

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

**BEFORE HIS LORDSHIP: HON. JUSTICE M.S IDRIS
COURT NUMBER: HIGH COURT NO. 28
DATE: 8th NOVEMBER, 2021**

FCT/HC/CV/2522/2019

BETWEEN:-

**MR. JUDE EGBITA
(Doing business under the
name and style of Ilaita Enterprise
suing through his lawful attorney
Conuel Global Resources Ltd**

CLAIMANT

AND

- 1. MR. ALI OCHOLI**
- 2. MRS. HOPE OCHOLI**
- 3. MRS. LAMI EUNICE ICHABA**
- 4. MRS. ADAJI EJURA HAJARA**
- 5. ALEX JOHN EMMANUEL**

DEFENDANTS

RULING

The Defendant/Applicant filed a notice of preliminary objection No. M/7722/2020 dated and filed on 18th June, 2020 praying for the following order:-

1. That this Honourable Court has no jurisdiction to entertain this suit.
2. That the suit is an abuse of Court process.

Applicants are therefore seeking an order of this Court dismissing/striking out this suit for lack of jurisdiction.

Applicant attached to this preliminary objection a 7 paragraph affidavit , annexure, exhibit A-C and a written address.

The affidavit is deposed to by one Celine Amuzie .A litigation secretary at the law firm of Counsel to the Defendant/Applicant states that the claimant alleges to have purchased from the Diamond Multi – Concept Limited and acquired in his business name Ilaita Enterprise a land measuring about 5 hectares known as plot No MF 3112 situate within Sabo Lugbe East layout FCT that the title document emanated from Abuja Municipal Area Council (AMAC) was signed by one Lugard I. Edegbe a Zonal manager in the Zone planning office of Abuja Municipal Area Council (AMAC).

That the relevant law for allocation of land in the FCT does not empower the Zonal Manager in the planning office of Abuja Municipal Area Council (AMAC) to allocate land in the FCT. That it is only the Minister of FCT that has the power to allocate land within the FCT. That the Claimant acquired a defective title to property and thereby has no legal equitable interest in the property which is the subject matter of this suit as he is not in possession whereas the Defendant (1st -4th) have been in possession of the subject matter of this suit and have developed the plot of land by building several structures on it.

In his written address. Counsel on behalf of 1-5 Defendants formulated 2 issues for determination:-

1. Whether the Claimant has the locus standi to institute this suit before this Court
2. Whether this Court has the jurisdiction to entertain the suit.

On issue no 1 counsel contends that locus standi connotes the right to bring an action or to be heard in a given form. ***See ASSU & 10R VS BURE OF PUBLIC ENTERPRISES & 10R (2013) 14 NWLR (PT 1374) page 3898- 400*** ratio 1.

Counsel contends that Claimant acquired title from Abuja Municipal Area Council (AMAC) and same was signed by one Lugard Edegbe a Zonal Manager of the Zonal planning officer of the Abuja Municipal Area Council (AMAC) by law same has no right to allocate land for the Claimant. Counsel contends that delegated power cannot be further delegated see ***BAYLOYE VS UNI ILORIN (1989) 10 NWLR (PT622) page 290.***

On issue no two, Counsel contends that the claimant has not fulfil one of the condition precedent to the exercise of this Court jurisdiction that is the Claimant has no locus standi to institute this suit. That a Court will look at the jurisdiction if a party has no locus standi see ***REV. RUFUS I WUIJOKE & ORS VS THE REGISTERED TRUSTEE OF THE CHRIST METHODIST ZION CHURCH (2011) 6 NWLR (PT.1243) page 341- 345*** ratio 2.

Counsel urges the Court to dismiss/ struck out the suit for want of jurisdiction. In opposition the Claimant Counsel filed a counter affidavit to the notice of Preliminary objection dated the 18th June, 2020 and filed on the same day. The said Counter affidavit is of 18 paragraph affidavit deposed by one Emmanuel Nwodu

the Managing Director of the Claimant. Counsel to the Claimant adopt same and also relied on the exhibit tended in compliance with the rules of Court Counsel filed their written address. Having adopt the whole content of the counter affidavit and the exhibit attached by the Counsel to the Claimant. I have gone through same and feel not to reproduce the content of the same. In this ruling, i have therefore gone through all the content of the counter affidavit as adopted by the Claimant Counsel in this case. Having properly reproduces the position of both sides it is imperative to look at section 302 of the Constitution 1999 stipulated that the President is conferred with power to delegates to the Minister FCT with function as he may pleases from time to time see also section 18 FCT Act which rests the ownership of land within the FCT on Minister FCT for purposes of allocation of land to citizen of Federal Republic of Nigeria upon application. The Defendant/Applicant in their preliminary objection contends that the Claimant title document emanated from Abuja Municipal Area Council (AMAC) was signed by one Lugard J. Edegbe a Zonal Manager in the Zonal Planning Office of Abuja Municipal Area Council (AMAC) and that the relevant law for allocation of land in the FCT does not empower the Zonal Manager in the Planning Office of Abuja Municipal Area Council (AMAC) to allocate land in FCT.

A close look at the Claimant exhibit A attached to the Preliminary objection shows that the offer terms of grant/conveyance of approval was initiated in the name of the Minister FCT but only singed for the Minister. In ***AMADI VS FRN (2005) 18 NWLR (pt111) 259 at 276*** the Apex Court had reaffirmed

the law that officers of an agency(in that case Economic and Financial Crimes Commission (EFCC) can sign charges on behalf of the commission. The office of the Minister of FCT is not a permanent office as occupant of the office will come and go and the office will remain. It is only logical then that – any process to be signed is either signed by the Minister of FCT or any one delegated by him to do so on his behalf. See ***OGUN VS FRN (2020) LPELR 50273 C.A.*** The officer who signed the exhibit has his name and official title. The said document is certified. See ***JIMOH VS FCT & ORS (2018) LPELR 46329 SC at page 20-22.*** See also section 104 (1) (2) Evidence Act. See also ***MUSA & ANOR AMUR VS YAHAYA & ORS (2019) NWLR 48844(CA).*** Without recourse to the entire processes filed by the Defendant regarding this preliminary objection exhibit A of the Claimant’s exhibits and the judicial authorities cited above made me to refuse the application. This is because same lacking in merit.

HON. JUSTICE M.S IDRIS
(PRESIDING JUDGE)
8/11/2021