

**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/195/2023
DELIVERED ON THE 19/02/2025**

BETWEEN:

MAILANTARKI PROPERTIES LIMITED.....CLAIMANT

AND

- | | | |
|--|---|------------------------|
| 1. HON. MINISTER, FEDERAL CAPITAL TERRITORY | } |DEFENDANTS |
| 2. FEDERAL CAPITAL DEVELOPMENT AUTHORITY (FCDA) | | |

JUDGMENT

The Claimant's claim as contained in his writ of summons and statement of claim dated 13th November, 2023 is as follows:

- 1. A declaration that the Claimant is the legitimate and subsisting allottee of plot No. 1360, Cadastral Zone **B04**, Jabi District, Abuja, FCT measuring about **2270.43m²** pursuant to the grant of the offer of certificate of Occupancy dated the 12th November, 2020 issued to the Claimant by the Defendants.*
- 2. A declaration that the purported revocation of the Claimant's Certificate of Occupancy with number **021662** over plot No. 1360, Cadastral Zone **B04**, Jabi District, Abuja, FCT measuring about **2270.43m²** by the 1st Defendant without the service of notice of revocation on the Claimant and without justification, is null and void and also of no effect whatsoever.*

3. *An order of perpetual injunction restraining the Defendant whether by themselves or their servants, privies, agents or assigns from re - allocating or constructing any structure whatsoever on the Claimant's plot described as plot No. 1360, Cadastral Zone B04, Jabi District Abuja, FCT measuring about 2270.43m² during the subsistence of the Claimant's grant.*
4. *An order setting aside and/or nullifying any grant made by the Defendants to any person(s) in respect of plot No. 1360 cadastral Zone B04 Jabi, Jabi District, Abuja, FCT measuring about 2270.43m² belonging to the Claimant.*
5. *An order restoring the Claimant's Certificate of Occupancy number 021662, over all that parcel of land known and described as plot No. 1360, Cadastral Zone B04, Jabi District, Abuja FCT measuring about 2270.43m² .*
6. *An order directing the Defendants to pay the sum of ₦50,000,000.00 (Fifty Million) Naira to the Claimant as general damages.*
7. *An order directing the Defendants to pay the cost of litigating this matter with the sum of ₦5,000,000.00 (Five Million naira) only.*

The Claimant filed along with the writ of summons his statement of claim, a witness statement on oath as well as copies of documents to be relied upon at the trial in accordance with the rules of this court on the 13th November, 2023. The witness statement on oath was deposed to by one SAMIRA KHAMISU AHMED, the Director of the Claimant. The Defendants were duly served.

The Defendants later filed motion on notice to enable them enter an appearance out of time which was granted by this Hon. Court. The Defendants counsel therefore filed a conditional memorandum of appearance on behalf of the Defendants on the 16th February, 2024 out of time. The Defendants also filed their joint statement of defence dated

the 15th day of March, 2024 on the same date. Meanwhile, by a motion on notice the Claimant applied to call an additional witness by name KHAMISU AHMED whose statement on oath was also attached to the motion on notice. The said motion on notice also prayed for leave for an extension of time to file reply to the 1st and 2nd Defendant's statement of defence. The said application was granted and the Claimant accordingly filed a reply to the 1st and 2nd Defendant's statement of defence and also additional witness statement on oath of Hon. KHAMISU AHMED dated the 31st May, 2024 and filed on the same date.

Upon the exchange of pleadings and joining issues, the matter was set down for hearing. The Claimant called one witness, Hon. KHAMISU AHMED who testified on the 28th June, 2024.

During the testimony of the sole witness, **PW1**, the Claimants tendered the following documents which were admitted and marked in the following manner:-

- ❖ **Exhibit P1 (Photocopy of offer of statutory right of Occupancy).**
- ❖ **Exhibit P2 (Certificate of registration with CAC).**
- ❖ **Exhibit P3 (Application for grant of statutory right of Occupancy).**
- ❖ **Exhibits P4 (Conveyance of building land approval).**
- ❖ **Exhibit P5 (settlement of building plan).**
- ❖ **Exhibit P6 (FCDA official receipt).**
- ❖ **Exhibit P7 (CTC of the judgment of FCT High Court).**
- ❖ **Exhibit P8 (change of statutory right of Occupancy).**
- ❖ **Exhibit P9 (Abuja Digest publication).**
- ❖ **Exhibit P10 (Invoice and receipt dated the 22nd September, 2023).**
- ❖ **Exhibit P11 (Revocation of land by Daily Trust).**

- ❖ **Exhibit P12 (Photocopy printed 28th September, 2023).**
- ❖ **Exhibit P13 (Acknowledged copy of a letter dated 27th September, 2023).**
- ❖ **Exhibit P14 (Acknowledged copy of a letter dated the 9th October, 2023).**

The 1st and 2nd Defendants on their part opened their case on the 8th October, 2024 for their defence. They called one witness, Ibrahim Babangida Azeez, who testified on the 8th October, 2024. During the testimony of DW1, the Defendants tendered one document which was admitted and marked as Exhibit **D1** (CTC of the Right of Occupancy issued to the Claimant).

At the close of the evidence by both parties in this case, this Hon. Court adjourned the matter for final written addresses to be filed by the parties. In compliance with the rules of this court, the Claimants herein have filed their written addresses as oral submission in urging the court to uphold and grant the reliefs sought in this action. The final written address of the Claimant dated the 19th day of November, 2024 was filed on the same date. Similarly, the final written address of the 1st and 2nd Defendants dated the 29th day of October, 2024 was filed on the same date. In addition, the 1st and 2nd Defendants filed the Defendant's reply on point of law on the 27th day of November, 2024. The respective written addresses were adopted before this Hon. Court by the learned counsel for the parties on the 18th October, 2024 and the case was subsequently adjourned for judgment.

A summary of the Claimant's case as borne out of the evidence before me is that the Claimant's witness KHAMISU AHMED who testified as the PW1 adopted his witness statement on oath as his oral testimony and tendered fourteen (14) exhibits which were admitted in evidence as Exhibits **P1** to **P14** respectively. The witness identified himself as a

Director of the Claimant on whose behalf he is before the court. He told the court that the Claimant is a private company limited by shares and registered in Nigeria under the companies and Allied Matters Act with its head office situate within the jurisdiction of this Honourable Court and through him the Certificate of Registration of the Claimant with the CAC was admitted and marked as Exhibit **P2**. He told the court that the Claimant is the owner and original allottee of plot No. **1360** Cadastral Zone **B04**, Jabi District, Abuja FCT measuring about **2270.43m²**. According to the witness, sometimes in 2010 the Claimant applied for a grant of Right of Occupancy to the Minister, FCT and was issued an offer of statutory Right of Occupancy dated the 16th January, 2010 in respect of plot No. **1575**, Cadastral Zone **B05** Utako, District, Abuja FCT and this was admitted and marked as Exhibit **P3**. He further told the court that the Claimant's application to develop plot No. **1575** Cadastral Zone **B05** was approved on the 11th of August, 2011 which was admitted and marked as Exhibit **P4**.

It is equally his evidence that the Claimant was issued with an estimate of building plan fees by the department of Development Control to the sum of **₦5,145,665.00** (Five million, One hundred and Forty-Five thousand, Six Hundred and Sixty-Five naira only) which the Claimant paid evidence by Exhibit **P5**. He equally told the court that as a result of the title to the plot No. **1575** being contested, by Tripplestar Enterprises which resulted in a judgment in favour of the Tripplestar Enterprises the right of Occupancy issued to the Claimant was withdrawn in respect of which a CTC of the judgment of the High Court FCT was tendered and marked as Exhibit **P7**. Also tendered through him as evidence of change of statutory Right of Occupancy issued to the Claimant in respect of plot No. **1360**, Cadastral Zone **B04**, Jabi District, Abuja FCT is Exhibit **P8**. Again, Exhibit **P12** shows photographs of perimeter fence built around plot No. **1360** Cadastral Zone **B04** as well as a gate to avoid a repeat of

the Claimants past experience in respect of plot No. **1575** and this was tendered through the sole witness for the Claimant. He further told the court that the Claimant was aware of a publication of Abuja Digest weekly Newspaper Vol. 3, 37th Edition dated the 20th September, 2023 by which the Defendant demanded for the payment of outstanding ground rent within two (2) weeks in respect of all properties within the FCT in default of payment as a result of standing ground rent in respect of plot No. **1360**. Both the publication and receipt for payment of outstanding ground rent were admitted and marked as exhibit P9 and P10 respectively. The witness further told the court that three years period provided on the Right of Occupancy for them to develop their properties had not elapsed as the Claimant still had about 49 days to the 11th November, 2023 directed by the FCT. The **CW1** informed this Hon. Court that the Claimant was surprised to have his plot No. **1360** revoked on the same date he paid all her outstanding ground rent, that is, on the 22nd September, 2023 without being informed of the development. He also told the court that the Claimant was never issued any revocation notice as required by the Land Use Act which is a condition precedent for any valid revocation of right of Occupancy by the 1st Defendant.

He further stated that as a result of the foregoing development a letter was written to the 1st Defendant for reinstatement of her property which was acknowledged by the 1st Defendant, a copy of which was admitted and marked as Exhibit **P13** through the witness. According to him Exhibit P14, a letter written by the learned counsel to the Claimants was duly acknowledged by the 1st Defendant. He finally told this Honourable court that upon the failure of the Defendants to reinstate her right of Occupancy and to nullify any purported revocation made by the 1st Defendants that led to the present suit against the Defendants. That was the case for the Claimant.

On the other hand, the **DW1**, IBRAHIM B. AZEEZ testified as a land officer I in the Department of Land and Administration of the Defendants. His statement on oath was adopt in court. He testified to the effect that the purported construction of a perimeter fence on plot No. **1360** Cadastral Zone **B04** Jabi District, Abuja FCT does not qualify to meet the requirement imposed on the Claimant as stipulated in the statutory Right of Occupancy as the Claimant was required to erect and complete on the said plot buildings and other works that conform with the purpose for which the plot was granted. He also told the court that the Claimant did not obtain the approval of the 2nd Defendant before purporting to erect any building or other works on plot No. **1360** Cadastral Zone **B04**, Jabi District, Abuja FCT. He further told the court that the Claimant was not ready to commence any development on the land having not obtained the approval of the 2nd Defendant to do so.

According to him the Claimant was in violation of the terms of the grant of statutory Right of Occupancy by failing and neglecting to erect and complete on the said plot buildings and works. He equally stated that payment of the ground rent cannot remedy the Claimant's violation of the terms of the grant of the Right of Occupancy. The DW1 also told this Honourable Court that the 1st Defendant made an offer of change of statutory Right of Occupancy on 12th November, 2020 to the Claimant a copy of which he said would be tendered before this Honourable Court. He admitted that the offer of statutory Right of Occupancy was for a term of 99 years commencing from the 12th November, 2020 but that the Claimant failed to commence and/or carryout any substantial development on the land in dispute until same was revoked on the 22nd September, 2023. He equally told the court that the Claimant was given adequate notice of the revocation in line with the provisions of the law and request the Claimants to produce the original documents relating to the land in dispute.

The witness urged this Honourable Court to dismiss this suit with substantial cost for being frivolous, unmeritorious and lacking in merit.

Above is the summary of the evidence of the witnesses for both parties. It will now be in the interest of justice to also summarise the written addresses of the learned counsel for the parties.

The learned counsel for the Claimant, A. A. Suleiman Esq formulated three issues for determination by this Hon. Court to wit:

- 1. Whether the revocation of the Claimant's Certificate of Occupancy before the expiration of 3 years development time frame tenders it invalid.**
- 2. Whether the publication of revocation of the Claimants right of Occupancy via newspaper suffices as adequate notice.**
- 3. Whether the change of offer of statutory right of Occupancy issued to the Claimant with respect to plot No. 1360, Cadastral Zone B04, Jabi District, Abuja specified the time frame to apply for a building plan with the relevant Authority.**

In arguing the issues, the learned counsel to the Claimant submitted that the content of Exhibit **P8** shows that the Claimant was still within time by 49 days within which he was expected to have developed his property, that is, the land in dispute. This fact, according to him has been admitted by the Defendants. He equally submitted that the **DW1's** evidence corroborates Exhibit **P8** to the effect that the Claimant is still within the 3 years' time frame granted by the statutory Right of Occupancy. He further referred to the evidence of the **DW1** to the effect that even though the basis of the revocation was the alleged failure of the Claimant to develop the said land within 3 years which was clearly stated in the change of offer of statutory right of Occupancy. The learned counsel submitted that the date of commencement as in Exhibit **P8** is 12th of November, 2020 whereas the revocation was made before the 3

years' time frame contained therein. This fact, according to the learned counsel was confirmed by the testimony of the **DW1** who told the court that 3 years was to end on 12th November, 2023 whereas the revocation was done on the 22nd September, 2023, 49 days to the expiration date. The learned counsel submitted that the revocation was premature and unlawful and as a result of the evidence of the **DW1**, there was no need for further proof. This is because according to him, by virtue of section 75 of the Evidence Act 2011 as amended, facts admitted need no proof in civil proceedings. The learned counsel referred to a number of judicial authorities in support of the above submission which include **MBA V. MBA (2018P LPELR - 44295 (SC))**, where it was held that:

" It is trite law and now fully settled that whatever fact is admitted needs no further proof". Such fact is deemed established?

He therefore urged this Honourable Court to hold that the Claimant was within time to develop his property as per terms contained in Exhibit **P8**.

The learned counsel to the Claimant further submitted that there was no valid notice of revocation served on the Claimant and that Exhibit **P11**, the Daily Newspaper publication falls short of satisfying the statutory requirements for adequate notice of Revocation. According to him, the Land Use Act explicitly stipulates a procedural requirement for Notice of Revocation which was not followed by the Defendants, a fact that was admitted by the **DW1** in his testimony before the court. He referred to section 28(6) & (7) of the Land Use Act 1978 which states as follows:

"The revocation of a right of Occupancy shall be signified under the hand of a public officer duly authorized in that behalf by the Governor and notice there of shall be given to the holder".

Section 28(7):-

"The title of the holder of a right of Occupancy shall be extinguished on receipt by him of a notice given under subsection (6) of this section or on such later date as maybe stated in the notice".

He submitted that there was no adequate notice and this has rendered the revocation null and void. The learned counsel referred to the case of **UDE V. NWARA (1993) 2 NWLR (pt. 278) pg 638** and particularly the case of **ODOGWU V. ILOMBU (2007) 8 NWLR (pt. 1037) pg 488** where it was held thus:

"By virtue of the provisions of section 28 of the Land Use Act, a notice of revocation must be served personally on the holder. The law has prescribed a manner or method of giving notice to a holder of a statutory right of Occupancy, which is sought to be revoked by the issuing authority, the procedure must therefore be followed. And failure to so follow it will render the exercise void. In the instant case, on the pleadings of the parties before the trial court the onus lies on the appellants to show that such notice was served on the respondent. The failure of the Appellant to show that the said notice was served on the Respondent rendered the revocation void".

He therefore submitted that the reliance on Newspaper publication by the Defendants as a means of notice is insufficient and does not satisfy the statutory requirements of section 28 of the Land Use Act. He therefore urged this Honourable Court to hold that the purported revocation was null and void.

In addition, the learned counsel referred to section 44 of the Land Use Act which stipulates various methods of serving notice of revocation on

a holder of Certificate of Occupancy which does not include notice through any Newspaper publication. He therefore urged this Honourable Court to hold that the purported Revocation is vitiated by the Defendant's non - compliance with the condition precedent for service of notice thereby rendering same null and void abinitio. He also referred to the cases of **N. U. T & ANOR V. BUKAR (2021) LPELR - 56149 (CA)**, **BARAYA V. ABDULLAHI (2017) LPELR - 43371 (CA)** to the effect that an allottee must be given proper notice before a revocation can be deemed valid.

As for the time frame of 3 years from the date of the commencement of the right of Occupancy for the holder to erect and complete building and other works the learned counsel submitted that Exhibit **P8** does not provide a specified time for the application of a building plan. He also referred to paragraph 2(1) of Exhibit **P8**, that the Offer of change of Statutory right of Occupancy provides thus:

"Within three years from the date of the commencement of this right of Occupancy to erect and complete on the said plot buildings and other works that conform with the purpose for which the plot is granted and that is approved by the Federal Capital Development Authority or any other Agency/Department empowered to do so".

According to him, Exhibit **P8** does not provide any time frame or duration for the application of a building plan. He therefore urged this Honourable Court to hold that such duration was never provided for the application of a building plan. He further submitted that the Newspaper publication shows that the sole ground for revocation was the non - development as contained in Exhibit **P11**. He therefore urged this Honourable Court to discountenance the point raised in respect of the refusal to obtain approval for the construction of a perimeter fence. He

further submitted that parties must be bound by their pleadings and cannot aprobe and reprobe at the same time. He referred to the case of **OBAJE V. NAMA (2023) LPELR - 61645 (SC)** and the case of **KAJA V. Minister of FCT & ORS (2023) LPELR - 61198 (CA)** to the effect that the reason for the revocation of a right of Occupancy must be stated in the notice of Revocation which must be served personally on the holder of the right of Occupancy. He emphasized that the reason stated in the Newspaper publication for the revocation was for the failure to erect building and other works on the said plot and not for failing to obtain building plan for the erection of perimeter fence.

To buttress the necessity for personal service of a notice of revocation the learned counsel referred again to the case of **SUPRA INVESTMENT LTD. V. HON. MINISTER, FCT & ORS (2023) LPELR- 61639 (CA)** where the court amplified the need for personal service of notice of revocation. He finally referred to the cases of **APENA & ANOR V. AILERU & ANOR (2014) LPELR - 23305 (SC) pg 20** and **OBE V. MTN (2021) LPELR - 57730 (SC)** and submitted that the Claimants have proved their case on the preponderance of evidence to get them entitled to the judgment of this Court. He therefore urged this Honourable Court to grant the reliefs sought in the Claimant's statement of claim and discountenance the Defendant's submissions.

The learned counsel for the Defendants, KAUNA PENZIN ESQ in arguing the issues raised in his written address submitted that the **DW1** testified on the 15th March, 2024 and told the court that the Claimant's plot was revoked for failure to comply with the terms of the grant. He also testified that the Claimant failed to obtain the approval of the 2nd Defendant before erecting any building or other works on plot No. **1360**. The learned counsel to the Defendant formulated two issues for the determination by this Hon. Court to wit:

1. **Whether upon a consideration of the facts of this case and the evidence adduced at trial, the revocation of the Claimant's certificate of Occupancy over plot No. 1360, Cadastral Zone B04, Jabi District, Abuja FCT was not proper?**
2. **Whether upon a consideration of the facts of this case and the evidence adduced at the trial, the Claimant has accepted newspaper publication as a means of Notice of revocation of its right of Occupancy over plot No. 1360, Cadastral Zone B04, Jabi District and thereby waived it's right to personal service?**

In support of the above issues raised the learned counsel to the Defendants referred to section 28(5) of the Land Use Act, 1978 which vests on the governors of states in Nigeria and by extension as provided in section 51(2) of the same Land Use Act, the Minister of the Federal Capital Territory, Abuja, the power to revoke titles to land on the ground of breach of any implied or express terms stated in the certificate of Occupancy. He referred to the case of **MINISTER, FCT & ANOR V. SYBRON MEDICAL CENTRE .TS & ANOR (2020) LPELR - 51168 (CA) at pg 36 - 40** paras D in support of this submission. He also referred to paragraph 2(1) of Exhibit P8 which requires the Claimant to within three years from the date of the commencement of this Right of Occupancy erect and complete on the said plot buildings and other works that conform with the purpose for which the plot is granted and that is approved by the FCDA or any other Agency/Department empowered to do so.

He submitted further that the Claimant has breached all the three (3) obligation in paragraph 2(1) of Exhibit **F1/P8**.

According to the learned counsel for the Defendants the Claimant illegally and unlawfully proceeded to erect a perimeter fence on plot No.

1360 without the approval of the department of development control thereby breaching paragraph 2(1) of Exhibit **P8**.

He referred to the case of **AG KWARA STATE & ANOTHER V. KOLAWOLE (2018) LPELR - 44982 (CA) AT PGS 23 - 24** where the court of Appeal held that:

"By the intendment of section 28(5) (a) of the Land Use Act, 1978 the Governor of a state in Nigeria has the power of revocation of a Certificate of Occupancy for a breach of the terms deemed in the Certificate of Occupancy".

As regards the failure of the Claimant to obtain an approval of a building plan, he referred this Hon. Court to section 7(1) of the Federal Capital Territory Act as having been violated by the Claimant. He therefore urged this Honourable Court to hold that the Claimant breached the condition in paragraph 2(1) of Exhibit **P8/D1** for her failure to erect and complete any building on plot No. 1360 that conforms with the purpose for which the plot was granted.

It is also the submission of the learned counsel that since the Claimant accepted a notice of payment of ground rent through Newspaper publication and complied with same it could be concluded that she has also accepted Newspaper publication as a means of receiving notice of revocation of plot No. 1360. He referred to sections 28(6) & (7) and 44 of the Land Use Act 1978. He therefore referred to section 169 of the Evidence Act, 2011 to the effect that a party who has caused another to believe in the existence of certain facts cannot turn around and insist on another set of facts. He submitted further that the Claimant has by this development waived her right to personal notice as required by section 44 of the Land Use Act, 1978. The learned counsel argued that since the Claimant has accepted Newspaper publication as the reason why she did not challenge the validity of the notice on the basis that it was not served

personally but opted to apply to the 1st Defendant to set aside the revocation and reinstate the Claimant's Title to the Land. In support of the above argument he referred to the cases of **ODUA INVESTMENT CO. LTD V. ALABI (1991) 1 NWLR (pt. 170) pg 761 at pg 780 Paras F - H** and **FASADE V. BABALOLA (2003) 11 NWLR (pt. 830) pg 26 at pg 48 - 49 Paras H - C** as well as **ARIORI V. ELEMO (1983) 1 SCNLR 1** to the effect that:

"A beneficiary under statute should have full competence to waive those rights once the rights are solely for his benefit the only exception I can think of is where the statute itself forbids waiver of its statutory provisions".

The learned counsel finally referred to the case of **C & C. B. DEV. CO. LTD. V. MIN. E. H & U. D (2019) 5 NWLR (PT. 1666) PG 484 AT PGS 503 - 504 PARAGRAPHS G – B** where the Supreme Court held thus:

"In judicial chemical laboratory, operated by equity, a waiver of right produces an irreversible permanent change in favour of the third party. Equity will not allow a party to trap and overreach the other".

However, the learned counsel filed an additional process titled 'Defendant's' reply on points of law filed on the 27th day of November, 2024. In his further submission the learned counsel submitted that all the three obligations contained in paragraph 2(1) of Exhibit **D1/P8**, the change of statutory Right of Occupancy deal with Non - Development which out to be complied with before the condition of Non - Development could be met. He also referred to the case of **ONA V. ATENDA (2000) 5 NWLR (pt. 656) 244 at pg 266** where it was held that:

"By section 7(1) of the Federal Capital Territory Act, no person or body shall within the Federal Capital Territory, carryout any development within the meaning of the Act unless the written approval of the authority has been obtained by such person or body".

According to the learned counsel to the Defendants, Exhibit P11 reveals that the said Notice of Revocation contains the reason for revocation which is Non- Development of plot No. 1360. He also referred to the case of **OLOWU V. BUILDING STOCK LTD. (2018) 1 NWLR (PT. 1601) PG 343 AT PG 398** as it relates to P11 where the court held that:

"Documentary Evidence is a hanger upon which to base other pieces of evidence. Documents when tendered and admitted in court are like words uttered and do speak for themselves. They are more reliable and authentic than words from the vocal cord of man because they are neither transient nor subject to distortion and misinterpretation but remain permanent and indelible through the ages. Documents bear eloquent testimony to what happened".

He equally referred to the case of **NITEL V. OGUNBIYI (1992) 7 NWLR (pt. 255) pg 543 at pg 557** in further proof of the fact that by section 28(6) & (7) of the Land Use Act, the Claimant has been fully given a valid Notice of revocation of her plot No. 1360. In the above cited case it was held that:

"The purpose of giving notice of revocation of a right of Occupancy is to duly inform the holder thereof of the steps being taken to extinguish his said right of Occupancy".

The learned counsel therefore submitted that the Claimant has been given adequate and valid notice of revocation of her plot No. **1360** and cannot be heard to complain of lack of notice of revocation.

He finally submitted that most of the arguments of the learned counsel for the Claimant are made outside what has been pleaded in their statement of claim and evidence of the CW1. He therefore referred to the case of **KUBOR V. DICKSON (2013) 4 NWLR (pt. 1345) pg 534 at pg 583** where the court held thus:

"I must interpose here before examining further the question in hand that it is trite Law that parties are bound by their pleadings and that facts not pleaded go to no issue and that where the unpleaded facts have been received in evidence in a proceeding they are bound to be discountenance and indeed expunged from the record".

He further urged this Hon. Court to dismiss the Claimant's suit for lacking in merit.

Upon consideration of evidence before me both oral and documentary and the address of counsel for both parties it is my humble view that the sole issue for determination by this Hon. Court is:

"Whether the revocation of the title of the Claimant to the land in dispute before the expiration of the three (3) year Development time frame was done in accordance with the Law including adequate and valid notice of the said revocation".

The crux of this suit lies in the content of exhibits **P8**, and **P11** respectively which were not denied by any of the parties.

The content of Exhibit **P8**, that is change of Statutory right of Occupancy dated the 12th day of November, 2020 clearly stated in para 3

that a breach or failure to comply with any or all the terms stated herein shall be liable to the revocation of this Right of Occupancy.

Similarly, paragraph 2(1) of the same Exhibit **P8** states as follows:

"Within three years from the date of the commencement this Right of Occupancy to erect and complete on this said plot buildings and other works that conform with the purpose for which the plot is granted and that is approved by the Federal Capital Development Authority or any other Agency/Department empowered to do so".

It is therefore clear from the wordings of paragraphs 2(1) and 3 of the statutory Right of Occupancy that failure by the allottee to erect a building or other works on the said plot within three years of the Right of Occupancy would constitute a reason for the revocation of the said Right of Occupancy. This also implies that as far as Non - Development on the said plot is concerned the Claimant has upto three years within which non - development will constitute a reason for revocation of her plot.

However, by paragraphs **19** and **20** of the statement of claim and paragraphs **16, 19** and **20** of the witness statement on oath of the Claimant, the statutory right of Occupancy commenced on the 12th day of November, 2020 and is expected to lapse on the 11th November, 2023 which at the date of revocation was forty - nine (49) days to the 11th of November, 2023. This implies that the Claimant was still within the three (3) years' time frame allowed for her to erect building and other works on the plot in dispute.

It will not be out of place to observe at this stage that it is not impossible for the Claimant to comply with all the necessary requirements of the

law and erect and complete a building on the said land before the expiration of the remaining 49 days.

Let me refer to exhibit P11 which is the main contention in this suit. In Exhibit **P11**, that is, revocation of land by Daily Trust. It is interesting to observe that the only reason given by the Defendants for revoking the title of the Claimant to plot No. **1360** is as follows:

"The FCT administration (FCTA) hereby inform the general public that the Minister of the Federal..... by the powers conferred on him under section 28(5)(a) & (b) of the Land Use Act 1978.....for continued contravention of the terms of Right of Occupancy to wit:- Non - development".

It is therefore the humble view of this Honourable Court that the only reason for the alleged revocation of the title of the Claimant to plot No. **1360** is for Non - development and not for any other reason. And if this is the case, by the content of Exhibit **P8**, the Claimant still has 49 days before he could be said to have breached this term in respect of non - development of the plot in dispute.

It is equally important to observe that the **DW1** who testified on behalf of the Defendants confirmed under cross - examination that there was 49 days between 22nd of September, 2023 when the Claimant's land was revoked and 11th November, 2023 when the 3 years period would have elapsed.

By the above admission by the Defendants, it becomes conclusive that the Claimant is still within the 3 years' time frame granted to her to erect and complete a building on it. This fact having been admitted, need no further proof of same as facts admitted need no proof. I refer to section 75 of the Evidence Act 2011 (as amended) and the case of **MBA V.**

MBA (2018) LPELR - 44295 (SC) Per ARIWOOLA (JSC) as he then was when he said;

"From the records, in the evidence adduced by both parties, both orally and documentarily, certain facts were established either for having been admitted or not in dispute at all by the parties. These facts, no doubt require no further proof".

Again, it is necessary to give credence to the content of Exhibit **P11**, Revocation of Land by Daily Trust by which the Claimant was able to infer and assume that there was a revocation of her plot notwithstanding that she was not properly given adequate and valid notice of Revocation. The requirement of the law is that she should be personally served and her Acknowledgement obtained.

This notwithstanding, by Exhibit P11, she was able to infer that the reason for the revocation of her plot was for non- development. This is important because it is the requirement of the law that she must be informed of the reason for the revocation. This is the requirement of section 28 of the Land Use Act 1978. Thus, in the case of **ADIUKWU V. COMMISSIONER FOR WORKS, LAND AND TRANSPORT ENUGU STATE (1997) 2 NWLR (pt. 489) at pg 588** it was held that:

"The reason for a person's right of Occupancy to be revoked must be stated in the notice of revocation notwithstanding that the Act did not expressly state the specific ground of revocation must be stated in the Notice".

Notwithstanding the irregularities associated with the manner the said revocation was brought to the Claimant it is the humble believe of this Honourable that the only reason for the revocation of plot No. **1360** was non - development which is contrary to the law. In this wise, therefore, this Hon. Court hold the view that the revocation of the Claimant's plot

No. **1360** Cadastral Zone **B04**, Jabi District, Abuja FCT measuring about **2270.43m²** by the 1st Defendant is without any justification and therefore null and void and of no effect whatsoever.

Having thus resolved the first arm of the issues formulated by this Hon. Court it will now be in the interest of Justice to consider the second arm of the said sole issue for determination by this Hon. Court.

The learned counsel to the Defendants has dwelled so much on the fact that since the Claimant in compliance with the notice contained in Exhibit P9, that is, Abuja Digest Publication of 20th September, 2023 went and paid for ground rent in respect of the property in dispute, she cannot be heard of lack of personal service of notice of revocation. The question to be answered at this stage is whether or not the Claimant actually and in her own volition waived her right to be personally served with the Notice of Revocation as required by section 28 of the Land Use Act, 1978. It will be in the interest of justice to peruse the content of paragraphs **16, 17, 18, 19, 21, 22, 23** and **24** of the Claimant's witness statement on oath dated the 31st day of May 2024 as well as paragraphs **14, 15, 16, 17, 18, 19, 20** and **21** of the statement of claim respectively.

The combined effect of the above-mentioned paragraphs of the Claimant's witness statement on oath and the statement of claim clearly shows how surprised and devastating the Claimant was as a result of the revocation of her plot No. **1360**. It is the humble view of this Honourable Court that the Claimant was naturally flabbergasted at the development knowing fully well that the only reason for the revocation of plot No. **1360** was non - development and no other reason as contained on Exhibit **P11**, Revocation of land by Daily Trust. The efforts made by her to regain her plot shows a non - waiver of the Notice not having been served on her personally. In fact, Exhibits **P13, P14** and in particular the present suit goes to prove that she never waived her

right to be served with a Notice of Revocation personally, hence her prayers as contained in the statement of claim to the effect that this Hon. Court should *"Declare the purported revocation of the Claimants Certificate of Occupancy with No. 021662 over plot No. 1360 by the 1st Defendant without the service of Notice of revocation on the Claimant and without justification as null and void and of no effect whatsoever"*.

It is also the humble view of this Honourable Court that if the Claimant had waived her right to be served personally she wouldn't have taken all the steps she took which culminated into the present suit. This Hon. Court is not therefore in agreement with the submissions of the learned counsel to the Defendants that the Claimant waived her right to be served personally as required by the law.

In the case of **N. U. T & ANOR V. BUKAR (2021) LPELR - 5614 CA**, the Court of Appeal Per Tobi, JCA (as he then was) at pages 30 - 31 paragraphs B - F held thus:

".....the Revocation Notice must be served on the holder of the Certificate of Occupancy, otherwise the revocation will be null and void".

The law mandates that an allottee receives proper notice before a revocation can be deemed valid. This Hon. Court is of the humble view that Exhibit **P11** does not meet the requisite standards for notice of revocation thereby invalidating the purported revocation of the Claimants plot No. 1360.

In the final analysis, I am of the view that there is nowhere it is stated in exhibit P8 for a time frame within which the Claimant must apply for a building plan and infact Exhibit **P11** only deals with the issue of Non - Development. There is no evidence either oral or documentary from the Defendants to show that the revocation was made as a result of the

absence of a building plan or for erection of a perimeter fence on plot No. **1360**. While this Hon. Court acknowledges the power of a Governor of a state or the Minister of the Federal Capital Territory to revoke Certificate of Occupancy, the purpose of the said revocation must be stated and indeed communicated to the holder personally and adequately. The only reason for the revocation of plot No. **1360** is for non - development while the Claimant still had 49 days before the three (3) years period could elapse. The above stated facts have never been controverted in any way by the Defendants.

Fortunately, submissions of counsel by way of written addresses has never been held or recognised to constitute evidence in favour of either of the parties they represent no matter how brilliant the address may be.

This Honourable Court is therefore of the view that the Claimant has proved her case and her prayers ought to be granted and they are accordingly granted. Consequently, it is hereby declared that the Claimant is the legitimate and subsisting allottee of plot No. **1360**, Cadastral Zone **B04**, Jabi District, Abuja FCT measuring about **2270.43m²** pursuant to the grant of offer of Certificate of Occupancy dated the 12th November, 2020 issued to the Claimant by the Defendants. It is also declared that the purported revocation of the Claimant's Certificate of Occupancy with number **021662** over plot No. 1360 by the 1st Defendant without the service of notice of revocation on the Claimant and without justification is null and void and of no effect whatsoever. It is further ordered that an order of perpetual injunction is hereby made restraining the Defendants whether by themselves or their servants, privies, agents or assigns from re - allocating or constructing any structure whatsoever on the Claimant's plot described as plot No. **1360** without due process of the law.

An order is hereby made setting aside and nullifying any grant made by the Defendants to any person(s) in respect of plot No. **1360** belonging to the Claimant. In the same vein, an order is hereby made restoring the Claimants Certificate of Occupancy number **021662** over all that parcel of land known and described as plot No. **1360**. Furthermore, the Defendants are hereby directed to pay the sum of **₦3,000,000.00** to the Claimant as general damages. In addition, the Defendants are also directed to pay the cost of litigating this matter with the sum of **₦1,000,000.00** only.

On the whole the claims of the Claimant against the Defendants as contained in the writ of summons succeed and are hereby granted.

SIGNED:
HON. JUDGE
19/02/2025.

APPEARANCE:

*J. M. Agbaduh, Esq, with A.A. Suleiman, Esq, and R. E. Evbodaghe. Eq, for the Claimant
Kauna Penzin, Esq,with Chimezie Ndubuisi, Esq,Abdulmalik Zaruq, Esq, Emmanuel
Ameh, Esq, and Daniel Alagor, Esq, for the Defendants*