

**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/CV/2183/2012

BETWEEN:

MRS COMFORT IKANI EJEH.....PLAINTIFF

VS

- 1. FEDERAL CAPITAL TERRITORY ADMINISTRATION**
- 2. MINISTER OF FEDERAL CAPITAL TERRITORY, ABUJA**
- 3. MRS SOFIA IDAHOSA.....DEFENDANTS**

RULING

This is a Ruling on the admissibility or otherwise of a document issued by Aso Savings & Loans Plc to Ekeh Comfort, the Claimant in this Suit. Claimant seeks to tender the said document as evidence during Examination-in-Chief.

Counsel for 1st/2nd Defendants does not object the request of the Claimant to tender the document as evidence. However, 3rd Defendant's counsel is opposing, submits that the document Claimant – PW1, not being a staff of Aso Savings & Loans Plc Is not the proper person to certify the document, being a computer generated document, but by Aso Savings & Loans who generated the document. Submit further that the document being part of an entry of Bank Books, not the entire book but a segment, further that

the proper foundation has not been laid. Refer to Section 84 (1 – 4) and Sections 85, 86, 87 and 89 of the Evidence Act 2011. Therefore urge the court to refuse the document sought to be tendered and mark it tendered but rejected.

Responding, Claimant's counsel submits that it is not in all cases that a document made by a party must be tendered by that particular person, refers to Section 83 (2) of the Evidence Act. That the document is referred to in paragraph 27 of the Oath and relevant to the case. Submits further that the document is not the original entry in the Banker's book, the document is addressed to the witness and printed by her. That the document is admissible under Section 83 (2) of the Evidence Act.

Having considered the submission of both counsel for and against the admissibility of the document sought to be tendered and the statutory authorities cited. I find that the issue for determination is;

“Whether the document is indeed capable of being admissible in evidence”.

The criteria that govern admissibility of document have been stated in a Plethora of authorities as three-fold, that is;

- (1) Is it relevant?
- (2) Is the document pleaded?
- (3) Is the document admissible in law?

See Okonjo & Ors Vs George Njokanma (1999) 12 SCNJ 254 @ 273.

The document in this instant case is a Bank Statement issued to the witness. I have considered the document vis-à-vis the criteria stated above and I find that the facts to which document relates are sufficiently pleaded in paragraph 26 of the Claimants Amended Statement of Claim. I also find those facts and the document now sought to be tendered by PW1 – the Claimant relevant to the case.

On the issue of the witness not being the maker of the Statement. It is the law that the maker is the best person to tender a document he /she made in order to be cross-examined and bring forth answers to questions about the document. See the case of *Flash Fixed Odds Ltd Vs Atagube* (2001) ALL FWLR (PT. 76) 709 @ 714 Ratio 13, however the document in contention is a document issued and addressed to the Claimant – the witness, therefore I am of the view that the document can be tendered by the Claimant in whose name the document was issued. And since the Claimant pleaded that the document is a computer printout, the documents must satisfy the Provisions of Section 84 (2) (a) (c), (3) (4) of the Evidence Act. Attached to the document sought to be tendered in evidence is a Certificate showing compliance with the said Section 84 of the Evidence Act and I find its content sufficient and in conformity with the said Provisions of the Evidence Act.

On the issue that the document did not satisfy the Provisions of Section 85, 86, 87 and 89 of the Evidence Act, it is my view that since the document is an original print made by the witness, it satisfies the Provisions of Sections 85 and 86 of the Evidence Act and therefore the Sections 87 and 89 of same is not applicable in the instant case. I so hold.

From all of these it is the finding of the court that the facts to which the document in issue relates is sufficiently pleaded and relevant to the case and having also found the document in conformity with Section 84 of the Evidence Act, this court hereby admits it in evidence and marks it as Exhibit "1". Accordingly the objection to its admissibility as raised by the counsel for the 3rd Defendant is hereby dismissed.

HON. JUSTICE O.C. AGBAZA

Judge

8/5/2020

O.C. UJU –AZORJI FOR THE CLAIMANT

VICTOR IORSHENGA WITH HIM JOY M.A. IORSHENGA ESQ FOR THE
1ST/2ND DEFENDANTS

OKORIE M. OKORIE FOR THE 3RD DEFENDANT.