

**IN THE HIGH COURT OF JUSTICE**  
**FEDERAL CAPITAL TERRITORY OF NIGERIA**  
**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT APO – ABUJA**  
**ON, 14<sup>TH</sup> DAY OF JUNE, 2022.**

**BEFORE HIS LORDSHIP:- HON. JUSTICE A. O. OTALUKA.**

**SUIT NO.:-FCT/HC/M/12029/2020**

**BETWEEN:**

**HON. IDRIS MORIKI:.....APPLICANT**

**AND**

- |  |   |                       |
|--|---|-----------------------|
| <p><b>1) THE INSPECTOR GENERAL OF POLICE.</b><br/><b>2) THE DEPUTY INSPECTOR GENERAL OF POLICE.</b><br/><b>3) OFFICER ISUWA DIMAS FIB (FORCE CIID).</b><br/><b>4) ALHAJI YAKUBU KABIRU.</b><br/><b>5) CHRISTOPHER NWOKOYE.</b></p> | } | <b>...RESPONDENTS</b> |
|--|---|-----------------------|

Lyn Onyekwere for the Applicant.  
Matilda Ugowe for the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents.  
Anthony Iyang for 4<sup>th</sup> and 5<sup>th</sup> Respondents.

**JUDGMENT.**

The Applicant by an Originating Motion dated and filed the 17<sup>th</sup> day of November, 2020, prayed the Court for the following against the Respondents:

1. A declaration that the issue between the 4<sup>th</sup> Respondent and the Applicant borders on ownership of Plot No. M50 of about 1,000m<sup>2</sup> in Kubwa Extension III (FCDA Scheme) Layout, AMAC, Abuja which cannot be determined by the 1<sup>st</sup> to 3<sup>rd</sup> Respondents.
2. A declaration that ownership or otherwise of land is a civil transaction that does not warrant undue intervention of the 1<sup>st</sup> to 3<sup>rd</sup> Respondents.

3. A declaration that the 1<sup>st</sup> to 3<sup>rd</sup> Respondents are not in a position to determine or establish who has title or ownership of any parcel of land.
4. A declaration that the continuous acts of the Respondents in harassing and intimidating the Applicant over a civil matter is unlawful and therefore, in breach of the Applicant's Fundamental Rights as guaranteed under the 1999 Constitution of the Federal Republic of Nigeria (as amended).
5. An Order of the Honourable Court restraining the Respondents, their agents, servants, privies, or howsoever called, from carrying out any further acts of intimidation, arrest, threats of detention or causing any other form of embarrassment to the Applicant, over a purely civil matter.
6. An Order of this Honourable Court compelling the Respondents jointly and/or severally, to pay the sum of N3,000,000.00 (Three Million Naira) to the Applicant as exemplary and/or punitive damages for the intimidation and threats of arrest and detention of the Applicant.
7. And for such further order(s) as this Honourable Court may deem fit to make in the circumstance.

The Applicant in his supporting affidavit averred that the 4<sup>th</sup> and 5<sup>th</sup> Defendants who are laying adverse claim to Plot No. 50, Kubwa Extension III (FCDA Scheme), Abuja, sometime around December, 2019 reported a case of encroachment over the said Plot to officers of the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents, and that since then, the Respondents have been scheming on how to get him arrested and detained in prison custody so that the 4<sup>th</sup> and 5<sup>th</sup> Respondents can take possession of the said Plot.

He averred that the acts of the Respondents have caused him a lot of embarrassment, psychological trauma and loss of time,

energy and resources. That he has become psychologically unstable in his office because of the fear of getting arrested and detained indefinitely for a plot of land he lawfully acquired.

In his written address in support of the originating Motion, learned Applicant's counsel, L.C. Onyekwere, Esq., raised a sole issue for determination, to wit;

***“Whether given all the facts and circumstances of this case, especially having regard to the depositions in the supporting affidavit, the Fundamental Rights of the Applicant have been or is likely to be breached, and if so, is the Applicant entitled to remedies available to the Applicant in the circumstances?”***

Proffering arguments on the issue so raised, learned counsel posited that given the facts deposed to in the supporting affidavit, the Respondents are in gross breach of the Fundamental Rights of the Applicant as guaranteed under the Chapter IV of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

He referred to Sections 36(8), 36(12) and 46(1) of the Constitution as spelling out the constitutional rights of the Applicant.

Arguing that no action of the Applicant has constituted an offence known as any law of the land, learned counsel contended that it is in breach of the Applicant's constitutional or Fundamental Rights for him to be arrested, detained, and/or threatened to be arrested and detained.

He referred inter alia, to **Aoko v. Fagbemi (1961) All NLR 400; FRN v. Ifegwu (2003)45 WRN 27, and Prince Joshua Paulson v. The State (2012)6 NWLR (Pt. 1297) 456 at 478.**

Relying on **ObinnaObiegbu v. A.G. (Federation) & 2 Ors (2014)5 NWLR (Pt.1399) 171 at 217**, he posited that whenever there is a breach, there is always a remedy. He urged the Court to resolve the lone issue in favour of the Applicant and grant all the reliefs sought by the Applicant.

In opposition to the originating motion, the 1<sup>st</sup> – 3<sup>rd</sup> Respondents filed a 15 paragraphs counter affidavit deposed to by one Insp. Joshua Yohanna, wherein he averred that the Applicant was not harassed, intimidated or threatened when he was invited through phone call but failed to honour the Police invitation.

The 1<sup>st</sup> – 3<sup>rd</sup> Respondents averred that it was the Applicant that made a report to the agents of the 1<sup>st</sup> Respondent and that his invitation was on account of his own petition. That the Applicant made a report to the 1<sup>st</sup> Respondent's agent at AIG Zone 7 office and the 1<sup>st</sup> Respondent, upon protest from the 4<sup>th</sup> Respondent, directed the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents to take over the matter from AIG, Zone 7 office, and that the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents thereafter made several calls to the Applicant, inviting him to come forward and give a statement on his complaint to the agent of the 1<sup>st</sup> Respondent, but the Applicant refused to present himself to the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents.

They averred that the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents have not met or seen the Applicant before, and that the invitation extended to him was for him to make a statement for the 1<sup>st</sup> Respondent and his agents to take a decision based on the Applicant's complaint.

Learned 1<sup>st</sup> - 3<sup>rd</sup> Respondents' counsel, Celestine UrokoOdo, Esq, in his written address in support of the counter affidavit, raised a sole issue for determination, to wit;

***“Whether the Applicant in the circumstance of this application, is entitled to the reliefs sought in the application.”***

Arguing the issue so raised, learned counsel contended that the Applicant is not entitled to the reliefs sought. He posited that by virtue of Section 4 of the Police Act, the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents, as police officers, are empowered to protect life and property, prevent and detect crime, apprehend offenders, preserve law and order and carry out due enforcement of all law and regulations, amongst other functions.

He contended that in line with Section 24(1) of the Police Act, to enable the Police perform its statutory duties, the Police has the power to invite any person suspected of having committed a criminal offence. He posited that this power of the Police is reinforced in Section 35(1)(c) of the 1999 Constitution which empowers the Police to invite anybody on reasonable suspicion of having committed a crime.

Learned counsel argued that granting the application of the Applicant would amount to stripping the Police of its powers under the law to investigate the allegations made against the Applicant, and by implication, invite lawlessness and chaos.

Arguing that there is nothing in the Applicant’s affidavit to show that the 1<sup>st</sup> - 3<sup>rd</sup> Respondents intimidated, harassed, unlawfully detained or threatened to detain the Applicant, learned counsel posited that it is trite in law that a Court of law is precluded from basing its decisions on mere speculations. He submitted that a Court is not entitled to assume or speculate anything as it is dangerous and unfair to do so, and often times leads to miscarriage of justice.

He referred to **UTB v. Ozoemena (2007)3 NWLR (Pt.1022) 448.**

He urged the Court in conclusion, to dismiss this application.

Also in opposition to the originating motion, 4<sup>th</sup> Respondent filed a 34 paragraphs counter affidavit wherein he averred that he did not report nor lay any complaint to the 1<sup>st</sup> Respondent and his agent, the AIGP, Zone 7 Police headquarters, Wuse, Zone 3, Abuja. That it was rather, the Applicant who reported him to the 1<sup>st</sup> Respondent and his agent, the AIGP, Zone 7 Police headquarters, requesting the 1<sup>st</sup> Respondent to help recover Applicant's plot of land from him.

The 4<sup>th</sup> Respondent averred that after a month of answering the invitation by the AIGP, Zone 7 Police headquarters, based on the Applicant's petition, he felt uncomfortable with the way they were investigating Applicant's complaint against him and then complained to the 1<sup>st</sup> Respondent against the AIGP. That the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents were then directed to look into his complaint, but the Applicant failed to show up after several appointments fixed by the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents and instead, initiated this action.

The 5<sup>th</sup> Respondent on his part, filed an 11 paragraphs counter affidavit in opposition to the Originating Motion.

He averred that the Applicant mentioned his name to the AIGP, Zone 7 Police headquarters, and his men, as a person contesting title with him over Plot M50, in Kubwa Ext. III (FCDA Scheme), Abuja, following which the 1<sup>st</sup> - 3<sup>rd</sup> Respondents invited him and he made a written statement to the agents of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents. He stated that he did not make a complaint to the 1<sup>st</sup> - 3<sup>rd</sup> Respondents against the Applicant in any way, and that after he honoured the 1<sup>st</sup> - 3<sup>rd</sup> Respondents'

invitation, he did not hear from them again until he heard about this fundamental rights enforcement action.

Learned counsel for the 4<sup>th</sup> and 5<sup>th</sup> Respondents, Ibrahim Idaiye, Esq, in his written address in support of the 4<sup>th</sup> and 5<sup>th</sup> Respondents' counter affidavits, raised a lone issue for determination, namely;

***“Whether the Applicant has established that his fundamental right has been or is likely to be infringed upon?”***

Proffering arguments on the issue so raised, learned counsel placed reliance on **BasseyNkantaMbang v. WIPC Janet &Ors (2015) All FWLR (Pt.767) 766 at 784** to submit that in an application for the enforcement of fundamental rights, its determination is premised on the affidavit evidence produced and placed before the Court.

He posited that it is the affidavit evidence which the Court must meticulously peruse in order to reach a just determination of the application.

Placing further reliance on **Mainstreet Bank &Ors v. Amos &Anor (2014) LPELR-23361 (CA)**, he posited that the Applicant has a duty to establish before the Court that the Respondent was instrumental to his arrest or attempted/threatened arrest.

Learned counsel submitted that it is a requirement of the law that he who asserts must prove those facts, the basis of which he has approached the Court for the enforcement of his legal rights. He argued that the Applicant in this case has the duty to prove before this Court that the 4<sup>th</sup> and 5<sup>th</sup> Respondents

instigated, or had set in motion, acts which denied him his fundamental rights. He contended however, that the Applicant did not place any piece of evidence before the Court that would enable the Court determine how his fundamental right was breached.

He argued that the Applicant is inviting this Court into the arena of speculation and that law is settled that a Court of law should not indulge in speculating on anything. He referred to **Pele Ogunye v. State (1999)5 NWLR (Pt.604)548.**

He urged the Court to hold that the Applicant has not placed sufficient material facts that would enable the Court grant the orders/reliefs he is seeking in this application, and to strike out the application with substantial cost.

In the determination of an application for the enforcement of fundamental rights, the Supreme Court, per Karibi-Whyte, JSC, held in **Sea Trucks (Nigeria) Ltd v. Anigboro (2001)LPELR-3025 (SC)** that:

***“The correct approach in a claim for the enforcement of fundamental rights is to examine the relief sought, the grounds for such relief, and the facts relied upon. Where the facts relied upon disclose a breach of the fundamental right of the applicant as the basis of the claim, here, there is a redress through the enforcement of such rights through the Fundamental Rights (Enforcement Procedure Rules,...”***

In the instant application, the grounds for the reliefs being sought therein as disclosed by the Applicant, are that:

1. By virtue of Sections 34, 35, 36(8) & (12) and 41 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), and Articles 4-7 of the African Charter on



Human and Peoples' Right (Ratification and Enforcement) Act, Cap A9 LFN 2004, every human being shall be entitled to respect for his life and integrity of his person; and every individual shall have right to liberty and to the security of his person. In particular, no one may be arbitrarily arrested or detained. Furthermore, no person shall be held guilty or convicted for anything which is not an offence known to law.

2. By virtue of Sections 46 of the Constitution of the Federal Republic of Nigeria, any person who alleges that any of the rights provided in the Constitution has been, is being or is likely to be contravened in relation to him, may apply to a High Court for redress.
3. That the arrest, embarrassment, harassment, intimidation and detention of the Applicant and the threat to further arrest and detain the Applicant by the Respondents, is a gross violation of the Applicant's fundamental rights as guaranteed under the 1999 Constitution of the Federal Republic of Nigeria (as amended).

There is no gainsaying the fact that the 1<sup>st</sup> and 2<sup>nd</sup> grounds above as distilled by the Applicant, are the correct positions of the law. It is however, not automatic that anybody who wishes can just invoke the said positions of the law out of the blues without factual basis for so doing. An applicant for the enforcement of fundamental rights must place before the Court, facts showing that his rights have been violated or that there is in existence, threats to his fundamental rights, before the provisions of the law securing the fundamental rights, can be invoked.

The Applicant therein thus owes this Court the duty to adduce facts and credible evidence establishing the 3<sup>rd</sup> ground of his application, to wit; that he was arrested, embarrassed,

harassed, intimidated and detained by the Respondents, and that there is a further threat from the Respondents to further arrest and detain the Applicant.

Going through the Applicant's affidavit in support of this application however, this Court is unable to find any fact disclosed by the Applicant that shows that any of his fundamental rights has either been breached or threatened to be so breached. The only thing stated by the Applicant is that the 4<sup>th</sup> and 5<sup>th</sup> Respondent reported a case of encroachment over Plot No. M50, KubwaExt.III (FCDA Scheme), Abuja, to the office of the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents, and that since then, the Respondents have been scheming on how to get the Applicant arrested and detained in prison custody. No fact about how he came about the knowledge of the alleged scheming by the Respondents or how the alleged scheming was being done by the Respondents, was placed before this Court by the Applicant.

On the contrary, the Respondents in their respective counter affidavits, averred that it was rather the Applicant, who is praying this Court to declare that the 1<sup>st</sup> – 3<sup>rd</sup> Respondents are not in a position to determine or establish who has title or ownership of any parcel of land, that petitioned the 1<sup>st</sup> – 3<sup>rd</sup> Respondents, seeking their help to reclaim ownership of a plot of land from the 4<sup>th</sup> and 5<sup>th</sup> Respondents.

The Respondents further averred that upon invitation by the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents to come and make statement regarding his petition, the Applicant failed to honour the invitation, but instead ran to this Court to assert that his fundamental rights have been breached by the Respondents.

The above averments by the Respondents were not controverted or denied by the Applicant. This, coupled with the

Applicant's failure to disclose any fact to establish that his fundamental rights have either been breached or threatened by the Respondents, leaves the Applicant's claims hollow and unfounded.

From the foregoing therefore, it is my finding, and I so hold, that there is no fact before this Court disclosing a breach or threat of breach of the Applicant's fundamental rights. I therefore hold that this application is baseless, unfounded and unmeritorious.

Accordingly, this application is hereby dismissed with a cost of N100,000.00 (One Hundred Thousand Naira) against the Applicant and in favour of each of the Respondents.

**HON. JUSTICE A. O. OTALUKA**  
**14/6/2022.**