

**IN THE HIGH COURT OF JUSTICE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION**

HOLDEN AT JABI –ABUJA

HIS LORDSHIP: HON.JUSTICE D.Z. SENCHI

COURT CLERKS: – T. P. SALLAH & ORS

COURT NUMBER: 19

DATE: 25 /4/18

FCT/HC/CR/93/2011

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA-----

COMPLAINANT

AND

MARKUS KADIR GADZAMA-----

DEFENDANT

JUDGMENT

The five (5) counts charge against the Defendant was filed on 31st May, 2011. The prosecution had closed its case and the case was at defence stage when the trial Judge was elevated to the Court of Appeal. On the 18th May, 2015, the case commenced de novo and the five counts charge against the Defendant were read and explained to the Defendant as follows:-

CHARGE

That you Markus Kadir Gadzama sometime in June, 2005 in Abuja within the Abuja Judicial Division of the High Court of the Federal Capital Territory with intent to defraud obtained a right of occupancy over property situated at FCT Plot No. L84 within Dape District measuring 2052 square meter from one Mrs. Grace Lamar Abbagana under the false pretence of carrying out revalidation at Abuja Geographic Information Systems on behalf of one Haruna

Audu Mamza in which you sold the property to one Hajiya Maryam Buba at the cost of Three Million Nine Hundred Thousand Naira only(N3,900,000.00) as a bonafide owner which you knew to be false and thereby committed an offence contrary to section 1(1) of the Advance Fee Fraud and Other Fraud Related Offences Act 2006 and punishable under section 1(3) of the same Act.

COUNT TWO

That you Markus Kadir Gadzama sometime in June 2005 in Abuja within the Abuja Judicial Division of the High Court of the Federal Capital Territory did forge a High Court of Justice Federal Capital Territory Abuja General Form of Affidavit General Title Form "A" dated 20th October, 2005 with intent to commit fraud and thereby committed an offence contrary to section 363 of the Penal Code Cap 532 Laws of the Federation of Nigeria 1990 and punishable under section 364 of the same Act.

COUNT THREE

That you Markus Kadir Gadzama sometime in June 2005 in Abuja within the Abuja Judicial Division of the High Court of the Federal Capital Territory did fraudulently use as genuine a High Court of Justice Federal Capital Territory Abuja General Form of Affidavit General Title Form 'A' dated 20th October, 2005 which you knew to be forged and thereby committed an offence contrary to section 366 of the penal Code Cap 532 Laws of the Federation of Nigeria 1990 and punishable under section 346 of the same Act.

COUNT FOUR

That you Markus Kadir Gadzama sometime in June 2005 in Abuja within the Abuja Judicial Division of the High Court of the Federal Capital Territory did forge an application for re- certification and re-issuance of Certificate of Occupancy of Ministry of the Federal

Capital territory dated 30th November, 2005 with intent to commit fraud and thereby committed an offence contrary to section 363 of the Penal Code Cap 532 Laws of the Federation of Nigeria 1990 and punishable under section 364 of the same Act.

COUNT FIVE

That you Markus Kadir Gadzama sometime in June 2005 in Abuja within the Abuja Judicial Division of the High Court of the Federal Capital Territory did fraudulently use as genuine an application for re-certification and re-issuance of Certificate of Occupancy of Ministry of the Federal Capital Territory dated 30th November, 2005 which you knew to be forged and thereby committed an offence contrary of section 366 of the Penal Code Cap 532 Laws of the Federation of Nigeria 1990 and punishable under section 364 of the same Act.

The Defendant pleaded not guilty to the five (5) counts charge. Thereafter the prosecution opened its case for hearing. Seven (7) witnesses testified on behalf of the prosecution's case. The prosecution tendered in evidence the statements of the Defendant and other documents and they were received in evidence and marked as exhibits 1-9 respectively.

The brief facts of the prosecution's case is that by a petition dated 30th June, 2009 written by one Haruna Audu Mamza, PW5 and addressed to the Chairman Economic and Financial Crimes Commission. PW5 in his petition alleged that he purchased a piece of land, plot number L 84 within Dape District measuring 2052 square Meter from his brother in-law at a consideration of N700,000.00.

PW5 in both the petition and his oral testimony stated that he handed over the title documents of Plot L84 Dape District to his

Senior Sister, PW7 together with the sum of N110,000.00 and N100,000.00 respectively with instructions that the title documents be given to the Defendant to carry out revalidation of the title documents at Abuja Geographic Information System (AGIS). According to PWs5 and 7, the sum of N110,000.00 was for revalidation of the title documents while the sum of N100,000.00 was for the Defendant's logistics. According to PW5's petition, after a period of time he asked the Defendant about the revalidation of his title documents and the Defendant said to him the process was still ongoing and he could not reach the Defendant again. PW5 in his petition alleged that he visited Abuja Geographic Information System (AGIS) to ascertain the true position of things and he discovered that the right of Occupancy given to the Defendant for revalidation, the right of occupancy revalidated has the name of Mr. Lamar Abba Gana Gadzama and the photograph of the Defendant on it. PW5 also alleged that the Defendant fraudulently prepared a Deed of Assignment and power of Attorney in the name of Lamar Abbagana and the Defendant signed same documents and that the Defendant eventually sold the plot of land L84 Dape District to one Mr. Okike Godwin Uchechukwu and the said Mr. Okike Godwin paid the sum of N2,360,000.00 to collect the revalidated certificate.

On receipt of the petition PW5, the Commission referred the petition to PWs, 1,3 and 4 for investigation. PW1, Abdullahi Muhammadu Maiturare, a detective with the Economic and Financial Crimes Commission testified that sometimes in June, 2009, a petition was referred to them for investigation involving criminal breach of trust, forgery and conversion of title documents of Plot L.84 Cadastral Zone CO4 FCT, Abuja.

The petition was received in evidence through PW1 as exhibit 1 and the attached documents admitted in evidence as exhibits 1(a) respectively. PW1 testified that the team invited the nominal complainant, PW5 and they obtained his statement. PW1 as the leader of the team of investigators testified that they proceeded to the residence of the Defendant with a view to arresting him but he was absent. According to PW1 as the Defendant was absent at home, the wife of the Defendant was arrested because she witnessed the collection of N4,000,000.00 from one Mrs. Maryam Buba, a property agent who testified as PW2. PW1 testified that the Defendant's wife made a voluntary statement to the Commission and she then later placed a phone call to the Defendant and the Defendant later reported to the commission. PW1 testifies that the Defendant's voluntary statement was recorded and he also made additional statement to the commission. After trial within trial, the confessional statements of the Defendant were admitted in evidence as exhibits 6, 6(a) and 6(b) respectively.

PW1 testified that as part of their investigation activities, they wrote a letter to the Federal Capital Development Authority, (FCDA) requesting for policy file of plot No. L84, the subject matter of the petition. The Federal Capital Territory Administration replied and the reply and attached documents were collectively received in evidence as exhibit 2. Then PW1 testified also that they wrote a letter of investigation to the Chief Registrar, High Court of Justice of Federal Capital Territory Abuja requesting for authentication of an affidavit. The reply of the Chief Registrar and the affidavit sworn to on 8th March, 2010 were admitted in evidence as exhibits 3 and 3(a) respectively. PW1 testified further that an internal memorandum was sent to forensic Department of the commission to confirm the

genuineness of the signatures contained in the documents. The letter of the Head of Operations and the letter of the Head of Forensic Unit of the Commission with attached documents were admitted in evidence as exhibit 4.

PW1 also testified that the person whom the Defendant sold the plot no. L84, one Uchechukwu was also invited and he made statement to the Commission. However, PW1 testified that Uchechukwu later died. The statement of Uchechukwu was admitted in evidence as exhibit 5.

PW1 testified that as part of their investigation activities and obtaining of statements, the confessional statements of the Defendant and the Defendant were taken to his superior one ASP Faga for endorsement and it was indorsed.

PWs3 and 4 as I said earlier, are also officers of the Economic and Financial Crimes Commission. PW3 Rakkiya Gimba testified pursuant to a subpoena served on her to produce and tender in evidence the Certificate of Occupancy. PW3 testified that the Certificate of Occupancy bears the name of the Defendant and the passport photograph on it is also that of the Defendant. The Certificate of Occupancy was admitted in evidence as exhibit 7. While PW4, Benedict Agwueye, a forensic document examiner with the Economic and Financial Crimes Commission testified to the analysis he carried out on the two sets of documents forwarded to him by one Abdulkadir Jimoh, Head of Operations of Economic and Financial Crimes Commission for examination. After the examination of the documents, PW4 issued a report. The report was admitted in evidence as exhibit 8.

PW2, Maryam Buba was the property agent that purchased Plot L84 Dape District from the Defendant. According to her, that one Suleiman brought to her a photocopy of land in Dape measuring

about 2000 square meter for sale. PW2 testified that she went to Abuja Geographic Information System (AGIS) and conducted a search. She then requested for the original title document of the land. According to PW2, then one Suleiman came to her in company of the Defendant with the original titled document of the land. PW2 then asked the Defendant whether he is the original allottee and the Defendant answered "yes". PW2 testified that she collected the original title document from the Defendant and took the Defendant to Abuja Geographic Information System (AGIS) to confirm if the original title document was genuine. According to PW2, Abuja Geographic Information System (AGIS) confirmed that the original title document was genuine. PW2, testified that the Defendant, Suleiman and the Defendant's wife, they all proceeded to Zenith Bank Plc and PW2 paid to the Defendant the sum of N3,900,000.00 and Suleiman N100,000.00 totally the sum of N4,000,000.00. After the payment, the Defendant signed all the necessary titled documents and he handed over to PW2. PW2 identified the documents as exhibit 2(d4). PW2 testified that she later sold the plot L84 to one Mr. Godwin Uchechukwu at the rate of N4,500,000.00.

PW6, Tijanni Usman Sanusi also testified pursuant to a subpoena issued on him by this Honourable Court. PW6 testified that sometimes on the 1st week of January, 2010, the Economic and Financial Crimes Commission requested for information on plot L84 Dape District bearing the name of Abba Gana Gadzama. PW6 testifies that he forwarded the response of Abuja Geographic Information System (AGIS) to Economic and Financial Crimes Commission and attached certified true copy of the policy file as requested. PW6 identified exhibit 2 as their response to the letter of Economic and Financial Crimes Commission and he also identified exhibit 7 issued from their office. PW6 concluded that

the information contained in exhibit 2 culminated into issuing exhibit 7.

PW7 is Grace Lamar Ababa Gana, a retired civil servant with the Federal Public Service. She testified that the Defendant is a first cousin of her husband Lamar Abba Gana and she is the Senior sister of Haruna Audu Mamza, PW5 who bought plot L84 Dape District from her husband. The evidence of PW5 and PW7 is to the same effect that sometime in 2005, PW5 bought plot L84 Dape District from Lamar Abba Gana, the husband of PW7. PW7 testified that her husband, Lamar Abba Gana gave her the title document of Plot L84 Dape District to give to the Defendant for revalidation. PW7 testified further that the Defendant was to prepare Deed of Assignment and Power of Attorney between Lamar Abba Gana and Haruna Audu Mamza. PW7 testified that her husband who was then in Lagos sent to her two of his passport photographs which she gave it to the Defendant for the Power of Attorney and Deed of Assignment. She testified also that the Right of Occupancy of Plot L84 Dape was in the name of Aminu Kofar Mata. PW7 testified that she gave the Defendant the sum of N150,000.00 in two installments of N110,000.00 and N40,000.00 respectively for revalidation and preparation for Deed of Assignment between MR. Lamar Abbagana and Haruna Audu Mamza. PW7 then testified that they later learnt that the Defendant had disposed of plot L84 Dape District, Abuja the subject of revalidation. PW7 testified that their family tried to settle this matter but to no avail.

PW7 further testified that when her husband sold the land in dispute to Haruna Audu Mamza, her husband issued to Haruna Audu Mamza, an acknowledgement receipt and PW7 identified the acknowledgement receipt attached to exhibit 1 as well as exhibit 2, the right of occupancy given to the Defendant for

recertification. Further, PW7 testified that the picture on exhibit 7 is not that of her husband.

In conclusion, exhibit 9, the statement of Lamar Abba Gana, was admitted in evidence through PW7.

After the testimony of PW7, the prosecution closed its case. The case was then adjourned to the 20th February, 2017 for defence. However, in view of the prosecution's letter of 17th February, 2017 seeking for an adjournment, the case was adjourned, to 5th April, 2017. At the instant of the Defendant, the case was further adjourned to 25th April, 2017 for defence. On the 25th April, 2017 the case could not proceed for defence. The case was then adjourned to 27th April, 2017. Then on the 27th April, 2017, the defence were not ready to open their defence and based on the reasons given on the 27th April, 2017, the Defendant's right to call evidence or testify in this case was foreclosed by the order of this Court.

The case was subsequently adjourned for address. On the 5th February, 2018, due to reasons given on records, the right of the Defendant to file a final written address in this case was equally foreclosed. The learned prosecuting Counsel, on behalf of the complainant therefore adopted her final written address.

In the final written address of the learned prosecuting Counsel, Fatsuma Mohammed Esq distilled a sole issue for determination as follows:-

"Whether the prosecution has proved its case against the Defendant as required by law."

At page 3 of her final written address, the learned prosecuting Counsel restate the fundamental principle of criminal trial that the guilt of the Defendant may be proved by:-

- (a) The confessional statement of the accused, or
- (b) Circumstantial evidence; or
- (c) Evidence of eye witness.

She relied on the case of **EMEKA V STATE, (2001) 14 NWLR (pt 734) page 666 at 683** and section 135 of the Evidence Act, 2011(as amended).

In relation to Count 1 for the offence of obtaining money by false pretence the learned prosecuting Counsel enumerated at page 4 of her final address the ingredients of the offence as provided by section 1(1) (a) of the Advance Fee Fraud and other Fraud Related Offences Act 2006 and submitted that the prosecution has proved the said ingredients. She relied on the cases of **ALAKE V STATE (1991) NNLR (pt205) page 567 at 591, ONWUDIWE V FRN (2006) 10 NWLR (pt985) page 382 at 429-430 paragraphs G-C.**

The learned prosecution then referred me to the testimonies of PWs 2,5 and 7 to the effect that the Defendant obtained a right of occupancy over property situate at FCT Plot No L84 within Dape District from PW7 under the false pretence of carrying out revalidation at Abuja Geographic Information System on behalf of Haruna Audu Mamza, PW5. The learned prosecuting Counsel submitted that instead of the Defendant to carry out the revalidation of the Plot at Abuja Geographic Information System, he sold out the property at the cost of N3,900,000.00as a bona fide owner to Maryam Buba, PW2. The learned prosecuting Counsel strongly relied on the evidence of PW2, the property

agent that bought the plot L84 Dape District from the Defendant and after payment of N3,900,000.00 by PW2, the Defendant signed all the necessary documents and handed it over to her.

At pages 7,8 and part of page 9 of the final written address of the complainant, the learned prosecuting Counsel submitted to the effect that the evidence of PW1, the investigating officer in this case corroborates the testimonies of PWs 5 and 7. The learned prosecution Counsel also relied and referred me to exhibits 1,1 (a), 1(b) as well as exhibit 2 admitted in evidence through PW6 to the effect that based on exhibit 1, 1(a), 1(b) and 2, PW1 obtained specimen signatures from the Defendant and Lamar Abbagana along with the affidavit in exhibit 3, the application for re-certification and reissuance of certificate of occupancy contained in exhibit 2 and then forwarded same to the forensic Unit of the Head of Operation. The learned prosecuting Counsel referred me to the forensic expert report exhibits 4 and 8 respectively. The learned prosecuting Counsel then submitted that the testimony of PW4, the forensic document examiner based on its findings and conclusion is that the author of the known signature on documents marked A- A5 also made the signature on the disputed signature marked X-X1. The learned prosecuting Counsel therefore contended that the evidence of PWs 1,3,4,5 and 7 constitute direct evidence against the Defendant. She further relied and referred me to exhibit 5, the

statement of Okike Godwin Uchechukwu and the statements of the Defendant, exhibits 6,6(a) and 6(b) respectively.

Thus, learned prosecuting Counsel submitted that the false pretence on the part of the Defendant is that at the time he sold plot L84 Dape District to PW2 and gave her the right of occupancy over the Plot, the Defendant knew that he did not own the property in question. According to the learned prosecuting Counsel, because the defendant's false pretence on PW2, PW2 parted with her N3,900,000.00 believing that the Defendant owns the property. Hence learned prosecuting Counsel submitted that by the Defendant's action and conduct and the exhibits tendered, the Defendant had an intentional perversion of truth for the purpose of inducing PW2 to part with her N3,900,000.00.

In respect of counts 2,3,4 and 5 in the charge which principally deal with forgery and using as genuine document, the learned prosecuting Counsel at page 10 paragraph 3 set out the elements or ingredient required to prove the offence. She then referred me to the evidence of PWs1, 5 and 7 and submitted that their evidence are consistent that the offer of terms of grant/conveyance of approval dated 27th November, 2001 over plot L84 Dape District attached to exhibit 2 was given to the Defendant for the purpose of recertification and the Defendant also by exhibit 6, admitted collecting the title document from PW7. She then contended that the General form of affidavit dated

20th October, 2015 attached to exhibits 2 and 4 marked "X" with the name Lamar Abbagana was signed by the Defendant and the Defendant by exhibit 6, admitted to swearing to the affidavit.

Also, the learned prosecuting Counsel referred me to exhibits 2 and 4 wherein attached and marked Xi is a federal capital Territory application for re-certification and re-issuance of certificate of occupancy dated 30th November, 2005 with the name of Lamar Abbagana but bearing the passport photograph of the Defendant and signed also by the Defendant. And the Defendant by exhibit 6, admitted to filing the recertification form.

Further, at pages 11 and 12 of the final written address of the complainant, the learned prosecuting Counsel referred me to the testimonies of PWs1 and 4 and document marked A- A5 and B – B5 with the disputed documents marked "X" and "X1" the prosecution submitted that by the methodology used by PW4 he came to the conclusion that the author of the known specimen signature marked A-A5 also signed the deponent and Applicant column of the disputed documents marked 'X' and "X1". She submitted that the evidence of PW4 was not discredited in the course of cross examination and she referred me to section 68 of the evidence Act, 2011 and urged me to accept the evidence.

Furthermore, the learned prosecuting Counsel urged me to take judicial notice of the passport photograph on exhibit 7 and the

document marked "X1" which is the passport photograph of the Defendant standing trial in this case. According to the prosecution, when PW7 was shown exhibit 7, she stated that the photograph on exhibit 7 is not her husband. She also urged me to take judicial notice of the signature of the proof of evidence of the charge sheet dated 31st May, 2011 which was signed by the Defendant along with the signatures on the documents marked "X" and "XI", the specimen signature marked A - A5, the Defendant's written statements marked exhibits 6, 6(a) and 6(b) and urged me to hold that it was the Defendant that also signed these documents.

Further, the learned Prosecution urged me to take judicial notice of the specimen signature marked B - B5 and the signature in exhibit 9, the statement of Lamar Abba Gana and to hold that they were signed by the same person, Lamar Abba Gana.

Thus, from the totality of the evidence adduced, the prosecution submitted that the forged documents are marked X and XI attached to exhibits 2 and 4.

In conclusion, the learned Prosecuting Counsel submitted that by the overwhelming evidence adduced, both oral and documentary the prosecution has proved the offence of obtaining money by false pretence, forgery and using as genuine a forged document against the Defendant as required by law and urged me to convict the Defendant accordingly.

As I said before, on the 5th February, 2018, the Defendant failed, refused or neglected to file his final written address. On record, the Defendant did not file any application for extension of time to

file his final written address. Hence, time for the Defendant having elapsed, his right to do so was foreclosed. In instant case therefore, in order to determine this case, I will and I hereby adopt the sole issue for determination as formulated by the learned prosecuting Counsel thus: -

"Whether the Prosecution has proved its case against the Defendant beyond reasonable doubt as required by Section 135 of the Evidence Act, 2011?"

To resolve the above issue, at the beginning of this judgment, I had re-produced the five Counts Charge against the Defendant. And the law is that in a criminal trial, the prosecution must prove its case beyond reasonable. Section 135 (1), (2) and (3) of the Evidence Act, 2011 (as amended) especially subsection (1) of Section 135 provides as follows: -

"(1) If the commission of crime by a party to any proceeding is directly in issue in any proceeding civil or criminal, it must be proved beyond reasonable doubt."

In the case of **THE STATE V SQN LEADER D. T ONYEUKWU, (2004) LPELR 3116**, the Supreme Court of Nigeria in considering the meaning of proof beyond reasonable doubt held:-

"It must be stated and emphasized that proof beyond reasonable doubt does not mean or import or connote beyond any degree of certainty. The term strictly means that within the bounds of evidence adduced and staring the Court in the face, no tribunal of justice worth its salt would convict on it having regard to the nature of the evidence led and the law marshalled out in the case. It can be said that evidence in a criminal trial that it susceptible to doubt cannot be said to have attained the height or standard of proof that can be said to be beyond all reasonable doubt. Regardless of what one might think in a given state of affairs, neither

suspicion nor speculation or intention can be a substitute for a proof beyond reasonable doubt. It is a proof that precludes all reasonable inference or assumption except that which it seeks to support and must have the clarity of proof that is readily consistent with the suit of the person."

In other words, proof beyond reasonable doubt is proof that precludes every reasonable hypothesis except that which it tends to support and it is proof, which is wholly consistent with the guilt of the Defendant and inconsistent with any other rational conclusion.

Arising from the above, as rightly submitted by the prosecution, guilt of the Defendant may be proved: -

- (1) By confessional statement of the Defendant;
- (2) Evidence of eye witnesses;
- (3) Circumstantial evidence.

See the cases of **SUNDAY UDOCE V THE STATE, (2014) LPELR 23064 (SC), DARLINGTON EZE V FRN, (2017) LPELR 42097 (SC) AND EMEKA V STATE (Supra).**

Having said the above, the first Count charge against the Defendant is for the offence of obtaining by false pretence contrary to Section 1 (1) of the Advance Fee Fraud and other Related Offences Act, 2006 and punishable under Section 1 (3) of the same Act.

For the prosecution to succeed in proving Count 1 of the offence, the prosecution must prove the ingredients of the offence as follows: -

- (1) That there was a pretence;
- (2) That the pretence emanated from the Defendant;
- (3) That it was false;

- (4) That there was the intention to defraud;
- (5) That the Defendant knew of its falsity;
- (6) That money or property was obtained as a result of the false pretence.

See **IKECHUKWU IKPA V THE STATE, (2017) LPELR 42590 (SC), SEGUN ADELODUN V FRN (2017) LPELR 42356 (CA) and ALAKE V STATE (Supra).**

In the course of trial and in order to prove the essential elements of the offences as contained in the charged against the Defendant, the prosecution called Seven (7) witnesses and tendered a number of exhibits.

In relation to the essential elements of the offence of obtaining by false pretence against the Defendant, firstly, by exhibit 1, a letter written to the Chairman of the Economic and Financial Crimes Commission dated 30th June, 2009 by one Haruna Audu Mamza who testified as PW5 complained against the Defendant to the effect that he purchased a piece of land from his brother-in-law, Lamar Abba Gana. Paragraphs 2, 3 and 4 of exhibit 1 states as follows: -

“(2) During the revalidation exercise, with my instruction, my senior sister handed the right of occupancy to Mr. Markus K. Gadzama together with the sum of ₦110,000.00 to enable him carry on with the revalidation on my behalf. Furthermore, equally paid the sum of ₦100,000.00 to Mr. Markus K. Gadzama for his logistics, if any, together with my 2 passport size photographs.

(3) After a period of time, I continued requesting for my revalidation certificate to be handed over to me by Mr. Markus, but he informed me that the process was still going on. Since December 2008, I have tried to contact Mr. Gadzama to enable me go to Abuja Geographic Information System (AGIS) and pay for the certificate which he said was ready, but unsuccessful till

date. His wife has always informed me that he is at Lassa, his Village.

Then paragraph 4 of exhibit 1 reads: -

"In April, 2009 I went to Abuja Geographic Information System (AGIS) and found out the true position of things as follows: -

- (a) The revalidated Right of Occupancy has the name of Mr. Lamar Abba Gana Gadzama while the photograph on same is that of Markus K. Gadzama.
- (b) Mr. Markus has fraudulently prepared a Deed of Assignment and Power of Attorney in the name of Lamar Abba Gana but had fraudulently appended his signature on it;
- (c) Mr. Gadzama arranged without my knowledge and sold the land to one Mr. Okike Godwin Uchechukwu;
- (d) Mr. Okike Godwin Uchechukwu paid the sum of ₦2,360,000.00 at Abuja Geographic Information System (AGIS) to collect the revalidated certificate.

Thus, pursuant to exhibit 1, PW1, Abdullahi Muhammadu Maiturare, a Senior Detective Officer with the Economic and Financial Crimes Commission (EFCC) with his team was detailed to investigate the complaint as contained in exhibit 1. PW1 testified that when the Defendant reported to the commission based on exhibit 1, the Defendant made voluntary statements under the word of caution after been shown the complaint, exhibit 1. The statements of the Defendant were admitted in evidence after trial within trial as exhibits 6, 6(a) and 6(b). PW1 further obtained the statements of the nominal complainant, PW5 and that of his witnesses, who testified as PWs 2 and 7 while the statements of one Okike Godwin Uchechukwu (now deceased) and that of Lamar Abba Gana were received in evidence as exhibits 5 and 9 respectively.

Now the evidence of PW7 and exhibit 9 confirmed the contents of exhibit 1. Further, by the evidence of PW2, Maryam Buba testified that the Defendant sold to her Plot No. L84 Dape District in the sum of ₦3,900,000.00.

According to PW2, after payment of ₦3,900,000 to the Defendant, the Defendant signed all the necessary documents and he handed over to her. PW2 identified exhibit 2 especially D4, the offer of terms of grant/conveyance of approval in respect of Plot L84 sold to her by the Defendant. PW2 testified that she later sold the Plot No. L84 to one Mr. Godwin Uchechukwu (now deceased) at the sum of ₦4,500,000.00. Exhibit 5, the statement of Okike Godwin Uchechukwu (now deceased) confirmed the testimony of PW2 that he bought Plot L84 Dape District from PW2 in the sum of ₦4,500,000.00 and that he was handed three (3) sets of documents: Deed of Assignment, Authority letter to register Power of Attorney and a consent letter to register Deed of Assignment.

As part of his investigation activities, PW1 testified that on receipt of exhibit 1, he caused letters sent to Abuja Geographic Information System (AGIS) and the office of the Chief Registrar, Federal Capital Territory High Court of Justice. Responses were received as exhibits 2, 3 and 3(a) respectively. The response from Abuja Geographic Information System (AGIS), exhibit 2 contains documents attached and marked D1 – D22. PW1 testified further that based on the responses he received, i.e. exhibits 2 and 3, the Head of Operations of the Commission wrote a letter to the Head of Forensic Unit of Economic and Financial Crimes Commission (EFCC) with attached documents marked E1, E2, E3 – E14 for analysis and the letter was received in evidence as exhibit 4.

On receipt of exhibit 4, the Forensic examiner, PW4 analysed the documents submitted to them by PW1 and report of forensic examination is exhibit 8.

And the conclusion of PW4 on the forensic examination of documents attached to exhibit 4 and marked X and XI, the author of documents marked X and XI is the same author in documents marked A – A5 respectively.

Now after a careful review of the evidence of the prosecution witnesses especially PWs 1, 2, 5 and 7 and exhibits 5 and 9, the statements of Okike Godwin Uchechukwu (deceased) and Lamar Abba Gana, the testimonies of these witnesses confirmed the contents of exhibit 1 to the effect that the Defendant was given the Right of Occupancy over Plot L84 Dape District for the purpose of revalidation and recertification. The Defendant received the total sum of ~~₦~~210,000.00 from PW7 on behalf of PW5, Haruna Audu Mamza. The Defendant instead of carrying out the revalidation and re-certification on behalf of PW5, Haruna Audu Mamza sold the Plot of land No. L84 Dape District to PW2, Maryam Buba for the sum of ~~₦~~3,900,000.00 and the Defendant executed documents of sale and transfer and handed over to PW2.

I have also perused the statements of the Defendant, exhibits 6, 6(a) and 6(b) respectively. In exhibit 6, the Defendant stated as follows: -

“In respect of Right of Occupancy allocation letter by Federal Capital Development Authority to Aminu Kofar Mata. This allocation letter was given to me by Mrs. Lamar Abba Gana.”

It is therefore crystal clear even from the statement of the Defendant, the Right of Occupancy attached to exhibit 2 marked D4 was handed over to the Defendant for the purposes of

revalidation and recertification. The Defendant, by exhibit 6(a) his additional statement, also admitted receiving the sum of ₦3,900,000.00 from PW2, Maryam Buba and not ₦2,900,000.00 for sale of the property L84 Dape District belonging to PW5.

I however, observed that the Defendant in exhibit 6 states: -

“I prepared Power of Authority between Aminu Kofar Mata and Mr. Lamar Abba Gana Gadzama and registered it at Abuja Geographic Information System (AGIS) and appending my signature. The reason of preparing of this Power of Authority is to change or transfer Statutory Right from Mr. Lamar Abba Gana Gadzama and Aminu Kofar Mata to Lamar Abba Gana Gadzama. Lamar Abba Gana Gadzama authorized me to prepare the Power of Authority, to prepare the paper and sold Plot No. L84 measuring about 2,025 square meter at Dape District to Hajiya Maryam Buba at the cost of ₦2,900,000.00 and hand over the title documents for her.”

In quick response to the above statement of the Defendant in exhibit 6, the learned prosecuting Counsel at page 8 paragraph 3 of her final written address submitted thus: -

“We submit with respect that the Defendant did not present any evidence to show that Lamar Abba Gana Gadzama authorised him to sell and we further submit that the evidence of PW5 and PW7 with the receipt of sale dated June 15th, 2005 attached to exhibit 1, there is no way Lamar Abba Gana could have authorised him to sell the Plot of land because as at 2009 when the Defendant sold the land in question to PW2, the land did not belong to Lamar Abba Gana. By the sale receipt

dated June 15th, 2005 Lamar Abba Gana has already transferred his ownership of the land to PW5.”

Now the evidence before me is that by the sale acknowledgment dated June 15th, 2005 by Lamar Abba Gana attached to exhibit 1, the Plot No. L84 Dape District was sold to Haruna Audu Mamza with a consideration of ₦700,000.00. And by the testimonies of PWs 5 and 7, after Lamar Abba Gana sold the land to PW5. PW5 on his instruction, PW7 handed over the title documents i.e. Right of Occupancy to the Defendant for recertification. This is also confirmed and admitted by the Defendant in his statement, exhibit 6. Thus, by the later statement of the Defendant at the end of exhibit 6 that Lamar Abba Gana authorised him to prepare documents and sale the land to PW2 is not supported by any evidence. Further, by a document marked D5 attached to exhibit 2, it is dated 15th April, 2003 titled letter of consent to register Power of Attorney in respect of Plot No. L84 Dape District. The letter though it was dated 15th April, 2003, it was only received by Abuja Geographic Information System (AGIS) on the 13th July, 2005. Thus, by the Defendant back-dating the document to 15th April, 2003, the Defendant intended some bad faith in the recertification process. This is because, by the document marked D14 – D17 attached to exhibit 2, i.e. the Power of Attorney purportedly prepared between Aminu Kofar Mata to Lamar Abba Gana was signed sometimes on 15th April, 2003 in order to justify the letter of consent dated 15th April, 2003. Thus therefore I hold the view that by the sale acknowledgement receipt of Lamar Abba Gana dated 15th June, 2005 attached to exhibit 1 and the evidence of PWs 2, 5 and 7 including the statements of Okike Godwin and Lamar Abba Gana, exhibits 5 and 9 respectively clearly established the fact that the Defendant had no authority of Lamar Abba Gana to sale the Plot L84 Dape District to PW2 and I so hold. I therefore agree with the learned prosecuting Counsel to the effect that Lamar Abba Gana had already transferred his

ownership of the land in dispute to PW5 and could not have asked the Defendant to sell same to PW2.

Having said the above, as I said earlier, by the evidence of PWs 1, 2, 5 and 7 and exhibit I and the attached receipt, exhibit 2 and its attachments, and exhibits 6, 6(a) and 9 the essential ingredients of the offence of obtaining by false pretence contrary to Section 1 (1) (a) of the Advance Fee Fraud and Other Related Offences Act, 2006 have been established by the prosecution in that the Defendant received the Right of Occupancy and the sum of ~~₦~~210,000 from PW7 on the instruction of PW5 with the false pretence of revalidation and recertification of the Right of Occupancy by the Defendant at Abuja Geographic Information System.

Further, by the evidence of PWs 5 and 7 exhibits 1 and 9, the false pretence operated in the minds of PWs 5 and 7, and PWs 5 and 7 handed over to the Defendant the Right of Occupancy over plot L84 Dape District for recertification and the Defendant fully know and he was aware that the pretence to PWs 5 and 7 was false. And by the evidence of PW2, 5 and 7 and statement of the Defendant exhibits 6 and 6(a), as a result of the pretence to PWs 5 and 7, the Defendant obtained the sum of ~~₦~~3,900,000 from PW2 by selling Plot L84, Dape District, belonging to PW5, Haruna Audu Mamza. And finally, that the Defendant did the false pretence with intent to defraud. The evidence of PWs 1, 2, 5 and 7, exhibits 1, 2 and the evidence of PW4, the forensic examiner and its report, exhibit 8, the Defendant by raising or preparing false documents of title in order to dispose of the Plot L84 Dape District is a clear demonstration that the Defendant had the intent of defrauding Haruna Audu Mamza, PW5.

Thus, having critically examined the evidence adduced by the prosecution in respect of Count One (1), it is important to note that the terms false pretence denotes the offence of knowingly obtaining title to another person's property by misrepresentation

of fact(s) with the intent to defraud. In the case of **CHUKWUEMEKA AGUBA V FRN, (2014) LPELR 23211**, the Court of Appeal on the meaning of the offence of obtaining by false pretence held thus: -

“False pretence means a representation, whether deliberate or reckless, made by word, in writing or by conduct of a matter of fact or law, either is false in fact or law, and which the person making it knows to be false or does not believe to be true.”

In the instant case by the evidence of PWs 5 and 7 and exhibit 1, the false representations of the Defendant that the process of revalidation or recertification was still on going until PW5 visited Abuja Geographic Information System and discovered alarming facts about Plot L84 in which by the evidence of PW2, Maryam Buba and exhibit 5 as well as the evidence of PW1, the Defendant had sold out Plot L84 Dape District at the cost of ₦3,900,000 to PW2.

Thus, therefore, by the evidence adduced by the prosecution in respect of Count 1, I hold the view that the prosecution had established the elements of the offence of obtaining by false pretence against the Defendant beyond reasonable doubt and I so hold.

In respect of Counts 2, 3, 4, and 5 against the Defendant, as a recap, Count Two (2) is for the offence of forgery of a general form of Affidavit, Count Three (3) is fraudulent use as genuine a form of Affidavit while Count four (4) is forgery of application for Re-certification and Re-issuance of Certificate of Occupancy of the Ministry of the Federal Capital Territory dated 30th November, 2005 with intent to defraud while Count Five (5) is fraudulent use as genuine an application for Re-certification and Re-issuance of Certificate of Occupancy of Ministry of the Federal Capital Territory dated 30th November, 2005.

Counts 2, 3, 4, and 5 against the Defendant are punishable under Section 364 of the Penal Code Cap 532 LFN 1990. And for the prosecution to succeed in Counts 2, 3, 4, and 5 against the Defendant, the ingredients of the offence are as clearly stated by the learned prosecuting Counsel in the case of **OSUNDU V FRN (Supra)** as follows: -

- (1) There is a document or writing;
- (2) The document or writing is forged;
- (3) The forgery is by the Accused (Defendant);
- (4) The Accused (Defendant) know that the document or writing is forged;
- (5) That he intended that the forged document to be acted upon to as genuine.

And on the meaning of the offence of forgery, the Supreme Court of Nigeria in the case of **JOE ODEY AGI SAN V PEOPLES DEMOCRATIC PARTY & ORS, (2016) LPELR 42578**, simply put it as follows: -

“The act of making a false document or altering a genuine one for same to be used.”

The Court of Appeal, in the case of **MOBIL PRODUCING NIGERIA UNLIMITED V LAWRENCE DICKSON HOPE, (2016) LPELR 41191** held: -

“The term forgery denotes the act of fraudulently making a false document or altering a real one to be used as if genuine. In other words, forgery means a false or altered document made to look genuine by someone with intent to deceive.”

The Black’s Law Dictionary, 8th Edition, 2004 at page 677 also defined forgery as “an act of fraudulently altering, authenticating, issuing, or transferring a writing without appropriate authorization.”

Thus, to prove the ingredients of the offence of forgery as listed above, the evidence of prosecution witnesses Numbers 1, 4, 5, 7, exhibits 2, 6 and 8 are relevant in the instant case.

Firstly, as rightly submitted by the prosecution, the evidence of PWs1, 5 and 7 are consistent with one another that the offer of Terms of Grant/Conveyance of Approval dated 27th November, 2001 over Plot Number L84 Dape District, attached to exhibit 2 was given to the Defendant for recertification. The Defendant in his statement exhibit 6 also admitted having received or collected the title document over Plot L84 Dape District from PW7. PW1 in the course of his testimony testified that they wrote to Abuja Geographic Information System in order to enquire about the status of Plot L84 Dape District. PW6 is the Company Secretary and Legal Adviser of Abuja Geographic Information System and he testified pursuant to a subpoena that on receipt of the letter from Economic and Financial Crimes Commission dated 11th January, 2010, he forwarded the certified true copy of the entire policy file of Plot L84 Dape District, to the Economic and Financial Crimes Commission. PW6 identified exhibit 2 as the policy file in which it contained documents marked D1 – D22. PW1 testified that when they received exhibit 2, the policy file of Plot L84, they discovered in the policy file documents in which the Defendant signed as Mr. Lamar Abba Gana and in others the Defendant signed as Aminu Kofar Mata. PW1 testified also that in exhibit 2, the policy file, there was an affidavit signed by the Defendant. PW1 then testified that as part of their investigation activities they wrote a letter to the Chief Registrar of the High Court of the Federal Capital Territory to ascertain the deponent of the affidavit. The reply of the Chief Registrar is exhibit 3 and exhibit 3 reveals that the affidavit was deposed to by Lamar Abba Gana. Then PW1 testified that he obtained specimen signatures of the Defendant and that of Lamar Abba Gana and by exhibit 4, the documents attached were sent to the Head of Forensic Unit as follows: -

- (1) Disputed documents marked X and XI are the general form of affidavit and application for recertification and re-issuance of Certificate of Occupancy.
- (2) Specimen signatures marked A – A5 are that of Defendant, while;
- (3) Specimen signatures marked B – B5 are that of Lamar Abba Gana.

PW4 Benedict Agwueye is the Forensic Document Examiner. He testified to the methodology applied in the examination and analysis of the specimen signatures submitted vide exhibit 4, A – A5 and B – B5 and the disputed documents marked X and XI attached to exhibit 4 and at the end of the document and signature analysis, a report was issued, exhibit 8. PW4 testified that in the final analysis and the conclusions arrived, the author on the specimen signature marked A – A5 attached to exhibit 4 is the author of document marked X and XI attached to exhibit 4 as well as attached to exhibit 8.

In addition to the testimonies of PWs 1, 4, 5 and 7 and exhibits 2 and 8 with their attached documents, PW5 in exhibit 1 paragraph 4 stated as follows: -

“In April, 2009 I went to Abuja Geographic Information System and found out the true position of things as follows: -

- (a) The revalidated Right of Occupancy has the name of Lamar Abba Gana Gadzama while the photograph on same is that of Markus K. Gadzama.
- (b) Mr. Markus has fraudulently prepared a Deed of Assignment and Power of Attorney in the name of Lamar Abba Gana but had fraudulently appended his signature on it.
- (c) Mr. Gadzama arranged without my knowledge and sold the land to one Mr. Okike Godwin Uchechukwu.”

PW3, Supt. Rakiya Gimba in her testimony pursuant to a subpoena served on her tendered exhibit 7, the Certificate of Occupancy bearing the name of Lamar Abba Gana Gadzama and the picture on exhibit 7 is that of the Defendant. And under cross examination by the Defendant, PW3 testified as follows: -

"Exhibit 7 was retrieved from Mr. Godwin Uchechukwu but now late. I can't recalled the date I retrieved it. It is correct we investigated the case thoroughly before we now retrieved the Certificate of Occupancy, exhibit 7 from late Godwin Uchechukwu."

The evidence of prosecution witnesses nos. 1, 2, 3, 4, 5, 6 and 7 and exhibits 2 with attached documents marked X and Xi, A – A5, B – B5, and exhibit 8 with the same attached documents; also documents attached to exhibit 2 and marked D3, D5, D8, D9, D11, D14 – D17, all lend credence to the evidence of PW5 and confirmed exhibit 1 which are in tandem with the act of making a false document or altering a genuine one for same to be used. PW7, the wife of Lamar Abba Gana when shown exhibit 7 and the passport photograph on it testified that the passport photograph on exhibit 7 is not that of her husband. And the learned prosecuting Counsel at page 12 paragraphs 3 and 4 of her final written address urged me to take judicial notice of the passport photograph on exhibit 7 and the document marked XI to be that of the Defendant standing trial before this Honourable Court in this case. She further urged me to take judicial notice of the signature of the proof of evidence accompanying the charge dated 31st May, 2011 which was signed by the Defendant along with the signatures on the document marked X and XI, the specimen signature marked A – A5, the Defendant's written statements exhibits 6, 6(a) and 6(b) wherein the Defendant signed these documents.

The learned prosecuting Counsel also urged me to take judicial notice of the specimen signatures marked B – B5 and the

signature in exhibit 9, the statement of Lamar Abba Gana and to hold that they are signed by the same person.

The submissions of the learned prosecuting Counsel at page 12 paragraphs 2 and 3 of her final written address is not far from the truth. The position of the law as regards judicial notice or judicial cognizance or judicial knowledge denotes a Court's acceptance of a well known and indisputable fact, without requiring a proof there from. In the case of **RT HON. ROTIMI CHIBUIKE AMAECHI V INEC, (2008) LPELR 446**, wherein the Supreme Court held: -

*"These requirements of Section 74 of the Evidence Act, Cap 112 LFN, 1990 are in line with the definition of the term judicial notice in the case of **COMMONWEALTH SHIPPING REPRESENTATIVE V P. O. BRANCH SERVICES (1923) AC 191 at 212** where the Court said: - "Judicial notice refers to facts, which a judge can be called upon to receive and to act upon, either from his general knowledge of them, or from inquiries to be made by himself for his own information from sources to which it is proper for him to refer."*

See also **KEYSTONE BANK LTD V A. O. S. PRACTICE, (2013) LPELR 20367 (CA)** as well as Black's Law Dictionary, 9th Edition 2009 page 923.

Arising from the above, in the instance case, firstly, by the testimony of PW4 and the result of the forensic examination of documents attached and marked X and XI and A – A5 as well as B – B5, it has been established that the author of documents marked X and XI was the Defendant. The evidence of PW4, the forensic examiner was never discredited under cross examination by the Defendant. Thus, Section 68(1) of the Evidence Act, 2011 (as amended) provides: -

“When the Court has to form an opinion upon a point of foreign law, customary law or custom, or of science or art, or as to identity of handwriting or finger impressions, the opinions upon that point of persons specially skilled in such foreign law, customary law or custom or science or art, or in questions as to identity of handwriting or finger impressions, are admissible.”

See also **SENATOR OMISORE V RAUF AREGBESOLA, (2015) LPELR 24803 (SC).**

In the instant case therefore, the evidence of PW4 has not been discredited by the Defence. Hence by the Defendant signing documents marked X and XI, amounts to forgery and the forgery was done by the Defendant and the Defendant knew that he was not Lamar Abba Gana. Thus, the Defendant forged the documents to be acted upon and indeed PW2, Maryam Buba purchased the plot L84 Dape, District on the basis of the forged documents and PW2 also sold to one Okike Godwin Uchechukwu (deceased) from whom exhibit 7 was retrieved by PW3.

And as I said earlier, by the evidence of PWs 1, 4, 5, 6 and 7 and exhibits 2 and attached documents marked X and XI, A – A5, and B – B5, the author of exhibits 6, 6(a) and 6(b) is the author of documents marked X and XI attached to exhibit 2 while the author of documents marked B – B5 is the same person with the signature on exhibit 9, that is Lamar Abba Gana, the husband of PW7. I also take judicial notice of the passport photograph on exhibit 7 to be the passport photograph of the Defendant standing trial in this case before this Honourable Court.

Thus, by the avalanche of evidence adduced by the prosecution especially the testimonies of PWs 1, 2, 3, 4, 5, 6 and 7 and exhibits 2, 4, 6, 6(a), 6(b), 8 and 9, I hold the view that the prosecution have successfully established all the elements of the

offence punishable under Section 364 of the Penal Code Cap 532 LFN and I so hold. Hence therefore, I hold the further view that the prosecution have proved the ingredients of the offences charged by credible evidence against the Defendant beyond reasonable doubt and I so hold. Accordingly, the Defendant is hereby convicted on the Five (5) Counts charged.

HON. JUSTICE D.Z. SENCHI
(PRESIDING JUDGE)
25/4/18

Court:- Any plea of Allocutus?

Ajayi:- Our plea of allocutus is predicated on sections 311 and 312 of Administration of Criminal Justice Act, 2015, and placed heavy reliance on section 311 (a)-(e) of the Act. We make our submission pursuant to the above provisions and also the import of the provisions therein. The convict is the bread winner of his family and he has kids that depended solely on him and aged parents whom are sick, a fact the convict brought to the notice of the Court at one of the trials. I also have a privileged information wherein the convict had virtually lost everything in his life; his wife has deserted him and the convict sleeps on the streets now. He is a first time offender and the convict has been diligent in all trials in this case. On the mandatory requirement, I refer to the case of ***C.O.P V BUHARI (2000) FWLR 164*** to the effect that the Court has discretion despite the mandatory nature of the provision to give an option of fine. In the whole I ask the Court for the convict to milk from the mercy of the Court as section 314

Administration of Criminal Justice Act, 2015 also allow for compensation to the victims. The convict has actually learnt his lessons.

Alabi:- I have no objection on the application made by the learned Counsel for the convict and also there is no record to previous conviction. Pursuant to section 11 of the Fee Fraud And Other Fraud Related Offences, I apply for restitution of N3.900,000.00 to PW2. I also apply for a declaration in view of this judgment that exhibit 7, the certificate of Occupancy in respect of L84 Dape District bearing the passport of the Defendant and bearing the name of Mr. Lamar Abba Gana Gadzama be declared as null and void so that the victim, PW5 can now re-apply for a certificate of Occupancy in respect of the Plot L84 Dape District Abuja.

Alabi:- I wish to inform the Court that the Counsel handling the case is in Court and I apply that she takes over the proceedings of the case.

Fatsuma Mohammed:-For the prosecution. I sincerely apologized for coming in late. It is not in my character. Apart from the submissions made earlier, I also apply that the sentencing of the convict be referred until to tomorrow so that the prosecution would be able to produce before the Court the Right of Occupancy in our possession. I also apply that the convict be kept under our custody.

Ajayi:- I have no objection.

Court:- On the application of the learned prosecuting Counsel and the reasons given therein and without objection

from the convict's Counsel, the sentence is hereby defer to tomorrow the 26th April, 2018 to enable the prosecution make available before the Court all documents or items in their possession to assist the Court in evoking section 11 of the Advance Fee Fraud and other Related Offences Act, 2006 and section 314 Administration of Criminal Justice Act, 2015. Further, the convict be remanded in the Economic and Financial Crime Commission custody pending the sentence.

Signed
Judge
25/04/2018

Court:- In passing the sentence on the convict, I take into account the plead of allocutus made by the learned Counsel on behalf of the convict to the effect that the convict has learnt his lessons in this case, that he is a first offender, he has shown remorse, his family are now in disarray and that the convict has been deserted by his wife and he is now the person taking care of his children. I also note the fact as submitted by the learned Counsel for the convict that he has aged mother and dependants that solely depend on the convict for their sustenance.

And finally, I also consider the submission of learned Counsel for the convict in relation to the mandatory provisions of section 1 (3) of the Advance Fee Fraud and other Fraud related Offences Act, 2006 that prescribes a term of imprisonment without an option of fine.

I equally consider the submissions of the learned prosecuting Counsel not opposing the discretionary powers of the Court in granting the convict an option of fine despite the provision of section 1(3) of the same Act. She however drew my attention to

evoke the provisions of section 11 of the Act and section 314 of the Administration of Criminal Justice Act, 2015 and order restitution to the victims.

Having listened to the submissions of both Counsel, it is correct and that is the law that even where a law prescribes mandatory sentence without an option of fine, the Court has discretion to order payment of fine in lieu of imprisonment. However, the discretion must be exercised judicially and judiciously.

In the instant case, I have noted the plea of mercy submitted by the convict's Counsel. I will be lenient on the convict. And I must equally observed that these type of offences in our society are becoming too rampant and despite of several convictions secured in related cases, the offenders continue to commit same unabated. In fact it appears when a conviction is secured, and an option of fine is given, it gives the offenders more impetus and courage to do more rather than abstaining, restraining or becoming born again, hence the conviction becomes a flavour that greases their elbows to do more. We therefore have a duty to cleanse up our society of bad eggs like the convict.

Be it as it may, I am not sure if the convict is remorseful in his action. The convict demonstrated this at the proceedings of yesterday. And it is also on record that the convict at trial stage, was calling the investigators and showering abuses on them. The investigators are only doing their Constitutional duties and not subject to the caprices of the convict.

Thus, having said the above, the convicts is hereby sentenced to a term of two (2) years imprisonment in respect of count one for the offence of obtaining by false pretence punishable under section 1(3) of the Act. In relation to section 364 of the Penal Code in relation to counts 2,3,4 and 5, on each count, a fine of

N20,000.00 each in default, the convict to serve a term of 12 months imprisonment. The sentence to run concurrently.

In relation to the restituting the victims, firstly the certificate of occupancy, exhibit 7 issued by the Honourable Minister FCT to one Mr. Okike Godwin Uchechukwu is hereby declared null and void and the plot no. L84 Dape District is hereby restored to PW5. Furthermore, the sum of N3,900,000.00 is hereby order to be paid by the convict to PW2 in line with section 11 of the act and section 314 of the Administration of Criminal Justice Act, 2015.

HON. JUSTICE D.Z. SENCHI
(PRESIDING JUDGE)
25/4/18

Defendant:- Present in Court.

Yetunder Alabi:- For the prosecution

S.A Ajayi:- For the Defendant.

Signed
Judge
25/04/2018