

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE AKURE JUDICIAL DIVISION
HOLDEN AT AKURE
ON WEDNESDAY, THE 5TH DAY OF OCTOBER, 2016
BEFORE HIS LORDSHIP, THE HON. JUSTICE F.A. OLUBANJO
JUDGE

BETWEEN:

SUIT NO: FHC/AK/CS/16/14

1. PRINCESS (DR) ADETUTU ADESIDA-OJEI

(The Regent of Akure Kingdom)

2. HIGH CHIEF J.R. OLUSOGA

(The Lisa of Akure Kingdom)

3. HIGH CHIEF M.A. ADEBAYO

(The Sao of Akure Kingdom)

4. HIGH CHIEF R.F. OLUSANYA

(The Asamo of Akure Kingdom)

5. HIGH CHIEF M. ADEYEYE

(THE Ajana of Akure Kingdom)

(For themselves and on behalf of Akure Kingdom)

PLAINTIFFS/RESPONDENTS

APPLICANTS

AND

1. POLICE SERVICE COMMISSION

2. INSPECTOR-GENERAL OF POLICE

3. COMMISSIONER OF POLICE, ONDO STATE

4. MR. JOSEPH ABEGUNDE

DEFENDANTS/APPLICANTS

DEFENDANTS/RESPONDENT

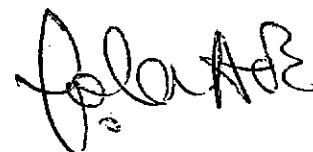
RULING

The Plaintiffs Writ of Summons was filed on 21/02/14, and their claims, made jointly and severally against the Defendants are as follows:

PRINCESS (DR) ADETUTU ADESIDA -OJEI & 4 ORS V. POLICE SERVICE COMMISSION & ORS
FHC/AK/CS/16/14

Page 1

CERTIFIED TRUE COPY
FEDERAL HIGH COURT AKURE
EKWEAGA R.C.
SENIOR REGISTRAR
SIGN _____ DATE 11/10/17

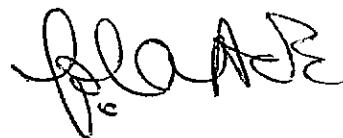


(a) **A Declaration** that the Plaintiffs are the persons entitled to the grant of the Statutory Right of Occupancy in respect of ALL THAT piece/parcel of land situate and lying at Idi-Agba Titun, Akure, Ondo State and bounded as follows:

- (i) Idi -Agba Titun Road;
- (ii) On the second side by St Luke's Anglican Church;
- (iii) On the third side by Police Barrack/Children School; and
- (iv) Top Quality Hotel fence.

(b) **A Declaration** that the act of trespass of the Defendants on the Plaintiffs' land is wrongful, unlawful and fraudulent.

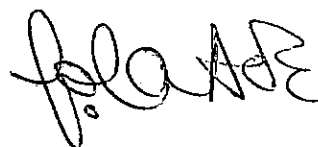
(c) **A Declaration** that the purported forceful acquisition by the Defendants of the Plaintiffs' land at Idi-Agba Titun and bounded by Idi-Agba Titun Road; on the second side by St Luke's Anglican Church; on the third side by Police Barrack/Children School and at the back by Top Hotel fence is illegal, fraudulent, wrongful, null and void and of no effect whatsoever.



(d) **An Order** of perpetual injunction restraining the Defendants, their agents, servants and privies from further committing any act of trespass on Plaintiffs' land at Idi- Agba Titun Road; on the second side by St Luke's Anglican Church; on the third side by Police Barrack/Children School and at the back by Top Hotel fence.

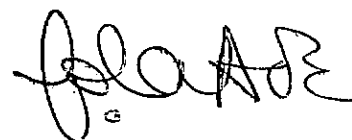
(e) **An Order** for the payment of the sum of **N5, 000.000.00 (Five Million Naira only)** by Defendants to the Plaintiffs as general damages for trespass.

On 03/12/14, **Aderemi Ajibola Esq**, the officer in charge of the Legal/Prosecution Department at the Nigeria Police Ondo State Command, filed a Memorandum of Conditional Appearance dated 02/12/14, for the 1st to 3rd Defendants. The 1st to 3rd Defendants Statement of Defence (dated 02/12/14) and accompanying processes were filed on 24/03/15, on which said date **Mr. Ajibola** filed another Memorandum of Appearance for the same parties. That second Memorandum of Appearance, being a surplusage is hereby struck out.



By a Notice of Preliminary Objection dated and filed on 10/11/15, the 1st to 3rd Defendants/Applicants seek for an Order of this Honourable Court striking out or dismissing this suit for lack of jurisdiction to hear and determine the subject matter thereof, and such further orders as the court may deem fit to make in the circumstances of this case. The Grounds upon which the objection (which is brought pursuant to section 251 of the 1999 Constitution of the Federal Republic of Nigeria as amended, section 6 of the Limitation Law and under the inherent jurisdiction of this Honourable Court) is predicated are:

1. The subject matter of this suit does not fall within the purview of section 251 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) notwithstanding that the 1st – 3rd Defendants are Federal Government agents/agencies.
2. This case is statute barred.
3. The Plaintiffs application is incompetent.



An 8 paragraph Affidavit in Support of the Preliminary Objection which was sworn to by one Corporal Adebowale Lawani, Male, Litigation Clerk attached to the Legal Section of the State Criminal Investigation Department, and is dated 10/11/15 accompanied the objection, and 1st to 3rd Defendants Learned Counsel filed a Written Address dated 10/11/15 to argue the objection. Therein at paragraph 2.0, he placed the following three issues for determination before this Honourable Court:

- i. **Whether** the subject matter of this suit fall within the purview or the jurisdiction of this court.
- ii. **Whether** the court should not decline jurisdiction in respect of this case.
- iii. **Whether** the 1st Defendant who lives in Abuja outside the jurisdiction of this Honourable Court need no to be served the claimants process and whether it is not mandatory to endorse the writ to be served on the 1st Defendant in this case

The Plaintiffs/Respondents filed a 17 paragraph Counter-Affidavit to the Notice of Preliminary Objection. It is dated 30/11/15 sworn to by the 4th Plaintiff, High Chief R.F. Olusanya, the Asamo of Akure Kingdom. Exhibits "A to C" are attached thereto. Only one issue was outlined for determination in the Written Address dated 24/11/15 and filed on 30/11/15 by **O.S. Adedeko Esq**, Plaintiffs/Respondents Learned Counsel, to argue the Counter-Affidavit. It is:

"Whether this Court has the jurisdiction to entertain this suit".

Mr. Ajibola filed a Reply on Points of Law dated 29/02/16 and filed on 01/03/16. The objection was argued on 14/04/16 by **Aderemi Ajibola Esq**, O/C Legal, Ondo State Police Command, for the 1st to 3rd Defendants/Applicants, and **Akin Adesemoye Esq** for the Plaintiffs/Respondents.

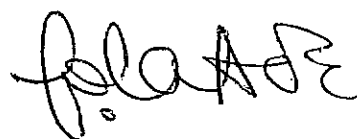
I have carefully considered the objection and the opposition thereto; I shall examine the issues raised by learned Counsel together.

RESOLUTION OF ISSUES:

The court's records reveal that the Plaintiffs filed a Motion Ex-parte (dated and filed on 21/02/14, seeking for leave of this Honourable Court to issue a Concurrent Writ of Summons for service on the 1st and 2nd Defendants at their respective addresses in Abuja, and for service of those processes upon those Defendants at their respective Addresses, by Special Bailiff, specifically Express Mail Service (EMS). See pages 2 to 8 of the main case file A pertaining to this matter.

This ex-parte application ex-parte was granted by **Hon. Justice I.M Sani** on 08/04/14. The Plaintiffs Writ of Summons which is at pages 9 to 10 of the Main Case file A pertaining to this matter is duly endorsed as a "Concurrent Writ of Summons" for service "both in Abuja, a place outside jurisdiction of Ondo State and at Akure respectively". At pages 48 to 52 of the Main Case file A, is an 8 paragraph Affidavit of service dated 07/05/14 deposed to by one Sikiru Jimoh, Male, Nigerian, Litigation Clerk in the Chambers of Plaintiffs/Respondents Solicitors, with Exhibits "A to B" attached

CERTIFIED TRUE COPY
FEDERAL HIGH COURT AKURE
FHWAGA R.C.
SENIOR REGISTRAR II
SIGN. DATE 11/17

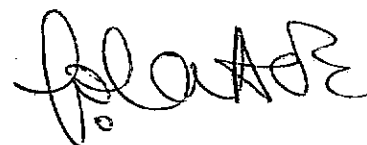


thereto as proof that the enrolment of this courts Ex-parte Order, Writ of Summons and accompanying frontloaded documents as well as the Motion on Notice for Interlocutory Injunction were served on the 1st and 2nd Defendants by EMS speed post. Exhibits "A, B and C" of the Plaintiffs/Respondents Counter-Affidavit are copies of these documents.

There is abundant evidence that the Plaintiffs/Respondents duly complied with the relevant provisions of sections 96 to 98 of the Sheriffs and Civil Process Act Cap S.6 Laws of the Federation of Nigeria 2004 in the issuance and service of the Originating Processes upon the 1st and 2nd Defendants/Applicants. The objection raised in this regard is therefore baseless. The 1st to 3rd Defendants/Applicants third issue for determination is resolved in favour of the Plaintiffs/Respondents.

Regarding whether or not this suit is statute barred, the relevant process which should be examined is the Statement of Claim. See AGI V. ENO (2010)5 NWLR (PART 1188) PP. 626 AT 641 PARAGRAPHS B to C (Court of Appeal); MOBIL PRODUCING

CERTIFIED TRUE COPY
FEDERAL HIGH COURT AKURE
EKWEGAGA H.C.
SENIOR REGISTRAR
SIGN _____ DATE 11/17



NIGERIA UNLIMITED V. UNWEDIMO (2006) ALL FWLR (PART 313) PP. 116 at 133 to 134 PARAGRAPHS H to A (Court of Appeal).

Upon carefully reading through the Statement of Claim dated and filed on 21/02/14, it is obvious that the Plaintiffs cause of action arose in 2009, and their complaint against the Defendants is that their alleged unlawful action is a continuing one. See paragraphs 18 to 37 of the Statement of Claim. Thus, the Plaintiffs/Respondents cause of action is not statute barred, and 1st to 3rd Defendants/Applicants second and third grounds of objection are devoid of merit. I so hold. The 1st to 3rd Defendants 2nd issue for determination is resolved in favour of the Plaintiffs/Respondents.

Can this Honourable Court adjudicate on the subject matter of this suit?

It appears upon glancing through the Plaintiffs claims and the averments in the Statement of Claim that the subject matter of this suit is merely declaration to title to land and trespass to land. My first

CERTIFIED TRUE COPY
FEDERAL HIGH COURT AK
EKWENAGA H.C.
SENIOR REGISTRAR
SIGN. DATE. 11/17

