

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT COURT NO. 4, MAITAMA ON THE
27TH DAY OF MARCH, 2023

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

SUIT NO. FCT/HC/CV/318/2022
MOTION NO. M/2787/2022

COURT CLERKS: JOSEPH ISHAKU BALAMI & ORS.

BETWEEN:

- 1. THE TRUSTEES, ASSOCIATION OF PLOT OWNERS' MAITAMA EXTENSION (APOMEX), MAITAMA ALIERO**
- 2. CHIJOKE OZOEMENA (SECRETARY, THE TRUSTEES, ASSOCIATION OF PLOT OWNERS' MAITAMA EXTENSION (APOMEX), MAITAMA ALIERO**
- 3. MANGA GABARA VENTURES LIMITED**
(Suing through its lawful Attorney, WHITETRUTH INVESTMENT LIMITED)
- 4. DR. ANGELA EKURE**
(Trading under the name and style of VIXION HOME)
- 5. DURO F. SAMUEL**
- 6. THE TRUSTEES, GUIDING LIGHT ASSEMBLY (a.k.a GLA WORSHIP CENTRE)**
- 7. IBRAHIM BUKAR**
(Suing through his lawful Attorney, CHIEF LEEMON IKPEA)
- 8. MOHAMMED ANGO ALIERO**
(Suing through his lawful Attorney, ALPHA-PRAXIS (NIGERIA) LIMITED)
- 9. ANARUWA BASIRU**
(Suing through his lawful Attorney, ALPHA-PRAXIS (NIGERIA) LIMITED)
- 10. BELLO IBRAHIM GWANDU**
(Suing through his lawful Attorney, DR. EZEONU OLISA EMEKA PAUL)
- 11. DAHIRU ALHAJI ABUBAKAR**
(Suing through his lawful Attorney, ALPHA-PRAXIS (NIGERIA) LIMITED)
- 12. MUSTAPHA MOHAMMED YARI**
(Suing through his lawful Attorney, INYIMA EZECHI SUNDAY)
(FOR THEMSELVES AND ON BEHALF OF THE ALLOTTEES AND OWNERS OF ALL THE PLOTS WITHIN CADASTRAL ZONE A05, MAITAMA EXTENSION, MAITAMA ALIERO, ABUJA)

**CLAIMANTS/
APPLICANTS**

AND

1. THE PRESIDENT AND COMMANDER-IN-CHIEF
(OF THE ARMED FORCES, FEDERAL REPUBLIC OF NIGERIA)
 2. THE HONOURABLE ATTORNEY-GENERAL
OF THE FEDERATION AND MINISTER FOR JUSTICE
 3. THE MINISTRY OF DEFENCE, FEDERAL REPUBLIC OF NIGERIA
 4. THE HONOURABLE MINISTER OF DEFENCE
 5. THE HONOURABLE MINISTER, FEDERAL CAPITAL TERRITORY
 6. FEDERAL CAPITAL DEVELOPMENT AUTHORITY
- } DEFENDANTS/
RESPONDENTS

RULING

The Claimants/Applicants' application dated 13/12/2022 but filed on 16th is brought pursuant to Order 42 Rules 1 & 2, Order 43 Rules 1 (1) - (3), Order 17 Rules 9 & 10 of the High Court of the FCT (Civil Procedure) Rules, 2018.

The application seeks for two prayers:

- (1) An Order of Interlocutory Injunction restraining 1st, 3rd and 4th Defendants whether by themselves, agents, servants, privies, whomsoever and however defined from further entry and or otherwise continuing further acts of trespass, forcibly developing, acquiring, taking over, meddling in or with, transferring, disposing off, speculating in respect of the properties of the Claimants/Applicants being and situate at and known as and

within Cadastral Zone A05 Maitama, a.k.a Maitama Aliero as specifically stated on the face of the Motion paper.

- (2) An Order of Interlocutory Injunction restraining the 1st, 3rd and 4th Defendants whether by themselves, agents, servants, privies, whomsoever and however described from issuing any Certificate of Occupancy, Development Approval and or permits over and or in respect of the Claimants/Applicants' properties lying, being, situate at and known as and within as described on the face of the Motion.

Parties were served with the Motion paper. The 1st, 2nd, 3rd, 4th, 5th and 6th Defendants did not file a Counter Affidavit. They are deemed to have admitted the facts upon which the Claimants are seeking their reliefs.

The deponent states that at different times, the Claimants duly applied for, paid for and were issued Statutory Grants of Rights of Occupancy by the 5th and 6th

Defendants over general plots within the large parcel of land lying, being, situate at and known as Cadastral Zone A05, Maitama, Abuja.

That upon grant of the various Statutory Rights of Occupancy, they took immediate and effective possession and commenced efforts to develop their plots in issue.

That they appealed to 5th and 6th Defendants to open up access to the property to enable them commence development.

That they constructed a temporary culvert and spent about ₦2 Million to survey, improve access road. That each Claimant also expended substantial sum on their respective properties.

That 3rd and 4th Defendants and or agents and privies in 2016 began aggressive trespass encroachment into and as well as outright demolition of the development and structures on the plots.

That building materials were demolished and destroyed. They resolved to amicably settle the issue and wrote on 4/06/2021 and 13/07/2021 up to 14/06/2022. An official compliant was made to 5th and 6th Defendants. That they have an enforceable contract.

That action of the 3rd and 4th Defendants have caused and continue to cause them untold hardships while some allottees have regrettably passed on in the process.

That their interest and rights are still subsisting. That it is in the interest of justice for status quo to be maintained. The Claimants undertake to pay damages.

The Defendants/Respondents have no answer to the above facts.

In an application for interlocutory injunction such as this, the Courts are guided by a number of important facts.

(1) The legal right of the Claimants/Applicants.

- (2) That the balance of convenience is in their favour.
- (3) That damages cannot be an adequate compensation.
- (4) An undertaking to pay damages.
- (5) The conduct of the parties.

See **KOTOYE vs. CBN (1989) 1 NWLR (PT. 98) 419 SC.**

OGURO vs. DIKE (2006) 7 NWLR (PT. 978) 132.

An interlocutory injunction is concerned principally with the protection of the res and maintaining the status quo. This Court has the power and jurisdiction to preserve the res.

I have perused the Affidavit. It is apparent and it is not controverted that there is a question of law or legal right to be determined in the substantive action. There is a serious question to be tried.

See **FALOMO vs. BANIGBE (1998) 7 NWLR (559) 679 SC.**

The balance of convenience is in favour of the Applicants. There is nothing to suggest that the conduct of the Claimants is reprehensible. The Claimants have

made an undertaking to pay damages. Then Claimants are exposed to irreparable damages if not restrained.

There is no way the reliefs being sought can determine the substantive action. The substantive relief on the Writ of Summons is title or ownership, the present application is interlocutory injunction.

The Affidavit evidence of the Claimants is to the effect that the trespass is continuing.

In the circumstance of this case, I shall exercise my discretion in favour of the Claimants/Applicants.

The Application succeeds. It is granted as prayed.

HON. JUSTICE U. P. KEKEMEKE
(HON. JUDGE)
27/03/2023

4th Claimant present.

1st, 2nd, 3rd, 5th - 12th Claimants absent.

Defendants absent.

Williams A. Ataguba, Esq. for the Claimants.

Musa Abdul (Principal State Counsel, Federal Ministry of Justice) for the 1st and 2nd Defendants.

Adebola Odugbesan, Esq. with Mrs. Florence Owomoro for the 3rd and 4th Defendants.

H. S. Mohammed, Esq. for the 5th and 6th Defendants.

COURT: Ruling delivered.

(Signed)
HON. JUDGE
27/03/2023