IN THE HIGH COURT OF JUSTICE OF THE F.C.T.

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT KUBWA, ABUJA

ON FRIDAY THE 29TH DAY OF APRIL, 2022

BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA

JUDGE

SUIT NO.: FCT/HC/CV/10/17

BETWEEN:

1. SAMUEL EMMANUEL
   (Suing through His Attorney
   LAKEBATO VENTURES LIMITED)
2. LAKEBATO VENTURES LIMITED

--------- PLAINTIFFS

AND

1. HONOURABLE MINISTER
   FEDERAL CAPITAL TERRITORY
2. FEDERAL CAPITAL DEVELOPMENT
   AUTHORITY

-------- DEFENDANTS

JUDGMENT

This Suit was originally filed as an Originating Summons. The Court, after considering the application of the Defendants, ordered that, given the nature of the case, there is need for parties to be heard. The Court ordered parties to file and exchange their Statement of Claims and Defence. The Plaintiffs tendered 14 documents marked as Exhibit 1 – 18.

In the Suit, the Plaintiffs claim the following:

(1) A Declaration of the Court that the 1st Plaintiff by the content, grant, provisions and intent of

the letter of Allocation of 16th March, 2001 referenced ABMMA/FCT/I/S.13 conveying approval for allocation to him, can enter into possession of open space CY107 at Dei-Dei Building Material Market Dei-Dei Abuja; develop and remain thereto as an allottee from the Defendants.

(2) A Declaration of the Court that from the calm interpretation of the terms as provided on clause 1 – 12 o the said allocation letter over open space CY107 at Dei-Dei Building Material Market Dei-Dei Abuja as conveyed to the Plaintiff dated 16th March, 2001 the 1st Plaintiff's grant and right over the said open space and development made there upon the afore said open space or plot of land cannot be extinguished, terminated or nullified by demolition and destruction by the Grantor, Defendants or person(s) without recourse to due process of law more especially sections 43 and 44 of the 1999 Constitution of the Federal Republic of Nigeria as amended.

(3) A Declaration of the Court that the Defendants are not entitled within the purview of the law to revoke or withdraw grant over open space at Dei-Dei Building Material Market Dei-Dei Abuja without delivery of such revocation or withdrawal if any to an allottee or the 1st

Plaintiff that was put in possession of the open space CY107 at Dei-Dei Building Material Market Dei-Dei Abuja as conveyed to the Plaintiff dated 16th March, 2001 the 1st Plaintiff's letter of Allocation of 16th March, 2001.

(4) A Declaration of the Court that the Defendants having lawfully let the 1st Plaintiff into possession of open space CY107 at Dei-Dei Building Material Market Dei-Dei Abuja, the Defendants are not entitled to demolish the Plaintiff's store on the land developed in compliance with the said allocation clauses or howsoever dispossess the Plaintiff of the Res without recourse to due process of law.

(5) A Declaration of the Court that the failure/neglect by the Defendants to abide by due process of law in recovering possession from the 1st Plaintiff but forcibly reclaiming possession of allocated plot of land and in the process of which the 2nd Plaintiff's goods contained in the store demolished by the Defendants were damaged and lost; is high handed, injurious, unconstitutional and abnegation of the Plaintiffs rights protected under the law that entitles them to restitution.

(6) A Declaration of the Court that the Defendants demolition of the 1st Plaintiff's building on the plot of land known and called open space CY107 at Dei-Dei Building Material Market Dei-Dei Abuja and their forcible dispossession of the Plaintiffs there from, devoid of Court Order and Warrant of Possession, constitutes self help, is illegal, unconstitutional, null and void against the backdrop of Sections 2, 7, 8, 10, 21, 22, 24 of the Recovery of Premises Act and Sections 6 (6) (b), 36 (1), 43 and 44 of the 1999 Constitution of the Federal Republic of Nigeria.

(7) The sum of Eight Hundred Million Naira (₦800, 000,000.00) only Aggravated or Exemplary Damages against the Defendants for arbitrary demolition of a permanent store built on open space CY107 at Dei-Dei Building Material Market Dei-Dei Abuja with its fixtures, goods and wares contained therein without any regard to the Plaintiffs constitutional Rights and provisions of the letter of the grant over the Plot to the 1st Plaintiff.

(8) Cost of action.

Both the parties called one Witness each who testified and were Cross-examined by the opposite parties.

In his Final Address, the Plaintiffs submitted this sole Issue for determination. The Issue is:

"Whether from the totality of evidence on record, the Plaintiffs have proved their claim against the Defendants."

On their own part, the Defendants filed their own Joint Final Address and raised three (3) Issues for determination which are:

(1) Whether or not the Plaintiffs have proved the identity of Plot *CY107 at Dei-Dei Building Material Market* to be entitled to the Declaratory Reliefs sought in their Claim.

(2) Whether or not the Plaintiffs proved their right to Plot *CY107 at Dei-Dei Building Material Market* which is hereinafter called the Res to be entitled to their Joint Claims.

(3) Whether or not the Plaintiffs adduce sufficient and credible evidence of damages in support of their claim for aggravated damages to be entitled to their claim in this Suit.

The Defendants filed a Reply to the Plaintiffs Final Address.

In their Final Address, the Plaintiffs submitted as follows: He answered in the affirmative. That through its pleadings in the Statement of Claim, the Plaintiffs placed its claim before the Court. That it has through the evidence and testimony of the PW1 and documents tendered, established its claim in this Suit. That the testimony of the PW1 was consistent and not in any way contradicted under Cross-examination by the

Defendants. That 1st Plaintiff is an Allottee of the Res as evidenced in the **EXH 1** issued by the Defendants which the 1st Defendant appointed the 2nd Defendant as its lawful Attorney. That the Res was stocked fully with goods before the said demolition was carried out by the Defendants as shown in **Exhibits 5, 6 & 7.** That Plaintiff's Res is located at the Tomato Market going by **EXHs 9 – 14** which is evidence that the Defendants collected their revenue through their Agent at the said market from the Plaintiff as shown in **Exhibits 3 & 4.** That the Res was demolished without any Notice to the Plaintiffs as confirmed by **EXH 18.** That by the said demolition the Plaintiffs lost their goods as itemized under the claim on Special Damages as evidenced in **EXHs 5 – 7.** That the Plaintiffs were never paid compensation as required and provided under the Constitution since the demolition infracted on the Plaintiffs' right. That the PW1 had confirmed all that it pleaded in his testimony in chief and under the furnace of Cross-examination. That the DW1 could not contradict those evidences. That none of the facts adduced by the PW1 was contradicted. He referred to the case of:

Alhaji Abdulkadri Dan Mainagge V. Alhaji Abdulkadri Ishaku Gwanma
(2004) 12 MJSC 34 @ 3J

He urged the Court to hold that the Plaintiff established its case and that his case was not rebutted or contradicted by the Defendants. That the Defendants did not join issues with the Plaintiffs but made sweeping denial which they could not substantiate. That they raised issue of forgery and impersonation which they could not establish and prove. They relied on the case of:

Dr. Emmanuel Okereke V. Frank Ejiofor & Anor
(1996) 3 NWLR (PT. 434) 90

That the Defendants failure to prove the allegation is contrary to **S. 136 (1) Evidence Act.** They relied on the case of:

Adekanbi V. Folani
(1998) 1 NWLR (PT. 12) 248 @ 368 – 9

That the Defendants has the onus to prove allegation of forgery which they have claimed but failed to do so in this case. That as such the allegation should be discontinuanced. They relied on the case of:

Adekanbi V. Folani Supra

Calvenply Limited & Ors V. Pekab International Limited
(2001) 16 WRN 84 @ 93

That the Plaintiffs presented the Certificate of Incorporation of the 2nd Defendant which it claimed was not registered and not a limited liability company. That it controverted the allegation that the 2nd Defendant was not registered. That the Defendants did not challenge the admission of the documents when it was presented before the Court. That the Defendants did not tender any Search Report before the Court to prove that the 2nd Defendant was not registered as a company. That from all indications the 2nd Defendant is a juristic person. That the Statement on Oath by the DW1 is pure hearsay when the DW1 had told Court that all he deposed to is as presented to him by the Legal Department of the Defendants. He relied on the case of:

Chief Ifeadi V. John Afdeze
(1998) 13 NWLR (PT. 561) 205 @ 233

That the testimony of DW1 is contradictory to the material facts. That the evidence of Plaintiffs remains unchallenged and as such they are entitled to their claims. They relied on the case:

University of Calabar V. Ephraim
(1993) 1 NWLR (PT. 271) 551 @ 566

That evidence of the Defendants supports the case of the Plaintiffs and as such is established and not challenged. He referred to the case of:

CDC Nigeria Limited V. SCOA
(2007) 6 NWLR (PT. 1030) 300 @ 327

He urged Court to grant the claim of the Plaintiffs having proven their case.

That the Plaintiffs suffered damages as a result of the demolition. That they are entitled to be paid damages as shown in **EXHs 5, 6, 7, 18 & 22 of the Oath of PW1.**

That the Plaintiffs pleaded specified for Special Damages and Defendants did not join issues on that. They did not also challenge/prove their case through the testimony of their Witness – DW1. But Plaintiffs tendered Exhibits and PW1 testified as to those facts. That their claim to Special Damages was supported by evidence as decided in the case of:

RCC V. Edomuwoyi
(2003) 4 NWLR (PT. 811) 513 @ 535

That Defendants failed to produced the Data of the Allottees of plot in the said Res. That the Defendants used only oral evidence to counter the documentary evidence of the Plaintiffs.

That from the above, the case of the Plaintiff is not challenged.

Again, the rights of the Plaintiffs were infringed by the said demolition and that the Plaintiffs suffered General and Special Damages and as such they are entitled to their claim having proven their case. He urged Court to so hold.

On their part, the Defendants filed a Joint Final Address and a Reply on Points of Law.

In their Final Address they raised three (3) Issues for determination which are:

(1) Whether or not the Plaintiffs have proved the identity of Plot *CY107 at Dei-Dei Building Material Market* to be entitled to the Declaratory Reliefs sought in their Claim.

(2) Whether or not the Plaintiffs proved their right to Plot *CY107 at Dei-Dei Building Material Market* which is hereinafter called the Res to be entitled to their Joint Claims.

(3) Whether or not the Plaintiffs adduce sufficient and credible evidence of damages in support of their claim for aggravated damages to be entitled to their claim in this Suit.

On Issue No. 1, they submitted that 1 – 6 claims of the Plaintiffs are declaratory only. That the Plaintiffs pleaded that the Res is in a place commonly called Tomato Market going by EXH 1. But it shows that the Res was allocated for Cereals/Yam not for Building Materials. But

that the Plaintiffs denied that the Res exists as it cannot be found in the Data base of the Defendants as contained in paragraphs 11 – 14 of the Statement of Defence.

That it is the duty of the Plaintiffs to establish that the Res exists to the satisfaction of the Court. But that the Plaintiffs failed to establish those Declaratory Reliefs. That even if the Defendants admits that it exists, it is an onus which Plaintiffs must discharge and establish. Failure of the Plaintiffs to do so makes them not to be entitled to the Declaratory Reliefs as contained in **prayer (a) – (f).** They referred to the case of:

Bukar Modu Aji V. Chad Basin Development Authority (2015) All FWLR (PT. 784) 148

That there is contradiction in the pleading and testimony of the PW1 as regards the proper identification of the Res. That in **paragraph 48 Statement of Claim** the Plaintiffs described the Res as Building Material Market Dei-Dei Abuja. But the **EXH 1** shows that the allocation is marked for Cereal/Yam. That under Cross-examination the Plaintiffs said that the Res is within Building Material Section. They did not state the size of the Plot but stated that the structure of the Res measures 10m x 5 metres. That failure of the Plaintiffs to state with certainty the size of the Res makes the Plaintiffs not to be entitled to the Declaratory Reliefs as they must state and clearly identify the Res but failed to do so. They referred to the case of:

Oba Yekini Elegushi & 4 Ors V. Saratu Oseni & 4 Ors (2005) All FWLR (PT. 128) 1837

That EXH 1 did not identify the Res. That EXH 19 tendered by the Defendants which is a sample of the form

for allocation of the Defendants. It shows Beacon Numbers as evidence of identity. They referred to **EXH 18 – Defendants' Counter Affidavit to Plaintiffs' Affidavit in support of Originating Summons.** That what is not pleaded in Claim and Defence does not exist and are deemed abandoned. That content of EXH 18 is estoppelled. They referred to the provision of **S. 169 Evidence Act.** That an amendment takes effect from the day the case is instituted and what was amended no longer exists.

That claim of Declaratory Relief is an exception to the Rule that what is admitted need no further proof. He relied on the case of:

Mohammed Aminu Ademola & 4 Ors V. Seven Up Bottling Company PLC
(2004) All FWLR (PT. 239) 974

That Court cannot grant Declaratory Relief on the basis of admission by the Defendants. They urged Court to hold that Plaintiffs failed to identify the Res – Plot CY107 Building Material Market Dei-Dei Abuja. They urged Court to answer their first question in their favour and dismiss the case of the Plaintiffs.

On whether the Plaintiffs proved their right over the Res to be entitled to the Reliefs which is the Issue No. 2, the Defendants submitted that they did not. That EXH 1 tendered in support is a public document that the only copy admissible is the original or Certified True Copy (CTC).

"That the original was tendered through the M.D of the 2nd Plaintiff who is the PW1. That from his evidence the 2nd Plaintiff was appointed as Attorney of 1st Plaintiff

on 20th September, 2013; the day **EXH 2** – the Power of Attorney was executed. He had testified that all he testified was based on what the 1st Plaintiff told him.

They submitted that 1st Plaintiff has no nexus with the Res – EXH 1 since he is not the marker of the document and also not being the beneficiary of the Res or content of the document.

That the Plaintiffs did not subpoena the 1st Plaintiff who is still alive. That EXH 1 is a hearsay document evidence and that Court should not attach any evidential weight to it. They referred to the cases of:

Mohammadu Buhari V. INEC & 4 Ors
(2009) All FWLR (PT. 459) 419 @ 547

Ambo Wuya V. Jahama LG Kafancha
(2013) All FWLR (PT. 659) 1171 @ 1187

They urged Court not to attach any weight to the said **EXH 1** and as such the document does not grant any title to the 1st Plaintiff and he cannot transfer any title to the 2nd Plaintiff through **EXH 2.**

That by content of EXH 1 it is only when the Allottee enters into the Tenancy Agreement that that becomes a Tenant of Authority. This happens after the completion of the structure as specified in the Rules and Guideline in the Allocation paper. The Plaintiffs did not tender the Guideline. They did not state how they complied with the Guideline and the Rules. It did not plead the Tenancy Agreement in compliance with the **Clause 9** of the **EXH 1.** The Defendants has no evidential burden to discharge. That there is no point the Defendants Cross-examining the PW1 on a point which the Plaintiff ought to prove but failed to elicit evidence upon. They referred to the case of:

Horst Summer & Ors V. FHA
(1997) 1 SCNJ 73

That since 1st Plaintiff failed to prove that he entered into Tenancy Agreement with the Defendants, he has failed to establish his right over the Res. Therefore **EXH 3 & 4** have no evidential value. That there is no evidence that the Defendants demanded for rent from the Plaintiffs as the PW1 said that he went to pay the Rent when he noticed that it was due.

That if EXH 1 confers any right to the Plaintiffs, it is right to the open space for Cereals/Yam and not for Building Material and the like which is a violation of purpose of clause of the Allocation. That EXH 1 did not create any right as the condition of the Allocation was not met by the 1st Plaintiff. That EXH 2 cannot stand without EXH 1.

That **EXHs 3 & 4** were not created as a result of EXH 1 or as a result of the demand from the Defendants. They urged the Court to hold that the Plaintiffs did not prove their right over the Res. That Court should dismiss their Suit by answering the Issue No. 2 in the Negative.

On Issue No. 3, whether Plaintiffs adduced sufficient evidence to support their claim for aggravated damages as claimed, the Defendants submitted that they did not and that the Eight Hundred Million Naira (₦800, 000,000.00) Aggravated Damages is not justified.

That though Plaintiffs pleaded Special Damages but they failed to plead the particulars of the Damages and no evidence was given in support. And no particulars was pleaded for the further Special Damages too.

That since the Plaintiffs failed to prove unlawful breach of a right, there can be no presumption of General Damages in law. They relied and referred to the case of:

Morgan – Gulu V. Saturday Asha & 7 Ors
(2015) All FWLR (PT. 800) 1252

That the Defendants denies issuing EXH 1 to the 1st Plaintiff. They also denies the wrongful act of demolition of the shop – the Res. That the Plaintiffs failed to prove that EXH 1 conferred right on the 1st Plaintiff. They also failed to prove that their right was breached by the Defendants.

That no evidence was given to support the damage of Three Million Naira (₦3, 000,000.00) sought by the Plaintiffs. That the Plaintiffs are not therefore entitled to the Aggravated Damages which is an equitable remedy. Again, that 1st Plaintiff violated the terms of the Allocation by Building a place for Building Material instead of Cereal/Yam.

That the Plaintiffs did not adduce enough evidence to prove their case. They urged the Court to refuse the claim and dismiss the Suit in its entirety.

In the Reply of the Plaintiffs in which they attached as EXH – Record of Proceeding of the Court from 29th November, 2018 to 21st January, 2019; they submitted that only one Witness Statement on Oath was adopted by PW1. The other Oath is deemed abandoned. That pleadings of Plaintiffs on 20th April, 2018 goes to no Issue as they are not supported by any evidence. He relied on the case of:

Ezekiel Ezinwa & Anor V. Emmanuel Agu & Anor
(2003) FWLR (PT. 165) 473

That the Plaintiffs proved the Declaratory Reliefs and one Monetary Relief with the evidence and Exhibits tendered in Court.

That Issues are joined only on the Statement of Claim and not on averments. He referred to the case of:

Onibuda & Ors V. Alhaji Akibu & Ors

That in paragraph 27 of Statement of Claim of 20th April, 2018 Plaintiffs pleaded particulars of Special Damages but there is no claim under that head. That where a party makes an averment but the averment does not relate to any Relief sought in the case, the Court will not grant such Relief. They relied on the case of:

Salubi V. Nwariaku
(2003) 7 NWLR (PT. 819) 426

That if Plaintiffs fail to ask for any Relief or remedy pleaded in the Statement of Claim it will be deemed abandoned.

Sevenup Bottling Company Limited V. Abiola & Sons
(1995) 3 NWLR (PT. 383) 257

That Plaintiffs have abandoned their claim on Special Damage. That the grant of such claim is at the discretion of the Court. He cited in support the case of:

Abbas V. Solomon
(2001) 15 NWLR (PT. 735) 144

On Plaintiffs not proven the case against the Defendants to be entitled to Aggravated Damages, the Plaintiff Counsel submitted that Court can make award of Aggravated Damages after considering the grounds for

the Declaratory Reliefs and determine if the Plaintiffs are entitled to the Reliefs on Aggravated Damages.

That evidence of the PW1 on the issue of Demolition is Hearsay as they were not around when the so called demolition was done and therefore not admissible. The Plaintiffs did not prove that the Defendants committed the offence and their act is arbitrary.

On the claim by the Plaintiffs that they were let into possession and therefore cannot be disposed without procedure permitted by law. They submitted that Plaintiffs testified that they used the place for storage of Building Materials contrary to the provision of Allocation which is for Cereals/Yam. That the usage is illegal and as such the Plaintiffs are not entitled to compensation as damages. They referred to the case of:

UBA V. Samba Petroleum Company Limited & 1 Or (2003) FWLR 137 @ 1228 – 1229

They urged Court to hold that Plaintiffs are not entitled to damage – aggravated. That the Defendants unchallenged piece of evidence shows that they entered the Res to clear encroachment on the road corridor to Dei-Dei International Market. They urge Court to hold that Plaintiffs failed to prove Aggravated Damages.

COURT:

Having summarized above stories of the parties, the question is did Plaintiffs prove and establish their case and they are entitled to their claim? Has Defendants been able to challenge the Suit of Plaintiffs? Are Plaintiffs entitled to Aggravated and Special Damages in that their action in demolishing the Res was malicious, illegal,

unconstitutional, oppressive and arbitrary, having not issued any notice to Plaintiffs as the Plaintiffs claims?

It is the humble view of this Court that the Plaintiffs were able to establish their case against the Defendants through all the Exhibits they tendered and the water-tight testimony of the PW1. The Defendants have not been able to challenge the Suit of the Plaintiffs. The Plaintiffs have proved that they are entitled to their claim and also that they are entitled to their claim and also that they are entitled to Aggravated Damages to be paid to them by the Defendants. This is because, through the pictures of the Demolition, it is evident that goods were destroyed. They were not notified. Even the documents tendered by Defendants as evidence of the Notification, does not bear the names of the Plaintiffs or their addresses. If the Plaintiffs were notified they would have made effort to evacuate their goods before the demolition thugs invaded the place with their machines. Again, they have pleaded special damages and tendered documents to show or prove same. Those receipts put no one in doubt coupled with the pictures showing the actual destruction. PW1 had testified that he was away at Asokoro when someone called to inform him about the demolition. On getting there he discovered that the goods has been overrun by the demolition team and their machines. Nothing was salvaged. Tendering the receipts of purchase of the goods buttressed the claim for special damages. The Defendants did not challenge that successfully. It is clear that the Defendants' conduct was malicious, arbitrary and oppressive. So Plaintiffs are entitled to their claim on Aggravated Damages and Special Damages.

The testimony of PW1 and especially EXH 1 puts no one in doubt that the Defendants allocated the Res to the 1st Plaintiff. The Power of Attorney donated to the 2nd Plaintiff by the 1st Plaintiff is very much in order.

The Exhibit evidencing the payment of the Ground Rent for years puts no one in doubt that the Plaintiffs were allocated the place and that the place met the standard they wanted otherwise the Defendants' Authorized Agents would not have accepted the said Rent over the years. They would not have issued those receipts which were evidence of payment for the ground Rent. They accepted that because they know that the Res was allocated by them and that the construction was done as required. If not the Agents of Defendants would have refused to collect the Ground Rent.

The submission of the Defendants that the allocation was for another thing does not hold any water; because they should have rejected the Ground Rent paid. Also, the submission of the Defendants that failure of the Plaintiffs to show evidence of Demand for the rent does not hold any water because the PW1 had stated in his testimony in chief and under Cross-examination that they went to pay the Rent because it was due to be paid. The Plaintiffs need not wait until the Rent is demanded. As a law abiding citizen he paid the rent as at when due. Besides, demand for payment of Rent is only issued to those who failed or did not pay rent as at when due. Such Notice is not for any person who paid the Rent as at when due.

It is the Plaintiffs that are at the best position to state the amount spent in the construction of the Res. The Defendants who challenged and complained about the Three Million Naira (₦3, 000,000.00) is Hearsay, has not

shown the Court any evidence to prove that the said cost of construction at Three Million Naira (₦3, 000,000.00) is Hearsay.

The Defendants tendering a Plan Form – EXH 19 to prove that the Exhibit 1 was not in compliance with theirs is, to say the list, very phony. This is because the Court had expected the Defendants to come up with a CTC of the list of persons to who the allocation was given or the counterfoil of the allocation. Not presenting the Data Base as required makes their Defence to be weightless. Moreover, presenting the CTC of the Allocation Form which belongs to Cyril Okoye is ludicrous because the Defendants ordinarily should have presented before this Court a counterfoil or copy of the Allocation or at least a Data of all Allocation done in that place to prove that the Allocation of the Plaintiffs is fake or that the name of the 1st Plaintiff is not among those allocated the Plots at the Building Material Market or at the Cereal/Yam portion of the Market. Failure to do that makes the claim of the Plaintiffs unchallenged.

The Power of Attorney donated by 1st Plaintiff to the 2nd Plaintiff did not breach the condition set out in the Allocation Paper especially paragraph 10 since the 1st Plaintiff did not sell the Res to the 2nd Plaintiff.

The Plaintiffs were to bear the cost of construction of the structure which they did. The claims Plaintiffs are making is based on the demolition of the Res.

The submission of the Defendants that they are not liable to pay the Three Million Naira (₦3, 000,000.00) expended by Plaintiffs for the construction of the Res is not justified because it is the Plaintiffs who constructed the Res to

specification and it is the same Plaintiffs who know how much they expended. The Defendants are to refund the money for the construction because they demolished same. The Defendants did not deny that fact. Their submission that they only demolished the buildings along the Dei-Dei Market Corridor is an afterthought. It should have been a different thing if the Res was revoked or the Allocation withdrawn. Besides, the Plaintiffs were not notified about the demolition as it is supposed to be. If the construction was not as specified, no approval would have been given and the Defendants would not have authorized same.

From all indication, the construction was to be a permanent structure going by paragraph 3 of the Allocation Paper. This further confirms that the submission that the Res was an illegal structure along the corridor to the Dei-Dei International Market does not hold water. Meanwhile, the Plaintiffs proved that they used that Res as a packing store for Building Materials. Giving the nature of the goods kept in the Res, it is permanent structure which was constructed to specification and approval. It was done following the design which was attached to the Letter of Allocation going by the content of EXH 1.

Even from the preamble to the EXH 1, it shows that before the allocation, there was application filed by the 1st Plaintiff who the Allocation was issued to. A look at the said EXH 1 puts no one in doubt about the genuineness of the Allocation. The said EXH 1 is in its original raw form, duly signed, dated and stamped.

Tendering the original Certificate of Incorporation puts no one in doubt that quite contrary to the submission of the

Defendants, the 2nd Plaintiff is a fully Incorporated Limited Liability Company.

The Plaintiffs also attached the receipt for the Application Form for the Open Space – EXH 15. That receipt shows the purpose and even the Teller No. 550833, the amount is One Thousand Eight Hundred Naira (₦1, 800.00).

EXH 16 shows evidence of monthly rate and ground rent paid by persons who are not parties to the Suit.

The markings in the EXH 4 & 5 confirm that the payment was for Station at Dei-Dei Tomato Market where the Res is said to be located. Meanwhile, this Tomato Market is one of the recognized portions of the Dei-Dei Building Material Market as shown in EXH 9.

Given the gory details of the demolition coupled with the pictures and the testimony of the PW1, together with the Receipts of materials purchased, and the fact that the Plaintiffs were not notified and no Notice of Demolition was served on them, it is evidently clear that the action of the Defendants in the demolition was malicious, oppressive, illegal, unlawful and unconstitutional. In as much as the Defendants have the right to demolish anywhere, they are duty-bound to notify the persons affected or to be affected by the demolition exercise. They are also duty bound to pay compensation and damages as the case may be, where demolition is carried out illegally. The failure of the Defendants to notify the Plaintiffs by serving them Notice to Quit and Demolition Notice makes their action illegal, malicious and unconstitutional. The Plaintiffs have proved their claim in that regard. They are entitled to be paid the compensation, for aggravated damages. Because the

Plaintiffs have proved that their goods were demolished and destroyed in the cause of the Demolition, they are entitled to Special Damages having proved and pleaded the particulars of the Special Damages and tendered documents to support their claim.

From all the above, the case of the Plaintiffs is very meritorious. They have established their claims both declaratory and otherwise. They are entitled to the said claims to wit:

Prayer a – f are granted.

As to prayer on Damage – prayer (g), this Court awards the sum of ***Thirty Million Naira (₦30, 000,000.00)*** *against the Defendants to be paid to the Plaintiffs for Aggravated and Special Damages.*

The Defendants are to pay to the Plaintiffs the sum of ***Five Hundred Thousand Naira (₦500, 000.00)*** *as cost of this Suit.*

This is the Judgment of this Court.

Delivered today the ____ day of _____ 2022 by me.

_____

K.N. OGBONNAYA

HON. JUDGE