

**THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY ABUJA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT COURT NO. 20 WUSE ZONES 2, ABUJA
BEFORE HIS LORDSHIP: HON JUSTICE A. S. ADEPOJU
THIS 5TH DAY OF FEBRUARY, 2021.**

SUIT NO: FCT/HC/CV/422/19

BETWEEN:

**1. LIVING TREASURES LTD
2. MRS. LAUREL RICHARD KING** }----- PLAINTIFFS

AND

UNKNOWN PERSONS ----- DEFENDANT-

WILFRED ENEYE for the Plaintiff.

*1st Plaintiff represented by **PROF. RICHARD KING** while the 2nd Plaintiff is in Court.*

JUDGEMENT

The Plaintiff claimed to be the allottee of Park No. 914A with a size of 14.6 hectares. The plot was allocated to the plaintiff vide a letter dated 5th July, 2007 by the Minister of the Federal Capital Territory through the Director Parks and Recreation under the Abuja Metropolitan Management Agency. The Plaintiff attached the application dated 23rd August, 2007 as Exhibit A while allocation letter is Exhibit B. And in August 2016, the plaintiff further applied for ministerial approval of the site plan for the development of the plot. See Exhibit C attached. However on the 23rd of September, 2016, the plaintiff received a letter from the Parks and Recreation informing her of the suspension of all approval processes pending the outcome of the FCT Park Audit Committee; See Exhibit D.

While awaiting the approval, the plaintiffs noticed that unknown persons have started fencing the entire park. A letter dated 8th May, 2017 was written to the Director Development Control complaining of same. See

Exhibit E. the letter was also copied the office of Director Parks and Recreation Department. The unknown persons have completed the fencing of the entire plot 914A and have been subletting out parts of the land to car washing companies, block molding companies, artisans contrary to the purpose for which the plaintiff was allocated the plot. The plaintiff stated that there has not been any official notification of revocation or subdivision in whole or in part of the said park to another person. The plaintiff therefore seeks against the defendants;

1. A declaration that the plaintiffs are the bonafide and legitimate owner and occupier of Park No. 914A BO2 with a size of 14.6 hectares in its letter of offer dated 5th July, 2007, with a site plan of plot 914 with a size of 26.49 hectares dated and signed 10th August, 2018 and 10/08/2010.
2. A declaration that the entry by the Defendants their servants, and or agents, privies into the Plaintiffs' land constitutes trespass on the land.
3. An Order of perpetual injunction restraining the Defendants, by themselves, servants, agents and or privies from entry or further entry into the plaintiffs land or in any way dealing with same.
4. General damages in the sum of ~~₦~~**250,000,000.00 (Two Hundred and Fifty Million Naira)** only for acts of trespass committed on the plaintiffs land.
5. An Order that the Defendants pay the Plaintiffs the sum of **Ten Million Naira (₦10,000,000)** being cost of legal fees in prosecuting this suit.

6. Any further or other reliefs as this court may deem fit to make in the circumstances of this suit.

To prove the plaintiffs' claim the 2nd plaintiff adopted her witness statement on oath on the 3rd November, 2020 which content is in pari-material with the facts contained in the statement of claim. It is on record that the defendants were served with the Originating Summons and hearing notices as could be seen the affidavit of service. The court also made an Order for substituted service of hearing notices on the defendants. They did not enter appearance.

Consequent upon the adoption of the plaintiffs' witness statement on oath, the counsel to the plaintiffs moved the court vide Motion No. M/7102/2020 brought pursuant to Order 10, Rule 2, 5, 8, 11, 12, 13 of the High Court of FCT Civil Procedure Rules seeking for an Order of court delivering judgement in favour of the plaintiffs against unknown defendants for failure to defend or enter appearance in this suit. In support of the application is an 8 paragraph affidavit deposed to by the counsel to the plaintiffs, **Wilfred Eneye**. The provision of Order 10 is on default of appearance to various claims as instituted by a plaintiff. In the instant case it is apparent that the Rule 8 is more applicable and appropriate to the plaintiffs' claim, it provides:

“If an appearance is not entered within the time prescribed on the Originating Process in a claim for recovery, if appearance is entered but the defendant is limited to part only, a claimant may apply to the court for judgement stating that the person whose title is asserted in the

originating process shall recover possession of the land, or of that part of it to which the defence does not apply.”

Order 13 further provides;

“Notice of any application under this Oder shall be served on the other party.”

The motion on notice was said to have been served by the bailiff of the court on the 27th May, 2020 by pasting on the property. The claim of the plaintiffs remains undefended, the defendants having not entered appearance to the suit. The facts contained in the plaintiffs’ statement of claim and the evidence of the plaintiffs’ witness that Park No. 914A, BO2 was allocated to the plaintiffs was not disputed. Also not contradicted is the fact that there has been no revocation of the said plot by the approving authority. Therefore in the absence of any proof that the said park was revoked, I hold that the said allocation to the plaintiffs still subsists, and the plaintiffs remain the allottee of the said Plot No. 914A BO2. The entry of the defendants, their servants, and or agents, privies into the said plot constitute trespass. The defendants, their agents, servants or privies are thereby restrained from further entry into the plaintiffs’ plot or in any way deal with the plots. The sum of **₦2,000,000 (Two Million Naira)** is awarded as damages against the defendants.

SIGNED

**HON JUDGE
5/2/2021**