

**IN THE HIGH COURT OF JUSTICE OF THE
FEDERAL CAPITAL TERRITORY ABUJA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT JABI - ABUJA**

BEFORE: HON. JUSTICE O. C. AGBAZA

COURT CLERKS: UKONU KALU & GODSPower EBAHOR

COURT NO: 11

SUIT NO: FCT/HC/CV/322/19

BETWEEN:

COVENANT FLAVOUR LTD.....CLAIMANT

VS

- 1. MINISTER OF FEDERAL CAPITAL TERRITORY**
- 2. FEDERAL CAPITAL DEVELOPMENT AUTHORITY**
- 3. UMMATUL HAYITIL ISLAM SOCIETY.....DEFENDANTS**

RULING

By a Notice of Preliminary Objection dated 9/4/19 and filed same day, 1st/2nd Defendants/Applicants challenges the jurisdiction of this court to entertain and determine this suit. The grounds of objection are;

1. The Suit discloses no reasonable cause of action.
2. The Suit is Frivolous and abuse of court process.

In support of the Preliminary Objection is a Written Address, adopts the said Address, in urging the court to dismiss the case of the Claimant.

In reaction, Claimant/Respondent filed a Written Address on points of law dated 24/4/19 but filed on 25/4/19, and adopts the said address.

The 3rd Defendant did not file any process to the application but aligns himself with the position of 1st/2nd Defendants/Applicants.

In the Written Address of Applicants Yakubu Abubakar of Counsel raised two (2) issues for determination;

1. Whether this suit discloses any reasonable cause of action, and
2. Whether this suit is not frivolous and an abuse of court process.

And submits, on issue 1, that this suit discloses no reasonable cause of action, refer the court to Ogbimi Vs Ololo (1993) 7 NWLR PT. 304 128 @ 136, Rinco Const. Vs Veepee Ind. Ltd (2005) 9 NWLR PT. 929 85 @ 96 on the definition of the term "Reasonable Cause of Action" and submits that Plaintiff's action is bound to fail because from the summons and accompanying documents, the action is predicated on interest in land and courts have held that in the FCT, no one can acquire land without a grant from the Minister in charge of FCT.

On issue 2, submits by Plaintiff's Originating Process it has not been shown any document by which 1st Defendant allocated or approved allocation of the subject matter to it. That its frivolous and vexatious for Plaintiff's to come to court over an issue she knows or ought to know it's not qualified for.

In the Written Address of Claimant/Respondent settled by Victor Izibili, two (2) issues was formulated for determination;

1. Whether from the totality of the Writ of Summons, Statement of Claim and accompanying documents, the Claimant/Respondent

has not justifiably established a reasonable cause of action that will required the audience of this court.

2. Whether from a careful perusal of the Claimant/Respondent's cause of action, this suit can legally and conveniently be regarded as frivolous, vexatious and, an abuse of judicial process, thereby denying the jurisdiction of the court.

On issue 1, submit Claimant/Respondent's suit discloses a compelling cause of action which has arisen from direct and deliberately wrongful act of 3rd Defendant/Respondent in conjunction with 1st/2nd Defendants/Applicants against Claimant/Respondent's valid and good right and interest over the Res, refer to Esuroye Vs Bosere (2017) 2 WRN, 25 (SC), Onuekwisu Vs RTCMZC (2011) 6 NWLR PT. 1243, 359, Owuru Vs Adigwu (2017) 47 WRN, 1 (SC). Submits that Abuja Metropolitan Management Agency now Abuja Metropolitan Management Council is administrative body exercising powers of administration and management of the FCT under the auspices of 1st Defendant/Applicant and its correspondence are either attested to by officials empowered by law to do so. That Claimant/Respondent's interest is not an acquisition of land grant, rather it's a sublease holding interest lawfully granted to it by Abuja Metropolitan Management Council now Abuja Metropolitan Management Council through Parks and Recreation Department as agents of 1st/2nd Defendants/Applicants. Submits it is same Abuja Metropolitan Management Agency now Abuja Metropolitan Management Council and Parks and Recreation dept that granted the sublease hold to Claimant/Respondent also granted a lease concession to

3rd Defendant/Respondent over same Res during the pendency and subsistence of Claimant/Respondent's interest/rights.

On issue 2, submits that the totality of the Exhibits furnished in this suit in support of Claimant/Respondent's Claim cannot be said to be non-existent, wished away, frivolous and vexatious and abuse of judicial process and therefore the court lacks jurisdiction. That if anything, the suit is the very opposite of 1st/2nd Defendants/Applicants empty submission. That the action is firmly laid on a grievance, reasonable and judicial use of the court process and most of all deserving of the jurisdiction of this court. Refer to Saraki Vs Kotoye (2001) 8 WRN, 7 on the Apex Court position of what amount to abuse of court process.

Having considered the submission of both Counsel and the judicial authorities cited, I shall adopt the issue 1 of the Applicants in their Written Address as sole issue for determination and that is;

“Whether this suit disclose any reasonable cause of action”

A reasonable cause of action means cause of action with some chances of success. And in determining whether a suit disclose reasonable cause of action, it is Statement of Claim that is to be considered. See the case of Accord Party Vs Governor Kwara State (2011) FWLR PT. 555 221 @ 226. See also Transocean S.S (Nig) Ltd Vs Omeline (2018) All FWLR PT. 927 89 @ 93 (SC).

In this instant, the Applicants contends that this suit of Claimant/Respondents discloses no reasonable cause of action and bound to fail because it is anchored on interest in land and that no one acquires

land in the FCT without a grant from the Minister, FCT. Claimant/Respondent on the other hand argued the suit discloses compelling cause of action which arose from the act of 3rd Defendant/Respondent in conjunction with 1st/2nd Defendant/Applicant against her valid and subsisting right over the subject matter of the suit.

As earlier stated, it is the Statement of Claim the court looks at in the determination of whether or not a Suit discloses reasonable cause of action. See *Transocean S.S (Nig) Ltd Vs Omeline (Supra)* @ Pg. 93 (SC). I have perused the Statement of Claim of Claimant/Respondent in the instant suit and finds that the suit of Claimant/Respondent discloses a reasonable cause of action against 1st/2nd Defendant/Applicant and the 3rd Defendant/Applicant. The Claimant/Respondent in the said suit is not contending title to the Res, subject matter of the suit, rather she alleges a breach of a sub-lease holding interest granted her by the Abuja Metropolitan Management Council through Parks and Recreation Department, agents of 1st/2nd Defendants/Applicants in conjunction with 3rd Defendant/Applicant which sub-lease she claim is still valid and subsisting.

It is therefore the finding of court that this suit of Claimant/Respondent discloses a reasonable cause of action and is not an abuse of court process as canvassed by the Applicants. This Preliminary Objection of the Applicants is misconceived, baseless, time wasting and unmeritorious. It is hereby dismissed.

HON. JUSTICE O. C. AGBAZA

Presiding Judge

13/2/2020

APPEARANCE:

Y. ABUBAKA WITH N.A HASSAN – FOR 1ST/2ND DEFENDANT/APPLICANT

IBRAHIM IDAIYE WITH VICTOR UBAKA – FOR THE CLAIMANT/
RESPONDENT

JIDDA ABUBAKAR – FOR 3RD DEFENDANT/RESPONDENT