

**IN THE HIGH COURT OF JUSTICE OF THE
FEDERAL CAPITAL TERRITORY ABUJA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT JABI - ABUJA**

BEFORE: HON. JUSTICE O. C. AGBAZA

COURT CLERKS: UKONU KALU & GODSPower EBAHOR

COURT NO: 11

SUIT NO: FCT/HC/PET/103/14

BETWEEN:

JOY CHINYE DUMNOI.....PETITIONER

VS

VINCENT CHINEDU DUMNOI.....RESPONDENT

RULING

This is a Ruling on the Admissibility or otherwise of two documents titled Supreme Court of the State of New York Country of Queens dated 30/10/06 signed by one Anele .O. Nwanyanwu Esq. And another titled Re: Dumnoi Vs St John’s Episcopal Hospital, etal dated 20/11/2006, issued on the letter-head of Silberstein Award Mikles and signed by Judith .A. Donnel. The Respondent’s Counsel seeks to tender the said documents during Cross-examination of PW1. Petitioner’s Counsel objects to the Admissibility of the documents on the ground that;

Section 223^A of the Evidence Act upon which Respondent’s Counsel seek to tender the documents in evidence does not apply and cannot give right to the Respondent’s Counsel to tender the document.

Submits further that these documents have not frontloaded and was just brought to court which the law does not allow. In the circumstance makes two alternative applications. Firstly that the court should reject the documents or in the alternative order that both documents be served on the Petitioner and avail her time to respond.

Responding, Respondent's Counsel submits that position of the law is clear that the purport of Cross-examination is to test the accuracy, veracity of the witness that where a witness takes a position on a document, the document becomes relevant document which the court must admit to contradict the Statement earlier given by the witness. That the document needs not be frontloaded. Therefore urge court to discountenance the objection of Respondent's Counsel.

Submits finally that the witness has confirmed the existence of the document and any other issue on the document can be taken at Address stage and not to allow Counsel take a second bite at the cherry. It would amount to over reach the other party. Urge court to admit the document.

Having carefully considered the submission of both counsel for an against the admissibility of the document in issue, I find that the issues which calls for determination is whether the documents are capable of being admissible in evidence.

The criteria which govern the Admissibility of documentary evidence have been held to be three-fold which are;

- (1) Is the document pleaded?
- (2) Is the document relevant?

(3) Is the document admissible in law?

See the case of Okonji & Ors Vs George Njokanma (1999) 12 SCNJ 254 @ 273.

Applying these criteria to the documents in issue, I find that the facts relating to the documents are sufficiently pleaded in Paragraphs 3,4,5 of Respondent's Answer and Cross-Petition filed on 11/8/15. I also find the facts relevant to the case. The question which follows is whether the document is admissible?

The documents in issue are documents which the witness have identified, and admitted to their content, but objects to their Admissibility on the grounds that they were not frontloaded. The documents are being tendered in evidence during Cross-examination; it is trite law that there is no limit imposed on a Counsel during Cross-examination, particularly witness evidence being evinced are relevant to the case of the party Cross-examining a witness. Thus the need for frontloaded could be dispensed with. Therefore the submission of the Petitioner's Counsel that the document sought to be tendered in evidence by the Respondent's Counsel are not in conformity with the practice cannot in my opinion avail him, more so as this court have found the facts which the document's relates are sufficiently pleaded by the Respondent and are relevant to their case. The court therefore finds the documents admissible.

In all of these having found the documents pleaded and relevant to the facts in issue this court hereby admits the documents titled Supreme Court of the State of New York County of Queens dated 30/10/2006 signed by

Anele .O. Nwanyanwu Esq and another titled RE: Dumnoi Vs ST John's Episcopal Hospitaletal dated 20/6/2006 issued on the letter head of Silberstein Awad Miklos signed by Judith A. Donnel are collectively admitted in evidence as Exhibit "PW 9¹⁻² and accordingly overrule the objection of Respondent's Counsel to their Admissibility.

HON. JUSTICE O. C. AGBAZA

Presiding Judge

11/2/2020

ISAH SHUABU FOR THE PETITIONER

ALOZIE MMEREHGWA FOR THE RESPONDENT/CROSS PETITIONER