IN THE HIGH COURT OF JUSTICE OF THE F.C.T.
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT APO, ABUJA
ON TUESDAY, THE 13TH DAY OF DECEMBER, 2022
BEFORE HIS LORDSHIP: HON. JUSTICE ABUBAKAR HUSSAINI MUSA
JUDGE

CHARGE NO: FCT/HC/CV/661/2021
MOTION NO.: M/2897/2022

BETWEEN:

REGISTERED TRUSTEES OF GAMES VILLAGE RESIDENTS ASSOCIATION — **CLAIMANT/RESPONDENT**

AND

1. **HON. MINISTER, FEDERAL CAPITAL TERRITORY**
2. **FEDERAL CAPITAL TERRITORY ADMINISTRATION**
3. **HON. MINISTER, FEDERAL MINISTRY OF WORKS AND HOUSING**
4. **FEDERAL GOVERNMENT OF NIGERIA** — **DEFENDANTS/RESPONDENTS**
5. **ZAYANU IBRAHIM**

IN RE:
BRIDGE POLES ENERGY LIMITED — **APPLICANT/PARTY SEEKING TO BE JOINED**

RULING

This Ruling is on the application for the joinder of Bridge Poles Energy Limited, the Applicant and Party Seeking to be Joined.

By way of a Motion on Notice with Motion Number M/2897/2022 dated the 15th of March, 2022 and filed on the same date, Bridge Poles Energy Limited, the Applicant and Party Seeking to be Joined brought this application seeking the following reliefs:-

1. *An Order of this Honourable Court joining the Applicant/Party Seeking to be Joined as the 3rd Defendant in this suit.*

2. *And for such further Order or other Orders as the Honourable Court may deem fit to make in the circumstances.*

The application is founded on eight (8) grounds which revolve around forum-shopping, which is immediately obvious in the light of the pendency of the suit wherein the Applicant/Party Seeking to be Joined is the Claimant therein and the Claimant herein is the 3rd Defendant therein. In that suit with ***Suit Number FCT/HC/CV/1384/2020 and Suit Name Bridge Poles Energy Limited v. (1) Hon. Minister of Federal Capital Territory, (2) Director of Development Control FCT Administration, (3) The Registered Trustees of the Games Village Residents' Association, and (4) Mr Zira Maigida (& Efe Awhinawhi)***, the Court *coram* O. A. Musa, J. had made an Order of interlocutory injunction against the Claimant herein. By virtue of this fact, the Applicant/Party Seeking to be Joined believed that it would be directly affected by the decision of the Court in this instant suit.

The application is supported by a 7-paragraph affidavit, six (6) exhibits, and a Written Address. In the affidavit in support of the application, the deponent, one Adeyemi Adeyeye, a legal practitioner in the law firm representing the Applicant/Party Seeking to be Joined swore that the Applicant was the owner of the property known as Plot 1755 Cadastral Zone B11, Kaura District, Abuja

FCT with File Number 88589 by virtue of **Exhibits B1, B2, B3, and B4** which were a Deed of Assignment between Richfield Property Development Co. Ltd and Bridge Poles Energy Limited, a Power of Attorney donated by Richfield Property Development Co. Ltd to Bridge Poles Energy Limited, a Statutory Right of Occupancy granted to Allan Stabilini Ltd and a Certificate of Occupancy issued to the same Allan Stabilini Ltd respectively. As the owner of the property, the Applicant, according to the deponent, had been paying the ground rent and the development levies as could be seen from **Exhibit B5**.

Though the Applicant had taken steps to develop the property, the Claimant herein had frustrated the Applicant, thereby impelling the Applicant to institute the above-referenced suit with Suit Number FCT/HC/BW/CV/1384/20 pending before O. A. Musa, J against the Defendants therein including the Claimant herein. The deponent averred that though the Claimant was aware that the Court *coram* O. A. Musa, J. had made an Order of interlocutory injunction in that suit, it nonetheless filed this present suit. He added that the Applicant was shocked when it learnt that the Claimant had instituted this suit and had even obtained an Order of interim injunction on the basis of which it used some persons in uniform to disperse the Applicant's workers. The deponent also averred that the present suit had set this Honourable Court up against a Court of coordinate jurisdiction in respect of the same subject matter and the same reliefs as in the earlier case.

The Applicant through the deponent further swore that it had suffered immensely as a result of the conduct of the Claimant herein, in that the Applicant had been unable to develop the property, the building materials it had purchased had been depreciating and it had been unable to buy more building materials because of the rising cost while the interest on loan it took from the bank had been mounting. It added that it was therefore affected by the outcome of this suit and that its presence would conduce to an effective and conclusive determination of all the issues in this suit. The deponent, therefore averred that there was need for the Applicant to be joined as a party to this suit.

In the Written Address in support of the application, learned Counsel formulated a sole issue for determination, to wit: "*Whether having regard to the present circumstances the Honourable Court ought to grant the relief being sought herein*." Arguing this sole issue, learned Counsel, while answering the question in the affirmative, referred this Court to Order 13 Rule 4 of the High Court of the Federal Capital Territory, Abuja (Civil Procedure Rules), 2018 and submitted that the Court had not just the statutory powers, but also the inherent powers to join a person who the Court believed would enable the Court to decide a matter justly, equitably and conclusively. With particular reference to the facts of this case, learned Counsel maintained that the Applicant/Party Seeking to be Joined was qualified eminently to be joined as a necessary party to this suit. He cited with approval the following cases:

LSBPC v. Purification techniques (Nig.) Ltd (2013) 7 NWLR (Pt. 1352) 82 at 113; A.C.B. Plc v. Nwaigwe (2001) 1 NWLR (Pt. 694) 305; Green v. Green (1987) 3 NWLR (Pt. 61) 40 and ***Ajayi v. Jolayemi (2001) 7 SCM 16***. He urged the Court to grant the reliefs sought in the application.

The 1st, 2nd, 3rd and 4th Defendants did not file any process in response to the application for joinder. The Claimant, however, filed a Counter-Affidavit on the 17th of May, 2022. The Counter-Affidavit is accompanied with one exhibit and a Written Address.

In the 22-paragraph Counter-Affidavit, the deponent, one Brenda Ononiwu who described herself as the General Manager of the Claimant, after a recapitulation of the history of Games Village, swore that the Village was planned in such a way that the facilities and the infrastructures thereat would service a specific number of houses and a specific range of residents. She added that the 4th Defendant assigned specific responsibilities to the Claimant with regards to the general wellbeing of the Village.

She added that though the 4th Defendant reserved thirty (30) number of commercial plots for the 1st and 2nd Defendants to allocate to members of the public through public bidding, no public bidding had taken place. She also swore that the 1st and 2nd Defendants, in violation of the resolution of the 4th Defendant, had been allocating lands meant for recreational facilities within the estate, thereby deforming the layout and purpose of the estate. She

pointed out that the present suit of the Claimant was meant to restrain the 1st and 2nd Defendants from further garbling the layout of the Village, adding that the reliefs sought in the instant suit was different from the reliefs which the Applicant/Party Seeking to be Joined was seeking in its suit pending before O. A. Musa, J.

She also averred that the Applicant had not shown that he was entitled to the reliefs sought, as it was neither an allotee of any plot within the Village nor was it a beneficial owner of any property thereat. She insisted that this Honourable Court could deal with the issues in this matter conclusively without making the Applicant a party, adding that the Judgment of the Court would not affect the Applicant in any way, as the reliefs sought in the instant suit were against the 1st and 2nd Defendants. She concluded that the Court lacked the jurisdiction to hear and determined the application.

In the Written Address, learned Counsel formulated three issues for determination. These are the issues: "*(1) Whether the Applicant has the locus to bring this application when it is not the allottee or registered attorney of Allan Stabilini Ltd in respect of Plot No. 1755 Cadastral Zone B11 Kaura, Abuja; (2) Whether this Honourable Court has jurisdiction to hear this application when the Applicant is not the allottee or registered attorney of the allottee; and (3) Whether based on the parties and reliefs sought in Suit No. FCT/HC/BW/CV/1384/20 the Applicant is entitled to be joined in this suit*."

Arguing Issues 1 and 2 jointly, learned Counsel submitted that the Applicant lacked the requisite *locus standi* to bring this application as it was neither an allottee nor a registered attorney of the allottee. He cited the cases of ***Alhaji Saka Opeiyi & Anor v. Layiwola Muniru (2011) 18 NWLR (Pt. 1278) 387 at 403 D – F*** and ***Achonye & Anor v. Eze & Anor (2014) LPELR-23782*** in this regard.

It was the case of the Claimant that the Applicant had not shown that it had any property in the Village, adding that the exhibits attached to the affidavit in support of the application were not helpful to the case of the Applicant. He pointed out that **Exhibits B1 and B2** were not registered while **Exhibit B3 and B4** were issued to Allan Stabilini Ltd. Learned Counsel argued vigorously that **Exhibits B1 and B2** being unregistered instruments, they served no purpose as evidence of title to land. He referred to sections 14 and 15 of the Land Registration Act CAP 515 Laws of the Federal Capital Territory, 2007. He also cited and relied on the cases of ***Ugiagbe v. Odeh & Anor (2022) LPELR-57136 (CA); Abdullahi & Ors v. Adetutu (2019) LPELR-47384; Asiegbu & Ors v. Ezeudensi (2020) LPELR-50640 (CA); Ude v. Nwora (1993) 2 NWLR (Pt. 278) 638; Abubakar v. Waziri & Others (2008) LPELR-54 (SC) at 13 – 15, paras F*** among other cases. He therefore urged the Court to resolve the two issues he had argued jointly in favour of the Claimant.

On the third issue, learned Counsel submitted that the Applicant had no interest in the present suit of the Claimant. He maintained that the issues were radically different from the issues in the case which the Applicant had filed earlier and which is pending before O. A. Musa, J. Referring to the cases of ***Akwadwo v. NITEL (2012) LPELR-14359 (CA)*** and ***Uzodimma v. Izunaso (2001) LPELR-20027 (CA)***, Counsel contended that it was the case of the Plaintiff that vested jurisdiction in the Court. He also maintained that since the Applicant had not shown that he had an interest to be protected, this Court should not grant the application for joinder. He cited the cases of ***Okelue v. Medukam (2011) 2 NWLR (Pt. 1230) 176*** and ***Uku v. Okumagba (1974) 3 SC 35***. In conclusion, he urged the Court to dismiss the application since the Applicant was neither a proper party nor a necessary party.

In response to the Counter-Affidavit of the Claimant, the Applicant filed a 5-paragraph Further Affidavit and Reply on Point of Law on the 25th of May, 2022. The Further Affidavit was deposed to by the same Adeyemi Adeyeye who deposed to the affidavit in support of the application. He denied paragraphs 17, 18(a), (b), (c), (d), (e), (f), (i), and (j) of the Counter-Affidavit. Further to the denial, the deponent averred that the facts contained in the statement of claim of the Claimant herein were the same facts the Claimant stated in its Statament of Defence and Counter-Claim attached to the affidavit in support of the application as **Exhibit B6**.

He referred the Court to Relief Number 2 in this suit and further stated that the Applicant was affected by the reliefs sought in the suit. He swore that the Applicant was the *bonafide* owner of the property in question and exhibited the registered Power of Attorney donated to Richfield Property Development Co. by Allan Stabilini Ltd as **Exhibit SY**, adding that the Applicant is affected by the suit because the Claimant is seeking the Court to set aside all the allocations the 1st and 2nd Defendants herein have made, including the Applicant's Plot 1755 Cadastral Zone B11 Kaura, Abuja. He swore that the parties in the present suit and the suit pending before the Honourable Justice O. A. Musa were the same, adding that the Court made an Order of interim injunction against the Claimant and other Defendants in that suit. He attached the enrolled Order as **Exhibit GV**. He averred that the Applicant would be prejudiced if the application was refused.

In the Reply on Points of Law, learned Counsel urged the Court to discountenance the Counter-Affidavit of 17/05/2022 on the ground that it was an abuse of Court process in view of the existence of a Counter-Affidavit by the same Claimant filed on the 16th of May, 2022. He also pointed out that the Commissioner for Oaths did not signed the copy of the affidavit served on the Applicant. He noted that paragraph 18 offended the provisions of section 115 of the Evidence Act, 2011 which requires that a deponent who was not deposing from personal knowledge to state the source of their information. He cited the cases of ***General & Aviation Services Ltd v. Thahal (2004) 10***

NWLR (Pt. 880) 50 among other cases in urging the Court to discountenance the entire Counter-Affidavit.

On the other hand, Counsel submitted that the argument of the Claimant that the Applicant lacked the *locus standi* to bring the action was misconceived in view of **Exhibits B1 and B2**. Citing the case of ***Best (Nig.) Ltd v. B. H. (Nig.) Ltd (2011) 5 NWLR (Pt. 1239) 95*** and ***Akpan Ntukidem Akpan v. Elder Ubong Obot & Anor (2019) LCN/12826 (CA)***, he contended that the position of the law is that an unregistered registrable instrument coupled with possession of the concerned property vested an equitable interest in the said property. He added that the fact that the Applicant was not the registered attorney of Allan Stabilini Ltd did not in any way invalidate the fact that the Applicant had an interest in the land.

Learned Counsel cited with approval the dictum of the Supreme Court in the *locus classicus* of ***Green v. Green (1987) LPELR-1338 (SC) at 16 – 17, paras F*** where the Supreme Court identified and defined the different parties. Referring to other cases in that regard as well as **Exhibit B6**, he maintained that the Applicant was a proper party to the suit.

As to the contention of the Claimant to the entitlement of the Applicant to be joined in the instant suit, learned Counsel submitted that the fact that the reliefs sought in this present suit were the same as the reliefs sought in the earlier suit was enough to vest interest in the Applicant, especially

considering the fact that the Applicant would be affect by the outcome of the present suit. He cited and relied on the cases of ***Gurtner v. Circuit & Ors (1968) 2 QB 587*** and ***Re. v. Mogaji (1968) 1 NWLR (Pt. 19) 759***. In conclusion, he urged the Court to discountenance the contentions of the Claimant, uphold the submissions of the Applicant and grant the application.

The Claimant, on the 14th of July, 2022, filed a Further and Better Affidavit in response to the Applicant's application for joinder. The 7-paragraph Further and Better Affidavit, apart from stating that the Claimant had filed a Motion for Stay of Execution of the Order of interim injunction made by this Court *coram* O. A. Musa, J., did not disclose any new information. The said Motion on Notice for Stay of Execution was exhibited as **Exhibit A**.

The above are the alternative facts and legal submissions in support of and in opposition to the application. Before I delve into the substance of this application, it is important I resolve the issue of the competency of the Counter-Affidavit which the Claimant filed on the 17th of May, 2022 in response to the Applicant's application for joinder. The Applicant had challenged the competency of the Counter-Affidavit on the ground that it was an abuse of Court process by virtue of the pendency of a Counter-Affidavit filed on the 16th of May, 2022, the fact that the copy served on it was not endorsed by the Commissioner for Oaths and that the deponent did not state

the source of her knowledge of the facts deposed to in paragraph 18 contrary to section 115 of the Evidence Act, 2011.

To begin with, I do not see how the existence of the Counter-Affidavit of 16th of May, 2022 amounts to abuse of Court process. Having adopted, on the 3rd of November, 2022, its Counter-Affidavit of 17th May, 2022 and its Further and Better Affidavit of 14th July, 2022, the Claimant is deemed to have abandoned the Counter-Affidavit of 16th of May, 2022. I so hold.

On whether the non-endorsement of the service copy of the Counter-Affidavit by the Commissioner for Oaths renders the Counter-Affidavit incompetent, I answer the question in the negative. The original copy of the Counter-Affidavit which is in the case file was endorsed by the Commissioner for Oaths. So also is the endorsement and return copy which is also in the case file. If the copy that was served on the Applicant was not endorsed, then, that could be an inadvertence of the registry of this Court and not the fault of the Applicant or its Counsel. To hold otherwise would amount to stretching technicality to absurd lengths. Besides, the Courts have held that the mistake of the registry should not be visited on the litigant or the Counsel. See ***Opara v. Paul & others (2019) LPELR-47678 (CA) at 17 – 19, paras D – F*** where the Court of Appeal held *inter alia* that "***… It is not the duty of the litigant or his Counsel to endorse anything on the process after it has been duly filed in Court…***" In ***Famfa Oil Limited v. A.G. Federation (2003) LPELR-1239***

(SC) at 15, (2003) 18 NWLR (Pt. 852) 453, the apex Court held that "***It is wrong for a Court to punish a party for a mistake committed by the registrar of a Court.***" It is my considered view, and I so hold, that the non-endorsement of the service copy of the Counter-Affidavit is inconsequential and will not be allowed to invalidate the Counter-Affidavit of the Claimant in respect of this application for joinder.

Lastly, on whether paragraph 18 of the Counter-Affidavit is in violation of section 115 of the Evidence Act, 2011 for failure of the deponent thereto to state, according to learned Counsel for the Applicant, "*the source of her information, the time and place of such information as well as the circumstance of the information, indicating how reasonably he believes such information*", it is important I reproduce the introductory parts of that paragraph. The introductory part states thus: "*That I was informed by our Counsel Ehi Uwaifoh & Co at their office on the 2nd day of April, 2022 of the following facts which I verily believe to be true*…"

Section 115(4) of the Evidence Act, 2011 provides that "***When such belief is derived from information received from another person, the name of his informant shall be stated, and reasonable particulars shall be given respecting the informant, and the time, place and circumstance of the information***." Though, the deponent had complied with the requirements as to the time, place and circumstance of the information, the deponent however

did not state the name of her informant. "Ehi Uwaifoh & Co." is not a natural person that possesses cognitive abilities. It cannot, therefore, speak, hear, think and pass on information. Even a company which enjoys juristic personality, acts through human agents. See, for instance, ***Chemiron International Limited v. Stabilini Visinoni Limited (2018) LPELR-44353 (SC) at 17 – 20, paras B – A per Peter-Odili, JSC***.

'Person' as used in section 115 (4) of the Evidence Act, 2011 envisages a natural person possessed of cognitive abilities and not a juristic person. Besides, 'Ehi Uwaifoh & Co.' is not even a juristic person to begin with and, therefore, incapable of conveying any information. The error is fundamental. In ***Minister of Defence v. Yaganami & Another (2022) LPELR-57700 (CA) at 52 – 53, paras D – B, the Court of Appeal per Sankey, JCA*** held *inter alia* that "***I agree with the lead judgment that the allegation contained in paragraph 11 of the 1st Respondent's affidavit was a second-hand report which failed to name its source and therefore was not worthy of belief. See section 115(3) and (4) of the Evidence Act, 2011. The 1st Respondent therefore failed to discharge the burden of proof on him in this regard***." Earlier, **Ebiowei Tobi, JCA**, while delivering the lead Judgment, had held *inter alia* ***at pages 36 – 42, paras B – C*** of the law report that "***The deponent of the supporting affidavit did not state the source of the information that the Applicant was detained in Giwa Barracks. This piece of evidence is not admissible…***"

To the extent, therefore, that the deponent failed to name the source of her information contained in paragraph 18 of the Claimant's Counter-Affidavit, I hold therefore that the entirety of paragraph 18 is incompetent for failing to disclose the source of the information contained there and liable to be struck out. Same is accordingly struck out. This Ruling is based, therefore, on the surviving paragraphs of the Counter-Affidavit and all other processes filed in respect of this application.

Though the Claimant had formulated three issues for determination, this Court is of the considered view that this application can be determined one way or the other by adopting the sole issue formulated by the Applicant and the third issue which the Claimant had formulated. Addressing the first two issues which learned Counsel for the Claimant formulated in his Written Address in support of the Claimant's Counter-Affidavit will necessarily involve delving into the substantive suit at this interlocutory stage. The Courts have been enjoined from engaging in such premature exploratory excursions. See the following cases: ***Umoren v. Udosen (2013) LPELR-21943 (CA) at 2 – 3, paras F - A; In Re: Abdullahi (2018) LPELR-45202 (SC) at 24 – 25, paras E – D; Sule & Others v. Sule & Others (2019) LPELR-47178 (CA) at 15, paras A - D; Mabon Ltd & Others v. Access Bank (2021) LPELR-53261 (CA) at 37 – 39, paras B – A; and Darlington v. Polaris Bank Ltd & Others (2022) LPELR-56715 (CA) at 13 – 14, paras B – A***.

Suffice it to state, however, that determines whether or not a party should be joined is whether they are a necessary party to the suit. In ***Jegede & Anor v. INEC & Others (2021) LPELR-55481 (SC) at 228 – 229, paras D - A***, the Supreme Court held per Saulawa, JSC that "***Invariably, the fundamental principles governing the issue o joinder of parties is whether the interveners are necessary parties to the action, and whether they would be directly affected or bound by the decision of the Court or tribunal in the case, thereby interfering with the legal rights thereof. Where an application is made for joinder of parties, the trial Court or tribunal should only be concerned with whether a prima facie case for joinder has been established, thus should not prematurely wade into the merits of the case. this is so, because the true test of joinder of parties does not necessarily lie in the analysis of the constituents of the applicant's were to be established***." Accordingly, this Court hereby formulates the following sole issue for determination: "***Whether from the facts placed before this Honourable Court the Applicant/Party Seeking to be Joined is not a proper party or a necessary party to be joined as a party in this suit***?"

To appreciate the relief that is being sought in this application, I shall reproduce the relevant provisions of the Rules of this Court. Order 13 Rules 4 and 18(3) are relevant. The Rules provide as follows:

Order 13 Rule 4:

> "***Any person may be joined as defendant against whom the right to any relief is alleged to exist, whether jointly, severally or in the alternative. Judgment maybe given against one or more of the defendants as may be found to be liable, according to their respective liabilities, without any amendment.***"

Order 13 Rule 18(3):

> "***The court may order that the names of any party who ought to have been joined or whose presence before the court is necessary to effectually and completely adjudicate upon and settle the questions involved in the proceedings be added.***"

The ultimate question is whether the Applicant/Seeking to be Joined is a person "***against whom the right to any relief***" can be said to exist. Put in another way, is the Applicant/Seeking to be Joined "***ought to have been joined***" in this suit? In other words, is the Applicant/Party Seeking to be joined a person "***whose presence before the court is necessary to effectually and completely adjudicate upon and settle the questions involved in the proceedings***"? Concisely put, is the Applicant/Party Seeking to be Joined a proper party or a necessary party?

To appreciate the meaning of the different shades of parties, this Court must examine the case which learned Counsel for the Applicant cited in the Applicant's Reply on Points of Law. In that case, that is, ***Green v. Green (1987) 3 NWLR (Pt. 61) 480*** which is the holy grail on the categorization of parties, the Supreme Court per the incomparable Oputa, JSC (God bless his soul) held ***at 493, paras D – F*** that,

> "***This now leads on to the consideration of the difference between "proper parties", "desirable parties" and "necessary parties" Proper parties are those who, though not interested in the Plaintiff's claim, are made parties for some good reasons e.g. where an action is brought to rescind a contract, any person is a proper party to it who was active or concurring in the matters which gave the plaintiff the right to rescind. Desirable parties are those who have an interest or who may be affected by the result. Necessary parties are those who are not only interested in the subject-matter of the proceedings but also who in their absence, the proceedings could not be fairly dealt with. In other words the question to be settled in the action between the existing parties must be a question which cannot be properly settled unless they are parties to the action instituted by the plaintiff.***"

This decision has been applied, amplified and adopted in numerous cases following that epochal decision such as, for instance, the cases of ***Inyang v. Ebong (2002) 2 NWLR (Pt. 751) 284 at 340, paras E – H; Dapialong v. Lalong (2007) 5 NWLR (Pt. 1026) 199 CA at 211, paras F – H; and P. P. (Nig.) Ltd. v. Olaghere (2019) 2 NWLR (Pt. 1657) 541 C.A. at 561, paras E – G***.

In ***Adesina v. Air France (2022) 8 NWLR (Pt. 1833) 523 S.C. at 552, paras F – G***, the Supreme Court, speaking on the importance of the joinder of proper parties to a suit, held that "***Only proper parties can invoke the jurisdiction of the court. So, for an action to succeed, the parties to it must be shown to be the proper parties to whom rights and obligations arising from the cause of action attach. In other words, it is only a proper party that can sue and be sued, and it is only that party that can be bound by the outcome of the proceedings. It is the facts of the case that determines the proper parties to the suit…***"

On the other hand, the Court of Appeal, in its elucidation of the attributes of a necessary party and the centrality of the joinder of a necessary party to a suit, equally held, in ***N.B.A. v. Kehinde (2017) 11 NWLR (Pt. 1576) 225 C.A. at 243, paras C – F***, that "***A necessary party is one who should be bound by the result and the question to be settled. Therefore, there must be a question in the action which cannot be effectually and completely***

***settled unless he is a party. Thus, the only parties that must be present in a matter are necessary parties*.”

To determine whether the Applicant is a proper party or a necessary party in the light of these judicial explications, this Court will perforce examine the processes filed by the parties in this application. The Applicant in the affidavit in support of its application as well as the Further Affidavit in response to the Counter-Affidavit swore to the facts that the parties in this suit are already before my learned brother, the Honourable Justice O. A. Musa in respect of the property known as Plot 1755 Cadastral Zone B11 Kaura District, Abuja FCT which it claimed as its property. The Applicant had annexed **Exhibit B6**, which is the statement of defence and counter-claim of the Claimant herein in Suit Number FCT/HC/CV/1384/2020. I have studied the contents of the pleadings thereat and I have paid particular attention to the reliefs the Claimant herein as the Counter-Claimant therein is seeking in that suit. Relief Nos b and c in the Counter-Claim specifically state thus: “(b) *A Declaration that any allocation by the 1st and 2nd Defendants outside the 30 nos commercial and 19 nos residential reserved for Federal Capital Territory Authority by the Federal Executive Council is null and void*; (c) *An Order setting aside the allocation and building approval issued to the Claimant/3rd Defendant by the 1st and 2nd Defendants being an open/recreational space reserved to be managed by the counterclaimants for the residents of the Games Village*.”

On the other hand, the Claimant in its Counter-Affidavit as well as its Further and Better Affidavit contended that the property belongs to it and ought not to have been allocated to any person by the 1st and 2nd Defendants. Specifically, the Claimant in this suit is seeking Orders of this Court restraining the Defendants from allocating to "*any individual, group of persons, companies, registered bodies or entities howsoever described or designated*" the "*vacant plot outside the 30 nos commercial and 19 nos residential plots in the village reserved for the defendants by the resolution of the Federal Executive Council*". Paragraphs 11 and 12 of the Counter-Affidavit contains the following depositions: "(11) *That by the said resolution, 30 nos commercial plots were reserved for FCDA to allocate through public bidding*. (12) *That no public bidding has been held to allocate the reserved commercial plots. The 1st Defendant who is the Chairman of FCDA is allocating and has allocated residential plots which was not reserved for it by Exhibit A*."

I have scrutinized the processes filed. I have also subject them to intensive examination. I have held up the facts of this application to the lens of judicial illumination which I referenced above. Though the Claimant had striven valiantly to convince the Court that the reliefs it is seeking in this suit will not affect the Applicant, the Applicant thinks otherwise. This Honourable Court agrees with the Applicant. It is my considered view, and I so hold, that the Applicant will be affected by this suit. There is an inexorable nexus between this suit and Suit Number FCT/HC/CV/1384/2020 pending before my learned

brother O. A. Musa, J. The excerpts from the reliefs in those two suits and the averments in the Claimant's Counter-Affidavit which I have reproduced above settle this issue beyond all scintilla of disceptation. This is more so as my learned brother, O. A. Musa, J. has made considered pronouncements in the suit pending before him. In ***Chief of Army Staff v. Lawal (2012) 10 NWLR (Pt. 1307) 62 C.A. at 74, paras C – D***, the Court of Appeal held that "***All persons who may be affected by an order of court in respect of any matter before it, should be made parties in a suit whether as proper parties, desirable parties or necessary parties***."

It is in view of the foregoing that I arrive at the ineluctable conclusion that the Applicant/Party Seeking to be Joined is not only a proper party to this suit, but also a necessary party. Its presence in this suit will assist this Court in determining whether Plot 1755 Cadastral Zone B11 Kaura District, Abuja FCT is part of the thirty (30) commercial plots and nineteen (19) residential plots reserved by the 4th Defendant for the 1st and 2nd Defendants in Games Village or whether it falls within the vacant plot reserved by the 4th Defendant for the Claimant in this suit to be used by it for recreational facilities.

I therefore find this application meritorious and same is accordingly granted as prayed. The Applicant/Party Seeking to be Joined is hereby joined as the 5th Defendant in this suit. All parties are hereby ordered to amend their processes to reflect the joinder of the Applicant/Party Seeking to be Joined as

the 5th Defendant in this suit. The Claimant is hereby ordered to file and serve its amended originating processes and all other pending applications on the 5th Defendant. Other parties are also ordered to file and serve all their amended processes on the 5th Defendant.

This is the Ruling of this Court delivered today, the 13th day of December, 2022.

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HON. JUSTICE A. H. MUSA
JUDGE
13/12/2022