

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

BEFORE HIS LORDSHIP: HON. JUSTICE D. Z. SENCHI

HON. JUDGE HIGH COURT NO. 12

COURT CLERKS: T. P. SALLAH & ORS

DATE: 16/11/2020

FCT/HC/CV/2331/2017

BETWEEN:-

**GOLDEN AGE HOTELS LIMITED-----
AND**

CLAIMANT

- 1. GOVERNMENT OF AKWA- IBOM STATE**
- 2. ATTORNEY GENERAL OF AKWA- IBOM STATE**
- 3. ABUJA METROPOLITAN MANAGEMENT COUNCIL**
- 4. CITY SCAPE PROPERTIES LIMITED**
- 5. HONOURABLE MINISTER FEDERAL CAPITAL
TERRITORY ABUJA**
- 6. DEPARTMENT OF PARKS AND RECREATION**

DEFENDANTS

RULING

Having listened to submissions of Counsel in this matter regarding the non-compliance with the order of Court made on 21st September, 2020 by the Claimant's Counsel, there is no doubt that the Claimant has not complied with the Court order made on the 21st September, 2020. However the Counsel to the Claimant is requesting for a stand down in order to comply and produce the proof of payment. In otherwords, the second ambit of the order of Court that the Claimant to conclude his testimony appears shaky. In any event, I have perused the proceedings in this case since this matter was filed in 2017. Most of the adjournments at least 95% of the adjournments were at the instance of the Claimant's Counsel. In fact, since the case was filed on 30th June, 2017, the Claimant only commenced and opened their case for hearing on 21st September, 2020, a period of over three years. And even when the case was opened for hearing, Counsel Could not proceed with the case on the ground that he was not in possession of a certificate of incorporation. On

the basis of that Counsel applied for an adjournment to put his house in order. The adjournment was granted but on terms. The order of Court made on 21st September, 2020 was made a condition precedent to continuation of the hearing of the instant case. And the rationale of making the order of 21st September, 2020 a condition precedent is to see how serious the Claimant's Counsel wants to diligently prosecute the instant case having dragged the Defendants to this Court. From the antecedents of today's proceedings it is crystal clear that the Claimant's Counsel refused or neglected to obey the order of this Honourable Court in order not to proceed with the case. The order for payment of cost was made on 21st September, 2020, a period of over two months but the Claimant's Counsel refused and indeed blatantly failed to comply with the order. And his position is that he has just collected the account details of Defendant's Counsel this morning and he has transferred the amounts to them electronically. This position of the Claimant's Counsel was denied by the 2 sets of Defendants to the effect that they have not received anything and indeed it was about 8:45am that the Claimant's Counsel approached them to make the account details available to them. In any event there is no evidence that the order of this Court made on 21st September, 2020 has been complied with. The application for a stand down to comply with the order of Court made on 21st September, 2020 is not supported by any good reason. In other words the Claimant's Counsel did not adduced sufficient reasons why the order of the Court made since the 21st September, 2020 was not complied with. The claimant had two clear months to comply but failed to do so and the aim is to frustrate the hearing of the case instituted by the Claimants themselves.

In the circumstance, taking into account the history of the case and most of the adjournments were at the instance of the Claimants, I agree with the position of the sets of the Defendants Counsel that the Claimant do not want to prosecute this case. Hence therefore, by the Rules of the Court, especially order 32 Rule 21, it provides:-

" The Court may, suomotu or on application strike out any proceedings not being prosecuted diligently."

In the instant case, having found that the Claimants are not desirous of prosecuting this suit diligently, I am of the view that this suit be struck out. Accordingly the instant suit is hereby struck out against the entire Defendants. A cost of N100,000.00 each is hereby awarded to the three sets of Defendants present in Court against the Claimants. The cost is to be personally paid by Counsel to the Claimants AmaechiMuonagoro Esq, with National Bar Association Seal No. 05232353 and SCNO. 15321. Payment of cost to act as a bar to filing any process in this case until such costs are paid.

HON. JUSTICE D.Z. SENCHI
(PRESIDING JUDGE)
16/11/2020