

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

BEFORE HIS LORDSHIP HON. JUSTICE J.E OBANOR

HOLDEN AT JABI

COURT NUMBER : HIGH COURT NO. 29

CASE NUMBER : SUIT NO: CV/582/2021

DATE: : 17th January 2022

BETWEEN:

**INCORPORATED TRUSTEES OF
LA VILLA DIAMANTE ESTATE
RESIDENTS ASSOCIATION**

} CLAIMANT

AND

KYC INTER PROJECT LIMITED DEFENDANT

JUDGMENT

The Claimant vide Originating Summons approach this Honourable Court and sought for the following reliefs:-

1. A Declaration that the Defendant cannot unilaterally alter the content of the letters of allocation issued and Powers of Attorney donated to the Members of the Claimant in respect of various plots of lands at the KYC La Villa Diamante City, Sabon Lugbe East Layout, Airport Road, Abuja, without the consent of the Members of the Claimant first sought and obtained.
2. A Declaration that the Defendant cannot lawfully interfere with the quiet enjoyment of ownership and possessory Rights of Members of the Claimant in the allocated plots within the KYC La Villa Diamante City, particularly for failure to comply with new and

unilaterally imposed terms of contract not hitherto contained in the letters of allocation and Powers of Attorney issued to the Members of the Claimant.

3. A Declaration that it is illegal for the Defendant to Incorporate KAPITAL YES COMPANY HOMES OWNERS Association and compel any person or group of persons including the Members of the Claimant to be members of same by making such membership to be a pre-condition to the enjoyment of ownership and possessory Rights of the said members in various plots of land already allocated to the said members of the Claimant in the KYC La Villa Diamante City.
4. An Order of Injunction restraining the Defendant its agent, privies and assigns howsoever called to desist from interfering with the ownership and possessory Rights of the members of the Claimant with respect to plots of land already allocated to them and for

which Powers of Attorney have been donated and consideration furnished and duly acknowledged by the Defendant.

5. An Order directing the Defendant to forthwith execute in favour of all the members of the Claimant, who have complied with the terms of the letters of allocation and the Powers of Attorney donated, Deeds of Assignment and such other necessary documents of title in respect of such plots allocated to each of them in the KYC La Villa Diamante City.
6. Cost against the Defendant in the sum of N10,000,000 (Ten Million Naira) only for breach of contract.
7. Such further or Other Orders as the Honourable Court may deem fit to make in the circumstance of this suit.

The Claimant raised the following questions for determination to wit;

- 1. Whether the Defendant can unilaterally alter the content of the allocation papers given and the Powers of Attorney donated to Members of the Claimant with respect to plots contained in the KYC La Villa Diamante City without their consent sought, had or obtained.*
- 2. Whether the Defendant can lawfully interfere with the quiet enjoyment of ownership and possessory Rights of the Members of the Claimant in respect of allocated properties in the KYC La Villa Diamante City, for which consideration have been fully furnished, on the ground of non-compliance with the new and unilaterally imposed terms of contract freshly introduced by the Defendant without the consent of the Members of the Claimant.*

3. *Whether the Defendant can without the consent of the Members of the Claimant lawfully proceed to form and incorporate the Kapital Yes Company Home Owners Association and also seek to compel all the members of the Claimant to be members of the Association by making such membership a precondition for the enjoyment of ownership and possessory Rights of the members of the Claimant over plots purchased in the KYC La Villa Diamante City.*

4. *Whether by virtue of the Issuance of Letters of Allocation, donation of Powers of Attorney to and receipt of consideration from the members of the Claimant for allocation of various plots of land in the KYC La Villa Diamante City, the Defendant is not under a lawful duty to execute Deeds of Assignment against each allocated plot of land in*

favour of the members of the Claimant over the plots of land so allocated.

In support of the Originating Summons is an affidavit of 25 paragraphs duly deposed to by one Ogundare Adeola Oluwaseun, a member of the Claimant and a subscriber to a plot in the Estate known as KYCLA Villa Diamante City, Sabon Lugbe Estate Layout, Lugbe Airport Road, Abuja.

It is the deposition of the Claimant that, its association is duly registered with Cooperate Affairs Commission (CAC) vide Exhibit “B”.

That the Defendant is the original Allottee of all that property described as KYCLA Villa Diamante City F.C.D.A Street, Sabon Lugbe East Layout, Abuja. Which members of the Claimant entered into contracts with for the purchase of Plots of lands in the Estate, copies of Power of Attorney were annexed as Exhibit “E & F1-F6”.

It is further the case of the Claimant that by virtue of Exhibit “E” and Exhibit “F1 – F6”, the Defendant shall build the House up to Damp Proof Course (DPC) Level and hand over same to the subscriber, upon payment of DPC fee by the subscriber.

That the subscriber shall pay the sum of N3,000,000 (Three Million Naira) only to the Developer on Instalments as Infrastructure Fee and Development fee of N630,000.00 (Six hundred and thirty thousand Naira) only.

Claimant stated that the Defendants violated the terms on the letter of allocation and imposed N7,500,000.00 (Seven Million Five Hundred Thousand Naira) against N3,000,000 (Three Million Naira) mandatory borehole fee of N2,000,000 (Two Million Naira) and perimeter fee of N500,000.00 (Five Hundred Thousand Naira only) mandatory purchase of blocks from the Defendant at the rate of N260,00 (Two Hundred and Sixty Naira only) per

block and supervising fee of N30,000.00 (Thirty Thousand Naira only)

That the Defendant also went ahead without consultation with members of the Claimant to register an association known as KAPITAL YES COMPANY HOMES OWNERS Association, and that this action of the Defendant made it impossible for members of the Claimant to take possession of their respective allocation.

A written address was filed wherein the following issues were formulated for determination to wit;

- 1. Whether the Defendant is bound by the letters of allocation issued to members of the Claimant and also the Powers of Attorney donated and if answered in the affirmative whether the Defendant can lawfully alter the contents of the said documents unilaterally without the consent of the said members of the Claimant Association.***

2. *Whether having regard to the letters of allocation and the Powers of Attorney donated to the members of the Claimant, the Defendant is not liable to an Order for specific performance to execute Deeds of Assignment in favour of each members of the Claimant Association.*
3. *Whether the Defendant can lawfully compel the members of the Claimant to belong to the KYC Homes Owners Association and making such members a condition precedent to the enjoyment of ownership and possessory rights by members of the Claimant Association.*
4. *Whether the Defendant and her agents are not liable to an Order of injunction restraining them from interfering with the legal rights in and quiet enjoyment of properties purchases by the members of the Claimant Association.*

On issue one, *whether the Defendant is bound by the letters of allocation issued to members of the Claimant and also the Powers of Attorney donated and if answered in the affirmative whether the Defendant can lawfully after the contents of the said documents unilaterally without the consent of the said members of the Claimant Association.*

Learned counsel argued that where parties enter into an agreement in writing, they are bound by the terms thereof. This Court, and indeed any other Court will not allow anything to be read into such agreement, terms on which the parties were not in agreement or were not ad-idem.

LARMIE VS. DATA PROCESSING MAINTANANCE & SERVICES LTD. (2005) LPELR 1756 (SC).

Learned counsel submit further that the Powers of Attorney which assign the Defendant's interest to members of the Claimant stated clearly the amount to be paid by the Claimant and any other amount is against the

law. As parties to a contract cannot unilaterally include and impose terms and conditions that were not mutually agreed upon by the parties.

HENKEL CHEMICAL (NIG) LTD. VS A.G FERRERRO & CO. (2003) 4 NWLR (Pt. 810) 306, Page 321

On issue two, *whether having regard to the letters of allocation and the Powers of Attorney donated to the members of the Claimant, the Defendant is not liable to an Order for specific performance to execute Deeds of Assignment in favour of each members of the Claimant Association.*

Learned counsel submits that a party seeking specific performance of a contract must show that he has performed all conditions precedent to the performance of the contract or that he is ready and willing to perform all the terms which he ought to have performed.

ANAEZE VS. ANYASO (1993) LPELR 480 (SC).

Counsel submits that from the affidavit and document before the Court, it is obvious that the Claimant has demonstrated enough that it is entitle to Judgment of this Honourable Court.

On issue three, *whether the Defendant can lawfully compel the members of the Claimant to belong to the KYC Homes Owners Association and making such members a condition precedent to the enjoyment of ownership and possessory rights by members of the Claimant Association.*

Counsel submit that the Defendant cannot use her position in the Estate as the Developer and compel the claimant's member under any KAPITAL YES COMPANY HOMES OWNERS Association against their wish as this is contrary to section 40 of the Constitution of the Federal Republic of Nigeria 1999.

AGBAI VS OKOGBUE (1991) 7 NWLR (PT204) 391.

On issue four, whether *the Defendant and her agents are not liable to an Order of injunction restraining them from interfering with the Legal rights in and quiet enjoyment of properties purchases by the members of the Claimant Association.*

It is the submission of the claimant that the court will only protect a claimant who has established a legal right to be protected and the affidavit of the claimant particularly paragraph 8-10 clearly show that the claimant has legal interest which the law can protect.

Doma vs Ogin (1997) 1 NWLR (pt. 481) 322 at 327 was cited by counsel.

Counsel argued further that members of the claimant are being prevented from gaining access to their houses and the others who are still building thin properties are being prevented for continuing work on their site by the

Defendants. And that it is trite law that injunction is to mitigate the suffering of the party applying for it so that he will not be in unnecessary hardship.

FHA vs ARO (1991) 1 NWLR (pt. 160) 405.

Court was finally urged to grants all the reliefs sought by the claimant.

Upon service, the Defendant filed counter affidavit and notice of preliminary objection.

In the notice of preliminary objection, it is the contention of the Defendant that the deposition in the affidavit in support of the originating summons contain extraneous matter contrary to section 115 of the Evidence Act, 2011 and that by the decision of the Supreme Court in ***BUHARI VS I.N.E.C (2000) 36 NSSQR 475***, such offending paragraphs of the affidavit had drawn even the non-offending paragraphs of the said affidavit.

Counsel then sought for the following in the notice of preliminary objection:

1. An order of the court striking out this suit for want of competence.
2. An order of court awarding costs against the claimant.

Defendant filed a 4 paragraphs counter affidavit to the originating summons duly deposed to by one Yusuf Mohammed Jimoh, a litigation secretary in the law firm of the solicitors to the Defendant.

The case of the Defendant as distilled from its affidavit is that the Defendant does not have a contract of allocation of land to the claimant as a person and no identical letters of allocation and/or power of Attorney to each of the allottee.

That the claimant are yet to pay all levies as provided for in the letter of allocation and each client is treated in

accordance with the peculiar situation in each of the contracts entered into.

Defendant avers that it does not have contract with the claimant or its members or any other person forbidden it from agreeing in a meeting with clients on the revision of charges spelt out on allocation letters.

That the Defendant does not form an association for any persons in the estate let alone forcing its leadership on any person.

That large members of people have never consented to this suit and have never permitted the claimant to represent them.

In line with law and procedure, a written address was filed wherein Learned Counsel argued first on the issue of Notice of preliminary objection and the main suit.

On the preliminary objection, Learned Counsel cite section 115 (1) of the Evidence Act which provides.

115 (1) Every affidavit used in the court shall contain only a statement of facts and circumstances to which the witness deposes either of his own personal knowledge or from information which he believes to be true.

Learned Counsel submit that paragraph 21 of the affidavit in support of the originating summons is a conclusion and or argument whereas paragraph 23, and 24 is an argument and therefore same should be struck out.

On the main originating summon, Learned Counsel formulated the following issues for determination:

1. Whether the power of attorney that is annexed as exhibits E & F6 to the affidavit in support of the originating summons are admissible in evidence and whether if they are admissible in evidence they can form a basis for the invocation of the originating summons to interpret.

- 2. Whether the deposition in paragraph 14, 15, 16, 17, 18, 19, 20 and 21 of the affidavit in support of the originating summons do not project controversial factional issues that go beyond resolution by means of the interpretation of document as sought by the claimant.*
- 3. Whether by the nature of the relief number 3 and 5 sought on the originating summons and question 3 raised for the determination of the court, there is no controversy that needs actual profits that take the grant of the reliefs beyond the scope of an action initiated by originating summons.*
- 4. Whether the claimant is not suing as an agent of people that claim to be agents thereby calling for the application of the principle of delegation non-protest delegate.*
- 5. Whether by the affidavit evidence before the court the claimant would be entitled to the reliefs sought when*

the action is meant to be a representative suit but only two persons appear by the originating process to have consented to the action.

Arguing on issue one, *whether the power of attorney that is exhibits E & F6 annexed to the affidavit in support of the originating summons are admissible in evidence and whether if they are admissible in evidence they can form a basis for the invocation of the originating summons to interpret.*

Learned Counsel submit that Exhibit “E & F1-F6” are instruments within the meaning of word instrument as contain in section 2 of the Land Registration Act and must be registered as same cannot be pleaded or given in evidence in court as affecting a land unless same has been registered.

OVIANZI VS AG OF RIVERS STATE (2017) 70 NSC QR (PT 3) 1131 AT 1182 was cited by counsel in support of the preposition.

Learned Counsel argued issues two and three together, that is, *whether the deposition in paragraph 14, 15, 16, 17, 18, 19, 20 and 21 of the affidavit in support of the originating summons do not project controversial factional issues that go beyond resolution by means of the interpretation of document as sought by the claimant.*

On issue three, *whether by the nature of the relief number 3 and 5 sought on the originating summons and question 3 raised for the determination of the Court, there is no controversy that needs actual profits that take the grant of the reliefs beyond the scope of an action initiated by originating summons.*

Learned Counsel submit that the power of Attorney annexed by the Claimant were not registered in line with the law and same have no Judicial value.

Counsel contended that the Claimant advanced controversial factual situation in paragraph 15 that the

Defendant has registered an association by name KAPITAL YES COMPANY HOME OWNERS ASSOCIATION which the Defendant handpicked cronies as Trustee and Membership and that these facts cannot be resolved by the interpretation of any document before this Court and therefore the Court should dismiss this case.

On the issue four, *whether the claimant is not suing as an agent of people that claim to be agents thereby calling for the application of the principle of delegation non – protest delegate.*

Learned Counsel submit that if Exhibit “E and F1” are admissible in evidence, both Ogundare Adeole Oluwaseun and Stephen Daniel Chinoko are agents of the Defendant and cannot further delegate their power in respect of the plots to the claimant in this case to institute an action *Ibrahim vs Obaje (2018) AKF WLRR (pt. 937) 1682.*

On issue five, *whether by the affidavit evidence before the Court the claimant would be entitled to the reliefs sought when the action is meant to be a representative suit but only two persons appear by the originating process to have consented to the action.*

Learned Counsel submit that there is no evidence before the Court that any other person other than Ogundare Adeola Oluwaseun and Stephen Daniel Chinoko has any contract with the Defendant and yet all the reliefs sought on the originating summons are for members of Claimant who are more than two persons.

Court was finally urged to dismiss the action of the Plaintiff.

Learned Counsel for the Claimant upon service, filed a better and further affidavit wherein the deponent stated that the Defendant has continued to impose arbitrary fees for infrastructure and has refused to sit down with the

members of the Claimant to discuss how the fees were arrived at.

That the KAPITAL YES COMPANY HOME OWNER ASSOCIATION was incorporated by the Defendant with self-appointed Board of Trustees including Chika Nwankwo vide Exhibit “K”.

A written address was filed wherein Learned Counsel submit that Exhibit “E & F” is to show transaction between the claimant and Defendant and Not title. *Aomo LTD vs Martins (2017) LPELR 43004 (CA)*.

Court was urged to grant all the reliefs sought.

COURT:

I have gone through the affidavit evidence of the Plaintiff in support of the originating summons cum Exhibits annexed therein on one hand, and counter affidavit filed by the Plaintiff and the exhibits therein on the other hand. I have equally consider the lone ground of preliminary

objection raised by the Defendant which is anchored on section 115 of Evidence Act, 2011.

I shall therefore, consider the Notice of preliminary objection before delving into the substantive case

It is instructive to state from the onset that any affidavit used in Court, the law requires that it shall contain only statement of facts and circumstances derived from the personal knowledge of the Deponent or from information which he believes to be true, and shall not contain extraneous matter by way of objection, or prayer or legal argument or conclusion.

BAMAYI VS. STATE (2001)6 NSCQR (Part 1) 156 at 172.

For clarity, Section 115 of the Evidence Act, 2011 is hereby reproduce;

Section 115(1)

“Every affidavit used in the Court shall contain only a statement of facts and circumstances to which the witness deposes, either of his own personal knowledge or from information which he believes to be true.

2. An affidavit shall not contain extraneous matter, by way of objection, prayer, or legal argument or conclusion”

The complaint of the Defendant’s Counsel is that paragraphs 21, 23 and 24 of the affidavit in support of the Originating Summons offends the above provision of Evidence Act, 2011 and therefore Court should dismiss the case on that ground.

For avoidance of doubt, the said paragraphs are hereby reproduced;

Paragraph 21

“I know that damages alone cannot adequately compensate members of the Claimant who are aggrieved by the acts of the Defendant”.

Paragraph 23

“The balance of convenience is in favour of the Claimant rather than the Defendant”.

Paragraph 24

“Unless this Honourable Court intervenes, the Defendant will continue to breach the terms of the letter of offer/allocation and Power of Attorney donated to the members of the Claimant by the Defendant”

A perusal of the above, will reveal that the paragraphs are mere facts against the contention of the learned counsel for the defendant.

From the above, it is obvious that the depositions are facts within the knowledge of the Deponent and are neither

arguments, or conclusions as argued by the Learned Counsel for the Defendant.

Having come to the conclusion that the deposition in paragraphs 21, 23 and 24 does not offend Section 115 of the Evidence Act, I shall dismiss the Notice of Preliminary Objection for lacking in merit, consequently, same is hereby dismissed.

I shall now beam my searchlight on the substantive application to ascertain whether there is merit in the case worth judicial pronouncement.

The gamut of the Plaintiff's case is centred on letter of Allocation/Offer Letter for KYC La Villa Diamante City and the Power of Attorney executed between the parties and whether, by virtue of the contractual relationship as stipulated in the above documents, the Defendant can alter the content of the agreement or interfere with the quiet enjoyment of ownership and possessory Right of the members of the Plaintiff.

It must be borne in mind that the Plaintiff's reliefs 1, 2 and 3 are declaratory in nature thereby predicating the success of other reliefs on its success.

A party who seeks Judgment in his favour is required by Law to produce Evidence to support his pleadings. It is an established position of Law that in the cases where declaratory reliefs are claimed as in the present case, the Plaintiff must satisfy the Court by Cogent and reliable proof of evidence in support of his claim.

AGBAJE VS. FASHOLA & ORS (2008) 6 NWLR (Pt. 1082).

Indeed, judicial pronouncements are ad-idem that declaratory reliefs are never granted based on admission or on default of filing defence.

Where the Court is called upon to make a declaration of a right, it is incumbent on the party claiming to be entitled

to the said declaration to satisfy the Court by evidence and not the admission in pleadings.

SANUSI VS. IGBE & ORS (2011) LPELR 4412.

The Plaintiff in an attempt to prove its case annexed the following documents to the originating summons to wit;

1. Exhibit “A” Membership Form of one Adeola Ogundare
2. Certificate of Incorporation of the Plaintiff.
3. Incorporated Trustees application form of the Plaintiff
4. Allocation/Offer Letter from the Defendant
5. Power of Attorney
6. Allocation Letter
7. Search Report
8. Basic Construction Requirements and Cost

9. Application Form
10. Power of Attorney
- 11 Notice and
12. Solicitors Letter

Indeed, a trial Court has the onerous duty of considering all documents placed before it in the interest of justice. It has a duty to closely examine documentary evidence placed before it in the course of its evaluation and comment or act on it. Documents tendered before a trial Court are meant for scrutiny or examination and evaluation.

MOHAMMED VS. ABDULKADIR (2008) 4 NWLR (Pt. 1076) 11 at Page 156 – 157.

Having perused through the documents annexed to the affidavit of the parties, in the opinion of the Court, the following issues arises for determination;

1. *Whether the Power of Attorney are admissible in evidence;*
2. *Whether by the nature of reliefs sought, there is controversy that needs factual proof that takes the grant of this relief beyond the scope of an action initiated by originating summons.*
3. *Whether the Defendant can Lawfully compel the members of the Claimant to belong to the KYC Homes Owners Association.*
4. *Whether the Defendant is bound by the letters of allocation issued to members of the Claimant and also the Powers of Attorney donated.*

I shall therefore consider the above issues afore-formulated in the interest of justice and fair play.

On issue one, *whether the Power of Attorney are admissible in evidence;*

It is the argument of the Defendant that Exhibits “E and F1” annexed to the Originating Summons are instruments within the meaning of the word ‘instrument’ in Section 2 of the Land Registration Act of the FCT Abuja, Cap 546 LFN and therefore inadmissible.

Indeed, Section 2 of the laws above defines

“Instrument” as a document affecting land whereby one party confers, transfers, limits, charges or extinguishes in favour of another party any right or title to, or interest in land, and includes a certificate of purchase and Power of Attorney under which an instrument may be executed, but does not include a will”

The law provides that no instrument shall be pleaded or given in evidence in a Court as affecting a land unless same has been registered in the proper office as specified in Section 30 of the Act.

From the definition of the word ‘instrument’ above, it is obvious that Exhibit “E & F” before the Court is to show transaction between the parties and not contest for title.

Indeed, title is not in contention in the instant suit as wrongly argued by the Learned Counsel for the Defendant.

The Supreme Court faced with similar situation in the case of *AGWUNEDU VS. ONWUMERE (1994) 1 SCNJ 106*, held as thus;

“It is clear that Exhibit “A1” and “A2” were not tendered to establish a transaction or as proof of payment of purchase of the property in issue, showing an equitable interest, in which case they could be admitted for that purpose”.

From the above, therefore, I shall resolve issue one in favour of the Claimant, I so hold.

On issue two, *whether by the nature of reliefs sought, there is controversy that needs factual proof that take the grant of this relief beyond the scope of an action initiated by originating summons.*

The law is settled on when and how Originating Summons can be employed. Where the issue involved is one of the construction of a Written Law, instrument, deed or will or other documents or some question of law is involved or where there is unlikely to be any substantial dispute on issues of facts between the parties, originating summons can be employed.

KEYAMO VS. HOUSE OF ASSEMBLY (2002) 12 SC (Pt. 1) 190.

Indeed, where there is a serious dispute as to facts, a writ of summon must be issued. In other words, where it is evidenced from the affidavit evidence before the Court that there would be an air of friction in the proceedings, an originating summons is no longer appropriate.

***ZAKIRAI VS. MOHAMMED (2017) 70 NSCQU (Pt. 2)
833 at 892.***

It is the argument of the Defendant that the claims of the Plaintiff that the Defendant has registered an association by name **KAPITAL YES COMPANY HOMES OWNERS ASSOCIATION** wherein cronies of the Defendant were handpicked and made membership of the Association compulsory for the Claimant. The Defendant denied the allegation and urged the Claimant to show evidence of such registration.

In response, the Claimant filed a further and better affidavit wherein a computer printout of the document shows Registration of **KAPITAL YES COMPANY HOMES OWNERS ASSOCIATION** was annexed.

From the revealing fact above, it is obvious that **KAPITAL YES COMPANY HOMES OWNERS ASSOCIATION** has been incorporated by the Defendant. I so hold.

As stated earlier in the preceding part of this Judgment, originating summons is a procedure where evidence in the main is by way of document and there is no serious dispute as to their existence in the dealings of the parties to the suit.

It is my Judgment that the action as constituted is properly filed under the originating summons.

I therefore resolve issue two in favour of the Claimant. I so hold.

On issue three, *whether the Defendant can Lawfully compel the members of the Claimant to belong to the KYC Homes Owners Association.*

Indeed, the grievance of the Claimant is the fact that the Defendant who has registered an association known as **KAPITAL YES COMPANY HOMES OWNERS ASSOCIATION** handpicked his cronies as trustee and made membership of the Association compulsory and a

condition precedent for the Claimant's members and subscribers who were allocated plots of land in the Estate in issue to move and take possession or assert ownership of their respective plots.

The Court over the years have frowned at imposition of association membership on citizens under any circumstances.

AGBAI VS. OKOGBUE (1991) 7 NWLR (Pt. 204) 391.

The Right under Section 40 of the 1999 Constitution, the right to assemble and freely associate with others, work both ways. The others you want to associate with must be prepared to associate with you.

EMEKA VS. OKOROAFOR & ORS (2017) LPELR 417 381 SC.

It is my Judgment that, any acts or attempt to coercing the Claimant is unconstitutional.

On issue four, *whether the Defendant is bound by the letters of allocation issued to members of the Claimant and also the Powers of Attorney donated.*

The law is that, where parties enter into an agreement in writing, they are bound by the terms thereof.

This Court, and indeed any other Court will not allow anything to be read into such agreement, terms on which the parties were not in agreement or were not ad-idem.

BABA VS. NIGERIAN CIVL AVIATION TRAINING CENTRE, ZARIA (1991) 5 NWLR (Pt. 192).

Indeed, by the letter of offer issued to the Defendant, the cost of infrastructure is N3,000,000 (Three Million Naira) only.

Whereas the Defendant increased the cost of the infrastructure to N7,500,000 (Seven Million, Five Hundred Thousand Naira) without the consent of the Claimant.

It is trite law that a party to a contract cannot unilaterally include and impose terms and conditions that were not mutually agreed on by the parties.

HENKEL CHEMICAL (NIG.) LTD VS. A.G FARRERRO & CO. LTD. (2003) 4 NWLR (Pt. 810) 306 Page 321.

Having resolved the above issue in favour of the Claimant, I shall therefore, enter Judgment in favour of the Claimant as follows: -

1. It is hereby declared that the Defendant cannot unilaterally alter the content of the letters of allocation issued and Powers of Attorney donated to the members of the Claimant in respect of various plots of lands at the KYC La Villa Diamante City, Sabon Lugbe East Layout. Airport Road, Abuja.
2. A Declaration that the Defendant Cannot Lawfully interfere with the quiet enjoyment of ownership and

possessory Rights of members of the Claimant in the allocated plots within KY La Villa Diamante City is hereby granted.

3. An Order of Injunction Restraining the Defendant its agents, privies and assigns howsoever called to desist from interfering with the ownership and possessory Right of the members of the Claimant with respect to plots of land already allocated to them and for which Powers of Attorney have been donated and consideration furnished and duly acknowledged by the Defendant is hereby granted.
4. Court hereby Ordered the Defendant to further execute in favour of all the members of the Claimant, who have complied with the terms of the letters of allocation and the Powers of Attorney donated, Deed of Assignment and such other necessary documents of title in respect of such plots allocated to each of them in the KYC La Villa Diamante City.

I made no Order as to cost.

Signed

Hon. Justice J. Enobie Obanor

Honourable Judge