

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE NYANYA JUDICIAL DIVISION
HOLDEN AT COURT 8, NYANYA ON THE 30TH DAY OF APRIL,
2020
BEFORE HIS LORDSHIP: HON. JUSTICE U.P. KEKEMEKE
SUIT NO: FCT/HC/CV2667/18

BETWEEN:

ABDULLAHI MUAZU GARBA

(Suing by his lawful Attorney: AKO OTOBO).....PLAINTIFF

AND

- 1. HON. MINISTER OF THE FEDERAL CAPITAL TERRITORY**
- 2. FEDERAL CAPITAL DEVELOPMENT
AUTHORITY**
- 3. WADA MOHAMMED ALIYU**

}DEFENDANTS

RULING

The 2nd Defendant's Notice of Objection dated 5/04/19 is
for:

An Order of Court dismissing this Suit for want of
jurisdiction.

The grounds for the application are:

1. That the subject matter of the Suit has been relitigated and a final Judgment delivered which was not appealed against.
2. That the present action is an abuse of Court process.
3. Claimant lacks locus standi to institute this action.

Learned Counsel rely on his 20 paragraph Affidavit filed in support of the Motion.

The deponent Shaibu Yahaya of Counsel deposed that the 3rd Defendant in the present Suit were also the 1st and 2nd Defendant in the earlier Suit.

That all efforts to serve the 3rd Defendant in the previous Suit was not successful because his identity was not known.

The Writ of Summons and Statement of Claim is Exhibit A.

The 3rd Defendant who was an unknown person was served via substituted means on 29/01/13. The Order of Court is Exhibit B.

That all other parties were represented in Court.

That final Judgment was delivered on 11/03/14.

The Judgment is Exhibit C. There was no appeal to the Judgment.

The subject matter in Suit CV/1430/13 is a plot of land measuring about 80.17 Hectares located along River Karadna North of Sapreye Village close to Kubwa Resettlement Town covered by Certificate of Occupancy No. FCT/ABU/MISC/11860 (KN10685) granted to *WADA*

MOHAMMED ALIYU (3rd Defendant) by the Hon. Minister of the FCT.

That all parties in Suit No. CV/1430/13 have already complied with the judgment.

The letter of Compliance is Exhibit D.

That the Claimant's claim is part of the entire plot of land measuring 80.17 Hectares which has been litigated upon.

The 1st and 2nd Defendant went ahead and partitioned the land into several plots and remained same 801 thereby reallocating same to several people or allottees.

The Claimant's title deed is Exhibit F. The Claimant relied on his Counter Affidavit.

He deposed that the grounds upon which the Applicant predicated his reliefs are unconnected with the subject matter of this Suit.

That the subject matter relates to a land to land located at an entirely different place from that which is said to have been relitigated upon and final judgment delivered. He denies paragraphs 4-13 of the 3rd Defendant's Affidavit.

That the Right of Occupancy with File No. KD 20845 over Plots 5 and 9 measuring 1257.54 sqm or Plot 896 measuring 1257.54sqm is not and has never been part of the entire plot of land measuring about 80:17 hectares which was litigated upon in Suit CV/1430/13.

That the Claimant's plot of land is not situated with the same location which the purported 80.17 hectares of land is said to belong to the 3rd Defendant. That his title was

wrongly revoked by 1st and 2nd Defendants. That the facts, issues and subject matter in his Suit are not the same.

The Court visited the locus in quo. It is a vast area of land.

The 1st and 2nd Defendants used his instruments of survey which show that Claimant's land is within the 3rd Defendant's land.

The Court observed a vast area of land of about 80.17 hectares purportedly issued as farm land to the 3rd Defendant. There are several houses springing up in the area aforesaid. There are no crops or evidence of farming in the said land.

The Claimant's deposition is that he was not a party in the earlier Suit neither was he served with any process.

Locus standi or standing to sue is the legal right of a party to an action to be heard in litigation before a Court.

A person is said to have locus standi if he has shown sufficient interest in the action and that his civil rights and obligations have been or are in danger of being infringed.

See *OLAGUNJU VS. YAHAYA (1998) 3 NWLR (PT.542) 501.*

I have carefully looked at the Writ of Summons and Statement of Claim.

In my humble view, the Claimant has shown sufficient interest and that his civil rights are being trampled upon.

In the circumstance, I hold that the Claimant has locus standi.

On whether the Claimant has abused the process of Court, it is true the concept of abuse of Court process is

imprecise. It involves circumstances and situations of infinite varieties and conditions.

Its common feature is the improper use of the judicial process by a party in litigation to interfere with the due administration of justice.

The Claimant was not a party in the other proceeding.

He had no opportunity of ventilating or defending the subject matter allotted to him by the 1st and 2nd Defendants.

In my humble view, the Suit is not an abuse of Court process and I so hold.

In totality, the 3rd Defendant's Preliminary Objection lacks merit and it is accordingly dismissed.

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HON. JUSTICE U.P. KEKEMEKE

(HON. JUDGE)

30/04/20