HIGH COURT OF THE FEDERAL CAPITAL TERRITORY SMALL CLAIMS COURT EXECUTION REPORT FOR THE MONTH OFJUNE 2024

COURT NO 8 WUSE ZONE 6 MAGISTRIAL DISTRICT

NAME OF SHERIFF	SUIT NO. AND PARTIES	DATE OF JUDGMENT	DATE OF EXECUTION	DURATION FROM JUDGMENT TO EXECUTION	STATUS OF JUDGMENTS NOT EXECUTED (WHETHER ON APPEAL OR PARTIES HAVE SETTLED)
ONWUASOANYA VIVIAN C.	SCC/13/24 MRS BLESSING ANULI ANOZIE AND MR SILAS NWOBODO	1/7/24	ONGOING	ONGOGING	SETTLED
ONWUASOANYA VIVIAN C.	SCC/14/24 MR BLESSING ANULI ANOZIE AND OBINNA JOHNSON	1/7/24	ON GOING	ON GOING	SETTLED
DNWUASOANYA VIVIAN	SCC/15/24 MR INNOCENT NNABUGWU UMENN AND BSTAN GARDEN CITY & 1OR	25/7/24	ON GOING	ONGOING	SETTLED
NWUASOANYA VIVIAN	SCC/16/24 MR INNOCENT NNABUGWU UMENN AND BSTAN GARDEN CITY & 10R	25/7/24	ON GOING	ONGOING	SETTLED

IN THE DISTRICT COURT OF THE FEDERAL CAPITAL TERRITORY HOLDEN AT WUSE ZONE 6 BEFORE HIS WORSHIP A CHIOMA COURT 8 DATED; 25th OF JULY, 2024

SUIT NO; SCC/16/24

BETWEEN

MR INNOCENT NNABUGWU UMENAJIOFOR......CLAIMANT AND

BSTAN GARDEN CITY &10R.....DEFENDANT

Appearances;

Afam Ekekwe Esq. for the claimant

Defendant is absent and unrepresented

JUGDEMENT ON SMALL CLAIMS COURT

The claimant by Form SCA2 and Form SCA3 claims against the defendant as follows;

- 1. An order of this honourable court mandating the defendants jointly or severally to immediately repay and or refund the claimant the total sum of N3, 000.000,00 (three million naira) only being the part payment for the purchase of 2 plots of land in B.G.C Graceville Estate Dei Dei District FCT Abuja.
- 2. An of the court mandating the defendant to pay jointly or severally the sum of (five hundred naira) as the cost of litigation
- 3. An order of the court awarding the sum of N500, 000, 00 (five hundred naira) as a general damages.
- 4. An order of the court awarding 10% interest rate from the date of judgement until the judgment sum is liquated.

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- A STEEL BELLEVILLE 3. Reconciliation sheet exhibit c3
 - 4. Certificate of compliance with section 84 of the evidence Act,
 - 5. Demand letter dated 21/6/2024 exhibit c5
 - 6. Case receipt of Umeueje Ezeugo& co the sum of N500,000,00 7. Small claims letter of demand form SCA1 Exhibit c7

 - 8. Small claims summons dated 15/7/2024 Exhibit c8 9. Bstan garden city receipt RC-1350557 dated 29/11/2021
 - 10.Bstan garden city receipt RC-1350557 dated 17/12/2021
 - 11. Bstan garden city receipt RC-1350557 dated 8/2/2022
 - 12. Bstan garden city receipt Rc -1350557 Dated 18/02/202
 - 13.Bstan garden city receipt RC- 1350557 dated 30/6/2022.

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As earlier stated this suit was not contested by the defendant in spite serval adjournments evidenced by affidavit of services of hearing Notices on the defendant. Hence the court obliged an application by the claimant's counsel pursuant to Article 7 (4) District court Act practice directions on small claims 2022.

"where a defendant fails to file an Answer to the claim or a counter affidavit to the application for the undefended claims such defendant shall be held to have admitted the claim"

Also see Articles 9 (2) District court Act practice Direction on small claims 2022.

"when the claim is called for hearing and the claimant appeared but the defendant does not appear, provided there is proof of service, the district court judge shall proceed with the hearing of

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the claim and enter judgement as far as the claimant can praye his cloim"

The law is trite that an affidavit of service is a prima facie proof of service and notification on the other party. In the case of SOCIETE GENERALE BANKING) LTD V. ADEWUNMI (2003) 10 NWLR (PT 829) If was held

" the purpose of an affidavit of service is to convince the court that the person to whom the processes are to be served have been duly served"

The sole issue for the court to determine is whether the claimant has proved his claim to entitle reliefs sought I refer to demand notice in form SCA1 issued and served on the defendant before the commencement of this case which is a condition precedent in recovery of debt on small claim, however the defendant was given ample opportunity to be heard but failed to do so. See chapter 4 section 36 (1) of the 1999 constitution of the federal republic of Nigeria as Amended.

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 judge, who would in turn ascribe probative value to it. See EBEINWE V. STATE 2011 $\,$ 7 NWLR PT 1246 PG 402 AT 416 para D per murkhtar JSC., Having evaluated the totality of evidence as well as exhibits before me, and unchallenged evidence of claimant it is ordered as follows:

1. An order of this honourable court mandating the defendants jointly or severally to immediately repay and or refund the claimant the total sum of N3, 000.000.00 (three million naira)

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The defendants having been served with Forms SCA2 and SCA3 the originating processes and was evidenced by the certificate of service by the court bailiff,

The court being certified that the defendant was aware of the pendency of this suit commenced hearing with the evidence of the claimant Mr innocent Nnabugwu Umennajiofor as cw1, he stated that he is business man at Dei Dei building material Abuja Fct,

The 1st defendant is a limited liability company registered with its head office at No 10, Lobito crescent off Ademola Adetokumbo street wuse 2 fct Abuja.

The 2nd defendant is a limited liability company who deals on real estate and acquired the 1st defendant

Cw1 further informed the court that some times in 2022 he paid a total sum of N3,000,000,000 (three million naira) to the defendants as deposit of the two plots of land in B.G.C Graceville Estate Dei Dei district Abuja, evidenced by receipts issued by the 1st defendant, that sometimes in 2022 as well he discovered that the said lands were fake and not in existence after a thorough investigation cw1 requested a refund of the sum paid to the 1st defendant in which the defendant refused and failed to refund, the defendants refusal to refund the sum warrant the claimant to institute this action, against the defendants small claims court,

In the cause of hearing the following documents were admitted as exhibits

- Zenith bank statement of Account of innocent Nnabugwu Umennajiofor of 5 pages dated 1/6/2021 to 15/7/2022. Exhibit c1
- 2. FCMB statement of account of De destiny mayor business concepts of 10pages dated 1/1/2021 to 30/11/2022. Exhibit c3

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only being the part payment for the purchase of 2 plots of land in B.G.C Graceville Estate Dei Dei District FCT Abuja.

- 2. An of the court mandating the defendant to pay jointly or severally the sum of (five hundred naira) as the cost of litigation
- 3. An order of the court awarding the sum of N200, 000, 00 (five hundred naira) as a general damages.

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