

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

**THIS TUESDAY, THE 14<sup>TH</sup> DAY OF DECEMBER, 2021**

**BEFORE: HON. JUSTICE ABUBAKAR IDRIS KUTIGI – JUDGE**

**SUIT NO: CR/80/10**

**BETWEEN:**

**FEDERAL REPUBLIC OF NIGERIA.....COMPLAINANT**

**AND**

**JOHN AREH .....DEFENDANT**

**JUDGMENT**

This case really has a chequered history. The defendant was initially arraigned on a nine counts charge on 20<sup>th</sup> July, 2010. The charge was later amended to a four count charge when defendant agreed to a plea bargaining deal. When he resiled from the agreement, the prosecution filed an Amended charge containing 16 counts. The Amended 16 count charges dated 23rd March, 2017 reads as follows:

**“COUNT 1**

**That you John Areh on or about the 20<sup>th</sup> day of December 2008 in Abuja within the jurisdiction of this Honourable Court stole the certificate of Right of Occupancy on file No. BZTP/LA/BN/2006/1038 dated 22<sup>nd</sup> February, 2007 in respect of Plot no D1160 located at Mpape Abuja belonging to Ngozi Okoye and thereby committed an offence punishable under Section 287 of the Penal Code Act.**

## **COUNT 2**

**That you John Areh or about month of July 2009 at Abuja in the Abuja Judicial Division of the High Court of the Federal Capital Territory was in possession of Right of Occupancy on file No. BZTP/LA/BN/2006/1038 dated 22<sup>nd</sup> February, 2007 in respect of Plot no D1160 situate and lying at Mpape phase II Layout in the Bwari Area Council of Abuja, a document reasonably suspected of haven been stolen and thereby committed an offence contrary to Section 319 A of the Penal Code Act.**

## **COUNT 3**

**That you John Areh on or about the 30<sup>th</sup> of March 1995 at Abuja in the Abuja Judicial Division of the High Court of the Federal Capital Territory with intent to defraud made a false title document titled “Conveyance of Provisional Approval” of Abuja Municipal Area Council wherein a conveyance chairman Caretakers Approval of a customary right of occupancy was made in favour of one Chief I. Ukachi in respect of Plot No. 231 Gbazango Layout Kubwa and thereby committed an offence contrary to Section 363 of the Penal Code Act and punishable under Section 364 of the same Act.**

## **COUNT 4**

**That you John Areh on or about the 11<sup>th</sup> of December, 1997 at Abuja in the Abuja Judicial Division of the High Court of the Federal Capital Territory with intent to defraud made a false document of Abuja Municipal Area Council’s “Conveyance of Provisional Approval” wherein a conveyance of the Chairman Caretakers Committees Approval of a customary right of occupancy was made in favour of one Chief Air Vice Marshal Danladi Adamu in respect of Plot No. 243 at Nyanya Phase III and thereby committed an offence contrary to Section 363 of the Penal Code Act and punishable under Section 364 of the same Act.**

## **COUNT 5**

**That you John Areh on or about the 11<sup>th</sup> of December, 1997 at Abuja in the Abuja Judicial Division of the High Court of the Federal Capital Territory**

**with intent to defraud made a false document of Abuja Municipal Area Council's "Conveyance of Provisional Approval" wherein a conveyance of the Chairman Caretakers Committees Approval of a customary right of occupancy was made in favour of one Chief Air Voce Marshal Nsikak Enuok in respect of Plot No. 151 at Nyanya Phase III and thereby committed an offence contrary to Section 363 of the Penal Code Act and punishable under Section 364 of the same Act.**

#### **COUNT 6**

**That you John Areh on or about the 10<sup>th</sup> of March 1996 at Abuja in the Abuja Judicial Division of the High Court of the Federal Capital Territory with intent to defraud made a false document of Abuja Municipal Area Council's "Conveyance of Provisional Approval" wherein a conveyance of the Chairman Caretakers Committees Approval of a customary right of occupancy was made in favour of one Ibrahim Ahmed in respect of Plot No. 105 of Kubwa District Center and thereby committed an offence contrary to Section 363 of the Penal Code Act and punishable under Section 364 of the same Act.**

#### **COUNT 7**

**That you John Areh on or about the 30<sup>th</sup> day of March 1995 at Abuja in the Abuja Judicial Division of the High Court of the Federal Capital Territory with intent to defraud made a false document of Abuja Municipal Area Council's "Conveyance of Provisional Approval" wherein a conveyance of the Chairman Caretakers Committees Approval of a customary right of occupancy was made in favour of one Chief Udoka in respect of Plot No 251 Gbazango Layout Kubwa and thereby committed an offence contrary to Section 363 of the Penal Code Act and punishable under Section 364 of the same Act.**

#### **COUNT 8**

**That you John Areh on or about the 16<sup>th</sup> day of May 1997 at Abuja in the Abuja Judicial Division of the High Court of the Federal Capital Territory with intent to defraud forged the Departmental Receipt No 51485 of Bwari**

**Area Council and thereby committed an offence contrary to Section 363 of the Penal Code Act and punishable under Section 364 of the same Act.**

**COUNT 9**

**That you John Areh on or about the 15<sup>th</sup> day of June 1995 at Abuja in the Abuja Judicial Division of the High Court of the Federal Capital Territory with intent to defraud made a false document of Abuja Municipal Area Council's "Conveyance of Provisional Approval" wherein a conveyance of the Chairman Caretakers Committees Approval of a customary right of occupancy was made in favour of one Rev. Canon Ohaja in respect of Plot 79A Kubwa Extension II Layout and thereby committed an offence contrary to Section 363 of the Penal Code Act and punishable under Section 364 of the same Act.**

**COUNT 10**

**That you John Areh on or about the 15<sup>th</sup> day of June 1995 at Abuja in the Abuja Judicial Division of the High Court of the Federal Capital Territory with intent to defraud made a false document of Abuja Municipal Area Council's "Conveyance of Provisional Approval" wherein a conveyance of the Chairman Caretakers Committees Approval of a customary right of occupancy was made in favour of one Rev. Okey Eze in respect of Plot No 83 Kubwa Extension II Layout and thereby committed an offence contrary to Section 363 of the Penal Code Act and punishable under Section 364 of the same Act.**

**COUNT 11**

**That you John Areh on or about the 15<sup>th</sup> day of June 1995 at Abuja in the Abuja Judicial Division of the High Court of the Federal Capital Territory with intent to defraud made a false document of Abuja Municipal Area Council's "Conveyance of Provisional Approval" wherein a conveyance of the Chairman Caretakers Committees Approval of a customary right of occupancy was made in favour of one Miss Lynda Okaro in respect of Plot No 151A Kubwa Extension II Layout and thereby committed an offence contrary**

**to Section 363 of the Penal Code Act and punishable under Section 364 of the same Act.**

**COUNT 12**

**That you John Areh on or about the 15<sup>th</sup> day of June 1995 at Abuja in the Abuja Judicial Division of the High Court of the Federal Capital Territory with intent to defraud made a false document of Abuja Municipal Area Council's "Conveyance of Provisional Approval" wherein a conveyance of the Chairman Caretakers Committees Approval of a customary right of occupancy was made in favour of one Ejike Marka in respect of Plot No 134A Kubwa Extension II Layout and thereby committed an offence to Section 363 of the Penal Code Act and punishable under Section 364 of the same Act.**

**COUNT 13**

**That you John Areh on or about the 15<sup>th</sup> day of June 1995 at Abuja in the Abuja Judicial Division of the High Court of the Federal Capital Territory with intent to defraud made a false document of Abuja Municipal Area Council's "Conveyance of Provisional Approval" wherein a conveyance of the Chairman Caretakers Committees Approval of a customary right of occupancy was made in favour of one Emmanuel Olugbenga Osabumi in respect of Plot No 85A Kubwa Extension II Layout and thereby committed an offence contrary to Section 363 of the Penal Code Act and punishable under Section 364 of the same Act.**

**COUNT 14**

**That you John Areh on or about the 15<sup>th</sup> day of June 1995 at Abuja in the Abuja Judicial Division of the High Court of the Federal Capital Territory with intent to defraud made a false document of Abuja Municipal Area Council's "Conveyance of Provisional Approval" wherein a conveyance of the Chairman Caretakers Committees Approval of a customary right of occupancy was made in favour of one Patrick Awolo in respect of Plot No 106A Kubwa Extension II Layout and thereby committed an offence contrary to Section 363 of the Penal Code Act and punishable under Section 364 of the same Act.**

## COUNT 15

**That you John Areh on or about the 15<sup>th</sup> day of June 1995 at Abuja in the Abuja Judicial Division of the High Court of the Federal Capital Territory with intent to defraud made a false document of Abuja Municipal Area Council's "Conveyance of Provisional Approval" wherein a conveyance of the Chairman Caretakers Committees Approval of a customary right of occupancy was made in favour of one Fola Owolabi in respect of Plot No 88A Kubwa Extension II Layout and thereby committed an offence contrary to Section 363 of the Penal code Act and punishable under Section 364 of the same Act.**

## COUNT 16

**That you John Areh on or about the 15<sup>th</sup> day of June 1995 at Abuja in the Abuja Judicial Division of the High Court of the Federal Capital Territory with intent to defraud was found in possession of scam documents of Bwari Area Council Departmental Receipts which you knew contained false pretences and thereby committed an offence contrary to Section 6 of the Advance Fee Fraud and Other Related Offences Act 2006."**

The Defendant pleaded not guilty to the above charge.

In proof of its case, the Prosecution called 7 witnesses. It is important to state at the onset that the evidence of **PW2** was expunged since he was not available for cross-examination. The evidence of the witnesses all form part of the Record of Court. I shall therefore summarise the essence of their testimonies.

The first witness for the prosecution is **Olowu Alexander Daniel** who testified as **PW1**. He works with the Lands Department of the FCDA. That he met the Defendant during the course of investigation over landed documents that got missing. The documents are in respect of a Right of Occupancy for D160 Mpape II District of 1,200sq meters in the name of **Ngozi Okoye**. That by a Power of Attorney, it was given to him.

**PW1** stated that the Right of Occupancy (hereinafter referred to as R/O) was submitted for recertification and along the way that it was discovered missing so he

reported to the Planning Officer in-charge of Bwari Area Council by name Umar Galadima.

PW1 stated that sometime in 2009, around August, the site officer called him to inform him that someone brought the missing Right of Occupancy and that he wanted to conduct a search. The lawyer who brought the document for search was then invited to the Legal Unit of Bwari Area Council so that the issue can be investigated. They collected the document and reported the matter to EFCC and he went and gave his statement. The Right of Occupancy was then given back to him by EFCC. He stated that a Power of Attorney was donated to him by one Ishaq Mani who also gave him the Right of Occupancy.

Under cross-examination, he said that he did not buy the plot but that it was given to him by one Mr. Ishaq who is now late. That there is no deed of gift because it is not a developed plot. He stated that the Power of Attorney was not registered with AGIS. That the Right of Occupancy was given to him in February 2000, the Power of Attorney two months later and that the documents were submitted for recertification. That the Right of Occupancy and documents of title were given back to him because he is the rightful owner of the Plot.

As stated at the onset, one **David Olom Nkpe** testified as PW2. He was not available to conclude his evidence and be cross-examined. His evidence was accordingly expunged. The documentary evidence he tendered were retrieved by the prosecution.

**Mr. Tijani Usman** works with the FCTA Legal Secretariat as Chief State Counsel and testified as **PW3**. He stated that they forwarded a petition to EFCC because sometime in 2008, there was a complaint of a missing R/O. That around July 2009, their office which was in-charge of signing legal search reports intercepted the **missing Right of Occupancy** which was brought for search by a lawyer. They asked from the lawyer how he got the R/O and he said his client gave him. That his Assistant then followed the lawyer to his office where they met the client who narrated how he got the Right of Occupancy and that because everyone was explaining how he got it from one source or the other, they involved the EFCC to carry out their investigations and that was why they wrote them.

That EFCC then subsequently wrote letters to them requesting for confirmation of the genuineness of some land documents which they listed. The letters was sent to his office by the Director of lands. That on receiving the letters of EFCC, they carried out investigation on all the land documents listed and they reported back to EFCC that all the listed plot numbers do not exist on their data page. That they also conducted examinations on each land document and they confirmed that the documents do not belong to the Land Department and the signatures on the documents are unknown.

That most of the documents or Right of Occupancies sent to them are Customary allocations supposedly issued by some Area Council. He stated that there is only one Director of Lands in charge of land allocations. That formerly, Area Councils had Zonal Managers posted from FCDA who allocated land within the Area Council but with the creation of AGIS, all the allocations were harmonized and the documents brought to AGIS for capturing on the data base and for storage.

PW2 tendered in evidence the following documents as follows:

1. Letter of complaint by the FCTA dated 6<sup>th</sup> August, 2009 was admitted as **Exhibit P14**.
2. The letters dated 4<sup>th</sup> August, 2009 and 5<sup>th</sup> August, 2009 from EFCC to Director Land were admitted as **Exhibits P15 and P16**.
3. The letter by FCTA dated 13<sup>th</sup> August, 2009 to the Executive Chairman EFCC was admitted as **Exhibit P17**.

Under cross examination, he agreed he did not write **Exhibit P14**. That the plots they investigated had no policy files. That the signatures on the documents they examined were forged.

**PW4 is Gideon C. Danladi**, a student of Rufus Giwa Polytechnic. That he knows the Defendant in respect of a land at Pape. That a certain lawyer asked him whether he had a land within FCT and he told him he will look for one. He was able to get one from his neighbour, **Mr. Chuks** who gave him a photocopy of an R/O and he gave same to the lawyer, one Barrister Unekpe, who went to verify same at AGIS. They bargained with the lawyer who asked him to come with the



owner to his office and when they came, they saw operatives of EFCC and they were arrested.

That they were informed that the R/O was a missing document and he told them that he got it from one **Chuks** who said he got it from **Suleiman**. Suleiman said he got it from one **Mathew Agebe** who said he got it from **John Areh**.

PW4 was not cross-examined by counsel to the Defendant.

**Chuks Egbole** testified as **PW5**. He is a business man. He does not know Defendant. That he got a title document through one John Suleiman who told him to sell it. He sold it through Gideon Danladi and when he went to collect his money, he was arrested by EFCC operatives and when he got to their office, they told him the Right of Occupancy was stolen but he told them he knows nothing about it; that he was given by John Suleiman and when he came, he confirmed it. Again the defence counsel did not cross-examine PW5.

**John Suleiman** testified as **PW6**. He knows the Defendant when they met at the EFCC office. That he knows one **Mathew Ogebe**, a car dealer and they do business together. That he gave Mathew his car to sell and after about 3 weeks, he came with two land documents for sale. That he told him he wanted cash and not a plot of land for his car, but that he was able to convince him to take one plot or Right of Occupancy of a plot at Mpape and he gave him to sell. That when one **Chuks**, a land agent, met him and enquired whether he had land to sell, he called Mathew to bring the R/O and gave same to Chuks to sell. That a few weeks later, officials of EFCC came to his house and asked whether he knew Mathew and he said yes. He added that he cannot remember the R/O given to him. Counsel to the Defendant again chose not to cross-examine PW6.

**Mr. Abubakar Abdulkareem** testified as **PW7**. He is a detective with the EFCC attached to the advance fraud section. That he knows the Defendant. That sometime in 2008, a R/O in the name of Ngozi Okoye for a plot of land at Mpape belonging to Alexander Olowu was declared missing. That in September 2009, one Mr. Amedu Onekpe went to conduct a search on the file and because a caveat was placed on the file, he was apprehended and brought to the EFCC Office at FCDA.

That on been questioned, he said he got the R/O from one Gideon Danladi, who on been arrested said he got it from Chuks Egbule who also on been arrested said he got the R/O from John Suleiman. On the arrest of John Suleiman he said he got it from his mechanic, one Mathew. The arrest of John led to the arrest of Defendant.

That on 2nd August, 2009, the Defendant was arrested where the R/O was shown to him and his statements was taken. That because the statements were partly confessional in nature, they were taken together with the Defendant to a superior officer who endorsed them.

That after reading his statement, a search was conducted in his house and vehicle and in the course of the search, documents of Bwari Area Council, FCTA Land title documents, some filled and some empty, receipts of Bwari Area Council; Bwari Area Council official seal were recovered.

PW7 also testified that they also recovered from Defendant several letters of offers/terms of conveyance by AMAC during the search. That they also recovered from Defendant, offers of conveyance of approval of Bwari Area Council. Furthermore that they also recovered several FCTA offer of land letters.

PW7 testified that before they conducted the search, they obtained a search warrant and that at point of search, they don't enter the house subject of the search with anything and the search was conducted in the presence of Defendant. That after the search, items recovered were listed and he signed.

That their findings with respect to these documents is that on getting the documents, they further investigated at Bwari Area Council and FCTA where letters were written to them to confirm the genuineness of the documents and replies were gotten where it was confirmed that the documents are indeed **fake**.

PW7 stated that after receiving all theses replies, and going by the amount of official documents found with Defendant and knowing from his statement that he never worked with Bwari Area Council or FCDA, their investigations concluded that the Defendant was into land racketeering and they sent the matter to the Legal Department.

PW7 further testified that it was AGIS that wrote to them with respect to a missing R/O which was found with a lawyer who came to conduct a search. That when the

lawyer was arrested, he took them to his client who gave him the paper, one Suleiman. That both the lawyer and Suleiman were brought for interrogation and that Suleiman said he took his car to the mechanic to sell for him and that the Defendant gave the document in exchange for the car and that was how he got the document. He then led them to arrest Defendant and investigation then commenced.

PW7 tendered the following documents in evidence as follows:

1. Statement of Defendant dated 2<sup>nd</sup> August, 2009 was admitted as **Exhibit P1**.
2. Statement of Defendant dated 3<sup>rd</sup> August, 2009 was admitted as **Exhibit P2**.
3. Statement of Defendant dated 17<sup>th</sup> August, 2009 was admitted as **Exhibit P3**.
4. Statement of Defendant dated 3<sup>rd</sup> August, 2009 was admitted as **Exhibit P4**.
5. The additional statement of Defendant dated 3<sup>rd</sup> August, 2009 and retracted by defendant was admitted as **Exhibit P5**.
6. Six (6) Bwari Area Council Receipts (not filled or empty) were admitted as **Exhibits P6 (1-10)**.
7. Three (3) Bwari Area Council Receipts (filled) were admitted as **Exhibit P7 (1-3)**.
8. Letters of offers of conveyance or approval by AMAC (26 copies) were admitted as **Exhibits P8 (1-26)**.
9. Letters of conveyance of provisional approval by Bwari Area Council (3 in number) were admitted as **Exhibits P9 (1-3)**.
10. The offer of terms of grant/conveyance of approval from the FCTA Urban and Regional Planning Department (36 copies) were admitted as **Exhibits P10 (1-36)**.

11.The search note containing inventories of search dated 3<sup>rd</sup> August, 2009 was admitted as **Exhibit P11**.

12.The letters by Bwari Area Council dated the 25<sup>th</sup> September, 2009 and FCTA (AGIS) dated 27<sup>th</sup> August, 2009 were admitted as **Exhibits P12 (1 and 2)**.

13.The letter by FCTA Department of Land Administration dated 6<sup>th</sup> August, 2009 was admitted as **Exhibit P13**. This was the same document earlier tendered by PW2 as **Exhibit P14**.

Under cross-examination, PW7 stated that during the course of investigation, that the Defendant said he does not work with AGIS or Bwari Area Council or the Government. That when a search was conducted in his house, official documents of the two bodies were found with Defendant including stamp and official seal of Bwari Area Council. That the document stolen at AGIS was traced to Defendant without any explanation from him. Further that he confessed the documents found with him were forged. He explained that land racketeering means people who forge land documents and sell to innocent buyers for profit.

He stated that during investigations, nobody came forward to say that Defendant sold any land on the documents tendered. That the Right of Occupancy stolen bears the name **Ngozi Okoye** but that they did not meet her during the course of investigations but that the R/O bearing her name belongs to Alexander (PW1).

He stated that the names of persons who appear on the documents of title found with Defendant did not lay any complaints to them; that they only conducted investigations on the documents they found in possession of Defendant. Further that the people did not complain that their documents were missing and that he did not meet any one of them.

PW7 stated that the Defendant told him he is a businessman who deals in land related matters and that he told him he had a brother who worked with Bwari Area Council. That he told them that all these land documents belong to his late brother.

With the evidence of PW7, the Prosecution closed its case.

At the close of the prosecution's case, counsel to the defendant announced his intention to make a no case to answer submission on behalf of the defendant. The court took written arguments of learned counsel on both sides and by a considered Ruling delivered on the 17<sup>th</sup> day of July, 2019, the court dismissed the defendant's submissions on no case to answer. Thereafter, the defendant entered his defence. He **testified in person** but called no further witness(es) and also did not tender any document(s) in evidence.

The substance and or essence of his testimony is basically that the charge against him is not true. On **Counts 1** and **2**, he said that he did not steal any plot belonging to one **Ngozi Okoye**. That he bought the plot from one Abdullahi who works in FCTA. That he bought 2 plots from him for 1.2M. One plot was at **Apo S.K** and the other at **Pape D**. That when he was arrested, he took the investigators to the **Abdullahi** at Apo but that the said Abdullahi was not called for any investigations. That one **Gbanga** and one **Barrister Paul Odo** witnessed the transaction but that they are both now late and that he mentioned their names to EFCC. He stated that he had agreement over the sale with Abdullahi but that EFCC took the **documents** when a search was conducted in his house. DW1 stated that he does not know Alexander Olowu (PW1) at all and only saw him when he testified.

With respect to **Counts 3-16**, he stated that between **1995 and 2000**, he was in Ilorin, Kwara State doing his electrical business. That he did not forge any **documents**. That all the documents listed in the charge belongs to his brother who works with FCDA, Engineer **Samuel Areh** who is now late. That when he died, his wife brought the documents to his house as she wanted to relocate back to the village.

He stated that the evidence of the fact that his brother worked with **FCDA** was taken when EFCC executed the search warrant in his house. That the search note **Exhibit P11** does not reflect all that the EFCC operators took from his house. He stated that no search warrant was shown to him when the search was conducted.

DW1 agreed that **Exhibits P7 (1-3)**, the Bwari Area Council receipts, are part of the documents taken from his house and that they belong to his late brother. That his brother came to Abuja in 1988 and worked with the FCDA, Department of Town Planning and died in 2000.

DW1 said he came to Abuja in 2000, relocated back home and fully returned to Abuja in 2001. That he does not know that **Exhibit P7 (1-3)** are scanned. That they belong to his brother.

DW1 agreed that **Exhibits P8(1-21), P9(1-13), P10(1-31)** were all part of the documents taken from his house and that they belong to his brother.

The Defendant further testified that he was arrested on 2nd August, 2009 and he made a statement on that date. That the statements of 3rd August, 2009, **Exhibits P2 and also P5** were not written by him. That he signed the statement under duress. That the Bash he mentioned in the statement is one of the boys of his brother.

He stated that he did not forge any document as stated in the statement. He agreed that he made the statements in **Exhibit P1 and P3**. That he bought the land at Mpape for N1.1 Million.

Under **Cross-examination**, he stated that his late brother's wife brought the land documents when she was about relocating to the village. That the offer letters are in respect of land. That his late brother's wife did not take him to any land after she handed over the documents to him. That when the documents were given to him, he did not make any effort to locate the land. He agreed he wrote his statements **Exhibits P1, P2, P3 and P5**. That he knows one Bash who was one of the boys of his late brother.

The Defendant stated that he does not prepare Certificate of Occupancy. That the portion of his statement, in **Exhibit P2** wherein he stated that the said **Bash** makes empty letters of offer and that he makes certificates of occupancy was made under duress.

DW1 stated that he is not a staff of Bwari Area Council and does not operate a printing press. That the Receipts of Bwari Area Council was not given to him by one Raymond. That he was forced to state that Bash produces empty letters of offers.

With his evidence, the Defendant closed his case.

The Defendant chose or elected not to file a **written address** despite the ample time given to him. On the part of the complainant, the final address was filed on 2nd July, 2020. One issue was streamlined as arising for determination as follows:

**“In the light of both documentary and oral evidence adduced before this court, whether the prosecution has proved beyond reasonable doubt the guilt of the accused person.”**

I have carefully considered the charge in the matter, the evidence adduced and the written address filed by learned prosecution counsel to which I may refer to in the course of this judgment where necessary. It seems to me that the single issue formulated by the complainant has captured the crux of the issue that will be shortly determined in this Judgment.

It is not a matter of dispute that the charge the defendant is facing involves the alleged commission of crimes. Under our criminal justice system, the burden or onus is clearly on the prosecution to prove the guilt of the Defendant beyond reasonable doubt. See **Section 135 (1) of the Evidence Act**. The position of the law as provided for by **Section 135 (2) and (3) of the Evidence Act**, needs restatement to the effect that the burden of proving that any person has been guilty of a crime or wrongful act is subject to **Section 139 of the Evidence Act** on the person who assert it; and if the prosecution proves the commission of a crime beyond reasonable doubt, the burden of proving reasonable doubt is shifted on the defendant.

In shedding more light on the statutory responsibility and expectation of the prosecution to prove its case beyond reasonable doubt, the Supreme Court held in **Mufutau Bakare V The State (1987) 3 SC 1 at 32**, per Oputa JSC (now late) as follows:

**“Proof beyond reasonable doubt stems out of a compelling presumption of innocence inherent in our adversary system of criminal justice. To displace this presumption, the evidence of the prosecution must prove beyond reasonable doubt, not beyond the shadow of any doubt that the person accused is guilty of the offence charged. Absolute certainty is impossible in any human adventure including the ministrations of criminal justice.”**

See also **Lortim V. State (1997)2 N.W.L.R (pt.490)711 at 732; Okere V. The State (2001)2 N.W.L.R (pt.697)397 at 415 to 416; Emenegor V. State (2009)31 W.R.N 73; Nwaturuocha V. The State (2011)6 N.W.L.R (pt.1242)170.**

It is also well settled that in a criminal trial, the prosecution could discharge the burden placed on it by the provisions of **Sections 135 (2) and (3) of the Evidence Act**, to prove the ingredients of an offence, and invariably the guilt of an accused person beyond reasonable doubt, in any of the following well established and recognised manners, namely:

1. By the confessional statement of the Accused which passes the requirement of the law;
2. By direct evidence of eye witnesses who saw or witnesses the commission of the crime or offence; or
3. By circumstantial evidence which links the Accused person and no other person to or commission of the crime or offence charged.

See **Lori V. State (1980) 8 – 11 SC 18; Emeka V State (2011) 14 NWLR (pt.734) 668; Igabele V. State (2006) 6 NWLR (pt.975) 100.**

Being mindful of the well settled principles as espoused in the foregoing authorities, I shall proceed to examine the instant charge in the light of the evidence adduced by both the prosecution and the defendant, in order to determine whether or not the prosecution has established the charges against the defendant beyond reasonable doubt. I had at the beginning of this Judgment stated the contents of the charges. I need to repeat them. I shall now proceed to consider the counts in relation to the evidence on Record and in the process determining whether the required legal threshold of proof was met.

Now under **Count1**, the Defendant is charged under **Section 287 of the Penal Code Law** which is the punishment Section for theft. The offence of theft is however defined under **Section 286 (1)** as follows:



**“286(1) Whoever, intending to take dishonestly any movable property out of the possession of any person without that person’s consent, moves that property in order to take it is said to commit theft.”**

From the above definition, the vital elements of the offence of theft are:

1. Absence of the consent of the owner of the movable property.
2. Movement of the said property.
3. The intention to take the movable property.

Let me state quickly that theft or stealing can be established by evidence directly proving the **theft** or by evidence of facts from which any reasonable person could draw the inference that theft has taken place.

I had at the beginning of this Judgment deliberately and *in-extenso* stated the substance of the evidence on both sides of the divide.

Now with respect to count 1, I have carefully appraised the evidence on record. The evidence of PW1, Olowu Alexander Daniel is to the effect that a Right of Occupancy (R/O) for **Plot D1160 Mpape II District of 1,200 square meters** in the name of **Ngozi Okoye** which was given to him by a **Power of Attorney** got missing when it was submitted for **recertification** and that he formally reported that the Right of Occupancy (R/O) was missing at Bwari Area Council. The Power of Attorney was donated to him by one **Ishaq Mani**, former Zonal Manager of Bwari Area Council who also gave him the R/O. He stated that sometime in August 2009, a lawyer brought the Right of Occupancy for search and he was called to the Legal Unit for purposes of investigation. The Right of Occupancy (R/O) was collected and the matter reported to the EFCC. He then went to EFCC and made a statement. Mr. Olowu on the evidence never knew or met with Defendant at any time.

By the evidence of PW3 the state counsel with FCDA, the missing Right of Occupancy was retrieved from the lawyer who came to conduct the search and who led them to the person who gave him the Right of Occupancy. Here too, the Defendant did not have any dealings with the Legal Department of the FCDA. On the part of PW4, Gideon Danladi, he got the photocopy of the land at **Mpape** from his neighbour and gave to **Barrister Onekpe** who went for verification where the

Right of Occupancy was confirmed to be missing. PW4 stated that when they were arrested he told them that he got the Right of Occupancy from one **Chuks** who said he got it from one Suleiman who got it through **Mathew Ogebe** who said he got it from **Defendant**.

PW5, Chuks Egbole on his part said he got the Right of Occupancy from one John Suleiman who told him to sell it and he gave Gideon (PW4) to sell it. PW6 (John Suleiman) on his part said he got the R/O over a land at Mpape from his mechanic, one Mathew Ogebe who he gave his car to sell and who in turn gave him the R/O to enable him sell to get the proceed for his car.

PW7, the senior detective from EFCC essentially repeated the trajectory of the narrative of PW1, PW2-PW6 with respect to the history of the missing R/O and how it was traced to defendant.

Now all through the narrative of these witnesses, there is no clarity with respect to the property said to have been stolen and who it belongs to. The essence of stealing or theft is that there must be taking of a property against the will of the **owner**. Count 1 of the charge unequivocally stated that the R/O belongs to “**Ngozi Okoye**”

By the evidence of PW1, the R/O is said to be in respect of **Plot D1160 Pape II** with 1,200 square meters and in the name of Ngozi Okoye. This R/O or a copy of the R/O forms part of **Exhibits P14** and **P13** tendered by both PW3 and PW7. These Exhibits including the R/O were what was forwarded to EFCC for purposes of investigation when it was brought for search after it was declared missing. The R/O again bears the name of **Ngozi Okoye**. The Regularization of land titles and documents of FCT Area Councils Acknowledgment which forms part of the Exhibits also shows that the copy of the R/O received was that of **Ngozi Okoye**.

What is interesting here is that the Right of Occupancy which PW1 claims is his own does not **bear his name**. He said the land was given to him by one **Ishaq Mani**, former Zonal Manager of Bwari Area Council who donated a Power of Attorney. It is obvious that **Ishaq Mani** is not **Ngozi Okoye** and the **Power of Attorney** in respect of land given to PW1 was equally not tendered in evidence. Even if the Power of Attorney donated by **Ishaq Mani** to PW1 was tendered, it will be difficult to situate how he could legally donate a power over a land that

does not bear his name. It is also difficult to situate the nature of the remit of the Power of Attorney since it was not tendered. There is here no real clarity as to who even owns the plot in question to properly situate **consent** of the owner which is a critical element of the offence under **Section 286 of the Penal Code**. It flows logically from the evidence that no property was taken out of the possession of **Ngozi Okoye** who on the evidence is the owner of the R/O in question. The Power of Attorney over the plot given to PW1 in this case as stated earlier, was never **tendered**. It is only relevant to briefly say here that a Power of Attorney is not an instrument that transfers or alienates title. It is only an instrument of delegation mandating the donee to do certain things as contained in the document or Power of Attorney. Since no power of attorney was tendered, the court cannot speculate as to what powers, if any, it conferred and to who.

The bottom line is that ownership is a vital clog of situating the charge of theft or stealing. For the offence of theft to be legally availing, there must be clear evidence that the property is owned by a person or body.

In **Dr. Olu Onagoruwa V. The State (1993) 7 NWLR (pt.303) 49 at 86**, Tobi J.C.A (of blessed memory) stated thus:

**“Ownership is a most vital and indispensable essential or ingredient of the offence of stealing. It is the prop upon which all other essential ingredients stand. It is the baseline of the offence of stealing. Before an accused could be convicted of the offence of stealing property, there must be evidence that the property is owned by a person. The person could be a natural person or an artificial person. The person could be known or unknown but the property must be owned or capable of being owned.”**

The failure of the prosecution to positively establish how PW1 claimed ownership of the R/O belonging to a different person **Ngozi Okoye** which Count 1 confirms as that of **Ngozi Okoye** has served to fundamentally undermine or compromise **Count 1**. It is really difficult to situate how consent or absence of consent can be attributed to PW1 in the context of the R/O which does not belong to him but to **Ngozi Okoye**.

Let me equally point out other features that further compromised this Count. In the context of this count, all the witnesses may have referred to a certain Right of

Occupancy but none mentioned the Right of Occupancy with respect to **Plot D1160 Mpape II with 1,200sq** and in the name of **Ngozi Okoye**.

They were equally not shown any R/O to allow them confirm that it was what they dealt with or what they exchanged between themselves. It is really difficult to understand why the prosecution failed to show a copy of the Right of Occupancy to enable the witnesses identify it as what they exchanged or what they dealt with and the court again cannot speculate. No less important is that in the chain of the transmission of the Right of Occupancy, one **Mathew Ogebe** was the one who was said to have got the Right of Occupancy from the Defendant and gave to PW6, John Suleiman but the said Mathew never gave evidence and there is in the circumstances, a critical missing link in the chain of transmission of the document particularly in terms of the movement of the property and link to Defendant. The prosecution did not creditably and positively establish how the missing R/O came from Defendant as alleged.

Now it true that in his defence and his statements vide **Exhibits P1 and P3**, the Defendant said he did not steal any plot belonging to **Ngozi Okoye** but that he bought the plot from one Abdullahi. The Defendant did not equally tender the Right of Occupancy of the plot he bought and did not also tender any document to evidence sale to him of any plot by the said Abdullahi. The prosecution did not equally show or present any R/O to Defendant to confirm or situate the actual plot he claimed he bought. The Defendant may have in evidence said that operatives of EFCC took the documents of sale during the search conducted in his house but the **search note, Exhibit P11** showing inventory of what was taken from his house does not bear this out. In any event, in his statement vide **Exhibit P1**, he clearly stated that he did not sign or execute any agreement for sale with Abdullahi, so it is clear that this narrative that EFCC took the agreement is clearly an afterthought and lacks probative value.

There is equally nothing in evidence to situate whether the prosecution took steps to locate the said Abdullahi who defendant said works with AGIS to verify whether he sold any plot or R/O to Defendant and indeed whether the said Abdullahi even exists. It is true or correct that the defendant may have stated that he brought the R/O of Plot No. 1160 from one Abdullahi but without establishing

the essential or critical element of ownership, the prosecution will clearly not have proven the Count in the circumstances.

Any complaint of theft of a property distinctly delineated in **Count 1** as belonging to **Ngozi Okoye** must necessarily come from her or anybody she has alienated or transferred interest to or who by a power of attorney was mandated by her to protect the interest over the plot covered by the R/O. On the evidence as demonstrated, it is difficult to situate positive proof of the elements to sustain count 1 within the threshold of proof beyond reasonable doubt. There are clearly missing elements to properly situate ownership of the R/O; absence of consent of the owner of the movable property and as a logical corollary, any fraudulent intention to take the movable property from her. The doubts demonstrated here must necessarily enure in the favour of Defendant. The settled principle is for the prosecution to prove its case and each count beyond reasonable doubt and not for the Defendant to prove his innocence. **Count 1** fails.

On **Count 2**, the Defendant is charged under **Section 319(a) of the Penal Code**, which said section provide thus:

**“Whoever knowingly has in his possession or under his control anything which is reasonably suspected of having been stolen or unlawfully obtained and who does not give account to the satisfaction of a court of justice as to how he came by the same shall be punished with imprisonment which may extend to six months or with fine or with both.”**

From the above definition, two (2) principal ingredients can be deduced as follows:

1. That the Accused had in his possession or under his control something suspected of having been stolen or unlawfully obtained.
2. Failure of Accused to explain or give account as to how he came about the property in question.

Flowing from our consideration of count 1 and the evidence, the question that arises is this: **Did the prosecution show or situate that the Defendant had in his possession or under his control anything which is reasonably suspected to have been stolen or unlawfully obtained? If the answer is in the positive, the**

**next question arises as to whether there is reasonable explanation as to how he came about the property in question.**

In this case, the prosecution for reasons that are not clear refused to show or establish that the alleged missing Right of Occupancy which they gave to **PW 1** and who gave evidence belongs to him. As found under Count 1, there is nothing in evidence showing that any missing Right of Occupancy even belongs to the **PW1**, because the name on the alleged missing R/O is one **Ngozi Okoye**. In the absence of any evidence of transfer or alienation by the said **Ngozi** and indeed absence of any complaint from her, it is difficult to factually and legally situate theft or someone having in his possession something suspected to have been stolen or unlawfully obtained from her.

Most importantly, **PW3-PW7** may have dealt and exchanged between themselves a copy of an R/O but there was no clear evidence that it was in respect of the Right of Occupancy, Plot No D1160 in the name of **Ngozi Okoye** and most importantly, there is no established link in the trajectory of the narrative between **PW1, PW3-PW7** with Defendant. The person, **Mathew Ogebe** who said he got the document from Defendant never testified in this case.

It is true that the Defendant may have been in possession of the R/O but the principle as I understand it and as already alluded to, is that it is not for him to prove his innocence but for the prosecution to prove his guilt beyond all reasonable doubt. Indeed without the prosecution creditably establishing the R/O said to be in his possession was stolen or unlawfully obtained, the follow up question as to how he got the document will not, in my opinion, arise. **Count 2** also fails.

I shall now take **Counts 3-15** together as the offences were all charged under the same provisions of **Section 363 of the Evidence Act** and punishable under **Section 364 of the Penal Code** which provides thus:

**“Whoever commits forgery shall be punished with imprisonment for a term which may extend to fourteen years or with fine or with both.”**

It is also expedient to define the substantive offence of forgery and what it connotes. Here I shall be looking at **Sections 362 and 363 of the Penal Code** which provides thus:

**“362. A person is said to make a false document:**

- a) who dishonestly or fraudulently makes, signs, seals or executes a document or part of a document or makes any mark denoting the execution of a document with the intention of causing it to be believed that such document or part of a document was made, signed, sealed or executed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed or executed or at a time at which he knows that it was not made, signed, sealed or executed; or**
- b) who without lawful authority dishonestly or fraudulently by cancellation or otherwise alters a document in any material part thereof after it has been made or executed either by himself or by any other person whether such person be living or dead at the time of such alteration; or**
- c) who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document knowing that such person by reason of unsoundness of mind or intoxication cannot or that by reason of deception practiced upon him he does not know the contents of the document or the nature of the alteration.**

**363. Whoever makes any false document or part of a document, with intent to cause damage or injury to the public or to any person to support any claim or the title or to cause any person to part with property or to enter into any express or implied contract or with intent to commit fraud or that may be committed, commits forgery; and a false document made wholly or in part by forgery is called a forged document.”**

On these counts, it is not really in dispute vide the evidence of PW7 that during the course of their investigations over the missing R/O of **Ngozi Okoye**, they arrested Defendant on 2nd August, 2009 and took his statements and subsequently a search was conducted at the house of the Defendant and by **Exhibit P11**, the search note, an inventory was taken of what was recovered from his house and car. PW7 tendered in evidence, the following documents recovered from defendant:

1. Ten (10) Bwari Area Council Receipts (not filled or empty) was admitted as **Exhibit P6 (1-10)**.
2. Three (3) Bwari Area Council Receipts (filled) was admitted as **Exhibits P7 (1-3)**.
3. Twenty Six (26) offer of letters of conveyance of approval by AMAC was admitted as **Exhibits P8 (1-26)**.
4. Three (3) offers of conveyance of provisional approval by Bwari Area Council was admitted as **Exhibit P9 (1-3)**.
5. Thirty Six (36) offer of terms of grant/conveyance of approval from the FCTA Urban and Regional Planning Department were admitted as **Exhibits P10 (1-36)**.

It is also unchallenged evidence that on retrieving these documents, they carried out further investigations at Bwari Area Council and the FCTA by writing to these institutions to determine the authenticity and genuineness of these documents found in possession of Defendant.

It is similarly not in dispute that by the unchallenged evidence of PW3, the Director of land, Abuja Geographic Information Systems received a letter from the EFCC vide **Exhibit P16** dated 5<sup>th</sup> August, 2009 with **Ref No: CR:3000/Y/EFCC/ABJ/CMU.TB/Vol.2/31** requesting the status report of 19 parcels of land as contained in the said Exhibit. I have carefully read **Exhibit P16** vis-à-vis the extant charge and the plots subject of the various Counts. In response to the enquiry, the FCTA through AGIS vide Exhibit P17 gave a report on these various plots but it is clear that the report covers only plots covered by **Counts 9, 10, 11, 12, 13, 14** and **15**. The implication of this is that the plots covered by **Counts 3, 4, 5, 6, 7** and **8** have not been verified by the authorities or the FCTA as either genuine or a product of fraud.

In the Reply to this letter by the EFCC and after their investigations, the FCTA stated as follows:



**“...information available from our database has confirmed the letters under reference above as forged...”**

The implication of the above is that the **letters of offer** covered by **Counts 9-15** are not genuine and coming as it were from the overriding body responsible for superintending and allocation of land in the FCT, the letter must be accorded necessary weight and probative value.

By **Exhibit P12 (1)**, Bwari Area Council responded that the **“official receipts”** in question did not emanate from the council and that they are **“forged”**. The challenge here is that the Receipt subject of Count 8 has a receipt No.51485 whereas the receipts tendered by the prosecution as subject of fraud vide **Exhibit P7 (1-3)** have receipt numbers 51368, 51375 and 53661. The bottom line here is that with respect to the specific receipt subject of Count 8, no evidence was elected to support the court, notwithstanding the letter of Bwari Area Council vide Exhibit D12 (1) which made general reference to **“official receipts.”** The letter would have being availing if there is in evidence a letter by EFCC demanding for status report of official receipts in which Receipt No. 51485 subject of Count 8 was mentioned. That scenario did not play out here, unfortunately.

Similarly the **Federal Capital Territory Administration (AGIS)** vide **Exhibit P12(2)** similarly wrote EFCC indicating that the **documents** submitted from your office and the signatures on them are forged. That a careful look at the signatures will confirm the lack of consistency in them. Now the evidence of PW3 and PW7 and particularly the contents of **Exhibits P12 (1) and (2), P16 and P17** was not challenged or impugned by the Defendant. It is clear therefore that by the evidence of the authority ordinarily responsible for the production of these documents impugning the integrity of the documents as not emanating from them situates that the documents are false documents within the confines of **Section 362 (a) and 363 of the Penal Code** above.

Indeed in his evidence, the Defendant did not deny that these documents were obtained from his residence during the search. He agreed that **Exhibit P7(1-3)**, the Bwari Area Council receipts was taken from his house but that it belonged to his brother who is now late who worked with the FCDA department of Town Planning. He also agreed that **Exhibits P8(1-26), P9(1-3) and P10(1-36)** were

similarly collected from his house but that they belonged to his late brother. The Defendant stated that when his brother died in 2006, his wife brought all the documents to him as she was relocating back to the village.

Beyond this bare challenged assertion, nothing was put forward by Defendant to support the narrative that the wife of his late brother gave him these documents. On the evidence, there is no indication that she is late or is in no position to give evidence to strengthen the credibility of the narrative of Defendant. The failure of the defendant to produce her undermines the value of his narrative that she gave him the documents. Furthermore, if the Defendant's late brother is the owner of the documents as alleged, no evidence of this ownership was proffered or how he became the owner. It is difficult to accept his brother owns allocations in the names of different people. There is nothing to show that the late brother bought the plots or that they were assigned or alienated to him.

The Defendant did not also tender any evidence to show that his late brother worked with FCDA, in the Town Planning Department. Even if it is taken at face value that his late brother was even with FCDA, that does not translate to his also working at AMAC and Bwari Area Councils which are different Area Councils. It is therefore clear that the narrative of Defendant in trying to shift responsibility for the documents found in his possession clearly lacks probative value and must be discountenanced.

Furthermore, the Defendant himself agreed that he does not work with either FCDA, AMAC or Bwari Area Council so the question then is why is he in possession of such a large volume of land documents bearing different names and receipts that are not genuine as found by the authorities who issued them.

Furthermore by his statement vide **Exhibit P2**, the defendant agreed that he used one Bash to print these documents or letters of offer. This confessional or assertion is positive and unequivocal and situates clearly the dishonesty and the fraud in the making of these false documents with the clear intention of causing it to be believed that such documents were made and executed by lawful authority within the purview of **Section 362 (a)** and **363 of the Penal Code**.

On the basis or the unchallenged evidence, I hold that with respect to **Counts 9 – 15**, the prosecution has proved the offences against the defendant beyond all

reasonable doubt. I accordingly find the defendant Guilty in respect of those Counts. However with respect to **Counts 3- 8**, I am in no doubt as demonstrated that the prosecution has not met the threshold of proof as required by law. **Counts 3 – 8** thus fails.

The final **Count 16**, the defendant is charged under **Section 6 of the Advanced Fee Fraud and Other Related Offences Act 2006** for been in possession of scam documents of Bwari Area Council Receipts.

**Section 6** of the Act provides thus:

**“A person who is in possession of a document containing a false pretence which constitutes an offence under this Act commits an offence of an attempt to commit an offence under this Act if he knows or ought to know, having regard to the circumstances of the case, the document contains the false pretence.”**

**“False Pretence”** is defined under **Section 20** of the Act as follows:

**“False Pretence means a representation, whether deliberate or reckless, made by word, in writing or by conduct, of a matter of fact or law, either past or present, which representation is false in fact or law, and which the person making it knows to be false or does not believe to be true.**

**“Document”** in this Act includes letters, maps, plans, drawings, photographs and also includes any matter expressed or described upon any substance by means of letter, figures or marks or by more than one of these means, intended to be used or which may be used for the purpose of recording that matter and further includes a document transmitted through fax or telex machine or any other electronic or electrical device, a telegram and a computer printout.”

In our consideration of **Counts 3 – 15**, I had found that the defendant agreed he was in possession of the Bwari Area Council Receipts vide **Exhibit P7 (1-3)**. I had found that his explanation that it was his late brother who owns the Receipts in addition to other documents and that it was the late brother’s wife that brought it to him is completely lacking in value. It is equally true on the evidence that when these documents including the Receipts were retrieved from him, they were sent

for verification at the authority that purportedly made them. By Exhibit P12 (1), Bwari Area Council replied and stated that the said Receipts did not emanate from the counsel and that they are forged.

This evidence by the Bwari Area Council was not in any way challenged or impugned by the defendant and must be accorded weight and credibility.

In the evidence, there is no doubt that defendant clearly was in possession of documents or official Receipts containing false pretence or representation in writing which is false and which the defendant himself knows to be false or does not believe to be true particularly since he is not a staff of the council and has no business making official Receipts. I hold therefore that the prosecution has proved the offence against defendant on **Count 16** and I accordingly find him Guilty as charged.

I had at the beginning stated the burden of proof on the prosecution. I had similarly referred to the provision which states that if the prosecution proves the commission of a crime beyond reasonable doubt, the burden of proving reasonable doubt is shifted to the Accused Person. What this simply means is that where the prosecution establishes or crosses the threshold of proving its case beyond reasonable doubt, the onus then shifted to the defence to adduce evidence capable of creating some reasonable doubt in the mind of the trial judge.

The point must be emphasised to avoid any disposition to confusion that the primary onus of establishing the guilt of the Accused Persons still remains with the prosecution and this does not shift. What does shift is the secondary onus or the onus of adducing some evidence which may render the prosecutions' case improbable and therefore unlikely to be true and thereby create a reasonable doubt. See **Mufutau Bakare V. The State (supra) 1 at 32, 33-34.**

The defendant has here not put in any evidence or facts in rebuttal or elicited facts in evidence susceptible to grant of innocence in which case doubt would have been created to enure in his favour.

On the basis of the foregoing, I have come to the conclusion that the prosecution has crossed the legal threshold and proved beyond reasonable doubt all the

requisite elements in proof of all the Counts 9 – 16 of the charge proffered against defendant.

As stated earlier, with respect however to Counts 1 – 8, where the threshold of proof was not met, the said Counts must as a logical corollary fail and the defendant will be discharged of these Counts.

In the final analysis and for the avoidance of doubt, the judgment of the court is that the prosecution has succeeded in proving the charge laid against the defendant in this proceedings and accordingly I hereby find and pronounce defendant guilty as charged on all Counts 9 – 16 of the Charge. With the conviction of defendant, the matter logically ought to proceed to sentencing but since the defendant is not available, the court must have recourse to **Section 352 (4) and (5) of the Administration of Criminal Justice Act (ACJA) 2015** and reserve his sentence until the defendant is arrested or he surrenders himself to the custody of the court.

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**Hon. Justice A.I. Kutigi**

**Appearances:**

**1. S.A. Ugwegbulam, Esq., for the Prosecution.**

**2. A.G. Bello, Esq., for the Defendant.**