

**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/1278/2024

MOTION NO: FCT/HC/M/9269/2024

DELIVERED ON THE

BETWEEN:

1. EMANKHU ISIBOR ADDEH }
2. LOWE LINTAS LIMITED }CLAIMANTS/RESPONDENTS

AND

1. MINISTER OF THE FEDERAL CAPITAL TERRITORY }
2. FEDERAL CAPITAL DEVELOPMENT AUTHORITY } ..DEFENDANTS/APPLICANTS

RULING

By Motion on Notice, dated on 10/06/2024 and file on the 11/06/2024 of February 2025 the Defendant/Applicant prays for the following reliefs:

1. An Order of this Honourable Court dismissing/striking out this suit its entirety, as same is incompetent ab initio and as such this Honourable Court lacks the requisite jurisdiction and competence to entertain and determine same.
2. And for such other Order(s) that this Honourable Court may deem fit to make in the circumstances of this case.

The grounds upon which the Application is brought are:

1. The Claimants jointly and severally lack in their entirety the locus standi to institute this instant action.
2. The instant suit as presently constituted has failed to disclose any reasonable cause of action against the Defendants as the suit is merely academic, anticipatory and/or speculative.
3. The Originating Summons under Order 2 Rule 3 of the High Court of the Federal Capital Civil Procedure Rules does not include actions designed for declaration of title and ancillary rights.
4. In the unlikely event that this Honourable Court finds that the Claimant's suit discloses reasonable cause of action, Claimants' suit can only be properly determine by way of Writ of Summons.
5. It is in the interest of justice and for the preservation of the sanctity of the judicial process of this Honourable Court that the Claimants' suit is dismissed.

The Defendants/Applicants also filed a 19 paragraph affidavit in support of the Application deposed to by one Ibrahim B. Azeez, a staff of the FCDA (2nd Defendant).

It is averred that most of the depositions made by the Claimants/Respondents are not true and as such denied. Looking at the Exhibit 1 attached, it is merely an offer letter to participate in the accelerated development programmed which requires acceptance of the offer in writing within 2 weeks from the date of the letter however, there is no record of this. It is further averred that the

Defendants/Applicants did not grant a statutory right of occupancy in respect of the said plot to the 2nd Claimant and as such 2nd Claimant/Respondent lacks the capacity to assign or transfer same plot to the 1st Claimant.

It is also averred that the transfer of title made by the 2nd Claimant to the 1st Claimant is incompetent because of the failure to establish a valid title to the said plot.

Conclusively, it is averred and belied by the Defendants/Applicants that the suit is anticipatory and speculative and having that the Claimants failed to establish a valid legal title to the said plot, lacks locus standi to institute this action and it will be in the interest of justice to dismiss this suit.

The Defendants/Applicants has also filed a written address in support of the Preliminary Objection where 2 issues were formulated for determination to wit:

- a. Whether upon the failure of the Claimants to establish valid legal title over plot 1066, Cadastral Zone A00 of Central Business District Abuja, the Claimants have requisite locus standing to involve the Jurisdiction of this Honourable Court to entertain this instant suit?
- b. Whether it is Appropriate to bring this volatile and contentious proceedings in relation to disputes arising from land in the FCT

by way of Originating Summons and if answered in the negative, whether the suit is not incompetent and a nullity?

The Claimants/Respondents filed a reply to the Preliminary Objection and Learned Counsel submitted that the Objection predicated on lack of locus standi or no reasonable cause of action or lack of legal right are unfounded incompetent and should be dismissed as the 1st Claimant has locus pursuant to his equitable interest in the land.

On the second issue, it is submitted that the Court is required to interpret the validity of the notice of revocation on which the Defendants/Applicants have the owners to revoke the 2nd Claimants statutory right of occupancy on ground of breach of terms of the special contract without prior notice to the 2nd Claimants. The case of APC V. SHERIFF & Ors 2023 was cited whose the SC decided the class of matters that can be tried in a suit commenced by Originating Summons.

Having this established, the Claimant urged the Court to dismiss the Preliminary Objection with Cost.

The Defendants/Applicants also filed a reply on point of law to Claimants/Respondents reply it is averred that the Claimants has failed to establish the prima facie title relying on the case of Idun.....vs. Okumagba 1976, it behove on the Claimant to tenders a Certificate of Occupancy or any this title document which in itself a not conclusive proof of title or right of Occupancy over a parcel of land.

Having this the law is well settled as the facts admitted need no further ev.....proof as seen in Megator Vs. UBA 2005.

The Defendants/Applicants conclusively, urges the court to strike out/dismiss this suit in its entirety as it is incompetent, that this Hon. Court lacks the requisite jurisdiction and competence to entrain and determine same.

I have carefully, considered the Application made by the Defendants and on the one hand and the arguments submitted by the Claimants on the other hand, it is trite law that the Jurisdiction of the Court. Is determined it is the nature of the claim that determined the jurisdiction of a Court see Dickson Ogunscinde virya farms Ltd Vs. Society general Bank Ltd & Ors (2018).

The subject of the matters in this suit is ownership of the property situation at plot 1066, Cadastral Zone A00, Central Business District, Abuja FCT. Therefore the subject matter of the claim in this suit is within the Jurisdiction of the Court and having not found any extrinsic factor affecting the Jurisdiction of this Court, I hold that the Court is competent to exercise its Jurisdiction and adjudicate on the suit. Therefore the Preliminary Objection fails and is accordingly dismissed.