

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT GUDU - ABUJA
ON THURSDAY THE 19TH DAY OF JANUARY, 2023.
BEFORE HIS LORDSHIP; HON. JUSTICE MODUPE OSHO -ADEBIYI
SUIT NO. CV/3341/2021
MOTION NO: M/4987/2022

1. ALH. ADAMU ANGULU
(Suing via his Lawful Attorney ----- CLAIMANT/APPLICANT
EZEGWU KINGSLEY EMEKA)
 2. NUEL OSILAMA GLOBAL INVESTMENT LIMITED
- AND
1. THE MINISTER, FED. CAPITAL TERRITORY
 2. NIGERIAN ARMY -----DEFENDANTS/RESPONDENTS
 3. MAJ. GEN. CHIJOKE ONWUNLE
 4. ALH. ADAMU ANGULU

RULING

The 1st Claimant/Applicant by a motion on notice dated 27/4/2022 with Motion No. M/4987/2022 prays the Court for the following;

1. An order of this Honourable Court striking out this suit in its entirety for having been instituted without the knowledge and authority of the 1st Claimant/Applicant

IN THE ALTERNATIVE

2. An order of this Honourable Court striking out the name of the 1st Claimant/Applicant for having been joined as a co-Claimant without his consent, knowledge and permission
3. An order of this Honourable court joining Alhaji Adamu Angulu as the 4th defendant in this suit.
4. An order of this Honourable Court directing the 2nd Claimant/Respondent to pay cost of N200,000,000.00 in favour of Alhaji Adamu Angulu for fraudulently using his name as a co-Claimant.
5. And for such further order as this Honourable Court may deem fit to make in the circumstance.

The grounds for this application are as follows;

- a. The Applicant is the original allottee of Plot No. H403 within Dape District, Cadastral Zone C04, FCT Abuja, the subject matter of this suit.

- b. The instant action was instituted without his consent and authority
- c. The 2nd Claimant and the said EZEGWU KINGSLEY EMEKA are unknown to the Applicant.
- d. The signatures on the alleged power of Attorney and Deed of Assignment purported to have been signed by the Applicant are forged.
- e. The Applicant does not know any EZEGWU KINGSLEY EMEKA and has never appointed him as his Attorney to institute this suit or any other suit in respect of the land on his behalf.
- f. The Applicant is being impersonated, he has never met with the counsel who instituted this action and did not instruct him to file this suit.

Plaintiff counsel stated in open court that he was not objecting to the 1st Claimant being joined as the 4th defendant and Court granted same by joining 1st Claimant as 4th Defendant. Thereby making Alhaji Adamu Angulu both the 1st Claimant and the 4th Defendant.

Learned Counsel to the 1st Claimant/Applicant relied on the 17 paragraph Affidavit filed in support of the application and 3 paragraph further and better affidavit, deposed to by Alh. Adamu Angulu (the 1st Claimant/Applicant) wherein the deponent averred that in April, 2022, he was informed that an action was commenced before this Honourable Court in his name as the 1st Claimant against the Defendants on record. That he approached this court registry and confirmed the pendency of this suit with his name as the 1st Claimant (Suing via his Lawful Attorney EZEGWU KINGSLEY EMEKA) which the subject matter of the suit was in respect of the property allocated to him by the 1st Defendant, particularly described as Plot No. H403 within Dape District, Cadastral Zone C04, FCT Abuja, covered by a Statutory Right of Occupancy with reference No. MFCT/LA/PL.620 dated the 17th day of May, 2001. That the property was allocated to him while he was still a staff of Federal Capital Development Authority (FCDA), in 2001. That he sold the said property (land) in question in 2005, to Alhaji Shola Rahmon Salami. That he executed an Irrevocable Power of Attorney dated 19th December, 2005, in favour of Alhaji Shola Rahmon Salami. That prior to the sale, he had returned the original statutory Right of Occupancy (R-OF-O) for Re-certification and Re-issuance of Certificate of Occupancy to the Abuja Geographic Information Systems and was issued an acknowledgment copy. That neither him nor Alhaji Shola

Rahmon Salami had gone back to AGIS to collect the Re-certified title document of the land. That he does not know EZEGWU KINGSLEY EMEKA and have never met with the said EZEGWU KINGSLEY EMEKA in his life neither has he executed any document appointing him, as his Lawful Attorney and have never executed or signed any Deed of Assignment in his favour. That the Lawyer who instituted this action is unknown to him and does not have his authority or consent to commence this action in his name. That he does not know the 2nd Claimant in this suit and have had no dealings with the company or any of its representatives. That EZEGWU KINGSLEY EMEKA fraudulently forged his signature and the land documents purported to be signed by him. That he affixed his passport photograph on the copy of the motion which is in the court file and the said EZEGWU KINGSLEY EMEKA can apply for a certified true copy of the process in the court's file. that he is not an impostor.

Attached to this application are annexures and a written address wherein learned counsel raised a sole issue for determination to wit;

“Whether in the circumstance of this case and the facts contained in the affidavit in support, this Honourable court can exercise its discretion in granting the applicant's reliefs”.

Counsel submitted that the act of instituting an action without the consent, authority or knowledge of a party must also be held to constitute an act of abuse of court process. That the only reason the Applicant was fraudulently made a co-claimant to this suit is to unlawfully give the 2nd Claimant the right or capacity to institute this action. Counsel also submitted that the Applicant having confirmed in his affidavit that he sold the property the subject matter of this suit to Alhaji Shola Rahmon Salami, who in turn sold same to the 3rd defendant, is by virtue of the said evidence a necessary and desirable party in this suit who shall certainly be affected by the outcome of this proceedings and urged the court to grant the Applicant's prayers as contained on the motion paper. Counsel relied on **Order 13 Rule 19(1) of the FCT High Court (Civil Procedure) Rules 2018; KASHAMU V. A-G FRN (2013) LPELR-22357 (CA); CHIEF COLLINS EZIONWU & 9ORS V. MR. GODWIN EGBO & 7ORS (2006) 5 NWLR (Pt. 973) 316 at 319** **ration 3 and RE NDIC (2007) 7 NWLR (PT. 1032) 54 PG 68, para G-Hamongst others.**

The 2nd Claimant filed a 5 paragraph counter affidavit deposed to by Anne Friesta, a litigation secretary in the law firm of counsel to the 2nd Claimant in opposition to the application. The deponent states that EZEGWU KINGSLEY EMEKA is the Lawful Attorney of the 1st Claimant in this suit. That 2nd Claimant opposes the grant of reliefs 1, 2, 4, and 5, as same cannot be effectively and exhaustively determined without going into trial in this Suit. That the 2nd Claimant does not object to the grant of relief 3, sought by the Applicant herein, for the joinder of ALH. ADAMU ANGULU as the 4th Defendant to this Suit. That the deponent in the application is an impostor and not ALH. ADAMU ANGULU, the first allottee of the subject land in this Suit. That he knows the signature of ALH. ADAMU ANGULU, the first allottee of the subject land and he knows it is not the same as that of the impostor that deposed to the Affidavit in support of the instant Motion on Notice. That he can recognize the face of ALH. ADAMU ANGULU, and he could have easily recognized him or his impostor if the deponent to the Affidavit in support of the instant Motion on Notice had affixed a passport photograph to the copy thereof that was served on the Claimants' Counsel. That the entire facts deposed to in the entire Affidavit in support of the Motion on Notice were not deposed to by ALH. ADAMU ANGULU but by the person impersonating him as such. That ALH. ADAMU ANGULU sold his title to the land for valuable Consideration via open instruments of conveyance. The Claimants are bonafide purchasers for valueable consideration who derived their authority to institute this Suit by virtue of the interest they acquired in the subject land. That it is in the interest of justice to join the impostor who claims to be ALH. ADAMU ANGULU as the 4th Defendant in this Suit in order for him to prove the allegations made in the Affidavit in support of this Application.

Attached to the counter affidavit is a written address where Learned counsel also raised a sole issue for determination to wit;

“Whether reliefs 1,2,4 and 5 sought by the Applicant in this motion on notice constitutes demurrer which have been abolished by order 23 of the High Court of the federal capital territory, Abuja (Civil Procedure) Rules 2018”

Counsel submitted that there is no gainsaying that the Rules of this Court does not allow parties to subscribe to demurrer in the conduct of their matters but that is the case with the Applicant. Counsel also submitted that this Honourable Court cannot effectively determine and

grant reliefs 1, 2,4 and 5 without making weighty pronouncement on the substance of this case. That if Applicant is joined as defendant, he could counter claim for the same reliefs and give the court the opportunity to hear all parties before determining the issue. Counsel further submitted that the court cannot grant the instant reliefs without delving into the substance of this case and urged the court to resolve the issue in favour of the Claimant and dismiss the reliefs or delay determination thereof until final written addresses. Counsel cited **Order 23 Rules 1 and 2 of the Rules of this Honourable Court.**

At the hearing of this application the defendants and the 2nd Claimant did not object to the 3rd relief which is “*An order of this Honourable Court joining Alhaji Adamu Angulu as the 4th defendant in this suit*” which said relief was granted. The 3rd relief was granted and Alhaji Adamu Angulu was joined as 4th defendant in this suit. Hence the 3rd relief has been determined and granted as prayed.

I have read and considered processes before me and having joined Alhaji Adamu Angulu as the 4th defendant, it would be foolhardy for the court to go ahead into the substantive matter with Alhaji Adamu Angulu being the plaintiff attorney and Alhaji Adamu Angulu also being the 4th defendant. While plaintiff is insisting that Alhaji Adamu Angulu executed the irrevocable Power of Attorney attached to his processes; Alhaji Adamu Angulu has through this preliminary objection prayed the court that he does not know the plaintiff and never executed the Irrevocable Power of Attorney. That rather, the only irrevocable power of attorney he executed in respect of subject matter is in favour of a certain Alhaji Shola Rahma Salami. Claimant Attorney on the other hand is insisting that the Alhaji Adamu Angulu that has now been joined as a defendant is an impostor and the real Alhaji Adamu Angulu was the one that executed his own Irrevocable Power of Attorney. Claimant attorney claimed the face in the picture attached to the Affidavit in support of Preliminary Objection is not the face of Alhaji Adamu Angulu and also the signature was not that of Alhaji Adamu Angulu. Interestingly, the said Alhaji Adamu Angulu on whose behalf this preliminary objection was filed and who has now been joined as 4th Defendant was present in court at the last adjourned date. I have equally scrutinized both signatures and although they are similar but have distinct differences.

Consequently, this court would not be able to rule on this application without first ascertaining the identity of the real Alhaji Adamu Angulu. Is it the claimant attorney's principal who donated a Power of Attorney or the 4th Defendant who donated a power of attorney to Alhaji Shola Rahmon Salami? I have also closely scrutinized the claimants' statement of claim; counter-affidavit to this preliminary objection and also all processes filed by claimant and fortunately nowhere is it written that his Alhaji Adamu Angulu is deceased.

Without delving into the substantive suit, it would be necessary and expedient that this court first and foremost ascertains who amongst the 1st claimant principal and the 4th defendant is Alhaji Adamu Angulu. Both Alhaji Adamu Angulu are hereby ordered to come to court with proof of their identity and give oral evidence strictly to unravel the real Alhaji Adamu Angulu.

Parties: Absent

Appearances: G. P. Bwakat appearing for the Claimant. Chibuike Chima appearing for the 3rd and 4th defendants. Anthony Odule appearing with Mary-Jane Onuoha and A O Sadiq for the 2nd defendant.

HON. JUSTICE MODUPE R. OSHO-ADEBIYI
JUDGE
19TH JANUARY, 2023