

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT JABI, ABUJA**

BEFORE HIS LORDSHIP: HON. JUSTICE MUHAMMAD S. IDRIS

COURT: 28

DATE: 19TH MAY, 2022

FCT/HC/CV/1418/2021

FCT/HC/M/2231/2022

BETWEEN:-

1. BRIGHT OWIE
2. PETER OBI
3. OLIKO CHINEDU NWACHUKWU
4. ADEGOKE LAMIDI
5. BOLAJI BELLO ABRAHAM
6. WANKA BABAYO JUBRIL
7. IBRAHIM ALKALI
8. BLESSING JAMES UMUNADI
9. MUSTAPHA BASHIR ISMAIL
10. ENOHUOMA CLINTON
11. RAYVAN IBRAHIM YAJI
12. ADEYANJU TUNJI
13. ORAJIAKU VICTOR
14. NSEOBONG UMANA
15. IBRAHIM OLAIFA

CLAIMANTS/RESPONDENTS

16.KIKIOWO ILEOWO OLAMIDE

AND

RICHYGOLD HOMES AND ESTATE LIMITED DEFENDANT/APPLICANT

RULING

By a Motion On Notice dated 28th February, 2022 and filed on the same date, brought pursuant to Order 43 Rule 1 and 3 of the High Court of the Federal Capital Territory (Civil Procedure) Rules; Section 36 of the Constitution of the Federal Republic of Nigeria and under the inherent jurisdiction of this Honourable Court, the Applicant seeks the following reliefs:-

1. AN INTERLOCUTORY ORDER of this Honourable Court directing the Claimants/Respondents (except the 9th Respondent) to within 14days from the date of grant of the prayer, pay the undisputed rent of N900, 000.00 (Nine Hundred and Ninety Thousand Naira Only) into RichyGold Homes & Estates Limited, Polaris Bank Account No: 4010031626 pending the determination of the substantive suit since the rent for the

tenancy that commenced on the 1st of January 2021 expired on the 31st of December, 2021.

2. AN INTERLOCUTORY ORDER of this Honourable Court directing the Claimants/Respondents (except the 9th Respondent) to within 14days from the date of grant of the prayer, pay the undisputed service charge of N90, 000.00 (Ninety Thousand Naira Only) into RichyGold Homes & Estates Limited, Polaris Bank Account No: 4010031626 pending the determination of the substantive suit since the service charge for the tenancy that commenced on the 1st of January 2021 expired on the 31st of December, 2021.
3. AN INTERLOCUTORY ORDER of this Honourable Court directing the Claimants/Respondents to file Affidavit of compliance exhibiting proof of payment before the return date.
4. AN SUCH FURTHER ORDER(S) as this Honourable Court may deem fit to grant in the circumstances of this application.

In support of the application is a 5 Paragraphed affidavit with 4 annexures marked as Exhibits A, B, C1 AND C2 respectively. A brief written address was filed in compliance with the Rules of this Court in which the well-known principles governing the grant of an order of injunction were stated and it was submitted by Counsel to the Applicant that the Applicant has on the facts and materials met or fulfilled the legal requirements to enable the Court make the orders sought in the Applicant's favour.

Counsel for the Applicant relied on the contents of the paragraphs of the supporting affidavit and the annexures. He adopted the submissions contained in the written address and urged the Court to grant the application.

Arguing per contra, the Plaintiffs/Respondents filed a 10 paragraphed counter-affidavit, a brief written address was filed in compliance with the Rules of this Court in which the well-known principle governing the grant of an order of injunction were similarly stated and it was submitted that the Applicant having failed in complying with the preconditions for the grant of the

application for interlocutory injunction, the application ought to be refused by this Court.

I have carefully considered all the processes filed on behalf of the Applicant. The issue to be resolved by this application falls within a very narrow legal compass with very well defined principles. The facts and justice of each matter dictates whether the order(s) sought will be granted or not. It must also be borne in mind that at this stage, there is no trial on the merits.

As a logical corollary, it is now the duty of the Court to examine the established facts within the context of the principles guiding the grant of an order of interlocutory injunction and then determine whether the Applicant has made out a good case for the exercise of the Court's discretion in their favour.

Before I go further, let me categorically bring to the fore, the primary fact that the reliefs being sought by the Applicant in its Application have similarly, clearly and expressly been admitted by the Claimants/Respondents in paragraph 7(c) of their counter-affidavit in opposition to the Application of the Applicant. It is

trite in our law of Evidence that facts admitted need no further prove. See **SECTION 123 OF THE EVIDENCE ACT 2011**.

Flowing from the above, it is the position that the grant of an interlocutory injunction involves the exercise of the Court's undoubted discretion which discretion must be exercised judiciously and judicially. The basis for the grant of an injunction is the need to protect the Applicant by preserving the circumstances that are found to exist at the time of the application until the rights of the parties can be finally established. This need is weighed against the corresponding need of the Respondents to be protected against injury resulting from having been prevented from exercising their legal rights for which they could not be adequately compensated in damages if in the end the substantive case is decided in their favour. See **ODUTAN V GENERAL OIL LTD (1995) 4 NLWR (Pt. 387) 1 at 12 H-13A**. The order of injunction is put in place to forestall irreparable injury of the applicant's legal or equitable rights. See **MADUBUIKE V MADUBUIKE (2001) 9 NWLR (Pt. 719) 698 at 708 A-C**.

As stated earlier, issues were not joined by the Claimants/Respondents on the specific reliefs sought by the Applicant which solely bothers on payments of outstanding sums totaling 990, 000.00 (Nine Hundred and Ninety Thousand Naira) Only being the agreed rent and service charge for the tenancy that commenced on the 1st of January 2021 expiring on the 31st of December, 2021. The above deposition was clearly admitted by the Claimants/Respondents who further expressed their willingness to pay same at any time they are called upon to do so. Flowing from the above, it is my informed believe that the time for the Claimants/Applicant to do same is now.

On the unchallenged facts, the Defendant/Applicant has made out a case for the grant of an order of interlocutory injunction. Therefore, the application succeeds. Since as stated earlier that the basis for the grant of an order of injunction is the need to protect the Applicant by preserving the circumstances that are found to exist at the time of the application until the rights of the parties is finally established. I accordingly, haven found that the

Applicant has made out a case for a favourable exercise of the Court's discretion make the following orders:-

1. AN INTERLOCUTORY ORDER of this Honourable Court directing the Claimants/Respondents (except the 9th Respondent) to within 14days from the date of grant of the prayer, pay the undisputed rent of N900, 000.00 (Nine Hundred Thousand Naira Only) into RichyGold Homes & Estates Limited, Polaris Bank Account No: 4010031626 pending the determination of the substantive suit since the rent for the tenancy that commenced on the 1st of January 2021 expired on the 31st of December, 2021.
2. AN INTERLOCUTORY ORDER of this Honourable Court directing the Claimants/Respondents (except the 9th Respondent) to within 14 days from the date of grant of the prayer, pay the undisputed service charge of N90, 000.00 (Ninety Thousand Naira Only) into RichyGold Homes & Estates Limited, Polaris Bank Account No: 4010031626 pending the determination of the substantive suit since the service charge for the tenancy

that commenced on the 1st of January, 2021 expired on the 31st of December, 2021.

3. AN INTERLOCUTORY ORDER of this Honourable Court directing the Claimants/Respondents to file Affidavit of compliance exhibiting proof of payment before the return date.

It is important in this ruling to further elaborate on this issue. An interlocutory injunction that is directed to ensure that a particular act or acts do not take place or continue to take place pending the final determination by the Court of the right of the parties. Put differently this class of injunctive reliefs to regulate the position of the parties pending the trial and determination of the issue between them, whilst avoiding a decision on such issues which could only be resorted at the trial see **BRATWATE VS A.C.B NIG LTD SUIT No. CA/L/427/2011** also cited in **(2012) 1 NWLR P.301**.

The purpose of interlocutory injunction is to protect a Plaintiff against injury by violation of his right which he could not be adequately compensated in damages recoverable in the action if

the case were resolved in his favour at the trial. Notwithstanding the rights of the Plaintiff to be so protected. It has the right of the Plaintiff to be so protected, it has to be weighed against the corresponding need of the Defendant to be also protected against injury resulting to him have been prevented from exercising his own legal right if the uncertainty were resolved in his favour at the trial. See **A.G of THE FED (1987) 3 NWLR (PT 60) 325 OJUKWU VS NIG. GOVT. LAGOS STATE (1986) 3 NWLR (PT26) 39** relief for interlocutory injunction like most other reliefs, "Punitive and therefore, should be granted only after due process of law, which involves given the parties a fair hearing. The relief of interlocutory injunction which has the capacity of arresting the res in dispute, pending the determination of the matter deserves a full, dispassionate and proper consideration. This is because its transient effect is just as good as it last, that is to say as long as the matter is not fully disposed of see **ISOMADE VS OKEI (1992) 2 NWLR (pt 358)**. Having exhaustively and critically analyzed the two affidavits i.e the affidavit in support of the motion on notice and the counter affidavit filed by the

Defendant/Respondent. I am conveniently convinced to have granted the Plaintiffs application as can be seen from the ruling of this Court. Consequently I so hold.

HON. JUSTICE M.S IDRIS
(Presiding Judge)