



Real Property & Land Ownership

**ARE AREA COUNCIL TITLES VALID IN THE FEDERAL
CAPITAL TERRITORY? LESSONS FROM THE DECISION
IN EMMANUEL AKANOM ENEBONG V. FEDERAL
CAPITAL TERRITORY AUTHORITY & 4 ORS**

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1. Introduction

An individual or entity that desires, intends, or is actively negotiating to buy a parcel of land in the Federal Capital Territory (“**FCT**”) must apply great care and show diligence in every stage of the transaction. This is because a purchaser has a legal duty to make inquiries about a property he/she intends to purchase and this duty is not a fanciful wrangling. However, prospective purchasers of land in the FCT may not pay attention to the seemingly harmless detail concerning who allocates the land and by what authority. “Area Council Land” and “Chief’s Paper”² are notorious phrases used in the real estate community in the FCT to describe the grantor and/or land allocating authority in certain communities and remote areas. This practice inevitably births the following questions: are Area Council³ titles valid in the FCT? Does “Chief’s Paper” confer deemed grant of customary right of occupancy on a purchaser in the FCT? Must all lands in the FCT be allocated by the Honourable Minister of the FCT?

On 25th October 2024, the High Court of the Federal Capital Territory delivered judgment in the case of **Emmanuel Akanom Enebong (Doing business under the name and style of Kabom Developers) v. Federal Capital Territory Administration & 4 Ors.** (“**Enebong’s Case**”),⁴ and clarified this overlooked and often misconstrued area of law. In this case, the Plaintiff relied on a grant of land made by the Chairman of Bwari Area Council via two Customary Rights of Occupancy, while the 5th Defendant relied on a statutory grant made by the Honourable Minister of the FCT. The Court, with remarkable certainty, decided that all land in the FCT is “urban land” and that

¹ **David Andy Essien**, Senior Associate, Cross-Departmental, S. P. A. Ajibade & Co., Abuja, Nigeria.

² This is a colloquial expression used in the real estate community in the FCT to describe any bundle of documents issued to a purchaser of land by the Chief or Head of a community in the FCT as proof of payment, and possibly, document of title.

³ Area Councils provide grassroots administration for the FCT, equivalent to the role of Local Government Areas (LGAs) in the 36 states of Nigeria. The FCT has six Area Councils, namely: Abaji Area Council, Abuja Municipal Area Council (AMAC), Bwari Area Council, Gwagwalada Area Council, Kuje Area Council, and Kwali Area Council. See, ss3(4) and (6), 297(1), 303, and Part II of the First Schedule to the *Constitution of the Federal Republic of Nigeria* 1999 (as amended) [“*CFRN*”].

⁴ Unreported Judgment in Suit No. FCT/HC/CV/2445/2013 delivered by Honourable Justice Y. Halilu, J. of the High Court of the Federal Capital Territory, Abuja on 25th October 2024 (hereinafter referred to as “*Enebong’s Case*”). This can be accessed via this link: <<https://www.fcthighcourt.gov.ng/wp-content/uploads/2025/03/MR.-EMMANUEL-AKANOM-ENEBONG-VS-FEDERAL-CAPITAL-TERRITORY-ADMINISTRATION-4-ORS.-DECLARATORY-RELIEFS-TITLE-TO-LAND-.pdf>> accessed 27 July 2026.

without allocation or grant by the Honourable Minister of the FCT, there is no way any person or group of persons could acquire land in the FCT.

This paper considers the relevant factual and legal basis for the decision in **Enebong's Case**, by highlighting/evaluating the case for each of the parties and their respective legal submissions. The reasoning of the Court will be discussed and thereafter, the implications of this decision will be set out for the benefit of prospective purchasers of land, land owners, real estate developers, and interested members of the public. Furthermore, this paper comments on the case law trajectory on this point before and after the decision in **Enebong's Case** and, in line with appellate court decisions, proceeds to answer the question, "*who can allocate land in the FCT?*"

2. **The Case of the Plaintiff**

The Plaintiff (Emmanuel Akanom Enebong) contended that in the year 2001, the 2nd Defendant (the Honourable Minister of the FCT) allocated 4 plots of land to him in his business name "*Kabom Developers*" and the Zonal Land Manager of the Bwari Area Council signed the letters of allocation. The Plaintiff stated that the plots were numbered as Plots 48 and 51, measuring about 2,500 square meters, and Plots 49 and 50, measuring about 1,250 square meters at Kubwa Annex Layout, Kubwa, Bwari Area Council, FCT.

It is the case of the Plaintiff that in the year 2003, he was issued two Certificates of Occupancy for the said plots in his business name, and though the Certificates of Occupancy were erroneously described as "*customary*", they are in fact "*statutory*". The Plaintiff stated that for reasons of convenience, the 1st, 2nd and 3rd Defendants combined two plots in one Certificate of Occupancy resulting in Plots 48 and 51 and Plots 49 and 50 covered by two Certificates of Occupancy. On or about 9th July 2006, the Plaintiff complied with the requirement of the 2nd Defendant for regularisation of land titles and documentation of Area Council Land within Abuja and submitted the Certificates of Occupancy for Plots 48 and 51 and 49 and 50 for regularisation at the Land Registry Department in the FCT. The Plaintiff pleaded that the purpose of the 1st and 2nd Defendants' regularisation was to unify the land titles in FCT and rectify those land titles that were allocated by the 1st and 2nd Defendants through the 3rd Defendant.

Subsequently, the Plaintiff submitted his Building Plan to the 1st and 2nd Defendants' Zonal Planning Office at Bwari Area Council and it was approved. He proceeded to develop all the plots in line with his Building Plan. Sometime in early 2008, the Plaintiff saw some people trying to put up property beacons very close to his buildings and he immediately wrote to the 2nd Defendant, notifying him of the activities of the people

claiming to be 1st Defendant's staff and further informed the 2nd Defendant that the act would create double allocation on the already subsisting allocations. Despite repeated reminders from the Plaintiff, the 2nd Defendant did not reply the said letter and did not stop its officers from any further trespass on the Plaintiff's plots of land.

It is the case of the Plaintiff that sometime in February, 2013, some people claiming to be from Development Control, a Department of the 1st Defendant, pasted a document titled "*Quit Notice*" on the walls of the Plaintiff's building. When the Plaintiff inquired, he was informed that the 2nd Defendant had allocated the plots of land to the 5th Defendant, notwithstanding the buildings completed by the Plaintiff on the plots of land. To the Plaintiff's surprise, the 4th Defendant's workers moved into the layout where the Plaintiff's plots are located, planted a sign post, started excavations, and began erecting houses around the Plaintiff's buildings. Aggrieved, the Plaintiff approached the High Court of the FCT and sought declaratory, injunctive, and compensatory reliefs to the effect that the allocation made to him by the 2nd Defendant through the Zonal Land Manager of Bwari Area Council for Plots 48, 49, 50 and 51 were validly and properly made.

3. The Case of the 1st and 2nd Defendants

The 1st and 2nd Defendants (Federal Capital Territory Administration [FCTA] and the Honourable Minister of the FCT, respectively) filed their Joint Statement of Defence and specifically denied ever allocating the said land to the Plaintiff. They stated that the power to allocate land in the FCT is exclusively that of the 2nd Defendant (Minister of the FCT) who is a delegate of the President of the Federal Republic of Nigeria, and that such power cannot be re-delegated. The 1st and 2nd Defendants distanced themselves from the claim of the Plaintiff but confirmed the fact that the 5th Defendant was allocated the said land as indicated in the Certificate of Occupancy issued to the 5th Defendant.

The 1st and 2nd Defendants stated that since the creation of the FCT in 1976, the ownership of the entire area comprising the FCT, Kubwa District inclusive, became vested in the Federal Government of Nigeria and that the 2nd Defendant never authorised the 3rd Defendant (the Chairman, Bwari Area Council) or any other person to allocate any plot or issue any letter of allocation to the Plaintiff on his behalf. The 1st and 2nd Defendants further stated that there was no instrument authorising the said purported allocations to the Plaintiff and that the plots in question have been allocated by the 2nd Defendant to various applicants, the 5th Defendant inclusive.

Finally, the 1st and 2nd Defendants contended that the regularisation of the land documents of the Plaintiff does not invariably mean that the title held by the Plaintiff is valid or has been validated and that no approval was given to the Plaintiff to erect any building on the said plots. The Court was urged to dismiss the case, as granting the Plaintiff's claims will only encourage illegality.

4. The Case of the 4th and 5th Defendants

The 4th and 5th Defendants (Dantata Town Development Limited and Fresh Fruits Enterprise (Int'l) Limited, respectively) filed their Amended Statement of Defence and maintained that the land the Plaintiff is laying claim to does not belong to the Plaintiff. The 4th and 5th Defendants further stated that sometime in the year 1990, the 5th Defendant was first allocated the said land by the 2nd Defendant (the Minister of the FCT) with approximately 201.76 hectares for agricultural purpose. The 5th Defendant later decided to use the said piece of land for residential purpose and applied to 1st and 2nd Defendants for "*Change of Land Use*". The application was approved, but unfortunately, the area approved by the 1st and 2nd Defendants was reduced from 201.76 hectares to 57.39 hectares.

The 5th Defendant protested against the reduction in size of the area originally allocated to it but 1st and 2nd Defendants appealed to the 5th Defendant, in the meantime, to start developing the area currently allocated to it while considering her protest. The 5th Defendant accepted this proposition and visited the land to hand it over to the 4th Defendant, who was desirous of developing it. On getting to the land, the 5th Defendant noticed that the Plaintiff encroached and/or trespassed on it.

It is the case of the 4th and 5th Defendants that the administration of land in Bwari Area Council, including all lands within the FCT, is administered by the 1st and 2nd Defendants and that the 3rd Defendant (the Chairman, Bwari Area Council) does not oversee the administration of land. The 4th and 5th Defendants pleaded that they conducted a search and it revealed that the 1st and 2nd Defendants did not issue the Plaintiff any Customary Certificate of Occupancy for Plots 48, 49, 50 and 51 and that no approval was granted to the Plaintiff to develop the said plots.

5. Submissions of Counsel in Enebong's Case

In his Final Written Address, Learned Counsel to the 1st and 2nd Defendants anchored his legal submissions on several grounds, two of which are relevant to this article. Firstly, he argued that the Plaintiff had no standing in law to institute the action because the Honourable Minister of the FCT is the one vested with the right to allocate land in

the FCT and not the Chairman of Bwari Area Council.⁵ He further submitted that the pleadings of the Plaintiff does not disclose that the Plaintiff has any right which the court can pronounce upon and that there is no deemed rights in the FCT.⁶ On the second ground, he argued that one of the functions vested in the Honourable Minister of the FCT is the alienation of land within the FCT either by way of allocation, sale or by gift, which includes land within the Bwari Area Council. Counsel submitted that the Plaintiff had not established that he was allocated the said property by the appropriate authority. The Court was urged to dismiss the case.

On the part of the 4th and 5th Defendants, it was argued that Bwari Area Council did not act on the instruction of the Hon. Minister of the FCT as the oral and documentary evidence placed before the Court by the Plaintiff, unfortunately, did not establish the fact of delegation and/or authorisation to act on behalf of the Hon. Minister of the FCT.

In response, Learned Counsel to the Plaintiff argued that the disputed plots were allocated to the Plaintiff by the 2nd Defendant. Reliance was placed on oral and documentary evidence to contend that in a bid to expedite the urbanisation of the FCT, the 2nd Defendant set up the Rural Land Adjudication Committee to aid the administration of lands in the FCT and the mandate of the committee was to allocate residential plots within the Area Councils of the FCT to interested applicants. He concluded that the Zonal Manager, alongside the 3rd Defendant, had the mandate of the 2nd Defendant to allocate plots of land to intending interested parties in Bwari Area Council.

6. Decision of the Court in Enebong's Case

Having read the pleadings of parties, the ensuing oral and documentary evidence in support of their respective cases, and the legal arguments contained in their corresponding Final Written Addresses, the High Court of the FCT adopted the first issue presented by the Plaintiff to resolve this case, to wit: *"whether by the two conveyance of provisional approval dated the 15th May, 2001 and two Certificate (sic) of Occupancy with File Nos. FCT/BZTP/LA/MISC/2003/2288 and FCT/BZTP/LA/MISC/2003/2289, the Plaintiff is not bonafide owner of Plots 48, 49, 50 and 51 situate at Kubwa Annexed Layout, Abuja."*

⁵ Reliance was placed on s1(3) of the *Federal Capital Territory Act* ("FCT Act") 2004 and s299 (2) of the *CFRN*.

⁶ Reliance was placed on ss6(3) and (4) and 18 of the *FCT Act*; ss50 and 51 of the *Land Use Act*; and the case of *Grace Madu v. Dr. Betram Madu* (2008) 6 NWLR (Pt. 1083) 296 (SC) at pp. 324 – 325, paras. A – C.

By way of an introduction, the Court observed that though there are numerous ways of proving title to land, as it affects lands within the FCT, only grants by the Minister of the FCT is recognised. The Court placed reliance on sections 297 (2) of the *CFRN*⁷ and section 1(3) of the *FCT Act*⁸ and held that what the makers of the *Federal Capital Territory Act* intended was for a vast expanse of land devoid of any form of cultural or hereditary inclination to be set aside for the development of the Capital City. This reality informs why the original inhabitants who had occupied their ancestral lands were merely paid compensation and asked to move on, regardless of the fact that generations were buried on such lands.⁹ The Court held that if the *Land Use Act* was meant to apply to the FCT, the original inhabitants would have been granted “*deemed grant*” and allowed to remain on their various lands within the FCT.¹⁰

Taking it a step further, the Court considered the question of who issued the said Certificates of Occupancy to the Plaintiff and whether they were issued by the Honourable Minister of the FCT. The Court resolved that in line with the position expressed in the preamble¹¹ and section 1 of *Land Use Act*, section 49(1) of the *Land Use Act* specifically excludes the application of the provisions of the *Land Use Act* to title to land held by the Federal Government or any agency of the Federal Government at the commencement of the said Act.

In the same vein, the Court held that both the preamble to the *FCT Act*¹² and section 1(3) of the *FCT Act* vest all land comprised in the FCT, absolutely, in the Federal

⁷ Section 297(2) of the *CFRN* states as follows: “*The ownership of all lands comprised in the Federal Capital Territory, Abuja shall vest in the Government of the Federal Republic of Nigeria.*”

⁸ Section 1(3) of the *FCT Act* provides thus: “*The area contained in the capital Territory shall, as from the commencement of this Act, cease to be a portion of the states concerned and shall henceforth be governed and administered by or under the control of the Government of the Federation to the exclusion of any other person or authority whatsoever and the ownership of the lands comprised in the Federal Capital Territory shall likewise vest absolutely in the Government of the Federation.*”

⁹ Reference was made to s 6 of the *FCT Act*.

¹⁰ *Enebong’s Case* (n4) at p. 61.

¹¹ The Preamble to *Land Use Act* states as follows: “*An Act to vest all land comprised in the territory of each State (except land vested in the Federal Government or its agencies) solely in the Government of the State, who would hold such land in trust for the people and would henceforth be responsible for allocation of land in all urban areas to individuals resident in the State and to organizations for residential, agricultural, commercial and other purposes while similar powers with respect to non – urban areas are conferred on Local Government.*”

¹² The Preamble to *FCT Act* states thus: “*An Act to establish for Nigeria, a Federal Capital territory and to provide for the constitution of a Federal Capital Development Authority for the purpose of exercising the various powers set out in this Act, to execute other projects connected herewith, to provide for the laws applicable to that Territory and for appeals from the Upper Area Court and the law applicable thereto; and to provide for the delegation to the Minister of Federal Capital Territory of the executive powers vested in the President and those vested in him and the Government of a State under the applicable laws.*”

Government of Nigeria. The Court further held that all lands in the FCT are “*Urban Land*” and that the issue of “Urban” and “non-Urban Area”, which are creations of the *Land Use Act*, cannot apply in the FCT because the provisions of the *Land Use Act* are not applicable to lands held by Federal Government and her agencies. For the sake of completeness, the relevant portion of this decision is set out below:

Impliedly therefore, **without allocation or grant by the Hon. Minister of Federal Capital Territory, there is no way any person or group of persons, could acquire land in the Federal Capital Territory.**

.... I need to emphasize at this juncture that **the powers exercised by the FCT Minister, are those of the President Federal Republic of Nigeria** pursuant to section 297(2) of Constitution. By implication, therefore, they are delegated powers. **The FCT Minister to that extent, therefore cannot re-delegate his delegated powers.... The fact that the 3rd Defendant was allegedly given the go ahead vide the publication in Exhibit “L” to allocate land within his Area Council, albeit in error and frontal violation of the provision of the constitution and the FCT Act, on the one hand, and the fact that 3rd Defendant did act on the said go ahead aforementioned, does not and could not have validated such right, constitutionally speaking.**¹³

In resolving whether the allocations made to the Plaintiff by the 3rd Defendant (Bwari Area Council) were subsequently validated by the Federal Capital Territory Administration through the regularisation of land titles exercise carried out sometime in 2006, the Court held disapprovingly:

Let it be known to all and sundry that the mere brandishing of acknowledgment letter from Abuja Geographic Information Systems (AGIS) as evidence of submission of Area Council title documents for regularization does not amount to validation of such a title. **For any such area council allocation, so called, to be in conformity with the statutory provisions of law, the Federal Capital Territory Minister ought to withdraw the said so called Area Council allocation and issue a statutory title.**

.... What is the meaning of regularization in English language? The new lexicon Webster’s dictionary of the English language defines it to mean – “to make regular or cause to conform to a rule, principle.” **Why are all Area Council allocations being regularized? Certainly, it is to bring them in conformity with the provisions of law on the issue of allocation which is the exclusive preserve of the Federal Capital Territory Minister who enjoys the delegated powers of the President Federal Republic of Nigeria, under section 18 of Federal Capital Territory Act. I am not a law maker, but an interpreter of law made by a law maker.**

From the available evidence, both oral and documentary vis – a – vis the settled position of law and statutes, **Plaintiff who seem to have relied on the so called allocations made by the Chairman Bwari**

¹³ *Enebong’s Case* (n4) at pp. 65 – 68.

Area Council, albeit – illegally, can at best be described a trespasser on the said land in view of the fact that the said allocation made to him was made without any atom of authority and or legal justification... such allocation (sic) which abinito (sic) are not just null, void and unconstitutional, cannot be the basis upon which Plaintiff seeks to lay claim to the land in question.¹⁴

Having resolved the crux of the matter, the Court concluded that the claims of the Plaintiff are ill-fated and destined to fail in view of the established position of the law and the fact that the 4th and 5th Defendants hold an allocation from the Honourable Minister of the FCT. Consequently, the Court dismissed the claims of the Plaintiff in its entirety.

7. Commentary

The decision in **Enebong's Case** is commendable for its fidelity to the letters of the law and obedience to the doctrine of judicial precedent. Twenty-four (24) years before **Enebong's Case**, the Court of Appeal in the groundbreaking case of **Ona & Anor. v. Atenda**¹⁵ resolved a similar issue and decided that by virtue of section 297(1) and (2) of the *CFRN*, sections 49(1) and 51(2) of the *Land Use Act*, and sections 1(3), 13(1) and 18 of the *FCT Act*, there is no question of a customary right of occupancy arising in respect of lands vested in the Federal Government or any of its agencies, as Federal Lands are designated as “developed” or “undeveloped” under the *Land Use Act* and not “urban” or “non-urban”.¹⁶ The Court of Appeal found that from 4th February 1976 when the FCT was created, all parcels of land within the FCT ceased to be part of the States from where they were carved out and the governance and administration or control of such lands were vested exclusively in the Government of the Federation, to the exclusion of any other person or authority.¹⁷ Thus, land held by the Government of the Federation or any of its agencies prior to 29th March 1978, when the *Land Use Act* came into operation, was not affected in any way by the provisions of the *Land Use Act*.¹⁸ The Court concluded that only the Honourable Minister of the FCT can grant statutory rights of occupancy over lands situate in the FCT¹⁹ and Area Councils within

¹⁴ *Enebong's Case* (n4) at pp. 68 – 70.

¹⁵ (2000) 5 NWLR (Pt. 656) 244 (CA).

¹⁶ *Ibid.*, at p. 266, paras. B – C.

¹⁷ *Ibid.*, at p. 286, paras. D – F. See also, ss1(3), 13(3)(b), and the preamble to the *FCT Act*.

¹⁸ It is instructive to mention that s13(1) of the *FCT Act* did not set out those laws that apply to the FCT in addition to any law having effect, or made applicable throughout the Federation. Schedule II of the *FCT Act* listed the laws applicable to the FCT and the *Land Use Act* is not mentioned. This position is further supported by the detailed reasoning of Honourable Justice Mangaji, JCA, at page 289, paragraphs E – F in *Ona & Anor. v. Atenda* (n15).

¹⁹ See, *Ona & Anor. v. Atenda* (n15) at p. 275, paras. C – D. See also, s 18 of the *FCT Act* and s 51(2) of the *Land Use Act*.

the FCT cannot exercise jurisdiction in lands which were never vested in them when they came into being.²⁰

Eight years after **Ona & Anor. v. Atenda** was decided by the Court of Appeal, the Supreme Court, in the case of **Madu v. Madu**,²¹ settled the controversy when it held that ownership of the land comprised in the FCT is absolutely vested in the Federal Government of Nigeria and the power to grant statutory rights of occupancy over lands situate in the FCT is vested in the Minister of the FCT. The relevant part of the holding of the Supreme Court is reproduced below:

... ownership of land within the FCT vests in the Federal Government who through the Minister of FCT vest (sic) same to every citizen individually upon application. **Thus without an allocation or grant by the Hon. Minister of the FCT, there is no way any person including the respondent could acquire land in the FCT.**²²

Recent attempts have been made to challenge this settled position. In 2022, the Court of Appeal was called upon, in the case of **Sani v. Aye & 3 Ors.**,²³ to answer the question whether the trial Court was correct in relying on the principle in **Ona & Anor. v. Atenda**, the decision having been set aside by the Supreme Court, and whether the said decision was good law. It must be parenthetically noted that the decision of the Court of Appeal in **Ona & Anor. v. Atenda** was set aside in 2004 by the Supreme Court in **Abaji Area Council & Ors. v. Ona & Ors.**,²⁴ not on the merits of the substantive case, but on a narrow procedural issue: whether the High Court of the FCT's reference to the Court of Appeal, which formed the jurisdictional basis for the principle established in **Ona & Anor. v. Atenda**, was fundamentally misconceived and erroneous.²⁵ The Court of Appeal in **Sani v. Aye & 3 Ors.**, resolving the challenge directed at **Ona & Anor. v. Atenda**, walked down memory lane and iterated thus:

In the light of the decision of the apex Court in MADU vs. MADU (supra), the settled state of the law is that acquisition of land in the Federal Capital Territory can only be by an allocation or grant made by the Minister of the Federal Capital Territory. The decision of the lower Court, notwithstanding the reliance on ONA vs. ATENDA (supra) which has been set aside, is therefore the correct decision. **The customary certificate of occupancy relied on by the Cross-**

²⁰ See, *Ona & Anor. v. Atenda* (n15) at p. 272, para. C.

²¹ (2008) LPELR – 1806 (SC).

²² *Ibid.*, at pp. 34 – 35, paras. C – B, per Honourable Justice Aderemi, JSC (emphasis added). See also *Micah v. Hon. Minister of the FCT* (2018) LPELR – 44917 at p. 14; *FHA v. Ekpunobi* (2021) LPELR – 55741 (CA) at pp. 21 – 25; and *Zakari v. Jibrin* (2022) LPELR – 57119 (CA) at pp. 29 – 31.

²³ (2022) LPELR – 58094 (CA).

²⁴ (2004) LPELR – 17 (SC).

²⁵ *Ibid.*, at p. 2, para. G, per Honourable Justice Onu, JSC.

Appellants was issued by the Bwari Area Council; the lower Court was correct in its decision that the title is ineffective, null and void. The lower Court having arrived at the correct decision, the decision is not to be set aside by mere reason of the fact that it relied on the case of *ONA vs. ATENDA*.²⁶

Three years later, in the case of **Centenary City Plc & Anor. v. Dan Oil & Petrochemical Limited & Ors.**,²⁷ the Court of Appeal restated that only the Minister of the FCT can grant statutory right of occupancy over land in the FCT, pursuant to section 18 of the *FCT Act* and that no Area Council within the FCT has the power to allocate land in the FCT. Relying on the earlier case of **Divage Health and Sanitary Service Ltd. & Anor. v. Kenuj Investment Ltd.**,²⁸ the Court, in **Centenary's Case**, held as follows:

... exhibits PW1C and PW1D show on their face they conveyed the Hon. Minister's approval, but **there is no evidence to show that they were issued by the Minister or the person who signed them was a staff of the Federal Capital Territory and he has signed the said Exhibits on behalf of the Minister.** It is my view that the Respondent's documents of title Exhibits PWA, B, C D, E; E G and H do not qualify as documents conferring title. See *YUGUDA VS NYIMNYA* (2017) LPELR – 43008 CA. In view of all the above, I do not agree with the Respondent's counsel contention that the Respondent was the rightful allottee, **notwithstanding the issue of allocation from Abuja Municipal Area Council.**²⁹

Just when this settled area of law seemed secure, the Appellants in the case of **Tozhewo & Ors. v. Winning Clause Ltd. & Anor.**,³⁰ attempted through their counterclaim to re-write and overturn the clear provisions of sections 297(2) and 302 of the *CFRN* regarding the proper person and/or authority to allocate land in the FCT. The Court of Appeal, with the finery of a toothcomb, untangled the issues and resolved that the only person who can allocate land in the FCT or sign any document relating to Statutory Right of Occupancy in the FCT is the Honourable Minister of FCT or any person to whom he has legally delegated his powers to act on his behalf. The Court concluded that *“as far as ownership of land in the Federal Capital Territory is concerned, the Supreme Court has settled the matter in MADU v. MADU (2008) LPELR – 1806 (SC) at pages 34 – 35 paras. B – A.”*³¹

²⁶ See, *Sani v. Aye & 3 Ors.* (n23) at pp. 16 – 19, paras. B – C, per Honourable Justice Ogakwu, JCA. (2025) LPELR – 80326 (CA).

²⁷ (2018) LPELR – 45975 (CA), pp. 18 – 23, paras. A – D.

²⁸ See, *Centenary's Case* (n27) at pp. 32 – 34, paras. F – B, per Honourable Justice Mohammed, JCA (emphasis added).

²⁹ (2025) LPELR – 80343 (CA).

³⁰ *Ibid.*, at pp. 27 – 31, paras. A – B, per Honourable Justice Obiorah, JCA. Reliance was placed by the Court of Appeal on the following cases: *Citec Int'l Estates Ltd. & Anor. v. Styles Trends &*

In the case of **Pada & Ors. v. Abia**,³² the Court of Appeal reviewed the relevant legislations on this issue³³ and held that the President had, as from 28th May 1984, delegated to the Minister of the FCT, his executive powers exercisable within the FCT, including any function or power conferred by any law set out in the Second Schedule to the *FCT Act*; and by the combined effect of these provisions, it is only the Minister of the FCT that has the power to allocate land in the FCT.³⁴ The Court further held that the *Land Use Act*'s division of land into “urban” and “non-urban” or “rural” areas does not apply to the FCT, meaning Area Councils, like the Abuja Municipal Area Council (“AMAC”), cannot issue valid Certificates of Occupancy, as only the Minister of the FCT has the legal authority to grant statutory rights of occupancy. In concluding the point, the Court of Appeal had this to say:

Therefore, **no Area Council within the FCT, including the Abuja Municipal Area Council, has the power to allocate land within the Federal Capital Territory let alone to validly issue a certificate of occupancy over same.** In fact, this Court has severally emphasized this position. Therefore, the Minister of the FCT, who is acting under delegated powers of the President has no power to further delegate same to the Area Councils within the FCT or to anyone else, especially when the statutory provisions by which he was delegated by the President had granted him no such power of further delegation. In other words, **the Minister of the Federal Capital Territory cannot go beyond the statutory provisions by which the delegated powers to allocate land in the FCT was conferred only on him to delegate the same powers to the Area Councils or any other person.** And the request by the Hon. Minister of the FCT for persons who have been issued such Area Council allocations of land and title documents to approach the FCDA (Abuja Geographic Information Systems) for regularization (which was alluded to by the learned trial judge) can only mean for a possible valid and legally recognizable allocation by the Minister of the FCT. It is in consequence of the foregoing, that I resolve issue 1 in the negative and hold that **the Abuja Municipal Area Council**

Fashion Ltd. & Ors. (2022) LPELR – 57178 (CA); *FHA v. Ekpunobi & Ors.* (2021) LPELR – 55741 (CA) at pp. 28 – 30, paras. F – F; and *Lugbe & Ors. v. FCDA & Ors.* (2021) LPELR – 53182 (CA).
³² (2025) LPELR – 81409 (CA) at pp. 20 – 21, paras. C – E, per Honourable Justice Mohammed, JCA.

³³ Including s297(2) of the *CFRN*, ss1(3) and 18 of the *FCT Act*, 1976, and s51(2) of the *Land Use Act*, 1978.

³⁴ The Court of Appeal placed reliance on the following authorities: *Madu v. Madu* (2008) LPELR – 1806 (SC) at pp. 34 – 35, paras. B – A; *Ona & Anor. v. Atenda* (2000) LPELR – 6861 (CA) at pp. 30 – 32, paras. A – B; *Divage Health and Sanitary Service Ltd & Anor. v. Kenuj Investment Ltd.* (2018) LPELR – 45975 (CA) at pp. 18 – 23, paras. A – D; *FHA v. Ekpunobi & Ors.* (2021) LPELR – 55741 (CA) at pp. 21 – 25, paras. E – B; *Sani v. Aye & Ors.* (2022) LPELR – 58094 (CA) at pp. 16 – 19, paras. B – C; *Segun & Anor. v. Amah & Anor.* (2022) LPELR – 58848 (CA) at pp. 14 – 16, paras. A – D; and *Ahmed v. Adedokun* (2023) LPELR – 60450 (CA) at p. 18, paras. A – C; and *Centenary City & Anor. v. Dan Oil & Petrochemical Ltd. & Ors.* (2025) LPELR – 80326 (CA) at pp. 32 – 34, paras. F – B.

(AMAC) cannot validly issue a Certificate of Occupancy on a land within the Federal Capital Territory.³⁵

In the most recent case of **FWA & Anor. v. Ashanu (Nig.) Ltd.**,³⁶ the Court of Appeal interrogated whether it is within the powers of AMAC to validly allocate land in the FCT, and on what delegated authority can it convey such approval. The Court unmistakably noted that the decision in **Ona & Anor. v. Atenda** settled the controversy and declared that all lands in the FCT vest absolutely in the Government of the Federation, and by implication, only the Minister of the FCT, acting pursuant to section 302 of the *CFRN* and sections 13 and 18 of the *FCT Act*, has been delegated the authority to validly allocate land in the FCT. Deprecating the practice of land allocation by Area Councils in the FCT, the Court of Appeal held:

There is no mention whatsoever of any Area Council, including Abuja Municipal Area Council, in Sections 1 and 3 of the Federal Capital Territory Act in the administration thereof. ... applying the rule of interpretation of *expressio unis (sic) est exclusio alterius*, there is nowhere in the entire Federal Capital Territory Act that admits of any structure or office of Zonal Manager of any Area Council, such as Abuja Municipal Area Council, for the allocation of title to land or conveying the approval of the Minister over title to land, or to which any such duties can be sub-delegated.³⁷

8. Implications of the Decision in Enebong's Case and other Decided Cases on Prospective Land Purchasers in the FCT

The decision in **Enebong's Case** and other cases reviewed in the commentary section above have the following implications for prospective land purchasers in the FCT:

- i. All lands within the FCT vest in the Federal Government and powers thereto are exercised by the President or through a Minister appointed by him in that regard.
- ii. Customary Rights of Occupancy deemed granted do not exist in the FCT. By the combined effect of the provisions of section 49(1) of the *Land Use Act*, section 1(3) of the *FCT Act*, and section 297(2) of the *CFRN*, Customary Right of Occupancy in the FCT has been abolished, and there is no demarcation between “urban” and “non-urban” areas in the FCT. Consequently, “*Chief's Paper*” is not a valid document of title in the FCT and cannot confer deemed grant of customary right of occupancy on a purchaser.

³⁵ See, *Pada's Case* (n32) at pp. 21 – 26, paras. E – D, per Honourable Justice Mohammed, JCA.

³⁶ (2025) LPELR – 81683 (CA).

³⁷ *Ibid.*, at pp. 26 – 34, paras. C – B, per Honourable Justice Ogakwu, JCA.

- iii. All areas in the FCT are urban areas and all lands within the FCT are urban land.
- iv. Without allocation or grant by the Honourable Minister of the FCT, there is no way any person or group of persons, could acquire land in the FCT.
- v. There are no Area Council lands in the FCT and the Chairman of an Area Council is bereft of powers to allocate land in the FCT.
- vi. Longevity in occupation of a disputed land allocated by an Area Council in the FCT cannot defeat a prior or subsequent allocation of the same land made by the Honourable Minister of the FCT.
- vii. The powers exercised by the Honourable Minister of the FCT in this respect, are those of the President of the Federal Republic of Nigeria pursuant to section 297(2) of the *CFRN*. Being delegated powers, the Honourable Minister of the FCT cannot sub-delegate these powers to the Chairman of an Area Council unless and until there is an amendment of the relevant statutes to expressly provide for sub-delegation.
- viii. A request by the Honourable Minister of the FCT for persons who have been allocated land and issued title documents by Area Councils to approach the Federal Capital Development Authority (“**FCDA**”) and/or the Abuja Geographic Information Systems (“**AGIS**”) for regularisation may serve as a viable “*procedure*” for the attainment of a valid and legally recognisable allocation by the Minister of the FCT.
- ix. Being in possession of an “*Acknowledgment Letter*” from AGIS, as evidence of submission of Area Council title documents for regularisation, does not automatically amount to validation of such a title. For any Area Council allocation to be in conformity with the statutory provisions of the law, the Honourable Minister of the FCT must withdraw the so-called “*Area Council allocation*” and issue a statutory title.
- x. Holding a document that shows the approval of the Minister of the FCT for a Certificate of Occupancy does not automatically confer title to land. To establish ownership, there must be evidence that either the Minister subsequently issued the Certificate of Occupancy, or that an official employed in the Minister’s Office or the FCDA signed it on the Minister’s behalf.³⁸

³⁸ In the case of *FHA v. Ekpunobi & Ors.* (2018) LPELR – 55741 (CA) at pp. 51 – 64, paras. F – D, the Court of Appeal, speaking through the pen and lips of Honourable Justice Adumein, JCA (as

9. Conclusion and Recommendation

The decision in **Enebong's Case** is instructive: all lands within the FCT vest in the Federal Government and powers in this wise are exercised by the President or through the Honourable Minister of the FCT. There is no deemed grant and the Chairman of an Area Council in the FCT cannot allocate what he/she does not have. 'Chief's Paper' and/or 'Area Council titles' in the FCT are null and void, invalid, and unconstitutional and a land owner or prospective purchaser of land in the FCT that undermines or ignores this settled position of the law will suffer weighty legal and financial repercussions.

Consequently, no Area Council within the FCT, including AMAC, has the power to allocate land within the FCT and/or validly issue a Certificate of Occupancy over same. **Enebong's Case** is a timely judicial reminder of the agelong foundational principle of law: *caveat emptor quia ignorare non debuit quod jus alienum emit* – which literally translates, "let a purchaser beware, for he ought not to be ignorant of the nature of the property which he is buying from another party."

This author recommends that land owners and real estate developers in the FCT who are holding on to land allocation and title documents from Area Councils should take prompt steps to regularise their title, and importantly, ensure that the Honourable Minister of the FCT withdraws the defective Area Council allocation and grants a statutory right of occupancy. This will bring the said title in harmony with the dictates of the law and save such a party from persevering in error.

he then was), held that an official employed in the Minister's Office or FCDA can perform the functions or powers of the Honourable Minister and that such exercise of function or power is not regarded in law as delegation of authority, function or power under the maxim: "*Qui facit per alium facit per se*" which means: "*A person who acts through another acts himself*". In such a case, the officer or official acts as "*agent of the Minister*" and, under this maxim, his acts are considered or regarded as "*the acts of the Minister himself*". See also, *FWA & Anor. v. Ashanu (Nig.) Ltd.* (2025) LPELR – 81683 (CA) at pp. 26 – 34, paras. C – B, per Honourable Justice Ogakwu, JCA.



DAVID ESSIEN
SENIOR ASSOCIATE
dessien@spaajibade.com

Arbitration & ADR • Capital Markets • Competition • Compliance & ESG • Corporate • Data Protection • Derivatives • Employment • Environmental • Foreign Investment • Intellectual Property • Insolvency • Investigations • Lending • Litigation • Mergers & Acquisitions • Tax • White Collar

Lagos Office

A: 27A Macarthy Street, Onikan, Lagos

T: +234 814 594 2221

E: lagosoffice@spaajibade.com

Ibadan Office

A: 138, Liberty Stadium Road, Ibadan

T: +234 811 389 8219

E: ibadanoffice@spaajibade.com

Abuja Office

A: Plot 1075 Joseph Gomwalk Street Gudu.

T: +234 909 481 9809

E: abujaoffice@spaajibade.com