

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT COURT NO. 5, MAITAMA ON THE
21ST DAY OF OCTOBER, 2021

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

SUIT NO. FCT/HC/CV/0138/2017

COURT CLERKS: JOSEPH ISHAKU BALAMI & ORS.

BETWEEN:

1. LUCAS ADEOSUN
2. YOMI OGUNDANA
3. BAYO OYEBAMIJI } CLAIMANT/JUDGMENT
CREDITORS
(Trading under the name and
style of OWOADE, ADEOSUN & CO.)

AND

1. BREDERO NIGERIA LIMITED } DEFENDANTS/
2. ALHAJI AHMADU YARO } JUDGMENT DEBTORS

IN RE:

ABUBAKAR YARO..... INTERPLEADER/APPLICANT

AND

1. LUCAS ADEOSUN
2. YOMI OGUNDANA
3. BAYO OYEBAMIJI } JUDGMENT CREDITORS/
RESPONDENTS
4. DEPUTY SHERIFF,
HIGH COURT OF JUSTICE, FCT } RESPONDENT

RULING

This is an Interpleader Summons dated 6/10/2020 and filed the same date. It is brought on behalf of the Applicant by the Counsel to the Judgment Debtors pursuant to Order 48 of the Rules of Court.

The Applicant seeks for the following reliefs:

- 1) An Order directing the Deputy Sheriff not to sell or dispose the immovable property known as No. 19 Formerly No. 8 Burmoseho Street, Garki, Area 8, Abuja being the property of the Interpleader/Applicant.

Learned Counsel rely on the 15 paragraph Affidavit deposed to by the Applicant. He deposes essentially that before the demise of the 2nd Defendant/Judgment Debtor, he had given the property known as Plot 1270, Cadastral Zone A01, Garki 1 District, File No. JG10070 covered by Certificate of Occupancy No. 1073w-12524-4s27s-d102u-10 dated 13th July 2017 to the Applicant vide a Deed of Gift. That he is the *bona fide* owner of the said property. That the whole family of the 2nd Judgment Debtor attested to the gift. That in a suit in the Upper Area Court, Kubwa, the property was set aside as that

of the Applicant and therefore not subject to inheritance. That a Court of competent jurisdiction has already removed this property as part of the estate of Ahmadu Yaro.

Learned Counsel to the Applicant adopted his Written Address. He posited a lone issue for determination which is **whether or not the Applicant is entitled to the grant of the application.**

Learned Counsel submits that the Rules of Court empowers this Court to grant the application. That he has shown his interest in the property by virtue of the Exhibits attached. That by Exhibit 1A1, he has proved the ownership of the property in question. He has a legal right in the property in question. He urges the Court to grant the relief sought.

The Judgment Creditors/Respondents' Counsel adopted his Reply on Points of Law. He submits that this application is not grantable in that the Court has made a finding on the Deed of Gift while delivering a Ruling in an earlier application to the effect that the said document is not capable of conferring ownership on the Applicant. He urges the Court to dismiss the application.

This Motion or Summons is not numbered. The inference is that it is not filed. Despite its incompetence, I shall proceed to consider it on the merit.

The Interpleader/Applicant relies on Exhibit 1A1, a Deed of Gift, as a proof of ownership of the property in question. In my Ruling in an earlier application by the Judgment Creditors/Respondents delivered on 06/10/2020, the Court held that the said Exhibit 1A1 which was then Exhibits S & C1 was not reliable and admissible as it was not stamped and dated.

Despite the above pronouncement, the Interpleader/ Applicant still presented the same document to prove ownership of the property in question. The said document in the state it is cannot transfer the legal title of the property to the Interpleader/Applicant.

He also deposes that in a suit for the distribution of the estate of late Ahmadu Yaro filed at the Upper Area Court, the property was set aside as that of the Applicant. The

proceedings of that Court was not availed the Court to prove that assertion.

In my humble view, the Interpleader/Applicant has not proved his claim so as to entitle him to the relief sought. The application is an abuse of Court process. It lacks merit and it is accordingly dismissed.

HON. JUSTICE U. P. KEKEMEKE
(HON. JUDGE)
21/10/2021

1st Judgment Creditor present.

2nd and 3rd Judgment Creditor absent.

Judgment Debtor absent.

Labiru Ahmad, Esq. for the Interpleader/Applicant.

(Signed)

Hon. Judge

21/10/2021