

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

**BEFORE HIS LORDSHIP: HON. JUSTICE MUHAMMAD S. IDRIS**

**COURT:28**

**DATE: 17<sup>th</sup> DECEMBER, 2021**

**FCT/HC/CV/493/21**

**BETWEEN:**

**1. ALH. SANNI USMAN**

**(Suing on behalf of his lawful attorney**

**– AHMED JAMIU)**

**2. MR. & MRS. OJO OLAYIDE RLIKE**



**CLAIMANTS**

**AND**

**1. ALHAJI ABUBAKAR SALIU OKITO**

**2. ABDUL**

**3. PERSON UNKNOWN**



**DEFENDANTS**

**JUDGMENT**

This is a writ filed by the Claimant against the three Defendant dated 19<sup>th</sup> February, 2021. Whereof the Claimant is seeking the Court for the reliefs of the following:-

A. A declaration that the acts and conduct of the Defendant by encroaching on any portion or part thereof of the 2<sup>nd</sup> Claimants possessory right on plot number 428 of about 1000m<sup>2</sup> in AA1 extension situate at Kuje in Kuje Area Council, Federal Capital Territory Abuja without his consent and authority is illegal and amounts to trespass.

- B. A declaration that the 2<sup>nd</sup> Claimant has possessory rights on plot no. 428 of about 1000m<sup>2</sup> in AA1 Extension situate at Kuje in Kuje Area Council Federal Capital Territory, Abuja and that all grants, approvals, consent, permits and instruments, express and implied in favour of the 2<sup>nd</sup> Claimant are valid, subsisting and unaffected by the acts of the Defendants.
- C. A declaration that the Defendants themselves, Servants, agents, representatives, privies and assigns should stop encroaching and or trespassing on the possessory rights of the 2<sup>nd</sup> Claimant on plot number 428 of about 100m<sup>2</sup> at AA1 Extension situate at Kuje in Kuje Area Council, Federal Capital Territory, Abuja.
- D. A declaration that the 2<sup>nd</sup> Claimant's possessory rights on Plot Number 428 of about 100m<sup>2</sup> at AA1 Extension situate at Kuje in Kuje Area Council, Federal Capital Territory, Abuja are valid, subsisting and unaffected by the acts of the Defendants.
- E. An order of perpetual injunction restraining the Defendants by themselves, agents, representatives, privies, assigns or whosoever, and howsoever from trespassing or further tempering with or interfering with the 2<sup>nd</sup> Claimant's possessory rights on plot number 428 of about 100m<sup>2</sup> at AA1 Extension situate at Kuje in Kuje Area Council, Federal Capital Territory, Abuja.
- F. The sum of ₦50,000,000.00 (Fifty Million Naira) only as general damages in favour of the 2<sup>nd</sup> Claimant against the defendants for trespassing on the possessory rights of the 2<sup>nd</sup> Claimant on plot Number 428 of about 1000m<sup>2</sup> at AA1 Extension situate at Kuje in Area Council, Federal capital Territory , Abuja.

G. The sum of ₦500,000.00 (Five Hundred Thousand Naira) only as cost of maintaining this action.

The Claimant in this suit filed his statement of claim which contained detail of his claim against the Defendant, equally the Claimant adopted his witness statement on oath dated the 7<sup>th</sup> September, 2021 same adopted same. I found it not necessary to reproduce both Claimant statement on oath and the witness statement on oath. This can be seen from the processes filed in this case. Having adopted his witness statement on oath same urged the Court to consider same as his evidence in this case. Based on the evidence of PW1 exhibit 1 is the conveyance approval bears the name of Alhaji Sani Usman and the receipt of regularization of land title and document of FCT Area Council acknowledgement exhibit 2, right of occupancy bears the name of the 1<sup>st</sup> Allottee Alhaji Sani same bears the name Kuje Area Council exhibit 3. Power of attorney prepared by Slukuma Chambers dated 15<sup>th</sup> May, 2006 exhibit 4 power of attorney prepared by Usman Adamu Chamber exhibit 5 receipt of ₦3,000,000.00 exhibit 6, A letter with bill of charges address to Mr. and Mrs. Ojo Olayide from Audu & Company exhibit 7, at this junction the claimants Counsel applied to close the case same applied for another date to enable the Defendant cross examine the claimant. On resumption the Defendant failed to appear in Court. Consequently the claimants Counsel applied that the right of the defendant to cross examine the witness be foreclosed Counsel cited order 32 Rule 12 of the Rules of this Court Same also cited the case of **MOHAMMED VS KBELARI (2001) VOL 6 NWLR (pt.770)**. See also **BABORI DENI VS PAPARICE**

***(2017) LPELR 45213 at page 11.*** In the circumstance of this case based on the application the right of the Defendant to cross examine the witness was foreclosed. Similarly on the 5<sup>th</sup> October 2021 Claimants Counsel applied to amend the originating processes on the face of the writ the 2<sup>nd</sup> Claimant his name as Mr. and Mrs. Ojo Olayide Rilike to now read and named Ojo Rilike as the 2<sup>nd</sup> Claimant and Mrs. Olayide Rilike as the 3<sup>rd</sup> Claimant this application was brought in line with order 25 of the Rules of the Court. Accordingly based on this application same is hereby granted. Consequently the matter was adjourned to the 18<sup>th</sup> October, 2021 for defence. On resumption as usual the Defendant was still not in Court to enter their defence. Accordingly the claimants Counsel applied pursuant to order 32 Rule 3 and Rule 12(2) of the rules Court for the right of the Defendant to enter their defence be foreclosed. Same was accordingly granted by this Court. Counsel to the Claimant applied for a date to file their written address and the matter was adjourned to 4<sup>th</sup> November, 2021 for the filing of the final written address. This was granted also. The final address was dated 29<sup>th</sup> October, 2021 and filed on the 1<sup>st</sup> November, 2021. I have consequently reproduced in part the evidence of the Claimant in this case as well as all the exhibit tendered in the cause of the trial. It should be noted right from the inception of this case the Defendants were served with the processes filed by the Claimant by way of substituted means. This was done by the exparte application filed by the Claimant Counsel. Accordingly the said application was granted by this Court. It should also be noted that right from the inception of this case the Defendant did not

filed their statement of defence whatsoever. Despite the facts that they were duly aware based on the order granted by this Court. "Additionally throughout this trial the Defendants were duly served with hearing notices precisely 9 times but still same decided not to appear and defend the claim brought against them. This can be seen that the Defendant have no defence. It is imperative that there should be an end to every litigation. The Claimant to my opinion has proved his case based on balance of probability that is the Claimants. The issue to be considered as per the written address filed is whether from the pleadings and evidence before the Court the Plaintiff has proved his case to entitle to the reliefs sought in this suit "?

The 2<sup>nd</sup> and 3<sup>rd</sup> Claimant are by this suit claiming possessory right over plot No. 428 of about 1000m<sup>2</sup> at AA1 extension situate at Kuje in Kuje Area Council FCT Abuja granted to the 1<sup>st</sup> Claimant, which was donated to the lawful attorney of the 1<sup>st</sup> Claimant vide exhibit 4 and subsequently to the 2<sup>nd</sup> and 3<sup>rd</sup> Claimants vide exhibit 5. The said land is the property upon which the 1<sup>st</sup> -3<sup>rd</sup> Defendant now lay claim to.

The law is settled that in an action for declaration of title to land, the burden of proof is on the claimant to prove his entitlement to the declaratory relief by adducing credible evidence in this regard. This burden remain on the Claimant even in the absence of a defence by the Defendant see ***NRUAMAL & ORS VS EBUZOEM & ORS (2013) LPELR 19771 (SC) PP17-18 paragraphs F-E. See also MOHAMMED VS WAMMAIKO & 2ORS (2017) LPELR 42667 (SC) page 24 paragraphs A-B.***

Held as follows, generally judgments are not granted on admission in default of defence see **OKOYA VS SATILLI (1990) 2 NWLR (pt131) 172 NTUKUSVS NPA (2007) 13 NWLR (pt 1050) 392, ADDAL VS UBANDAWALIA (2015) 7 NWLR (pt 1458) 325**. It follows in this case therefore that although the 1,2 and 3 Defendant's by their failure to defend the claim of the Claimant have admitted the claim. Yet the claimant must succeed on the strength of his case and not on the admission of the Defendants. See **AJIBOYE VS ISHOLA (2006) LPELR 301 SC P 27 paragraphs A-G**. Settled the position of the law on proof of title to law it held as follows:-

*"It has been settled by long line of authorities from this Court that ownership or title to land may be proved by any of these five methods viz:-*

- (a) By traditional evidence*
- (b) By producing of documents of title which are duly authenticated.*
- (c) By act of selling, leasing, renting out all or part of the land for farming on it or on a portion of it.*
- (d) By act of long possession and enjoyment of the land and*
- (e) By proof of land possession of connected or 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."*

Where evidence before the Court is unchallenged, it is the duty of that Court to accept and act on it as it constitute sufficient proof of a party's claim in proper cases. See **A.G OF THE FEDERATION VS ALFORIN LTD (1996) 12 SCNJ 236**. On

the issues of general damages "it is trite law that every entry unlawfully and unauthorized entry into land in possession of another is actionable and for which damages would be awarded. Such damages are awarded as may compensate for the legal injury which a Defendant has committed on the property of the claimant see **ATTORNEY GENERAL BENDEL STATE VS AIDEYA (1986) 4 NWLR (pt. 188) 646, IBRAHIM VS MOHAMMED (1996) 3 NWLR (pt.437) 457, AJAYI VS JOLAOSHO (2004) 2 NWLR (pt.356)89**. Thus a successful action in invasion of land per-se attracts damages and even where no damages or loss is caused, the claimant is entitle to - minimal damages see **SPRING BANK PLC VS ADEKULE (2011) I NWLR (pt.1229) 581 ADEGUO VS ADEGUA (2009) 13 NWLR (pt. 1159) 445**. From the totality of the evidence adduced above and the exhibits tendered I can safely determined that the Claimant have established their claims against the three Defendant's consequently the reliefs sought by the Claimant especially relief A,b,C,D and E are hereby granted while in respect of the issue of damages. I hereby ordered that the Defendants shall pay the sum of ₦100, 000.00 as general damages. No order as to cost of filing this action.

-----  
**HON. JUSTICE M.S IDRIS**  
**(Presiding Judge)**  
**17/12/2021**