IN THE HIGH COURT OF JUSTICE OF THE F.C.T.
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT APO, ABUJA
ON TUESDAY, THE 22ND DAY OF FEBRUARY, 2022
BEFORE HIS LORDSHIP: HON. JUSTICE ABUBAKAR HUSSAINI MUSA
JUDGE

SUIT NO.: FCT/HC/CV/732/2021
MOTION NO.: M/3129/2021

BETWEEN:

CHARLES J. ETUK
(Trading under the name and style of the New England Ventures) — **CLAIMANT/ APPLICANT**

AND

1. **MINISTER, FEDERAL CAPITAL TERRITORY, ABUJA**
2. **AN UNKNOWN PERSON** — **DEFENDANTS/ RESPONDENTS**

RULING

This Ruling is on an application for a *QuiaTimet* Injunction by the Claimant/Applicant against the Defendants/Respondents.

By a Writ of Summons dated and filed on the 5th of February, 2021, the Claimant/Applicant claims the following against the Defendants/Respondents:-

1. *A Declaration that the Claimant is the rightful owner of the plot of land situate and lying and known as Park No. 1147, B11 at Kaura District, Abuja.*

2. *A Declaration that the allocation of Park No. 1147, B11 at Kaura District, Abuja by the 1st Defendant to the 2nd Defendant is null and void, and constitutes act of trespass.*
3. *An Order of perpetual Injunction restraining the Defendants by themselves, servants, agents, privies and representatives by whatever nomenclature called and addressed from entering, alienating, disposing, mapping out, assigning or committing further trespass on the Claimant's land as described.*
4. *The sum of ₦200,000,000.00 (Two Hundred Million Naira) only as general damages against the Defendants jointly and severally being for trespassing into the Claimant's land.*
5. *An Order for payment of ₦100,000,000.00 (One Hundred Million Naira) only being special damages against the 2nd Defendant for unlawfully using the Police to harass, detained, arrest and causing emotional stress and embarrassment on the Claimants.*
6. *The sum of ₦2,500,000.00 (Two Million Five Hundred Thousand Naira) only being money paid to prosecute this matter.*

On the 26th of March, 2021, the Claimant/Applicant filed a Motion on Notice dated the 24th of March, 2021 seeking the following reliefs from this HonourableCourt:-

1. *An Order of QuiaTimet Injunction restraining the 2nd Defendants, its agents, privies, assigns or attorney from disturbing the Claimant/Applicant right of possession of Park No. 1147, B11 located at Kaura District, Abuja pending the hearing and determination of the action filed by the Claimant/Applicant against the 1st and 2nd Defendants/Respondents, upon the expiration of the pre-action notice already filed and served upon the 1st and 2nd Defendants/Respondents by the Claimant/Applicant.*
2. *An Order of Interlocutory Injunction restraining the 2nd Defendant and his agents, privies, assigns or attorney from disturbing the Claimants/Applicants right of possession of Park 1147, B11 located at Kaura District, Abuja pending the hearing and determination of this suit.*
3. *An Order restraining the 2nd Defendant from using the Nigeria Police to encroach or trespass on Park No. 1147, B11, Kaura District, Abuja for which the Claimant is in lawful possession.*
4. *And for such further or other Orders as the Honourable Court may deem fit to make in the circumstances.*

The Motion on Notice was brought upon the following grounds:-

1. *The 2nd Defendant cannot lawfully engage the Nigeria Police to intervene or take any decision on land matter (Park No. 1147, B11 in the warrant (sic) case) to which the Claimant is in lawful possession.*

2. *Settlement of land dispute is not part of the duties of the Nigeria Police under section 4(a) – (i) of the Nigeria Police Act 2020.*
3. *At law the 2nd Defendant has no legal right to interfere (preparatory or otherwise) with Park No. 1147, B11 located at Kaura District, Abuja.*

The Motion on Notice is supported by a 13-paragraph affidavit, nine exhibits annexed thereto and a written address.

Responding to the Motion on Notice of the Claimant/Applicant, the 1st Defendant/Respondent, on the 4th of November, 2021, filed a 17-paragraph Counter-Affidavit to the Motion on Notice. The said Counter-Affidavit was deposed to by Oyenike M. Oyebode, a Legal Practitioner in the law firm of Lexis Associates, Counsel to the 1st Defendant. A written address was filed alongside the Counter-Affidavit. No exhibit was attached to the Counter-Affidavit. The 2nd Defendant did not file any process in response.

The Claimant, in exercise of his right under the Rules of this Honourable Court, filed a Further and Better Affidavit and a Reply on Point of Law to the 1st Defendant's Counter-Affidavit. He attached four exhibits to the Further and Better Affidavit.

According to the Claimant/Applicant, in 2007, he applied to the Abuja Metropolitan Management Agency, Department of Parks and Recreation to develop, manage and operate a designated park and green area within the

Federal Capital Territory which application was approved *vide* a Letter of Approval dated the 15th of August, 2007 for the leasing of Park No. 1147, B11, Kaura District, Federal Capital Territory, Abuja. On the 20th of August, 2013, the Claimant/Applicant received a Letter of Approval from the Honourable Minister of the Federal Capital Territory, Abuja ratifying the allocation earlier made by the Parks and Recreation Department. Upon the Minister's approval, the Claimant/Applicant paid the processing fee of ₦625,000.00 (Six Hundred and Twenty-Five Thousand Naira) only and since then, has been paying the ground rents on the property.

On the 23rd of November, 2020, the Claimant averred, Adebayo Awosemo, his Managing Director, was invited by one Inspector SulimShuaibu, an operative of the Commissioner of Police Monitoring and Mentoring Unit, Federal Capital Territory Command to answer to a petition written against the Claimant in respect of Park No. 1147, B11, Kaura District, Abuja. Mr Adebayo honoured the invitation on the 25th of November, 2020 and was informed by the said Inspector SulimShuaibu that the Honourable Minister of the Federal Capital Territory, Abuja had allocated Park No. 1147, B11 to the 2nd Defendant/Respondent. He further swore that the allocation to him, the Claimant, has yet to be revoked.

In his written address, Counsel formulated the following sole issue for determination. "*Whether the Claimant/Applicant has made a case warranting*

the grant of QuiaTimet Injunction against the 2nd Defendant and interlocutory injunction against the Defendants." In his argument of the issue, learned Counsel submitted that the Claimant has been in possession of the property in question on the authority of the Letter of Approval and Allocation from the Honourable Minister of the Federal Capital Territory through the Department of Parks and Recreation of the Abuja Metropolitan Management Agency.

Counsel submitted further that the law regulating the grant of interlocutory injunction is premised on the need to preserve the *res* in *status quo* until the question at issue between the parties is determined. Explaining the need for a *QuiaTimet* Injunction, Counsel argued that since it is premature for a Claimant to approach the Court before the accrual of a cause of action, the Court of Equity devised the notion of *QuiaTimet*Injunction so as to ensure that the subject matter is not dissipated before the accrual of a cause of action.

Learned Counsel also took a swipe at the interference of the officials of the Nigeria Police Force in the question of allocation of Park No. 1147, B11, Kaura District, Abuja, maintaining that settlement of land was not part of the job description of the Nigeria Police Force as delineated in section 4(a) – (i) of the Nigeria Police Act 2020. He therefore urged the Court to grant the prayers as sought by the Claimant/Applicant in this application.

For all his submissions on the issue he formulated, learned Counsel cited and relied on the following cases: ***Falomo v. Banigle (1998) 7 NWLR (Pt. 559) 679; Akibu v. Oduntan (1991) 2 NWLR (Pt. 171) 1; Reland Bricks Ltd v. Morris (1970) AC 652; A.-G., Enugu State v. Omata (1998) NWLR (Pt. 532) 83 at p. 101 para B*** and section 4(a) – (i) of the Nigeria Police Act 2020.

On the other hand, the 1st Defendant/Respondent in its Counter-Affidavit, through the deponent averred that whereas the Writ of Summons which commenced this suit was filed on the 5th of February, 2021, the application for a *QuiaTimet* Injunction was filed on the 26th of March, 2021. She further denied that the 1stDefendant neither interfered with the quiet enjoyment by the Claimant of Park No. 1147 B11, Kaura District, Abuja nor did he instigate the Police to arrest the Claimant or any person for that matter in respect of the subject matter. The deponent stated that since the Claimant placed the culpability of his arrest and interference with his right of possession over the park on the 2nd Defendant, it followed that the Claimant has knowledge of the identity of the 2nd Defendant. The 1st Defendant, therefore, urged the Court to refuse the application, moreso, as the application had been overtaken by events.

In its written address, the 1st Defendant, through his Counsel, formulated the following issue: "*Whether the Claimant/Applicant is entitled to the injunctive reliefs being sought*." Launching his argument, Counsel cited the case of

Fletcher v. Bealey (1884) [28 Ch.D. 688 at p. 698] where the Court stated the conditions for the grant of a *QuiaTimet* Injunction to be: (a) proof of imminent danger; (b) proof that the threatened injury will be practically irreparable; and (c) proof that whenever the injurious circumstances ensue, it will be impossible to protect Plaintiff's interests, if relief is denied.

He further contended that since *QuiaTimet* is anticipatory in nature and is granted under circumstances of extreme urgency, and the burden of proof is on the Plaintiff to establish the grounds for the grant of the injunction, the instant application has become academic in nature since the Plaintiff is already before the Court.

It was the further contention of the 1st Defendant/Respondent that the Claimant/Applicant has not approached this Court with clean hands considering that he seeks equitable reliefs from this Court. He explained that having deposed to the fact that he responded to the petition written against him to the Nigeria Police, it behooves on the Claimant/Applicant to disclose the identity of the 2nd Defendant, instead of describing him as "Unknown Persons". Counsel further contended that nowhere in his affidavit in support of his application has the Claimant/Applicant deposed to any wrongdoing on the part of the 1st Defendant. While urging the Court to be wary of making pronouncement that could determine the substantive matters in the suit at the interlocutory stage,

Counsel prayed this Court to discountenance the application of the Claimant/Applicant.

For all his submissions on the sole issue he formulated, learned Counsel cited and relied on the following cases: ***Fletcher v. Bealey (1884) [28Ch.D. 688 at p. 698]; Adeleke v. Lawal (2014) 3 NWLR (Pt. 1393) p. 1 (SC); Egbe v. Onogun (1972) 2 SC) 146; Peter Okoye (2002) 3 NWLR (Pt. 755) 529 at 552 A – C; MallamSaiduAmori v. Yakubulyanda (CA/IL/8/2006) (2007) NGSC 162 (26 June, 2007); A.G. Rivers v. A.G. Bayelsa State (2013) 3 NWLR (Pt. 1340) p. 123; Okubule v. Oyagbola (1990) 4 NWLR (Pt. 144) p. 723; Odukwe v. Ogunbiyi (1998) 8 NWLR (Pt. 561) p. 339; Port Authorities v. Aminu Ibrahim & Co. & Anor (2018) LPELR-44464 (SC); Ladoja v. Ajimobi (2016) 11 NWLR (Pt. 1519) 88 at 173 para G; Agbaje v. Ibru Sea Foods Ltd (1972) 5 SC 50; Globe Fishing Industries Ltd v. Coker (1990) 7 NWLR (Pt. 162) 265; Braithwaite v. S.C.B. (Nig.) Ltd (2012) 1 NWLR (Pt. 1281) p. 301; Adebayo v. T.S.G. (Nig.) Ltd (2011) 4 NWLR (Pt. 1238) p. 493*** among other cases.

In the Further and Better Affidavit, the deponent, one Blessing James, a Litigation Secretary in the law firm of Brenda Oluwade& Associates, swore that the Claimant has not instructed his Counsel to petition the Nigerian Police as of the time the application for a *QuiaTimet* Injunction was filed in Court; that it was

the 1st Defendant's action in allotting the park the subject matter of this suit that led the Police to harass the Claimant; that the 2nd Defendant remained unknown to the Claimant because the Police has refused to give to the Claimant the purported petition, or any document or reports relating to the petition and that the Claimant did indeed write a letter to the 1st Defendant on this subject and that the 1st Defendant did not respond to the letter.

In the Reply on Points of Law, learned Counsel for the Claimant/Applicant drew the attention of this Honourable Court to the factthat the 1st Defendant did not deny that he allocated Park No. 1147 B11, Kaura District, Abuja to the Claimant/Applicant and that the Claimant/Applicant has been in possession since the date of the allocation. He asked the Court to take note of the legal consequences of an unchallenged averment.

He also countered the submissions of learned Counsel to the 1st Defendant wherein he alleged that the Claimant/Applicant was shrouding the identity of the 2nd Defendant, adding that the Court should look beyond the address of Counsel for the 1st Defendant and consider the evidence before it, since the address of Counsel cannot take the place of evidence before the Court. Maintaining that the Claimant/Applicant has a legal right to be protected, he urged the Court to discountenance the Counter-Affidavit of the 1st Defendant and grant the reliefs sought by the Claimant/Applicant. In support of his further

submissions in his Reply on Points of Law, Counsel relied *inter alia* on the following authorities: ***Zubairu v. State (2015) 16 NWLR (Pt. 1486) 504 at 527 para C; Ebeinwe v. State (2011) 7 NWLR (Pt. 1246) 402 at 416, paras D – P; Adeleke v. Iyanda (2001) 13 NWLR (Pt. 729) 1 at 22 – 23 para A – C*** and***Okereke v. Ejiofor (1996) 3 NWLR (Pt. 434) 90 at 104 para D – E***.

Having considered the facts and the legal arguments in support of and in opposition to this application, I will adopt the issue formulated by the Claimant/Applicant and modified by the 1st Defendant/Respondent herein, to wit: "***Whether from the facts and circumstances of this application the Claimant/Applicant has not satisfied the conditions to be entitled to the exercise of this Court's discretion in his favour in respect of the reliefs sought herein?***"

The *terminus a quo* in determining this issue is to provide a functional definition and concept of *QuiaTimet* Injunction. According to Black's Law Dictionary (6thEdition, page 1247) defines '*QuiaTimet*' as a Latin expression that means "*Because he fears or apprehends*". The law lexicon goes on to adumbrate thus: "*In equity practice, the technical name of a bill filed by a party who seeks the aid of a court of equity, because he fears some future probable injury to his rights or interests, and relief granted must depend upon circumstances*."

In the case of ***Fletcher v. Bealey (1884) [28 Ch.D. 688 at p. 698]***, the Court laid down the following conditions that must be fulfilled before a Court can grant an application for a *QuiaTimet* Injunction. These are: (i) proof of imminent danger; (ii) proof that the threatened injury will be practically irreparable; and (iii) proof that whenever the injurious circumstances ensue, it will be impossible to protect the plaintiff's interests, if relief is denied.

These principles have been expounded, expanded and applied in a number of Nigerian cases by the Courts. In ***Ohakim v. Agbaso (2010) 19 NWLR (Pt. 1226) 172 SC***the Supreme Court per Onnoghen JSC (as he then was), identified *QuiaTimet* Injunction as one of the types of injunction recognizable under the law. According to the learned Law Lord,

> "***Injunctions are classified according to the nature of the order given by the court or sought by a party. The two broad classifications of injunction are:***
>
> ***(a) mandatory injunctions; and***
>
> ***(b) prohibitory injunctions.***
>
> ***Under prohibitory injunctions, there are perpetual injunction, interlocutory injunction, interiminjunction, quiatimet injunction, mareva injunction and antonpiller orders. Generally, prohibitory injunctions restrain the person to whom they are directed from***

doing specific act or acts. However, mandatory injunction is an order of court requiring a party to do a specific act or acts."

In ***Sotuminu v. Ocean Steamship (Nig.) Ltd (1992) 5 NWLR (Pt. 239) 1 SC***, the Supreme Court per Nnaemeka JSC***at pages 27 – 28, paras E – D***, almost exhaustively examined the conditions and circumstances under which this type of injunction may be granted when it held that,

"***The danger is merely feared. It is a*** **quiatimet** ***ground for the injunction. Of course this ground has in theory long been established as a valid one for injunctions (for which, see Attorney-General v. Long Eaton U.D.C. (1915) 1 Ch. 124, p.124). But the condition precedent to a grant of it on*** **quiatimet** ***grounds is that the applicant must establish a strong case. For as Lord Dunedin observed, rightly in my view, in Attorney-General for the Dominion of Canada v. Ritchie Contracting and Supply Co. Ltd. (1919) A.C. 999, at p.1005-***

"But no one can obtain a **quiatimet** ***order by merely saying 'Timeo'.He must aver and prove that what is going on is calculated to infringe his rights."***

He must prove that there is an imminent danger of very substantial damage or further damage and show extreme

***probability of irreparable injury to the right or property of the applicant. See - Hooper v. Rogers (1975) Ch.43, at p. 49; Attorney-General v. Nottingham Corporation (1904) 1 Ch. 673.*"**

An Applicant who seeks to succeed in moving the Court to grant an application for this class of injunction to succeed, he must establish that he has the *locus standi* in the first place to institute the suit. See for instance, ***Attorney-General of Enugu State v. Omaba (1998) 1 NWLR (Pt. 532) 83 CA***where the Court of Appeal per Ubaezonu JCA held ***at page 101, para B*** that,

"*The nature of interest that can grant* locus standi *to a party may be "*in futuro*". For instance, if A is about to injure the property or the proprietary interest of B, B does not have to wait until the injury or damage is done before he takes steps to prevent the injury being done. This is the principle behind an order of a* quiatimet *injunction."*

In the instant case, the Claimant/Applicant deposed to the facts which he believed made the application inevitable. See paragraphs 5 and 6 of the affidavit in support of the Motion on Notice, **Exhibit I** attached to the said affidavit, paragraphs 6, 7, and 10 of the Further and Better Affidavit and **Exhibits A, B, C** and **D** attached thereto. In paragraph 11 of the Further and Better Affidavit, the Claimant/Applicant deposed to the fact that he has the *locus*

standi to institute the substantive suit and to bring this application. This is also supported by **Exhibits A, B, C, D, E** and **F** attached to the affidavit in support of the Motion on Notice.

On the other hand, the 1st Defendant/Respondent merely claimed that he was unware that the Nigeria Police has been harassing the Claimant/Applicant and, in addition, exonerated himself as the instigator of the alleged harassment. Meanwhile, the 1st Defendant/Respondent urged this Court to discountenance the Claimant/Applicant's application on the ground that the application has been overtaken by events as the Claimant/Applicant has filed a suit in Court already. This deposition, in my view, is unsupported in law. I therefore hold that the Claimant/Applicant has made out a strong case for the grant of a *QuiaTimet* Injunction.

The Claimant/Applicant has also sought for an order of interlocutory injunction. The principle guiding the grant of this relief has been settled by the Courts in a long line of judicial authorities. The 1st Defendant's only opposition to the application is found in paragraph 12 where it was averred that "*… the 1st Defendant will lose so much if the injunction is granted because the Claimant/Applicant may not have the requisite impetus to expeditiously litigate the substantive matter*." It was further claimed in paragraph 14 that "*… if the injunction is granted, the Claimant/Applicant would capitalize on it and would*

not prosecute the substantive matter diligently." These averments are, to my mind, rather feeble and clearly speculative. They do not raise substantive facts which would enable this Court exercise its discretion in favour of the 1st Defendant. Above all, they missed the entire point about the essence of interlocutory injunctions.

In ***Braithwaite v. S.C.B. (Nig.) Ltd (2012) 1 NWLR (1281) 301*** per Okoro, JCA (as he then was), the Court of Appeal held ***at p. 316, paras. B-C*** that,

> ***An interlocutory injunction is an injunction that is directed to ensure that a particular act or acts do not take place or continue to take place pending the final determination by the court of the rights of the parties. Put differently, this class of injunctive relief is to regulate the position of the parties pending the trial and determination of the issue between them, whilst avoiding a decision on such issues which could only be resolved at the trial.***

Going further at ***page 316 para C – E***, the Court held that,

> ***The purpose of interlocutory injunction is to protect a plaintiff against injury by violation of his right for which he could not be adequately compensated in damages recoverable in the action if the case were resolved in his favour at the trial****.*

Contrary to the repeated depositions of the 1st Defendant/Respondent that the application "*…had been overtaken by events as the action had been filed and the 1st Defendant has entered appearance…*", the Courts have held, for instance, in ***N.U.R.T.W. v. Mahe (2021) 13 NWLR (Pt. 1793) 276 CA*** per Oniyangi JCA ***at 296 – 297 para G-A*** that

> ***A grant of an interlocutory injunction does not mean or suggest that the substantive suit has being determined.***

In ***Oshiomhole v. Salihu (No. 2) 2021 8 NWLR (Pt. 1778) 380 CA*** the Court held at ***page 419 paras D – E*** that,

> ***The purpose of interlocutory injunction is to protect the right of the applicant and to preserve the*** *res* ***from destruction***.

In ***Andong v. Asuquo (2020) 11 NWLR (Pt. 1736) 580 CA*** per Shuaibu JCA the Court of Appeal held at ***page 597 para A*** that,

> ***The purpose of an interlocutory application isgenerally to keep the parties to an action in court ina position of*** **status quo ante bellum** ***and in that waypreserve the subject-matter of litigation. See also Obeya Memorial Hospital v. A.-G., Federation (1987) 3 NWLR (Pt. 60) 325***

From the dicta of the Courts as brought out above, it becomes immediately clear that the 1st Defendant was laboring under a misapprehension of the law when he contended that the application for an injunction was unnecessary. Considering the exhibits attached to the affidavit in support of the application and also to the Further and Better Affidavit, the need for this Court to exercise its discretion in favour of the Claimant/Applicant immediately becomes obvious.

It is immaterial that the 1st Defendant did not authorize the Police to harass the Claimant/Applicant; it is sufficient that some person, using the instrumentality of the Police and claiming to derive their authority from the 1st Defendant/Respondent has put the Claimant/Applicant in serious apprehension over what he considers his proprietary interest in Park 1147 B11 Kaura District, Abuja. His invitation, interrogation and detention at the Federal Capital Territory Command of the Nigeria Police only heightened this apprehension. To my mind, this is a strong ground for the grant of the reliefs sought herein, especially the grant of the QuiaTimet Injunction against the 1st Defendant/Respondent. This is in spite of the deposition of the 1st Defendant in paragraph 11 of his Counter-Affidavit that he "*has not shown to disturb or manifest the intention to disturb the Claimant's possession of the property in dispute*.

Considering that the Claimant/Applicant has put Park 1147 B11 Kaura District, Abuja to operational use pursuant to the terms of **Exhibit A and B** attached to

the affidavit in support of the application,the balance of convenience weighs greatly in favour of the Claimant/Applicant. I therefore hold that this Court has the power, under the circumstances evinced from the facts contained in the affidavits before this Court, to make an order of interlocutory injunction.

If the 1st Defendant claims he has not authorized the harassment of the Claimant/Applicant, then, the Nigeria Police must be invited to inform this Court why it has decided to become an arbiter in a land dispute. I am surprised that the Claimant did not deem it fit to make the Nigeria Police, one Inspector SulimShuaibu of the Commissioner of Police Monitoring Unit, Federal Capital Territory Command and one Mr Pat Oroma parties to this suit. From the contents of **Exhibits B and C** attached to the Further and Better Affidavit, those persons, especially, the said Mr Pat Oroma who appears to have set up a claim adverse to the Claimant/Applicant's at the FCT Police Command, ought to be named as parties to this suit.

While it is unclear whether the said Mr Pat Oroma is the 2nd Defendant designated as 'An Unknown Person', paragraphs 10 and 12 of **Exhibit C** makes his joinder necessary. Paragraph 10 states as follows: "*That on the 23rd November, 2020 that one Inspector SulimShuaibu of Commissioner of Police Monitoring and Mentoring Unit, FCT Command Garki, invited one of the Directors of the company MrBayoAwosemo through phone call to report at their*

office that a petition was received against the company from one Mr Pat Oroma alleging encroaching(sic) *on the same plot allocated to the company. Insp. SulimShuiabu demanded that MrBayoAwosemo come with all the documents relating to the land*."

On the other hand, the said paragraph 12 states as follows: "*MrBayoAwosemo*(that is the Managing Director of the Claimant/Applicant) *demanded to see the allotment paper of Mr Pat Oroma but the officer declined and only told him that the land was allotted to Mr Pat Oroma on the 11th November, 2020 by the Honourable Minister of the FCT*."

These facts are enough to make them parties to the suit for a holistic and conclusive determination of all the issues raised in this suit. Order 13 Rule 4 states that "***Any person may be joined as defendant against whom the right to any relief is alleged to exist, whether jointly, severally or in the alternative. Judgment may be given against one or more of the defendants as may be found to be liable, according to their respective liabilities, without any amendment.***" Indeed, I am not unaware of the position of the Rules of this Honourable Court on joinder. Order 13 Rule 7 stipulates thus:"***A claimant may at his option join as parties to the same action, all or any of the persons severally or jointly and severally, liable on any contract, including parties to bills of exchange and promissory notes***."

I know this Court is treading on jurisprudential quicksand for obvious reason. First, the Rules of thisCourt is silent on the powers of the Court to *suo moto* join a person to a suit; and, second, the suits for which joinder is provided for under the Rules are suits that relate to "***any contract, including parties to bills of exchange and promissory notes***".

Yet, notwithstanding this express stipulation as to joinder, the Courts have distilled clear principles that must guide the Court where it finds it necessary to join a person or persons as a party or parties to a suit. One of the principles is the concept of *dominuslitis*, or the master of the suit. The Court becomes *dominuslitis* in respect of any matter pending before it, and can therefore, exercise its inherent powers pursuant to section 6(6)(c) of the Constitution of the Federal Republic of Nigeria 1999 in the interest of justice and fair hearing to make such persons it considers necessary for the proper determination of the suit parties to the suit.

The Courts have had reason to pronounce on the notion of *dominuslitisvis-a-vis* joinder of parties in a number of cases.

In ***Inyang v. Ebong (2002) 2 NWLR (Pt. 751) 284 at p. 340, paras C - E***, the Court held that

> ***"When a suit has been filed, the trial court becomes dominuslitis and then assumes under the relevant civil***

procedure rules the duty and responsibility to ensure that the proceedings accord with the justice of the case by joining as plaintiffs or defendants all the persons who may be entitled to, or who claim some share or interest in the subject-matter of the suit, or who may be likely to be affected by the result if these had not already been made parties. The joinder of parties by the court suomotu can be done at any stage of the proceedings."

In ***Portland Paints and Products (Nig.) Ltd v. Olaghere (2019) 2 NWLR (Pt. 1657) 541 at 561 para C***, the Court held that,

After a suit has been filed, the trial court becomes dominuslitis. And the rules of court give the court discretionary power to suomotu order that a person be joined as a party to a suit, whether as plaintiff or as defendant, where it considers such person to be a necessary party to the just determination of the matter for adjudication. Further, the joinder by the court suomotu can be done at any stage of a proceeding. [Green v. Green (1987) 3 NWLR (Pt.61) 480 referred to.]

But, the exercise of this power of the Court to *suomotu* join a person to a suit must be exercised according to clearly defined template. The Supreme Court, in the case of ***Akpamgbo-Okadigbo v. Chidi (No. 1) (2015) 10 NWLR (Pt. 1466)***

171 SC, stated the factors that a Court must consider before it can *suomotu* make a person a party to a suit before it. Speaking through Muhammad JSC at***pp. 203-204, paras. H-D;212, paras. C-E***, the apex Court held that,

> ***A court on application or suomotu necessarily orders the joinder of a party: (a) where the party is aggrieved or likely to be aggrieved by the result of the litigation to the extent that he will be directly, legally or financially affected by the result of thelitigation; (b) to avoid multiplicity of suits arising from the same subject matter or res; (c) to enable the court fully, completely and effectually deal with the suit in order to frustrate or stop a possible future litigation on the subject matter; (d) to ensure that the principles of fair hearing under section 36 of the 1999 Constitution as amended and the natural justice rule of audialterampartem are not breached to avoid loss of jurisdiction by the fact of non-joinder. [Uku v. Okumagba (1974) 3 SC 35; Akanbi v. Fabunmi(1986) 3 NWLR (Pt. 108) 118; Green v. Green (1987)3 NWLR (Pt. 61) 480; Ige v. Farinde (1994) 7 NWLR (Pt. 354) 42 referred to.]***

Earlier, in ***Osunrinde v. Ajamogun (1992) 6 NWLR (Pt. 246) 156 SC*** the Supreme Court had, **per Ogundare, J.S.C. at pages 171-172, paras. G-A** laid down the test for joinder thus:

> **"*Whether an order for joinder is made pursuant to an application by the parties or by a court*** *suomotu,* ***the real test is whether the person to be joined will have his interest irreparably prejudiced if an order joining him as a party is not made.*** *[Oduola v. Coker* ***(1981) 5 S.C. 197 at 227 followed.]*****"**

In ***Portland Paints and Products (Nig.) Ltd v. Olaghere (2019)supra***, the Court held **at p. 561 para H**that,

> "***The only reason which makes it necessary to make a person a party to an action is that he should be bound by the result of the action, which cannot be effectually and completely settled unless he is a party. [Babayelu v. Ashamu (1998) 9 NWLR (Pt.567) 546 referred to.]***."

At **p. 563, paras. D – E**the Court held thus:

> ***In determining whether to join a person as a defendant in a suit, the court will consider the following questions:***

Is it possible for the court to adjudicate upon the cause of action set up by the plaintiff unless the (a) person is added as a defendant? (b) Is the person someone who ought to have been joined as a defendant in the first instance? (c) Is the cause or matter liable to be defeated for non-joinder?

These questions must be answered in the affirmative for the joinder to be justified. [Green v. Green (1987) 3 NWLR (Pt.61) 480; In Re: Mogaji (1986) 1 NWLR (Pt.19) 759; Ige v. Farinde(1994) 7 NWLR (Pt.354) 42 referred to.]

And in ***Akpamgbo-Okadigbo v. Chidi (No. 1) (2015), supra***, the Supreme court held at ***p. 210, paras. A-H*** that:

"***Courts have the duty to prevent the multiplicity of suits by joinder to ensure the wholesome and effectual determination of the matter in a singlesuit. Thus, where the determination of one of the plaintiff's claims will involve and affect a person's legal right or property, the person must necessarily be joined. It would be iniquitous to determine a matter against a person without at least an attempt to hear him. And to be heard, he must be a party. The sole aim of the court is to seek justice. And it must be justice according to law. However, when parties are available, who are so***

affected by a claim, pleading, evidence and a subsequent order would spell detriment or incalculable wrong to what they consider their right and they have either technically or inadvertently been excluded from stating their own side of the story, it is waving goodbye to justice*…"*

In view of the foregoing, therefore I hold that this Court has the powers to make an order of joinder *suomotu*. This Court will be abdicating its responsibility as a Court of Justice if, considering the facts disclosed in the affidavits before it and the documentary exhibits attached thereto, the Nigeria Police, one Inspector SulimShuaibu and one Mr Pat Oroma are not joined in this suit. The facts and the exhibits satisfy the test laid down by the Courts in the foregoing authorities. Accordingly, I hereby order that the Nigeria Police Force, Inspector SulimShuaibu of the Commissioner of Police, Federal Capital Territory, Abuja Police Command Monitoring and Mentoring Unit and Mr Pat Oroma be joined as Defendants to this suit.

All in all, I find this application meritorious and thereby make the following orders:

1. **That an Order of *QuiaTimet* Injunction is hereby made restraining the 1st Defendant herein,his agents, privies, assigns or attorney from disturbing the Claimant/Applicant right of possession of Park No. 1147,**

B11 located at Kaura District, Abuja pending the hearing and determination of the substantive suit.

2. **That an Order of Interlocutory Injunction is hereby made restraining all the Defendants,their agents, privies, assigns or attorney from disturbing the Claimants/Applicants right of possession of Park 1147, B11 located at Kaura District, Abuja pending the hearing and determination of this suit.**
3. **That an Order is hereby made restraining the 2nd Defendant from using the Nigeria Police to encroach or trespass on Park No. 1147, B11, Kaura District, Abuja for which the Claimant is in lawful possession.**
4. **That an Order of Joinder is hereby made joining the Nigeria Police Force, Inspector SulimShuaibu of the Commissioner of Police, Federal Capital Territory, Abuja Police Command Monitoring and Mentoring Unit and Mr Pat Oroma be joined as the 2nd, 3rd and 4thDefendants respectively to this suit while the "Unknown Person" shall be the 5th Defendant.**
5. **That all parties are hereby ordered to amend their processes in this suit accordingly,file same in this Court and serve same on each other.**
6. **That service of all processes in this suit on Mr Pat Oroma shall be done through the Nigeria Police and Inspector SulimShuaibu.**

This is the Ruling of this Court delivered today, the 22ndof February, 2022.

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HON. JUSTICE A. H. MUSA
JUDGE
22/02/2022