

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE NYANYA JUDICIAL DIVISION
HOLDEN AT COURT 8 NYANYA ON THE 22ND DAY OF JUNE,2020.

BEFORE HIS LORDSHIP: HON. JUSTICE U.P. KEKEMEKE
SUIT NO: FCT/HC/CV/1303/18
MOTION NO.FCT/HC/M/4229/18

COURT CLERK: JOSEPH BALAMI ISHAKU & ORS.

BETWEEN:

1. MR. MICHAEL AGADA }
2. MRS. SUSAN AGADA }.....CLAIMANTS

AND

1. THE COMMISSIONER OF POLICE FCT COMMAND }
2. THE DPO APO POLICE STATION ABUJA }...RESPONDENTS
3. DR. CHARLES AMECHI }

RULING

The Claimants' application dated 22/03/18 and filed the same date is for:

1. An order of Interlocutory Injunction restraining the Defendants/Respondent whether acting by themselves or through their agents, servants, privies or otherwise howsoever from trespassing or in any other way depriving or interfering with the Claimants/Applicants' possession, use and occupation of Plot TD6 at Modem Sine Ltd. Housing Estate located at Plot 94 Wumba District,

Cadastral Zone C10 Wumba pending the determination of this suit.

2. And for such Order or Further Orders as the Court may deem fit to make in the circumstance.

The application is supported by a 33 paragraph Affidavit.

Learned Counsel rely on the said Affidavit.

He deposes that he is married to the 2nd Claimant.

That they were jointly allocated Plot No. TD6 at Modem Sine Ltd Housing Estate Located at Plot 94 Wumba District, Cadastral Zone C10 Abuja.

They were desirous of acquiring a residential property within the city of Abuja.

They met Engr. Collins Igbinosa who had been offered a provisional allocation for a 4 bedroom Terrace Duplex housing unit on Abraham Covenant Global Resources Ltd.

He was willing to transfer to them his interest along with some foundational work already done.

A copy of the Provisional Offer of allocation of the said Engr Igbinosa is Exhibit P1.

Upon due diligence and confirmation, they entered into an agreement for the transfer of his interest over the land for a consideration of N4.5 Million which was paid in full.

An Irrevocable Power of Attorney was issued in his favour. The documents of title are Exhibits P2, P3 and P4.

They also paid N500,000 and N225,000 to one Chijioke Ugoagwu as infrastructural levy and agency fees.

The receipts are Exhibits P5 and P6.

The estate developers issued a Provisional Offer of Allocation to Claimants dated 5/11/12.

However, after they took possession of the Plot and proceeded with development, there was a disagreement between Estate Developers and Owners of the Estate land whereupon all allottees were asked to stop work on the Estate land.

Their Plot of land was renumbered TD6 and not TD7.

The disagreement was later settled.

The Residents Association later took over the development of the Estate. They paid their levy and was permitted to continue work on their Plot. When it

became obvious that the Residents Association would not be able to put funds together to pay off the land owners, Modem Sine Ltd, the land owners decided to take over the Estate.

That the land owners requested all residents who had met all obligations including the full purchase price for their Plots and development levy to apply and upon proof of payment, substantive allocation was issued entitling the allottees to continue development of their plots.

They applied and upon confirmation of the fulfillment of all requirements including payments, the land owners allocated Plot TD6 which includes the partial developments already executed.

The allocation letter is Exhibit P12. They mobilized back to Site to continue development.

On 15/03/18, a man came upon the land with much threat and ordered the workers to immediately stop work at the pain of being arrested by the Police. Their workers lost several bags of cement which were

already mixed for use as well as other construction materials.

The man later identified as the 3rd Respondent left no forwarding address but said Claimant should report to the DPO, Apo.

The workers returned to work the same day but at about noon the same day, 1st Claimant received a call from the Police who warned them to desist from further work. The workers slowed down and could not make progress.

That having fulfilled all the requirements of the land owners, they are entitled to peaceable and quiet enjoyment of Plot TD6 at Modem Sine Ltd. Housing Estate located at Plot 94 Wumba District.

That they are aggrieved by the Defendants' unlawful intrusion and series of threats.

That except the Court intervenes, the Claimants stand the risk of losing serious time and money.

The Defendants/Respondents were served with the Originating Processes.

They were equally served with the Motion on Notice.

The 3rd Respondent appeared through a Counsel but failed to file a Counter Affidavit.

The 1st and 2nd Respondents also failed to respond to the application.

Before an Applicant for Interlocutory Injunction can succeed, he must establish the following:

1. That he has a legal right.
2. That the balance of convenience is on his side.
3. Damages cannot be an adequate compensation for his damage or injury if he succeeds at the end of the day.
4. That his conduct is not reprehensible.
5. That the injunction is necessary to preserve the res.

See ***KOTOYE VS. CBN (1989) 1 NWLR (PT.98) 419 SC.***

OKOMO VS. UMOETUK (2004) 10 NWLR (PT.882) 526.

COBHAN VS. DUKE.

I have carefully gone through the only Affidavit filed by the Claimants/Applicants particularly paragraphs 26 – 33.

In paragraphs 1 – 25 the Applicants deposed they have a legal right.

In paragraphs 26-28, the Applicants have shown that the balance of convenience is in their favour.

In paragraph 29, Applicant deposed that damages cannot be adequate compensation.

In paragraph 31, Applicants undertook to pay damages if the grant of the application is found to be frivolous.

In my humble view, the Applicants have satisfied the requirement of the law and are therefore entitled to the reliefs sought.

Order is therefore granted as prayed.

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HON. JUSTICE U.P. KEKEMEKE

HON. JUDGE.

22/06/2020

