

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT MAITAMA ON THE 24TH DAY OF FEBRUARY, 2022

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

SUIT NO.FCT/HC/CV/3459/20

COURT CLERK: JOSEPH ISHAKU BALAMI & ORS.

BETWEEN:

1. LAWAL M. AHMED
2. PASSA ALI
3. ALABI LAWRENCE
4. HASSAN UMARU
5. NATHS KOLO
6. DORATHY DUFIA
7. SUNDAY AUDU
8. KELVIN GARUBA
9. HASSAN DANJUMA
10. SULEIMAN A. GARBA
11. KETURAH ENTERPRISES
12. JOHNSON MANKO
13. GANIYU USMAN
14. MODU SHEHURI
15. BABANGIDA USMAN
16. DR. GALADIMA
17. ANTHONY UDOJI OKECHUKWU
18. HYGINUS ONWUKA
19. YUSUF RAMP
20. UBA TIJANI
21. BABA MAIGARI
22. CALLISTUS EMEKA UMEH
23. JONAS ISA
24. ABDULAHI MUKU
25. NUHU YUSUF
26. ADEBAYO AKUJI
27. IBRAHIM ABUBAKAR
28. M.I. UMARU

.....CLAIMANTS

29. SHEHU ABUBAKAR
30. HENRY YUSUF
31. B. MOHAMMED
32. EMMANUEL NWUFOR
33. NDUKA UGWU
34. HYCINTH NZEDIGWE
35. UCHENNA NGBABOR
36. EMMANUEL NKWOR
37. IJEBUONWU AZUBUIKE
38. ANTHONY AKPA
39. FESTUS METTALL
40. DAUDA IYA
41. MUSA BAKO
42. DAUDA IYA
43. MUSA BAKO
44. SHEHU ABUBAKAR
45. DONAM NIG. LTD.
46. KINGSLEY UMEH
47. SUNDAY EZEIHUAKU
48. TONY NWANKWO
49. EMEKA ONWUASOANYA
50. NDUKA UGU
51. SUNDAY IGBOKWE
52. AYAJI SAMUEL
53. EZE PASCAL
54. JUSTINE UKOH
55. SUNDAY OHAERI
56. UGOCHUKWU UDEONWU
57. NNAMDI MORAH
58. OKWUDILI OZO
59. MARTIN NLENCHUKWU
60. ALOYSIUS ONYEKA
61. CHRISTOPHA UKEBOR
62. NAEMEKA IGWE
63. UCHENNA NGBABOR
64. DEFENCE EZEMAONYE
65. CHIADIKOABI OZOEMENE
66. CHIJIJOKE OZEMENE
67. GODWIN EZE
68. NWACHIE REMIGUS

.....CLAIMANTS

- 69. LIVINUS AKPA
- 70. MATHEW AKPA
- 71. EDWARD ANEKE
- 72. EMMANUEL C. OKPALA
- 73. FRANCES OKONKWO
- 74. PETER ANDREW
- 75. NDUBISI EKWE
- 76. EKENE OKEKE
- 77. GODWIN ASIEGBU
- 78. OKECHUKWU ANTHONY
- 79. GODWIN UFUANYA
- 80. SUNDAY UDEMBA
- 81. EMMANUEL OKONKWO
- 82. D.C. OKONKWO
- 83. AMACHI CHIKE
- 84. E.V. OKONKWO
- 85. GEORGE UMEH
- 86. JOHN CHUKWUNERE
- 87. CHRISTIAN NWACHUKWU
- 88. JUDE C. UGU
- 89. JAMES NNAMANI
- 90. ODINIKPO G. ANIKPEH.....CLAIMANTS
- 91. EZEKO JOSEPH
- 92. EKOWA FRANCES
- 93. CHRISTOPHER OKOLI
- 94. BASIL OKOYE
- 95. PRICE IYKE DIMGBA
- 96. KINGSLEY OMUGBO
- 97. CHIBUIKE NWEKE
- 98. ELIAS ONWUKWE
- 99. INNOCENT MADU
- 100. PETER EZEUDU
- 101. HYCENTH NZEDIGWE
- 102. JOSEPH EZEKE
- 103. EDWARD A. ANEKE
- 104. IFEANYI NDUKA
- 105. FELIX CHIOKE
- 106. NNA BIG
- 107. MRS. JUDITH CHIKEME
- 108. FRANKLIN EBEH

- 109. NWABUGO AGBURUOZO
- 110. REV. JOHN
- 111. ALOYSIUS IKEDIABI
- 112. NATHAN JOB
- 113. ISAAC UGOCHUKWU
- 114. EMMANUEL OFOMATA
- 115. BASIL OTUBELU
- 116. ORJI CHRISTOPHER
- 117. POLITIUS EKPEDE
- 118. IKECHUKWU OFOR
- 119. PATRICK EZEANYIKA
- 120. ELISHA NWAKIFE
- 121. ISAAC ANYA
- 122. NOBERT OKOLI
- 123. OMEKAGWU EJIKE
- 124. KENETH OKOLIE
- 125. EMEKA EGWUEKWE
- 126. CHRISTOPHER C. NWAGWU
- 127. SAMUEL DICKSON
- 128. IKENNA EZEMA
- 129. AMECHI ONYIA
- 130. EDITH CHIKEME
- 131. IKE EZE
- 132. IKENNA ERESIMMA
- 133. UCHENNA AGU
- 134. ATU FIDELIS
- 135. I.A OKPALA
- 136. IFEKA IKECHUKWU
- 137. GEORGE NNZE
- 138. EUGENE OKEIYI
- 139. NICODEMUS EGWUGWU
- 140. CHRISTIAN OKOFOR
- 141. HENRY ASIEGBU
- 142. GODWIN OMEJE
- 143. UGOCHUKU AGWUNA
- 144. CHIMEZIE AGBURUOZO
- 145. EMEKA UJA
- 146. OBIORA NEBO
- 147. JUSTINE ANI
- 148. JAMES ANEKE

.....CLAIMANTS

- 149. UCHENNA OKONKWO
- 150. OSY FRANCE OKEKE
- 151. EDWIN CHINWUBA
- 152. CHRIST OBADI
- 153. UCHENNA THOMUS
- 154. FRANK O. INYA
- 155. NDUBISI EKWE
- 156. MARCEL EBEH
- 157. CHUKWUDI OBIWURU
- 158. CHIKA MARTIN IHEKA
- 159. C.Q.C. ONYEKA
- 160. OKORIE OBIORAH
- 161. MATHEW UZOR
- 162. OLIVER C. UKATA
- 163. KELECHI OKWUEGO
- 164. ODILICHUKWU OKAFOR
- 165. MICHEAL UHEBOR
- 166. ANTHONY IGBOKWE
- 167. LARRY ODUMODU
- 168. CHIDIEBERE OKEKE.....
- 169. VINCENT AMENE
- 170. LAWRENCE ONWUZU
- 171. LIVINUS ISHIWI
- 172. SUNDAY IDOKO
- 173. EMEKA NWUFO
- 174. MICHAEL EKWUGHA
- 175. CHRISTIAN NWODOH
- 176. LAZARUS NWABUFO
- 177. SALAS IBEH
- 178. MICHAEL CHIME
- 179. PIUS M.C. MARTINS
- 180. ALIS NKWOCHA
- 181. FABIAN OKAFOR
- 182. MRS. MAGDALINE
- 183. MICHAEL EZEAGWU
- 184. FRANKLIN ABEH
- 185. JAMES ANEKE
- 186. GODWIN EMMANUEL
- 187. GEORGE NNZE
- 188. EBERE ANTHONY

.....CLAIMANTS

- 189. CHRIS ANAEROBI
- 190. LAWRENCE ANAEROBI
- 191. OBIORA OJUKWU
- 192. CHIBUEZE AMAH
- 193. EMMANUEL ENEH
- 194. VALENTINE NWOSU
- 195. CHRISTIAN METTAH
- 196. AUGUSTINE IFEOMA
- 197. SAMUEL CHUKWUMA
- 198. CHUKWUMA OKEKE
- 199. REMIGIUS NWAEHIE
- 200. GOERGE UME
- 201. BASIL OKOYE
- 202. CHIMEZIE AHUCHOGU
- 203. LAZARUS ANIEKWE
- 204. HILARY OKOLI
- 205. ISAAC ANAYO
- 206. DICKSON UCHE
- 207. ABDUL FATAI
- 208. FRANCIS ODIMEDUN
- 209. A.E. DIBOR
- 210. NNAMUCHI EZEIHUKU
- 211. OKORIE OBIOHA
- 212. MICHAEL CHIME
- 213. PIUS M.C. MARTINS
- 214. MATHEW UZOR
- 215. CHIADIKAOBO OZOEMENENE
- 216. HENRY OKOYE
- 217. MICHAEL NWOKEDI
- 218. CRESCENT C. ENEH
- 219. CHRISTOPHER ANENE
- 220. SUNDAY UDEMBA
- 221. JAMES MMADUKASI
- 222. OKECHUKWU NNAMANI
- 223. DONATUS ASOGWA
- 224. SILAS IBEH
- 225. STANLEY OFOMATA

..... CLAIMANTS

AND

- 1. MESOTHO GROUP LIMITED**
 - 2. ABUJA INVESTMENT COMPANY LIMITED**
 - 3. ALL PERSON UNKOWN**
- }DEFENDANTS

RULING

The Claimants' Writ of Summons and Statement of Claim is dated 17/12/2020 and filed the same date.

The Claimants' Claim among others is:

- (1) A declaration of Court that the title of the Claimants over Kugbo Commercial Layout, Abuja duly allocated to the Claimants by the Minister and Federal Capital Development Authority remains valid and subsisting.
- (2) That the invasion and encroachment of Kugbo Commercial Layout, Kugbo by the Defendants who broke and entered the layout duly allocated to the Claimants by the Minister by clearing and erecting structures without Claimants' authorization amount to trespass.
- (3) That all the allocations sold by the 1st& 2nd Defendants to unsuspecting buyers without the consent of the Claimants is null and void.
- (4) N1.5 Billion general damages against the 1st& 2nd Defendants.

The Defendant were served upon which the 1st& 2nd Defendants brought Preliminary Objections to the hearing and determination of the suit.

The 1st Defendant/Applicant's application dated 22/06/21 seeks an Order striking out the suit of the Claimants.

Learned Counsel rely on 4 grounds for the application

- (1) The suit is not founded in any legal foundation.
- (2) That it discloses no reasonable cause of action.
- (3) That Claimants have no locus standi.
- (4) That the Court has no jurisdiction.

In the Affidavit filed in support, deposed to by Fredrick T. Joseph of Block B, Flat 8, Plot 1611/1612 AKOKA Crescent. He deposed that 1st Defendant was engaged by 2nd Defendant to develop Plot 8279. That 2nd Defendant is the owner of the said Plot 8279 having been offered and granted Statutory Rights of Occupancy over the said plot by the Minister of the FCT.

That their allocation letter emanated from Development Control Department of FCT that has no power to allocate land. That they are laying claim to an indefinite and imprecise land at Kugbo. That the Judgment referred to did not confer title.

The 2nd Defendant/Applicant's Motion on Notice challenging the Court's jurisdiction is dated 25/06/21. It prays the Court for an Order dismissing the suit for lack of (local) locus standi and not disclosing a reasonable cause of action. The grounds for the objection are 4. The Learned Counsel to the 2nd Defendant also rely on the 6 paragraph affidavit sworn to by Benedict Nwakalor.

I have read the objections and the Affidavits.

I have also read the Counter Affidavit of Claimants and considered the Written Addresses of Counsel.

The 1st and 2nd Defendants have contented that the Claimants have no cause of action/a legal right. A cause of action is the entire set of circumstance giving rise to an enforceable claim. It is the fact or a combination of facts which give rise to a right to sue and it consists of two elements:

- (1) The wrongful act of the Defendants which gives the Claimants their cause of complaint and the consequent damage.

See ***EMIATOR VS. NIGERIAN ARMY (1999) 12 NWLR (PT. 631) 362 SC.***

In order to determine whether or not a suit discloses a cause of action, the Courts are required to examine the averments in the pleadings, the reliefs sought to see if they disclose a cause of action.

I have examined the reliefs sought and the averments contained in the Statement of Claim. The Claimants aver they were allocated their stores and shops by the Minister of the FCT through the Department of Development Control. That they got the said stores/warehouses in their individual capacity.

That they have been in possession at all material times. That some allottees engaged 1st& 2nd Defendants to construct over 650 shops for

their members who are all registered members of Building Materials Union. That the Defendants entered into their land without their consent clearing and carrying out development.

I have also read the claim of the Claimants. I have earlier reproduced same. The law is that once a Statement of Claim raises some issues of law or fact calling for determination by the Court, the mere fact that the case is weak and not likely to succeed is not a ground for striking it out. A pleading can only be said to disclose no cause of action where it is such that nobody can understand what claim the Defendant is required to meet. See ***IDACHABA VS. ILONA (2007) 6 NWLR (PT. 1030) 277.***

I have also read the letters of allocation frontloaded. They are purportedly issued on behalf of the Minister of the FCT.

A right of action on the other hand entitles the Claimant to maintain an action on the wrong alleged with a view of getting a judicial redress. I hold the view that the Claimants has a right to a relief.

The averments in the pleadings disclose some cause of action or raise some questions which are fit to be decided upon.

The 1st and 2nd Defendants' also canvass that the Claimants have no legal right or locus standi to sue the Defendants. Locus standi or standing to sue is the legal right of a party to sue. A person is said to have locus standi if he has sufficient interest in the action and that his civil rights and obligations have been or are in danger of being infringed.

OLAGUNJU V. YAHAYA (1998) 3 NWLR (PT. 542) 501.

It is the Statement of Claim or evidence adduced and not the Statement of Defence that must be gleaned to find out whether or not a Litigant has Locus Standi to sue.

See **EZECHIGBO VS. GOV. ANAMBRA STATE (1999) 9 NWLR (PT. 619) 386.**

The Court will not therefore look at any defence whatsoever to resolve the issue of locus standi.

I have read again and again the Statement of Claim. In the light of the facts and circumstances of this case, it is my view and I so hold that the Claimants have sufficient interest or legal right. Consequently the Court has jurisdiction to entertain the suit.

In totality, the 1st and 2nd Defendants objections fail and they are accordingly dismissed.

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HON. JUSTICE U.P. KEKEMEKE
(HON. JUDGE)
24/02/22

