

**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/7211/2023  
MOTION NO: FCT/HC/NY/M/235/2024  
DELIVERED ON THE 28/05/2025**

**BETWEEN:**

SUNRISE ESTATE DEVELOPMENT LIMITED.....CLAIMANT/RESPONDENT

AND

- |  |   |                                    |
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| <ol style="list-style-type: none"><li>1. PRACO NIGERA LIMITED</li><li>2. ENGR. SUCCESS OBIOMA</li><li>3. THE FEDERAL CAPITAL DEVELOPMENT AUTHORITY</li><li>4. MINISTER, FEDERAL CAPITAL TERRITORY ABUJA</li><li>5. INSPECTOR GENERAL OF POLICE</li><li>6. PRACO INTERNATIONAL LIMITED</li><li>7. SUNRISE HILLS ESTATE CLUSTER C. LTD.....DEFENDANT/APPLICANT</li></ol> | } | <b>DEFENDANTS/<br/>RESPONDENTS</b> |
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**RULING**

This Ruling is at the instance of Sunrise Hills Cluster C. Ltd who approached this Hon. Court vide Motion No. **M/235/2024** dated and filed the 05/06/2024 praying the Court for the following:

- (1) *An Order joining Sunrise Hills Estate Cluster C Ltd as Co-Defendants in this suit.*
- (2) *An Order directing the Plaintiff/Respondent to consequentially amend his originating process in line with prayer 1 and serve same on the Applicant through the address of his Counsel within jurisdiction of this Hon. Court.*

The said motion was supported by grounds upon which the application is brought and an affidavit of 17 paragraphs deposed to by one Omale Simon Esq., a legal Practitioner in the Law Firm of the party seeking to be joined Counsel. The motion also has the following annexure, to wit;

- (1) **Proposed Statement of defence and counter claim**
- (2) **Applicant payment evidence**
- (3) **Application for grant of a Statutory Right of Occupancy**
- (4) **Offer of Statutory Right of Occupancy**

From the affidavit in support of the application, the Applicant alleged that neither the Claimant nor the 1<sup>st</sup>, 2<sup>nd</sup> and 5<sup>th</sup> as well as the 6<sup>th</sup> Defendants/Respondents on record have anything in common in relation to the disputed plot No. **580, E17** Kugbo District with file No. MISC **143361** the subject matter of litigation.

That the Applicant before the Court is seeking to be joined in the instant suit before the Court as a proper party who ought to have been sued by the Claimant/Respondent as the Applicant is a necessary party whose presence before the Court is crucial to the complete and effectual resolution of the issues in controversy.

The Applicant in line with the law and procedure, filed a written address wherein, a sole issue was raised for determination to wit; “*Whether it is in the interest of justice to grant this application having regard to the facts and circumstances of this case.*”

Learned Counsel argued that order 13 Rule 18 (3) of the extant Rules of this court give this Court the right to join parties whose presence before the Court is necessary to effectually and completely adjudicate upon and settle questions involved in the proceeding.

Learned Counsel submitted that all those who claim some share or interest in the subject matter of the suit, or who may be affected by the result as well as those who the Court may join even *suomotu* are necessary parties. Court was therefore urged to grant the application in the interest of justice.

Reacting to the application, the Claimant filed a counter affidavit of 10 paragraphs deposed to by one Dominic Atsen, a Legal Assistant in the law firm of the Claimant/Respondent.

It is the counter affidavit evidence of the Claimant that the 4<sup>th</sup> Defendant executed a Development Lease Agreement with the Claimant for three years over the subject matter on the 17/05/2003. And that subsequently, the 2003 Development Lease Agreement was revoked and the 3<sup>rd</sup> Defendant granted the Claimant a twenty-year lease over the land now described in the 2007 Development Lease Agreement as all that piece of land and premises at Phase 1 District, Kugbo, along Abuja/Nyanya Road, Abuja, FCT measuring **382.58** hectares with file number MISC **18944** and new file number MISC **80188**.

That by letter dated 23/11/2008 the 3<sup>rd</sup> Defendant allocated additional 16.15 hectares to the Claimant which increased the total area of the land to approximately **388.92** hectares.

On 13/06/2013 following the excision of 28 hectares of land from plot 2, a letter of grant was issued to Claimant in respect of Plot 5, Cadastral Zone E12 Kugbo District and its area stated to be **3606853.26m<sup>2</sup>** with file number MISC **80188**.

The Claimant stated further that the Applicant has not exhibited any documents to evidence any rights or interest in the disputed plots. And therefore, urged that the application be refused.

The Claimant annexed the following documents to the counter affidavit to wit;

- (1) **Development Lease Agreement**
- (2) **Letter of Accelerated Development Programme within the FCT**
- (3) **Letter of intent**

The Claimant/Respondent filed a written address wherein, the issues “*whether the Applicant has satisfied the necessary conditions to be joined as a Defendant in this suit*” was formulated for determination.

Learned Counsel submitted that an application by a third party for joinder can only be granted if the Applicant satisfies the Court that his presence is necessary for the effectual adjudication of the matter, and that the Plaintiffs claims against the existing defendants also affects him and his interest is the same as or identical with that of the existing Defendant. **CARRENA & ORS. VS. AKINLASE & ORS. (2008) LPELR 833 (SC).**

Counsel urged the Court to dismiss this application in the interest of justice. The party seeking to be joined filed a further affidavit of 6 paragraphs in response to the counter affidavit of the Claimant/Respondent.

It is the further deposition of the Applicant that there is nothing on the face of the Exhibit ‘A’ to show that Applicant plot **580** and **581** lying and situate at Kugbo District, Abuja was carved out from the 22 pages of Exhibit ‘A’. and it does not lie in the mouth of the Claimant to trace the interest of the Applicant seeking to be joined as co-defendant. That it will be in the interest of justice to grant this application.

On the part of Court, I have gone through the application of the party seeking to be joined as Defendant in this case and the counter affidavit

of the Claimant who is opposed to the joinder of the Applicant as a party in this case.

It is instructive to state from the onset that, joinder of parties, whether as a Plaintiff or defendants, is subject to two conditions, namely, (1) The right to relief must in each case be in respect of or arise out of the same transaction or series of transactions (2) There must be some common question of law or facts. **THE REGISTERED TRUSTEES OF NATIONAL ASSOCIATION OF COMMUNITY HEALTH PRACTITIONERS OF NIGERIA & ORS. VS. MEDICAL & HEALTH WORKERS UNION OF NIGERIA & ORS. (2008) 1 SC (PT. 111) 1.**

Similarly, a Court of law shall not delve into the merit of case in the course of determining an application for joinder. The Court shall only confine itself to whether there is a prima facie case for joinder. **IGE & ORS. VS. FAUNDIE & ORS (1994) NWLR (PT. 354).**

Having regard to the circumstances of this suit, it appears to me that the question to be determined is whether the party sought to be joined is a person whose presence before the Court as Defendant will be necessary in order to enable the Court effectually and completely adjudicate upon and settle all the question involved in the cause or matter.

The first point to make is that joinder of parties in an action as Defendant is clearly permissible under the provision of Order 13 (4) of the Rules of this Hon. Court, 2025.

The governing principle which is a cardinal rule for the administration of justice is that determination of litigation must be in the public interest. Hence where the issues between the parties involve third parties whose interest are affected and the non-joining of the party will result in further

litigation, such parties are necessary parties. Therefore, those whose presence will be necessary for the effectual and complete adjudication of the matter before the Court, and their presence as parties is important, the Court will with or without an application, join them as parties.

The pertinent question here is, whether Sunrise Hills Estate Cluster C Ltd is a necessary party in this suit, so much that, their absence will affect the adjudication of the matter before this Court?

It is the averment of the Applicant that it is the central personality around whom the issues founding the instant suit revolves and ought to be the proper Defendant to this action. That the Applicant is not aware of any form of allocation of the afore-named plots of land by the 4<sup>th</sup> Defendant/Respondent to either the Claimant, nor any other Defendants in relation to the subject matter of the instant suit before the Court.

The Applicant avers further that it is a proper person who ought to have been sued by the Claimant/Respondent and it is otherwise ready and willing to defend the suit.

The Applicant annexed application for grant of Statutory Right of Occupancy, Offer of Statutory Right of Occupancy in respect of the property as Exhibits whereas in opposition, the Claimant/Respondent stated that the party sought to be joined is not a necessary party and have not shown any interest whatsoever in being join as a defendant in the suit. The Claimant further avers that the Applicant Exhibits on its face appear to be a copy of an acknowledgment by the Department of Land Administration, Federal Capital Territory Administration of receipt of the Applicant's application for grant of Statutory Right of Occupancy. And that the Claimant interest in the disputed plots **580** and **581** predates the existence of the Applicant's interest.

Indeed, the only reason which makes it necessary to make a person a party to an action, is that he should be bound by the result of the action and the questions to be settled. I shall resist any invitation or urge to delve into the substantive issues or merit of the case at the preliminary stage of the case. **APC & ORS. VS. PDP & ORS. (2022) LPELR 58317 (CA).**

It is my view here, that toeing the path of the Claimant/Respondent will simply mean that, the substantive case will be determine at this interlocutory stage. The interest on the subject matter shown by Applicant cannot be ignored or inquired further at this stage. I shall therefore, exercise my discretion to join the Applicant. Accordingly, Motion No. **M/253/2024** is hereby granted.

I, therefore make Order joining Sunrise Hills Estate Cluster C Ltd as Co-Defendants in this suit.

The Court further order the Claimant/Respondent to consequentially amend its originating processes in line with the above Order and serve same on the parties including Applicant forthwith.

**SIGNED:  
HON. JUDGE  
28/05/2025.**

**Appearance:**

*J. M. Mathew Esq with N.O. Ahmed Esq, for the 2<sup>nd</sup> & 6<sup>th</sup> Defendants/Applicants  
A. Y. Jibrin, Esq, for party seeking to be joined.*