

**IN THE HIGH COURT OF JUSTICE**  
**OF EDO STATE OF NIGERIA**  
**IN THE BENIN JUDICIAL DIVISION**  
**HOLDEN AT BENIN CITY**  
**BEFORE HIS LORDSHIP, HON. JUSTICE P.A. AKHIHIRO**  
**ON THURSDAY**  
**THE 6<sup>TH</sup> DAY OF FEBRUARY, 2025.**

**BETWEEN:**

**SUIT NO. B/247/2022**

**MR. FRANK OGBOMO -----CLAIMANT**

*(Suing Through His Lawful Attorney*

*Mr. Aziembhim Emmanuel)*

**AND**

**PERSON UNKNOWN -----DEFENDANT**

**JUDGMENT**

The Claimant instituted this suit against the Defendant vide a Writ of Summons and Statement of Claim filed on the 16<sup>th</sup> day of March, 2022. However, the extant pleadings of the Claimant are the Amended Writ of Summons and Amended Statement of Claim filed on the 29<sup>th</sup> day of November, 2023.

By his extant pleadings, the Claimant claims against the Defendant as follows:

- 1) ***A DECLARATION that the Claimant is the Bonafide owner of the landed property measuring 200feet by 200Feet lying and situate at Uroho Village, Ikpoba-Okha Local Government Area, Edo State, particularly delineated in Property Survey Plan No. TDN/ED/402/2017, dated the 27/07/2019, covered by a Certificate of Occupancy No: 4f4a1-v0e5e-nf470-u0e5-nf771-rw493 dated 28th day of September, 2021 and registered as No. 120 at page 1 in Volume 43 of the Certificate of Occupancy Digital Register in the EDOGIS Registry Office of the Edo State and Deed of Assignment dated 4th day of June, 2014;***
- 2) ***A DECLARATION that the Defendant's blocks and sand on the Claimant Land 200feet by 200Feet lying and situate at Uroho Village, Ikpoba-Okha Local Government Area, Edo State, particularly delineated in Property Survey Plan No. TDN/ED/402/2017, dated the 27/07/2019, covered by a Certificate of Occupancy No: 4f4a1-v0e5e-nf470-u0e5-nf771-rw493 dated 28th day of September, 2021 and registered as No. 120 at page 1 in Volume 43 of the Certificate of Occupancy Digital Register in the EDOGIS Registry Office of the Edo State and Deed of Assignment dated 4th day of June, 2014 amount to continuous trespass on the Claimant land;***
- 3) ***AN ORDER OF PERPETUAL INJUNCTION restraining the Defendant or any other person (s) either by themselves, servants, agents, privies or any other person whosoever that is acting on their behalf from continuous trespass on the Claimant's land measuring 200feet by 200Feet lying and situate at Uroho Village, Ikpoba-Okha Local Government Area, Edo State, particularly delineated in Property Survey Plan No. TDN/ED/402/2017, dated the 27/07/2019, covered by a Certificate of Occupancy No: 4f4a1-v0e5e-nf470-u0e5-nf771-rw493 dated 28th day of September, 2021 and registered as No. 120 at page 1 in Volume 43 of the Certificate of Occupancy Digital Register in the EDOGIS Registry Office of the Edo State and Deed of Assignment dated 4th day of June, 2014;***
- 4) ***AN ORDER OF PERPETUAL INJUNCTION restraining the Defendant or any other person (s) whether by themselves, servants, agents, privies, assigns or whosoever acting for them or on their behalf from dissipating, selling and committing further acts of trespass on the Claimant's piece or***

*parcel of land 200feet by 200Feet lying and situate at Uroho Village, Ikpoba-Okha Local Government Area, Edo State, particularly delineated in Property Survey Plan No. TDN/ED/402/2017, dated the 27/07/2019, covered by a Certificate of Occupancy No: 4f4a1-v0e5e-nf470-u0e5-nf771-rw493 dated 28th day of September, 2021 and registered as No. 120 at page 1 in Volume 43 of the Certificate of Occupancy Digital Register in the EDOGIS Registry Office of the Edo State and Deed of Assignment dated 4th day of June, 2014;*

- 5) AN AWARD of Special Damages of N5, 000.000.00 (Five Million Naira) only against the Defendant in favour of the Claimant for malicious destruction of the Claimant's fence on the Landed property measuring 200feet by 200Feet lying and situate at Uroho Village, Ikpoba-Okha Local Government Area, Edo State, particularly delineated in Property Survey Plan No. TDN/ED/402/2017, dated the 27/07/2019, covered by a Certificate of Occupancy No: 4f4a1-v0e5e-nf470-u0e5-nf771-rw493 dated 28th day of September, 2021 and registered as No. 120 at page 1 in Volume 43 of the Certificate of Occupancy Digital Register in the EDOGIS Registry Office of the Edo State and Deed of Assignment dated 4th day of June, 2014;*
- 6) AN AWARD of General Damages of N5, 000.000.00 (Five Million Naira) only against the Defendant to the Claimant for the untold discomfort, hardship and destruction of the nomenclature of the Claimant's Land as a result of the Defendant (s) act of continuous trespass on the claimant landed property measuring 200feet by 200Feet lying and situate at Uroho Village, Ikpoba-Okha Local Government Area, Edo State, particularly delineated in Property Survey Plan No. TDN/ED/402/2017, dated the 27/07/2019, covered by a Certificate of Occupancy No: 4f4a1-v0e5e-nf470-u0e5-nf771-rw493 dated 28th day of September, 2021 and registered as No. 120 at page 1 in Volume 43 of the Certificate of Occupancy Digital Register in the EDOGIS Registry Office of the Edo State and Deed of Assignment dated 4th day of June, 2014;and*
- 7) Any legal or equitable remedy which this Honourable Court may deem fit to make in the circumstances of this case.*

The Writ of Summons, Statement of Claim and other accompanying processes were served on the Defendant but he did not put up any appearance in this suit neither was he represented by any counsel despite several hearing notices that were served on him. In essence, the suit was undefended.

At the hearing, the Claimant's Lawful Attorney testified on behalf of the Claimant and tendered a Power of Attorney and several other documents.

From the evidence adduced at the hearing, the Claimant's case is that he is the bonafide owner of the parcel of land measuring 200feet by 200feet carved out of the parcel of Land measuring 200feet by 300feet lying and situate at Uroho Village, Ikpoboba-Okha Local Government Area, Benin City, Edo.

The Claimant allegedly acquired the said parcel of land from his predecessor-in-title, Mr. Sunday Osazuwa vide a Deed of Transfer dated the 4<sup>th</sup> day of June, 2014 which was executed by both parties and their respective witnesses. The Deed of Transfer was tendered as a purchase receipt and admitted as Exhibit "B".

The Claimant's predecessor-in-title allegedly handed over to the Claimant a photocopy of his title document with which he acquired the land and the photocopy of an Application for Building/Farming/Industrial Land dated 4<sup>th</sup> of September, 2011 which was admitted in evidence as Exhibit "C".

Subsequently, the Claimant employed the services of Surveyor S.O. Ekhosu (MNIS), a Registered Surveyor who surveyed the land and the Survey Plan No. TDN/ED/402/2019 dated 27/7/19 was admitted in evidence as Exhibit "D".

Thereafter, the Claimant allegedly applied to the government for a Certificate of Occupancy and he was issued with a Certificate of Occupancy which was admitted as Exhibit "E" at the hearing.

The Claimant subsequently erected a two-bedroom flat on the land and fenced same with a perimeter fence.

The Claimant's Attorney alleged that sometime in November, 2021, when he paid a visit to the land, he observed that someone had entered the Claimant's land to destroy the Claimant's fence, deposit some trips of sand and molded blocks on the land.

The Claimant's Attorney allegedly took photographs of the scene with his TECNO CAMO 16 S phone and printed copies of the photographs. The printouts of the two photographs were admitted in evidence as Exhibits "F1" and "F2" while the Certificate of compliance was admitted as Exhibit "F3".

Thereafter, the Lawful Attorney informed the Claimant about the alleged acts of trespass on his land and the Claimant instructed the Lawful Attorney to brief a lawyer to write a petition against the unknown trespasser.

The Claimant's Counsel allegedly wrote a petition to the Assistant Inspector General of Police, Zone 5 headed "*Petition on the Malicious Damage of the Property belonging to Mr. Frank Ogbomo and Criminal Trespass to his Property Lying And Situate at Urhoho Village, Ikpoba-Okha Local Government Area, Benin City, Edo State: Request for investigation, Arrest and Prosecution of the Unknown Criminal Trespassers*". The petition was admitted in evidence as Exhibit "H".

Upon receipt of the Petition, the Office of the Assistant Inspector General of Police carried out their investigations but all attempts made by the police to apprehend the unknown trespasser proved abortive hence the Claimant instituted this suit to seek redress.

At the hearing of this case, the Claimant's Lawful Attorney informed the Court that the name "Friday Ogbomo" as contained in the Deed of Transfer dated the 4<sup>th</sup> day of June, 2014 and the name "Frank Ogbomo" as it appears in the Court processes filed in this suit and the Claimant's other documents refer to one and the same person to wit: the Claimant.

He said that the names of the Claimant as stated above were reconciled by an Affidavit of Reconciliation of Name dated the 10<sup>th</sup> day of January, 2022 and was thereafter published in the West Africa Business News Paper on the 12<sup>th</sup> day of January, 2022. At the hearing, the original copy of the *West Africa Business News publication of 12<sup>th</sup> January, 2022* was admitted in evidence as Exhibit "G" while the Affidavit of Reconciliation of name was admitted as Exhibit "G1".

Upon the conclusion of the Claimant's evidence, the matter was adjourned for cross examination and the Court ordered that fresh hearing notice should be issued

and served on the Defendant. The Hearing notice was served on him but he failed to appear in the Court so the Court foreclosed him and the Claimant closed his case. Eventually, the matter was adjourned for final address.

In his final written address, the learned counsel for the Claimant, *J.E. Igumah Esq.* formulated three issues for determination as follows:

- 1) Whether or not the Claimant has proved his case beyond reasonable doubt on the balance of probabilities having regard to the totality of evidence before this honourable Court to entitle him to the reliefs sought;*
- 2) Whether or not the Defendant is liable to the Claimant for trespass on the Claimant's land measuring 200feet by 200feet lying and situate at Uroho village, Ikpoba-Okha Local Government Area, Edo State, particularly delineated in property survey plan No. TDN/ED/402/2017, dated the 27/07/2019, covered by a Certificate of Occupancy No: 4f4a1-v0e5e-nf470-u0e5-nf771-rw493 dated 28th day of September, 2021 and registered as No. 120 at page 1 in Volume 43 of the Certificate of Occupancy Digital Register in the EDOGIS registry office of the Edo State and Deed of Assignment dated 4<sup>th</sup> day of June, 2014; and*
- 3) If Issues 1 and 2 are answered in the affirmative, whether or not the Claimant is entitled to the reliefs sought.*

Thereafter, the learned counsel argued the three issues seriatim.

#### **ISSUE NO. 1:**

*Whether or not the Claimant has proved his case beyond reasonable doubt on the balance of probabilities having regard to the totality of evidence before this honourable Court to entitle him to the reliefs sought.*

Opening his arguments on issue one, the learned counsel submitted that in land matters as in other civil cases, the standard of proof is on the balance of probabilities and on the preponderance of evidence. He relied on the cases of *BAMALI V. TOGUN (2023) 14 NWLR (PT. 1905) PAGE 411 @ PAGE 425-426*; *KAIYAOJA V. EGUNLA (1974) 12 SC Page 55 at Page 61*; and *BOYEIND.LTD.V.SOWEMIMO [2009]10NWLR PART 1148 PAGE.136 @ P.164, PARA A.*

He listed the five methods of proving title to land in Nigeria and relied on the following cases: *ADDAH V. UBANDAWAKI (2015) 7 NWLR (Part 1458) Page 352 at Page 355* *Idundun v. Okumagba (1976) NMLR 200 at 210*; *Alli v. Alesinloye (2000) 6 NWLR (Pt. 660) 177*; *Eze v. Atasie (2000) 10 NWLR (Pt. 676) 470*.

Learned counsel referred to paragraphs 4, 5, 7, 8, 9, and 10 of the Amended Statement of Claim dated and posited that the Claimant pleaded facts relating to how he became the bonafide owner of the piece of land in dispute.

He said that the Claimant specifically pleaded how he acquired the said land and produced the following title documents: the Deed of transfer dated 14<sup>th</sup> day of June, 2014 (Exhibit “B”); Photocopy of the Application for building Plot dated 4<sup>th</sup> of September, 2011, (Exhibit “C”); Survey Plan dated 27<sup>th</sup> day of July, 2019 (Exhibit “D”); and the Certificate of Occupancy dated the 22<sup>nd</sup> day of September, 2021.

He submitted that the undisputed facts contained in the Claimant’s pleadings and further corroborated by his Attorney and the title documents tendered by the Claimant has established the fact that the land in dispute belongs to the Claimant and that the Claimant is entitled to the reliefs sought and he urged the Court to so hold.

He submitted that the Claimant has established the identity of the land with certainty by tendering a Survey Plan (Exhibit “D”) and he relied on the cases of *OGUNDALU V. MACJOB (2015) 8 NWLR (Part 1460) Page 96 at Pages 114– 115*; *MAJEKODUNMI V. ABINA (2002) 3 NWLR (Part 755) Page 720 at Page 747*; and *AJERO V. UGORJI (1999) 10 NWLR (Part 621) Page 1 at Page 14*.

Furthermore, he posited that in the instant case, the Claimant also proved acts of possession by tendering his various title documents during the trial.

He submitted that documentary evidence cannot be contradicted or varied by oral evidence of any particular witness and he cited *Section 128 of the Evidence Act, 2011*.

He pointed out that the Defendant did not respond to this suit and it is trite law that averments that are not responded to or controverted are deemed admitted as in this case and he relied on the following decisions: *USENI V. ATTA [2023] 8 NWLR PART 1887 PAGE 519 @ 555 PARA.G*; *EZENWA V. K.S.H.S.M.B. (2011) 9 NWLR (Part 1251) Page 89 at Page 132*; and *ONAGORUWA V. J.A.M.B. [2001] 10 NWLR PART 722 PAGE 742 @ PAGE 753 PARA.C*.

**ISSUE NO. 2:**

*Whether or not the Defendant is liable to the Claimant for trespass on the Claimant's land measuring 200feet by 200feet lying and situate at Uroho village, Ikpoba-Okha Local Government Area, Edo State, particularly delineated in property survey plan No. TDN/ED/402/2017, dated the 27/07/2019, covered by a Certificate of Occupancy No: 4f4a1-v0e5e-nf470-u0e5-nf771-rw493 dated 28th day of September, 2021 and registered as No. 120 at page 1 in Volume 43 of the Certificate of Occupancy Digital Register in the EDOGIS registry office of the Edo State and Deed of Assignment dated 4<sup>th</sup> day of June, 2014.*

Counsel submitted that trespass to land is any entry upon land or any direct and immediate interference with the possession of land and he cited the case of *AJERO V. UGORJI (1999) 10 NWLR (Part 621) Page 1 at Page 17 PARA.C-D*.

He posited that in the instant case, the Claimant has established by oral and documentary evidence that he has been in exclusive possession of the land in dispute since the 14<sup>th</sup> day of June, 2014 until the Defendant trespassed on the land.

He said that the Claimant led evidence to show that after the trespass on his land, the Claimant through his legal representative wrote a petition to the Assistant Inspector General of Police but till date the police could not apprehend the Defendant.

He posited that it is settled law that trespass is actionable at the suit of the person in possession of the land and the slightest possession enables him to maintain an action for trespass if the Defendant cannot show a better title. He relied on the case of *BAMGBOYE V. OLUSOGA (1996) 4 NWLR (PT. 444) 520@ PAGE 538-543 PARA-E*.

He urged the Court to resolve this issue in favour of the Claimant.



**ISSUE NO 3:**

***If issues 1 and 2 are answered in the affirmative, whether or not the Claimant is entitled to the reliefs sought.***

The learned counsel reproduced the Claimant's reliefs in this suit and submitted that upon the preponderance of evidence adduced by the Claimant in this case, he is entitled to his reliefs.

He submitted that once there is trespass, an action in damages lies even where no actual damage was done to the land and in awarding general damages, the Court has a discretion based on the evidence adduced by the Claimant in this case. He relied on the case of ***AMINU V. OGUNYEBI (2004) 10 NWLR (Part 882) Page 457 at Page 484.***

Furthermore, he submitted that since the Claimant has established possession and acts of trespass on the land in dispute, the Court should grant perpetual injunction to restrain the Defendant, his agents, servants, representatives and privies from further acts of trespass on the land. For this position, he relied on the case of ***AJERO V. UGORJI (supra) at Page 17; and ADEBO V. SAKI ESTATES LTD. (1999) 7 NWLR (PT. 612) PAGE 525, PAGE 534 PARA B.***

He maintained that the Claimant has established his case on the preponderance of evidence and is entitled to the reliefs sought.

I have carefully considered all the processes filed in this suit, together with the evidence led in the course of the hearing and the address of the learned Counsel for the Claimant.

As I have already observed, the Defendant did not put up any defence to this suit so the evidence of the Claimant remains unchallenged.

The position of the law is that evidence that is neither challenged nor debunked remains good and credible evidence which should be relied upon by the trial court, which has a duty to ascribe probative value to it. See the following decisions on the point: ***Monkom vs. Odili (2010) 2 NWLR (Pt.1179) 419 at 442; and Kopek Construction Ltd. vs. Ekisola (2010) 3 NWLR (Pt.1182) 618 at 663.***

Furthermore, where the Claimant has adduced admissible evidence which is satisfactory in the context of the case, and none is available from the Defendants, the burden on the Claimant is lighter as the case will be decided upon a minimum of proof. See: *Adeleke vs. Iyanda (2001) 13 NWLR (Pt.729) 1at 23-24.*

However, notwithstanding the fact that the suit is undefended, the Court would only be bound by unchallenged and uncontroverted evidence of the Claimant if it is cogent and credible. See: *Arewa Textiles Plc. vs. Finetex Ltd. (2003) 7 NWLR (Pt.819) 322 at 341.*

Even where the evidence is unchallenged, the trial court still has a duty to evaluate it and be satisfied that it is credible and sufficient to sustain the claim. See: *Gonzee (Nig.) Ltd. vs. Nigerian Educational Research and Development Council (2005) 13 NWLR (Pt.943) 634 at 650.*

Applying the foregoing principles, I will evaluate the evidence adduced by the Claimant to ascertain whether they are credible and sufficient to sustain the Claim.

I am of the view that the sole Issue for Determination in this suit is: ***whether the Claimant is entitled to the reliefs claimed in this suit.***

In a claim for a declaration of title to land, the burden is on the Claimant to satisfy the Court that he is entitled, on the evidence adduced by him, to the declaration which he seeks. The Claimant must rely on the strength of his own case and not on the weakness of the Defendant's case. See: *Ojo vs. Azam (2001) 4 NWLR (Pt.702) 57 at 71;* and *Oyenyin vs. Akinkugbe (2010) 4 NWLR (Pt.1184) 265 at 295.*

It is now settled law that the five ways of proving ownership of land are as follows:

- i. By traditional evidence;*
- ii. By the production of documents of title;*
- iii. By proving acts of ownership;*
- iv. By proof of possession of connected or adjacent land in circumstances rendering it probable that the owner of such connected or adjacent land would in addition be the owner of the land in dispute; and*
- v. By acts of long possession and enjoyment of the land.*

See the case of *Idundun vs. Okumagba (1976) 9-10 S.C. 227.*

The point must be made that any one of the five means will be sufficient to prove title to the land as each is independent of the other. See: *Nwosu vs. Udejaja (1990) 1 NWLR (Pt.125) 188; and Anabaronye & Ors. vs. Nwakaihe (1997) 1 NWLR (Pt.482) 374 at 385.*

In the instant suit, from the tenor of his evidence the Claimant appears to be relying on the second, third and fifth means of proof, to wit: proof by the production of documents of title; acts of ownership; and acts of long possession and enjoyment of the land.

On the proof by the production of title documents, the Claimant relied on a Deed of Transfer which was tendered as a purchase receipt and admitted as Exhibit "B". He also relied on a Certificate of Occupancy over the land which was admitted as Exhibit "E".

It is apparent that the Claimant's strongest document of title is his Certificate of Occupancy, Exhibit "E".

It is settled law that a Certificate of Occupancy is prima facie proof of title to the land over which it was issued. Once a person is granted a Certificate of Occupancy over a parcel of land, he is entitled to hold same to the exclusion of any other person unless and until the said Certificate of Occupancy is set aside or it gives way to a better title. See: *Ilona v Idakwo (2003) LPELR-1496(SC); Madu v Madu (2008) 2-3 S.C. (PT 11) 109, (2006) LPELR-1806(SC).*

In this case, the Defendant did not adduce any evidence to challenge the validity of the Certificate of Occupancy which was admitted as Exhibit "E". In the absence of any challenge to Exhibit "E", I hold that it will suffice to establish the Claimant's title to the land in dispute.

Thus, the Claimant is entitled to a declaration that he is the owner of the land in dispute.

Next, on the declaration that the Defendant's blocks and sand on the Claimant's land amount to a continuous trespass on the land, it is trite law that trespass to land constitutes the slightest disturbance to the possession of land by a person who cannot show a better right to possession. Possession is the foundation of any claim for trespass. See the cases of *JIAZA VS. BAMGBOSE (1999) 7 NWLR (PT. 610)*

**182; FASIKUN II VS. OLURONKE II (1999) 2 NWLR (PT. 589) 1; OSHO VS. FOREIGN FIN. CORP. (1991) 4 NWLR (PT. 184) 157; ADELAJA VS. FANOIKI (1990) 2 NWLR (PT. 131) 137; ANYABUNSI VS. UGWUNZE (1995) 6 NWLR (PT.401) 255; and OROK & ORS V. IKPEME & ORS (2017) LPELR-43493(CA)(PP. 10-12 PARAS. A-A).**

In the instant case, the Claimant has established that he was in exclusive possession of the land in dispute before the Defendant encroached on the land. Thus, the disturbance of the Claimant's exclusive possession by the Defendant's encroachment on the land amounts to trespass. Moreover, the presence of the Defendant's blocks and sand on the land amount to a continuous trespass on the land.

On the relief of a perpetual injunction against the Defendant, it is settled law that once trespass has been proved, an order of injunction becomes necessary to restrain further trespass. See: **ADEGBITE VS. OGUNFAOLU (1990) 4 NWLR (PT. 146) 578; BABATOLA VS. ALADEJANA (2001) FWLR (PT. 61) 1670 and ANYANWU VS. UZOWUAKA (2009) ALL FWLR (PT. 499) PG. 411.**

In the event, I hold that the Claimant is entitled to a perpetual injunction to restrain the Defendant, his agents, privies or servants from any further acts of trespass on the Claimant's land.

On the claim of special damages of N5, 000.000.00 (Five Million Naira) for the malicious destruction of the Claimant's fence, it is settled law that a Claimant must specifically plead and strictly prove special damages in order to be entitled to an award. The rule is that anyone asking for special damages must strictly prove that he suffered such damages as claimed.

What is required of a party claiming special damages is to establish his entitlement to such special damages by credible evidence of such a character as would suggest that he indeed is entitled to an award under that head. See **Oshinjinrin v. Elias (1970) All NLR 153. See also Warner International v. Federal Housing Authority (1993) 6 NWLR (Pt.298) 148.**

It must be pointed out that the mere fact that the adverse party did not lead evidence to challenge the case of the party claiming special damages, would not

*ipso facto* amount to proof of the claims for special damages. See ***FLOURMILLS OF NIGERIA PLC & ANOR V. NIGERIA CUSTOMS SERVICE BOARD & ORS (2016) LPELR-41256(CA) (PP. 32-34 PARAS. E).***

In the instant case, the Claimant did not lead any evidence on how the alleged acts of trespass made him to suffer losses amounting to the sum of N5,000, 000.00 (Five Million Naira). Thus, the claim for special damages was not strictly proved and it cannot be granted.

Coming to the claim for the sum of N5, 000.000.00 (Five Million Naira) as general damages against the Defendant for the untold discomfort, hardship and destruction of the nomenclature of the Claimant's land as a result of the Defendant's act of continuous trespass on the claimant landed, it is settled law that general damages are presumed by law as the direct natural consequences of the acts complained of by the Claimant against the Defendant.

The assessment of general damages is not predicated on any established legal principle. Thus, it usually depends on the peculiar circumstances of the case. See: ***Ukachukwu vs. Uzodinma (2007) 9 NWLR (Pt.1038) 167; and Inland Bank (Nig.) Plc vs. F & S Co. Ltd. (2010) 15 NWLR (Pt.1216) 395.***

The fundamental objective for the award of general damages is to compensate the Claimant for the harm and injury caused by the Defendant. See: ***Chevron (Nig.) Ltd. vs. Omoregha (2015) 16 NWLR (Pt.1485) 336 at 340.***

Thus, it is the duty of the Court to assess General Damages; taking into consideration the surrounding circumstances and the conduct of the parties. See: ***Olatunde Laja vs. Alhaji Isiba & Anor. (1979) 7 CA.*** The quantum of damages will depend on the evidence of what the Claimant has suffered from the acts of the Defendant.

In the instant case, although the Claimant did not elaborate on the extent of destruction or losses occasioned by the Defendant's trespass, going through the entire gamut of the Claimant's evidence, there is evidence that the Defendant actually caused the Claimant some discomfort by his acts of trespass. In the event he is entitled to nominal damages which are at the discretion of the Court using the

test of a reasonable man. See: *Artra Industries (Nig.) Ltd. vs. N.B.C.I (1998) 4 NWLR (Pt.546) 357; Ogbechie vs. Onochie (1988) 4 NWLR (Pt.70) 370.*

On the whole, the sole issue for determination is resolved in favour of the Claimant.

The Claimant's claims partially succeed and judgment is entered in favour of the Claimant as follows:

- 1) ***A DECLARATION that the Claimant is the Bonafide owner of the landed property measuring 200 feet by 200 feet lying and situate at Uroho Village, Ikpoba-Okha Local Government Area, Edo State, particularly delineated in Property Survey Plan No. TDN/ED/402/2017, dated the 27/07/2019, covered by a Certificate of Occupancy No: 4f4a1-v0e5e-nf470-u0e5-nf771-rw493 dated 28th day of September, 2021 and registered as No. 120 at page 1 in Volume 43 of the Certificate of Occupancy Digital Register in the EDOGIS Registry Office of the Edo State and Deed of Assignment dated 4th day of June, 2014;***
- 2) ***A DECLARATION that the Defendant's blocks and sand on the Claimant's land measuring 200 feet by 200 feet lying and situate at Uroho Village, Ikpoba-Okha Local Government Area, Edo State, particularly delineated in Property Survey Plan No. TDN/ED/402/2017, dated the 27/07/2019, covered by a Certificate of Occupancy No: 4f4a1-v0e5e-nf470-u0e5-nf771-rw493 dated 28th day of September, 2021 and registered as No. 120 at page 1 in Volume 43 of the Certificate of Occupancy Digital Register in the EDOGIS Registry Office of Edo State and Deed of Assignment dated 4<sup>th</sup> day of June, 2014 amount to continuous trespass on the Claimant's land;***
- 3) ***AN ORDER OF PERPETUAL INJUNCTION restraining the Defendant or any other person (s) either by themselves, servants, agents, privies or any other person whosoever that is acting on their behalf from continuous trespass on the Claimant's land measuring 200 feet by 200 feet lying and situate at Uroho Village, Ikpoba-Okha Local Government Area, Edo State, particularly delineated in Property Survey Plan No. TDN/ED/402/2017, dated the 27/07/2019, covered by a Certificate of Occupancy No: 4f4a1-v0e5e-nf470-u0e5-nf771-rw493 dated 28th day of***

*September, 2021 and registered as No. 120 at page 1 in Volume 43 of the Certificate of Occupancy Digital Register in the EDOGIS Registry Office of the Edo State and Deed of Assignment dated 4th day of June, 2014;*

- 4) AN ORDER OF PERPETUAL INJUNCTION restraining the Defendant or any other person (s) whether by themselves, servants, agents, privies, assigns or whosoever acting for them or on their behalf from dissipating, selling and committing further acts of trespass on the Claimant's piece or parcel of land 200 feet by 200 feet lying and situate at Uroho Village, Ikpoba-Okha Local Government Area, Edo State, particularly delineated in Property Survey Plan No. TDN/ED/402/2017, dated the 27/07/2019, covered by a Certificate of Occupancy No: 4f4a1-v0e5e-nf470-u0e5-nf771-rw493 dated 28th day of September, 2021 and registered as No. 120 at page 1 in Volume 43 of the Certificate of Occupancy Digital Register in the EDOGIS Registry Office of the Edo State and Deed of Assignment dated 4th day of June, 2014;and*
- 5) AN AWARD of General Damages of N1, 000.000.00 (One Million Naira) only against the Defendant to the Claimant for the untold discomfort, hardship and destruction of the nomenclature of the Claimant's land as a result of the Defendant's act of continuous trespass on the Claimant's landed property measuring 200 feet by 200 feet lying and situate at Uroho Village, Ikpoba-Okha Local Government Area, Edo State, particularly delineated in Property Survey Plan No. TDN/ED/402/2017, dated the 27/07/2019, covered by a Certificate of Occupancy No: 4f4a1-v0e5e-nf470-u0e5-nf771-rw493 dated 28th day of September, 2021 and registered as No. 120 at page 1 in Volume 43 of the Certificate of Occupancy Digital Register in the EDOGIS Registry Office of the Edo State and Deed of Assignment dated 4th day of June, 2014.*

*The Defendant shall pay the sum of N200, 000.00 (Two Hundred Thousand Naira) to the Claimant as costs.*

**P.A.AKHIHIERO**  
**JUDGE**  
**06 /02/2025**

**COUNSEL:**

*J.E. Igumah Esq.*-----*Claimant.*

*Unrepresented*-----*Defendant*