of years.

The Claimants stated that the 4<sup>th</sup> Defendants wrote a letter to the Village Head of Bassan Jiwa, who is the leader of the community, urging him to confirm the indigenship of the names contained on the

list attached to the letter. The letter was annexed as **Exhibit 'A'**. The said letter is dated 07/09/2020.

From the above, it is obvious that the cause of action arose on the 07/09/2020 and not in 1976 as postulated by the Defendants.

Assuming the Court is wrong, the question is does section 2(a) of the Public Officers Protection Act apply to make the suit statute barred?

Indeed, the Public Officers Protection Act was not intended by the legislature to apply to contract, the law does not apply in cases of recovery of land, breaches of contract or for claims for work and labour done.

The law is now beyond argument, since it has been firmly settled in many decisions of the Court that the provision of section 2(a) of the Public Officer Protection Act does not apply for the purpose of limitation of action, on action predicated on contract or for recovery of land. **OLUREMI OBASANJO & ANOR VS. WUROJA NIG. LTD & ORS.(2022) LPELR 58486 (CA).**

From the above, authority, it is my ruling that the argument of the Learned Counsel for the 1<sup>st</sup>, 2<sup>nd</sup> and 4<sup>th</sup> Defendants/Applicants with respect to this suit been statute barred lacks merit and it is hereby dismissed.

Assuming without conceding that the Public Officers Protection Act apply to the issue of breach of contract, why did the Defendants serve the Claimants letter on 07/09/2020.

Secondly, if the land was acquired in 1976 as claimed by the Defendants, why is the essence of the letter served on the Claimants on the 07/09/2020?

The Defendants who alleged that the action is statute barred has fail to annex any notice of relocation of the Claimants to their motion, therefore the Defendants argument goes to no issue. I so hold.

I shall now consider the second issue i.e. **whether the suit discloses any reasonable cause of action or the suit is caught up by the**

**provision of section 6(3) and (4) of the Federal Capital Territory Act.**

It is trite law that in considering whether a Court has jurisdiction to entertain and determine a case, the Court is guided by the claim before it in the writ of summons and the statement of claim and the affidavit and counter-affidavit in support of and in opposing the suit. See **ISAH VS. INEC (2016) 18 NWLR (PT. 1544) 175 at 235 – 236.**

For avoidance of doubt, section 6(3) (4) of the Federal Capital Territory Act is hereby reproduced;

**Section 6(3) Any person who claims any right or interest in any land comprised in the Federal Capital Territory shall submit in writing particulars of his claims to the Executive Secretary on or before the expiration of a period of twelve months from the date of commencement of the order made under section 2 of this Act or such longer period as the President, may either generally or in relation to any particular claim or claims, prescribed by Notice published in the Federal Gazette.”**

**Section 6(4) No claim for compensation shall be entertain by the authority unless a written notice of the claim in accordance with subsection (3) of this section is served on the Authority within the period specified in the said subsection.”**

A perusal of the writ will reveal that the Claimants principal reliefs has to do with compulsory takeover of their ancestral land without compensation is unconstitutional, illegal and a breach of the Claimants fundamental rights.

From the statement of claims, the 4<sup>th</sup> Defendant by virtue of the letter written to the Claimants admitted in principle that the Claimants were not paid compensation and they are willing to do so. I shall therefore, allow parties to ventilate their case at the substantive matter.

Having said so, I shall dismiss this application for want of merit. Consequently, Notice of Preliminary Objection with Motion No. **M/14373/2024** is hereby dismissed.

**SIGNED:  
HON. JUDGE  
15/05/2025.**

**Appearance:**

*Valentine C. Onwuachu, Esq, for the Claimants/Respondents*

*E. C. Onazi, Esq, with Surajo Ahmed, Esq, for the 3<sup>rd</sup> Defendant/Respondent*

*1<sup>st</sup>, 2<sup>nd</sup> and 4<sup>th</sup> Defendants/Applicants are absent and not represented*