

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

THIS 28TH DAY OF APRIL, 2021

BEFORE HIS LORDSHIP: THE HON. JUSTICE A.A FASHOLA

SUIT NO: CU/3132/2020

BETWEEN:

MRS MICHA ABGO -----CLAIMANT

AND

THE PARADISE LIFE CAMP LIMITED (PARADISE ESTATE LTD) --DEFENDANT

JUDGMENT

This is an application commenced by an Originating Summons dated 9th of November 2020 and filed on the 11th day of November 2020. The Plaintiff's asking for the determination of the following questions:

1. Whether upon a calm and sober construction and application of the offer letter (dated 30th August 2018), letter

Allocation (dated December 2018 and 4th October 2018) all issued by the Defendant to the claimant in furtherance to the contract for the outright purchase of A unit of Three (3) Bedroom (ensuite) Duplex (**known and describe as plot MT 7**) at The paradise villa idu sabo District, Abuja FCT between the claimant and the Defendant, the claimant is not entitled to take delivery and possession of the aforesaid 3 Bedroom Duplex .

2. Whether upon a calm and sober construction and application of the offer letter (dated 30th August 2018), letter of provisional Allocation (dated January 16th , 2019)and payment Receipt (dated 12th September 2018)all issue by the Defendant to the claimant in furtherance to the contract for the outright purchase of A unit one (1) Bedroom (ensuite) Apartment (**known and described as plot mt7**) at the paradise villa idu sabo District, Abuja FCT between the claimant and the defendant , the claimant is not entitled to take delivery and possession of the aforesaid one (1) bedroom Apartment .

3. Whether upon a calm and sober construction and application of the offer letter (dated 30th August 2018),letter Allocation (dated December 5th 2018) and payment Receipts(dated 12th September 2018 and 4th October 2018 all issue by the Defendant to the claimant in furtherance to the contract for the outright purchase of A unit three(3) Bedroom (ensuite) Duplex (**known and described as plot mt7**) at the paradise villa idu sabo District, Abuja FCT between the claimant and the defendant , the failure, refusal, neglect and or omission of the Defendant to deliver up and hand

over possession of the aforementioned 3 Bedroom duplex does not amount to breach of contract

4. Whether upon a calm and sober construction and application of the offer letter (dated 30th August 2018),letter provisional Allocation (dated January 16th 2019)) and payment Receipts(dated 12th September 2018 and 4th October 2018 all issue by the Defendant to the claimant in furtherance to the contract for the outright purchase of A unit of one (1)Bedroom (ensuite) Apartment(**known and described as plot mt7**) at the paradise villa idu sabo District, Abuja FCT between the claimant and the defendant , the failure, refusal, neglect and or omission of the Defendant to deliver up and hand over possession of the aforementioned one (1) Bedroom Apartment does not amount to breach of contract .

If the answers to ALL or ANY of the above QUESTIONS are in the **AFFIRMATIVE**, then the claimant's seeks the following **reliefs**:

1. **A DECLARATION** that the claimant is **forthwith** entitled to A unit of three (3) Bedroom (ensuite) Duplex (**known and described as plot mt7**) at the paradise villa idu sabo District, Abuja FCT in line with the letter (dated 30th August 2018) and payment Receipts (dated 12th September 2018 and 4th October 2018 all issue by the Defendant to the claimant in furtherance of the outright sale of the property.
2. **A DECLARATION** that the claimant is **forthwith** entitled to A unit of three (3) Bedroom (ensuite) Duplex (**known**

and described as plot mt7) at the paradise villa idu sabo District, Abuja FCT in line with the letter (dated 30th August 2018), letter provisional Allocation) and payment Receipts (dated 12th September 2018) issue by the Defendant to the claimant in furtherance of the outright sale of the said property.

3. **A DECLARATION** that the failure, neglect, omission and or refusal of the Defendant to deliver up and hand over possession of three (3) Bedroom (ensuite) Duplex (**known and described as plot mt7)** at the paradise villa idu sabo District, Abuja FCT on or about October 2019 to the claimant having paid all the requisite fees and met the conditions imposed by the Defendant herein is tantamount to or constitute breach of contract.
4. **ADECLARATION** that the failure, neglect, omission and or refusal of the Defendant to deliver up and hand over possession of the one (1) Bedroom (ensuite) Apartment Duplex (**known and described as plot mt7)** at the paradise villa idu sabo District, Abuja FCT on or about September 2019 to the claimant having paid all the requisite fees and met the condition imposed by the Defendant herein is tantamount to or constitutes breach of contract.
5. **AN ORDER OF SPECIFIC FERFORMANCE** directing the Defendant to **forthwith deliver up and hand over** possession of The Three (3) Bedroom (ensuite) Duplex (**known and described as plot mt7)**at the paradise villa idu sabo District, Abuja FCT.

6. **AN ORDER OF SPECIFIC PERFORMANCE** directing the Defendant to **forthwith deliver up and hand over** possession of The one(1) Bedroom (ensuite) Apartment **(known and described as plot mt7)** at paradise villa idu sabo District, Abuja FCT.

7. **COST OF THIS SUIT.**

In support of the originating summons is a 24 paragraphs affidavit deposed to by Mrs Micha Agbo the claimant and attached are annexures marked as Exhibits A1, A2,B,C1,C2,D1,D2, E and F respectively.

List of Exhibits:

1. Exhibit A1 and A2 are Offer Letters For The Sale of Unit Of 3 Bedroom Maisonette Duplex At The paradise ville, Abuja On Off – plan Basis dated 30th August 2018.
2. Exhibit B is a picture of the property.
3. Exhibits C1 AND c2 are payment receipts dated 12th September 2018 respectively.
4. Exhibits D1 and D2 are letters of allocation dated December 5th 2018 and January 16th 2019 respectively.
5. Exhibit E is a demand letter written by the solicitor to the Claimant dated 11th September 2020

Equally filled with the application is written address dated the 9th day of November 2020 wherein learned counsel to the claimant formulated two issues for determination to wit:

1. Whether there is no binding agreement between the parties.
2. Whether the claimant is entitled to the reliefs sought learned counsel cited the following cases in support of his application.

- 1. UWAH V AKPABIO (2016) EJSC (VOL.30)179.**
- 2. ENEM CHUKWU V OKOYE & ANOR (2018)LPER-46784(CA)**
- 3. C.I.C LTD V SOLEL BONEH (NIG)LTD(2007)EJSC(VOL.67)112CS**
- 4. ACHONU Vs OKUWOBI (2017)EJSC (VOL.75)100SC**
- 5. ENEJO Vs SANUSI (2008)ALL FWLR (P+412)1084 at 1089**
- 6. MTN (NIG) Communication LTD Vs WIGATAP TRADE & INVESTMENT LTD (2013) ALL FWLR (PT 684)123 C.A.**
- 7. DAKOUR V L.S.U.R.B (2015) ALL FWLR (PT 809. CA)**
- 8. DAUDA Vs LAGOS BUILDING INVESTMENT CO LTD (2012) ALL FWLR (PT 625)380.**

On the part of the defendant, learned counsel to the defendant filed a counter affidavit of 26 paragraphs deposed to by sunny – Ekos Aisosa Samuel with an annexure marked as Exhibit “DA” and a written address filed on The 27th day of January 2021 wherein the counsel to The defence formulated two issues for determination :-

1. Whether the claimant is in breach the terms of the contract
(Exhibit D1,D2,and DA)

2. Whether the claimant is entitled to the reliefs sought leaned counsel to the defendant cited the following authorities in canvassing his argument.

Learned counsel also cited the following cases in support of his argument.

- 1. INCORPORATED TRUTESS OF NIGERIA BAPTIST CONVENTION & ORS Vs GOVERNOR OF OGUN STATE & ORS (2016)LPELR 41134(CA)**
- 2. ADEDEJI V OBAJIMI (2018)16 NWLR.(PT1644)146 at 175 Para E-D**
- 3. CIC LTD V SOLEL BONET (NIG)**
- 4. DAKOUR VLSURB (2015) ALL FWLR (P+809)**
- 5. FUT MIINA V OLUTAYO(2018)7 NWLR 176 AT 195 Para A**

FACTS:

it is the claimants case that upon the sober and calm construction and application of the Allocation letter dated 5th December 2018 the offer letter dated 30th August 2018 and the payment receipts dated September 2018 and 4th October 2018 all issued by the defendant is a prima facie evidence of contract between the plaintiff and the defendant for the outright purchase of A unit of three (3) Bedroom (ensuite) duplex Known and described as plot MT 7at the paradise villa idu sabo District, Abuja FCT between the claimant and the Defendant and also that upon the sober and calm construction and application of the offer letter dated 30th August 2018, letter of provisional allocation dated January 16th

2019 and payment receipts dated 12th September 2018 all issued by the defendant to the claimant in furtherance to the contract of outright purchase of A Unit of One(1) Bedroom (ensuite) Apartment Known and desorbed as plot MT 7at the paradise villa idu sabo District, Abuja FCT between the claimant and the Defendant the claimant is not entitled to take delivery and possession of the aforesaid properties.

Issue for Determination:

From the evidence before me this application raises a lone issue for determination to wit:-

Whether there is a valid contract between the claimant and the defendant?

The age long principle of Law regarding binding contracts are offer, acceptance, consideration, and intention to enter into a legal contract. Having said that, the question that needs to be answered in the instance case is whether these elements are present?. From the documentary and oral submission of counsel before this court particularly Exhibits A1 and A2. Exhibit A1 being an offer for a 3 bedroom Maisonette Duplex at Paradise Ville Abuja at the rate of Nine Million, Nine Hundred Thousand Naira only (N9,900,000.00) and Exhibit A2 being an offer for a One Unit of 1 Bedroom Apartment at the rate of Four Million, Eight Hundred and Fifty Thousand Naira only(4,850,000.00) it is clear that the defendant made an offer to the plaintiff. From the documentary evidence (payment receipts) and testimony of the Claimant payment for the two units of apartments have been made. It is trite law that parties are bound by the agreements

they lawfully and voluntarily entered into see the case of **UWAH V AKPABIO (2016) EJSC (Vol. 30) 179** SC thus:

“An agreement, where one is established to exists, necessarily binds the parties thereto whenever parties enter into an agreement in writing they are bound by its terms”

See also the case of **JERIC (NIG) LTD VS UNION BANK NIGERIA PLC (2000) 15 NWLR (PT.691) Page 447 SC Per Kalgo JSC** “parties must be held bound by the agreement and by all its terms and conditions, there is no room for departure from what is stated”

It is my humble view that in the circumstance therefore a valid contract is created between the Claimant and the defendant.

IT IS HEREBY ORDERED AS FOLLOWS:

1. The defendant is to deliver up the two apartments to the claimant in this suit.
2. No award as to cost of this suit.

