

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

**ON WEDNESDAY, 5<sup>TH</sup> DAY OF OCTOBER, 2022**

**BEFORE HON. JUSTICE SYLVANUS C. ORIJ**

**SUIT NO. FCT/HC/CV/2656/2012**

**BETWEEN**

1. YA-WAJID MARITIME SERVICES LIMITED  
2. BG HOMES NIGERIA LIMITED } CLAIMANTS

**AND**

1. FEDERAL MINISTRY OF LANDS, HOUSING  
& URBAN DEVELOPMENT  
2. THE MINISTER, FEDERAL MINISTRY OF LANDS,  
HOUSING & URBAN DEVELOPMENT } DEFENDANTS

**JUDGMENT**

The claimants [plaintiffs] filed this suit on 9/3/2012 vide writ of summons along with the statement of claim. On 20/5/2013, the defendants filed their statement of defence and counter claim. On 31/7/2013, the claimants filed their defence to counter claim. On 2/11/2016, the defendants filed their amended statement of defence, which was deemed as properly filed and served by order of the Court granted on 14/11/2016. I note that by the said amendment, the defendants did not incorporate or include the counter claim to the amended statement of defence.

In paragraph 13 of the statement of claim, the claimants seek the following reliefs against the defendants:

- a) A declaration that the 1<sup>st</sup> plaintiff is entitled to the Statutory Right of Occupancy over all that parcel of land lying and situate at Plot No. CD-27, AA3 Layout, Kuje Area Council, Abuja measuring 1.075 Hectares and bounded by beacon Nos. PB112; PB113; PB114; PB115& PB119.
- b) An order of perpetual injunction restraining the defendants either by themselves, servants, agents, privies or personal or official representatives or successors from demolishing Plot No. CD-27, AA3 Layout, Kuje Area Council, Abuja measuring 1.075 Hectares and bounded by beacon Nos. PB112; PB113; PB114; PB115& PB119.
- c) An order of perpetual injunction restraining the defendants either by themselves, servants, agents, successors in title or interest from trespassing or committing any acts of trespass in and over Plot No. CD-27, AA3 Layout, Kuje Area Council, Abuja measuring 1.075 Hectares and bounded by beacon Nos. PB112; PB113; PB114; PB115& PB119.
- d) Damages for trespass.
- e) Cost of litigation.
- f) General damages.

At the trial, Babangida Mohammed Yola, a director in the 2<sup>nd</sup> claimant, testified as the PW1. He adopted his statement on oath filed on 9/3/2012 and

tendered Exhibits A, B, C, D, E, F1, F2 & G1-G5. Hassan Bako Kuje, a retired staff of Kuje Area Council, gave oral evidence as PW2 pursuant to a *subpoena* issued by the Court on 16/9/2013 and tendered Exhibit H. Mohammed Sani Iliyasu, the 1<sup>st</sup> claimant's property manager, testified as PW3. He adopted his statement on oath filed on 31/7/2013.

Offor Yakubu YohannaAttahfpye, a staff of the 1<sup>st</sup> defendant, gave evidence as DW2. He adopted his statement on oath filed on 2/11/2016 and tendered Exhibits J & K. On 5/10/2022, the defendants sought and obtained the leave of the Court to re-open their case to tender some documents. Thereupon, learned defence counsel tendered Exhibits L, M, N & O from the Bar.

**Evidence of the Claimants:**

**Evidence of Babangida Mohammed Yola – PW1:**

The evidence of PW1 is that in September 1993, the 1<sup>st</sup> plaintiff applied to Kuje Area Council for a grant of right of occupancy over a piece of land in Kuje. Upon approval of the 1<sup>st</sup> plaintiff's application, Kuje Area Council issued it with a Conveyance of Provisional Approval dated 28/9/1993. In July 2006, Kuje Area Council issued Right of Occupancy No. *KAC/FCDA/LP&S/MISC-5547* to the 1<sup>st</sup> plaintiff, which is attached to a Survey Plan drawn by Cadastral Section of Land Survey of Federal Capital Development Authority [FCDA]. The 1<sup>st</sup> plaintiff made every payment set out

in the Right of Occupancy, including payment for the preparation of certificate of occupancy.

The 1<sup>st</sup> plaintiff paid the required fees and did all things necessary to secure Plot No. CD-27, AA3 Layout, Kuje Area Council, Abuja, measuring 1.075 Hectares and bounded by beacon Nos. PB112; PB113; PB114; PB115& PB119 allocated to it, but the certificate of occupancy has not been issued to it. In line with the directives of FCDA, on 31/12/2008, 1<sup>st</sup> plaintiff applied to regularize its title with Abuja Geographic Information Systems [AGIS] over the said Plot. The 1<sup>st</sup> plaintiff's title over the Plot was regularized by AGIS and it was issued an Acknowledgement on the Regularization of land titles and documentation of FCT Area Councils dated 31/12/2008.

PW1 further stated that the 1<sup>st</sup> plaintiff has always been in peaceful possession of the said Plot until it was sold to the 2<sup>nd</sup> plaintiff on 15/10/2011. Immediately after the said sale, the 2<sup>nd</sup> plaintiff took possession and ownership of the Plot and has always been in peaceful occupation. On 7/3/2012, the defendants entered the 2<sup>nd</sup> plaintiff's said Plot without its consent and fixed wooden pegs indicating the areas to be demolished. On 8/3/2012, the defendants mobilized men and equipment to the Plot for the purpose of demolishing same. PW1 tendered the following documents:

- a) Certificate of Incorporation of 2<sup>nd</sup> claimant dated 29/9/2011: Exhibit A.
- b) Conveyance of Provisional Approval dated 28/9/1993 addressed to the 1<sup>st</sup> claimant: Exhibit B.

- c) Right of Occupancy Rent and Fees dated 8/6/2006: Exhibit C.
- d) Survey Plan of Plot No. CD 27, AA3 Layout Kuje: Exhibit D.
- e) Regularization of Land Titles and Documents of FCT Area Councils Acknowledgement dated 31/12/2008: Exhibit E.
- f) Deed of Assignment between the 1<sup>st</sup> claimant and the 2<sup>nd</sup> claimant dated 15/11/2011: Exhibit F1; Power of Attorney donated by the 1<sup>st</sup> claimant to the 2<sup>nd</sup> claimant dated 15/10/2011: Exhibit F2.
- g) Receipt numbers 61015, 61016, 61017, 61066 and 61067 all dated 8/6/2006: Exhibits G1-G5 respectively.

When thePW1 was cross examined, he stated that he is not aware that on 18/3/1994, the then Administrator of the Federal Capital Territory [FCT] issued a conveyance of grant of a parcel of land of about 150 hectares to the 1<sup>st</sup> defendant, which the portion he claims forms a part. He is also not aware that the defendants paid compensation to about 175 persons whose crops and economic trees were affected by the acquisition. He is aware of the stop work notices and demolition notices pasted on the structures on the land.

**Evidence of Hassan Bako Kuje – PW2:**

PW2 stated that he worked with Kuje Area Council. He retired in 2007 as a Chief Technical Officer [Surveys]; he was in charge of survey activities in KujeArea Council.The land in Exhibit D [i.e.the Survey Plan of Plot No. CD-

27, AA3 Layout Kuje] is along Kango/Funtaj road. The distance between Kango/Funtaj road and Kuje/Gwagwalada road is about 4 kilometres. He identified the Layout Plan of Site and Service Scheme of the 1<sup>st</sup> defendant at Kuje signed by M. O. Uzor; same was received in evidence as Exhibit H. He signed Exhibit D. He did not know of the existence of Exhibit H when he signed Exhibit D.

During cross examination, PW2 stated that at the time he signed Exhibit D in 2002, he was not aware that the land was acquired by the Federal Government. He was not the one that prepared Exhibit D. He signed it in 2002 on behalf of the Director of Land, Planning and Survey of Kuje Area Council.

**Evidence of Mohammed Sani Iiyasu – PW3:**

The evidence of PW3 is similar to the evidence adduced by PW1. PW3 further stated that the said Plot No. CD-27 belonging to the plaintiffs is situated at AA3 Layout, Kuje Area Council, but not lying along Kuje/Gwagwalada road, Abuja.

When PW3 was cross examined, he stated that he was not aware that the land in dispute falls within the area compulsorily acquired by Federal Government in 1994 through the defendants. Also, he was not aware that compensation was paid to those whose lands were affected by the acquisition.

*Evidence of the Defendants:*

*Evidence of Offor Yakubu YohannaAttahfpye – DW1:*

The evidence of DW1 is that he is a surveyor in the 1<sup>st</sup> defendant. In 1996 the Department of Survey of the former Federal Ministry of Works and Housing was contacted by the department of Lands and Housing of the same Ministry to carry out the perimeter and topographic survey of the land granted by the Ministry of FCT at Kuje, Kuje Area Council. He was directed by the Chief Resident Surveyor, S. M. K. Mohammed to carry out the survey. He narrated how a survey team [with him as the team leader] carried out the survey of the land. The perimeter and topographic survey started in 1996 and was completed in 1997 and its subsequent layout survey started in 1998 and completed in 2006.

The DW1 further testified that in 2003, compensation was paid to the indigenes i.e. the original owners of the “*economy trees*” on the said land before the survey team which he headed was allowed to complete the layout survey. The land space which forms part of the subject matter of this suit fenced by the plaintiffs is not in conformity with the Survey Plan attached to the statement of claim. In paragraph 16 of his statement on oath, he described the land area covered by Plot CD-27 on the charting of the Survey Plan of the Plot on the Federal Ministry of Works and Housing Layout Survey Plan. The DW1 tendered the following documents:

- a) The perimeter and topographic survey of Site and Services Scheme Site, Kuje Area Council, FCT, Abuja dated 20/8/1997: Exhibit J.
- b) Plan shewing Layout of Site and Services Scheme, Federal Ministry of Housing and Urban Development at Kuje, Kuje Area Council, FCT, Abuja dated 6/6/2006: Exhibit K.

During cross examination, DW1 stated that Exhibit K was dependent on Exhibit J. He used Exhibit J to produce Exhibit K.

The documents tendered by the defence counsel on 5/10/2022 from the Bar are:

- a) Conveyance of Approval of Grant of Land in FCT dated 18/3/1994 addressed to the Federal Ministry of Works and Housing: Exhibit L.
- b) Acceptance of offer of Grant of Right of Occupancy within the Federal Capital Territory, Abuja dated 22/3/1994 by the Federal Housing Authority: Exhibit M.
- c) Cadastral Design of the Proposed Site: Exhibit N.
- d) Plan showing Developments on the Land: Exhibit O.

**Issues for Determination:**

At the end of the trial, B. G. Abba Esq. filed the defendants' final address on 23/9/2020. G. U. Ihunweze Esq. filed the claimants' final address on 17/12/2020. B. G. Abba Esq. filed the defendants' reply on points of law on



24/6/2021. Learned counsel for the parties adopted their respective final addresses on 6/7/2022. At the conclusion of proceedings today, both learned counsel informed the Court that they do not intend to file any further address.

Learned counsel for the defendants formulated five issues for determination, namely:

1. Whether the Federal Government's power of Revocation under the Land Use Act was validly applied and compensation paid, if yes, whether the acquisition was for overriding public interest.
2. Can the Federal Ministry of Land and Urban Development have power under the Land Use Act to acquire land for overriding public interest?
3. Can Kuje Area Council has *[sic]* power under the Land Use Act and vis-a-vis the 1999 Constitution as amended and the FCT Act to Re: allocate land?
4. Whether the claimants have the *locus standi* to institute this case and whether their claim is not caught by Statute of Limitation.
5. Whether the claimants have made out a case to entitle them to the reliefs and declarations sought from this Honourable Court.

For his part, learned counsel for the claimants posed these two issues for determination:

1. Whether the Minister of the Federal Ministry of Land, Housing and Urban Development was by Law conferred with the power to revoke a right of occupancy granted vide the provisions of the Land Use Act, Laws of the Federation of Nigeria.
2. Whether the claimants have proved their title to the land in dispute on a preponderance of evidence to justify their claim before the Court.

The claimants' first relief is a declaration that the 1<sup>st</sup> claimant is entitled to the statutory right of occupancy over the parcel of land situate at Plot No. CD-27, AA3 Layout, Kuje, Abuja. There can be no doubt that the success or otherwise of the other reliefs sought by the claimants will largely depend on the decision of the Court on the declaratory relief. The law is trite that a party seeking a declaratory relief must adduce credible and sufficient evidence to prove his case. He must succeed on the strength of his case and not on the weakness of the case of the adverse party. See the case of **Arowolo v. Olowookere [2011] 18 NWLR [Pt. 1278] 280.**

In the instant case, the claimants have the burden to prove their declaratory relief and the other reliefs. Be it noted that the defendants do not have any burden of proof as they do not have a counter claim.

Against this backdrop, the Court is of the considered opinion that there are two issues for determination in this matter, which are:

1. Whether the claimants have established their title to the land in dispute.

2. Whether the claimants are entitled to the reliefs sought.

### **ISSUE 1**

*Whether the claimants have established their title to the land in dispute.*

#### **Submissions of Learned Counsel for the Defendants:**

Learned defence counsel posited that the Federal Government compulsorily acquired the parcel of land measuring about 150 hectares for the Federal Site and Services Scheme, which includes the land claimed by the claimants. The land is shown on the Layout Plan of Site and Services, Federal Ministry of Housing and Urban Development at Kuje, Abuja. He submitted that Federal Ministry of Land & Urban Development has power under the Land Use Act to acquire land for overriding public interest. He referred to **Yakubu v. Impresit Bakolori Plc. [2011] 6 NWLR [Pt. 1244] 569** for the conditions for compulsory acquisition of a person's property for public purpose.

B. G. Abba Esq. submitted that claimants' contention that they were not served a notice of revocation of the right of occupancy over the portion of their land, which is within the acquired land, is misconceived. This is because revocation as contemplated by the Land Use Act only refers to the 'holders' of a right of occupancy and the claimants are not holders of right of occupancy. Those

affected by the compulsory acquisition were paid compensation. In April 2011, the defendants discovered that illegal development was on-going on their Site and Services Scheme and they immediately caused a contravention and stop work notice to be served. The illegal developers claimed that some staff of Kuje Area Council allocated the land to them.

Learned counsel for the defendants further argued that Kuje Area Council has no power to allocate land within the land acquired by the Federal Government. The Federal Government Site and Services Scheme is a public interest initiative of the Federal Government to ameliorate the plight of low income earners who find it difficult to acquire land and build their houses.

Mr. B. G. Abacited the case of **Maiyegun v. Governor of Lagos State [2011] 2 NWLR [Pt. 1230] 154** for the meaning of public purpose under the Land Use Act. He stressed that the claimants lack competence or *locus standi* to institute this case over a land acquired by the Federal Government for public purpose and compensation duly paid to the owners of the unexhausted improvements on the land. Learned defence counsel concluded that the claimants failed to prove their case.

**Submissions of Learned Counsel for the Claimants:**

Learned counsel for the claimants referred to **Malami v. Ohikhuare [2019] 7 NWLR [Pt. 1670] 132** to support the principle that it is the Minister of FCT, Abuja that has power to grant statutory right of occupancy over land in the

FCT to any person. By section 28 of the Act, the Minister of FCT also has power to revoke rights of occupancy so issued. Thus, contrary to the submission of the defence counsel in his final address, the defendants cannot be seen to possess any power to revoke or acquire the claimants' right of occupancy validly granted by Kuje Area Council. Section 28 [5], [6] & [7] of the Land Use Act provide for the procedure to be adopted in the event of revocation of a right of occupancy for breach of the terms in the certificate of occupancy. He referred to Olamoda v. Mustapha [2019] 6 NWLR [Pt. 1667] 36 and other cases.

G. U. Ihunweze Esq. referred to Idundun v. Okumagba [1976] 9-10 SC 224 to support the principle that there are five ways of proving title to land, one of which is by production of documents of title. He referred to the provisions of sections 43 and 44 of the 1999 Constitution [as amended] for the right to acquire property. He submitted that the claimants relied on the documents of title duly issued by the appropriate authority i.e. Kuje Area Council which derived its power from the Land Use Act. The defence counsel relied on section 6[1][a] of the Land Use Act, which provides:

[1] *It shall be lawful for a Local Government in respect of land not in an urban area –*

[a] *to grant customary rights of occupancy to any person or organization for the use of land in the Local Government Area for agricultural, residential and other purposes.*

Mr. G. U. Ihunweze concluded that the claimants are entitled to a declaration of title to the land in dispute. He urged the Court to grant the reliefs of the claimants.

**Reply on Points of Law by Learned Counsel for the Defendants:**

Learned defence counsel stated that before a declaration of title to land is granted, there must be credible evidence establishing, *inter alia*, the origin and devolution of the title to the claimant. In a claim for declaration of title to land, the burden of proof lies on the claimant. B. G. Abba Esq. concluded that the claimants do not have a valid title to the land in dispute as it is trite law that a person cannot give what he does not have.

**Resolution by the Court:**

As correctly stated by learned counsel for the claimants, the case of **Idundun v. Okumagba [supra]** established the principle that there are five ways of proving title to land, one of which is by production of document[s] of title. In the FCT, Abuja, the production of document[s] of title is the prevalent way to prove title to land. Thus, a party seeking a declaration of title to land in the FCT, Abuja has to rely on document[s] evidencing the grant of a right of occupancy. It is trite that where a document of title is relied upon by a party, the Court has a duty to satisfy itself, *inter alia*, that the document relied upon is genuine and valid and that the grantor has the capacity/authority to make

the grant. See Prince Ngene v. Chike Igbo & Anor. [2000] 4 NWLR [Pt. 651] 131.

In the instant case, claimants relied on the Conveyance of Provisional Approval dated 28/9/1993 addressed to the 1<sup>st</sup> claimant [Exhibit B] as their root of title to the said land. Exhibit B, which was signed for the Secretary, Rural Land Use Adjudication Committee, Kuje Area Council conveyed to the 1<sup>st</sup> claimant "*the Honourable Deputy Mayor's approval of a Customary Right of Occupancy*" in respect of the Plot in issue.

The claimants' counsel submitted that Exhibit B was duly issued by Kuje Area Council which derived its power from section 6[1][a] of the Land Use Act. The standpoint of the learned counsel for the defendants is that Kuje Area Council has no power to allocate the said land.

In the light of the above submissions and the declaratory relief sought by the claimants, it is necessary to consider the validity of the customary right of occupancy granted to the 1<sup>st</sup> claimant by Kuje Area Council. Let me refer to some statutory provisions and cases relevant to the issue under focus.

Section 297[2] of the 1999 Constitution [as amended] provides: "*The ownership of all lands comprised in the Federal Capital Territory, Abuja shall vest in the Government of the Federal Republic of Nigeria.*" By section 18 of the FCT Act, as from 28<sup>th</sup> day of May, 1984, the powers exercisable by the President of the

Federal Republic of Nigeria in the FCT were delegated to the Minister of FCT. Thus, the power to allocate land in the FCT is vested in the Minister of FCT.

In **Ona v. Atenda [2000] 5 NWLR [Pt. 656] 244**, the Court of Appeal held that there is no customary right of occupancy in the FCT. It was further restated that by virtue of section 18 of the FCT Act, only the Minister of FCT can grant statutory rights of occupancy over lands in the FCT.

Let me remark that the issues in *Suit No. CV/2657/2012: Trust Consults Nig. Ltd. & Anor. v. Federal Ministry of Lands, Housing & Urban Development & Ors.* are similar to the issues in this case. In that case, the defence counsel relied on **Divage Health and Sanitary Service Ltd. & Anor. v. Kenuj Investment Ltd. [2018] LPELR-4597 [CA]** where the Court of Appeal considered whether a letter from the Abuja Municipal Area Council conveying approval for the grant of certificate of occupancy is a document of title and held thus:

*"In resolving this issue, the law is settled that all land in the Federal Capital Territory vests absolutely in the Government of the Federation, and only statutory right of occupancy can be issued in the Federal Capital Territory, being an urban area. The implication of this is that it is only the Minister of the FCT acting pursuant to Section 302 of the Constitution and Section 13 and 18 of the FCT Act that can validly allocate land in the Federal Capital Territory. .... See the cases of MADU VS MADU [2008] 6 NWLR PT. 1083 PG 296; ...*



*I have carefully perused the record of appeal, and particularly the plaintiff's/Respondent's title documents, it is my view that the plaintiff/Respondent ... could not be said to have derived its title from the Minister of FCT Abuja.*

*In view of all the above, I do not agree with the Respondent's counsel contention that the Respondent was the rightful allottee, notwithstanding the issue of allocation from Abuja Municipal Area Council. ..."*

I have also read the case of **Ekwekwuo&Ors. v. Abdullahi LPELR-51363 [CA]** cited by claimant's counsel in the said *Suit No. CV/2657/2012* where it was held:

*"Exhibit A2, the Certificate of Occupancy [Customary] in my view and humbly, was correctly deemed given the provision of Section 9[1] of the Land Use Act to be made by the Minister of the FCT. The Court below so found and held thus on page 191 of the Record correctly:*

*"... that, the Minister of the FCT operates/performs [sic] its duties through his officials which include the zonal officers, staff of the FCT/FCDA posted to the Zonal Land officer [sic] in the Area Council who performs the duties of the Minister on his behalf ... so also the Chairman of the Area Council who are under the supervision and control of the Minister of the FCT and the zonal land officers being staff of the FCT/FCDA are vested with powers to issue conveyance letter of*

*provisional approval and in doing so it has been the practice with the FCT which the Honourable Court has taken judicial notice of same and doing so is within the ambit of the law.”*

*In consequence, Exhibit A2, the Certificate of Occupancy [Customary], given to the 2<sup>nd</sup> Respondent can stand as a valid root of title on the basis of which the title to land in dispute was awarded to the 1<sup>st</sup> and 2<sup>nd</sup> Respondents. ...”*

The decision of the Supreme Court in **Madu v. Madu [2008] 6 NWLR [Pt. 1083] 296 @ 324-325, H-C** [Per Sylvester Umaru Onu, JSC] is instructive, thus:

*“Be it noted that it is well settled that the ownership of the land comprised in the Federal Capital Territory, Abuja is absolutely vested in the Federal Government of Nigeria vide Ona v. Atenda [2000] NWLR [Pt. 656] page 244 ... By this law, ownership of land within the FCT vests in the Federal Government of Nigeria who through the Minister of FCT vest same to every citizen individually upon application. Thus without an allocation or grant by the Hon. Minister of the FCT, there is no way any person including the respondent could acquire land in the FCT.”*

By the immutable doctrine of *stare decisis* or judicial precedent, this Court is bound by the decision of the Supreme Court. From the decision of the apex Court, it follows that the grant of a customary right of occupancy in respect of the land in dispute to the 1<sup>st</sup> claimant by the Hon. Deputy Mayor of Kuje Area Council vide Exhibit B was/is not valid as the land was not granted by the Minister of FCT.

There is nothing to show that the said grant by the Hon. Deputy Mayor of Kuje Area Council to the 1<sup>st</sup> claimant was authorized by the Minister of FCT or was on behalf of the Minister of FCT. From the evidence of PW1, the 1<sup>st</sup> claimant's application in September 1993 for allocation of land was made to Kuje Area Council. The 1<sup>st</sup> claimant did not apply to the Minister of FCT for allocation of land. Therefore, the said allocation of land to the 1<sup>st</sup> claimant by Kuje Area Council was not made by, or on behalf of, the Minister of FCT.

The claimants relied on Exhibits C, D, E&G1-G5 in urging the Court to hold that the grant of the land to the 1<sup>st</sup> claimant was/is valid. Exhibit C [Right of Occupancy Rent and Fees] dated 8/6/2006 was issued and signed for "*Chairman, Task Force on Revenue For Hon. Chairman K.A.C.*" Clearly, Exhibit B did not emanate from, and was not authorized by, the Minister of FCT.

Exhibit D is the Survey Plan of Plot No. CD-27, AA3 Layout Kuje. Exhibit C has a remark that it was prepared by Cadastral Section of Land Survey of FCDA, Abuja. However, the evidence of PW2 - who said he signed Exhibit D - is that he worked with the Kuje Area Council. I hold the humble opinion that there is nothing to show that Exhibit D was prepared with the approval or authority of the Minister of FCT. In any event, since, as I have found, the land was not validly allocated to the 1<sup>st</sup> claimant, the survey plan cannot confer title to the land on the 1<sup>st</sup> claimant.

Exhibit E is the Regularization of Land Titles and Documents of FCT Area Councils Acknowledgement dated 31/12/2008; it emanated from AGIS, which is under the FCT Administration. It is worthy of note that Exhibit E has a Disclaimer, which reads: *“This acknowledgement does not in anyway validate the authenticity of the documents described above. All documents are subject to further verification for authenticity.”* The Court holds the considered view that Exhibit E does not validate the purported grant of the land to the 1<sup>st</sup> claimant by the Kuje Area Council vide Exhibit B.

Finally, Exhibits G1-G5 are receipts issued by Kuje Area Council on 8/6/2006. The receipts have nothing to do with the Minister of FCT or FCDA. The Court holds that these receipts do not support the claimants’ case that the land was validly allocated to the 1<sup>st</sup> claimant as it was not allocated by, or on behalf of, the Minister of FCT.

From all that I have said, the decision of the Court on Issue 1 is that the claimants have not established their title to the land in dispute.

## **ISSUE 2**

*Whether the claimants are entitled to the reliefs sought.*

The claimants’ relief [a] is a declaration that the 1<sup>st</sup> claimant is entitled to the statutory right of occupancy over the land in dispute. Flowing from the decision of the Court under Issue 1, this relief is dismissed.

The claimants' other reliefs for orders of perpetual injunction, damages for trespass and general damages are dependent or hinged on the declaratory order. Based on the decision of the Court that the claimants are not entitled to the statutory right of occupancy over the said land, I hold that there is no basis to grant the other reliefs.

I am mindful of the principle of law that trespass to land is actionable at the suit of the person in possession of the land. However, in the case of **Uzoije v. Uzochukwu [2018] LPELR-44264 [CA]**, the position of the law was restated that where a plaintiff claims damages for trespass and an injunction against a defendant and the defendant avers in his defence, without necessarily making a counter claim, that the land in dispute belongs to him, title has been squarely put in issue. In order to succeed, the plaintiff has to prove not only that he was in possession at the material time that the alleged trespass was committed, but also that his own title to the land is better than that of the defendant. Thus, a claim for trespass and injunction puts title of the plaintiff over the land in issue. See also the case of **Ufomba v. Ahuchaogu [2003] 8 NWLR [Pt. 821] 130.**

In the instant case, the claimants' title to the land in dispute was put in issue by the pleadings of the parties. The claimants had a duty to prove that their title to the land is better than that of the defendants, which they failed to do. The defendants tendered the Conveyance of Approval of Grant of Land in FCT dated 18/3/1994 [Exhibit L] to show that the parcel of land measuring

about 150 hectares [which includes the land purportedly allocated to the claimants by Kuje Area Council] was allocated to 1<sup>st</sup> defendant by the Hon. Administrator of FCT. The Court holds that the claims for orders of perpetual injunction, damages for trespass and general damages against the defendants were not proved.

**Conclusion:**

All said and in conclusion, the claimants' suit lacks merit. It is dismissed. The parties shall bear their costs.

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**HON. JUSTICE S. C. ORIJI  
[JUDGE]**

**Appearance of Learned Counsel:**

1. J. E. Abibo Esq. for the claimants.
2. Chindo B. Umar Esq. for the defendants.