

**IN THE MAGISTRATES' COURT OF RIVERS STATE**  
**IN THE PORTHARCOURT MAGISTERIAL DISTRICT**  
**HOLDEN AT SMALL CLAIMS COURT BEFORE HIS WORSHIP. G.C. AMADI ESQ.**  
**SITTING AT SMALL CLAIMS COURT, 1, PORT HARCOURT ON FRIDAY, THE 31ST**  
**OCTOBER, 2024.**

**SUIT NO. PMC/SCC/220/2024**

1. MR. JONAH MICHEAL WARIBOKO  
2. SILVERLINE J. WARIBOKO

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**CLAIMANTS**

**AND**

**CHIEF TAMUNOIGBEINBIA NNANA**

}

**DEFENDANT**

**JUDGMENT**

This is the final judgment in this suit wherein the small claim before the court, dated and filed on the 4<sup>th</sup> September, 2024 is for:

- A. An order directing the defendant to refund the Claimant, the sum of N1,250,000 paid in 2022 when the dollar rate was N450 to one Naira, That the current value of the land is now N4,416,654 for the purchase price.
- B. An order directing the defendant to refund the Claimant, the sum of N90,000 spent on survey plan and N120,000 for deed of conveyance and N50,000 cost of agency and another N120,000 for initial fencing work(development)

In proof of their case, the Claimant called one witness and the defendant also called one witnesses and a total of five (5) exhibits were tendered in evidence.

On the 19<sup>th</sup> day of September, 2024, the defendant counsel applies for plea of not liable to be entered on behalf of the defendant but however admits to owing the sum of N1,250,000. The Claimant counsel applies that the judgement entered against the defendant for the admitted sum, The application was granted and Judgment was entered against the defendant for the admitted sum and the difference which is  $N4,416,654 - N1250,000 = N3,166,654$

On the 20<sup>th</sup> September, 2024, the CW1, the Claimant on record commenced his evidence in Chief and stated he is the first Claimant in this suit and by virtue of which position he is conversant with the facts of this suit. The facts deposed to are within his personal knowledge. That he knows the Defendant in this suit. Sometime in the year 2022 the Defendant approached him and persuaded him to purchase a piece of land measuring 324.99 SQ. situate at Egelebie George Ama, Okrika in Okrika Local Government Area of Rivers State for the sum of N1,250,000 (One Million, Two Hundred and Fifty Thousand



Naira) only. That he specifically inquired about the ownership status of the land from the Defendant who gave all assurance that the land was his own. The Defendant said he purchased the land from one Mr. Chop remain who derived his title from the Dokube War Canoe House of George Ama, Okrika. The Defendant said he was selling the land because he needed to add the money up to other funds he had raised which he wanted to send to his son who was studying medicine abroad.

That based on the presentation of the Defendant, he spent N90,000.00 (Ninety Thousand Naira) and N120,000.00 (One Hundred and Twenty Thousand Naira) for Survey plan and deed of conveyance respectively. I also paid the purchase sum of N1,250,000 (One Million, Two Hundred and Fifty Thousand Naira) only to the Defendant after which the Defendant executed a deed of conveyance for herself and her wife. That If she sees the documents relating to payments made and the Deed of Conveyance, he can identify them.

That he also paid N50,000.00 (Fifty Thousand Naira) for agency and N120,000. (One Hundred and Twenty thousand Naira) for initial fencing work and Salamanta Engineering Company Limited issued be a hand-written note acknowledging the receipt of this sum and if I see the note I can identify it.

That when she started working on the land, one Mr. Above came to claim ownership of the land. That he informed the Defendant of the Development but the Defendant asked me to leave the land for Mr. Above. The Defendant could not defend the title he conveyed to me.

That the land is currently worth N3,500,000.00(Three Million, Five Hundred Thousand Naira. The land is situated along a major road. The current value of the N1,250,000 (One Million, Two Hundred and Fifty Thousand Naira) only I paid in 2022 is N4,416,654. As at when he paid the money to the Defendant which the Defendant sent to his son abroad, One Dollar is equivalent to N450 (Four Hundred and Fifty Naira). Currently, one Dollar is equal to N1,590. (One Thousand, Five Hundred and Ninety Naira) only.

Testifying further, the CW1 stated that he wrote a demand letter to the Defendant requesting for his money but the defendant refused to pay. He also asked the Defendant to give him another land which is not as attractive as the one he purchased but the Defendant refused.

That he knows that the Defendant has a hotel he is building opposite refinery in Okrika. The Defendant also has forty plots of land in Okochiri Okrika for which he gave him a lease agreement to vet for him.

That each time, he demands money, the Defendant would tell him that he will make me his lawyer and be giving me job to do as if I am soliciting for briefs.

The CW1 identifies the deed of conveyance, the invoice for the survey of land, the receipt for the money paid for development, the receipt for the preparation of the deed of conveyance, domestic airway bill, and demand letter from the Claimants and in the absence of any objection, the documents were admitted in evidence and marked as Exhibits **A,B,C,D and E** respectively.

In conclusion, the Claimant stated that he wants the court to grant him, the reliefs in his complaint form, being the principal claim, damages and cost.

During the cross-examination of the CW1 on the same date, he stated that he does not have any document before the court to show the dollar rate in 2024. That the information is in the public domain; which the Court can take judicial notice of That the defendant gave him assurance that the land is his and he took his words and did not make further investigations.

That he met the agent, Godwin before he met the defendant and that the defendant is aware of the N50,000. That he paid N120,000 to the defendant's engineer and they dug the ground, bought blocks and put the blocks on the ground before the Mr Above came to claim ownership. That he called the defendant and he said he should leave the land for Mr. Above because he is



a militant. That he does not have photographs of the work done by Stalemate Engineering, but that he has receipt from Stalemate Engineering and that if the Court goes to the site, they will see the sand and the block.

That the receipt, Exhibit C before the Court is not a conclusive proof that the ground was dug, but is a proof that money was paid to the Engineering Company which is part of the claim before the Court.

Continuing the cross-examination on the 20<sup>th</sup> of September, 2024, the CW1 stated that his name is Jonah M. Wariboko and Jonah Micheal Wariboko. That there is no date on the deed of conveyance and the reason is for purposes of stamp duty. That the survey plan 13<sup>th</sup> December, 2022. The CW1 is asked to look at Exhibit D and he states that the name on Exhibit A is not different from the process before the Court because as lawyer that they use initials everyday, that even in appearance, if initials are used, it is still the same thing. After the evidence of CW1, the matter was adjourned for defence.

On the 30<sup>th</sup> day of April, 2024, the DW1, who is also the defendant on record commenced his evidence and stated that he is adopting his written statement on oath as his evidence before the Court and same is adopted in Evidence. That he is the one that sold the land known as and called Egelebie George-Ama lying, situate and being at Okirika in Okirika Local Government Area of Rivers State to the Barr. Jonah M. Wariboko and Barr. Silverline J. Wariboko at the sum of N1,250,000.00 One Million, Two Hundred and Fifty Thousand Naira, in the year 2022. That he did not defraud the Claimants as they allegedly claimed in their Particular of Claims. That he is not owing the Claimants the sum of N4,801,654 (Four Million, Eight Hundred and One Thousand, Six Hundred and Fifty-Four Naira) as they Claimed, the only money Barr. Jonah M. Wariboko and Barr. Silverline J. Wariboko paid to me was the sum of N1,250,000.00 One Million, Two Hundred and Fifty Thousand Naira as the consideration for the land I sold to them. That I am not owing the Claimants the sum of N3,551,654.1 (Three Million, Five Hundred and Fifty-One Thousand, Six Hundred and Fifty-Four Naira, One Kobo) as it was claimed in their Particular of Claim. That the land he sold to Barr. Jonah M. Wariboko and Barr. Silverline J. Wariboko had a little issue which he told Barr. Jonah M. Wariboko and Barr. Silverline J. Wariboko I wanted to refund their money N1,250,000.00 One Million, Two Hundred and Fifty Thousand Naira they paid to me as the consideration for the land, but Barr. Jonah M. Wariboko and Barr. Silverline J. Wariboko refused to collect the refund and insisted it must be that particular land otherwise they would not collect their money and also will not accept another land.

Testifying further, the DW1 stated that when he informed the Claimants, they refused to collect the land from him as an alternative to settle the issue Barr. Jonah M. and Barr. Silverline J. Wariboko insisted that it must be that said land known as and called Egelebie George-Ama lying, situate and being at Okirika in Okirika Local Government Area of Rivers State otherwise they would not collect any other as an alternative. That he invited their Chiefs and Elders in their community to intervene on the matter but the Claimants refused to take the alternative land he suggested to them.

That the Claimant have not erect any fence on the land I sold to them since the year 2022, That the Claimants only went to the land to clear the grasses before they called him that they were obstructed by Mr. Above to carry out work on the land and that immediately the Claimants called him, he went to the land and called Mr. Chop remain who originally sold the land to him, the chief invited Mr. Chop remain, Mr. Above, the 1<sup>st</sup> Claimant and I for a meeting at the meeting, the 1<sup>st</sup> defendant disrespected his original vendor "Mr. Chop remain" who sold the land to him and also disrespected Mr. Above.



That he had pleaded to refund the sum of N1,250,000.00 (One Million, Two Hundred and Fifty Thousand Naira) paid to me by the Claimants, immediately they informed him of the development but they refused to collect their said money from me and insisted that it must be on the said land otherwise they would not collect any other land, further appealed to Barr. Jonah M. Wariboko and Barr. Silverline J. Wariboko to give me a little time to settle the issue with Mr. Above.

During the Cross-examination of the defendant, the DW1 on same date, he stated that he is not broke and that he does not have any document to show that the land was gifted to him that because where he is coming from, they do things like brothers and sisters. That the land is not inherited. That it is true that between 2022 and today, value of Naira have declined. That he never stated in evidence that he offered alternative land to the Claimants after the one he sold to them had issues. That anybody who says that he offered alternative land to the Claimant is a liar.

At the close of the evidence of the DW1, the matter was adjourned for final address.

That said, I will proceed to consider the case of the parties in the light of the relevant laws. I have noted the essence of the claim and the defence and have also taken cognizance of the evidence of the claimant and the defendant and their witnesses before the court.

**ISSUE FOR DETERMINATION:**

**Whether The Claimant Has Proved His Case To entitle him To The Following orders:**

- A. An order directing the defendant to refund the Claimant, the sum of N1,250,000 paid in 2022 when the dollar rate was N450 to one Naira, that the current value of the land is now N4,416,654 for the purchase price.
- B. An order directing the defendant to refund the Claimant, the sum of N90,000 spent on survey plan and N120,000 for deed of conveyance and N50,000 cost of agency and another N120,000 for initial fencing work(development)

It is important to note that the defendant have admitted owing the Claimants, the sum of N1250,000 and the said amount have been entered in judgement against the defendant. The Defendant filed a Defence contesting and contending the sum of N3,551,654.1 (Three Million, Five Hundred and Fifty-One Thousand, Six Hundred and Fifty-Four Naira, One Kobo) on the ground. that is not owing the Claimants

In their final address, the Claimants submits that the Claimants have failed to discharge the onus on them. In Exhibit A" which is the Deed of Conveyance the Claimants claimed that the Land is one plot of land, which is not true. The same with Exhibit B Receipt dated 12th day of December, 2022, the Claimants also claimed to have surveyed one plot of land, whereas, the Land the Defendant sold to Barr. Jonah M. Wariboko and Barr. Sierline ). Wariboko is half plot of land, the contradiction in the instant case is material, to the case, this contradiction by the Claimants witness is so material to the facts and the Claim of N3,551,654,1 (Three Million, Five Hundred and Fifty-One Thousand, Six Hundred and Fifty-Four Naira, One Kobo)

In response to the above, it is the position of this Court that the defendant having admitted that they sold land to the Claimants to the sum of N1,250,000 and by that admission , both parties have agreed on the original purchase price of the said piece of land and Judgement entered for



The Claimant to the admitted sum, the issues are now narrowed to the issue on whether award should be predicated on the current exchange rate or not and whether the Claimant is entitled to the claim for agency and development on the land and survey plan.

In their deposition on oath, the 1st Claimant counsel deposed that the current value of the N1,250,000 (One Million, Two Hundred and Fifty Thousand Naira) only he paid in 2022 is N4,416,654. As at when he paid the money to the Defendant which the Defendant sent to his son abroad, One Dollar is equivalent to N450 (Four Hundred and Fifty Naira) and that currently, one Dollar is equal to N1,590. (One Thousand, Five Hundred and Ninety Naira) only.

The position of the court as regards this is the land transaction was done in Naira, so why should the court use the yardstick of the current rate of dollars to award refund of money that was advanced in Naira? There is no reason whatsoever for the Court to award the sum in dollars. Did the Claimant keep his money in dollars and then and then changed it to Naira for the purposes of this present transaction? Did the Claimants lose earnings in dollars?

There is no basis for the court to award the refund of the price of the land at the current dollar rate.

The defendant have also submitted there is contradiction in the name of the 1<sup>st</sup> defendant because the transaction was done between the defendant and Barr. Jonah M. Wariboko and Barr Silverline J. Wariboko and not Jonah Micheal Wariboko as is the claimant before the Court. On this issue, the stance of the Court is I agree with the Claimant that M in Exhibit A is just an initial. If the defendant is asserting that the M is not an initial for Micheal, then the defendant will have to prove their assertion, For it is trite now that he who asserts must prove.

The defendant have also submitted in their final address that the Claimants have alleged that the defendant were fraudulent and that the allegation of fraud must be proved beyond reasonable doubt. I agree with the Claimant's counsel that the issue of proving fraud beyond reasonable doubt, does not take from the fact that the Claimants are entitled to be paid for all loss incurred And the claim for refund of their monies and ancillary cost does not depend on proving fraud against the Defendant.

On The Claim For the sum of N90,000 spent on survey plan and N120,000 for deed of conveyance and N50,000 cost of agency and another N120,000 for initial fencing work(development). The Claimant to prove this claim have tendered Exhibits B. C. D and E.

This exhibits were uncontroverted in evidence. The defendant have submitted that the Claimants did not show that they actually did any development on the land. It is the stance of the Court is the fact that the Claimant did not tender a picture of the development he did on the land does not mean that the Court should turn a blind eye to the sum, he expended for development for which he seeks a refund as evidenced in Exhibit B before the Court.

On the basis of the foregoing and on the balance of probability, before the court, the Court hereby holds that the Claimants have failed to prove that the current value of the land is now N4,416,654 for the purchase price using the dollar rate as an index and as claimed before the Court.

**IT IS THUS ADJUDGED** that the defendant to pay to the Claimant, the admitted sum of 1,250,000,00(One Million, Two Hundred And Fifty Thousand Naira) only as the refund for the purchase price of the land.

**AND, IT IS ALSO ADJUDGED** that the defendant to pay the Claimants, the sum of N90, 000 (Ninety Thousand Naira) spent on survey plan and N120,000 (One Hundred And Twenty Thousand Naira) for deed of conveyance and N50,000 (Fifty Thousand Naira) for cost of agency and another N120,000(One Hundred And Twenty Thousand Naira) for initial fencing work(development)Cumulatively to the total sum of N380,000(Three Hundred and Eighty Thousand Naira)

**AND IT IS ALSO ADJUDGED** that the defendant to pay to the Claimants, the sum of N600,000(Six Hundred Thousand Naira) as cost.

**AND IT IS ORDERED** that the defendant to pay the Claimants, the cumulative sum of N2,130,000

- a) The sum of N1,250,000 which represents the admitted sum for the refund of the purchase price.
- b) The sum of N90, 000 (Ninety Thousand Naira) spent on survey plan
- c) The sum of N120,000 (One Hundred And Twenty Thousand Naira) for deed of conveyance
- d) The sum of N50,000 (Fifty Thousand Naira) for cost of agency
- e) The sum of N120,000(One Hundred And Twenty Thousand Naira) for initial fencing work(development)
- f) The sum of N600, 000(Six Hundred Thousand Naira) as cost.

**AND IT IS FURTHER ORDERED** that the defendant do pay to the Claimant the sum of **N2, 230,000 (Two Million, Two Hundred And Thirty Thousand Naira)** above mentioned with immediate effect.

**TAKE NOTICE** –That if payment is not made as above ordered, a warrant or warrants may issue requiring an officer of the court to levy the sum above mentioned, to the claimant together with further costs.

GIFT C. AMADI, ESQ.  
CHIEF MAGISTRATE  
G.D.I  
SIGN.....DATE.....

**G. CHINYERE AMADI. ESQ.**  
**CHIEF MAGISTRATE G.D.I**

