

IN THE HIGH COURT OF LAGOS STATE
IN THE IKEJA JUDICIAL DIVISION
HOLDEN AT IKEJA

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Surr No.: 101/234/2013

Between

1. Mr. Theophilus Inachukwu Belonwu
2. Mr. Steve Iredibia
3. Mrs. Sylvia Ilofiba

Pat 2013/173

Claimants

And

1. Tony Cynthia Estate Ltd.
2. Mr. Lewis Nkemka Anokwura

}
} Defendants

STATEMENT OF CLAIM

1. The 1st Claimant is a business man residing at No. 4, Enyi Arinze Street, Off Mohammed Sherifu Street, Okota, Lagos.
2. The 2nd & 3rd Claimants are business persons residing at No. 48, Yusuf Erinfolami Street, Okota, Lagos.
3. The 1st Defendant is a company incorporated under the laws of the Federal Republic of Nigeria and the 2nd Defendant is the alter-ego of the 1st Defendant and both are represented at their address as Luwinco House, 51-53, Milestone Avenue, Amuwo Odofin Industrial Estate, Oshodi-Apapa Expressway, Ijeshalagos.
4. By virtue of the respective Deeds of Assignment executed in the year 2005 the 1st Defendant through the 2nd Defendant misrepresented to the Claimants a false and pretended assignment of the following properties in the Ogundara Bashorun and Sunmonu Akano Family Lands at Amuwo Odofin in Amuwo Odofin Local Government Area of Lagos State:

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1. To the 1st Claimant:

(i) A land measuring 1023.534 square metres particularly delineated and described in the Survey Plan No. AQ/0781/057/2005/LA drawn and signed by KUNLE O. AGBOLADE a registered Surveyor; and having Beacon Nos. SC/LA/F9250BP, SC/LA/F9251BP, SC/LA/F9252BP and SC/LA/F9258BP for a consideration then of ₦1.5 million

(ii) A land measuring 1953.036 square metres particularly delineated and described in the Survey Plan No. AQ/0781/018B/2005/LA drawn and signed by KUNLE O. AGBOLADE a registered Surveyor, and having Beacons Nos. SC/LA/F9250BP, SC/LA/F9253BP, SC/LA/F9254BP, SC/LA/F9255BP, SC/LA/F9258BP for a consideration then of ₦2 million

b) To the 2nd & 3rd Claimant jointly:

(i) A land measuring 6417.094 square metres particularly delineated and described on Plan No. LO.376/77 and marked by Beacon Nos. BL9844, BL9855, BL9839 and BL9842 for a consideration then of ₦3 million

All the said Deeds of Assignment and Survey Plans reflecting the above stated transactions are hereby pleaded and would be relied upon at trial.

5. Immediately after the execution of the said Deeds of Assignment the 1st Defendant through the 2nd Defendant took the Claimants and physically pointed out the particular parcels of land purported to have been assigned to them and on the strength of that the Claimants proceeded to erect high wall fences and gates to the said respective lands at a great expense.

6. Subsequently after the erection of the said fences and gates the Lagos State Government invaded the said land as well as the then Ifelodun Local Government Chairman in the person of Honourable Taiwo Adenekan thereby denying the Claimants possession of the said land on the basis that the title and ownership to the said land as above described in paragraph 4 was not available to the Claimants and their predecessors in title.

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The above stated averments in paragraph 6 culminated into Suit No. JO/837/07 (pleaded herein is an Interim Order of Injunction obtained by the Claimant from the Honourable Justice T. A. O. Oyekan-Abdullahi of the Lagos State High Court, IKEJA JUDICIAL DIVISION on the 16th day of January, 2008 in the said Suit).

As a further development to the averment in paragraph 7 above, on the 15th day of June, 2009 the following set of parties applied to the Honourable Court in the above stated Suit and were also joined to ventilate their contest for the ownership for the same said land and property as well and they include: Pertrust Property Investment Company Ltd., Mr. Adisa Shebanjo, Mr. Odunayo Olagundoye, Mr. Adegboyega Coker, Mr. Jibayo Olagundoye (for themselves and as representing other Plot owners at Ogundajo Bashorun Sunmonu Akanwo family land Estate Layout at Amuwo Odofin) and Mr. Chukwuemeka Chukwuebuka (for himself and on behalf of the allottees of state land within Amuwo Odofin Residential Scheme Lagos) - pleaded herein and reliance would be placed on a letter dated the 24th day of November, 2009 on which is attached the Forms 17 & 18 in showcasing the new parties as mentioned above per the development and the trend in the matter.

The spate of diverse interest, contest for the ownership of the said land became limitless and the rigours of litigation in those lands which were sold to the Claimants by the Defendants became so prolonged and unabated that as at today the matter is yet to settle to enable the Claimants have any meaningful use, title, and possession of the said land.

10. As if the averments in paragraphs 6, 7 & 8 above are not enough, on the 19th of July, 2010 another set of litigants initiated action on the said lands IN THE LAGOOS JUDICIAL DIVISION culminating into another Suit with Suit No. LD/1447/2010 in the matter of MR. S. ABIOLUN-OLUKOYA & ANOR Vs. MR. STEVEN AZUBUIKE OKONKWO & ORS and in this later Suit the Claimants were brandishing the following Certificates of Occupancy:

- (i) A Certificate of Occupancy dated the 22nd day of August, 2005 and registered as No. 44 at page 44 in Volume 2005Q at the Lands Registry, Lagos bearing the Survey Plan No. JO/378G/77 dated 28/12/77.

1. Certificate of Occupancy dated the 28th day of October, 2005 and registered as No. 84 at Page 84 in Volume 2005U at the Lands Registry, Lagos bearing the Survey Plan No. O/378K/77 dated 28/12/77.

All these were the Claimants to the knowledge of the 1st & 2nd Defendant were bearing all the expenses and highly prohibitive costs of the above stated litigation and lawyers fees to the chambers of Ekana & Falana to the exclusion and without any contribution from the said 1st & 2nd Defendants who were equally aware of the financial risk and exposure they had made the Claimants to bear both in the cost and value of the said land as at the time of purchase in 2005 and the present and unending cost of litigation as stated above.

Being overwhelmed with the above state of affairs it became obvious to the Claimants that they had never had and would never have peaceable possession of the said land more than six (6) years after purchase of same and the 1st Defendant not being able to prove better title in all the above stated Suits the *particulars* of which are as follows:

- (a) The Governor of Lagos under the Land Use Act is vested with all the lands in the territory of Lagos State.
 - (b) The respective Certificates of Occupancy averred to in paragraphs 10(i) & 10(ii) above were all issued by the Governor of Lagos State in respect of the said land.
 - (c) The respective Survey Plans attached to the said Certificates of Occupancy as averred above were both dated 28/12/77 which means that they came into existence more than 28 years before the year 2005 in which later year was when the 1st Defendant sold the said lands to the Claimants.
3. By a letter dated the 30th day of May, 2011 the Claimants wrote to the 1st & 2nd Defendants invoking the *indemnity clauses* in the various Deeds of Assignment and demanding refund of their money in the equivalent of the present value. The said letter is hereby pleaded as well as the proof of dispatch of same.

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The said letter as averred in paragraph 13 above was so desolately and discouragingly and was not responded to even as at today by the 1st & 2nd Defendant in obvious contempt of the Claimants.

In the bid to also mitigate all their losses and the hopelessness in the needless litigation in Suit No. ID/837/2007, the Claimants herein (as the 1st & 2nd sets of Claimants in that Suit) on the 16th day of April, 2012 filed a Notice of Discontinuance which was served on all the Solicitors representing all the parties in that Suit - *pleaded is the said process as well as the proofs of service of same by courier.*

6. As at the said 16th day of April, 2012 trial is yet to commence on the said matter **5 years** after the Suit was incepted and more than **7 years** after the Claimants purchased the said trouble-prone properties respectively from the 1st & 2nd Defendants.
7. By the averment in paragraph 14 above the Claimants herein are no longer in court in any pending Suit pertaining to their claim, interest, ownership and title in the said landed property respectively so purchased from the 1st & 2nd Defendants.
8. In the bid to recover the full value of their investment by way of the said purchase of the respective land from the 1st & 2nd Defendants the Claimants hired the services of AUSTINE UDOH & PARTNERS (Estate Surveyors & Valuers) who evaluated and issued Certificates of Value respectively on the said lands as follows:
 - (a) For the 1st Claimant: both lands which were paid for by him as averred in paragraph 4(a)(i) & 4(a)(ii) above had an open total market value as at the 10th day of May, 2012 in the sum of **₦113,086,800.00 (One Hundred and Thirteen Million, Eighty-Six Thousand and Eight Hundred Naira only).**
 - (b) For the 2nd & 3rd Claimants: the said land which was jointly paid for by them and as averred as averred in paragraph 4(b)(i) above had an open market value as at the 10th day of May, 2012 in the sum of **₦100,300,000.00 (One Hundred Million and Three Thousand Naira only)**

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Both Certificates of Value are hereby pleaded and would be relied upon at trial.

The Claimants aver that they were shocked by the gross insensitivity displayed by the Defendant all through their travails on the said land of which the Defendants in a purported sale had pocketed their monies by way of the respective purchase prices on same since 2005 till date and indeed dismayed and embarrassed that the said Defendants did not lift a finger in their Defence nor contribute towards the litigation expenses when it became obvious that there was defects and want in title to the said land respectively sold to the Claimants by the Defendant in the said sham transaction.

1. All efforts by the Claimants to persuade the Defendants before and subsequently after the said letter averred in paragraphs 13 & 14 above through influential friends of the 2nd Defendant to reconstitute the Claimants in the failed land transaction went unheeded as both the 1st & 2nd Defendant remained adamant.
1. The Claimants aver that they had lost great value of the said land which upon computation comes to an aggregate of 6,293 square metres.
2. The Claimants further aver that the Lagos State Government recognizes a plot of land from 500 square metres and that a juxtaposition of the averments in paragraph 21 above would give 12,586 plots of land which approximates to 13 plots of land and that as at today the present value of land in that location is in excess of N20 million per plot of land which amounts to more than N260 million for the total value of the land as at today.
3. The Claimants had spent in excess of N20 million in paying solicitors' fees and in the course of pursuing and seeking redress in this matter.

WHEREFORE, the Claimants claim against the Defendants as follows:

1. **A DECLARATION** that the respective Deeds of Assignment executed in the year 2005 between the respective Claimants and the 1st Defendant with respect to the lands measuring 1023.594 square metres, 1953.036 square metres and 3417.094 square metres as delineated in the respective survey plans AOA/0781/057/2005/LA, AOA/0781/018B/2005/LA & LO.376/77 are pretended, false, ineffectual and a failed transaction.

on reason of misrepresentation, defects and want of title of the 1st Defendant.

A **DECLARATION** that the Claimants are entitled jointly and severally to the respective indemnification clauses as settled in the said respective Deeds of Assignment as settled in Relief No. 1 above.

AN ORDER commanding the Defendants to pay the sum of ₦113,000,000.00 to the 1st Claimant and the sum of ₦100,300,000.00 to the 2nd & 3rd Claimants respectively being the assessed value of the respective land in the Certificate of Value made by Messrs JUSTINE UDOH & PARTNERS as well as the interests on the above stated sums calculated at the rate of 21% from the 15th day of June, 2011 till the date of judgment and thereafter at the rate of 10% until final liquidation of the entire sums.

4. ₦20,000,000.00 (Twenty Million Naira only) Cost of this action/Solicitors Bills.

Dated the 7th day of March, 2013.


Mackings Nezianya Esq.
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FOR SERVICE ON:

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Amuwo-Odofin Industrial Estate,
Oshodi-Apapa Expressway,
Ijesho-Lagos.

The 2nd Defendant,
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51-53, Milestone Avenue,
Amuwo-Odofin Industrial Estate,
Oshodi-Apapa Expressway,
Ijesho-Lagos.

