

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT APO  
CLERK: CHARITY  
COURT NO. 16  
SUIT NO: FCT/HC/CV/1024/13  
DATE: 10 – 03 – 2020**

**BETWEEN:**

**GLOBAL MULTI-BUSINESS LIMITED  
CHIEF EMEKA MKPARU**

**PLAINTIFF**

**AND**

**1. MAXIMUM SHELTER LIMITED  
2. COL. L. GWADABE  
3. MR. USMAN TANKO**

**DEFENDANT**

**RULING**

**(DELIVERED BY HON. JUSTICE S. B. BELGORE)**

In the course of proceeding, while PW4 is being led in evidence-in-chief by the learned counsel to the plaintiff, a memory card and pictures with certificate or affidavit are sought to be put in evidence vide the same witness.

However, the defendant's learned counsel instantly objected to the admissibility of those items for the following reasons;

- a. I do not know what is contained in the disk as it must be demonstrated and shown to the court.
- b. On the pictures, he said he does not know if they are exactly what is contained in the disk.
- c. On the affidavit, it ought to have been pleaded and front loaded in this matter. He said it is not pleaded and not contained in the statement on oath.

d. Lastly, this affidavit was made on the 8 – 2 – 18 during the pendency of this suit. He urged the court to reject the documents.

In a swift reply on point of law, the Plaintiff's counsel submitted that the affidavit is just the compliance of Evidence Act. It is the Evidence on the photographs.

He said our pictures are pleaded in paragraph 11 of the statement of claim as he urged the court to disregard this objection.

I have considered this objection. To my mind, the appropriate question to ask at this juncture, is whether or not the item sought to be tendered satisfied the provisions of **S.84 of the Evidence Act**?

A party who seeks to tender documentary evidence in court as in the instant case (photographs and disk) to prove or disprove a fact in issue has to plead whether such document was processed or generated by "one uniform process, as is the case of printing, lithography, photography, computer or other electronic or mechanical process."

In paragraph 11 of the Plaintiff's statement of claim, it is pleaded thus;

*"... Digital Photograph picture showing part of the extent of developments carried out at the site by the Plaintiffs are pleaded for the sake of evidence."*

Notably, **S.84 of Evidence Act** permits the admission of any document generated or produced by a computer. If and only if it is shown that the conditions in subsection (2) therein are duly satisfied in relation to the document sought to be tendered in evidence.

The conditions precedent to the admissibility of such documents are contained in subsection (2)(a) – (d). Categorically, **S.84(4)(a) and (b)** made it mandatory that a certificate identifying the documents and describing the manner in which the document was produced as well as the particulars of the device used in producing or generating the document must first be provided before those documents could be admissible. See **P.D. HALLMARK CONTRACTOR (NIG) LTD EANOR VS GOMWALK (2015) LPELR 24462 (CA); DALYOP VS C.O.P. PLATEAU STATE COMMAND (2019) LPELR – 47031 (CA).**

With due respect to the learned counsel to the defendant, the affidavit referred to by him served as a certificate mentioned in subsection (4) of **S. 84 of the Evidence Act** with the content being suffice to have satisfied and met the provisions of **S.84 (2) (a) – (d)** which made the photographs, pictures and disks admissible in law.

Therefore, the certificate accompanying the memory card and pictures in line with provisions of **S. 84 of the Evidence Act** is hereby admitted in evidence together with the memory card and bundle of pictures as Exhibit I, J and K respectively.

This objection is overruled for lacking in merit.

In effect, a memory card, i.e. ‘Sandisk’ 2GB and a Photo Album containing many pictures are hereby admitted in evidence and marked as Exhibits ‘I’ and ‘J’ respectively.

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Suleiman Belgore  
(Judge) 10-3-2020.