

**IN THE HIGH COURT OF JUSTICE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT HIGH COURT MAITAMA – ABUJA**

BEFORE: HIS LORDSHIP HON. JUSTICE S.U. BATURE

COURT CLERKS: JAMILA OMEKE & ORS

COURT NUMBER: HIGH COURT NO. 32

CASE NUMBER: SUIT NO. FCT/HC/M/12449/20

DATE: 22ND FEBRUARY, 2021

BETWEEN:

SUNDAY ADEBAYI.....CLAIMANT

AND

- | | | |
|--|---|-----------------|
| (1). HONOURABLE MINISTER OF THE FEDERAL
CAPITAL TERRITORY | } |DEFENDANTS |
| (2). FEDERAL CAPITAL DEVELOPMENT AUTHORITY
(FCDA) | | |

APPEARANCES:

J. S. Raheem Esq for the Claimant.

RULING

By a Motion on Notice with Motion No: M/12449/2020 dated 24th day of November 2020, the Claimant/Applicant herein prayed the Court for the following: -

- “i. AN ORDER of Interlocutory Injunction restraining the Defendants whether by themselves or by their servants, officers, agents or privies or otherwise howsoever so described, from revoking, disturbing or interfering with the Claimant’s right of ownership in respect of Plot No:***

817, Maitama (A5) District, FCT, Abuja pending the determination of this suit.

- ii. AN ORDER of Interlocutory Injunction restraining the Defendants from re-allocating, re-allocating or issuing any right of Occupancy or Certificate of Occupancy in respect of Plot No: 817, Maitama (A5) District, FCT, Abuja to any person except the Claimant pending the determination of this suit”.**

The grounds predicating the application are as follows: -

- “1. Claimant is vested with all the legal and equitable interests in the landed property situate at Plot No: 817, Maitama (A5) District, FCT, Abuja (“the property”) by virtue of a Right of Occupancy dated 07 May 2002 as well as a letter dated 07 May 2002 issued by the Ministry of the Federal Capital Territory, the Claimant was allocated the property for a period of ninety-nine years.**
- 2. Upon allocation of the property to the Claimant, the Claimant effected payment of the Right of Occupancy of the property and exercised proprietary rights over the property without interference from any third party.**
- 3. The Claimant’s title was revoked due to an issue of double allocation of the property to several people and other competing interests on the property. However, in 2009, the Claimant’s title in the property was reinstated for being valid and first-in-time.**
- 4. The Claimant maintained peaceful possession of the property until he discovered the Defendants imposed a caveat on the property. The caveat imposed on the property by the Defendants pose a threat to the interests and tile of the Claimant to the property.**
- 5. There is imminent possibility that the Defendants may revoke the Claimant’s title to the property or even re-allocate the property to a third party despite the subsistence of the Claimant’s valid title to the property.**

6. ***Unless this Honourable Court specifically makes an Order of Injunction restraining the Defendants, its privies, agents and associates, and such other persons, the rights and interests of the Claimant in the property may be revoked or transferred to a third party thereby foisting a faith accompli on the Honourable Court. It will be difficult in the circumstance to return to the status quo ante”.***

The application which is brought pursuant to Order 43 Rule 1 of the FCT High Court (Civil Procedure) Rules 2018; Section 6(6) of the 1999 Constitution (as amended) and under the inherent jurisdiction of this Court is supported by an Affidavit of 13 paragraphs deposed to by the Claimant/Applicant himself. Annexures marked Exhibits SA1, SA2, SA3, SA4, and SA5 respectively, as well as a Written Address also dated 22nd November 2020.

I have carefully considered this application, and all the processes filed in support of same and particularly the Affidavit evidence and the documentary exhibits attached therewith. I have also considered the fact that the Respondents who were duly served have not challenged this application in any way.

Now, on the purpose of Interlocutory Injunction, the Court of Appeal has held in the case of ***ACHEBE V MBANEFO & ANOR (2017) LPELR – 42886 (CA) per TUR, J.C.A. at pp 60 – 62, para E*** as follows:

“The principal and fundamental purpose of Interlocutory Injunction is to preserve the status quo while the rights of the parties contesting the subject matter are to be established after the facts have been gone into in a full blown trial. That is when the trial Judge might have rendered a decision in favour or against any of the disputing parties...”

Likewise, the Court held in the case of ***ADAMU & ORS V SUEMO (2007) LPELR – 4468 (CA), per RHODES-VIVOUR, J.C.A (now JSC) PP: 34 – 35, paras F – A*** as follows: -

“...The trial Judge quite rightly in my view granted an Interlocutory Injunction. After all, the main purpose of an Interlocutory Injunction is to ensure that the parties remain in “status quo ante bellum” pending the hearing and the determination of the substantive action. Trial should proceed

with dispatch rather than be held down by an application that only suspends the determination of the rights of the parties...”

Now, by paragraphs 4, 5, 6 and 7 of the Claimant/Applicant’s supporting Affidavit, it is shown that the Applicant has a legal right to protect. I also refer to Exhibit SA5, a Right of Occupancy dated 7th May 2002.

Likewise, in the supporting affidavit it is shown that there are serious issues to be tried in this suit.

The Claimant/Applicant in paragraphs 8 and 9 thereof, has expressed fear of right over the subject matter being revoked or re-allocated to a third party.

The Claimant further avers in paragraphs 10, 11 and 12 that the balance of convenience is on his side, that the Court has a duty to protect the subject matter as no amount of monetary compensation will be adequate for loss of his investment, time, and sentimental attachment to the property as well as an undertaking as to damages.

In the circumstances therefore, having thoroughly examined the facts in the supporting affidavit and the submissions of learned Applicant’s Counsel which are well canvassed in the Written Address, it is my considered opinion that the Claimant/Applicant has made out a case to be entitled to the grant of the reliefs sought in this application. I so hold.

Consequently, I find the application to be meritorious and it is accordingly granted as prayed in the interest of justice.

Signed:

Hon. Justice Samirah Umar Bature