

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT GUDU - ABUJA

DELIVERED ON THURSDAY THE 1ST DAY OF JULY, 2021.

BEFORE HIS LORDSHIP; HON. JUSTICE MODUPE R. OSHO-ADEBIYI

SUIT NO. CV/2558/2020

BETWEEN

CHANNEL PETROLEUM CORPORATION LIMITED---- CLAIMANT

AND

HON. MINISTER FEDERAL CAPITAL TERRITORY-----DEFENDANT

JUDGMENT

The Claimant by a Writ of summons filed in this court on the 7th of September, 2020 claims against the Defendant as follows:

1. A DECLARATION that the Claimant is the holder of the Statutory Right of Occupancy dated 28th December, 2000, referenced [MFCT/LA/MISC 17108] over Plot No. 733 within Central Business District, Abuja.
2. A DECLARATION that the Claimant's Statutory Right of Occupancy over Plot No. 733 within Central Business District, Abuja, is valid and subsisting.
3. A DECLARATION that the payment of the sum of Ten Million, Five Hundred and Twenty-five Thousand, Three

Hundred and Ninety-eight, Forty-one kobo (N10, 525,398.41), being the total assessed Rent, Fees, Premium,

Survey Fees, Development Levy, etcetera for the issuance of Certificate of Occupancy is valid and subsisting and represents full and final payment by the Claimant for the issuance of Certificate of Occupancy over Plot No. 733 within Central Business District, Abuja.

4. AN ORDER directing the Defendant to issue the Claimant with the Certificate of Occupancy over Plot No.733 within Central Business District, Abuja.
5. AN ORDER OF PERPETUAL INJUNCTION restraining the Defendant whether by himself, agents or privies from unlawfully revoking and or expropriating or in any manner howsoever interfering with the rights, title of the Claimant or possession of the Claimant of Plot No. 733 within Central Business District, Abuja.
6. AN AWARD of the sum of Ten Million Naira (N10,000,000.00) as general damages against the Defendant.

The claimant opened its case on the 9th of November, 2020 and called its sole witness, ALPHONSUS OSHIOLE the Managing Director of the Claimant as PW1 where he adopted his witness statement on oath and

his further witness statement on oath as his evidence in this case. The summary of the facts as stated in his evidence is that pursuant to the application of the Claimant, the Defendant on the 28th December, 2000 allocated to the Claimant Plot No.733 within Central Business District, Abuja covered by [File No. MFCT/LA/MISC.171081 and communicated same to the Claimant vide a conveyance of a Statutory Right of Occupancy dated 28th December, 2000 reference [MFCT/LA/MISC. 17108].The Revenue Collectors Receipt for Land application Form dated 9thJuly, 1999 and Land application Forms acknowledgement dated 9th July, 1999 was issued by the Defendant to the Claimant acknowledging the submission of all the documents described therein by the Claimant.That the Claimant accepted the offer vide its acceptance letter dated 4th January, 2001 and the Defendant issued the Claimant with the Bill for Right ofOccupancy, Rents and fees including the Premium for Certificate of Occupancy, Survey Fees and Development Levy, etcetera which was dated 8th August, 2001.That on 23rd January, 2002 the Claimant paid the sum of Ten Million, Five Hundred and Twenty Five Thousand, Three Hundred and Ninety-Eight Naira, Forty One Kobo (NIO,525,398.41), being the requisite Rent and Fees including the Premium for Certificate of Occupancy and Survey Fees, Development Levy, etcetera for the preparation and issuance of Certificate of occupancy and obtained a Revenue Collectors Receipt dated same 23rd January, 2002.That when the Defendant commenced Re-certification of titles of land within the Federal Capital Territory, the Claimant filled and

8.submitted the Recertification Form and paid the requisite Ten Thousand Naira (N10,000.00) processing fee to the Defendant. That at the request of the Defendant, the Claimant submitted to the Defendant the originals of the following documents: Revenue Collector's Receipt for application fees, Land application Form acknowledgement, Statutory Right of Occupancy, Acceptance of Letter, Re-certification Form and Bank Teller for the payment of Re-certification fees. That the Defendant acknowledged receipt with its stamp on the copies of the submitted documents. That the Defendant has been holding out that he misplaced the file for all these many years and therefore could not recertify the title for the said Plot. That the officials of the Defendant have failed over the years on their promises and assurances to recertify the plot by digitizing the Claimant's Title and documents and issuing the Claimant the Certificate of Occupancy. That the acts of the Defendant constitute a scheme to illegally take over the Claimant's right and title over the said Plot No.733 within Central Business District, Abuja. That he verily believes that the Claimant is entitled to all the reliefs set out in its Writ of Summons and Statement of Claim.

PW1 tendered the following documents as exhibits in proof of his case as follows:

1. Certified True Copy of FCDA receipt dated 9/07/1999 for the sum of N52,500.00 admitted as Exhibit A1

2. Certified True Copy of land application form issued by Ministry of Federal Capital Territory with reference No. MFCT/LA/MISC. 17108 dated 9/7/1999 admitted as Exhibit A2.
3. Certified True Copy of Offer of terms of grant of conveyance dated 28/12/00 admitted as Exhibit A3.
4. Certified True Copy of Acceptance of offer of grant of Right of Occupancy dated 4/01/2004 admitted as Exhibit A4.
5. Certified True Copy of Right of Occupancy rent and fees No. FCT/ABU/MISC 1768 dated 8/8/2001 admitted as Exhibit A5.
6. Certified True Copy of AGIS deposit slip no. 01738 dated 22/03/2005 for the sum of N10,000.00 admitted as Exhibit A6
7. Certified True Copy of application for recertification reissuance of Certificate of Occupancy issued by Department of Land Administration admitted as Exhibit A7.
8. Certified True Copy of FCDA receipt no. 417108 for the sum of N10,525,398.41 admitted as Exhibit A8.

The Claimant filed a reply to the defendant's statement of defence dated 30/10/2020 wherein the claimant denies paragraphs 4,5,6,7,8,9,10,11,12,13 and 14 of the Defendant's Statement of Defence and put the Defendant to the strictest proof of the averments contained therein. In reply to the denied paragraphs, the Claimant reproduced the averments in his witness statement on oath as the true position and that the averments in the Statement of Defence are false and misleading and it is a ploy by the defendant to illegally take over the Claimant's rights and interest over the said plot of land. The

Claimant states that the Defendant have no defence to this action. Claimant was cross examined and claimant closed its case.

The Defendant filed its Statement of Defence and opened its defence on the 9th day of February, 2021 and called a sole witness Olufadi Olabisi Simbiat, an Assistant Chief Town Planning Officer in the Department of Lands Administration who testified as DW1 and adopted her written statement on oath. The summary of facts as stated in the witness statement on oath is that the Claimant did not at any point in time apply for allocation of land in the Federal Capital Territory. That the Defendant did not at anytime allocate Plot no. 733 Central Business District, Abuja to the Claimant on 28/12/2000 or on any other date. That neither the Defendant nor its agents at any point convey the purported Offer of Conveyance of Statutory Right of Occupancy dated 28/12/2000 to the Claimant. That none of its agencies issued any file number known as File no. MFCT/LA/MISC 17108 and as such the Defendant was never granted title over Plot no. 733 Central Business District, Abuja or any plot whatsoever to the Claimant. That they did not issue the purported revenue collectors receipt for land application form dated 09/07/1999 and Land application form acknowledgment purportedly issued by the Defendant or its agents. That the Claimant had no title/Offer to purport to accept on 04/01/2001 as it has nothing before the court to show that it was validly granted a Statutory Right of Occupancy over the said Plot no. 733 Central Business District, Abuja by the Defendant. That the agents of the Defendant did not at

any point in time issue any Bill for Right of Occupancy Rent and Fees including Premium for Certificate of Occupancy, Survey Fees and Development Levy fees dated 16/05/2003 to the Claimant, whether in respect of the Plot no. 733 Central Business District, Abuja or any plot whatsoever. That the Claimant did not at any point in time pay the sum of N10,525,398.41 (Ten Million, Five Hundred and Twenty Five Thousand, Three Hundred and Ninety Eight Naira, Forty One Kobo) only to the Defendant or its agents as requisite Rent and Fees, Development Levy, etc for the Preparation and issuance of Certificate of Occupancy in respect of the subject plot or any plot whatsoever and that the Defendant never issued any revenue collectors receipt dated 23/01/2002 to the Claimant in the above stated sum. That the Claimant did not fill any Recertification form in respect of the subject plot or any plot at all and did not at any point in time pay the sum of N10,000.00 (Ten Thousand Naira) only or any sum whatsoever to the Defendant or its agents as recertification processing fee. That the Claimant did not at any point in time submit originals of Revenue Collectors Receipt for application fees, Land application form acknowledgment, Statutory Right of Occupancy, Acceptance letter, Recertification Form and Bank Teller for the payment of Recertification fees in respect of the subject plot or any other plot to the Defendant or its agents. That in any event, It is not the practice of the agents of the Defendant to collect originals of title documents or other land documents from allottees during recertification. That none of the agents of the Defendant has ever informed nor held out in any way to

the Claimant that it could not recertify the Claimants title over the subject plot because it has misplaced its file. That the Defendant has never promised the Claimant that it was going to recertify its purported title over the subject plot and issue a Certificate of Occupancy to it, as the subject plot was never allocated to the Claimant in the first place. That there is no scheme by Defendant to illegally take over the subject plot or any plot whatsoever from the Claimant. That the Claimant does not have any valid title over the subject plot, so there is actually nothing to take over from the Claimant. That the Defendant will at the trial of this suit urge the Honourable court to dismiss this suit as being frivolous, vexatious and lacking merit. DW1 was cross examined and defendant closed its case. At the close of the case, the Court adjourned for parties to file their final written addresses.

The Claimant in his final written address, raised two (2) issues for determination, which are:

1. Whether having regard to the state of pleadings and the evidence led by the parties, the Claimant has proved its case on the balance of probabilities so as to be entitled to the reliefs sought in its Writ of Summons and Statement of Claim?
2. Whether the Defendant has proved beyond reasonable doubt that the documents tendered by the Claimant are forgeries?

On the first issue, Learned counsel submitted that the standard of proof in land matters is the same as that for other civil cases which is by preponderance of evidence. Counsel submitted that in **Idundu v. Okumagba (1976) 9-10 SC 227** the Supreme Court laid down five ways of proving title to land namely;

1. By traditional evidence;
2. By documents of title;
3. By various acts of ownership and possession numerous and positive to warrant inference of ownership;
4. By acts of long possession and enjoyment; and
5. By proof of possession of adjacent land in circumstances rendering it probable that the owner of such connected or adjacent land would in addition be the owner of the land in dispute.

That the law is that proof by one method suffices as held in **Uka v. Irole [2002] 7 SCNJ 137 at 163** and by virtue of the fact that lands that comprise the Federal Capital Territory (FCT), Abuja, are vested in the Federal Government of Nigeria. Hence, it is only the second method laid down in **Idundu v. Okumagba (supra)** that could apply to proof of entitlement to a statutory right of occupancy over land in Federal Capital Territory, Abuja. Counsel submitted that the Claimant has traced its root of title to a grant from the Honourable Minister of the FCT. Counsel submitted that when a document is duly pleaded and admitted in evidence the document becomes the best evidence of its contents and therefore speaks for itself. He relied on **Adun v. Obayuwana [2016] All FWLR (Part 819)**

1135 at 1157. Hence their exhibits A1 – A8 speaks for itself. Counsel further submitted that the Defendant's allegation that the Claimant's title documents did not emanate from the Defendant is preposterous given that an official under the Defendant issued certified true copies of the document which are in the Deeds Registry of the Defendant and the certified true copies of the documents were tendered without objection and duly admitted in evidence at the trial. Counsel urged the court to apply **section 146 of the Evidence Act** and to hold that the certified true copies tendered by the Claimant in proof of its case are genuine and also accept the contents of the said documents as representing the legal relationship between the Claimant and the Defendant with respect to the plot of land in issue, he cited **AICE Investment co. Ltd v. Fidelity Bank (2015) LPELR - 25753 (CA), p. 25**. Counsel submitted that Exhibits A1 — A8 have the effect ascribed to them by their contents and cannot be contradicted by the Defendant's bare denials. Counsel rely on the contents of Exhibit A3 as well as **Sections 5 (1) (a) and 52 of the Land Use Act**. Counsel also submitted that another legal effect of Exhibits A3 and A4 is that by virtue of the offer and acceptance of the grant there has come into existence a binding contractual relationship between the Claimant and the Defendant with respect to allocation and use of the plot of land in issue. Counsel relied on **section 8 of the Land Use Act as well as the decisions in Green Finger Agro Industry Ltd v. Yusufu [2003] 12 NWLR (Pt. 983) 488 at 508 – 511**. Counsel submitted that the

Claimant has proved on the preponderance of evidence that it is the holder of the statutory right of occupancy over Plot No. 733 within Central Business District, Abuja. On the claim for a declaration that the statutory right of occupancy granted the Claimant by the Defendant is still subsisting, counsel submitted that the same is predicated on the fact that there is no evidence of revocation of same pursuant to **sections 28 and 44 of the Land Use Act**. Counsel also submitted that as soon as the fees for processing and issuance of the said certificate of occupancy are duly paid, the Defendant comes under a legal obligation to process and issue the certificate of occupancy to the Claimant. He referred this Honourable Court to **Taiwo v. Laguda (1959) SCNLR 545**. On the claim for injunction and damages sought by the Claimant, counsel submitted that the Claimant is entitled to Peaceable enjoyment and quiet possession which are at the heart of the constitutional right to private property. He relied on **Attorney General of Bendel State v. Aideyan [1989] 4 NWLR (Part 118) 646 at 667**. Counsel urged the court to grant all the injunctive reliefs sought by the Claimant and to award general damages to the Claimant. On the second issue learned Counsel submitted that it is trite law that forgery is a very serious crime under our criminal laws. Therefore, where it is alleged by a party to a civil action, either as a foundation of a claim or defence, it must be proved beyond reasonable doubt. See **Babatola v. Adewumi (2011) LPELR - 3945 (CA), pp. 50-51**. Counsel further submitted that the Defendant bears the burden of proving its implicit

allegation of forgery beyond reasonable doubt, using documents in his records showing allocation or noallocation to the Claimant, he relied on **Jules v. Ajani (1980) 5-7 SC 96; (1980) LPELR - 3123 (SC), pp. 19-20**. Learned counsel submitted that under cross-examination the Defendant's witness stated that she came to the conclusion that the documents tendered by the Plaintiff did not emanate from the Defendant and are forgeries based on their official records. However, no form of record was tendered to enable this Honourable Court make an independent finding that the name of the Claimant is not in the records examined by the Defendant's witness. No lists of allottees of land in the FCT were produced nor tendered in evidence before the Honourable Court by the Defendant. Accordingly, counsel urged this Honourable Court to disregard the oral account of the Defendant's witness on the contents of its official records, because it is legally inadmissible as secondary evidence of the content of the said records. He cited **sections 85, 86 & 87 of the Evidence Act 2011**. Counsel urged the court to disregard the oral testimony that the name of the Claimant is not in the Defendant's records as the allottee of the plot of land in issue. This Honourable Court was denied the opportunity of examining the said records to ascertain the veracity of the conclusion reached by DWI that the documents tendered by the Claimant are forgeries based on the Defendant's records. Counsel submitted that the Defendant did not proffer any reliable evidence to substantiate the allegations of forgery. See **Famuroti v. Agbeke (1991) 6 SC 1 at 11**. Counsel urged

the court to apply **section 146 of the Evidence Act** and to hold the documents tendered and relied on by the Claimant in this case are genuine. Finally, counsel submitted that the upshot of the foregoing is that based on the totality of the evidence adduced before this Honourable Court, the Defendant was unable to prove that the documents the Claimant relied upon in proving its case are forged. Counsel submitted that based on the balance of probabilities or preponderance of evidence the Claimant has proved that it has a right of occupancy over the plot of land in issue; and that the said right of occupancy is still valid and subsisting and urged this Honourable Court to hold that the Claimant has proved that it is entitled to all the injunctive and compensatory reliefs sought in its Writ of Summons and Statement of Claim.

The Defendant in its written address filed, raised two issues for determination thus;

1. Whether land can be allocated to any person in the Federal Capital Territory without the due approval and authorization of the Defendant.
2. Whether the Claimant has proved her case to entitle it to the reliefs claimed.

On the first issue, Defendant's Counsel submitted that in view of the provisions of the FCT Act, the 1999 Constitution (as Amended) and the Land Use Act, all lands in the FCT are vested in the Federal Government of Nigeria. Counsel further urged the court to be

persuaded by the erudite views expressed by the court of Appeal Abuja in the case of **ONA Vs ATANDA (2000) 5 NWLR Pt 656 Pg 244**, particularly per Akintan J.C.A at page 268 para H, per Mustapha J.C.A at page 270 para G, per Bulkachuwa J.C.A at pages 271-272 para D, all to the effect that: a. All lands in the Federal Capital Territory are vested absolutely in the Government of the Federation. b. Any occupier of land in the Federal Capital Territory, who is not in occupation of the land by virtue of a grant issued by the Federal Government through the Minister of FCT, is in illegal occupation of same. Counsel therefore submitted that going by the above statutory provisions and judicial authorities, it is the Defendant that has Statutory authority to issue Offer of Statutory Right of Occupancy and Certificate of Occupancy in respect of any land within the FCT. Counsel urged the Court to hold that there was no due approval and authorization by the Defendant for Plot no. 733 Central Business District, Abuja to be allocated to the Claimant. Learned counsel further submitted that the DWI also stated that the Claimant never accepted the subject plot, and also that the Claimant never made any payments to the Defendant's agents whether for land application, Right of Occupancy fees or recertification fees as claimed in its Statement of Claim and urged the court to so hold. Counsel submitted that the Defendant also stated categorically that the Claimant did not at any point submit originals of the documents it claimed to have submitted to the Defendant's agents as it is not the practice of the agents of the Defendant to collect originals of title documents or other

land documents from allottees during recertification. See **Okike vs, L.P.D.C (2005) 15 NWLR (pt. 949)7471 S.C.**The Defendant also stated that its agents did not issue any acknowledgement letter to the Claimant as proof or evidence of the submissions it claims to have done.Counsel submitted that all the documents relied upon by the Claimant in proof of its case were not issued by the Defendant, including the purported file number and urged the court not to attach any weight whatsoever to the said Exhibits A1 – A8,discountenance and expunge same from its records.On the second issue, learned counsel submitted that it is a settled principle of law that he who asserts must prove. See **sections 131- 133 OF THE EVIDENCE ACT, 2011**and urged the court to hold that the Claimant has not proved her case to entitle her to the reliefs claimed. See **ARASE VS. ARASE (1981) 5 SC 33 @ 37.**Also, counsel submitted that it is trite law that cases in land matters are won on their merit,i.e. strength of the Claimant's case and not weakness or absence of Defence and the claimant has refused to prove her case. He cited**AKANNI vs ODEJIDE (2004) 9 NWLR PT 879, 579 @ 605 (F-H).** On the Claimant's claim for declaratory relief, counsel submitted that thecourt cannot grant such a relief without the party seeking for same adducing substantial evidence. Thus, it cannot be granted merely on default of Defense or even on admission and urged the court to so hold and dismiss reliefs 1, 2 and 3 of the Claimant. Counsel further submitted that the Claimant having failed to establish that there is an actual threat to infringe on

its legal right is not entitled to the perpetual injunction being sought and urged the court to so hold and dismiss reliefs 5 of the Claimant.

On the Claimant's claim for N10, 000, 000.00 (Ten Million Naira only) as general damages, counsel submitted that in a claim for damages, the burden of proof is on the Claimant, notwithstanding if the defendants tender any evidence. Therefore, in the instance case, the Claimant having not adduced any evidence to substantiate her claim for financial/monetary damages is not entitled to any damages. Counsel therefore urged the court to so hold and dismiss relief 6 of the Claimant. See **ADEKUNLE vs ROCKVIEW HOTEL LTD (2004) 1 NWLR pt 853, 161 @ 174 - 176(B - H)**. In conclusion, learned counsel submitted that the Claimant has failed to prove her case against the Defendant and therefore it is not entitled to any of the reliefs sought and urged the court to dismiss the Claimant's claims in entirety as same lacks any iota of merit.

Having listened to parties give their evidence and having read processes before me, I will adopt the issue for determination as espoused by the counsel to the Defendant.

“Whether Claimant has proved her case to entitle it to the reliefs claimed?”

Claimant in the prove of its case tendered certified true copy of the following exhibits: -

- (1) Land application form dated 9/7/1999 acknowledging the receipt of the requisite documents as listed therein which includes a fee of ₦52, 500 payable by bank draft.
- (2) Revenue collections receipt issued by the Defendant for a sum of ₦52, 500 in fulfilment of fees payable as stated in the land application form.
- (3) Offer of terms of grant/conveyance of approval dated 28/12/2000 and signed by Defendant.
- (4) Acceptance of the offer of terms and conditions as stated in No. (3) above dated 4/1/2001 addressed to the Defendant and signed by the Plaintiff.
- (5) Right of Occupancy dated 8/8/2001 addressed to the Plaintiff in respect of subject Plot with date of issue being 23/11/2000 and expiry date 22/11/2099. The said Right of occupancy states the sum of ₦10, 525,398.41 as fees payable by the Plaintiff for preparation and issuance of a Certified of Occupancy to the Plaintiff.
- (6) Revenue collector's receipt from office of Defendant No. 417108 dated 2002 for the sum of ₦10, 525,398.41 in fulfilment of No. 5 above.
- (7) Application form emanating from office of Defendant for recertification and re-issuance of Certificate of Occupancy duly filled and signed by the Plaintiff.

- (8) Abuja Geographical Information System deposit Slip of ₦10,000 paid by Plaintiff accompanying the application for recertification and stated in No. 7 above.

All exhibits listed above are certified true copies duly issued by the department of land administration FCT land registry duly stamped, signed and dated by the registrar of deeds, a certain Yakubu Ahmed, also noted on each stamp is the fees paid by Claimant in the sum of ₦1,000 for each exhibit.

Section 104 Evidence Act 2011 states: -

“Every public officer having custody of a public document which any person has a right to inspect shall give that person on demand a copy of it on payment of legal fees prescribed in that respect, together with a certificate written at the foot of such copy that it is a true copy of such document or part of it as the case may be”.

Section 104 (2) Evidence Act:-

“The certificate mentioned in subsection (1) shall be dated and subscribed by such officer with his name and his official title and shall be sealed whenever such officer is authorized by law to make use of a seal and such copies so certified shall be called certified copies”.

Section 104 (3) Evidence Act:-

“An officer who by the ordinary course of official duty is authorized to deliver such copies, shall be deemed to have the custody of such documents within the meaning of this section”.

Section 105 Evidence Act:-

“Copies of documents certified in accordance with Section 104 may be produced in proof of the contents of the public documents or part of the public documents of which they purport to be copies”.

Section 145 Evidence Act States that where the court is to presume a fact, it should regard such fact as proved unless and until it is disproved.

Section 146 (1) Evidence Act States that where the court is faced with any document purported to be a Certified True Copy duly certified by an officer authorized to so do, then the court is to presume the document to be genuine provided that such document is substantially in the form and executed in the manner directed by law.

The culminative effect of **Section 104(1),(2), 3); Section 105; Section 145 and Section 146(1)** of the evidence act is that a Certified True Copy of a document purportedly emanating from a public office as in this case, the agency/office of defendant should have certain features which includes that the beneficiary must have applied for it by paying the necessary fees and the public officer in whose custody the documents are kept has a duty of issuing beneficiary with certified

copy of the documents duly stamped, signed and dated with the name of the issuing officer. **Section 145 and 146(1)** provides the icing as it enjoins the court to presume the genuineness of Certified True Copy of such documents so far as it substantially complied with the form and executed in the manner required by law. As earlier said, all exhibits tendered by the Plaintiff are Certified True Copy from the office of the Defendant and suffice to state that all exhibits fulfil the conditions as laid out in **Section 104(1); Section 104(2); Section 104(3) Section 105; Section 145 and Section 146(10 Evidence Act.** When a Certified True Copy of a document as in this case all exhibits before the court is issued by the relevant public organization, it simply connotes that the originals of the Exhibits are in the custody of the office of the Defendant and by Defendant certifying them as true copies have simply verified its genuineness by authenticating them with its stamp and signature. Originals in this circumstance refers to the copies of document in custody of the public organization. It is not in contention that all exhibits tendered by the Plaintiff are public documents. This court is therefore enjoined by law to presume the genuineness of the exhibits as emanating from the custody of the Defendant unless and until the contrary is proven.

Defendant in its effort to prove the contrary likewise fielded a lone witness DWI who testified that the Claimant did not submit any document to the defendant nor did the Claimant ever pay any fees or levy to the Defendant. DWI further testified that defendant never issued any revenue receipt to the claimant, defendant never

communicated nor share correspondence with the Plaintiff and that as far as the records of Defendant is concerned, offer and acceptance of subject matter land to the plaintiff followed by payment of requisite fees never took place. Under cross examination of DWI:

Q: So it is from database that you found out that Claimant did not apply for land?

A: Yes, based on all available records.

Q: It is from records that you found out that Claimant was not allocated the subject matter?

A: We do not have the records of what you are talking about hence it never existed.

From the above, Defendant has stated in its defence that Claimants documents of allocation of land, payment of fees and levy, offer of land and acceptance e.t.c. does not exist in their system. With the quantum and weight of evidence furnished by the Plaintiff and having satisfied the court that Plaintiff has discharged its burden of proof, the onus of disproving facts already proved by the Claimant now falls on the Defendant. The Defendant has to discharge this onus with strict proof of same. Defendant has not been able to prove that the stamp on the Certified True Copy did not emanate from the office of Defendant; defendant did not touch on nor provide evidence whether or not the officer who signed the Certified True Copy as the registrar of deeds is/was indeed the registrar or a fake; defendant did not mention nor

state whether the signature of the registrar of deeds was genuine or not, although such evidence can only be given by the registrar of deeds himself as to whether the exhibits emanated from the office of the registrar or not but the registrar of deeds was not called as a witness. A casual denial by the DWI that the documents did not emanate from the office of the Defendant will not suffice without strict proof of same. Although in a claim for title of land the burden of proof rests on the plaintiff and never shifts, the Plaintiff must be able to discharge this burden on a preponderance of evidence as plaintiff is to succeed on the strength of his case and not on the weakness of Defendants case. **See ADEWUYI VS ODUKWU (2005) 14 NWLR (Pt. 945) Pg. 473 @ Pg 491 paragraphs C-F; per Katsina Alu JSC** (as he then was) where the learned Jurist held that in a claim for declaration of title, the Claimant is to establish his claim by preponderance of evidence. It is often enough that he has produced sufficient and satisfactory evidence in support of his claim. The burden on the claimant in a claim for title never shifts to the Defendant as the difference lies not in the standard of proof but on the burden of proof.

In the light of the above, having proved that Plaintiff paid all necessary fees to Defendant and fulfilled all conditions precedent to the issuance of a certificate of occupancy and having equally proved that originals of all exhibits are in custody of the defendant with defendant not able to proffer tangible defence to the contrary I am of the view that there exists a contractual relationship between claimant and defendant wherein defendant has made an offer same having been

accepted by the claimant and fulfilled all necessary conditions to the issuance of a certificate of occupancy over the subject matter plot. Hence Defendant is under a legal obligation to issue the Certificate of Occupancy to the Claimant.

I therefore hold that Plaintiff having discharged the burden of proof placed on it by a preponderance of credible evidence. I therefore resolve claims 1-6 as stated on the Claimants writ in favour of the claimant.

CONSEQUENTLY, IT IS HEREBY DECLARED AS FOLLOWS: -

1. That the Claimant is the holder of the Statutory Right of Occupancy dated 28th December, 2000, referenced [MFCT/LA/MISC. 17108] over Plot No. 733 within Central Business District, Abuja, measuring approximately 9.600m².
2. That the Claimant's Statutory Right of Occupancy over Plot No. 733 within Central Business District, Abuja, is valid and subsisting.
3. That the payment of the sum of Ten Million, Five Hundred and Twenty Five Thousand, Three Hundred and Ninety Eight Naira, Forty One kobo (N10,525,398.41), being the total assessed Rent, Fees, Premium, Survey Fees, Development Levy, etcetera for the issuance of Certificate of Occupancy is valid and subsisting and represents full and final payment by the Claimant for the issuance of Certificate of Occupancy over Plot No. 733 within Central Business District, Abuja.

IT IS HEREBY ORDERED AS FOLLOWS: -

4. The Defendant is hereby ordered to issue the Claimant with the Certificate of Occupancy over Plot No. 733 within Central Business District, Abuja, measuring approximately 9.600m².
5. The Defendant whether by himself, agents or privies are hereby restrained from unlawfully revoking and/or expropriating or in any manner howsoever interfering with the rights, title of the Claimant or possession of the Claimant of Plot No. 733 within Central Business District, Abuja.
6. The sum of Five Million Naira (N5,000,000.00) only is awarded as general damages against the Defendant.

Parties:Absent

Appearances:IfunanyaOranuba for the Claimant. L. A. Asuola for the Defendant

HON. JUSTICE MODUPE R. OSHO-ADEBIYI

JUDGE

1ST JULY, 2021

