

**IN THE HIGH COURT OF JUSTICE OF THE FEDERAL CAPITAL  
TERRITORY IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT APO ABUJA  
BEFORE HON. JUSTICE J. ENOBIE OBANOR**

**ON FRIDAY 10<sup>TH</sup> DAY OF SEPTEMBER, 2021**

**SUIT NO: FCT/HC/CV/232/2021**

**MOTION NO: FCT/HC/CV/M/773/2021**

**BETWEEN:**

**BULLION PROPERTIES LIMITED... CLAIMANT/APPLICANT.**

**AND**

- 1. SELFMADE INVESTMENT NIGERIA LIMITED**
- 2. MADAM OBIAGERI T. ANEKWE** **.....DEFENDANTS/  
RESPONDENTS.**

**RULING**

By the Motion on Notice filed on 28/1/2021 and predicated on Order 42 Rules 1(1) and Order 43 Rules 1(1) of the Rules of Court 2018 and inherent jurisdiction of the Court, the Claimant/Applicant ("The Applicant") seeks for the following reliefs:-

- "1. AN ORDER of Interlocutory injunction restraining the Respondents either by themselves, their Agents, Assigns, privies or anybody howsoever described claiming or deriving title from the Respondents from further altering the character of the plot or embarking on any form of construction works on Plot 105, Cadastral Zone D05 of Karsana North measuring approximately 59106.28m2 covered by Letter of Intent dated 5/31/2012 or to take further possession of any part thereof and disturb the Plaintiff's quiet ownership of*

*same pending the final determination of the substantive suit.*

*(2) AND for such Order or other orders as the Honourable Court may deem fit and proper to make in the circumstance.”*

The application is supported by a 43-paragraph affidavit deposed to Igoche Mark the Managing Director of the Applicant and Written Address of its Counsel.

In opposition, the Defendants/Respondents (“The Respondents”) filed 43-paragraph Counter Affidavit deposed to by the 2<sup>nd</sup> Defendant/Respondent along with the Written Address of their Counsel.

At the hearing on 22/7/2021 Counsel for the parties adopted their Written Addresses as their oral submissions in support of and against the application. Ruling was then reserved for today 10/9/2021.

The gravamen of the Applicant’s case as disclosed in the affidavit in support is that he is the managing Director and Chief Executive Officer of the Claimant/Applicant. The Claimant is the owner of Plot 105, Cadastral Zone D05 of Karsana North measuring approximately 59106.28m<sup>2</sup> Abuja FCT. By a letter of intent dated 5/31/2012 the Minister of FCT approved the grant over Plot 105, Cadastral Zone D05 of Karsana North measuring approximately 59106.28m<sup>2</sup> to AFSCO GLOBAL INVESTMENT SERVICES LTD to participate in the Mass Housing Development programme within the FCT. A copy of the Allocation Letter titled “Letter of Intent” was attached as Exhibit A. Sometimes in 2015 a lady in company of the 2<sup>nd</sup> Defendant/Respondent approached him and informed him of the intention of AFSCO GLOBAL INVESTMENT SERVICES LTD to dispose of and divest her interest in the land. He was initially not interested in its purchase but was persuaded to take advantage of the opportunity. He agreed to buy and ordered the legal department of the Applicant to carry out due diligence on the property. Upon satisfaction that the plot was genuinely allocated to AFSCO GLOBAL INVESTMENT SERVICES LTD, the plot was eventually purchased by the Applicant at the rate of N160,000,000,.00 ( One Hundred and Sixty Million Naira) only and the Original title documents transferred to them. Copy of the Deed of Assignment and correspondences acknowledging the receipts of money paid was attached as Exhibit B.

The agency fee over the transaction was paid and shared by both the said lady and the 2<sup>nd</sup> Defendant/Respondent herein. Compensation to Fulani inhabitants for the economic trees on the plot was paid by them and the roads leading to the site including bridges constructed by them too which opened up the area. Construction started and prototype building of 3bedrooms was constructed and completed by the Applicant but being a capital intensive project could only move at the pace determinable by available funds at that time. As a result of paucity of funds the 2<sup>nd</sup> Defendant/Respondent approached the Claimant with the promise that she can source for offtakers who will partner with the Applicant and develop the plot. The 2<sup>nd</sup> Defendant/Respondent equally promised that she can use her influence to facilitate the approval of about 420 Units of houses as opposed to the 320Units initially proposed by the Claimant and that the additional 100 Units can be sold to generate more income to the Claimant. He bought the idea and bore all the financial burden for the drawings and the building approval was obtained from the Development Control Department. The 2<sup>nd</sup> Defendant/Respondent came back and complained that the prospective off takers she got do not believe in the genuineness of her mandate and requested to be given an official letter granting her the mandate to source for the off-takers. The request was approved and a mandate letter issued to the Respondents. The 2<sup>nd</sup> Defendant/Respondent later approached him and said that she has gotten some interested offtakers and they are only interested in the outright purchase of the plot and all improvements so far made on it. It was agreed that the said offtakers should make their offer. While waiting for the offer from the offtakers to be made as discussed, the 2<sup>nd</sup> Defendant/Respondent inundated them with the complaint from the offtakers that they needed the Original title documents from them for sighting. All the original title documents were given to the 2<sup>nd</sup> Defendant/Respondent who promised to return them after showing them to the so called offtakers. While waiting for the offtakers to seal the deal as envisaged, the 2<sup>nd</sup> Defendant/Respondent came up with another story that the offtakers preferred the Defendants to handle the project for them hence the need for her offer to outrightly purchase the property. By a letter dated 8<sup>th</sup> March 2017 the Defendants/ Respondents offered to buy the entire plot inclusive of the improvements thereon in the sum of N1,500,000,000.00 (One Billion, Five Hundred Million Naira) only. A copy of the offer letter was attached as Exhibit C. By an acceptance letter dated 15<sup>th</sup> March 2017, they accepted the offer. A copy of the acceptance letter was attached as Exhibit D. It was only a year after that the 2<sup>nd</sup> Defendant/Respondent was only able to pay the sum of

N3,000,000.00( Three Million Naira) only. A sales agreement together with a Deed of Assignment and Power of Attorney was duly executed by the parties but the 2<sup>nd</sup> Defendant/Respondent surreptitiously went away with the copies in the guise of taking them to a Commissioner for Oath to witness them and till date, same has not been returned despite several demands. The outstanding contract sum has not been paid and the Defendants/Respondents have neglected, failed and refused to honour the terms of the agreement and have breached all the terms of the contract. It was until recently that he got to know that massive construction works were ongoing on the plot. A copy of Digital Photographs of the construction works was attached as Exhibit E. Upon realization that the Respondents are heavily developing the plot, the services of Alemidu Integrated Services Ltd ( a debt recovery agent) was retained and a further demand for the purchase sum was made by its letter dated 4<sup>th</sup> December 2020. A copy of the demand letter was attached as Exhibit F. Upon receipt of the said demand letter and pressure being mounted, the 2<sup>nd</sup> Respondent rather than pay up the entire debt as previously and severally promised, paid only a paltry sum of N5,000,000.00 ( Five Million Naira) only on 22<sup>nd</sup> December 2020. Since 2017 when the contract was entered into till date the Defendants have only struggled to pay N15,000,000.00( Fifteen Million Naira) only leaving a whopping balance of N1,485,000,000.00 ( One Billion, Four Hundred and Eighty Five Million Naira) Only. The Respondents have refused to return both the title documents and all other agreement in their custody despite repeated demand. The Respondents have commenced rigorous marketing of the land to the public and laying claim to the ownership of the land. Upon realization of this ugly development, a rescission of contract letter was issued and served on the Defendants. A copy of the letter and proof of service was attached as Exhibit G. There has not been a valid sale and transfer of ownership of the plot in issue to the Respondents to warrant its sale to unsuspecting public. Unless this court restrains the Defendants/Respondents and its agents, they will not hesitate to assign all the 420 plots to unsuspecting subscribers who are already radically altering the character of the plot at variance with the approval gotten from the Department of Development Control and if not halted may lead to revocation of the plot and no amount of monetary compensation will assuage the loss. It is of paramount interest that the res be preserved from being destroyed as the Respondents will not be prejudiced by the grant of this application.

The thrust of the Respondents' contention in their counter affidavit deposed to by 2<sup>nd</sup> Defendant/Respondent is that she never received any agency fee from the Claimant for any transaction whatsoever. It was the first grantee ( Afsco Global Investment Services Limited) who paid the sum of N18,000,000.00 ( Eighteen Million Naira) only to the Karsana indigenes of the F.C.T. Abuja as compensation. It was the 1<sup>st</sup> Defendant/Respondent who paid the registration fee of N250,000.00 ( Two Hundred and Fifty Thousand Naira) only to the Mass Housing Department of FCDA on behalf of the first grantee and constructed the major access road network with the drainage system excavation and infrastructure facilities as approved by the Department of Development Control and Mass Housing of FCDA. The Claimant purportedly purchased the letter of Intent from the first grantee sometime in 2016. The Claimant several months thereafter approached her, requesting her to work as its consultant for the purpose of developing the mass housing project on the plot. The claimant agreed to pay her the sum of N350,000,000.00 ( Three Hundred and Fifty Million Naira) as its consultant and a Memorandum of Understanding was executed between the Claimant and the 2<sup>nd</sup> Defendant. A copy of the Memorandum of Understanding was attached as Exhibit A. She dutifully carried out all responsibilities required of her and within the specified period through her company Ebonic Properties and Estate Development Limited. The Claimant only paid the sum of N70,000,000.00 ( Seventy Million Naira) out of the agreed N350,000,000.00 leaving an unpaid balance of N280,000,000.00. The Claimant issued her bank cheque of the balance to be presented on a future date. Copies of the bank cheques were attached as Exhibit B1 and B2. The Claimants cheque on presentation revealed that it lacked the fund to pay the balance owed to her. The Claimant expressed the need to transfer its purported title over the land in dispute to a willing purchaser since it lacked the financial capacity to develop the plot. She met with the board of directors of the 1<sup>st</sup> Defendant/Respondent and it was resolved that the 1<sup>st</sup> Defendant/Respondent being a real estate development firm with the required expertise and financial capacity to develop the mass housing project should acquire the purported title of the Claimant over the land. The 1<sup>st</sup> Defendant/Respondent then wrote to the Claimant with an offer to acquire its purported title over the land in dispute and the said offer was duly accepted by the Claimant. On 9<sup>th</sup> April 2017, the Claimant by an Irrevocable Power of Attorney coupled with valuable consideration duly acknowledged by the Claimant purportedly transferred the property by appointing the 1<sup>st</sup> Defendant/Respondent as its Attorney over the said land in dispute and also a Deed of Assignment executed in

favour of the 1<sup>st</sup> Defendant. Copies of Power of Attorney and Deed of Assignment were attached as Exhibits C and D. Upon execution of the above mentioned documents the 1<sup>st</sup> Defendant/Respondent allegedly acquired the Claimant's purported title over the said land and all original documents thereof were voluntarily handed over to the 1<sup>st</sup> Defendant/Respondent by the Claimant. The Defendants/Respondents then applied to the Department of Mass Housing of the F.C.T. Abuja for their approval to move to site and commence development on the said plot now in dispute. The 1<sup>st</sup> Defendant/Respondent was informed by the Department of Mass Housing that it is prohibited to sell or alienate in whole or part any portion of the land in dispute as the letter of Intent only permits a grantee to develop, allocate and revert title to the Federal Capital Development Authority as contained in the guidelines for housing development in the F.C.T. By their explanation, it then rendered the purported sale, purchase and transfer by the first grantee to the Claimant and the subsequent transfer by the Claimant to the 1<sup>st</sup> Defendant/Respondent as illegal, null and void. A copy of the Mass Housing guideline was attached as Exhibit E. The 1<sup>st</sup> Defendant was also informed that the Department of Mass Housing Federal Capital Development Authority, a representative of the grantor of the letter of intent saddled with the responsibility of overseeing and approving the development of mass houses in the FCT only recognizes the first grantee or their appointed developers and no other as such lands cannot be sold. The 1<sup>st</sup> Defendant/Respondent was further informed that any sale or alienation of any part of the mass housing allocation in any guise is not only illegal but will amount to a revocation of the said Letter of Intent. The 1<sup>st</sup> Defendant being desirous to still develop the Mass Housing went back to the Original grantee and obtained the relevant documents that will authorize it to go into the res and develop since the original grantee had no legal title to transfer. The Original grantee ( Afsco Global Investment Services Limited) and the 1<sup>st</sup> Defendant thereafter executed a memorandum for a Partnership with respect to the development of the land in dispute. A copy of the memorandum of Partnership was attached as Exhibit F. The Original grantee (Afsco Global Investment services Limited) also issued to the 1<sup>st</sup> Defendant/Respondent a letter of Authority as required by the Mass Housing Authority. A copy of the letter was attached as Exhibit G. The Original grantee by a Power of Attorney dated the 27<sup>th</sup> day of April 2017 appointed the 1<sup>st</sup> Defendant as its lawful attorney over the land in dispute. A copy of the Power of Attorney was attached as Exhibit H. Afsco Global Investment Services Limited on 23<sup>rd</sup> December

2019 wrote to the Department of Mass Housing/PPP FCT introducing the 1<sup>st</sup> Defendant as its developer in respect of the land in dispute. A copy of the introduction letter was attached as Exhibit I. The Department of Mass Housing Federal Capital Development Authority through the office of the Director of Mass Housing by a letter dated 18<sup>th</sup> January 2020 acknowledged the receipt and acceptance of the letter from Afsco Global Investment Services Limited( Original grantee) of 23<sup>rd</sup> December 2019. A copy of the acknowledgment letter was attached as Exhibit J. The 1<sup>st</sup> Defendant/Respondent was then recognized by the Department of Mass Housing as the Developer of the Land and then took lawful physical possession and occupation of the land in dispute. The 1<sup>st</sup> Defendant/Respondent duly submitted all building documents required by the Mass Housing Department within 6 months period before the 1<sup>st</sup> Defendant/Respondent was given approval to move to site in September 2018. The 1<sup>st</sup> Defendant/Respondent in the lawful exercise of its rights and as approved by the Department of Mass Housing has expended huge capital funds in erecting several blocks of flats, comprising of 3 bedrooms, 2bedrooms and 1 bedroom flats as well as infrastructural developments on the land in dispute and has developed and constructed housing units with infrastructure covering approximately 85% of the geographical area on the land in dispute. The level of work done by the 1<sup>st</sup> Defendant on the plot has attracted more subscribers and lifted the face of the estate and the Claimant did not put the 1<sup>st</sup> Defendant/Respondent in possession of the land and has no legal right to exercise over the land in dispute. The paid up owners of the houses already built on the land ought to move into these houses very soon and ought to be made parties to this suit in the interest of justice. The first grantee ( Afsco Global Investment Services Limited) ought to be made party in this suit. The owners of the buildings will suffer unquantifiable damages and balance of convenience is in favour of refusing this application as it will be in the interest of justice to dismiss this application.

As aforesaid, Counsel for the parties filed and exchanged Written Addresses in support of their respective contentions. The Court has given due consideration to the averments in the affidavits of the parties. The cardinal issue that calls for determination is whether or not the Applicant has made out a case to justify a grant of the application.

It is settled in our adversarial legal system that the grant or otherwise of the equitable remedy of Interlocutory Injunction pending determination of the

substantive suit involves an exercise of the Court's discretion which discretion is exercised judicially and judiciously based on the reason given, materials placed before the Court and peculiar circumstances of the case.

In the exercise of the discretion, the Court is guided by the existence or otherwise of the following factors:-

- (1) *The existence or otherwise of a recognizable legal right or interest of the Applicant in the subjectmatter in dispute which the Court ought to protect.*
- (2) *Threat to or actual violation of the legal right or interest.*
- (3) *The existence of a triable issue between the Parties.*
- (4) *Where the balance of convenience lies.*
- (5) *The irreparable injury the Applicant will suffer if the application is not granted.*
- (6) *Conduct of the parties.*
- (7) *Undertaking as to damages.*

**See: -AKPO V. HAKEEM-HABEEB (1992) 6 NWLR (Pt.247) p.206; OBEYA MEMORIAL HOSPITAL V.A-G OF FEDERATION (1987) 3 NWLR (Pt.238) p.325; ODUMERU V. ADENUGA (2000) 4 NWLR (Pt.852) p.224; EZEBILO V. CHINUBA (1997) 7 NWLR(Pt.511) p.108.**

In an application of this nature which torches on title/ownership and/or possession over land, an Applicant is not under a duty to prove his title over the land in dispute to the hilt. All that is expected of him is to show prima facie interest or right in the property in dispute which is threatened or violated which the Court ought to protect. Proof of title is a matter the Court will deal with at the substantive stage of the case. Where therefore an Applicant discloses his legal right or interest in the property in dispute and



same is threatened or actually violated by the conduct of the adversary, there is in existence a recognizable legal right or interest which the Court can protect. In that circumstance there is a triable issue between the parties: - See: - **ADENUGA V. ODUMERU** supra.; **REGISTERED TRUSTEES OF PEOPLE'S CLUB OF NIGERIA V. REGISTERED TRUSTEES OF ANSAR-UD-DEEN SOCIETY OF NIGERIA (2000) 5 NWLR (Pt.657) p.368.**

In this case, the parties are settled in their affidavit evidence that Afsco Global Investment Services Limited the original grantee of the land in dispute executed a Power of Attorney and Deed of Assignment on the Letter of Intent dated 5/31/2012 in favour of the Claimant/Applicant sometime in 2016. Parties are also agreed that sometime in 2017 the Claimant/Applicant by an Irrevocable Power of Attorney coupled with valuable consideration transferred the property by appointing the 1<sup>st</sup> Defendant/Respondent as its Attorney over the said land. These were acknowledged by the Respondents in paragraphs 8 and 17 of their counter affidavit. The Applicant has contended that since 2017 when the contract was entered for the sum of N1,500,000,000.00 (One Billion, Five Hundred Million Naira) till date, the Defendants have only struggled to pay N15,000,000.00 ( Fifteen Million Naira) only leaving a whopping balance of N1,485,000,000.00 (One Billion, Four Hundred and Eighty Five Million Naira) only. On the other hand It is the contention of the Defendants that when they were informed by the Department of Mass Housing that the original grantee had no power to sell or alienate the land, they approached the same Afsco Global Investment Services Limited (Original grantee) for development partnership. A memorandum of Partnership and Power of Attorney dated 27<sup>th</sup> April 2017 was then granted to 1<sup>st</sup> Defendant/Respondent by Afsco Global Investment Services Limited as its lawful attorney over the land in dispute. By the foregoing averments, particularly in the circumstances of the contents of the Applicant's Exhibit B which the Respondent acknowledged in paragraph 8 of it's counter affidavit as follows " That the Claimant purportedly purchased the Letter of Intent from the first grantee sometime in 2016", the Court is satisfied there is prima facie evidence showing the Applicant's has disclosed his legal right or interest in the property in dispute. Although the Respondents considers the sale, purchase and transfer by the first grantee to the Claimant and the subsequent transfer by the Claimant to the 1<sup>st</sup> Defendant/Respondent as illegal, null and void, the transfer of the property to the Applicant has created in the Applicant an interest in the property which the Court ought to

protect. The Applicant does not need to establish his title over the property at this stage to be entitled to protection of the Court vide an order of Interlocutory Injunction. There is no gainsaying that by the claims of the Applicant vis-à-vis the Respondents with respect to the outstanding sum of N1,485,000,000.00 ( One Billion Four Hundred and Eighty Five Million Naira) as balance of the contract sum it entered into with the Defendants over the purchase of the Plot in dispute that there is a triable issue between the parties.

The Court is minded, in order to maintain the status quo as well as preserve the property subjectmatter pending determination of the suit to direct the parties in this suit in clear terms not to take any step which will interfere with the property.

By reasons of the foregoing; (particularly as the balance of convenience lies in favour of the Applicant by virtue of the character of the plot being altered radically and sold out to members of the public), the Court resolves the sole issue raised above in favour of the Applicant. In the light of this, the application succeeds and is granted. An order of Interlocutory Injunction is granted restraining all parties in this case by themselves, agents, assigns servants and or privies from further altering the character of the plot or embarking on any form of construction works on Plot 105, Cadastral Zone D05 of Karsana North measuring approximately 59106.28m<sup>2</sup> covered by letter of Intent dated 5/31/2012 pending the determination of the substantive suit.

I make no order as to costs.

**SIGNED.**  
**HON. JUDGE**  
**10/9/2021**

### **LEGAL REPRESENTATIONS**

- (1) Femi Motojesi Esq for the Claimant/Applicant.
- (2) Isaac Nwachukwu Esq for the Defendants/Respondents.