

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

BEFORE: HON. JUSTICE O. C. AGBAZA

COURT CLERKS: UKONU KALU & GODSPOWER EBAHOR

COURT NO: 6

SUIT NO: FCT/HC/CV/2288/2015

BETWEEN:

ENGR. USMAN SADIQ.....CLAIMANT

VS

MR. AUSTINE OGULEJOFOR.....DEFENDANT

RULING

This is a Ruling on the Admissibility or otherwise of a Certificate of Occupancy with No. FCT/BZTP/LA/KA/2000/1142, issued by the Rural Land Adjudication Committee Bwari, Area Council Bwari, Abuja to Usman Sadiq, 20/1/02 sought to be tendered in evidence by PW3 during his Examination –in-Chief. Defendant’s Counsel objects to the Admissibility of the said document on the ground that the document is not relevant to the proceedings that the document mentioned in Paragraph 5 of the Oath of PW3 is dated 20/1/2012 and not this particular document dated 2002, therefore clearly not relevant to the proceedings therefore urge court to reject the document and mark as tendered but rejected.

Responding, Claimant’s Counsel submits that the document is pleaded in Paragraph 5 of their Amended Statement of Claim that the 2012 stated in the Witness Statement on Oath is a typographical error, the document is

pleaded and relevant to the case. Urge court to rely on the material part of the document, which is the reference No in the Lands Registry. The attached T.D.P shows the Beacon Nos which is pleaded as well and that the Defendant is not misled by the mention of 2012 in the Oath. Submits that the court has the power to expunge the error, urge court to discountenance the submission of Defendant's Counsel and admit the document.

Having carefully considered the submission of both Counsel for and against the admissibility of the document in contention the court finds that only one issue calls for determination that is;

“Whether the document in issue is capable of being admissible in evidence”

The criteria which govern the admissibility of documentary evidence have been stated to be three-folds in a Plethora of authorities they are;

- (1) Is the document pleaded?
- (2) Is the document relevant?
- (3) Is the document admissible in law?

See Okonji & Ors Vs George Njokanma (1999) 12 SCNJ 252 @ 259.

I have taken a look at the document in issue, as well the pleadings of the Claimant vis-à-vis the above state criteria and I find that the facts which the document refers are sufficiently pleaded in Paragraph 4,5,6,7 of the Amended Statement of Claim filed on 9/7/18 by the Claimant. I also find

those facts relevant to the case. The Pertinent question which arises is whether the document is admissible in law?

Section 85 of the Evidence Act 2011 provides that the content of a document may be proved either by Primary or by Secondary evidence. Section 86 and 87 of the Act described the meaning of Primary and Secondary evidence respectively. The witness had informed court that the document is original and this is not in contention and is thus admissible under Section 85 and 86 of the Evidence Act. The court is of the firm view that the issue of the discrepancies in the date of the document stated in to Witness Statement of Oath of PW3 is not a matter of relevancy of the document, but the weight to be attached to the document and this the court cannot evaluate at this stage of trial.

Thus from all of these and having found the document in contention, pleaded, relevant to the facts of the case and relevant in law this court hereby dismiss the objection to its Admissibility accordingly; the document original Certificate of Occupancy number FCT/BZTP/LA/LA/ KG/2000/1142 issued by Rural Land Adjudication Committee, Bwari Area Council, Bwari Abuja to Usman Sadiq dated 20/1/02 is admitted as Exhibit "H".

HON. JUSTICE O. C. AGBAZA

Presiding Judge

26/5/2022

APPEARANCE:

A.O. DEWORITSEHE FOR THE CLAIMANT

CELESTINE IGHODALO FOR THE DEFENDANT.