

**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/1383/2024**

**MOTION NO: FCT/HC/M/3311/2025**

**DELIVERED: ON THE 24/03/2025**

**BETWEEN:**

**MOHAMMED BABAWO ADAMU.....CLAIMANT/RESPONDENT**

**AND**

- 1. CLAZI NIGERIA LIMITED**
  - 2. MS. NGOZI ABAKPORO**
  - 3. DIRECTOR, DEVELOPMENT CONTROL (AMMC).....DEFENDANT**
- }.....DEFENDANTS/APPLICANTS

***Appearance:***

***Joseph Olamide Elias, Esq., for the Claimant/Respondent***

***A.T. Kehinde, SAN, for the 1<sup>st</sup> and 2<sup>nd</sup> Defendant/Applicant with***

***C.I. Anigbogu, Esq.***

***M.S. Ugwu for the 3<sup>rd</sup> Defendant.***

**RULING**

This is a Ruling on a Motion on Notice, dated the 5<sup>th</sup> of March, 2025, brought pursuant to ORDER 30 RULES 1, and 3 of the FCT High Court (Civil Procedure) Rules, 2025, and under the inherent jurisdiction of this Honourable Court.

By this application, the 1<sup>st</sup> and 2<sup>nd</sup> Defendants/Applicants are praying this Honourable court for the following orders:

1. **AN ORDER** of interlocutory injunction restraining the Claimant/Respondent, his agents, servant, work men and any person acting on his behalf from further carrying out or continuing any work on Plot 1653, Cadastral Zone A09 with file Number KN60563 lying and situate at Guzape District, Abuja, which is the subject matter of this suit pending the determination of the substantive suit.
2. **AN ORDER** of Interlocutory Injunction restraining the Claimant/Respondent, his agents, servants, work men and any person howsoever designated, working or acting for the Claimant/Respondent from alienating Plot 1653, Cadastral Zone, A09, with file number KN60563 lying and situate at Guzape Abuja, FCT by way of sale, pledge, mortgage, land swap or whatsoever pending the determination of the substantive suit.
3. **AND FOR SUCH FURTHER ORDERS** as **this** Honourable Court may deem fit to make in the circumstances of this suit.

The motion is supported by an affidavit of 25 paragraphs and a Written Address of Counsel for the Defendants/Applicants.

At the hearing of the application, the learned senior counsel for the Defendants/Applicants Akinlolu Kehinde, SAN. relied on their affidavit in support of the motion and adopted the written address as their argument in support of the Application.

In the written address, the learned counsel for the Applicants formulated a sole issue for determination, to wit:

**“Whether having regards to the circumstances of this case, this Honourable court ought to exercise his discretion in granting the prayers sought by the Applicants in their motion paper.”**

Opening his arguments on the sole issue for determination, learned counsel submitted that the principles upon which an interlocutory injunction can be granted are as set out by the Court of Appeal in the case of **F.B.N PLC. V. GOVT. OF ONDO STATE (2012) 11NWLR (PT. 1312) 502 AT 519-520, PARAS F-A.**

He referred the Court to the case of **KOTOYE VS C.B.N (1998) NWLR (PART 98) Pg. 419.**

Thereafter, learned counsel argued the principles seriatim and succinctly in urging the court to grant the Application.

On their part, Claimant filed a counter affidavit of 31 paragraphs deposed to by one Aliyu Yusuf and a Written Address wherein learned counsel submitted a sole issue for determination, to wit: **“Whether the Claimant/Respondent made out a case for grant of the reliefs sought in the Application.”**

Learned counsel adopted the processes in urging the court to refuse the Application and dismiss same.

In response to the counter affidavit of the Claimant/Respondent, the Applicants filed a Reply on points of Law wherein with the aid of Statutes and cases made arguments in support of the grant of the Application.

I have given a careful and insightful consideration to all the issues as distilled by parties as arising for determination.

It is very instructive to note at this stage, that, the Court is only enjoined to determine whether or not, from the documents and averments contained in the affidavit in support of this Application, the Applicant indeed has a legal right worthy of any protection by this Court.

In determining the said right of the Applicants, I am also encouraged to avoid any overlap into the main issue as not to determine the substantive issue at this stage, thereby denying either of the parties the right of trial at this stage. See **NDIC VS S.B.N PLC (2003) NWLR (Pt. 801) page 311 at 423 paragraph H.**

See also the case of **LAWRENCE DAVID LTD VS ASUTON (1991) 1 ALL ER 385 at page 394 – 6.**

The practice of granting the Applicant's relief by way of interlocutory injunction arose to mitigate the risk of injustice to him during the period before the uncertainty could be resolved. See the case of **STALLION (NIG) LTD VS E.F.C.C. (2008) 7 NWLR (pt. 1087)461 at 473 paragraphs A – C. see also OGUNSOLA VS USMAN (2002) 14 NWLR (pt. 788)636.**

The position of law that an Applicant for interlocutory injunction must have an established legal right, for his application to succeed, cannot be over emphasized.

Of equal importance is the fact that interlocutory injunction is usually granted to protect the Applicant against injury, by violation of his right for which he could not be adequately compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the trial. See **ADAMU VS AG NASARAWA STATE (2007)6 NWLR (pt. 1031) 485 at 492 paragraph F-G.**

Furthermore, one determining factor for granting an Order of interlocutory injunction is to preserve the Res. It is indeed the province of the law that the Res should not be destroyed or annihilated before the judgment of Court. See **AKINKPELU VS ADEGBORE & ORS (2008) 4 – 5 SC (pt. 11) 75.**

I shall consider the evidence of the Applicant with the aim of ascertaining the Legal Right which he alleged to be tempered with. This is in view of the facts that, where there is no legal right known to law, the Applicant cannot be heard to complain.

For a clear understanding of the Applicants' case, I shall reproduce the averments in paragraphs 5 to 18 of the affidavit in support of the Application.

5. **That the Seller and I signed a Deed of Assignment and Power of Attorney to evidence the transaction. Copies of the said**

**Deed of Assignment and power of Attorney are hereby attached and marked as "Exhibit 1."**

- 6. Upon the payment of the purchase price, the seller handed over the original title documents of the land to the 1<sup>st</sup> and 2<sup>nd</sup> Defendants. Copies of the title documents are hereby attached and marked as "Exhibit 2."**
- 7. That the 1 Defendant paid ground rent for 2011 on the said Plot. Copy of the receipt of payment is herein attached and marked "Exhibit 3."**
- 8. That the 1st Defendant had been in peaceful possession of the said plot till the January, 2024 when it was discovered that somebody who we latter discovered was the Claimant had entered the land without our consent and started building house on the said land.**
- 9. That the 1<sup>st</sup> and 2<sup>nd</sup> Defendants/Applicants caused a complaint to be made to the Minister, Federal Capital Territory. Copy of the said letter is herein attached and marked as "Exhibit 4."**
- 10. That upon reporting the said matter, the 3<sup>rd</sup> Defendant and the Director of Lands, Abuja Geographic Information Systems (AGIS) arrested the Claimant/Respondent's work men and stopped them from continuing the development until the issue of title and ownership is sorted out. Photographs of the enforcement team of the 3<sup>rd</sup> Defendant enforcing a stop work order on the site is hereby attached and marked "Exhibit 5."**
- 11. That the Claimant/Respondent in response to the action of the 3<sup>rd</sup> Defendant initiated this action on the 26/2/2024 but served same on the Defendants.**

- 12. That after initiating the action, the Claimant/Respondent continued with his building works on the land despite submitting the disputes to this Court for adjudication and determination.**
- 13. That on the 5/11/2024 the matter came up for mention, the Claimant's Counsel informed the Court that he had served all the parties with the originating process. He then moved his motion for extension of time to regularize his reply to the 1<sup>st</sup> and 2<sup>nd</sup> Defendants' statement of defence and defence to their Counter claim. The Application was granted and the matter was adjourned to 3/12/2024 for hearing.**
- 14. On the 3/12/2024, the Claimant/Respondent was not in Court and was not represented. The Court adjourned the matter to the 30/1/2025 for definite hearing.**
- 15. On the 30/1/2024, the Claimant/Respondent sent a letter of adjournment citing death of his father and motor accident of his brother as reason he was not mentally ready for the trial. The Court again magnanimously granted him adjournment to 4/3/2025.**
- 16. While applying for all these adjournment, the Claimant/Respondent was carrying on with the development of the land.**
- 17. That on the 4/3/2025, the Claimant's Counsel informed the court that the documents he wanted to tender in support of his case were not ready and so requested for the last date to open his case and this was granted in the interest of justice.**

18. That after the proceedings of 4/3/2025, I visited the plot and was shocked to the bone marrow to discover that the Claimant/Respondent has nearly completed the building he was building and may soon sell the property if not restrained. The photographs of the nearly completed project are hereby attached and marked as "Exhibit 6."

In response, it is the evidence of the Claimant thus:

15. The claimant is the valid beneficiary owner of Plot 1653, Cadastral Zone A09 with file No: KN60663 at Guzape District Abuja having purchased for valued consideration from the original allottee and power of attorney was duly signed on 15th June, 2010 and duly registered with AGIS on 5th July, 2011 with the instrument of registration No: FC198 at page 198 No: 65PA (MISC) REGISTERED IN FEDERAL CAPITAL TERRITORY LAND REGISTRY OFFICE ABUJA). The said registered power of Attorney is hereby attached as K3. The claimant complied strictly to the land documentation processes before embarked on building after duly approved. The condition precedent of offer of statutory right of occupant and letter of acceptance are hereby attached as K4 and K5 respectively.
16. The fact remains that before Abuja metropolitan management Council approved any application for building plan, they must confirmed facts in paragraphs 14 and 15 from FCDA and AGIS and this was done before claimant's building approval condition and his building plan was approved and payment was made on 6th August, 2022. The building approval and the payment receipt is hereby attached as K6 and K7 respectively. The settlement for building plan also approved by AMMC on 3rd March, 2022 is hereby attached as K8.

17. At this juncture, it becomes important to restate that the claimant's valid legal binding work completed on the res was duly approved by the appropriate relevant authority and same has complied strictly with the approval.
18. The 1<sup>st</sup> and 2<sup>nd</sup> Defendants Application has no valid legal claim over the res in question as the Power of Attorney being provided was gross defected as the three pages Power of Attorney only contained the name of the Donor and it was not registered with FCDA and AGIS.
19. That the petition of the 1<sup>st</sup> and 2<sup>nd</sup> Defendants to the FCDA Police Post dated 11<sup>th</sup> December, 2023 is hereby attached as K9 and the sign post of the claimant's building plan which the applicants were fully aware since 2023 is hereby attached as K10.
20. The Police report in regards to the Applicant's petition is hereby Attached as K11.
21. It is pertinent to state herein that in FCDA Land instrument registry is Power of Attorney which gives the Donee the valid beneficial owner of land and this is exactly what the claimant has complied with.
22. Flowing from above, it is very clear and certain that nothing is urgent about the Applicant's application as same was fully aware of the completed building of the claimant's structure on the res since 2023.
23. That the interim order obtained upon concealment of material facts. Thus, the order obtained mala fide by the applicants with intention to frustrate and stuck the claimant work.

I have carefully perused the affidavit of parties and the argument canvassed by parties in their respective addresses. I have considered the factors that ought to be considered in the grant of an interlocutory injunction, like in the case in hand. It is my finding that the Applicants have established the existence of legal right to protect. The Claimant /Respondent who has proceeded with work even after filing this case which borders on rightful ownership of the subject property cannot be trusted to refrain from doing something more damaging. Alienating the property to a 3<sup>rd</sup> party can result in a loss that cannot be remedied by damages. Accordingly I'm minded to exercise my discretion in favour of granting the Application to protect the Res. Accordingly, Application is meritorious and hereby granted as prayed.

Signed  
Hon. Judge  
24/03/2025.