

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA
BEFORE HIS LORDSHIP, HON. JUSTICE A.A.I BANJOKO – JUDGE**

SUIT NO: FCT/HC/CV/3139/19

BETWEEN:

EJIKEME CHIJKOKE IFEACHO.....APPLICANT

AND

ENL CONSORTIUM LTD.....RESPONDENT

**NNAMDI EKWEM ESQ WITH M.C NWOYE AND M.C. EZIE FOR THE
APPLICANT**

OLUBIMPE OJO WITH C.A UKAFORO FOR THE RESPONDENT

RULING

By way of a Motion on Notice dated 4th of October, 2019 filed on the 7th of October 2019, the Applicant is praying the Court for the following:-

1. An Order of Interlocutory Injunction, restraining the Defendant whether by itself, its Agents, Servants or Privies, howsoever described or by any other Person acting on its Authority, Instruction and Direction from Selling, Allocating, Occupying or Dealing with the (1) Unit four (4) Bedroom Terrace Duplex, House 12, DClose at Paradise Hills Estate, Asokoro Extension, Abuja or carrying on any development activities on any part thereof which will negatively affect the interest of the Claimant pending and determination of the Substantive Suit.
2. And for such other order or further orders as this Honourable Court may deem fit to make in the circumstances.

The Application is supported by a Fourteen (14) Paragraph Affidavit deposed to by one MichealEzie, a Legal Practioner at the Counsel to the Applicant. Attached to the Application are Eleven (11) Annexure as well as a Written Address of Counsel which is dated 4th of October, 2019.

The Motion on Notice was duly served with evidence of service on the Record of the Court.

The Respondent filed a Counter Affidavit containing Twenty Three (23) Paragraphs sworn to by one Emmanuel Eta, a Sales Consultant to the Respondent, filed on the 18th of November 2019 and attached are Three Exhibits marked as 'A- C'. In support is a Written Address dated 13th November 2019.

Responding further, the Applicant filed a Ten (10) Paragraph Further Affidavit deposed to by the Applicant himself also filed alongside, is the Reply on Points of Law dated and filed the 26th of November 2019.

On the 3rd of December 2019, Learned Counsel argued their Applications and the Court adjourned for Ruling.

The Applicant raised a Sole Issue for determination '***whether in the circumstances of this Case, the Applicant is entitled to the grant of Interlocutory Injunction pending the determination of the Substantive Suit***'.

The Respondent also adopted the Applicant's Issue.
All Arguments of Counsel are on record.

Now, After a Careful consideration of Submission by Learned Counsel, the Issue for determination is '***whether it is in the Interest of Justice to grant the Prayers in the Motion***'.

The Principle guiding the grant or refusal of this Application are trite and the Main Objective is to Protect the Res, that is the subject matter in dispute from being destroyed pending the determination of the suit. Reference is made to the Cases of **ALON VS. DANRILL NIG LTD (1997) NWLR (PART 517) @ PARAGRAPHS E - F; IDEOZU VS. OCHOA (2006) 4 NWLR (PART 970) PAGE 870.**

In exercising this discretion to grant or refuse an Interlocutory Injunction, the Court is minded to do so judicially and judiciously all in the overriding interest of justice. See also the Case of **UBA VS. GMBH (1989) NWLR PAGE 374.**

It is very important for an Applicant seeking reliefs to adduce sufficient and precise factual affidavit evidence to justify his entitlement to the relief sought. It is only when this is done that it becomes necessary to consider the balance of convenience. The averments as well as evidence in the annexures are vital to determine an existing Legal Right to be protected and which is not a completed act.

In the Case of **ENUNWA V OBIANUKAR (2005) NWLR (PT935) 100 @120**, it was held that the Courts will grant an injunction where more justice will be done in granting the Application than refusing it.

By **Paragraphs 6, 7 and 8** of the Applicant's Affidavit, he stated that if the Application is not granted, the Respondent will proceed with the Sale of the Property, allocate same to someone or further develop the Subject Matter, which will cause grievous hardship and Unquantifiable Damages to the Applicant.

The Respondent did not deny those facts and the Law is trite that facts not denied are deemed true.

The Court will therefore in the Interest of Justice, grant an Order of Interlocutory Injunction restraining the Respondent from Selling, Developing or having any dealing with the Property pending the hearing and determination of the Substantive Action.

The Court further Orders the Applicant himself to maintain the Status Quo on the Land pending the hearing and determination of the Substantive Suit.

The Court orders Accelerated Hearing of this Suit.

HON. JUSTICE A.A.I. BANJOKO

JUDGE