

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

ON MONDAY, 21ST JUNE, 2021

BEFORE HON. JUSTICE SYLVANUS C. ORIJI

SUIT NO. FCT/HC/CV/2719/2020

BETWEEN

1. ALUPLANET COMPANY LIMITED
2. UNAHDALS SERVICES LIMITED
*[Suing for itself and as Lawful
Attorney of Aluplanet Company Ltd.]*



CLAIMANTS

AND

1. MINISTER FEDERAL CAPITAL TERRITORY
2. FEDERAL CAPITAL DEVELOPMENT
AUTHORITY



DEFENDANTS

JUDGMENT

On 24/9/2020, claimants filed the writ of summons in this case along with their statement of claim. In paragraph 26 of the statement of claim, the claimants seek the following reliefs against the defendants:

- a) A declaration that the claimants are entitled to a Statutory Right of Occupancy by virtue of the Right of Occupancy dated the 14th of October, 2013 granted by the 1st defendant which grant is evidenced

by Certificate of Occupancy No. *15322-4274z-bdb3r-79c2u-7ecu4* dated the 19th of February, 2014 covering approximately 4.96HA described as Plot 1868 lying in Cadastral Zone: E23, Kyami District Abuja, more particularly delineated and demarcated by Beacon Nos. PB6676, PB6684, PB6715 and PB 6494 in the Survey Plan.

- b) A declaration that the claimants having been validly allocated Plot 1868 lying at Cadastral Zone: E23, Kyami District Abuja and endorsed on the Certificate of Occupancy and having also been vested with Right of Occupation/possession of the said Plot 1868 lying at Cadastral Zone: E23, Kyami District, Abuja, the claimants are entitled to hold and enjoy same for a period of 99 years without let or hindrance by the defendants, their agents, officers, cronies or any other person[s].
- c) A declaration that the purported decision of the defendants to redesign, change the purpose and use of the aforesaid plot and preventing the claimants from exercising the right and control of the subject of Right of Occupancy granted to them constitutes trespass and expropriation of the claimants' proprietary interest over the said land.
- d) A declaration that the action taken by the defendants to revoke the Right of Occupancy validly granted to the claimants for the purpose of redesigning Plot 1868, E23, Kyami District, Abuja with the intention of re-allocating same to other persons without prior notification to the

- claimants is a violation of the claimants' right to fair hearing and against the spirit and intendment of the Land Use Act, and thereby illegal, null and void and of no effect whatsoever.
- e) A declaration that the purported revocation of the Right of Occupancy granted to the claimants over Plot 1868, E23, Kyami District, Abuja without first complying with the procedure stipulated in the Land Use Act and for reasons unknown to the same Act amounts to fraud, illegal, null and void and of no effect whatsoever.
 - f) An order directing the defendants, their agents or privies not to give any effect to the purported revocation and/or the decision of the defendants to re-assign Plot 1868, E23, Kyami District, Abuja or howsoever tamper with the purpose and use approved and contained in the Certificate of Occupancy and original Master Plan of the District.
 - g) An order setting aside the purported revocation of the Right of Occupancy evidenced by Certificate of Occupancy No. *15322-4274z-bdb3r-79c2u-7ecu4* dated the 19th of February, 2014 granted to the claimants and restoring and re-instating all the rights and privileges conferred on the claimants over Plot 1868 lying at Cadastral Zone: E23, Kyami District, Abuja by virtue of the aforesaid grant of Right of Occupancy.
 - h) An order that the proprietary rights of the claimants over Plot 1868 lying at Cadastral Zone: E23, Kyami District, Abuja covered by

Certificate of Occupancy No. 15322-4274z-bdb3r-79c2u-7ecu4 dated the 19th of February, 2014 is inviolable, still valid and subsisting.

- i) An order of injunction restraining the defendants from trespassing or further trespassing, re-designing, appropriating, forcefully takeover[sic], re-allocating Plot 1868 lying at Cadastral Zone: E23, Kyami District, Abuja to themselves, agents and/or their cronies or converting the said Plot for purposes other than the purpose for which the right was granted to the claimants, until the expiration of 99 years as expressed on the Certificate of Occupancy.
- j) An order of injunction restraining the defendants, their officers, agents, servants or cronies or any other person from laying claim to, doing any further thing, taking any further steps or giving any effect to the purported revocation of Plot 1868 lying at Cadastral Zone: E23, Kyami District, Abuja duly allocated to the claimants.
- k) An order of perpetual injunction restraining the defendants by themselves or their agents or servants from preventing, disturbing and or denying the claimants right to the peaceful enjoyment of their right over Plot 1868 lying at Cadastral Zone: E23, Kyami District, Abuja.
- l) An order that the defendants pay the claimants the sum of One Hundred Million Naira only [N100,000,000.00] as general damages for trespass and wrongful or purported revocation of the claimants' Right

of Occupancy over Plot 1868, lying at Cadastral Zone: E23, Kyami District, Abuja.

m)Such other consequential reliefs as the court may in the interest of justice grant in the circumstance.

In proof of the claimants' case, Cyril Agu, the Company Secretary of the 2nd claimant, testified as the CW1. He adopted his statement on oath filed on 24/9/2020 and tendered Exhibits 1, 1A, 2, 3, 4, 5, 5A, 5B, 6, 7, 8A-8D, 9, 10, 11, 12, 13, 14 & 15. The CW1 was cross examined.

On 19/10/2020, defendants filed their statement of defence. Jibril Mahmud Usman, a Senior Land Officer in the Department of Land Administration of the Federal Capital Territory [FCT] Administration, gave evidence as DW1. He adopted his statement on oath filed on 27/10/2020, which was signed by the Commissioner for Oaths on 3/11/2020. The DW1 was cross examined.

EVIDENCE OF THE CLAIMANTS:

The evidence of Cyril Agu [the CW1] is that the 1st claimant applied for the allocation of land in the FCT and paid the requisite fees. The 1st defendant conveyed to 1st claimant the offer of grant of statutory right of occupancy over Plot 1868 dated 14/10/2013 [Exhibit 2] covering an area of about 4.96Ha lying at Cadastral Zone E23, Kyami District, Abuja. The offer of statutory right of occupancy allows the claimants to occupy and enjoy the Plot for 99 years and the 1st claimant was required to use the land as prescribed in the Master Plan

for mixed use and comprehensive development. The claimants were never informed by defendants that the Plot was going to be redesigned and used for any purpose other than the purpose for which it was granted. The 1st claimant accepted the offer; the letter of acceptance dated 14/10/2013 is Exhibit 3.

In order to take possession of the Plot, the 1st claimant paid the fees for issuance of Site Plan of the Plot and same was issued; the Site Plan of the Plot dated 22/10/2013 is Exhibit 7. The defendants issued a Statutory Right of Occupancy Bill dated 20/12/2013 [Exhibit 9], which included ground rents, certificate of occupancy preparation fee, survey fee and cost of plan, registration fee and premium fees all amounting to N25,036,506.72. The 1st claimant paid this sum; the receipt dated 24/12/2013 for the said amount is Exhibit 8A. After the payment, a Certificate of Occupancy No. 15322-4274z-bdb3r-79c2u-7ecu4 dated 19/2/2014 [Exhibit 4] was issued to the 1st claimant over the Plot. The 1st defendant took possession of the Plot.

The 1st claimant appointed the 2nd claimant as its Attorney; the Power of Attorney dated 25/10/2013 registered in the FCT Land Registry, Abuja as FC63, Page 63, Volume 70PA is Exhibit 15. A Sale Agreement [Exhibit 14] was also executed between 1st& 2nd claimants. In exercise of its possessory rights over the Plot, the 2nd claimant expended N4,904,800.00 in building a fence around the Plot. It also paid N2,000,000.00 as compensation to farmers for economic crops and other plants on the Plot.

The 2nd claimant had been ready to develop the land but the defendants are yet to provide the needed infrastructure on the Plot to enable it submit building plan for approval. While waiting for the defendants to provide infrastructure to the District, the 2nd claimant conducted a search to know the status of the Plot. The Legal Search Report dated 14/9/2020 [Exhibit 10] showed that the defendants had already taken a decision to revoke the Plot citing reasons that the Plot had been redesigned. 2nd claimant was surprised that this decision was taken since 13/12/2019 and was not communicated to it. The 2nd claimant approached the defendants to find out why the Plot was revoked but they refused to avail it any information.

DW1 further testified that the defendants are yet to serve the claimants with any notice of revocation. Since the claimants became aware of the action taken by the defendants, they denied the claimants access to the Plot and access to information concerning the Plot. The decision and action taken by the defendants to redesign and revoke the Plot was done in flagrant breach of the Master Plan and Land Use Regulations of the 2nd defendant and in violation of the terms and conditions in the Certificate of Occupancy issued to the 1st claimant.

During cross examination, CW1 stated that if notice of revocation is not served on an allottee, there is no revocation of the plot. Without a building plan approval, an allottee cannot erect any structure on the plot. He does not know that after redesigning, all allottees will get back their allocations.

EVIDENCE OF THE DEFENDANTS:

The evidence of Jibril Mahmud Usman [the DW1] is that the revocation of claimants' plot is administrative for the purpose of redesigning of Kyami District to meet up with the requirement of the Master Plan of Federal Capital City. The administrative revocation of the claimants' Plot was not meant to be communicated to them as it is not a statutory revocation, which must be communicated to allottees. The administrative revocation is for the purpose of redesigning and renumbering plots within Kyami District. After redesigning of Kyami District Layout, owners of genuine allocations [including claimants] will be given their allocations with old or new plot numbers.

DW1 further stated that the claimants' Plot has not been allocated to any other person. The claims of the claimants are speculative. The claimants are not entitled to any general damages as there is no building plan approval in their favour upon which any development [including fence] can be made on the Plot to warrant legitimate expenditure.

When the DW1 was cross examined, he agreed with the cross examiner that revocation is an administrative act taken by the 1st defendant to terminate a right of occupancy. He stated that there was an administrative decision to revoke the 1st claimant's right of occupancy; the revocation followed the procedure for revocation. The Search Report stated that the title was revoked because of redesign of the Plot so that the general public will not transact on the Plot. In the process of redesigning of a layout, plot numbers may change;

and plot sizes may increase or decrease or remain the same. It is possible that a plot may cease to exist in the process of redesigning when the plot is affected by infrastructures like piping or road. If that happens for overriding public interest, an alternative plot must be given or the plot replaced; the replacement may or may not be in the same layout.

ISSUES FOR DETERMINATION:

On 1/12/2020, A. I. Anuku Esq. filed the defendants' final address; while P. T. Akan Esq. filed claimants' final address on 11/12/2020. On 17/2/2021, learned counsel for the parties adopted their respective final addresses.

In the defendants' final address, A. I. Anuku Esq. formulated these two issues for determination:

1. Whether having regards to the facts and evidence adduced in this case, the claimants' title to Plot 1868 can be said to have been revoked.
2. Whether this Honourable Court can grant reliefs sought [for] by the claimants.

In the claimants' final address, P. T. Akan Esq. distilled these three issues for determination:

1. Whether in the light of the evidence led and the documents tendered and admitted, the claimants have not made out a case to warrant this

Honourable Court to exercise its discretion to grant the declaratory reliefs sought in their favour.

2. Whether a cause of action on revocation has not arisen or available to the claimants in this case. If it is held to have arisen, whether the act of revocation by the defendants is not wrongful in the instant case.
3. Whether the claim for trespass had not been established against the defendants to warrant this Honourable Court to exercise its discretion to award damages for trespass and injunction against the defendants in the instant case.

It is not in dispute that by the Offer of Statutory Right of Occupancy dated 14/10/2013 [Exhibit 2], 1st defendant granted a statutory right of occupancy over Plot 1868 at Cadastral Zone E23, Kyami District, Abuja to 1st claimant. The 1st claimant accepted the offer. Upon payment of the necessary fees, the 1st defendant issued to the 1st claimant a Certificate of Occupancy over the Plot dated 19/2/2014 [Exhibit 4]. On 25/10/2013, 1st claimant appointed the 2nd claimant as its Attorney by virtue of the Power of Attorney registered as No. FC 63 at Page 63 Volume 70PA [Exhibit 15].

The claimants have instituted this action to challenge the alleged revocation of their statutory right of occupancy over the Plot. The claimants' reliefs include declaratory orders. The other reliefs sought by the claimants are mainly predicated on the declaratory orders. It is trite law that a person seeking declaratory reliefs is required to satisfy the court by cogent and credible

evidence that he is entitled to such declaratory orders. He must succeed on the strength of his case and not on the weakness of the case of the adverse party. See Arowolo v. Olowookere [2011] 18 NWLR [Pt. 1278] 280. It is also trite that civil cases are determined on balance of probabilities or preponderance of evidence. See the case of Cyprain Onwuama v. Loius Ezeokoli [2002] 5 NWLR [Pt. 760] 353.

In proof of the claimants' allegation that the defendants have revoked their title over the Plot, CW1 tendered the Legal Search Report dated 14/9/2020 [Exhibit 10]. On the other hand, the evidence of DW1 is that the claimants' title to the Plot has not been revoked. The "*administrative revocation*" of claimants' title to the Plot was not a "*statutory revocation*". DW1 explained that the administrative revocation of the claimants' title to the Plot was not meant to be communicated to them as it is not a statutory revocation, which must be communicated to allottees.

In the light of the above and from the submissions of both learned counsel, the Court is of the view that there are two issues for determination in this action.

These are:

1. Whether the defendants revoked the claimants' statutory right of occupancy over Plot 1868, Cadastral Zone E23, Kyami District, Abuja; and if the answer is in the affirmative, whether the revocation is valid.
2. Are the claimants entitled to the reliefs sought?

ISSUE 1

Whether the defendants revoked the claimants' statutory right of occupancy over Plot 1868, Cadastral Zone E23, Kyami District, Abuja; and if the answer is in the affirmative, whether the revocation is valid.

Learned counsel for the defendants stated that the claimants' title over the Plot has not been revoked. The law is that without a valid notice of revocation, the original owner of the land cannot be divested of his interest in the land. He referred to CSS Bookshop Ltd. v. R.T.M.C.R.S &Ors. [2006] 11 NWLR [Pt. 992] 530. The notice of revocation of a right of occupancy informs the holder of the steps taken to extinguish his right. The defence counsel referred to the evidence of CW1 that claimants relied on the Search Report and argued that *"same was explained to the Court by the Defendants' Witness that, it is an internal administrative caveat made to stop any transaction on the Plot for the purpose of Redesigning the Kyami District i.e. to warn all public of engaging in any transaction in the Kyami District pending the conclusion of the redesigning."*

Mr. A. I. Anuku submitted that since the claimants have not been served with notice of revocation, they are acting on speculation. The claimants are wrong to have speculated that their rights and interests over the Plot have been revoked without notice of revocation served on them. He emphasized that any suit based on speculation or guesses deserves an order of dismissal. The case of Ejezie v. Anuwa [2008] 4 SCNJ 113 and others were cited to support this principle.

The standpoint of learned counsel for claimants is that whenever revocation of a statutory right of occupancy over a plot is challenged, the burden of proof lies on the authority that revoked the plot to establish that the revocation was carried out in accordance with the law. He referred to **Governor of Ogun State v. Adebola Coker [2007] LPELR-4217 [CA]**. In the instant case, the burden lies on the defendants to prove that the action taken to revoke the Plot allocated to the 1st claimant for the purpose of redesigning the Plot was done in compliance with the law. Where the defendants fail to discharge this burden, a declaration will be made in favour of the claimants. He submitted that the defendants have not shown that they complied with section 28 of the Land Use Act.

P. T. Akan Esq. further submitted that the defendants' defence that the action taken was merely administrative and that the provisions to be followed are not necessary in the instant case is preposterous and contravene the provisions of the Land Use Act. He stressed that there can be nothing like "*Administrative Revocation*". Any action taken to revoke a statutory right of occupancy which is not in compliance with the provisions of the law is null and void. He cited the case of **Baba-Iya v. Sikeli [2005] All FWLR [Pt. 289] 230**; and argued that the procedure taken to revoke the claimants' right of occupancy over the Plot is arbitrary and wrongful.

Under Issue No. 2 in the claimants' final address, P. T. Akan Esq. argued that the claimants' suit is not speculative. He stated that from the averments in the statement of defence, a decision had been taken and the process of

revocation had already been concluded. He submitted that the claimants' cause of action accrued when the defendants took a decision to redesign the Plot and revoked the claimants' title to same. Learned counsel for the claimants urged the Court to declare the purported revocation of the claimants' title over the Plot by the defendants by whatever name called as illegal, invalid and of no effect.

Now, the Department of Land Administration of the defendants issued the Legal Search Report dated 14/9/2020 [Exhibit 10]. The said Report conveyed the current status of title in respect of the Plot. Under "Action", the defendants stated: "TITLE REVOKED". "Other Details" stated therein are:

"This Certificate of Occupancy [C-of-O] dated 19/02/2014 was granted to ALUPLANET COMPANY LIMITED for Comprehensive Development Purpose and Conveyed. Power of Attorney was donated in favour of UNAHDALS SERVICES LTD., registered as: Fc 63, Page 63, Vol: 70 dated 03/02/2014. Title was revoked because of redesign of Plot dated: 13/12/2019 as at the date of this report."

The representation made by the defendants in Exhibit 10 is very clear and unambiguous. Exhibit 10 must be given its literal or ordinary meaning. DW1 tried to draw a distinction between "administrative revocation" and "statutory revocation". I take the view that no matter the nomenclature or word used by DW1, revocation of a right of occupancy means to extinguish or terminate the right of an allottee over a plot. In **Iwuchukwu & Anor. v. A. G.**

Anambra State &Anor. [2015] LPELR-2448 [CA], cited by learned claimants' counsel, it was held that revocation of the existing rights or interests in land by the Governor of a State under the Land Use Act means the termination, putting an end to or taking away of an existing interest in land. It has the effect of cancelling or annulling or extinguishing the said right or interest.

As DW1 did state under cross examination, "*revocation*" is an administrative act taken by 1st defendant to terminate a right of occupancy. It is my respectful view that whether the revocation is "*administrative*" or "*statutory*" - whatever the difference may be - revocation has the same effect, which is to extinguish, annul or cancel the existing right or interest of the claimants.

A. I. Anuku Esq. did argue that the claimants' suit is speculative because a notice of revocation was not served on them. I agree with the view of P. T. Akan Esq. that the claimants' suit is not speculative as their cause of action accrued when the defendants revoked their title to the Plot as conveyed in the Legal Search Report. In my view, the fact that a notice of revocation was not served on the claimants does not derogate from the reality that their title over the Plot was revoked by the defendants. The claimants did not need to wait for a notice of revocation to be served on them before they approach the Court for intervention or redress.

The decision of the Court is that by virtue of the representation in the Legal Search Report [Exhibit 10], the defendants revoked the claimants' statutory right of occupancy over the said Plot.

It remains to determine whether the revocation of the claimants' right of occupancy over the Plot is valid. As rightly stated by Mr. A. I. Anuku and Mr. P. T. Akan, service of a notice of revocation on a holder of a right of occupancy is a mandatory or indispensable requirement for the revocation to be valid. Section 28[6] & [7] of the Land Use Act, provide:

" [6]. The revocation of a right of occupancy shall be signified under the hand of a public officer duly authorized in that behalf by the Governor and notice thereof shall be given to the holder.

[7]. The title of the holder of a right of occupancy shall be extinguished on receipt by him of a notice given under subsection [6] of this section or on such later date as may be stated in the notice."

In **Nigeria Engineering Works Ltd. v. Denap Ltd. [2001] 18 NWLR [Pt. 746] 726**, it was held that by virtue of section 28[6]& [7] of the Land Use Act, notice must be given to the holder of a right of occupancy before the revocation of his right and the service of the notice must be in accordance with the provisions of section 44 of the said Act. See also **Adole v. Gwar [2008] 11 NWLR [Pt. 1099] 562**. In the instant case, it is not in dispute that the claimants were not served with a notice of revocation. They became aware of the purported revocation of their right of occupancy over the Plot through the Legal Search Report. The effect is that the purported revocation was not valid as the above mandatory provisions of the Land Use Act were not complied with.

It is also necessary to consider the reason given by the defendants for the revocation of the claimants' right of occupancy over the Plot. The position of the law as restated in the case of Governor of Ogun State v. Adebola Coker [supra] is that the burden to prove valid revocation of right of occupancy rests on the appellant who alleged same. In the instant case, defendants have the burden to prove that the revocation of claimants' right of occupancy was valid.

As rightly pointed out by learned counsel for the claimants, Exhibit 10 did not state that the claimants' right of occupancy over the Plot was revoked for the purpose of redesigning Kyami District. Exhibit 10 stated that the title of the claimants "*was revoked because of redesign of Plot*". Apart from the *ipsi dixit* of DW1, the defendants did not adduce any credible evidence to show that they are redesigning Kyami District. Besides, they did not disclose the reason for redesigning the District. The evidence of DW1 - which to my mind is a bare assertion - is that the revocation of claimants' right of occupancy over the Plot "*is administrative for the purpose of re-designing Kyami District to meet up with the requirement of the Master Plan of Federal Capital City.*"

It seems to me that in order to prove that the revocation of the claimants' right of occupancy over the Plot is valid or justified for the purpose stated by DW1, the defendants have a duty to adduce credible evidence to show, for example, that the existing design of Kyami District is not in accordance with the Master Plan of the Federal Capital City; or that there are infrastructural defects or inadequacies in the existing design of the District. Even if there is

need to redesign Kyami District, I do not think it is proper for the defendants to revoke the claimants' right of occupancy over the Plot since 13/12/2019 without any correspondence or information to them. The defendants would have conveyed the fact that there is on-going redesigning of Kyami District through the Legal Search Report instead of the representation that the claimants' title over the Plot is revoked.

The point must be made that revocation of a right of occupancy over a plot granted to an allottee is a serious matter and must not be undertaken lightly. In Governor of Ogun State v. Adebola Coker [supra] @ page 27, paras. C-E, His Lordship, *Hon. Justice John Inyang Okoro, JCA [as he then was]* expressed the view that: "*Revocation of a right of occupancy is not a child's play. It is a serious business and as such must be undertaken with utmost clarity and precision. ...*"

From all that I have said, the decision of the Court under Issue No. 1 is that the revocation of the claimants' statutory right of occupancy or title over Plot 1868, Cadastral Zone E23, Kyami District, Abuja by the defendants is invalid, null, void and of no effect.

ISSUE 2

Are the claimants entitled to the reliefs sought?

Mr. A. I. Anuku argued that claimants have not satisfied the requirement of the law for the grant of the reliefs sought. He stressed that the claimants are not entitled to the reliefs "*as awarding same will warrant to unmerited relief dashed to*

the Claimants". The view of Mr. P. T. Akan is that the claimants have made out a case for the Court to exercise its discretion to grant the declaratory orders and the other reliefs sought by the claimants.

Flowing from the decision of the Court under Issue No. 1, I hold that the declaratory orders in reliefs [a], [b] & [e] have merit and are granted; save to delete the word "*fraud*" in relief [e]. In the same vein, reliefs [f], [g], [h], [j] & [k] are granted; save to delete the word "*inviolable*" in relief [h].

Relief [c] is a declaration that "*the purported decision of the defendants to redesign, change the purpose and use of aforesaid plot and preventing the Claimants from exercising the Right and control*" of the Plot constitute "*trespass and expropriation of the Claimants' proprietary interest over the said land.*" Relief [i] is an order of injunction restraining the defendants from trespassing or further trespassing, etc. into the said Plot until the expiration of 99 years as expressed on the Certificate of Occupancy. In relief [l], the claimants claim the sum of N100 million as general damages for trespass and wrongful or purported revocation of their right of occupancy over the Plot.

Learned counsel for the defendants argued that the claimants did not obtain any building plan approval from the relevant department of the defendants before they erected a fence on the Plot contrary to the terms and conditions of the Certificate of Occupancy and Urban and Regional Planning Act. The claimants are still in occupation of the Plot and defendants have not destroyed the fence or any property on the Plot.

The position of learned claimants' counsel is that general damages flow from the wrong complained of and are implied by law in every breach of legal right, its quantification being a matter for the court. The case of **Corporative Development Bank Plc. v. Joe Golday Co. Ltd. [2000] 14 NWLR [Pt. 688] 506** was cited. Mr. P. T. Akan further posited that for the Court to grant this relief, the claimants are required to show that they are in exclusive possession of the Plot and that defendants "*infracted their right of possession without their consent. The Claimants need not prove damages resulting from this infraction ...*" He referred to **Ajibuluv. Ajayi [2004] 11 NWLR [Pt. 885] 458.** Counsel concluded that the claimants have proved acts of trespass against the defendants to warrant the award of the sum claimed as general damages in recognition of the proprietary interest of the claimants over the Plot, which the defendants wrongly revoked.

The claimants' allegation that the acts of the defendants constitute trespass on the Plot runs through reliefs [c], [i] & [l]. The tort of trespass is unjustifiable intrusion by one person upon land in possession of another. See **Ogunbiyi v. Adewunmi [1985] 5 NWLR (Pt. 59) 144.** The evidence of CW1 in paragraphs 14 & 16 of his statement on oath is that the 2nd claimant - as the Attorney of the 1st claimant - is still in possession of the Plot.

In paragraph 23 thereof, CW1 stated that since claimants became aware of the action taken by defendants through the Search Report, they have denied the claimants access to the land. However, there is no evidence to prove that the claimants were denied access to the Plot as DW1 did not give any evidence of

any act of intrusion by the defendants upon the Plot or any act of interference with the 2nd claimant's possessory rights over the Plot. I hold that there is no evidence of trespass on the Plot by the defendants. In the circumstance, reliefs [c], [i] & [l] are refused.

In relief [d], the claimants seek a declaration that the action taken by the defendants to revoke the right of occupancy granted to them over the Plot *"with the intention of re-allocating same to other persons without prior notification to the Claimants is a violation of the Claimants' right to fair hearing and against the spirit and intendment of the Land Use Act ..."* In paragraph 26 of his statement on oath, CW1 stated that the defendants' decision to *"re-design and revoke the plot was ... done by the Defendants in other [sic] to sub-divide the said plot and allocate the plots to themselves or their cronies and friend."* However, CW1 did not adduce any credible evidence to prove that the defendants intend to *"allocate the plots to themselves or their cronies and friend."* On this ground, the Court will not grant the declaratory order sought in relief [d]; same is refused.

CONCLUSION:

In the light of all that I have said, the Court enters judgment for the claimants against the defendants. The Court grants the following orders:

1. A declaration that the claimants are entitled to a Statutory Right of Occupancy by virtue of the Right of Occupancy dated 14th of October, 2013 granted by the 1st defendant which grant is evidenced by Certificate

of Occupancy No. 15322-4274z-bdb3r-79c2u-7ecu4 dated 19th of February, 2014 covering approximately 4.96HA described as Plot 1868 lying in Cadastral Zone: E23, Kyami District Abuja, more particularly delineated and demarcated by Beacon Nos. PB 6676, PB 6684, PB 6715 and PB 6494 in the Survey Plan.

2. A declaration that the claimants having been validly allocated Plot 1868 lying at Cadastral Zone: E23, Kyami District Abuja and endorsed on the Certificate of Occupancy and having also been vested with Right of Occupation/possession of the said Plot, the claimants are entitled to hold and enjoy same for a period of 99 years without let or hindrance by the defendants, their agents, officers or any other person[s].
3. A declaration that the purported revocation of the Right of Occupancy granted to the claimants over Plot 1868, E23, Kyami District, Abuja without first complying with the procedure stipulated in the Land Use Act is illegal, null and void and of no effect whatsoever.
4. An order directing the defendants, their agents or privies not to give any effect to the purported revocation and/or the decision of the defendants to re-assign Plot 1868, E23, Kyami District, Abuja or howsoever tamper with the purpose and use approved and contained in the Certificate of Occupancy and original Master Plan of the District.
5. An order setting aside the purported revocation of the Right of Occupancy evidenced by Certificate of Occupancy No. 15322-4274z-

bdb3r-79c2u-7ecu4 dated 19th of February, 2014 granted to the claimants and restoring and re-instating all the rights and privileges conferred on the claimants over Plot 1868 lying at Cadastral Zone: E23, Kyami District, Abuja by virtue of the aforesaid grant of Right of Occupancy.

6. An order that the proprietary rights of the claimants over Plot 1868 lying at Cadastral Zone: E23, Kyami District, Abuja covered by Certificate of Occupancy No. *15322-4274z-bdb3r-79c2u-7ecu4* dated 19th of February, 2014 is still valid and subsisting.
7. An order of injunction restraining the defendants, their officers, agents, servants or any other person from laying claim to, doing any further thing, taking any further steps or giving any effect to the purported revocation of Plot 1868 lying at Cadastral Zone: E23, Kyami District, Abuja duly allocated to the claimants.
8. An order of perpetual injunction restraining defendants by themselves or their agents or servants from preventing, disturbing and or denying the claimants the right to the peaceful enjoyment of their right over Plot 1868 lying at Cadastral Zone: E23, Kyami District, Abuja.
9. Cost of N200,000.00.

HON. JUSTICE S. C. ORIJ
[JUDGE]

Appearance of Counsel:

1. P. T. Akan Esq. for the claimants; with E. A. Akomaye Esq.
& Ofem Obetem Esq.
2. M. A. Maiyamba Esq. for the defendants.