

**IN THE HIGH COURT OF JUSTICE**  
**FEDERAL CAPITAL TERRITORY OF NIGERIA**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT APO – ABUJA**  
**ON, 27<sup>TH</sup> DAY OF MARCH, 2023.**  
**BEFORE HIS LORDSHIP:- HON. JUSTICE A. O. OTALUKA.**

**SUIT NO.:-FCT/HC/CV/2904/18**

**BETWEEN:**

**PATRICIA OROKIEYO DEWORITSHE:..CLAIMANT/OBJECTOR**

**AND**

**1. ONIMISI & ASSOCIATES LIMITED }  
2. DESTINY ADEYEMI } :.DEFENDANT/APPLICANT**

Anthony O. Deworitshe for the Claimant.  
Wukatda Goton for the Defendants.

**RULING ON ADMISSIBILITY OF DOCUMENT.**

At the continued hearing of the case of the defence on the 24<sup>th</sup> day of November, 2022, the learned defence counsel through the DW1, Onimisi M, Itopam applied to tender some land documents to wit: -

- (1) Offer of Terms of Grant/Conveyance of Approval.
- (2) TDP.
- (3) Right of Occupancy Rent & Fees.
- (4) Re-Application for search Oil Plot 2655 with and receipts from the Abuja Municipal Area Council issued in the name of Deworitsine Patricia Orokieyo.

The learned Claimant's counsel objected to the admissibility of the said documents on the ground that the DW1 is not in a position to tender them, as he is not the maker of the documents, and neither is his name on the documents, nor is

he a staff of AMAC. Also, that each of the documents sought to be tendered is different from the front-loaded documents, and that the document pleaded in paragraph 12 of the Statement of Defence as a list, is not a list after all.

He thus, urged the Court to reject the said documents.

The learned defence counsel in his response to the objection, posited that the position of the law is that admissibility is based on relevance. He argued that the document was pleaded, and that the issue of whether the witness is the maker or not, is not a requirement in admissibility of documents. He referred to **Nwadueku v. Onwordili (2006)All FWLR (Pt.331)1236 @ 1251.**

He further argued that the documents sought to be tendered are not different from what was frontloaded.

Regarding the document pleaded in paragraph 12 of the statement of defence as list of allottees, learned counsel argued that facts are pleaded in respect of the said list of allottees.

He urged the Court to discountenance the Claimant's objection.

Replying on points of law, learned Claimant's counsel submitted that when a statute provides for a way of doing something, that that is the way that should be followed. He posited that the Evidence Act provided that if a person is not the maker of a document, the document should not be admitted in evidence.

One of the grounds of the objection raised by learned Claimant's counsel to the admissibility of the documents sought to be tendered by the defence is that the witness, DW1, is not

the maker of the documents. The learned Claimant's counsel relied on Section 83(1) of the Evidence Act 2011.

In **John v. State (2013) LPELR-20536(CA)**, the Court of Appeal held that;

***“The overall essence of having the maker of a document present in Court is for purposes of answering questions arising from the document in issue.”***

Given the above purpose or essence of having a document tendered by the maker, in proof of ownership of land, the Supreme Court in 1976 in **Idundun v. Okumagba 9&10 SC 246** and cited in **Sama'la Hammajauda v. Duhi & anor (2018) LPELR 46034(CA)** held and listed 5 ways ownership of land may be proved which includes production of title documents. The law allows the party to tender documents to establish his title whether he is or not the maker. The Defendant/Counter-Claimant in para 4-7 averred that he acquired the title and the documents from the original allottee (Claimant). The said documents were pleaded and relevant and/has met the requirements of Evidence Act. Therefore, they are receivable in evidence. Section 83 of the Evidence Act 2011 deals with “Statement made by a person in a document” about a fact which direct oral evidence would otherwise have been admissible, I am of the considered view, that the documents sought to be tendered in this case, which are documents relating to land allocation or of land title documents, do not fall within the category documents envisaged by Section 83 of the Evidence Act.

It is therefore, my firm view, and I so hold that the contention of the learned Claimant's counsel to the effect that only the grantor of title in land can tender the land title documents in

evidence is misconceived. The learned counsel's objection on this point is therefore overruled.

The learned Claimant's counsel however, raised a very pertinent point that cannot be overlooked or waived aside but it would be premature at this stage to compare the purported title documents and receipts sought to be tendered by the Defendants with the frontloaded documents.

The rule of frontloading is that photocopies of the exact documents that would be relied on by parties, be frontloaded to their pleading as notice to the opposing parties. In this case thereafter, this issue would be properly addressed during the final written address and if any discrepancies are discovered, the said documents could be expunged.

Accordingly, the learned Claimant's counsel's objection on this point is discountenanced and the said receipts and purported title documents are hereby admitted and marked as Exhibit DW1D-D3 comprising of Offer of Terms of Grant, dated 29<sup>th</sup> June, 1998, TDP dated 22<sup>nd</sup> August, 2006, Right of Occupancy, rent and fees and Re: Application for search on Plot 2655.

Case adjourned to 16<sup>th</sup> May, 2023 for continuation.

**HON. JUSTICE A. O. OTALUKA**  
**27/3/2023.**