

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT MAITAMA**

BEFORE HIS LORDSHIP: HON. JUSTICE H. MU'AZU

SUIT NO: FCT/HC/CV/191/2025

MOTION NO. FCT/HC/M/740/2025

DELIVERED ON THE 04/06/2025

BETWEEN:

MAREN DAMINA MAKUT.....CLAIMANT/APPLICANT

AND

1. AAZIK HOMES LIMITED

2. DR. FRANK AZIKIWE



.....DEFENDANTS/RESPONDENTS

RULING

This Ruling is at the instance of the Claimant/Applicant who approached this Hon. Court vide a Motion No. **M/740/2025** seeking for an Order of Interlocutory Injunction restraining the Defendants by themselves, their agents, servants, privies, or any person or group of persons howsoever or described, acting for or on behalf of the Defendants from further, trespassing, tampering with, entering into, harassing, disturbing, developing, or doing anything calculated to or capable of Jeopardizing the interest of the Claimant/Applicant otherwise known as Plot No. **C4/015**, in cluster 4, River Park Estate, Lugbe West, Cadastral Zone **E30**, Abuja, FCT, measuring approximately **5,133.77** square meters, pending the determination of the substantive suit.

The Claimant supported the motion with an affidavit of 26 paragraph deposed to by the Claimant himself. From the affidavit in support, the Claimant stated that sometime in August, 2021 he took ownership and

possession of the subject matter having acquired same from one Engr. Thomas Omotosho, the original allottee.

The Claimant avers that the land is part of the 500 hectares allocated to Jonah Capital Nig. Ltd by virtue of Development Lease Agreement executed between the said Company and the Federal Capital Development Authority. That Jonah Capital Nig. Ltd issue letter of allocation to him and he has been in possession until toward the end of the year 2023. When he noticed the presence of 1st Defendant on the subject matter mounting her signage on the property which a letter was written to the Defendant and same was responded to by the Defendant alleging that it purchase the property from the Management office of River Park Estate and it described the Plot as Plot **5743**.

That both the Jonah Capital Nigeria Ltd and Engr. Thomas Omotosho confirmed to him that they did not sold the subject matter to the Defendants. The Claimant annexed the following documents to the motion to wit;

- (1) Power of Attorney donated by Engr. Thomas Omotosho to the Claimant.**
- (2) Letter of allocation of the subject matter**
- (3) Allocation Transfer Agreement between House for Africa Nig. Ltd and the Claimant**
- (4) Solicitor letter**
- (5) Picture photograph**
- (6) Petition to the Police**
- (7) Solicitor receipt**

A written address was filed wherein the issue *whether from the circumstances of this case, an application for interlocutory injunction will not be granted pending the hearing and determination of the substantive suit* was formulated for determination.

Learned Counsel argued the above issue citing case laws and statute in urging the Court to grant the application in the interest of justice. Reacting to the motion, the Defendants filed a counter affidavit of 10 paragraph deposed to by one Richman Markson, the Managing Director of the 1st Defendant.

It is the deposition of the Defendant that the Applicant clearly does not know the land he bought from House for Africa Nig. Ltd as the Defendants bought plot 5743 measuring **5153.66m²** from Paulo Homes Ltd in 2023 and all necessary documents were executed.

That the Defendants/Respondents received a letter from the Claimant's Solicitor in 2023 which same was responded to and that there was a meeting which it is was obvious that the Claimant does know his land.

A written address was filed wherein the issue *is the Applicant entitled to the reliefs sought* was formulated for determination?

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

I have carefully review the affidavit in support of the application for interlocutory injunction and the annexures therein on one hand, and the response of the Defendants/Respondent who is vehemently opposed to the grant of the said relief of interlocutory injunction on the other hand 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.

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, he took over the ownership of the subject matter in 2021 and that the said plot of land was part and parcel of all that expanse of land of about 500 hectares known and addressed as River Park which the equitable interest is vested in Jonah Capital Nigeria Ltd which the Company sold to Engr. Thomas Omotosho and same was sold to him.

The Claimant annexed document to show his interest in the subject matter. Exhibit M1 annexed by the Claimant is a **Power of Attorney** between the Claimant and Engr. Thomas Omotosho. **Exhibit M2** is letter of allocation from Engr. Thomas Omotosho to the Claimant, whereas **Exhibit M2** is **letter of allocation** from Jonah Capital Nigeria Ltd to the Claimant.

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. ***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 Defendant from doing an acts 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. ***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. ***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 commencement 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 both the affidavit in support of the motion on Notice and counter affidavit and on sound reasoning, I have come to a conclusion that the Claimant/Applicant 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, tampering with, entering into, harassing, disturbing, developing or doing anything calculated to or capable of jeopardizing the interest of the Claimant/Applicant otherwise known as plot No. **C4/015**, in cluster 4, River Park Estate, Lugbe, West, Cadastral Zone **E30**, Abuja, measuring approximately **5,133.77** square meter, pending the determination of the substantive suit.

SIGNED:
HON.JUDGE
04/06/2025

APPEARANCE:

O. S. Oweazim, Esq, for the Claimant/Applicant

O. S. Adebeye, Esq, for the Defendants/Respondents