

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT APO

CLERK: CHARITY
COURT NO. 15

SUIT NO: FCT/HC/CV/764/2017
M/11812/2020
DATE 11/11/2020

BETWEEN:

GEORGINA GAMBO.....CLAIMANT/APPLICANT

AND

- 1. GAMBO IDRIS AHMED**
- 2. FIDELITY BANK PLC**
- 3. N. N. P.C.....DEFENDANTS/RESPONDENTS**

RULING

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

I have gone through the writ of summons dated 6/1/20 and filed on 7/1/20. The writ was marked *undefended* and placed under the undefended list by the Registrar of this Court on the 20/2/20. The return date was fixed for 5/3/20.

On the 23/1/20, I granted the claimant's application for substituted service.

On the 6/3/20, the claimant brought motion on notice M/4028/20 asking *essentially* for interlocutory injunction in four (4) distinct prayers.

The application was moved and I granted prayers 2, 3 and 4. Therefore, the 1stprayer was in the alternative. So, I granted 2, 3, 4 which were for interlocutory injunction.

We adjourned the matter to 6/4/20.

The Court was faced with a number of difficulties including the nationwide lock down and the long vacation period. It was not until 26/10/20 that we resumed back in this Court. On that 26/10/20 the learned Counsel to the Plaintiff/Claimant Mr. David Ashaolu prayed for

an adjournment to enable him bring an application for judgment in default of appearance of the Defendant. He submitted on that day that the Defendant have not entered an appearance and have filed no process despite the services of hearing notices on them. He consequently filed a motion on notice - **M/11812/20**. He started moving his motion and midway I interjected him and put the question to him as to the nature of his claim.

Learned Counsel replied the claim is for *declaratory* reliefs and payment of some money already due and some that would be due in the future. I then gone through the writ of summons and discovered to my dismay that some of the claims are not for liquidated sum or debt that can be cognisable under Order 35 of the Rules of this Court.

For instance, prayer 6 wants or prays for a mandatory order to pay the claimant "all future entitlements of the 1st Defendant from the date of service including all salaries, entitlements, gratuity, pension and contributions, retirement benefits.....".

Prayer 7 of the writ of summons wants this to give Order placing a lien on the Defendant's accounts at the 2nd Defendant/Bank.

Clearly to me, these are not claim that can be straight jacketed into a specific claim of monetary debt *demand*.

It is for the above reason that I strike out the motion on notice asking for judgment in default of appearance of the Defendant.

Now, for the nature of this claim as clearly shown on record, this is not a matter for undefended list procedure. This case is consequently transferred to the general cause list for trial.

Consequently, the parties are to exchange pleadings and the case is adjourned to 25/1/21 for hearing.

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S. B. Belgore
(Judge) 12/11/20