

**IN THE HIGH COURT OF THE FEDERAL
CAPITAL TERRITORY, ABUJA
HOLDEN AT ABUJA**

ON TUESDAY, 12TH JANUARY, 2021

BEFORE HON. JUSTICE SYLVANUS C. ORIJI

SUIT NO. FCT/HC/CV/4285/2012

BETWEEN

ALHAJI ISA MUSTAFA

--- PLAINTIFF

AND

1. MINISTER, FEDERAL CAPITAL TERRITORY

2. MOSES AGBO

3. MR. LOUIS OKONKWO

***[CARRYING ON BUSINESS UNDER THE
NAME AND STYLE OF CASTLE ESTATE]***

4. ALHAJI TANKO ABUBAKAR

5. INSPECTOR GENERAL OF POLICE

6. THE COMMISSIONER OF POLICE [X-SQUAD]

DEFENDANTS

JUDGMENT

The plaintiff [claimant] instituted this suit on 6/8/2012 vide writ of summons.

The pleadings in this suit are:[i] the plaintiff's statement of claim filed on 6/8/2012; [ii] the 1st defendant's statement of defence filed on 8/11/2012; [iii] the 2nd defendant's statement of defence filed on 21/5/2013; and [iv]the 3rd defendant's amended statement of defence filed on 15/1/2014.

In paragraph 19 of the statement of claim, the plaintiff claims these reliefs against the defendants:

1. A Declaration of Court that the plaintiff is the rightful person to whom Dr.Tajudeen Abdul-Raheem, now deceased, entered into an agreement for the Assignment of Plot 1254,Guzape District, Cadastral Zone A09, Abuja measuring about 1500sq.m and upon which the 1st defendant was written by the aforementioned Dr.Tajudeen Abdul-Raheem to give consent to assign same and register both the Deed of Assignment and Power of Attorney.
2. An Order of Court directing the 5th and 6th defendants whether by themselves or through their agents and or servants, to forthwith, hand over the original Letter of Offer in the name of Dr.Tajudeen Abdul-Raheem in respect of the Plot mentioned in prayer 1 above to the plaintiff.
3. An Order of Court directing the 2nd, & 3rd and 4th defendants to pay the sum of N110,000,000.00 [One Hundred and Ten Million Naira] only, to the plaintiff being exemplary damages for the sale of the plaintiff's title document, acquired from the late Dr.Tajudeen Abdul-Raheem by the plaintiff, without the knowledge and or consent of the plaintiff.
4. An Order of Court mandating the 1st defendant to give Consent for the Assignment of Plot 1254, Guzape District, Abuja to the plaintiff and an Order of Court directing the 1st defendant whether by himself or

through his agents known as the Federal Capital Development Authority, the Abuja Geographic Information Systems [AGIS] or howsoever known to Register the Power of Attorney and Deed of Assignment executed by Dr. Tajudeen Abdul-Raheem to the plaintiff over Plot 1254, Guzape District, Abuja.

5. General damages of N50,000,000.00 [Fifty Million Naira] only, against the 1st defendant for failing to Register the Deed of Assignment and Power of Attorney executed by Dr. Tajudeen Abdul-Raheem in favour of the plaintiff upon which the said Dr. Tajudeen Abdul-Raheem wrote the 1st defendant seeking his consent for the assignment and the 1st defendant's Director of Lands to Register both the Deed of Assignment and Power of Attorney.
6. Cost of this suit.

On 26/3/2013, the Court issued a *Subpoena Duces Tecum* to be served on CSP Tolani Alausa [IPO] of X-Squad, Nigeria Police Force, Force Headquarters, Abuja to produce the documents listed therein. The Court issued the *Subpoena* on the application of the plaintiff's counsel [O. J. Aboje Esq.] dated 25/3/2013. Pursuant to the *Subpoena Duces Tecum*, Oloye Torugbene Esq., who appeared as counsel for the 5th & 6th defendants on 21/5/2013, informed the Court that he has the certified true copies of the documents specified in the *Subpoena* and that the originals of the documents were undergoing scientific investigation in a criminal matter. In the light of the explanation of Oloye Torugbene Esq. on

the originals of the documents, I directed the learned counsel for the 5th& 6th defendants to hand over the certified true copies of the documents to the registrar of the Court.

At the trial, Alhaji Abdulhamid Audu gave evidence as PW1. He adopted his statement on oath filed on 6/8/2012. Both learned counsel for the 2nd& 3rd defendants cross examined PW1. James Ogoh was the PW2. He adopted his statement on oath filed on 6/8/2012 and tendered Exhibits A, B, C, D, E & F. PW2 was cross examined by learned counsel for the 1st, 2nd& 3rd defendants.

The plaintiff [Alhaji Isa Mustafa] testified as PW3. He adopted his statement on oath filed on 6/8/2012 and tendered Exhibits G1, G2, G3, G4 & H. PW3 was cross examined by learned counsel for the 1st, 2nd, 3rd& 4th defendants. During the cross examination of PW3 by counsel for the 3rd defendant, Exhibits J & H1 were tendered through him.

On 25/3/2015 when the plaintiff closed his case, Dr. I. J. Essien informed the Court that the 1st defendant did not intend to call any witness.

The 2nd defendant [Moses Agbo] testified in his defence as DW1. He adopted his statement on oath filed on 21/5/2013. 2nd defendant was cross examined by learned counsel for the 3rd& 4th defendants and for the plaintiff.

The 3rd defendant [Louis Okonkwo] testified in his defence as the DW2 and adopted his statement on oath filed on 15/1/2014. He tendered Exhibits K1,

K2, K3, K4, K5, L& M.The 3rd defendant was cross examined by counsel for the 2nd defendant and for the plaintiff.

Jacqueline Kelvin, a staff of Sterling Bank Plc. at National Assembly branch, gave evidence as DW3. She testified orally pursuant to a *Subpoena* issued by the Court on 8/3/2018. Mahmud UsmanJibrin, a staff of Land Department, Federal Capital Territory [FCT], Abuja, gave evidence as DW4. He testified orally pursuant to a *Subpoena* issued by the Court on 8/3/2018.DW3 & DW4 gave evidence as witnesses for the 3rd defendant and were cross examined by counsel for the 2nd defendant and for the plaintiff. During cross examination of DW3, plaintiff's counsel tendered Exhibit N through her.

When the 3rd defendant closed his case on 20/6/2018, the plaintiff's counsel [O. J. Aboje Esq.] applied for an order of the Court to foreclose the rights of the 4th, 5th& 6th defendants to defend the action. The Court granted the application anddirected the parties to file and exchange their finalwritten addresses.

However, on 18/3/2019, the plaintiff filed *Motion No. M/4272/2019* for an order of Court“*re-opening the Plaintiff's case closed on the 25/3/2015 to enable the Court receive the Certified True copies of the documents brought to Court by the 5th and 6th Defendants on Subpoena DucesTecum as Exhibits in the case of the Plaintiff.*”The Court granted the motion on 13/5/2019. On 2/3/2020, O. J. AbojeEsq. tendered Exhibits O, P, Q& R from the Bar.

Evidence of the Plaintiff:

Evidence of Alhaji Isa Mustafa, the plaintiff [as PW3]:

The plaintiff's evidence is that Dr. Tajudeen Abdul-Raheem [now deceased] entered into an agreement to assign his holding in Plot 1254, Guzape District, Cadastral Zone A09, Abuja measuring about 1,500 square metres granted by the 1st defendant. Dr. Tajudeen Abdul-Raheem executed a Power of Attorney, Deed of Assignment and Sale Agreement to reflect the agreement to convey the Plot to him. Dr. Tajudeen wrote to 1st defendant seeking his consent for the assignment of the Plot to him [the plaintiff]. Dr. Tajudeen Abdul-Raheem also wrote letters to the Director of Lands, FCT authorizing the registration of the said Power of Attorney and authorizing that the Certificate Occupancy over the Plot be released to him [the plaintiff]. He [the plaintiff] submitted all the letters to the 1st defendant and the Director of Lands, FCT. He kept visiting 1st defendant's office with no reaction from the 1st defendant on the matter of his consent and the registration of the Power of Attorney and Deed of Assignment as requested by Dr. Tajudeen.

The plaintiff further testified that he handed over the original title document to James Ogoh [his friend] for sale. James Ogoh revealed to him that he handed over the original title document to the 2nd defendant [Moses Agbo] who held out to James Ogoh that he had buyers who were interested in buying the land and that they needed to conduct a search. The 2nd defendant disappeared after James Ogoh handed over the original document to him in

August, 2011. In November, 2011, James Ogoh saw several persons with photocopies of the original title document offering same for sale. Mr. James Ogoh approached one of such persons in company of Alh. Abdulhamid Audu. They were taken to the person who was in possession of the original title document called Mr. Lawrence Agbo.

Mr. Lawrence Agbo said the 3rd defendant [Mr. Louis Okonkwo] is the owner of the title document and gave him to sell. Mr. Lawrence Agbo also told James Ogoh that Castle Estate is a property company which owns the original document and when pressed further, he handed over a Power of Attorney purportedly executed between the late Dr. Tajudeen Abdul-Raheem and the 3rd defendant. Lawrence Agbo, in order to assuage the fears of James Ogoh, signed on a plain sheet of paper that he is in possession of the original title document pending when investigations as to the ownership of the document would be concluded by Garki Police Station where the matter was reported and the 2nd defendant apprehended.

The plaintiff further stated that while he was waiting for the Police at Garki Police station to conclude investigation, the 3rd defendant offered the title document of the said Plot to another person for sale. When the original title document was produced by the 3rd defendant to AGIS [Abuja Geographic Information Systems] for a search report to be issued to the person to whom the Plot was offered for sale, the agents of the 1st defendant seized same from the 3rd defendant on the excuse that he presented a Power of Attorney that

post-dated the demise of Dr.Tajudeen Abdul-Raheem. According to the plaintiff, these facts were revealed to him by Lawrence Agbo and the 3rd defendant at the 5th& 6th defendants' office. They also informed him that they wrote a petition against the 4th defendant who fraudulently sold the Plot to the 3rd defendant.

He [the plaintiff] was invited to the Intelligence Unit of the 5th defendant by the officers investigating the complaint of the 3rd defendant i.e. Inspector Salau and CSP Isaac. He made known his rights and showed them all the documents he signed with Dr.TajudeenAbul-Raheem. He demanded to be given the original of the title document but they refused. He was dissatisfied with the "*snail speed*" with which the matter was treated by the Police. The plaintiff narrated how he wrote a complaint through Abdulhamid to the President of the Federal Republic of Nigeria;whereupon the 5th defendant transferred the matter to the 6th defendant.

Alhaji Isa Mustafa [PW3] further stated that at the Police Station, Moses Agbo [the 2nd defendant], RayyanuAbubakar and Bello Mohammed, who had claimed to be the agents of the 4th defendant [as the owner of the Plot], later turned to make statements that the title document was sold to the 3rd defendant but they used the name of TankoAbubakar to, in their words, "*execute the deal*". James Ogoh later apprehended Moses Agbo. Moses Agbo executed a hand written undertaking to pay James Ogoh N10,000,000 cash and handed over a Federal Housing Authority [FHA] allocation letter for

a property situate in Gwarinpa Estate valued at N20,000,000; all as payment for the title document he sold to Mr. Louis Okonkwo [the 3rd defendant]. The FHA allocation letter turned out to be fake. Mohammed Bello wrote a letter of undertaking to the 6th defendant to refund the sum of N4,000,000 which he was given by Moses Agbo to witness the sale.

The plaintiff tendered the following documents:

- 1) Letters titled: [i] Sales Agreement; [ii] Authority to Register Power of Attorney; [iii] Consent to Assign; and [iv] Authority to Collect C of O all dated 18/9/2008 signed by Tajudeen Abdul-Raheem and addressed to the Director of Lands, AGIS are respectively Exhibits G1, G2, G3 & G4.
- 2) Letter from Shukurah Chambers to the Inspector General of Police [the 5th defendant] dated 26/3/2012 is Exhibit H.

During cross examination of the plaintiff by the 1st defendant's counsel, Dr. I. J. Essien, he stated that Exhibits G1-G4 are not stamped; they are the copies he kept at home before the letters were delivered. He has evidence of payment of the charges for registration of the Power of Attorney; but it is not in Court. He bought the Plot from Tajudeen Abdul-Raheem in 2008. He paid the sum of N14.5 million cash for the Plot apart from agency fee. Tajudeen gave him a receipt for the sum paid; but the receipt is not in Court. He submitted one copy of the Power of Attorney to AGIS and gave one to James Ogoh.

When plaintiff was cross examined by the 2nd defendant's counsel, Sunny Anyanwu Esq., he stated that Abdulhamid Audu and James Ogoh informed him that when they saw the person with the original title document, they reported to the Police at Garki Police Station.

During cross examination of the plaintiff by the 3rd defendant's counsel, Ike Nzekwe Esq., he stated that he has one signature. Mr. Ike Nzekwe sought and obtained the leave of Court for the plaintiff to sign his signature on a sheet of paper; the paper containing the plaintiff's signature is Exhibit J. James Ogoh and Abdulhamid Audu told him that they instructed Shukurah Chambers to write a petition to the 5th defendant; that letter dated 26/3/2012 is Exhibit H1.

When the plaintiff was cross examined by counsel for the 4th defendant, Oche Peter Esq., he stated that the Power of Attorney signed by Tanko [the 4th defendant] and Lawrence [the 3rd defendant] showed that the 4th defendant sold his property. He has never seen the 4th defendant.

Evidence of Alhaji Abdulhamid Audu [PW1]:

His evidence is that on 21/11/2011, his friend, James Ogoh, called him to assist in tracking the title document of the said Plot, which he gave to Moses Agbo to conduct search and he disappeared with the document. PW1 narrated how he and James Ogoh met Mr. Lawrence Agbo who brought out the original document. Mr. Lawrence Agbo told them that he and the 3rd defendant [who is his principal] bought the Plot through Rayyanu Abubakar. When

Mr. Lawrence Agbo called Rayyanu Abubakar, he told them that he got the paper from Bello Mohammed. When Bello Mohammed was called, he informed them that it was Moses Agbo who sold the paper for the Plot to them. When Moses Agbo was called on phone, he said he was not in town. After that, Bello Mohammed told them that Moses Agbo gave him N4,000,000 and took the balance of N26,000,000.

PW1 further testified that they insisted that they must proceed to the Garki Police Station. He narrated how Lawrence Agbo made an undertaking titled: *"Missing Document on Plot 1254, Cadastral Zone A09, Guzape District, Abuja"* at the gate of Garki Police Station. He [PW1] and James Ogoh also signed the undertaking. It was agreed that the title document should be kept with Mr. Lawrence Agbo until when Moses Agbo and Alhaji Tanko Abubakar were found. Surprisingly, after about 5 months, Lawrence Agbo and 3rd defendant [Louis Okonkwo] fraudulently tried to resell the said Plot to an innocent buyer. When they presented the original document for search at AGIS, the agents of the 1st defendant and the agents of the 5th defendant at AGIS seized the original title document from them.

Alhaji Abdulhamid Audu stated that he received a call from one Inspector Salau Abdurahman and CSP Isaac Samson, the agents of the 5th defendant, in respect of the petition written by the 3rd defendant to recover N30,000,000, which he claimed he paid to purchase the Plot. He told them that his address is well known and if they wanted to get to him, they should send a written

invitation, which they failed to do. The intimidation from the men continued with threat to his life. He instructed Messrs Shukurah Chambers to write a complaint of bias to the 5th defendant. The 5th defendant transferred the case to his Monitoring Unit. He later instructed Messrs Shukurah Chambers to write to the President of the Federal Republic of Nigeria; whereupon the 5th defendant transferred the case to the 6th defendant. The 6th defendant, after interrogating everybody in the case, was only able to recover N4,000,000 from Bello Mohammed who informed the Police that out of N30,000,000 paid to Moses Agbo, only N4,000,000 was given to him.

During cross examination of PW1 by learned counsel for the 2nd defendant, he stated that the original document was retrieved by a staff of AGIS when Lawrence Agbo went with it to conduct search at AGIS. The staff of AGIS sent the document to the Police at Force Headquarters. When 2nd defendant [Moses Agbo] was arrested, he did not know if Moses Agbo refunded any money.

When PW1 was cross examined by learned counsel for the 3rd defendant, he stated that AGIS retrieved the document based on the complaint of James Ogoh that he gave Moses Agbo the document to sell but he did not see him for long. He did not know that Dr. Tajudeen Abdul-Raheem died in 2009. From the papers he saw, the transaction between plaintiff and Dr. Tajudeen Abdul-Raheem was before 2009. It is not true that the document was seized because the plaintiff stole it from AGIS.

Evidence of James Ogoh [PW2]:

James Ogoh testified that Alhaji Isa Mustafa gave him his land document to sell. Moses Agbo told him that he had a client who was interested in buying the Plot and requested for the original document to enable him conduct search at AGIS. He gave Moses Agbo the original title document. Later, he called Moses Agbo to find out the position of things and he kept "posting" him with the excuse that he is still on it. After some time, Mr. Moses Agbo stopped picking his calls and he [PW2] did not know where he was residing. PW2 narrated how he and Abdulhamid Audu met Lawrence Agbo who brought out the original document and informed them that the Plot was sold to the 3rd defendant by one Rayyanu and Bello. They requested to meet with 3rd defendant and they were taken to him.

When they met 3rd defendant, they were shown a Power of Attorney between him and Dr. Tajudeen Abdul-Raheem and another between him and Alhaji Tanko Abubakar; copies thereof were given to them. They revealed to the 3rd defendant that the title document belongs to the plaintiff and was taken from him [PW2] by Mr. Moses Agbo. They insisted that they must go to the Police. When they got to Garki Police Station, Lawrence Agbo pleaded that they should settle outside the Police. PW2 narrated how Mr. Lawrence signed an undertaking that he is in custody of the original document and that he will produce it when the police has concluded its investigation. He was

shocked when Mr. Lawrence Agbotold him that the document was held at AGIS.

James Ogoh further stated that on pressing further why the document should be with AGIS, the 3rd defendant informed him that he advertised the Plot for sale to another person who applied to AGIS for a search. When he [the 3rd defendant] produced the original title document with a Power of Attorney that post-dated the death of Dr. Tajudeen Abdul-Raheem, the title document was seized and handed over to the Police. While the Police was investigating the matter, he came in contact with Moses Agbo who said he is the one that sold the title document to the 3rd defendant along with Bello Mohammed and Rayyanu. The 2nd defendant undertook in writing that the N30,000,000, which he sold the Plot will be refunded to him [PW2]. The 2nd defendant gave him N1,000,000 and issued cheques covering N9,000,000, which bounced upon presentation. The FHA allocation letter which the 2nd defendant gave to him to represent N20,000,000 turned out to be fake.

PW2 tendered the following documents:

- 1) Undertaking by the 2nd defendant dated 1/12/2011: Exhibit A.
- 2) Allocation letter from FHA dated 17/12/2004 addressed to Agernor Ugba: Exhibit B.
- 3) Power of Attorney donated by Tajudeen Abdul-Reheem to plaintiff: Exhibit C.

- 4) Letter by Hope Omorogie & Co. to the Inspector General of Police [the 5th defendant] dated 7/2/2012: Exhibit D.
- 5) Undertaking by Mohammed Bello dated 18/5/2012: Exhibit E.
- 6) Document titled: *Missing Document on Plot 1254, A09 Guzape District, Abuja* dated 21/11/2011: Exhibit F.

During cross examination of PW2 by learned counsel for the 1st defendant, he stated that the title documents the plaintiff gave him in respect of the Plot are FCDA Right of Occupancy in the name of Tajudeen Abdul-Raheem and the Power of Attorney between Abdulraheem Tajudeen and the plaintiff.

When PW2 was cross examined by counsel for the 2nd defendant, he stated that before the transaction that led to this suit, he knew the 2nd defendant because they did a land business and he knew the 2nd defendant's office. He gave the document to the 2nd defendant in his [PW2] office. The 2nd defendant gave him N1,000,000 cash and FHA allocation letter [Exhibit B]. 2nd defendant did not give him cheque.

During cross examination of PW2 by learned counsel for the 3rd defendant, he stated that he was not aware when the plaintiff bought the property. When the plaintiff gave him the original document, he did not tell him the history of the property and how he bought it.

At this juncture, let me list the documents tendered by the plaintiff's counsel from the Bar on 2/3/2020 in support of the plaintiff's case. They are:

- 1) Offer of Statutory Right of Occupancy addressed to Tajudeen Abdul-Raheem dated 15/5/2007: Exhibit O.
- 2) Letter of Acceptance of Offer dated 29/6/2011: Exhibit P.
- 3) Application for Grant/Re-grant of a Statutory Right of Occupancy Acknowledgement dated 11/09/06: Exhibit Q.
- 4) Receipt for N15,000 dated 28/2/2020: Exhibit R.

Evidence of Moses Agbo, the 2nd defendant [DW1]:

In his evidence, Moses Agbo stated that James Ogoh did not give the original or photocopy of any title document to him. The 4th defendant and Mr. Bello sold the title document to the 3rd defendant for N30 million. He never knew the 3rd defendant until when he [the 3rd defendant] petitioned 5th defendant. One Lawrence connected the 4th and 3rd defendants in the sale. The branch of the same group of fraudsters namely AlhajiAbdulahi and James Ogoh traced their way to 3rd defendant and told him that the title document he bought from the 4th defendant and Bello were stolen from AGIS. The 3rd defendant then demanded for the refund of his N30million. AlhajiAbdulahi and James Ogoh promised the 3rd defendant that they will resell the title document for N35 million and refund N30 million to him.

When AlhajiAbdullahi and James Ogoh got a buyer, they took him to the 3rd defendant's office. The 3rd defendant gave the original document to Lawrence who in company of AlhajiAbdullahi, James Ogoh and the buyer went to AGIS to conduct search. Officers of AGIS, upon sighting the original title document seized same on the ground that the document was an unclaimed document and wondered how the original document left AGIS. AGIS asked them to produce the original owner of the document. At this point, the picture of the entire scam became clear to the 3rd defendant. The 3rd defendant wrote a petition againstAlhajiAbdulahi, the 4th defendant, Mr. Bello, James Ogoh and Lawrence to the 5th defendant.

2nd defendant further stated that while the petition was receiving attention, 4th defendant [TankoAbubakar] called him on phone and requested him to come to Bolton White Hotels at Area 11, Garki to show him a certificate of occupancy of another property. When he got there, he met the 4th defendant, AlhajiAbdulahi, Bello,James Ogoh and one Bala who claimed to be a staff of State Security Service[SSS].He narrated how he was handcuffed and beaten on the allegation that he sold a land to the 3rd defendant [whom he had never met]. His car was searched, and out of the N1.5 million in his car, the gang collected N1 million cash and he was detained for over 2 hours somewhere in Wuse 11, where they claimed to be the operations office of SSS.

He [DW1] honoured the invitation of the Federal Investigation Bureau, an agent of the 5th defendant. He made his statement and stated how he was

attacked as aforesaid. He met the 3rd defendant for the first time in the 5th defendant's office. DW1 narrated how the Police arrested the fake SSS man, who is a driver with Federal Inland Revenue Service. On hearing that one of their gang members has been arrested, *"the rest took to their heels"*. At no time did the plaintiff, Abdulahi, the 4th defendant, Bello and James Ogoh honour the invitation of the 5th defendant. Abdulahi, the coordinator of the scam, sensing that the 5th defendant will arrest them, quickly wrote a petition to the 5th defendant and accused the investigating police officer whom they had never met. The matter was transferred to the 6th defendant.

The further evidence of DW1 is that the plaintiff, Abdulahi, the 4th defendant, Bello and James Ogoh refused or neglected to honour the 6th defendant's invitation and never made any statement. He did not participate in the sale of the Plot to the 3rd defendant. Mr. James Ogoh has never apprehended him. He never executed any hand written undertaking to pay James Ogoh the sum of N10 million. The *"so called"* undertaking to pay N10 million was forged by the plaintiff and his gang. He did not hand over any FHA allocation letter to James Ogoh or anybody. The 2nd defendant concluded that the plaintiff, Abdullarim Audu, Mohammed Bello, 4th defendant, James Ogoh and Rayyanu Abubakar *"are all the same and one coin, land syndicates that specialise in defrauding innocent Nigerians as has been done to the 3rd defendant"*.

During cross examination of DW1 by the 3rd defendant's counsel, he stated that he heard in Force CID that the 4th defendant and Mr. Bello sold the Plot

to the 3rd defendant. The Police IPO informed him at Force CID that AlhajiAbdulahi and James Ogoh told the 3rd defendant that the document of the Plothe bought was stolen and that they promised the 3rd defendant to sell the documentand refund his N30 million.When DW1 was cross examined by 4th defendant's counsel, he said he met the 4th defendant once.

When DW1 was cross examined by the plaintiff's counsel, he stated that Abdullahi refers to Isa Mustafa, which is a fake name. When he went to Bolton White Hotel to meet Bello and the others, they started making trouble with him and said he was trying to help Mr. Louis to get them arrested. He did not have any document where FCT Land Registry alleged that the title document of Dr.Tajudeen Abdul-Raheem was missing or stolen.

Evidence of Louis Okonkwo, the 3rd defendant [DW2]:

Louis Okonkwo testified that he is doing business under the name of Castle Estate. At no time did Dr.Tajudeen Abdul-Raheementer into any agreement to assign the said Plot to the plaintiff and he did not execute the documents and letters relied upon by the plaintiff. The plaintiff was never in possession of the original document of the said Plot. He purchasedthe Plot from TankoAbubakar who had paid purchase price to Dr.Tajudeen Abdul-Raheem and was put into possession after a Power of Attorney was executed. There was no report of missing document of the said Plot toGarki Police Station and no investigation was carried out by the Police at GarkiPolice Station. He did

not instruct Lawrence Agbo to enter into an undertaking with James Ogoh or any other person.

The 3rd defendant further stated that AGIS, acting through one of its officers, withheld the letter of grant/offer in respect of the said Plot, which they submitted for sighting to enable a prospective purchaser conduct a search. The officer of AGIS told them that the document was removed from their custody without authority and due process. It is not true that the letter of grant of the Plot was seized or withheld because the Power of Attorney in favour of Castle Estate was executed after the death of Dr. Tajudeen Abdul-Raheem. This is because powers of attorney are not demanded at the time of conducting search; and the Power of Attorney in question was executed under the hand of the said Dr. Tajudeen Abdul-Raheem.

He further testified that he reacted to the wrongful seizure of the original letter of grant/offer of the Plot by instructing Victoria Owoicho, a staff in Castle Estate, to brief the firm of Hope Omorogie & Co. to petition the Police on his behalf as he was out of the Country. In paragraph 13[a]-[d] of his statement on oath, 3rd defendant stated his instructions to Victoria Owoicho and said Victoria Owoicho failed to represent his instructions correctly to the law firm. This failure misled the law firm to state in the petition that Tanko Abubakar purchased his interest in the Plot after the death of Dr. Tajudeen Abdul-Raheem. During the investigation, plaintiff did not demand the title document of the Plot from the 5th defendant because it is not

his own. The Police investigating his petition did not at any time ask him to produce TankoAbubakar, who he paid purchase money for the Plot. James Ogoh did not hand over the title document to the Plot in issue to Moses Agbo.

The 3rd defendant tendered the following documents:

- 1) 5 Sterling Bank cheques: Exhibits K1-K5 respectively.
- 2) Legal Search Report dated 29/9/2011: Exhibit L.
- 3) Irrevocable Power of Attorney donated by TajudeenAdbul-Raheem to AlhajiTankoAbubakar dated 11/3/2010: Exhibit M.

During cross examination of the 3rd defendant by the 2nd defendant's counsel, he stated that his agent [Lawrence Agbo] and 4th defendant's agents [Ryan and Moses] brought 4th defendant to his office; Moses Agbo [2nd defendant] was not there.

When the 3rd defendant cross examined by the plaintiff's counsel, he stated that at the time the Legal Search Report, Exhibit L, was issued at the Land Registry, he was not told that the title document of Dr.Tajudeen was stolen. Lawrence Agbo did not have his permission to make the undertaking, Exhibit F; and he was beaten to make it.

Evidence of Jacqueline Kelvin [DW3]:

The evidence of DW3 is that in 2011, their customer, Louis Okonkwo, gave an instruction to Sterling Bank Plc. to issue 2 drafts in the name of the account *Castle Estate* for the sums of N7 million and N9 million in favour of TankoAbubakar. The request was granted and the drafts, Exhibits K1 & K2, were issued. There was a cheque for N2 million [Exhibit K3] in favour of TankoAbubakar. The instruments were received by TankoAbubakar.

When DW3 was cross examined by the plaintiff's counsel, the statement of account of Castle Estate from 27/9/2011 to 30/9/2011 was tendered as Exhibit N through her. She stated that from Exhibit N, N9 million and N7 million were paid to TankoAbubakar on 27/9/2011; while N2 million was paid to him on 30/9/2011.

Evidence of Mahmud Usman]Ibrin [DW4]:

The evidence of DW4 is that from the available records in Land Department in FCT:[i] there is no application for consent to assign the said Plot or to register power of attorney made by Dr.Tajudeen Abdul-Raheem; [ii] there is no evidence of any transaction on the Plot or any encumbrance; and [iii] Dr.Tajudeen Abdul-Raheem is the original allottee of the Plot.

During cross examination of DW4 by 2nd defendant's counsel, he explained the documents required to conduct a search in respect of land.

During cross examination of DW4 by the plaintiff's counsel, he stated that there is a register called Register of Powers of Attorney in the FCT Lands Registry, which contains the dates and persons who apply to register powers of attorney. There is also a register containing the names of persons and the dates they apply to register deeds of assignment. These registers are in the office. He has never seen the right of occupancy in the name of Dr.Tajudeen Abdul-Raheem in respect of the said Plot. He did not know where the right of occupancy is.

Issues for determination:

At the end of the trial, Ike NzekweEsq. filed the 3rd defendant's final address on 23/3/2020. O. J. AbojeEsq. filed the plaintiff's final address on 4/6/2020. On 15/6/2020, Mr. Ike Nzekwe filed the 3rd defendant's reply on points of law. Ike NzekweEsq. and O. J. AbojeEsq.adopted their respective final addresses on 14/10/2020.

The learned counsel for the 2nd defendant [Sunny AnyanwuEsq.] andlearned counsel for the 4th defendant [A. Uno KanuEsq.] adopted the final addresses of the 3rd defendant.

In the 3rd defendant's final address, Ike NzekweEsq. distilled the following 2 issues for determination:

1. Whether the plaintiff can successfully assert that he acquired any equitable or legal interest from Dr.Tajudeen Abdul-Raheem in respect of Plot No. 1254, Guzape District, Cadastral Zone C09, Abuja measuring about 1,500 square metres.
2. Whether on the strength of the evidence placed before this Court any of the claims of the plaintiff can be sustained.

On the other hand, O. J. AbojeEsq. formulated 4 issues for resolution in the plaintiff's final address. These are:

1. Whether the plaintiff has proved that he is the rightful person that Dr.Tajudeen Abdul-Raheem [the allottee to Plot 1254, Cadastral Zone C09, Guzape District, Abuja] transferred the residue of his interest in the Plot by way of sale.
2. Whether the 1st defendant was served Exhibits "G2", "G3" and "G4" by the plaintiff.
3. Whether the 2nd, 3rd and 4th defendants are liable to the plaintiff as claimed in Claim "3".
4. Is it true as stated by the 3rd defendant's counsel in paragraph 4.44 of the 3rd defendant's final written address that the 3rd defendant did not counter-claim against the plaintiff?

It is not in dispute that by virtue of the Offer of Statutory Right of Occupancy dated 15/5/07 [Exhibit O], 1st defendant allocated the Plot in issue to Tajudeen Abdul-Raheem.

The case of the plaintiff in support of his reliefs is that he bought the said Plot from Dr.Tajudeen Abdul-Raheem; whoexecuted a Power of Attorney, Deed of Assignment and Sale Agreement to reflect the agreement to convey the Plot to him.He handed over the original title document of the Plot to James Ogoh, his friend, for sale. James Ogoh gave the original document tothe 2nddefendant who said he had interested buyers of the Plot. The 2nd defendant disappeared with the documents. AlhajiAbdulhamidAudu[PW1] and James Ogoh[PW2] later saw the original document with Lawrence Agbo, the agent of the 3rd defendant. When Lawrence Agboand the 3rd defendant tried to fraudulently sell the Plot and presented the original title document at AGIS for search, the officers of AGIS seized the document.

The case of Moses Agbo [the 2nd defendant] is that James Ogoh did not give him the title document of the said Plot and the 4th defendant and Mr. Bello,who are fraudsters and members of a land syndicate, sold the Plot tothe 3rd defendant for N30 million and gave him the title document. Later, he [2nd defendant] was accused of selling the Plot to the 3rd defendant.

The 3rd defendant's case is that Dr.Tajudeen Abdul-Raheem did not enter into any agreement to assign the said Plot to the plaintiff; Dr.Tajudeen did not

execute the documents and letters relied upon by the plaintiff; and the plaintiff was never in possession of the original title document of the Plot. He [the 3rd defendant] purchased the Plot from TankoAbubakar who had paid purchase price to Dr.Tajudeen Abdul-Raheem. He paid the purchase price of N30 million to TankoAbubakar.

The 3rd defendant has no counter claim in this suit for a declaration that he is the owner of the said Plot or that he has any interest in the Plot. It seems to me that with the turn of events after his transaction with TankoAbubakar [4thdefendant], it became clear to the 3rd defendant that TankoAbukakar had no title or interest in the Plot to transfer and/or assign to anyone. For emphasis, the Irrevocable Power of Attorney dated 11/3/2010 purportedly donated by Dr.Tajudeen Abdul-Raheem to AlhajiTankoAbubakar [Exhibit M] did not confer/transfer any interest or title over the Plot to TankoAbubakar. The law is trite that a power of attorney is not a document or an instrument that confers, transfers, limits, charges or alienates any title to the donee. See Ude v. Nwara [1993] 2 NWLR [Pt. 277] 638 and Ekengwu v. Ekengwu [2018] LPELR-45070 [CA].

Secondly, the evidence before the Court is that Dr.Tajudeen died in 2009; before the date of the Power of Attorney [Exhibit M]. The fact thatTajudeenAbdul-Raheemdied in 2009 casts serious doubt on the genuineness of Exhibit M, which 3rd defendant relied upon to pay N30 million to the 4th defendant. The fact that the 3rd defendant is not claimingany

interest in and over the said Plot is evident from Exhibit D where his solicitor urged the Inspector General of Police [the 5th defendant] thus:

“We therefore urge you sir, to investigate the matter and bring the culprits to book while also ensuring that the purchase price of N30 million [...] paid by our client for the property is fully recovered for our client.”

Against this backdrop and in the light of the reliefs claimed by the plaintiff, I am of the considered opinion that there are 4 issues for determination in this action, namely:

1. Whether the plaintiff has adduced credible and cogent evidence to prove that Dr. Tajudeen Abdul-Raheem [now deceased] sold Plot No. 1254, Guzape District, Cadastral Zone A09, Abuja to him.
2. Whether the plaintiff has established that the letters, Exhibits G1-G4 were submitted or delivered to the Director of Lands, AGIS.
3. Whether the plaintiff proved that he gave the original title document of the said Plot [i.e. Offer of Statutory Right of Occupancy] in the name of Dr. Tajudeen Abdul-Raheem [Exhibit O] to James Ogoh who in turn gave it to Moses Agbo [the 2nd defendant].
4. Is the plaintiff entitled to his reliefs?

ISSUE 1

Whether the plaintiff has adduced credible and cogent evidence to prove that Dr.Tajudeen Abdul-Raheem [now deceased] sold Plot No. 1254, Guzape District, Cadastral Zone A09, Abuja to him.

Section 131[1] of the Evidence Act, 2011 provides that whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts must prove that those facts exist. By section 133[1] thereof, in civil cases, the burden of first proving the existence or non-existence of a fact lies on the party against whom the judgment of the court would be given if no evidence were produced on either side.

The plaintiff's relief 1 is a declaratory order. The success or otherwise of the other reliefs largely depends on the decision of the Court on relief 1. As Ike NzekweEsq. and O. J. AbojeEsq. rightly stated, a party seeking a declaratory relief has the burden to establish his entitlement to the relief and he must succeed on the strength of his case and not on the weakness of the defence, if any. The plaintiff must adduce cogent, credible and satisfactory evidence in support of the declaratory relief. See Dumez [Nig.] Ltd. v. Nwakhoba [2008] 18 NWLR [Pt. 1119] 361. In the instant case, the plaintiff has the evidential burden to prove that he is entitled to his reliefs.

From the pleadings in paragraphs 1 & 2 of the statement of claim, the plaintiff has the duty to prove by credible evidence that Dr.Tajudeen Abdul-Raheem "executed a Power of Attorney, Deed of Assignment and Sale Agreement" in his favour. The plaintiff also has the duty to prove that Dr.Tajudeen "wrote

to the 1st Defendant seeking his Consent for the Assignment of the Plot to the Plaintiff; wrote to the 1st Defendant's Director of Land authorizing the Registration of the Power of Attorney between the Plaintiff and himself together with writing to the same Director of the 1st Defendant authorizing the Plaintiff to collect the Certificate of Occupancy over the land."

The PW2 tendered the undated Power of Attorney donated by Tajudeen Abdul-Raheem to the plaintiff as Exhibit C. The plaintiff tendered 4 letters dated 18/9/2008 said to have been written by Tajudeen Abdul-Raheem to the Director of Lands; the letters are Exhibits G1-G4. Let me set out these letters.

Exhibit G1 reads:

SALES AGREEMENT

With reference to the subject above, I wish to state that I transferred my interest on Plot No. 1254, Cadastral Zone A09, Guzape District of Federal Capital Territory with FILE NO. KT 20686 to ALHAJI ISA MUSTAFA of 27 Kaska Sara Layout, Kano, Kano State for the sum of Thirteen Million Naira Only [N13,000,000.00].

Exhibit G2 reads:

AUTHORITY TO REGISTER POWER OF ATTORNEY

With reference to the subject above, I hereby authorize ALHAJI ISA MUSTAFA of 27 Kaska Sara Layout, Kano, Kano State to Register Power of Attorney of Plot

No. 1254, Cadastral Zone A09, Guzape District of Federal Capital Territory with FILE NO. KT 20686.

Exhibit G3 reads:

CONSENT TO ASSIGN

With reference to the subject above, I hereby consent to assign Plot No. 1254, Cadastral Zone A09, Guzape District of Federal Capital Territory with FILE NO. KT 20686 to ALHAJI ISA MUSTAFA of 27 Kaska Sara Layout, Kano, Kano State.

Exhibit G4 reads:

AUTHORITY TO COLLECT C OF O

With reference to the subject above, I hereby authorise ALHAJI ISA MUSTAFA of Kasfa Sara Layout, Kano, Kano State to collect the Certificate of Occupancy in respect of Plot No. 1254, Cadastral Zone A09, Guzape District of Federal Capital Territory with FILE NO. KT 20686.

Learned counsel for 3rd defendant stated that the plaintiff did not tender the Deed of Assignment and Sale Agreement which he pleaded. He submitted that the letter, Exhibit G1, titled: *Sales Agreement* is irrelevant to the plaintiff's case and is inadmissible. What the plaintiff pleaded is a Sale Agreement and not a letter titled: *Sales Agreement* purportedly written by Dr. Tajudeen to the Director of Lands, AGIS. He argued that where inadmissible evidence has

been admitted, it is the duty of the court not to act upon it. It is immaterial that the other party failed to object to the admissibility of the document at the proper time. The cases of **Olukade v. Alade [1976] 1 All NLR [Pt. 1] 67, Onochie v. Odogwu [2006] 6 NWLR [Pt. 975] 65** were cited among others. Mr. Ike Nzekwe urged the Court to expunge Exhibit G1 from its record.

The 3rd defendant's counsel further argued that Exhibit G1, to the extent that it purports to convey to the addressee that interest in the Plot was transferred to the plaintiff, is an instrument. Since it was not registered, it is inadmissible. He referred to **Orianzi v. A. G. Rivers State [2017] 6 NWLR [Pt. 1561] 224** to support the view that once a document purports to transfer and/or confer interest in land, it becomes an instrument that must be registered. Mr. Ike Nzekwe concluded that on the strength of the evidence before the Court, the plaintiff did not acquire any equitable or legal interest from Tajudeen Abdul-Raheem in respect of the said Plot.

The viewpoint of learned counsel for the plaintiff is that the Sale Agreement evidencing the purchase of the Plot by the plaintiff is Exhibit G1 signed by Dr. Tajudeen. Exhibit G1, which shows that Dr. Tajudeen sold the Plot to the plaintiff contains the names of the parties to the contract, the property sold, the consideration, the nature of the interest sold and the date of same. In paragraph 3.06 of the plaintiff's final address, Mr. O. J. Aboje referred to the case of **Kwanni v. Marafa [2017] 8 NWLR [Pt. 1566] 1** where it was held that a sale of land agreement, to be enforceable must be in writing. When there is no

written agreement or memorandum witnessing the sale of land to the plaintiff before the court, the plaintiff's claim had to fall like a pack of cards.

Based on the above principle, Mr.Aboje then submitted:

My Lord, even if it is said that Exhibits "C" [Power of Attorney] and "G1" [Sale Agreement cast in a form of a letter to the 1st Defendant's Director of Land] do not constitute what may be termed 'a Written Agreement' [which we disagree with/to], both documents constitute "a memorandum witnessing" the sale of the Suitland by late Dr.Tajudeen Abdul-Raheem to the Plaintiff and we urge the Court to uphold this humble view of ours. If this is not the case, how else would one describe Exhibits "C" and "G1" and indeed "G2" to "G4"?

The plaintiff's counsel further argued that 3rd defendant averred in paragraph 2 of his amended statement of defence that Dr.Tajudeen did not enter into any agreement to assign the Plot to the plaintiff; and did not execute the documents relied upon by the plaintiff. The effect of these averments is that the documents are forged. It was submitted that the 3rd defendant did not contradict the signatures on Exhibits C and G1-G4; he did not call any person familiar with the signature of late Dr.Tajudeen Abdul-Raheem to query it; and he did not give particulars of the forgery or prove same. Mr.O. J. Aboje concluded that the plaintiff has proved by oral and documentary evidence that he purchased the Plot from Dr.Tajudeen Abdul-Raheem.

Now, the plaintiff did not tender the Deed of Assignment said to have been executed by Dr.Tajudeen Abdul-Raheem and the letter said to have been written by Dr.Tajudeen “to the 1st Defendant seeking his Consent for the Assignment of the plot to the Plaintiff”. I agree with Mr. IkeNzekwe that the plaintiff did not tender the Sale Agreement pleaded in paragraph 2 of his statement of claim. For emphasis, the plaintiff did not plead a “Sale Agreement cast in a form of a letter to the 1st Defendant’s Director of Land”. The effect is that the plaintiff tendered the letter, Exhibit G1, which was not pleaded. I am in agreement with the 3rd defendant’s counsel that since Exhibit G1 was not pleaded, it goes to no issue and ought to be discountenanced by the Court.

Assuming I am wrong and the correct position is that Exhibit G1 is the Sale Agreement pleaded in paragraph 2 of the statement of claim, I take the view that the letter, Exhibit G1, does not qualify as a written agreement of sale of land or a memorandum witnessing the sale of land. I am not persuaded by the submission of Mr.Aboje that the Power of Attorney [Exhibit C] and the letter [Exhibit G1] “constitute ‘a memorandum witnessing’ the sale of the Suitland by late Dr.Tajudeen Abdul-Raheem to the Plaintiff”. As I said earlier, it is trite law that a power of attorney is not a document or an instrument that confers or transfers any title to the donee as was held in Ude v. Nwara [supra].

In paragraph 3.10 of the plaintiff’s final address, Mr.O. J. Aboje referred to the proceeding of 17/2/2015 where the 3rd defendant’s counsel objected to the admissibility of the letter titled: *Sales Agreement* [Exhibit G1] on the ground

that the “document is intended to transfer interest and ought to be registered. Since it is not registered, it is inadmissible. ...”Mr.Aboje argued that the 3rd defendant is aware of the import and purport of Exhibit G1 to the effect that “by it, the sale of the Plot to the Plaintiff is consummated and that the Plaintiff holds a title in equity in the Plot derivable therefrom which ranks very high and may even defeat a legal title.”

I note that in overruling the said objection of the 3rd defendant’s counsel on 17/2/2015, I held that: “I have no doubt in my mind that this letter is not an instrument within the meaning of the Land Instrument Registration Act. A fortiori, the letter is not a registrable instrument.” I maintain my position that the letter, Exhibit G1, is not an instrument and it does not qualify as evidence of sale or transfer of title in the said Plot to the plaintiff. To buttress my view, it is pertinent to ask: if indeed Dr.Tajudeen sold or assigned his title/interest in the Plot to the plaintiff, in the absence of the Sale Agreement and Deed of Assignment pleaded by the plaintiff, will the plaintiff submit Exhibit G1 to the 1st defendant for his consent to the assignment or transfer of title over the Plot or for registration of his interest in the Plot as per his relief 4? My answer is in the negative.

In paragraph 3.12 of the plaintiff’s final address, Mr.Aboje - in his effort to persuade the Court to hold that Exhibit G1 is the Sale Agreement evidencing the purchase of the Plot by the plaintiff - referred to the case of **Oyelakin v. Orowolo [2017] All FWLR [Pt. 899] 254** to support the principle that where

there is an agreement for sale of land for which the purchaser makes payment of the purchase price to the vendor and is put in possession, he has acquired an equitable interest in the property which interest ranks as high as a legal estate.

The above represents the position of the law. However, in the instant case, the plaintiff did not tender any receipt of payment to show that he paid any money to Dr. Tajudeenas purchase price or consideration for the Plot and in proof of his equitable interest in the Plot. The content of the letter, Exhibit G1, is that the plaintiff paid N13 million to Dr. Tajudeen as purchase price for the Plot. However, during cross examination by the 1st defendant's counsel, the plaintiff was asked how much he paid for the land. He stated that he paid "N14.5 million apart from agency fee." When asked of the receipt, the plaintiff said he has the receipt "but it is not here."

I hold the humble view that the disparity between the sum in Exhibit G1 and the oral evidence of the plaintiff raises a question mark on the credibility of the case of the plaintiff. I restate that the plaintiff has a duty to present cogent, credible and consistent evidence to prove the declaratory order he seeks. Also, I agree with the 3rd defendant's counsel that the principle in the case of **Oyelakin v. Orowolo** does not apply to the plaintiff as he did not plead or adduce any evidence that he was ever put in possession of the Plot.

In the light of all that I have said, I resolve Issue No. 1 in the negative. I hold that the plaintiff failed to adduce credible, cogent and sufficient evidence to prove that Dr.Tajudeen Abdul-Raheem sold the Plot to him.

ISSUE 2

Whether the plaintiff has established that the letters, Exhibits G1-G4, were submitted or delivered to the Director of Lands, AGIS.

Flowing from the averments in paragraph 2 of the statement of claim, the plaintiff has a duty to prove that Dr.Tajudeen Abdul-Raheem handed over the letters, Exhibits G1-G4, to him which he “submitted to the 1st Defendant and the 1st Defendant’s Director of Lands”. The decision of the Court under Issue No. 1 is that the letter titled: *Sales Agreement* [Exhibit G1] was not pleaded and goes to no issue. Assuming it was pleaded, it is necessary to consider whether Exhibit G1 and indeed Exhibits G2, G3 & G4 were submitted to the addressee i.e. the Director of Lands, AGIS.

In paragraph 2 of the statement of claim, it is averred that the plaintiff submitted all the letters written by Dr.Tajudeen to the Director of Lands at AGIS. In paragraphs 2 & 3 of the 1st defendant’s statement of defence, it is averred that at no time did the plaintiff submit a power of attorney, deed of assignment, sale agreement and an application for consent to assign to the 1st defendant or to register his interest in the said Plot. The 1st defendant further averred that when documents affecting transfer of interest in land are

submitted to the 1st defendant, they are normally evidenced by the receipt stamp of AGIS as the agent of the 1st defendant. The DW4, a staff of the Land Department, FCT who was *subpoenaed* to give evidence on behalf of the 3rd defendant, gave evidence in support of these averments.

In the light of these pleadings, the plaintiff has the burden to prove that he submitted or delivered the letters to the 1st defendant's office particularly at AGIS. Under Issue No. 2 in the plaintiff's final address, Mr. Aboje referred to **Nlewedim v. Uduma [1995] 6 NWLR [Pt. 402] 383** to support the principle that where there is an allegation that a document was sent to a person and that person denies receiving such a document, proof of receipt by that person can be established, among others, by evidence of witnesses, credible enough, that the person was served with the document. He then submitted that the oral evidence of the plaintiff that he delivered the letters to the Director of Lands is "*one means of proof of service ... outside the stamped copy*".

The evidence of the plaintiff during cross examination is that Exhibits G1-G4 are the copies of the letters which he kept at home before they were delivered. Mr. Aboje argued that DW4 - who admitted that there is a register to show powers of attorney submitted for registration and a register to show those who apply to register deeds of assignment - failed to bring certified copies of the registers to Court. To my mind, the effect of this argument is to shift the burden of proof to the 1st defendant represented by DW4. By virtue of section 133[2] of the Evidence Act, 2011, the plaintiff has the initial burden

to adduce “*evidence which ought reasonably to satisfy the court that the fact sought to be proved is established*”. In other words, the plaintiff has the duty to adduce *prima facie* evidence that the documents were submitted or delivered to the addressee. It is when this initial burden is discharged that the burden of proof can shift to the 1st defendant [represented by DW4] to disprove the fact that the documents were submitted to the Director of Lands at AGIS.

I am not persuaded by the submission of Mr. Aboje that the *ipsi dixit* or oral evidence of the plaintiff is credible evidence to prove that Exhibits G1-G4 were submitted to the Director of Lands at AGIS. It is my respectful opinion that if these documents were submitted to AGIS, the plaintiff, in the ordinary course of events, would have been given the acknowledgement copies. The plaintiff did not plead or lead evidence to the effect that he was not given an acknowledgement [or stamped] copies of Exhibits G1-G4 or - as Mr. Nzekwestated in the 3rd defendant’s reply on points of law - that he lost the stamped [or acknowledgement] copies of the letters.

The decision of the Court on Issue No. 2 is that the plaintiff failed to prove that Exhibit G1-G4 were delivered to the addressee i.e. the Director of Lands, AGIS. The plaintiff’s failure in this regard adversely affects the credibility of the purported evidence of sale of the Plot to him i.e. Exhibit G1. Even if the correct position is that the plaintiff proved that he submitted Exhibits G1-G4 to the addressee, it will not change or affect the decision of the Court that Exhibit G1 is not a sale agreement or an instrument or a document by which

Tajudeen Abdul-Raheem transferred or assigned his title to, or interest in, the Plot to the plaintiff. I so hold.

ISSUE 3

Whether the plaintiff proved that he gave the original title document of the said Plot [i.e. Offer of Statutory Right of Occupancy] in the name of Dr.Tajudeen Abdul-Raheem [Exhibit O] to James Ogoh who in turn gave it to Moses Agbo [the 2nd defendant].

Learned counsel for the 3rd defendant argued that the failure of the plaintiff and his witnesses to make a report of the missing original title document of the Plot [purportedly given to Mr.Moses Agbo] is strong evidence that the plaintiff or PW2 was never in possession of the original title document of the Plot. He submitted that this point is supported by the letter, Exhibit H, which clarified that the plaintiff and PW2 were never in possession of the original offer of right of occupancy in respect of the Plot. Ike Nzekwe Esq. stressed that the contents of Exhibit H tendered in support of the plaintiff's case contradict what the PW1 & PW2 stated in Court. He urged the Court to reject the evidence of PW1 & PW2 and hold that their evidence failed to establish the case of the plaintiff.

Now, Exhibit H tendered by the plaintiff is a letter by Shukurah Chambers dated 26/3/2012 to the Inspector General of Police [the 5th defendant]. It reads in part:

"COMPLAINT AGAINST BIASED POLICE INVESTIGATION OF THE NIGERIA POLICE FORCE INTELLIGENT DEPARTMENT, LOUIS EDET HOUSE, FORCE HEADQUARTERS, ABUJA COMPROMISING A CRIMINAL CASE

The above subject matter refers.

We are Solicitors to Alhaji Abdulhamid Audu and James Ogoh [hereinafter referred to as our clients] on whose behalf and instructions this representation is made.

It is our brief that a case of missing document of a plot of land situated here in Abuja, which by a thorough investigation revealed that the original owner of the said land is dead, while one Moses Agbo and Lawrence Agbo were found in possession of the said missing document described hereof and had since disposed same to one Louis Okonkwo, the Chief Executive Officer of CASTLE ESTATE in connivance with Abubakar Rayyan and Bello Mohammed who acted in their capacities as agents in the transaction.

However, our clients, being a probotic [sic] citizen of this Country, and businessmen who deal with landed properties here in Abuja felt that they cannot sit by and watch or aide and abate [sic] any act of criminality to be perpetrated against any citizen of this Country, not even against a dead man, made the issue a subject to inform the authority that is in charge of verification of landed properties in Abuja i.e. Abuja Geographical Information System [AGIS].

It became obvious that the illegal transaction on the missing document was made known to AGIS, while the said CASTLE ESTATE had wanted to resale [sic] the

said land to some other person while at this point of conducting search, the document was intercepted by [AGIS]. It is on account of this that Louis Okonkwo ... wrote a petition to Force Headquarters of the Nigeria Police Force claiming not to know about the illegality, which in fact, he knew about and thought he could make gains from the property, but because the transaction had backfired, he then in connivance with investigating Police Officer threatened the lives of our Clients believing that they reported the matter to AGIS ...

Sir, we humbly urge you to order the investigation of this matter for the purpose of unravelling the perpetrators of this act believing that your administration is all out to fight this kind of voices. ..."

In the plaintiff's final address, Mr. Abojedid not respond to the submissions of Mr. Ike Nzekwe on Exhibit H and its effect on the plaintiff's case. As I said earlier, the plaintiff's case is that he gave the original title document of the Plot to James Ogoh. Even though the plaintiff did not specifically aver that Tajudeen Abdul-Raheem gave him the original title document of the Plot, his evidence that he gave it to James Ogoh presupposes that he was given the said document by Tajudeen Abdul-Raheem. James Ogoh gave the document to the 2nd defendant. James Ogoh as PW2 confirmed that the plaintiff gave him the original title document and he gave it to the 2nd defendant. Alhaji Abdulhamid Audu [PW1] stated that on 21/11/2011, "James Ogoh ... called me to come and assist him in tracking a title document of Plot 1254 Guzape which he gave to Moses Agbo ... "

James Ogoh and Alhaji Abdulhamid Auduhad earlier briefed the solicitors in Shukurah Chambers to write Exhibit H dated 26/3/2012, which by plaintiff's evidence was written on his behalf. Without doubt, Exhibit H shows that the testimonies of the plaintiff, PW1 and PW2 that the plaintiff gave the original title document of the Plot to Mr. James Ogoh who in turn gave it to the 2nd defendant amount to an after-thought and lack of credibility. If the plaintiff gave the original title document of the Plot to James Ogoh before it got missing, Exhibit H would have said so. I hold that the reasonable inference to be drawn from Exhibit H is that the plaintiff was never given the original title document of the Plot by Dr. Tajudeen and that he did not buy the Plot from Tajudeen Abdul-Raheem. Issue No. 3 is resolved against the plaintiff.

ISSUE 4

Is the plaintiff entitled to his reliefs?

The effect of the decisions of the Court under Issue Nos. 1, 2 and 3 is that the plaintiff failed to prove that he is the rightful person to whom Dr. Tajudeen Abdul-Raheem entered into an agreement for the assignment of the said Plot. Therefore, the plaintiff failed to prove that he is entitled to the declaratory order in relief 1. Accordingly, relief 1 and the other reliefs are dismissed.

I award cost of N50,000 to the 1st defendant; N200,000 to the 2nd defendant; N200,000 to the 3rd defendant; and N50,000 to the 4th defendant payable by the plaintiff.

HON. JUSTICE S. C. ORIJI
[JUDGE]

Appearance of Counsel:

1. O. R. InyangEsq. for the plaintiff.
2. Ike NzekweEsq. for the 3rd defendant.