

**IN THE HIGH COURT OF JUSTICE**  
**OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT KUBWA, ABUJA**  
**ON THE 18<sup>TH</sup> DAY OF MAY, 2020**  
**BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA**  
**COURT 25.**

**SUIT NO.: FCT/HC/CV/2823/18**

**BETWEEN:**

**PA.LIN.HO GLOBAL SERVICES LIMITED } ----- PLAINTIFF**

**AND**

**1. BENTELL PROPERTIES LIMITED }  
2. CHIEF BENARD NWORA } -----DEFENDANTS/APPLICANTS  
3. FIRST GENERATION MORTGAGE } ----- DEFENDANT/RESPONDENT  
BANK LIMITED**

**RULING**

In this Writ the Plaintiff claims that by the Agreement between it and the 1<sup>st</sup> & 2<sup>nd</sup> Defendants, Defendants are estopped or precluded from denying validity of the Agreement and the investment in respect of Plot 2580 Kagini Layout, Abuja. That the Defendants are estopped from

entering into other agreements for sale, transfer, handover or conversion with respect to the said Plot 2580 Kagini Layout, Abuja done on basis of representation of 1<sup>st</sup> and 2<sup>nd</sup> Defendants to the 3<sup>rd</sup> Defendant or any other person whatsoever.

They also want a Declaration that by virtue of the Nigeria Institute of Estate Surveyors & Valuers scale of professional fees charges, the 1<sup>st</sup> & 2<sup>nd</sup> Defendants are bound to pay Plaintiff the sum of **Seventy Five Million Naira (N75,000,000.00)** for work done with respect to the said Plot 2580 Kagini Layout, Abuja to enable it defray its obligation to its contractors for work done on the site.

Also an Order directing the 1<sup>st</sup> & 2<sup>nd</sup> Defendants to pay Plaintiff the sum of **Seventy Five Million Naira (N75,000,000.00)** for work done on the Plot 2580 Kagini Layout, Abuja so that Plaintiff can defray its obligations to its contractors.

Another Order for 1<sup>st</sup> & 2<sup>nd</sup> Defendants to pay to Plaintiff the sum of **One Hundred and Fifty Million Naira (N15,000,000.00)** as Exemplary damages for ruining the business of the Plaintiff and its directors.

And also to pay the Plaintiff the sum of Three Hundred Million Naira (N300,000,000.00) as another Exemplary damages for ruining the image of the Plaintiff and its directors as well as their business.

The Plaintiff want an Order directing the 1<sup>st</sup> & 2<sup>nd</sup> Defendants to pay the sum of One Hundred Million Naira (N100,000,000.00) to Plaintiff as cost incurred by the Plaintiff and

its directors as a result of the multiplicity of harassments visited on them during the pendency of the dispute orchestrated by the 1<sup>st</sup> & 2<sup>nd</sup> Defendants prior to instituting this Suit.

10% interest on the Judgement Sum until the entire sum is liquidated as well as cost of the Suit.

The Defendants were all served. They all filed Statement of Defence but the 1<sup>st</sup> & 2<sup>nd</sup> Defendants in addition filed a Preliminary Objection challenging the jurisdiction of the Court and the competency of the Plaintiff Suit.

In the Preliminary Objection the 1<sup>st</sup> & 2<sup>nd</sup> Defendants wants the Court to dismiss the Suit in limine and declining jurisdiction to entertain same because the Plaintiff lacks locus standi to seek the reliefs sought.

The Preliminary Objection is predicated on 10 grounds which are:

- That the Suit is incompetent and the Plaintiff lacks locus standi to seek the claims and reliefs sought over the Plot 2580 Kagini Layout, Abuja.
- That Plaintiff did only minor works in Blocks 4, 9, 24 & 26 in the said site at Plot 2580 Kagini Layout, Abuja.
- That the work was done without the approval of the 1<sup>st</sup> Defendant.
- That the 1<sup>st</sup> Defendant is the owner of the Estate and has been in possession exclusively even at the time of commencement of this action. That Block 16 which comprises of six (6) units of 3 Bedroom Flat is the property of the 3<sup>rd</sup> Defendant.

- That the agreement through which the 1<sup>st</sup> Defendant attempted to sell the Estate to Plaintiff was frustrated, terminated and elapsed due to failure of the Plaintiff to furnish any consideration.
- Also that Plaintiff has no locus standi, no equitable interest and no legal title over the entire property – Plot 2580 Kagini Layout, Abuja.
- That the Injunction sought by Plaintiff over the property is baseless and unfounded.
- That the area where the Plaintiff did minor work without the approval of the Defendants are only Block 4, 9, 24 & 28 and that Plaintiff lacks the locus standi to any Injunction or restraining Order over and the caveat over the rest of the unaffected 24 Blocks in the Estate in Plot 2580 Kagini Layout, Abuja.
- That the absence of legal right over the Plot 2580 Kagini Layout, Abuja is a fundamental defect that greatly alters the competency and jurisdiction of this Court to entertain the Suit.
- That lack of locus standi and right of action on the side of Plaintiff has robbed Court the Jurisdiction to entertain the Suit.

They urged Court to dismiss the Suit based on the above grounds and facts.

They raised a sole Issue in their Written Address which is:

**“Whether it is within the jurisdiction of Court to entertain and adjudicate upon this Suit on the ground that Plaintiff has no locus standi to seek the reliefs sought over the entire**

**property and Estate known as Plot 2580 Kagini Layout, Abuja”.**

The Defendants contended and submitted that Plaintiff lacks locus standi to institute the Suit and the right to seek the reliefs sought over the property - Plot 2580 Kagini Layout, Abuja. They relied on the case of:

**PDP V. Slyva**

**(2012) 13 NWLR (PT. 1316) 127 Para D – E**

That in this Suit, the Plaintiff's Suit is premised on the entire property - Plot 2580 Kagini Layout, Abuja and that in alternative claim in the substantive Suit is an admission that he has no locus standi and right of action over the entire Estate. That this claim ought to be centred on the Blocks in which they did minor works without the approval of Defendants which are in Block 4, 9, 24 & 26 only. That Plaintiff lacks locus standi to seek Injunctive, restraining Order and to claim damages over the other Blocks in the entire Estate. The Defendant relied on the following cases:

**AGF V. Abubakar**

**(2007) 6 MJSC 27 Para A – C**

**Egbe V. Adefarasin**

**(1987) 1 SC 34 @ 36**

That Declaratory right is not granted in the absence of legal Right. That since Plaintiff has no legal right in the entire Estate, they are not entitled to any Declaratory Right.

Again that the Plaintiff is not entitled to Order of Perpetual Injunction where they has not established substantive right. That the reliefs sought by Plaintiff will violate the

fundamental right of the 1<sup>st</sup> Defendant as guaranteed under **S. 43 of the 1999 Constitution as amended.**

That since the Plaintiff has no locus standi he has not fulfilled the condition precedent for the determination of the case. The 1<sup>st</sup> & 2<sup>nd</sup> Defendants urged Court to decline jurisdiction to entertain this Suit.

In a swift response in opposition the Plaintiff filed a written submission. They did not raise any Issue for determination but made submission as to locus standi and issue of jurisdiction and competence of the Suit. They submitted that it is the claim of the Plaintiff that determines the jurisdiction of Court and they urged Court to examine the claims of the Plaintiff in order to determine if it has jurisdiction to entertain the Suit.

They submitted that by doctrine of privity of contract, any party to the contract has a right to maintain a Suit where there is a breach or allegation thereof. That in this case since the Plaintiff had by the representation made by the 1<sup>st</sup> & 2<sup>nd</sup> Defendants has invested huge sum of money on the Plot 2580 Kagini Layout, Abuja as such has the locus standi to maintain a Suit concerning the contract they entered into with 1<sup>st</sup> & 2<sup>nd</sup> Defendants. He cited the following cases:

**AG Fed V. AIC Ltd  
(2000) 10 NWLR (PT. 675) 293 @ 311**

**FATB Ltd V. Partnership Inv. Co. Ltd  
(2001) 1 NWLR (PT. 695) 517 @ 527**

That by paragraph 8, 9, 11, 15 – 17, 22, 25, 28, 30, 32, 40 – 47, of the Statement of Claim the Plaintiff has shown that he

has a special interest in the said Plot. He has also shown that the said interest has been adversely affected by the action and omission of the Defendants which is what they seek to challenge in this Court. They relied on the case of:

**Re: Ijelu (1992) 9 NWLR (PT. 266) 414**

**Sehindemi V. Gov. Lagos State  
(2006) 10 NWLR (PT. 987) 1**

That even the Defendants affirmed that Plaintiff did work though they described it as minor work in Block 4, 9, 24 & 26.

That by that alone it is obvious that the Plaintiff has locus standi to institute this action and that it has legal interest in the Plot 2580 Kagini Layout, Abuja and has right to take redress based on that interest. They relied on the cases of:

**Owodunmi V. Registered Trustee of CCC  
(2000) 10 NWLR (PT. 675) 315**

**Agwarangbo V. UBN PLC  
(2001) 4 NWLR (PT. 702)**

That contrary to what the Defendants submitted the Plaintiff need not succeed in his claim. The Plaintiff only need to disclose sufficient interest in respect to the subject matter in the Suit as Plaintiff has in this case. They referred to the case of:

**Thomas V. Olufosoye  
(1986) 1 NWLR (PT. 18) 669**

That by the averment in the Statement of Claim the Plaintiff has shown that the action of the Defendants violated the contract agreement and has/will irreparably hurt him if the

Court decline to grant the reliefs. They referred to the case of:

**Nonye V. Anyichie  
(2005) 2 NWLR (PT. 910) 623 @ 647**

That the Plaintiff in this Suit is challenging the right of the 1<sup>st</sup> & 2<sup>nd</sup> Defendants to rescind a contract upon which and based on the representation of the 1<sup>st</sup> & 2<sup>nd</sup> Defendants, the Plaintiff acted committing Millions of Naira of its fund and its contractors funds only for 1<sup>st</sup> & 2<sup>nd</sup> Defendants to suddenly turn around to forcefully take over possession of the Plot with intention to lay off the Plaintiff to pay it pittance by under valuing the works done by the Plaintiff.

They urged Court to dismiss the Preliminary Objection as it an abuse of Court Process and hold that there is a reasonable cause of action and that Plaintiff has the requisite locus standi. The 3<sup>rd</sup> Defendant did not file any response to the Preliminary Objection.

The 1<sup>st</sup> & 2<sup>nd</sup> Defendants filed a reply on points of law in response to the Plaintiff's submission. In it the Defendants repeated the submission made in their Preliminary Objection and stated that if the head claim cannot stand alternative claims will fail. That the 2<sup>nd</sup> contract in question is no longer in existence and that the Plaintiff has no right. That he only has a right over the minor works done in the Blocks listed already above.

They urged Court to ignore the submission of the Plaintiff and declare that the Plaintiff has no locus standi and Court



has no jurisdiction to entertain same and therefore uphold the Preliminary Objection.

After the survey of submission of the parties for and against the Preliminary Objection the Court has this to say.

In any Preliminary Objection where the Court's jurisdiction is challenged, the Court assures jurisdiction to determine if it has jurisdiction or not to entertain the Suit. Again once a party has interest legally in a subject matter of litigation, it is said that such party has locus standi. This can be deciphered from the Statement of Claim of the Plaintiff. This is the decision of Court in the case of:

**Bolaji V. Bamgbose**  
**(1986) 4 NWLR (PT. 37) 632**

**Owodunmi V. Registered Trustee of CCC**  
**(2000) 10 NWLR (PT. 675) 315**

The interest must be such that it is real and very tangible and it must not be shared with other persons. Most importantly the Plaintiff must show that such interest has been violated and adversely affected by the action or inaction of the Defendant. That is what the Court decided in the case of:

**Sehindemi V. Gov. Lagos State**  
**(2006) 10 NWLR (PT. 987) 1**

**Re: Ijelu (1992) 9 NWLR (PT. 266) 414**

This interest and the violation thereof must be clearly stated in the Statement of Claim and the reliefs sought must be the outcome of the redress.

In that case the Court is not looking at the merit of the case at this stage but on what the redress is on, which is whether there is a locus or not and whether there is legal right and interest or not. The Court is not to decide whether or not the Plaintiff will succeed or whether his case is meritorious.

The Plaintiff must state clearly in his Statement of Claim the interest he has and the facts to support the allegation of the violation of the interest by the Defendant. The Plaintiff case may or may not succeed at the end of the proceeding. That is not what the Court determines at the preliminary stage of the Suit.

Again at this stage the Court does not look at or evaluate the evidence or Exhibits. In other words, the Plaintiff must show that it has legal capacity based on sufficient interest in the subject matter to institute the case. So once the Plaintiff has sufficient interest and has shown that in his claim and Statement of Claims it is said that it has the locus standi and the Court also will have the jurisdiction to entertain the Suit.

In this case the Plaintiff had in his Statement of claims shown that he had a contract with the 1<sup>st</sup> & 2<sup>nd</sup> Defendants and he was to develop the Plot 2580. That he has actually started the development of the said Plot and had expended money, men and material on the Res. He has also cause his contractor to expend money on the same Res before the 1<sup>st</sup> & 2<sup>nd</sup> Defendants came in to take possession of the Res and threatened to pay the Plaintiff off after it has expended the money and after the Defendant had lured the Plaintiff into a mediation agreeing to pay it off.

The Defendant had stated that the agreement the Plaintiff is referring to is no longer in existence and that the Plaintiff has no right of claim over the whole Plot 2580. The Defendants agreed and confirmed that Plaintiff can only make a claim over the “minor work” it has done without Defendants consent and authorization over Block 4, 9, 24 & 26 and nothing more. That since the claim is on the whole of Plot 2580 the Plaintiff has no right of claim over the whole Plot 2580. That the Court should hold that the Plaintiff has no locus standi to institute this action and that Court has no jurisdiction to entertain the Suit.

It is trite and the law that once the locus standi of the Plaintiff is challenged, the Court looks at the Statement of Claim to see if the Plaintiff has disclosed its interest on the Res in his Statement of Claim. Once the Court has seen that the Plaintiff has disclosed enough interest in the Res and has shown that the action of the Defendant has infringed on that right the Court will not hesitate to state that the Plaintiff has the locus standi to institute the action and seek redress for the infringed interest.

In this case it is obvious that the Plaintiff has “established” or disclosed that he has interest in the Res – Plot 2580 Kagini Layout Abuja, notwithstanding that the Defendants stated that he has only interest in the stated listed Blocks of flats. It is imperative to state that the Court is not to determine whether or not the Plaintiff will succeed at the end of the day. But it is called to determine if Plaintiff has a right to seek redress in the case.

From the totality of the submission made by Plaintiff in response to the Preliminary Objection as well as the Statement of his claims, it is very obvious that the Plaintiff has interest in the Plot 2580 Kagini Layout, Abuja hence he has right in instituting this action to seek redress since his interest in the Plot is challenged by the action of the Defendants. There is no doubt that the parties had an agreement to develop the Res.

The Suit of the Plaintiff is competent.

That being the case the Plaintiff has locus standi to institute this action unlike the submission of the Defendants to the contrary. The Court also has jurisdiction to entertain the Suit. That being the case this Court holds that the Preliminary Objection by the Defendants lacks merit and it is therefore DISMISSED.

**This is the Ruling of this Court.**

Delivered today the \_\_\_\_\_ day of \_\_\_\_\_ 2020  
by me.

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**K.N. OGBONNAYA  
HON. JUDGE.**