

IN THE MAGISTRATES' COURT OF ABIA STATE OF NIGERIA.
IN THE SMALL CLAIMS COURT, ABA ZONE.
BEFORE HIS WORSHIP, U. J. YOUNG-DANIEL (ESQ) CHIEF MAG. GRD 1.
THIS 11TH DAY OF MARCH, 2025.

SCC/AB/744/24

BETWEEN:

PASTOR EMMA ARUNGWA ----- CLAIMANT

AND

1. CHINONSO CHISOM RAPHAEL	}	----- DEFENDANTS
2. OKECHUKWU OKONKWO		
3. EBERE ONUORAH		
4. EVELYN IKEOGU		
5. SAM AMAKIHE		

Claimant Present.

1st Defendant Absent.

2nd to 4th Defendants Absent.

5th Defendant Absent.

Appearances: Eze U. Isiofia Esq appears for the 2nd to 4th Defendants.

No representation for the Claimant.

No representation for the 1st and 5th Defendants.

MATTER IS FOR JUDGMENT.

JUDGMENT.

Claimant by his Letter of Demand claims from the Defendants the sum of ₦4,050,000.00 (Four Million, Fifty Thousand Naira) of sum paid to the Defendants for the purchase of a property known as No. 40 Item Road Aba which was declined after receiving the above sum as stated and or contained in the Claimant Form SCA1 of Letter of Demand. Nevertheless, 2nd to 4th Defendants filed a Defence in compliance with the Rules and Procedures of Small Claims Court of Form SCA5 stating that they do not know the Claimant, neither did they have any business with him in relation with No. 40 Item Road Aba or any other building in this regard. That they did not collect any money from him. 1st Defendant did not file a Defence or Counter Claim.

5th Defendant did not file a Defence/Counter Claim. In proof of his Claim, Claimant testified that on the 17th Day of November, 2023, one Mr Amaechi Uduma and the 1st Defendant came to his house and told him that there is a property on sale. At that Claimant stated that he asked them where the property is situate and they said at No. 40 Item Road Aba and then that the 1st Defendant informed him that, it is the property of his late father and that his father's name is Raphael Okonkwo and that he is the person managing the estate of his late father who died more than 20 years ago. However, Claimant testified that he asked the 1st Defendant for the Title Documents of No. 40 Item Road Aba and he told him that same was lost during the civil war. Nevertheless, Claimant testified that he had asked the 1st Defendant how possible he could sell a property without a Title Deed and at that, the 1st Defendant told him that he would obtain a Letter of Administration from the original land owner/landlord. Nevertheless, Claimant further stated that he took the 1st Defendant to meet his lawyer and on further enquiry from his lawyer, 1st Defendant told his lawyer that he is the son of late Raphael Okonkwo of the owner of No. 40 Item Road Aba and to substantiate or confirm his claim, he could call the attention of the original land owner or landlord of the land now municipally known and called No. 40 Item Road Aba. Claimant further testified that later he took the 1st and 5th Defendants of the original landlord to his lawyer and on further enquiry from the 5th Defendant, he told his lawyer that he is the original land owner/lord and that he would produce a Letter of Administration the 1st Defendant had granted or given him at the time he bought the land in an estate form and then that the 5th Defendant presented the Letters of Administration and thereafter, his lawyer prepared the documents. Claimant further testified that later the 5th Defendant of original land owner/landlord told him that the 1st Defendant is not the only son of their late father Raphael Okonkwo and had told him that since the 1st Defendant is not the only son of their father, that he would not want only the 1st Defendant to benefit from the sale of the land. Claimant testified that the agreed cost of sale of No. 40 Item Road Aba with the 1st Defendant was at the cost of ₦14,000,000.00 (Fourteen Million Naira). In that circumstance, Claimant stated that the 5th Defendant had asked him to pay the 1st Defendant the sum of ₦4,000,000.00 (Four Million Naira) and keep the rest to be shared among the other siblings of the 1st Defendant and Claimant stated that he paid the 1st Defendant the sum of ₦4,000,000.00 (Four Million Naira) and kept the balance of ₦10,000,000.00

(Ten Million Naira) and tendered the receipts of payments of the sum of ~~N~~4,000,000.00 (Four Million Naira) and same marked *Exhibit A*. Claimant further testified that after the payment of the ~~N~~4,000,000.00 (Four Million Naira) to the 1st Defendant at the office of the 5th Defendant lawyer, 5th Defendant lawyer called the 3rd Defendant on phone and notified her of the payment to the 1st Defendant the sum of ~~N~~4,000,000.00 (Four Million Naira), and at that, the 3rd Defendant told the 5th Defendant lawyer to keep the rest of the balance sum of ~~N~~10,000,000.00 (Ten Million Naira) that they will come and collect same. Claimant also stated that *Exhibit A* contain the fact that after 7 (seven) days and the rest of the 1st Defendant brother/siblings did not come to collect their own share of the sale, that he has the right to take possession of No. 40 Item Road Aba. Claimant further stated that after seven days and they did not come to take their share, he had tipped 2 (two) trips of sand at No. 40 Item Road Aba and then that since after the trip of the sand, they have still not come to collect their share. Claimant further testified that it was the church members that paid and that after tipping the sand he had invited the church members to pray over the property and thereafter he surveyed the property and tendered a *Power of Attorney* with the *Survey Plan* and concluded his evidence in chief and was cross examined by the 2nd to 4th Defendants Counsel to the fact that he never paid any money to the 2nd to 4th Defendants and the Claimant admitted to that fact. Claimant was also cross examined to the fact that the 2nd to 4th Defendants never came to collect the balance payment sum since after the signing of *Exhibit A* of *Contract of Sale of Land* and the Claimant responded affirmatively. Claimant admitted in his cross examination that he has never met 2nd, 3rd and 4th Defendants except at the office of A.G.E. Nwachukwu Esq after the sale transactions and issues arose as to ownership of the property. Claimant admitted that since after the payment to the 1st Defendant as contained in *Exhibit A* on the 26th day of January, 2024, he never sighted the 2nd to 4th Defendants to collect the balance sum of the sale only later at the office of A.G.E. Nwachukwu Esq. Claimant admitted that he has never spoken with the 2nd to 4th Defendants on the issue of sale of No. 40 Item Road Aba until he met them at the office of A.G.E. Nwachukwu Esq. after issues of ownership arose, however, stated that he had spoken with the 3rd Defendant sometime at the office of one Barrister Abambe who was the lawyer to the 5th Defendant of the original land owner/landlord. Claimant admitted that he was shown *Exhibit C* of Title Deed of No. 40 Item Road Aba

bearing the name of the 2nd Defendant and to that effect, Claimant was told that he had been scammed by the 1st Defendant and 5th Defendant by A.G.E. Nwachukwu and advised to leave the property as same belongs to the 2nd Defendant which advice Claimant refuse to accept, hence he is in Court. However, Claimant stated further that he refused to accept the advice of A.G.E. Nwachukwu because the 2nd Defendant is a brother to the 1st Defendant. Claimant admitted that uptill the moment he is testifying and being cross examined, he never tendered any Title Deeds indicating that the 2nd Defendant who is the rightful owner of No. 40 Item Road Aba had transferred the property to him. Claimant under cross examination stated that he would be surprised to know that the 1st Defendant is not a brother to the 2nd Defendant as the Claimant is alleging and also would be surprised to know that the 2nd Defendant does not have a daughter called by name Dr. Ebere Okonkwo or Ebere Onuora as the Claimant is alleging. Claimant closed the proof of his Claim. Defendant opened his Defence and testified that he did not collect any money from the Claimant. 2nd Defendant testified that after the Claimant was duped by those he had dealings with in respect of sale of No. 40 Item Road Aba which property belongs to him, Claimant started to disturb the tenants living therein and at that the tenants called his attention to that situation. 2nd Defendant testified that the Claimant issued his tenants at No. 40 Item Road Aba with Notice to Quit. At that, 2nd Defendant stated that he visited Aba to resolve the issue and consulted his lawyer who asked him to produce the original Title Deed of No. 40 Item Road Aba showing that he owns the property and he brought same and when A.G.E. Nwachukwu of his lawyer went through same, he told the Claimant that the Title Deed bearing his name is the original document of No. 40 Item Road Aba and in the circumstance, 2nd Defendant is the owner of No. 40 Item Road Aba. 2nd Defendant also testified that A.G.E. Nwachukwu told the Claimant that he has been duped by the sale to him of No. 40 Item Road Aba, by the 1st Defendant. 2nd Defendant further stated that there were other circumstances arising over the scam sale of No. 40 Item Road Aba to the Claimant including complaints made by the Claimant to a certain Traditional Ruler and to the Zone 9 Police Headquarters by the 2nd Defendant. Then the next thing, 2nd Defendant stated the Claimant in this Claim filed against him and stated that he does not know whom the Claimant did business of sale of land with and that the Claimant should seek out the person and claim his money and tendered his Title Deed to No. 40 Item Road Aba and same marked *Exhibit C*, also *Exhibit D* of

his summons by the Traditional Ruler in respect of the issue arising over the sale of No. 40 Item Road Aba to the Claimant, *Exhibit E* of a Letter dated the 17th day of July, 2024, *Exhibit F* of a Letter dated the 3rd day of April, 2024, the Letter dated the 5th day of December, 2024 is marked *Exhibit G*. 2nd Defendant concluded his evidence in chief and was cross examined by the Claimant to the fact of how long he has been collecting rents from tenants at No. 40 Item Road Aba and the 2nd Defendant responded since the property belonged to him. 2nd Defendant in his cross examination when asked who is Raphael Okonkwo, he stated that Raphael Okonkwo is his late elder brother. 2nd Defendant further stated in his cross examination that 1st Defendant Chinonso is not the 1st son of his late elder brother Raphael Okonkwo and that his late elder brother of Raphael Okonkwo is not the owner of No. 40 Item Road Aba as the Claimant is alleging. Claimant cross examined the 2nd Defendant to the fact that the annual rent receipts paid to the original land owner bears the name Raphael Okonkwo and not Okechukwu Okonkwo of the 2nd Defendant. However, 2nd Defendant responded that he is the owner of the property known and called No. 40 Item Road Aba and so concluded the cross examination of the 2nd Defendant by the Claimant. Nevertheless, 2nd Defendant concluded his defence. 3rd, 4th Defendants did not testify, however, filed a defence to the fact that they do not owe the Claimant and did not have any business of sale of No. 40 Item Road Aba with him. 1st and 5th Defendants did not file a Defence/Counter Claim in compliance with Small Claims Rules and Procedure.

This court has considered all the testimonies of the Claimant, and his cross examination and responses and the 2nd Defendant testimonies and responses in his cross examination by the Claimant and all the *Exhibits A, B, C, D, E, F and G* aforestated, this Court states that the bone of contention as claimed by the Claimant as whom the Claimant paid the sum of ₦4,050,000.00. By *Exhibit A* of contract of sale of land, it is clear that it is not the 2nd, 3rd and 4th Defendants that the said sum of ₦4,050,000.00 was paid, rather to the 1st and 5th Defendants. Also 2nd, 3rd and 4th Defendants did not sign *Exhibits A and B* of contract of sale of land and Power of Attorney respectively, rather the 1st and 5th Defendants. In that circumstance, this Court states that there is nothing before it either in testimonies in Court and Exhibits connecting to the fact that the 2nd, 3rd and 4th Defendants collected or were given individually or collectively any sums of ₦4,050,000.00 or any other sum of money in

respect of the issue of sale of No. 40 Item Road Aba. This Court states that there is connection of the said sum in respect of the issue of sale of No. 40 Item Road Aba to 1st and 5th Defendants as gathered or provided by *Exhibits A and B* and in that circumstance, this Court states that the 2nd, 3rd and 4th Defendants are not in any way obligated to the Claimant to pay to him the sum of ~~N~~4,050,000.00 as claimed. The 1st and 5th Defendants did not file a Defence/Counter Claim if there is any. In that circumstance, this Court states that the Claimant has proved its Claim against the 1st and 5th Defendants. In the circumstance, this Court orders that the 1st and 5th Defendants liquidate to the Claimant the sum of ~~N~~4,050,000.00 (Four Million and Fifty Thousand Naira) forthwith. The cost of this Claim is accessed at ~~N~~20,000.00 (Twenty Thousand Naira) to be paid to the Claimant by the 1st and 5th Defendants.



U. J. YOUNG-DANIEL (ESQ)
CHIEF MAG. GRD 1.
11/03/25.

NWANOSIKE PATRICK C.
Head Registrar
SCC Aba Zone