

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE NYANYA JUDICIAL DIVISION

HOLDEN AT NYANYA ON THE 15TH DAY OF DECEMBER, 2020

BEFORE HIS LORDSHIP, HON. JUSTICE U. P. KEKEMEKE

SUIT NO.FCT/HC/CV/552/19

COURT CLERK: JOSEPH ISHAKU BALAMI & ORS.

BETWEEN:

BENSON ANDY CHUKWUMAAPPLICANT

AND

1. MR JUDE EGBITA

2. INSPECTOR GENERAL OF PLOCE

3. INSPECTOR TUKUR TAMUZA (IPO)

.....DEFENDANTS

RULING

The Applicant's Originating Summons undated but filed on 9/12/19 is brought pursuant to Order 2 Rule 1 – 5 of the Fundamental Right Enforcement Procedure Rules 2009, Section 34, 35, 36, 40 and 46 of the Constitution of the Federal Republic of Nigeria 1999 and under the inherent jurisdiction of the Court.

The Applicant prays the Court for the following:

1. A declaration that land matters are purely civil matters which are outside the powers of the 1st – 3rd Respondents.
2. A declaration that the invitation, intimidation and constant harassment of the Applicant by the 2nd – 3rd Respondents over a frivolous and unsupported complaint of the 1st Respondent with fake and non-existing companies is unlawful.
3. An order restraining the Respondents, their agents, servants howsoever described from further inviting, arresting, harassing and intimidating the Applicant.
4. An Order compelling the 1st Respondent to pay the Applicant the sum of N20 Million as damages for trespass.

5. N20 Million against the Respondents jointly and severally as damages for unlawful arrest, incessant invitation, harassment and intimidation of the Applicant which is tantamount to a breach of the Applicant's Fundamental Human Right.

The application is supported by a Statement containing the name and description of the Applicant, the reliefs sought and the grounds upon which the reliefs are sought. Learned Counsel rely on the 23 paragraph Affidavit filed in support of the application.

Succinctly, he stated that he is the owner of Plot 53 Karu storage Depot Layout Karu FCT by virtue of the Offer of Terms of Grant/Conveyance of approval dated 14/03/01 granted in favour of B. A ChumacoEnterprises. That in 2014, he conducted a search at the Abuja Municipal Area office

through his Counsel and a search report signed by the Zonal Manager indicated that B. A. Chumaco is the valid allottee of the land. That on 21/10/14, he applied for recertification of his title. That sometimes in 2018, he received a call from late Inspector Shuabu of Area Command Karu, Abuja informing him that a Petition was received by one Pius Nyikaro against an unknown person. In respect of the said plot of land. That on 19/08/19, he was arrested by Anti-Human Trafficking Section of Zone 7 Police Force Wuse Zone 7 Abuja on a complaint written by the 1st Respondent against him.

He demanded to personally read the Petition but the 3rd Respondent refused. He read the allegation to him that he threatened the life of the 1st Respondent and committed an act of criminal trespass to his property which is his bonafide plot of land. He wrote his Statement and tendered copies

of his title document to an official of the 3rd Respondent. He was further invited to the Anti-Human Trafficking Section of Zone 7 Police Force Wuse Zone 7 Abuja and was shown an offer of Terms of Grant/Conveyance which the 1st Respondent contends Plot 53 Storage Depot Layout which was allocated to NGO NNADI NIG COP a non-existing and unincorporated company. He claimed that the title to the land was derived from PHYLSON VENTURES LTD which is also a non-existing and fictitious company.

The 1st Respondent wrote a Petition against him alleging threat to life, criminal trespass and using a fake document in respect of Plot 53 Karu Storage Depot Layout. That IPO Inspector Tukur Tamuza of Zone 7 Headquarters discovered in the course of investigation that the 1st Respondent is only parading fake and forged documents. That his

lawyers informed him that the companies used by the 1st Respondent are not registered nor incorporated hence the 1st Respondent cannot contend with him. That 1st Respondent has no power of attorney or Deed of Assignment to show that he purchased the property in question. That despite the above, the 2nd and 3rd Respondents have continued to incessantly invite him to their office, harassing and intimating him to relinquish his land. The action of the Respondents is a breach of his rights. That he is likely to suffer arrest, invitation, detention & harassment at the pleasure of the 1st – 3rd Respondents.

The Learned Counsel to the 1st Respondent relied on the 18 paragraph Counter Affidavit sworn to by him dated 16/03/20. He deposed that the Petition he wrote to the 2nd Respondent dated 13/05/19 was against a unknown person who did fence his Plot

and stationed some fierce-looking thugs on his plot. That he did not know the Applicant as at the time he wrote his Petition. That Applicant is not the owner of the land in question, that he is not a trespasser. That AMAC and the Police did not say that he used fake and forged documents or that the business name he used is fictitious. That the Police are carrying out their duties without harassing and or intimidating anybody including the Applicant. That he did not breach the Applicant's Fundamental Right neither did he cause him any form of injury. He has no intention of violating Applicant's Right as he is not a law enforcement officer.

I have read and considered the Written Addresses of Counsel. The issue for determination is whether the Fundamental right of the Applicant is violated.

From the Affidavit evidence of the Applicant, the following facts emerged.

- (1) He was called by the Police.
- (2) He was shown a Petition written against him by the Respondents.
- (3) The Petition was read to him.
- (4) He made a Statement to the Police.
- (5) He was invited harassed, intimidated and arrested.
- (6) That Plot 53 Karu Storage Depot Layout belongs to him.

The Applicant did not provide sufficient particulars of the harassment intimidation and arrest. A person can be arrested on suspicion of having committed an offence in accordance with a Procedure permitted by law. The 2nd – 3rd Respondents who are Police

Officers are also empowered by law to invite a person for questioning such as in this case when a Petition is presented before them.

An invitation by the Police cannot be a breach of the Applicant's Fundamental Right. This is a Fundamental Right Application. Dispute as to ownership of landed property cannot be entertained via this application. The Applicant has not placed sufficient materials to enable the Court grant the reliefs sought. He has not by evidence proved that his fundamental rights are breached by the Respondents.

The application fails and it is accordingly dismissed.

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HON. JUSTICE U.P. KEKEMEKE
(HOH. JUDGE)

15/12/2020