

**THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY,
IN THE BWARI JUDICIAL DIVISION,
HOLDEN AT COURT NO. 11 BWARI, ABUJA.
BEFORE HIS LORDSHIP: HON. JUSTICE O. A. MUSA
SUIT NO: FCT/HC/CV/275/2020**

BETWEEN:

INTER-PROJECTS LIMITED

CLAIMANT

AND

1. THE MINISTER OF THE FEDERAL CAPITAL TERRITORY
2. THE FEDERAL CAPITAL DEVELOPMENT AUTHORITY
3. THE DIRECTOR LANDS, ABUJA GEOGRAPHICAL INFORMATION SYSTEM
4. THE DEPARTMENT OF DEVELOPMENT CONTROL, FEDERAL CAPITAL DEVELOPMENT AUTHORITY
5. THE DIRECTOR, DEVELOPMENT CONTROL, FEDERAL CAPITAL DEVELOPMENT AUTHORITY

DEFENDANTS

JUDGMENT

DELIVERED ON THE 28TH JUNE, 2021

By way of an originating summons dated the 23rd day of September, 2020 and filed on the 5th of October, 2020.

The claimant prayed the court for the following reliefs:

1. A DECLARATION that the defendants are bound by the consent Judgment of the court delivered by Hon. Justice M.A. Nasir on the 25th day of September n 2013 in respect of all that parcel of land known as plot 1422, Central Business District.
2. A DECLARATION that the claimant's rights, entitlements and privileges in respect of that parcel of land known as plot 589 Cadastral Zone A00, now known as plot 1422, Central Business District be restored to him immediately.

3. AN ORDER of mandamus directing the 1st to 3rd defendants to issue certificate of occupancy and other relevant documents in respect of all that parcel of land known as plot 589 Cadastral Zone A00, now known as plot 1422 to the claimant.
4. AN ORDER of PERPETUAL INJUNCTION restraining the defendants, their servants, agents, assigns and or privies from trespassing, destroying, causing to be destroyed, demolishing or causing to be demolished the building or structures or any part thereof standing on plot 589 Cadastral Zone A00, now known as plot 1422 or any other re-designation of the plot the defendants may call it.
5. Such Further or other orders as this honourable court may deem fit and just to make in the circumstance of this case.

In support of his application, the claimant filed a 28 paragraphs affidavit dated the 5th day of October, 2020 and deposed to by one Cecil Ezem Osakwe, male, christen, Adult, Nigerian citizen of 1473 Inner block street, Central Business District, Abuja. Equally filed is a written address in support of the Originating summons dated the 23rd day of September, 2020 and filed on the 5th day of October, 2020. In the said written address, the claimant formulated two issues for determination:-

1. Whether the defendants are bound by the consent Judgment of the court having signed the terms of settlement over all that parcel of land known as plot 589 Cadastral Zone A00, now known as plot 1422, Cadastral Business District.
2. Whether this Honourable court can grant an Order of mandamus and an injunction against the defendants.

In arguing the first issue, the claimant counsel submits that it is trite law that the Judgment of a court of competent jurisdiction is binding on all

the parties to the suit. He cited the cases of Madam Abusatu Agbogunleri Vs. Pir John Depo & ors (2008) LPELE-243 (SC). Vulcan Gases Ltd Vs. Gesellschaft Fue Ind. Gasverwertung A.G. (2001) LPELR – 3465 (SC).

The claimant's counsel contends that the defendants have deliberately chosen to ignore a consent Judgment which arose as a result of the agreement between all the parties to the suit. He further states that the 3rd defendant's refusal to act on the file of the claimant despite the fact that the Judgment has not been appealed against nor contested as disturbing. On the second issue for determination, claimant's counsel submits that the claimant's rights can only be protected by compelling the defendants to carry out their obligation as agreed in the consent Judgment.

That the claimant has made several demands to the 1st to 3rd defendants to perform their statutory duty by issuing the claimant with the statutory right of occupancy and Certificate of Occupancy over the said plot of land. Claimant's counsel contends that it is right for this Honourable court to grant an Order of mandamus in this case, he cites the cases Anthony vs. Governor of Lagos State (2003) 1 NWLR (828) 288 @ 299. COMPTROLLER GENERAL, NIGERIA CUSTOMS SERVICE & ORS v. MINAJ HOLDINGS LTD (2017) LPELR-43055(CA).

Claimant's counsel further submit that the court has the power to grant an injunction restraining the Defendants from interfering or impeding with the peaceful possession of the Claimant, demolishing any structure on the property and stopping the Defendant from developing the plot in issue. He cited the cases of ONYESOH V. NNEBEDUN & ORS. (2017) LPELR-43055(CA).

LPELR-2742 (SC) and Commissioner for Works (Benue State) v. Devcon Ltd. (1988) 3 NWLR (Pt.83) 407. UDO v. ANYANKANA (2016) LPELR-41192(CA).

Finally, claimant counsel urges this Honourable court to protect the legal right of the Claimant and to compel the Defendants to give life to the consent judgment of a court of competent jurisdiction. The 1st to 5th defendants are yet to file any processes in opposition to the claimant's application. I have considered carefully, the Originating Summons filed on behalf of the claimant. I have equally considered the affidavit and written address both filed in support of the Originating summons.

In my considered opinion, the issues for determination are:-

1. Whether or not the defendants are bound by the consent Judgment of the court having signed the terms of settlement over all that parcel of land known as plot 589 Cadastral Zone A00, now known as plot 1422, Cadastral Business District.
2. Whether this Honourable court can grant an Order of mandamus and an injunction against the defendants.

On the first issue for determination, it is worthy of note at this instance that a consent Judgment is a final decision and can in an appropriate case, sustain a plea of RES judicator see the case of HONDA PLACE LTD Vs. GLOBAL MOTORS HOLDINGS NIG. LTD (2005) FWLR (Pt.283) P. 1. Such Judgment remains binding until set aside by a fresh action or an appellate court, if it can be established to have been obtained by fraud, misrepresentation, duress or mutual mistake of parties. See LAMURDE Vs. ADAMAWA STATE J.S.C (1999) 12 NWLR (Pt.629) p- 86.

The efficacy of a consent Judgment and its binding effect is higher than an ordinary Judgment and is therefore more difficult to dislodge. The

party who seeks to rescind the terms mutually agreed upon has an arduous task. See the case of DANA IMPEX LTD Vs. ADEROTOYE (2006) 8 NWLR (Pt.966) p-78.

In the instance case, the claimant and the 1st – 5th Defendants wilfully and mutually agreed to a term of settlement which was entered as a consent Judgement on the 25th day of September 2013 before his lordship Hon. Justice M. A. Nasir. In the said agreement, the parties agreed to certain terms:-

1. That the plaintiff is the beneficial owner and bonafide holder of the interest over all the parcel of land known as and referred to as plot 589 Zone A00, now know as plot 1422 Central Business District Abuja.
2. That the 5th defendant shall at the execution of this terms hand over to the plaintiff all original documents relating to plot 589 cadastral Zone A00, Central Business District, Abuja in its possession including the offer of statutory right of occupancy to Obasanjo Farms Nigeria Limited dated 28th May, 2007.
3. That the 1st to 4th defendants shall restore all the rights and privileges of the plaintiff over that parcel of land known as plot 589 Cadastral Zone A00, now known as plot 1422 Central Business District.
4. That these terms of settlement shall be deemed as consent Judgment before this Honourable court accordingly.

As explained earlier, a consent Judgment is a final decision and remains binding until set aside by a fresh action or an appellant court, neither of which the defendants have done. See LAMURDE Vs. ADAMAWA STATE J.S.C (supra).

On whether or not this Honourable court can grant an Order of Mandamus and an injunction against the defendants, the Supreme Court per Edigbe JSC held that an Order of Mandamus is available to compel the performance of a public duty in which the person applying for mandamus has sufficient interest. See SHITTA – BEY Vs. FEDERAL REPUBLIC SERVICE COMMISSION (1981) ISC p. 80.

The claimant has to the satisfaction of this court shown that he has sufficient interest in the subject matter of the action the defendants on the other hand are public institutions vested with the responsibilities and duties to oversee and approve such matters which they have already committed to. As such the claimant is entitled to the reliefs sought.

I agree with the claimant that all parties are bound by the consent Judgment of the court delivered on the 25th day of September, 2013. Having resolved all the issues in favour of the claimant against the defendants, the claimant's case succeeds and has merit, I so hold.

It is hereby declared as follows:-

1. That the defendants are bound by the consent Judgment of the court delivered by Hon. Justice M.A. Nasir on the 25th day of September 2013 in respect of all that parcel of land known as plot 589 Cadastral Zone A00, now known as plot 1422, Central Business District.
2. That the Claimant's rights, entitlements and privileges in respect of all that parcel of land known as plot 589 Cadastral Zone A00, now known as plot 1422, Central Business District be restored to him immediately.
3. It's hereby ordered that the 1st to 3rd Defendants to issue Certificate of Occupancy and other relevant documents in respect

of all that parcel of land known as plot 589 Cadastral Zone A00, now known as plot 1422 to the Claimant.

4. That the Defendants, their servants, agents, assigns and or privies are restrained from trespassing, destroying, causing to be destroyed, demolishing or causing to be demolished the building or structures or any part thereof standing on plot 589 Cadastral Zone A00, now known as plot 1422 or any other re-designation of the plot.
5. That the Defendants, their servants, agents, assigns and or privies are restrained from stopping or causing to stop or interfering with or demolishing any development or on-going development on Plot 589 Cadastral Zone A00, now known as plot 1422 Central Business District.

This is the Judgment of this Court reserved to be read today.

APPEARANCE

Musa Etubi Esq. for the claimant.

The defendants are not in court.

Sign

Hon. Judge

28/06/2021