IN THE SMALL CLAIMS COURT OF RIVERS STATE OF NIGERIA

IN THE PORT HARCOURT MAGISTERIAL DISTRICT

HOLDEN AT PORT HARCOURT

CLAIM NO: PMC/SCC/92/2026

BETWEEN

MR. MAXIM CHIGOZIRIM **CLAIMANT**

AND

1. **MR. ADEYEMI TOSIN**
2. **ADEYEMI TOSIN HOMES AND CONSULT LTD** **DEFENDANTS**

Parties- Claimant is present

Appearances- J.C. Ogbansiegbe appears for the Claimant; N.A. Nwala appears for the Defendant.

JUDGEMENT

The Claimant in FORM RSSC 2 filed the 04/03/2026 is praying the Court for the following:

1. The sum of N1,000,000.00 only, being and representing the principal amount being owed the Claimant by the Defendants;
2. The sum of N500,000 being and representing cost of litigation; and
3. The sum of N2,000,000only, representing general damages for breach of trust, refusal to repay the debt, embarrassment, inconvenience and emotional distress occasioned to the Claimant by the Defendants' conduct.

As shown on the affidavit of service, the Defendants were served on 17/03/2026. A. O Obuzor the Claimant's counsel, entered a plea of not liable on behalf of the Defendants and the matter was set down for hearing. The Claimant opened its case on the 30/03/2026, called in one witness, tendered six exhibits and closed its case on the 08/04/2026.

The Defendant opened its case on the 09/04/2026, tendered four exhibits, and closed its case on 20/04/2026.

The parties adopted their final written addresses on 07/05/2026.

THE CLAIM

The Claimant testified solely that: In 2024, he approached Defendants with the intention of purchasing land for agricultural purposes; at the point of inspection, the Defendants told CW1 that a plot was going for N650,000 but if he could make up his money to N1,000,000, he would be able to purchase two plots measuring 803 square meters; the Claimant paid by bank transfer, the sum of N1,000,000 as advised and was promised instant allocation; parties executed a deed

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of conveyance; the Defendants did not immediately allocate the land as promised but kept giving endless excuses; that after about five months from the date of payment for the land, when the Claimant visits Defendants' office, he was disrespected and treated with disdain and given conflicting and misleading information; upon being frustrated, the Claimant began demanding for a refund of its money and that was when the Defendants said the land had been allocated; upon inspection of the purported allocation, Claimant discovered that he had been allocated one plot instead of the two plots he paid for; the Claimant confronted the Defendants with the shortfall and breach and further requested for a refund; the Defendants said if there would be any refund, they would deduct 40% of the N1,000,000 paid; despite repeated demands, the Defendants have refused to make the refund.

The Claimant tendered the following exhibits:

Certificate of compliance- Exhibit C; Statement of account from Eco bank of Okechukwu Maxim Chigozim- Exhibit C1; Printed WhatsApp chat – Exhibit C2; Invoice from Ogbansiegbe J.C. Chambers- Exhibit C3; Transaction receipts from Access bank dated 25/11/2024 and 22/12/2024 – Exhibit C4 a &b.

In its final written address, counsel raised and argued three issues for determination. J.C. Ogbansiegbe on behalf of the Claimant argued that in a land sale transaction, the vendor must not only identify the property sold, but must also allocate same to the purchaser within reasonable time, put the purchaser in possession or confer effective control, and deliver exactly what was contracted. Counsel also argued that there were contradictions in the testimony of the defense and such be rejected by the Court. Counsel further contended that the issue of 40% forfeiture clause was an after-thought inserted in the disputed form.

THE DEFENSE

The Defendants filed a statement of Defense and counter-claim on 07/04/2026.

The Defendants testified vide the 1st Defendant in its deposition filed the 07/04/2026 stated that: on 10/09/2024 the Claimant visited its office and expressed interest through a form, to purchase a piece of property; parties settled for N1,000,000 for 803.34 square meters of land; Parties executed a deed; on 13/09/2024, the purchased land was allocated to the Claimant and others; upon allocation, the Claimant signed an allocation register; the Claimant was put into possession of the land and have enjoyed peaceful possession; later, the Claimant called, demanding for a refund of the purchase sums, saying he was no longer interested in the contract; in September 2025, 1st Defendant was invited by the Nigerian Police Force, Area Command, SCID, Rivers State, upon a malicious petition written by the Claimant; upon investigation, the Claimant was told to take possession of its land, while the 1st Defendant was compelled to secure his bail with N500,000; the actions of the Claimant has caused the Defendants reputational damages and financial losses; the Defendant incurred the sum of N1,000,000 as cost of litigation and the Claimant is not entitled to the relief sought.

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The Defendants raised five issues for determination. They argued that the Claimant is bound by the voluntary agreement it signed and that there was no cause of action. Counsel also argued that the evidence as led by the Claimant was filled with lies, which the Court should not rely on. It is their contention that the case be dismissed for lacking in merit.

EVALUATION OF EVIDENCE/DECISION

The Court has the powers to adopt, reframe or even modify the issues raised by parties. The Supreme Court re-echoed this principle in **OBOT v. STATE (2026) LPELR-83546 (SC)** when it held thus:

"Prefatorily, this Court is at liberty and possesses the power to accept, reject, or modify all or any of the issues formulated by the parties and frame its own issues if in its view, such issues as formulated by the parties, will not lead to a proper determination of the appeal. The purpose of formulating issues for determination is to narrow the issues in controversy between the parties in the interest of accuracy, clarity, and brevity to lead to more judicious and proper determination of an appeal." ***Per ABUBAKAR SADIQ UMAR, JSC (Pp 7 – 8 Paras F – B)***

Consequently, this Court has formulated two issues for determination, thus:

1. Whether the Claimant has proved its case to be entitled to judgement; and
2. Whether the Counter claim has merit.

ISSUE 1- Whether the Claimant has proved its case to be entitled to judgement

Before I proceed with resolution of the first issue, I shall deal with one of the fundamental issues raised by the Defendants and that is, whether there is a cause of action against the Defendants.

The Court in **ETHIOPIAN AIRLINES v. POLARIS BANK LTD & ANOR (2025) LPELR-80188 (SC)** in describing what a cause of action is, espoused it thus:

It is a set of facts which, if proved or substantiated, entitles a party (plaintiff) to an enforceable right/remedy against a wrongdoer (defendant). It consists of two elements, the wrongful act of the defendant, which bestows cause of action on a plaintiff, and the consequent damage. See Savage v. Uwaechia (1972) 3 SC 214, Omiomeji v. Kolawole (2018) 14 WLR (Pt. 1106) 180, Iliyasu v. Rijau (2019) 16 NWLR (Pt. 1697) 1, Maigari v. Malle (2019) 16 NWLR (Pt. 1697) 69. The content of a writ of summons or statement of claim determines the existence or otherwise of a cause of action. See Shell B.P. Ltd. v. Onasanya (1976) 6 SC 89, 7-Up, Bottling Co. v. Abiola & Sons (2001) 13 NWLR (Pt. 730) 469, UBIV Plc v. Umeoduagu (2004) 13 NWLR (Pt. 890) 350." ***Per OBANDE FESTUS OGBUINYA, JSC (Pp 15 - 16 Paras E - C)***

The contention of the Claimant is with respect to an alleged breach of contract by the Defendants. The Court is of the considered opinion that the facts placed before this Court as shown in the complaint, discloses an alleged wrongful act by the Defendants, which is the cause of action.

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In a long line of authorities, the Courts have held, re-echoing the provisions of Section 134 of the Evidence Act 2011, that the burden of proof lies on the Claimant in civil cases. In **CENTRAL BANK OF NIGERIA V. OCHIFE & ORS (2025) LPELR-80220(SC),** the Supreme Court once again held that: *The law is that civil matters are proved on the basis of preponderance of evidence. Thus, if on any given issue, the evidence of the Claimant be as good as that of the defendant so that there is an equilibrium, it is the party on whom rests the burden of proof that fails. This is because the evidence does not preponderate in such party's favour.*

It is only necessary therefore to reiterate that the burden of proof lies on the Claimant in this suit.

To resolve the first issue for determination, the reliefs of the Claimant shall be dealt with, *seriatim.*

Relief one deals with refund of the consideration of N1,000,000 made by the Claimant to the Defendants.

The facts of the case has been reproduced above and I shall not run the risk of repetition. The grouse of the Claimant is that he wants a refund, given that the Defendants failed to allocate a land to him and put him in possession. The Claimant contends that the Defendant breached the agreement entered and thus should refund him.

In **BEST (NIG) LTD V BLACKWOOD HODGE (NIG) LTD (2011) LPELR-776 (SC),** it was held thus:

"It is basic that to constitute a binding contract, there must be an agreement in which parties are ad idem on essential terms and conditions thereof. The promise of each party must be supported by consideration... It is trite law that before any contract or agreement can be said to have come into existence, in law, there must be an unmistaken and precise offer and an unconditional acceptance of the terms mutually agreed upon by the parties thereto. In other words, the parties to the agreement must be in consensus ad idem as regards the terms and conditions freely and voluntarily agreed upon by them. Odutola v Papersack (Nigeria) Ltd. (2006) 18 NWLR Pt. 1012 pg. 470..."

In the instant case, the Claimant's evidence is that he visited the office of Defendants and when parties agreed, he made a payment of N650,000 as evidenced in exhibit C1, the statement of account from Eco bank. The payment was made on 10/10/2024. The Claimant was convinced by officers of the Defendant and he agreed to purchase the special plot, instead. Payments in exhibit C4 a & b were subsequently made, bringing the total sum paid by the Claimant, to N1,000,000.

The parties are *ad idem* on the fact that a contract was entered. The Court is however not in doubt that all the elements of a valid contract are present in the instant case.

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Exhibit D3 is the Defendants' document, titled expression of interest form, filled by the Claimant. It is dated 10/09/2024. A cursory look at exhibit D3 shows that it is for a plot of land valued N650,000.

Exhibits C5 a-e and D1 a-e are deeds of conveyance presented by the Claimant and Defendants, respectively. They deal with a land size different from that mentioned in exhibit D3, the expression of interest from.

In **DIKIO & ORS v. NSITF MANAGEMENT BOARD & ORS (2025) LPELR-81322 (SC)**, the apex Court opined thus:
"In law, once an offer is qualified or conditioned, it ceases to be an acceptance and instead constitutes a counter-offer. A valid acceptance must be unconditional, as any addition, subtraction or modification of the terms of the original offer constitutes a counter-offer which legally amounts to a rejection of the initial offer. See BEST NIGERIA LTD VS. BLACKWOOD HODGE NIG. LTD (2011) LPELR-776(SC) and AKINYEMI VS. ODU'A INVESTMENT CO. LTD (2012) LPELR -8270(SC)." Per MOHAMMED BABA IDRIS, JSC (Pp 57 - 57 Paras C - E)

In the instant case, exhibits C5 a-e and D1 a-e corroborates the testimony of the Claimant that he was convinced to take the special plot for N1,000,000 and he did. The payments tendered also lend credence to this piece of evidence. It follows therefore that having made a counter offer, the offer contained in the expression of interest form which is exhibit D3 was repudiated and not capable of enforcement. That document though admitted, lacks probative value as it neither created rights nor obligations which can be enforced by this Court.

As stated in course of this judgement, exhibits C5 a-e and D1 a-e are deeds of conveyance presented by the Claimant and Defendants, respectively.

The Claimant presented exhibit C5 a-e as the deed of conveyance signed by parties. It is dated 10/10/2024. In course of cross-examination of the DW1 through who exhibit C5 a-e was tendered, he was shown the document and he identified it as that signed by the parties on record. The document bears the details and signature of the witness for the purchaser. The Defendant also tendered exhibit D1 a-e, a deed of conveyance between parties on record dated 12/09/2024. In this document, there is no endorsement by the purchaser's witness, unlike exhibit C5 a-e tendered by the Claimant.

I shall point out that on exhibit C5 a-e, the witness is the same person who endorsed the date of commencement as the writing style and ink are the same.

Given the Defendant's evidence; the Claimant came to their office first, on 10/09/2024 and picked an expression of interest form; the deed of conveyance was signed 12/09/2024, two days after. This piece of evidence is a manifest falsehood. This is because, exhibit C1 is the statement of account of the Claimant showing that the Claimant first paid for the land on 10/10/2024. Did the parties execute a deed of conveyance before consideration passed? That to the mind of the Court is in the negative. The date contained in the Defendants' version of

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the deed of conveyance to the mind of the Court, was smuggled in by the Defendants, to serve their ends.

Exhibit C4 a & b are transaction receipts from Access bank, showing the other installments made by the Claimant, bringing the total sum paid, to N1,000,000. Exhibit C4 lends credence to and corroborates the testimony of the Claimant that he paid N1,000,000 for the special plot, as advised by officers of the Defendants.

The Claimant contends that he was not allocated the land he paid for and hence, should be refunded. The Defendant in its defense, submitted otherwise that the Claimant was put in possession and in proof, tendered exhibit D4 a-c which housed the details of clients allocated land to, on Saturday, 13th September 2025. The Claimant's name is on that document as no 10 of those allocated portions of land.

In **NSUDE & ORS v. NICHODEMUS & ORS (2024) LPELR-62986 (SC),** the Court held that:

"It is trite that he who asserts must prove. In civil cases, the burden of proof is dictated by the states of the pleadings. The burden is on the person who would lose if no evidence at all is given on either side. The general and initial burden of proof often rests the Plaintiff, although it is not static. See Sections 131, 132 and 133 of the Evidence Act, 2011 (as amended) as well as the cases of DAGACI OF DERE V. DAGACI OF EBWA (2006) 7 NWLR (PT. 979) 382, OGBU V. WOKOMA (2005) 14 NWLR (PT. 944) 118, ADEGOKE V. ADIBI (1992) 5 NWLR (PT. 242) 410." ***Per ADAMU JAURO, JSC (Pp 22 - 23 Paras D - A)***

Although the alleged allocation was done about 11 months after the deed was executed by parties, the burden is on the Claimant to show that he was not allocated, contrary to the contents of exhibit D4.

In course of cross-examination, the following transpired:
Q. On 13/09/2025, Defendant allocated land to you, you signed certificate and received same.
A. No, on that date, I was at the site for the allocation exercise, Defendant pointed at a portion and said this is what I paid for. There was no beacon there, as contained in the survey plan. The square meter in the deed of conveyance was not what was presented to me. When I asked a question that this is not what I paid for, the staff anchoring the exercise responded that it does not matter. I rejected the offer instantly. I did not sign any document for allocation.
In **UNION BANK v. RAVIH ABDUL & CO. LTD (2018) LPELR-46333 (SC)** the Court posited thus:
"It is now settled law that the burden of proving a particular fact is on the party who asserts it, which onus does not remain static in civil cases but shifts between adverse parties from one side to the other as the occasion warrants and the onus of adducing further evidence is not adduced... See Onuh v Idu (2002) FWLR (Pt.94) 66 at 79-80." ***Per MARY UKAEGO PETER-ODILI, JSC (Pp 35 - 37 Paras B - C)***

This piece of evidence elicited under cross-examination of the CW1, contradicted the contention of the Defendants that they allocated the property to the Claimant. They did not contradict this assertion of the Claimant, neither did they place any evidence of the delineated

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portion and size of the allocated land, before this Court. The contention of the Defendant as to allocation is watery and hold no water. The burden shifted to the Defendants to show the portion allocated, delineated by the beacons as shown in the survey plan, together with the size, but sadly, the Defendants failed to discharge the burden placed on them, which is the evidential burden.

There is also nothing placed before this Court showing that the Defendant shall allocate the land paid for, whenever they are ready.

Having given the Claimant a portion smaller and different from what it paid for, the Court considers it a breach of contract.

In describing what a breach of contract is, the Court in BEST NIG LTD V BLACKWOOD HODGE (NIG) LTD, *Supra*, spake thus:

"There is no gain-saying the point that a breach of contract is committed when a party to the contract without lawful excuse fails, neglects or refuses to perform an obligation he undertook in the contract or incapacitates himself from performing same, or in a way back down from carrying out a material term. See Adeoti & Anor v Ayorinde & Anor (2001) 6 NWLR (Pt. 709) 336..."

The Court finds that the Defendants have breached the terms as contained in the deed of conveyance and where a party as the Defendants on record breach a fundamental term, the Claimant is at liberty to treat the contract as extinguished.

The Court is of the considered opinion that the Claimant is entitled to a refund of the money paid for the land. I so hold.

Relief two deals with general damages pegged at N2,000,000.

The Court in describing general damages, held in **VICTOR v. FUTA & ANOR (2025) LPELR-83156(SC) (Pp 25 - 25 Paras A - F)**, thus: *"General damages compensate the claimant for the non-monetary aspects of the specific harm suffered. This is usually termed generally as "pain, suffering and loss of amenity'. General damages are usually awarded only in claims brought by individuals when they have suffered personal harm... ." Per HELEN MORONKEJI OGUNWUMIJU, JSC (Pp 25 - 25 Paras A - F)*

With respect to general damages, the law presumes that they are losses which flow naturally from the act of the defendant. It need not be specifically pleaded or proved in evidence but arises by inference of law- **CAMEROON AIRLINES VS. OLUTUIZU (2011)4 NWLR (PT.1238) 512**

In **AKAOLISA v. AKAOLISA (2021) LPELR-56886(SC) (Pp 4 - 5 Paras D - C)**, the apex Court held as follows: *"In the award of General Damages, a wide spread power is given to the Court comparable to the exercise of discretion of the Court. It is enormous and therefore far-reaching. The measure of general damages is awarded to assuage such a loss, which flows*

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naturally from the defendant's act. It needs not be specifically pleaded. It suffices if it is generally averred. They are presumed to be the direct and probable consequence of that complained of. Unlike special damages, it is generally incapable of exact calculation. See Per OGUNBIYI, JSC, ELF PETROLEUM V. UMAH & ORS (2018) LPELR-43600(SC) (PP.27-28, PARAS. C-A). Similarly, where a party is demanding for or claiming general damages, the Court awards same at its discretion. See AKINTERINWA V. OLADUNJOYE (2000) 1 NWLR (PT 659) 93 AT 115. Per Chukwunweike Idigbe, JSC, in WAHABI V. OMONUWA (1976) LPELR-3469(SC) (P. 18, PAR-AS. B-D) stated also that the quantification of general damages in terms of money is a matter for the Court." Per UWANI MUSA ABBA AJI, JSC (Pp 4 - 5 Paras D - C).

Flowing from the long line of judicial authorities, it is safe to say that a Court can award damages, where the damage is the direct and probable cause of the breach. The principle of equity, *ubi jus ibi remedium*, aptly captures general damages. This is because, having established that the Defendants breached their agreement with the Claimant, the law will not send the Claimant home, empty handed but the Claimant shall get recompense in the form of general damages.

Relief two succeeds and I so hold.

Relief three is for the sum of N500,000 being and representing cost of litigation incurred by the Claimant in prosecuting this action.

In Nigeria, it appears from previous authorities that the prevailing view was that a request to the Court to award the fees paid by a winning party to his Legal Counsel for prosecuting a legal action, was against public policy and indeed unethical. This notion was stated by the Court of Appeal in **GUINNESS NIG. PLC. V. EMMANUEL NWOKE [2000] 15 NWLR [PT. 689] 135.** In that case, one of the issues that was raised in the appeal was proof of claim of the solicitor's fees, as the Learned Trial Judge in the matter had dismissed the claim of N500,000 as cost of Solicitor's fees.

In **CHIEF JOSEPH AGBALUGO & ANOR v. MR. ISAAC IZUAKOR. (2017) LCN/9870(CA),** the Court stated that: *"The law is that a claim by a claimant for legal fees he paid to his Solicitor is not one that is ordinarily granted by a Court - Ihekwoaba Vs African Continental Bank Ltd (1998) 10 NWLR (Pt 571) 590 at 610-611, Nwanji Vs Coastal Services (Nig) Ltd (2004) 11 NWLR (Pt 885) 552. It is correct that in Guinness (Nig) Plc Vs Nwoke (2000) 15 NWLR (Pt 689) 135 it was suggested that such a claim was unknown to our law.*

The correct position of the law, however, is that a solicitor's fees is claimable, and to succeed on such a claim it must be specifically pleaded as special damages and must be proved by credible and cogent evidence. Furthermore, in **AJIBOLA V ANISERE & ANOR (2019) LPELR-48204(CA)** where the Plaintiff/Appellant claimed the sum of N2,000,000 as Solicitor's fees for the prosecution of the case, the Court awarded the said sum as claimed and held that: *"It is progressive to note that our law has moved from GUINNESS (NIG) PLC V*

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NWOKE (2000) 15 NWLR, PT 689, 135 when such a claim was said to be unknown to law to the more dynamic posture of our Courts in the more recent cases of LONESTAR DRILLING NIG LTD V NEW GENESIS EXECUTIVE SECURITY LTD (2011) LPELR - 4437 (CA) and NAUDE & ORS V SIMON (2013) LPELR - 20491 (CA) where such claims are granted if properly pleaded and proved. The instant case falls into this latter category of legal dynamism. I therefore award N2, 000, 000 in favor of the plaintiff/appellant for money paid to his solicitors for the prosecution of this case as claimed"

In **POLARIS BANK PLC v. PINHEIRO (2024) LPELR-80293(SC) (Pp 14 - 16 Paras B - A),** Law Lords described special damages, thus:

"Now, special damages refer to a class of damages that must be specially pleaded and strictly proved as rightly submitted by the Appellant. Due to their nature, special damages are not awarded arbitrarily by the Court or granted as a matter of course but upon been specifically proven by the party seeking same. In a long line of authorities, this Court has posited on what a party seeking special damages is expected to establish before the Court. This Court in the case of A.T.E. Co. Ltd. v. Mil. Gov., Ogun State (2009) 15 NWLR (Pt. 1163) 26 enunciated thus: "Where a party claims special damages, the burden is on him to prove the special damages to the last kobo. He has to do this by leading credible evidence, most of the time by documents. However, there are instances where special damages can be proved without documents."

See also Mazi Anthony Sunday O. Nwangwu v First Bank of Nigeria Plc (2022) 1 NWLR (PT. 1812) 427 wherein it was held thus: "The second claim of the appellant relates to its anticipated profit, the claim appears wild, imaginary and ambitious, such claims for loss of profit must be premised on proper and verifiable index, supported by established evidence. In a claim for special damage, the onus is manifestly placed at the doorstep of the appellant, he must lead specific, credible, believable, cogent and convincing evidence to prove the anticipated profits, or loss of profit. For a claim in the nature of special damage to succeed, it must be proved strictly and the Court is not entitled to make its own estimate of such claim or engage in logical deductions. It should be noted that special damages should be specifically pleaded in a manner clear enough to enable the defendant know the origin or nature of the special damages being claimed against him to enable him prepare his defence." The above decisions of this Court encapsulate the onus on a party seeking special damages in Court. In simple terms, a party seeking special damages is tasked with the obligation of specifically pleading, itemizing and particularizing the scope of the damages and more importantly proving the special damages to the last kobo by leading credible evidence." Per ABUBAKAR SADIQ UMAR, JSC (Pp 14 - 16 Paras B - A).

The apex Court speaking further on the disposition of the Courts to an award of special damages, posited in **SPDC (NIG.) LTD. v. OKEH & ORS (2025) LPELR-80874(SC) (Pp 64 - 65 Paras C - A),** that:

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"Where a party is able to show or where it is glaring from the surrounding circumstance of the case and nature of injury suffered by the party that special damages would not adequately compensate for all the loss, the Court must go ahead to award both special and general damages and this cannot be termed double compensation. Within the concept of where there is a wrong, the Court must provide a remedy. In the determination of disputes and in the consideration of the matter before this Court, where the appellant occasioned incidental loss, injuries, costs and other consequences resulting from the misconduct of the respondent, the Court is obliged to make an assessment in general damages with the standard of the reasonable man and that would certainly not exclude the award in actual cost of an alternative ticket purchased by the appellant. This cannot be to deny the appellant of both the general and special damages. See Per PETER-ODILI, JSC, in MEKWUNYE V. EMIRATES AIRLINES (2019) LPELR-46553(SC) (PP. 61-67 PARAS. E)." Per UWANI MUSA ABBA AJI, JSC (Pp 64 - 65 Paras C - A).

The Claimant in proof of the fees paid, tendered and the Court admitted exhibit C3 which is the invoice issued for prosecution of this matter by J.C. Ogbansiegbe, Esq. It was not only stated but proof of it as required was led by the Claimant. The Court thus finds the Claimant entitled to relief three.

From the foregoing evaluation, the Court is of the well-considered opinion that the Claimant has by credible and cogent evidence, discharged the burden placed on it, and thus entitled to the judgement of this Court.

Issue one is accordingly resolved in favour of the Claimant. I find and so hold.

ISSUE TWO- Whether the Counter Claim has Merit.

The Defendants filed a statement of Defense and counter-claim on 07/04/2026. They counter-claims as follows:

a. A declaration that the contract for the sale of land evidenced in a deed of conveyance measuring approximately 803.34 square meters located at Adeyemi Tosin Homes and Consults, Itura estate, plot 246, Okpo-Ube Umugwuocha Ozuzu village, Etche Local Government Area of Rivers state between the Claimant and Defendants is valid, subsisting and binding on parties;
b. A declaration that the parcel of land measuring approximately 803.34 square meters located at Adeyemi Tosin Homes and Consults, Itura estate, plot 246, Okpo-Ube Umugwuocha Ozuzu village, Etche Local Government Area of Rivers state purchased by the Claimant without any encumbrance whatsoever remains the Claimant's property as parties are bound by their agreement;
c. The sum of N1,000,000 only as exemplary damages against the Claimant;
d. An order of perpetual injunction restraining the Claimant, his agents, privies, assigns, successor-in-title, legal representatives, from further harassing, intimidating, withdrawing from their valid transaction, petitioning law enforcement agencies or in

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any other manner, interfering with the Defendants in respect of the subject matter of this suit;

e. And for such order or further orders as this honourable court may deem fit to make in the circumstance.

The Court on what a counter claim is, held in **EGWU & ANOR v. ANUMENE (2024) LPELR-79935(SC) (Pp 18 - 18 Paras B - C),** that: *"I need not iterate that a counter-claim is a distinct claim and stands on its own as a claim. Thus, where there is a counter-claim, the defendant who has counter-claimed stands as a plaintiff while the plaintiff in the original claim becomes a defendant in respect of the counter-claim." Per HARUNA SIMON TSAMMANI, JSC (Pp 18 - 18 Paras B - C)*

The first two reliefs in the counter-claim are declaratory in nature.

Under Nigerian jurisprudence and the **Magistrates' Courts Law of Rivers State**, a Magistrate Court is a court of summary jurisdiction with strictly defined statutory boundaries. It lacks the inherent or constitutional power to issue judicial declarations.

The bulk of the reliefs sought by the Claimant are declaratory. Declaratory reliefs are equitable, discretionary, and constitutional remedies. Section 6(6)(b) of the **Constitution of the Federal Republic of Nigeria 1999,** vests broad judicial powers to determine the civil rights and obligations of citizens primarily in Courts of Record like the High Courts and not on courts like Magistrate Courts. This Court lacks the judicial competence to issue declarations. I so hold.

The third relief in the counter-claim is, N1,000,000 only, as exemplary damages against the Claimant.

"It is a settled principle of law that aggravated, punitive, or exemplary damages may be awarded where the circumstances of a case disclose conduct by the defendant that is particularly egregious, outrageous, or high-handed. Such awards are not merely compensatory, but are aimed at punishing the defendant and deterring similar conduct in the future. Exemplary or punitive damages are generally awarded where the defendant's actions are tainted with fraud, malice, cruelty, insolence, or where the conduct evinces a contumelious disregard for the rights of the claimant. The purpose of such an award is to mark the Court's strong disapproval of the defendant's oppressive or arbitrary conduct. Aggravated damages, although compensatory in nature, are awarded where the injury suffered by the claimant is rendered more serious by the manner in which the wrongful act was committed. This includes cases where the defendant's motive or conduct has increased the plaintiff's mental distress, humiliation, or sense of indignity. In such cases, the Court considers the additional harm inflicted by the defendant's conduct when assessing damages... ." **ISIYAKU v. UBA PLC (2025) LPELR-82096(SC) (Pp 33 - 34 Paras E - E).**

In the instant suit, there is no outrageous or high-handed conduct by the Defendant to the counter-claim, that needs to be stopped by the grant of an exemplary damage. This relief fails and I so hold.

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With respect to the last relief in the counter claim, the Counter-claimant is praying for an order of perpetual injunction.

In **SALIU v. JEREMIAH & ORS (2026) LPELR-83118(SC) (Pp 26 - 28 Paras E - A)**, the Supreme Court held that:

"It is settled that an order of injunction is an equitable relief issued or granted by a Court at the suit of a party complainant, directed to a party defendant in the action, or to a party made a defendant for that purpose, forbidding the latter to do some act, or to permit his servants and agents to do some act, which he is threatening or attempting to commit or restraining him in the continuance thereof, such act being unjust and inequitable, injurious to the claimant, and not such as can be adequately redressed by an action in law. It is a judicial process operating in personam, and requiring the person to whom it is directed to do or refrain from doing a particular thing - Nigeria Telecommunications Ltd Vs ICC (Directory Publishers) Ltd (2009) 16NWLR (Pt 1167) 356. An injunction is an ancillary relief in the sense that it complements a cause of action. It is rarely granted on its own as a sole relief. Rather, it is granted to enforce a right which the Court granting the injunction has first decreed or recognized in its judgment; it is to ensure that such a right is not violated. It cannot stand on its own unrelated to any acknowledged right. In effect, it is a consequential relief used only as an accompaniment to a pre-ascertained principal relief - Nigerian National Petroleum Corp. Vs AIC Limited (2003) 2 NWLR (Pt 805) 560, Nwankwo Vs Ononoeze-Madu (2005) 4 NWLR (Pt 916) 470, Yusuff Vs International Institute of Tropical Agriculture (2009) 5 NWLR (Pt 1133) 18." Per HABEEB ADEWALE OLUMUYIWA ABIRU, JSC (Pp 26 - 28 Paras E - A).

As was noted in the dictum of ABIRU JSC, perpetual injunction is granted to enforce a right which the Court had recognized in course of its judgement, to ensure such right is not violated.

In the instant case, there is no right which accrued or inured to the Defendants, which ought to be protected. Orders of Court cannot be made in vacuum. I do not find any reason to make an order of perpetual injunction. It fails and I so hold.

In all, the counter claims to all intent and purposes, lacks merit and is dismissed with no order as to cost.

For the purpose of clarity, judgement is entered for the Claimant and it is adjudged that the Defendants pay to the Claimant:

1. The sum of N1,000,000.00 only, being and representing the principal amount paid for 803.34 square meters;
2. The sum of N500,000 being and representing cost of litigation; and
3. The sum of N1,000,000 only, representing general damages.

These orders are to be complied with, not later that 14 days from the date of this judgement.

CamScanner

SIGNED

ANUGBUM, OBIARERI. N, ESQ.

CHIEF MAGISTRATE I

SMALL CLAIMS COURT IV

02nd July, 2026



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