

**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: 10

SUIT NO: FCT/HC/CV/1015/2017

BETWEEN:

MANGLER DESIGN POINT LIMITED.....CLAIMANT

VS

KALU UKOHA.....DEFENDANT

RULING

This is a Ruling on the admissibility or otherwise of a set of email prints out sought to be tendered in evidence by Claimant during the cross-examination of DW1. Defendant's counsel objects to the admissibility of the said document on the grounds that by the Provision of Section 84 of the Evidence Act, the Claimant, having stated that the documents are email ought to attach a certificate and without fulfilling this requirement same cannot be admitted.

Responding Defendant's counsel urge court to discountenance the objection, given the current liberal approach of the court on the Provisions of Section 84 of the Evidence Act, that the witness have established under Oath that the documents were from his email, further that the generated

them, hence pleaded in his Statement of Defence. Finally the witness confirmed that the document represents the email correspondence before him and the Lawyers to the Landlord. Refer to the case of Ashaka Cement Plc Vs Askara and Investment Ltd (2019) LPELR 46541 SC. Therefore, urge the court to admit it move so as it is relevant and pleaded.

Responding on point of law, Claimant's counsel submits that the witness never slated or rather that he printed or generated the email. Further, that admissibility is guided by the Provisions of the Extent Law, that there is no evidence of the content therefore urge the court to reject the documents and have it so rejected.

I have carefully considered the submission of both counsel for and against the admissibility of the document in issue and the judicial authority cited, I find that the issue which calls for determination is whether the document is capable of being admissible in evidence.

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

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

See Okonji & Ors Vs George Njiokanma (1999) 12 SCNJ 254 @ 273.

I have taken a considered look at the documents in contention vis-à-vis the pleadings of the parties, I find that the facts which the document refers are pleaded in Paragraphs of the Statement of Defence whose witnesses is

being cross-examined by the Claimant's counsel who now seek to tender the documents in issue as evidence. I also find the facts contained in the document relevant to the case. The question which follows is whether the document is admissible in law.

The contention of the Defendant's counsel on the main is that the document ought to be accompanied by a certificate as prescribed by the Provision of Section 84 of the Evidence Act being email print out, on the other hand, the Claimant's counsel wants the court to give the said Provision a liberal interpretation and admit the document since the witness had stated the fact of the document on Oath. The parties are in agreement that the documents in contention are emails, and that being the case it is pre-supposed that they are generated by a computer and by implication they must fulfill the requirement of the Section 84 (1) (2) (3) (4) of the Evidence Act. Claimant's counsel did not attach a certificate stating compliance to the said Provisions of the Evidence Act and the witness never mentioned the facts about the document or the process the document was made and this omission therefore renders the document in issue inadmissible.

From all of these and having not complied with the mandatory Provisions of Section 84 (1) (2) (3) (4) of the Evidence Act, even though the document is pleaded and relevant, it is the finding of the court that the bundle of email are inadmissible in evidence and accordingly rejected and marked tendered but rejected. Consequently, the objection of the Defendant's counsel to the admissibility of the document is upheld.

HON. JUSTICE O. C. AGBAZA

Presiding Judge

22/3/2021.

APPEARANCE

C.H. NKAMUKE FOR THE CLAIMANT

CASMIR IGWE FOR THE DEFENDANT