IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT GWAGWALADA

THIS FRIDAY, THE 25TH DAY OF JUNE, 2021

BEFORE: HON. JUSTICE ABUBAKAR IDRIS KUTIGI – JUDGE

SUIT NO: FCT/HC/CV/835/19

BETWEEN:

O.S. AKAGBUNOYE (A.O. SUCCESS) …… CLAIMANT

AND

1. **HON. MINISTER OF FEDERAL CAPITAL TERRITORY (FCT)**
2. **FEDERAL CAPITAL DEVELOPMENT AUTHORITY (FCDA)**

….. DEFENDANTS

JUDGMENT

By an Amended statement of claim dated 15th November, 2019 and regularized by order of court dated 5th December, 2019, the plaintiff claims against the defendants as follows:

a. **A Declaration that the demolition of Claimant's property at Plot 479, Mabushi Abuja by the Defendant is illegal, unlawful and mischievous.**

b. **A Declaration that the Defendant demolition of property at Plot 479 Mabushi Abuja inspite court judgment and order in FCT/HC/M/6069/2011 and order in FCT/HC/M/4036/2011 Motion No. FCT/HC/7512/11 is illegal and mischievous.**

c. The sum of N500, 000, 000.00 (Five Hundred Million Naira) only as compensation for the unlawful, illegal and mischievous demolition of property at Plot 479 Mabushi Abuja.

d. The sum of N10, 000, 000.00 (Ten Million Naira) as the Cost of this suit.

The Defendants were all duly served with the originating court processes but they never appeared or filed any process in opposition. It may perhaps be pertinent to point out that in the course of proceedings after the plaintiff had closed his case and the matter adjourned for filing of final addresses, one R.J. Goyol of counsel appeared for the defendants and filed an application to re-open defendants case. A date was fixed for hearing of the application but counsel did not appear in court and the application was struck out and hearing then proceeded.

In proof of his case, the plaintiff testified in person as PW1 and the only witness. He deposed initially to a witness statement on oath of 15 paragraphs dated 24th January, 2019 which he adopted at the hearing. He tendered in evidence the following documents:

1. Certified True Copy (CTC) of Judgment delivered on 31st May, 2012 by Hon. Justice Salisu Garba in FCT/HC/M/6069 2011: Chief A.O. Success V Hon. Minister FCT & Anor was admitted as **Exhibit P1**.

2. Certificate of Judgment in Suit No. FCT/HC/M/6069/2011: Chief A.O. Success V. Hon. Minister FCT and Anor was admitted as **Exhibit P2**.

3. Certified True Copy of Enrolled order of Hon. Justice E.S. Chukwu dated 30th April, 2015 in Suit No. FHC/ABJ/VR/59/2003: The Federal Republic of Nigeria V Engineer Success A. Obiora and 5 ors was admitted as **Exhibit P3**.

4. Two (2) copies of site plan showing plot 479 at Mabushi District, Cadastral Zone B06 were admitted as **Exhibits P4 a and b.**

5. Letter by the law firm of Ogwo, Ameh & Co to the Hon. Minister FCT dated 20th November, 2018 was admitted as **Exhibit P5**.

6. Six (6) copies of photographs were admitted as **Exhibits P6 (a-f**).

At this point, the plaintiff filed an application to amend his pleadings and to file an additional witness deposition which was granted on 5th December, 2019. PW1 then adopted this additional witness deposition dated 15th November, 2019 which in substance contains similar depositions as in his earlier adopted deposition. He additionally tendered in evidence the following documents:

1. Copy of Recertification and Re-issuance of C of O Acknowledgment dated 25th February, 2017 was admitted as **Exhibit P7**.

2. Copy of enrolled order of Honourable Justice A.B. Mohammed dated 7th February, 2012 in Suit No FCT/HC/M/4036/11; Motion No: FCT/HC/M/7512/11: Pedano Nigeria Ltd V Hon. Minister of FCT & 2 ors was admitted as **Exhibit P8**.

The plaintiff then urged the court to grant his claims as contained in the Amended statement of claim.

In view of the failure of the defendants to appear in court or file any process, there rights to cross-examine PW1 and to defend the substantive action was on application by counsel to the plaintiff foreclosed and the matter adjourned for addresses.

As indicated earlier, it was at this point that counsel appeared for defendants and filed an application seeking leave to re-open the defendants case so that they can put in their defence. Counsel however never appeared to move the application and it was struck out.

I only need add that from the Record, that the defendants have had more than ample time to defend this action but they elected not to respond despite service of the originating court processes and hearing notices all through the course of this proceedings. Now I recognise that fair hearing is a fundamental element of any trial process and it has some key attributes; these include that the court shall hear both sides of the divide on all material issues and also give equal treatment, opportunity and consideration to parties. See **Usani V Duke (2004) 7 N.W.L.R (pt.871) 16; Eshenake V Gbinijie (2006) 1 N.W.L.R (pt.961) 228.**

It must however be noted that notwithstanding the primacy of the right of fair hearing in any well conducted proceedings, it is however a right that must be circumscribed within proper limits and not allowed to run wild. No party has till eternity to present or defend any action. See **London Borough of Hounslow V Twickenham Garden Dev. Ltd (1970) 3 All ER 326 at 343.**

The Defendants here have been given every opportunity to respond to the case made out by Plaintiff against them but they have exercised their right by not responding. Nobody begrudges this election. It is only apposite to reiterate that nobody is under any obligation to respond to any court process once properly served if he so chooses. I leave it at that.

In the final address of claimant, one issue was raised as arising for determination, to wit:

"Whether the claimant whose property was demolished by the defendants unlawfully inspite (sic) the judgment and order of court against the defendant is not entitled to compensation."

I have set out above the issue as distilled by plaintiff as arising for determination. In the courts considered opinion and from a careful consideration of the pleadings and evidence led, the narrow issue is simply **whether the claimant has established his case against defendants in the circumstances and therefore entitled to all or any of the Reliefs sought**.

This issue fully captures and or incorporates the issue raised by claimant and has succinctly captured the pith or crux of the contest that remains to be resolved shortly by court and it is therefore on the basis of this issue that I would now proceed to consider the evidence and submissions of counsel.

ISSUE 1

Whether the claimant has established his case against Defendants in the circumstances and therefore entitled to all or any of the reliefs sought.

Now at the beginning of this judgment, I had stated the claims of plaintiff. I had also indicated that the defendants despite the service of the originating court processes and hearing notices did not appear in court or file any process and

adduce evidence in opposition. In law, it is now accepted principle of general application that in such circumstances, the defendants are assumed to have accepted the evidence adduced by plaintiff and the trial court is entitled or is at liberty to act on the plaintiffs' unchallenged evidence. See **Tanarewa (Nig.) Ltd. vs. Arzai (2005) 4 NWLR (pt. 919) 593) at 636 C – F; Omoregbe vs. Lawani (1980) 3 – 7 SC 108 and Agagu vs. Dawodu (1990) 7 NWLR (pt. 160) 56.**

Notwithstanding the above general principle, the court is however still under a duty to examine the established facts of the case and then see whether it entitles the claimant to the relief(s) he seeks. I find support for this in the case **of Nnamdi Azikiwe University vs. Nwafor (1999) 1 NWLR (pt. 585) 116 at 140-141** where the Court of Appeal per Salami JCA expounded the point thus:

"The plaintiff in a case is to succeed on the strength of his own case and not on the weaknesses of the case of defendant or failure or default to call or produce evidence … the mere fact that a case is not defended does not entitle the trial court to over look the need to ascertain whether the facts adduced before it establish or prove the claim or not. In this vein, a trial court is at no time relieved of the burden of ensuring that the evidence adduced in support of a case sustains it irrespective of the posture of the defendant…"

A logical corollary that follows the above instructive dictum is the attitude of court to the issue of burden of proof where it is not satisfactorily discharged by the party upon which the burden lies. The Supreme Court in **Duru vs. Nwosu (1989) 4 NWLR (pt. 113) 24** stated thus:

"… a trial judge ought always to start by considering the evidence led by the plaintiff to see whether he had led evidence on the material issue he needs to prove. If he has not so led evidence or if the evidence led by him is so patently unsatisfactory then he had not made out what is usually referred to as a *prima-facie* case, in which case the trial judge does not have to consider the case of the defendant at all."

It is also apposite to state that the substance of the reliefs sought by plaintiff are **Declaratory Reliefs**. In law declarations are in the nature of special claims or reliefs to which the ordinary rules of pleadings particularly on admissions have no

application. Indeed it would be futile when declaratory reliefs are sought to seek refuge on the proposition that there were admissions by the adversary on the pleadings. The authorities on this principle are legion. I will refer to a few.

In **Vincent Bello V. Magnus Eweka (1981)1 SC 101 at 182,** the Supreme Court stated aptly thus:

"It is true as was contended before us by the appellants counsel that the rules of court and evidence relieve a party of the need to prove what is admitted but where the court is called upon to make a declaration of a right, it is incumbent on the party claiming to be entitled to the declaration to satisfy the court by evidence not by admission in the pleading of the defendant that he is entitled to the declaration."

The law is thus established that to obtain a declaratory relief as to a right, there has to be credible evidence which supports an argument as to the entitlement to such a right. The right will not be conferred simply upon the state of the pleadings or by admissions therein.

In **Helzgar V. Department of Health and Social Welfare (1977)3 AII ER 444 at 451; Megarry V.C** eloquently stated as follows:

"The court does not make declarations just because the parties to litigation have chosen to admit something. The court declares what, it has found to be the law after proper argument, not merely after admissions by the parties. There are no declarations without argument. That is quite plain."

I may also refer to the observations of Nnamani J.S.C of blessed memory in **Sorungbe V. Omotunwase (1988)3 N.S.C.C (vol.10)252 at 262 (1988)5 N.W.L.R (pt.92)90** as follows:

"The court of Appeal relied on the decision of this court in Lewis & Peat (N.R.I.) Ltd V. Akhimien (1976)7 SC 157 to the effect that an averment which is not expressly traversed is deemed to be admitted. Admittedly, one does not need to prove that which is admitted by the other side, but in a case such as one for declaration of title where the onus is clearly on the plaintiff to lead such strong and positive evidence to establish his case for such a declaration,

an evasive averment...does not remove the burden on Plaintiff. See also Eke V. Okwaranyia (2001)12 N.W.L.R (pt.726)181; Akaniwo V. Nsirim (2008)9 N.W.L.R (pt.1093)439; Maja V. Samouris (2002)7 N.W.L.R (pt.765)78 at 100-101."

The point from the above **authorities** is simply that declarations are not made because of the stance or position of parties in their pleadings but on proof by credible and convincing evidence at the hearing.

Again from the above, the point appears sufficiently made that the burden of proof lies on the plaintiff to establish his case on a balance of probability by providing credible evidence to sustain his claim irrespective of the presence and/or absence of the 3rd defendant. See the case of **Agu v. Nnadi (1990) 2 NWLR (pt. 589)131 at 142; Oyewole V. Oyekola (1999)7 N.W.L.R (pt.612) 560 at 564.**

Now the case of plaintiff from the pleadings and evidence is fairly straightforward. His case is simply that he is the owner of **Plot 479** situate at Mabushi District, Cadastral Zone B06 FCT Abuja and situate this title on an **"ALLOCATION"** and a Judgment of a court of competent jurisdiction vide Exhibit P1 which he stated confirmed his ownership of Plot 479. The plaintiff stated that by Exhibit P8, another court of competent jurisdiction restrained the defendant from demolishing the property at Plot 479 but that despite these lawful court processes, the defendant entered into the said plot 479 of claimant and demolished his building which is valued at about N500 Million.

In substance and predicated on these facts, he seeks a pronouncement that the demolition of the property at Plot 479 is illegal and unlawful and accordingly wants the defendants to pay compensation.

I have here given a careful consideration to the pleadings and evidence. A critical element of the case in which the issue of compensation must be situated has to do with who has title to the said Plot 479 at Mabushi or put another way, whether claimant has proved that he is the owner of the said plot. It is stating the obvious that compensation in the context of this case can only be available to one whose property or title has been improperly acquired or destroyed. Compensation will then be paid or will enure as a recognition of loss.

Now in law, it is nor fairly settled that there are five (5) independent ways of proving title to land as expounded by the Supreme Court in **Idundun v. Okumagba (1976) 9/10 SC 221** as follows:

(a) Proof by traditional evidence;

(b) Proof by production of documents of title duly authenticated, unless they are documents 20 or more years old, produced from proper custody;

(c) Proof of acts of ownership, in and over the land in dispute such as selling, leasing, making grants, renting out of any part of the land or farming on it or a portion thereof extending over a sufficient length of time numerous and positive enough as to warrant the inference that the persons exercising such proprietary acts are the true owners;

(d) Proof by acts of having possession and enjoyment of the land which prima facie may be regarded as evidence of ownership; and

(e) Proof of possession of connected or adjacent land in circumstance rendering it probable that the owner of such connected or adjacent land would in addition be the owner of the land in dispute.

See also **Oyedoke V The Registered Trustees of C.A.C (Supra) 632 A-D.** In law, proof of title to land could be founded on any of the above way(s).

The key question here, is simply whether on the pleadings and evidence the plaintiff has established ownership of the said **plot 479** as envisaged under the above streamlined principles. In paragraph 4 of the claim and in evidence plaintiff averred that he is the "owner" of Plot 479 based on "allocation" and "the judgment of court." Let me here give further close scrutiny to the evidence led at trial.

Now this critical root of title or allocation pleaded in paragraph 4 was never tendered in evidence by the plaintiff. In law, the root of title simply connote means or process through which a party came to be the owner of land in dispute. See **Ofume V. Ngbeke (1994)4 N.W.L.R (pt.341)746**

The land in dispute clearly on the evidence is within the F.C.T. It is settled that ownership of land comprised in the F.C.T, Abuja vests in the Federal Government

of Nigeria and under the relevant enactments, the power vests on the minister to grant statutory rights of occupancy over lands within the F.C.T. See generally **Sections 297(1) and (2) of the 1999 Constitution, Sections 1(3), 13 of the F.C.T Act; Section 5(1) and 51(2) of the Land Use Act.** See also the case of **Madu V. Madu (2008)6 N.W.L.R (pt.1083)324 at 325 H-C.**

Now by **Section 26 of the Land Use Act,** any transaction or instrument which purports to confer on or vest in any person any interest or right over land than in accordance with the provisions of this Act shall be null and void.

I have extensively referred to the above provisions to underscore the paramountcy of the statutory allocation once the conversation relates to ownership of land within the F.C.T.

In this case, the critical allocation providing the base to situate any compensatory claims though referred to in the pleadings was not tendered. The production of the statutory allocation to plaintiff appear to me a legal imperative in the context of the dispute. See **Section 131(1) of the Evidence Act (supra).** This is more so when it is noted that production of a right of occupancy or a Certificate of Occupancy cannot in law be said to be conclusive evidence of any right, interest or valid title to land in favour of the grantee. It is, at best, only a prima facie evidence of such right, interest or title without more; and may in appropriate cases be effectively challenged and rendered invalid, null and void. See **Lababedi V. Lagos Metal Industries Nig Ltd (1973)1 SC 1 at 6; Olohunde V. Adeyoju (2000)14 WRN 160 at 184 and Kyari V. Alkali (2001)31 WRN 88 at 116.**

The implication of the failure to tender this statutory allocation is that the pleadings on that aspect is deemed as abandoned. That is a trite principle of general application. See **Oshin V. Ekpechi (2000)5 N.W.L.R (pt.656)225 at 240.**

The bare site plans vide Exhibits P4 a and b tendered by plaintiff is clearly not a statutory allocation of land in the FCT and can therefore not be considered as such statutory allocation as envisaged by law. See **Section 26 of L.U.A. (supra)**. Furthermore, to detract from any value they may have, the said site plans were not signed or prepared by any defined person or surveyor. The two exhibits clearly

lack any probative value and do not aggregate or donate ownership of plot 479 to claimant.

The claimant then situates his ownership of Plot 479 on a judgment of court and then an order of court. Let me here again evaluate these processes.

The first case relied on by claimant as confirming his ownership of **Plot 479** is the judgment vide **Exhibit P1** in FCT/HC/M/6609/2011: Chief A.O. Success V Hon. Minister FCT & Anor delivered by Honourable Justice Salisu Garba.

Now I have carefully read this judgment Exhibit P1 and it is a case of enforcement of Fundamental Rights of Applicant. The case as captured by the respected learned jurist at page 14 of the judgment **"bothers on the seizure of title documents handed over to the Respondents sometime in 2002 which they have refused to release."**

The case therefore was not one for **declaration of title to any plot or a case for determination of whether these title documents handed over to the Respondents in the case belonged to claimant**. Indeed in the case, the Applicant made it clear that he was managing "92 various plots of land within the FCT for and on behalf of his clients?" The case was therefore not one of ownership or declaration of title which could not in any event have been determined under enforcement of fundamental rights. The case was simply for the failure of the Respondents to return the documents they collected from the Applicant when the committee on land Records and Allocations set up by the FCT did not indict the Applicant after they finished their assignment.

The final **orders** in the case did not make or include any pronouncement with respect to who owns any plot including **plot 479**. The judgment of the court is clear to the effect that the seizure of the title documents collected from the Applicant by Respondent was unlawful and they were ordered to return the documents and cost was awarded.

The bottom line is that the **judgment**, **Exhibit P1** and the **certificate of judgment**, **Exhibit P2** never declared or confirmed that **plot 479** belongs to the claimant. It is stating the obvious that no additions or interpolations can now be made to alter the

contents of these Exhibits P1 and P2 to suit a particular purpose. See **Section 128 of the Evidence Act**.

The claimant then in paragraph 6 averred that another court restrained defendant from demolishing the property at plot 479. This time an **interlocutory order** of court vide Exhibit P8 was tendered in evidence. Now Exhibit P8 is a suit involving **Pedano Nigeria Ltd V Hon. Minister FCT, FCDA and Chief A.O. Success**. What is interesting here is that plaintiff in this case was the 3rd defendant in that case. What is strange from the Ruling is that Pedano Nigeria Ltd in the case sought for orders of interlocutory injunction restraining 1st and 2nd defendants from **"entering into, demolishing or reallocating any of the under listed property belonging to plaintiff/applicant pending the determination of the substantive suit to wit: plot 862 Wuye, plot 479 Mabushi, plot 481 Mabushi…"**

The court granted the interlocutory orders on terms as sought and adjourned the matter to 21st February, 2012 for hearing.

From the above excerpt of the Ruling, the Plaintiff/Applicant in the case to which the present claimant was the 3rd defendant claimed the listed properties covered by the interlocutory order including **plot 479** Mabushi as belonging to them.

On the basis of the said order it appears clear that **Pedano Nigeria Ltd** claims to be the owner of the said plot 479 Mabushi and the claims made was against certain parties including the claimant in the extant case.

There is nothing before me showing what happened ultimately in the said case. The matter was adjourned for hearing to 21st February, 2012 but the present plaintiff has chosen not to inform court as to what further transpired. The court obviously cannot speculate but this interlocutory order did not determine who owns plot 479. What it does is to simply further derogate from claim of claimant that he is the owner of plot 479 and indeed undermines completely his claim of ownership of the said plot. Pedano Nigeria Ltd would appear to be a registered company and is distinct from the present claimant who is an individual. Most important, he was a defendant in the said case.

I have again read the order for release of certain properties in the criminal charge No: FHC/ABJ/CR/59/2003 between the **Federal Republic of Nigeria V Engr.**

Success A. Obioma & 5 ors and I really wonder at the relevance of the order in the context of the precisely streamlined dispute in this case. There is no nexus between the order and plot 479 and one wonders at the basis or value for its been tendered in this case. It is accordingly discountenanced.

The judgment and order(s) of court tendered by plaintiff do not show or situate any allocation of plot 479 or confirmation of any allocation of plot 479 to claimant.

I have similarly looked at **Exhibit P7**, the re-certification and re-issuance of C of O acknowledgment which claimant avers in paragraph 12 confirms his ownership of plot 479. I am not enthused by this assertion. I do not see how the status of the Exhibit can be elevated to that of a statutory allocation within the legal template or regime we have identified in this judgment. No, they are not. I see reference for example in the said **Exhibit P7** to a Certificate of Occupancy as been submitted in addition to other documents but this abinitio only exposes the grave limitations of the exhibit. They only refer to certain documents not before the court and no jurisdiction lies in court to speculate as to its contents. What this means simply is that the Certificate of Occupancy of the disputed plot 479 can be said to exist and I cannot really locate any difficulty in procuring same by the claimant. There are a plenitude of avenues under the Rules that would enable the document(s) said to have been submitted to be obtained including but not limited to the use of even the coercive powers of the court, by the issuance of a sub-poena. Why the claimant elected not to obtain the document or produce the Certificate of Occupancy particularly in the light of the declaratory reliefs which places on plaintiff a threshold of proof by credible evidence and not any other way can now only be a matter of conjecture.

In addition, I have again read **Exhibit P7** and it clearly contains a disclaimer to the effect that the receipt of any documents does not validate the authenticity of the documents listed in it. That they are subject to further verification for authenticity. There is nothing before court from the claimant or the issuing authority showing what the outcome of this verification is with respect to the genuiness of the documents submitted. I therefore incline to the view that in the circumstances, it was important that a copy or Certified True Copy is produced before court for purposes of evaluation. This was not done. **Exhibit P7** cannot therefore be considered as a root of title in respect of the disputed property.

The entirety of the documents evaluated above unfortunately do not donate any allocation of **plot 479** to claimant and if there is no such due allocation of the plot to plaintiff then any claim to ownership of plot 479 and claim of compensation predicated on destruction of property on the said plot clearly would be fatally compromised or undermined. Compensation cannot be claimed in a vacuum or on whimsical grounds or no grounds at all.

In my opinion, the issue of the statutory allocation of a Right of Occupancy is a fact precisely defined by the claimant himself on his pleading. What the court requires from him is clear proof of this allocation. It is not a matter for speculation or one to be determined on conjectures. In law "**proof" i**s defined as the logically sufficient reason for asserting the truth of a proposition advanced. It includes everything that may be adduced at the trial within legal rules for the purpose of producing conviction in the mind of the judge or jury as the case may be. See **Adun V. Osunde (2003)16 N.W.L.R (pt.847)643.**

Put in more succinct language, where a trial is conducted on the basis of pleadings as in this case, all relevant allegations in the pleading must be proved by evidence, and such evidence must be in line with the pleading. In other words, a party has to prove his case as pleaded and must prove the truth of the contents of the paragraphs of the pleading in support of the reliefs sought in order to obtain judgment. If a party fails to prove his case on the pleadings to the satisfaction of the court, the case crumbles. See **Alamieyeseighe V. Igoniwari (NO2) (2007)7 N.W.L.R (pt.1034)524.**

The point to underscore at the risk of sounding prolix and I had alluded to it already, the two (2) principal reliefs on which the other two (2) reliefs are based are declaratory reliefs which are not made on admission or made because of the failure of the adversary to defend the case but on proof by credible and convincing evidence at the hearing.

Flowing from all the above, I have no difficulty in holding that the claimant has not by evidence creditably established his root of title over the disputed plot. The law is settled that where a root of title is not established as in this case, there is no legal right in or over the land which equity would seek to protect by any positive order. See **Izouji V. Aju Kwara (1998)1 N.W.L.R (pt.533)255 at 271.**

Indeed the law is also clear that where a party pleads and relies on an allocation as a root of title as in this case, he is bound to prove same to the satisfaction of court. It follows therefore that where evidence of a party's source or roof of title to a land in dispute is lacking or rejected, the foundation of the case has collapsed whether or not there is evidence of positive or numerous acts of ownership. See **Akinlola V. Balogun (2000)1 N.W.L.R (pt.642)532 at 547; Odofin V. Ayoola (1984)11 S.C 72.**

Having therefore determined that the Plaintiff has not creditably established on the evidence his ownership of the disputed plot, it is clear that the case of Plaintiff has no foundation that it can stand on and the case appear fatally compromised. In this circumstances, since the claimant has not on the evidence shown he owns plot 479 as claimed, the contention that he is entitled to compensation for a property demolished on the said plot 479 has no factual or legal traction.

On the whole, in the absence of any proved statutory allocation to plaintiff, the declaration in Relief (a) that the demolition of **"claimant's property at plot 479 Mabushi, Abuja…"** is unlawful, automatically collapses.

Equally, **Relief (b)** seeking a declaration that the **"demolition of property at plot 479"** is illegal on the basis of the court judgment (Exhibit P1) and interlocutory order of court (Exhibit P8) clearly does not fly. As already demonstrated neither the judgment or interlocutory order confirms or situates any allocation of plot 479 to the claimant.

As a logical corollary, **Reliefs (c)** and **(d)** on compensation and cost predicated on the success of **Reliefs (a)** and **(b)** must equally fail, those reliefs having failed. The only point to add here is that even if **Reliefs (a)** and **(b)** had succeeded, it will be difficult to situate the basis for the claim of **N500 Million** claim made as compensation. Absolutely no valuation of any kind was done and a report tendered to situate the basis or parameters for the valuation or how the amount was reached or arrived at. The huge amount claimed cannot be granted as a matter of course. It is a relief or claim in the realm of special damages which apart from been specially pleaded must be proved with credible evidence. Apart from the bare viva voce evidence of PW1 and the photographs tendered, absolutely no shred of evidence was tendered by plaintiff to situate the basis or parameters for the

humongous claim of N500 Million made for the alleged destruction of the property of plaintiff. Without credible evidence to support the claim, the relief of compensation must necessarily fail. The legal principle to where the principle is taken away, the adjunct is also taken away. See **Adegoke Motors V Adesanya (1989) 3 NWLR (pt.109) 250 at 269**.

For the avoidance of doubt, the sole issue for determination as distilled by court is resolved against the plaintiff. Having carefully considered the evidence on record, the court has not been put in a commanding height by cogent, credible and convincing evidence to grant any of the reliefs sought. The plaintiff's case having failed in its entirety is hereby dismissed.

……..

Hon. Justice A.I. Kutigi

<u>Appearances</u>:

1. Ogbaje Josiah Anas, Esq., for the Claimant.