

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT MAITAMA COURT 4, FCT., ABUJA

BEFORE HIS LORDSHIP: HON. JUSTICE O. O. GOODLUCK

SUIT FCT/HC/CV/5912/2020

B E T W E E N:

IDOWU AKHIMIEN

(Suing through His Lawful Attorney,
Godilogo Farms Limited)

**JUDGMENT CREDITOR/
RESPONDENT**

AND

- 1. THE MINISTER OF THE FCT**
- 2. FEDERAL CAPITAL TERRITORY
ADMINISTRATION**

**JUDGMENT/DEBTORS/
RESPONDENT**

AND

ABU ABDU FUNTUA

**APPLICANT/PARTY SEEKING LEAVE
TO APPEAL AS AN INTERESTED
PARTY**

R U L I N G

The Applicant/Party interested in this suit is by a Motion on Notice M/5912/2020 praying this Court for leave to appeal as a party interested against the Judgment of the Honourable Court delivered on the 4th July, 2019.

In support of the application, the Applicant raised ten grounds upon which this Motion is predicated. One Halimat Kikelomo a legal practitioner in the Law Firm of Messrs Babalakin & Co., Counsel representing the Applicant deposed to an 11 paragraph affidavit dated 2nd March, 2020.

The facts disclosed in summary that are pertinent to this application are that the Applicant was by an offer of a right of occupancy dated 22nd November, 1990 offered property known as Plot J.167 within the Gwarinpa Residential Layout however, the offer was subsequently withdrawn by the Minister of the Federal Capital Territory. The offer was replaced by Plot 1259 Cadastral Zone A05, Maitama District, Abuja vide a letter dated 14th April, 2002, the offer is noted in file KT 11086.

It is the contention of the Applicant that it was never aware of the pendency of this suit until it observed a notice on the property dated 5th September, 2019 to the effect that the Judgment Creditor/Respondent has taken possession of the same land based on the Judgment of this Court delivered on the 4th July, 2019.

Upon enquiries, it was discovered that the same Plot 1259 allotted to the Applicant had been subsequently divided into two plots and named Plots 1351 and 1352. Plot 1352 was thereafter allocated to the Judgment Creditor, having been put on notice of the Judgment of this Court, the Applicant is now desirous of joining in this suit as a party interested by filing an Appeal against the Judgment of this Court. Mindful that his interest will be affected by this Court's Judgment, the Applicant is now seeking leave from this Court to appeal so that this suit can be heard a fresh with the inclusion of the Applicant.

In reaction, to the Motion, the Judgment Creditor filed an affidavit of 27 paragraphs deposed to by one Owoeye Olaniyi, the Judgment Creditor's

General Manager. The facts that this Court considers pertinent to this application is that the Judgment Creditor/Respondent are vehemently opposed to the Applicant's interest in the land contending that the Applicant is not in possession of the land which is the subject matter of this Court's Judgment.

Indeed, the Judgment Creditor contends that there was never a subdivision of the plot in dispute and Plot 1259 does not exist. It is further asserted by the Judgment Creditor that the Applicant does not have any legal or equitable interest in the land in dispute.

I have carefully considered the submissions of both Counsel regarding this application and I am not in doubt that the Applicant has shown a recognizable legal interest in the land in dispute, which interest is worthy of joining him as a party in Suit FCT/HC/CV/2757/2016. I am also persuaded that the Judgment of this Court will affect the Applicant one way or the other, consequently, the interest of justice dictates that Applicant ought to have been joined as a party to this suit. This Court cannot discountenance the fact that he became aware of this action after Judgment had been delivered.

Besides, the Applicant has the constitutional right under Section 243 of the 1999 Constitution of the Federal Republic of Nigeria to seek leave from this Court as a Court of first instance to Appeal as a party interested against this Court's Judgment at the Court of Appeal.

Accordingly, this Court is inclined to allow the Applicant's prayer, leave is hereby granted to the party interested to Appeal against the Judgment of

this Court delivered on the 4th July, 2019 in Suit No. FCT/HC/CV/2754/2016 – Idowu Akhimien (Suing through his Lawful **ATTORNEY v. GODILOGO FARMS LIMITED & MINISTER OF THE FCT, & 1 Or.** See the decision in **Re MADAKI (1996) 7 N.W.L.R. (PRT 459) pages 153 at 164** Per Uwais CJN held:

“Whether the Constitution nor the Court of Appeal Act nor the Court of appeal rules prescribe any period within which an interested party may bring an application for leave to appeal as a person having an interest in the matter so that when the Applicant/Respondent brought his application in the Court below seeking extension of time within which to apply for leave to appeal ...he misconceived the procedure and acted wrongly to have asked for extension of time to seek leave to appeal as an interested party. The Applicant is an interested party and ought to be granted leave to appeal”

Applicant’s prayer is allowed.

O. O. Goodluck
Hon. Judge
23rd June, 2020

Appearances

Parties absent

Ijeoma Madu Mrs.: For the Judgment Creditor/Respondent

O. I. Arase Esq.: For the Applicant, party seeking leave to appeal as an Interested Party.