

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE NYANYA JUDICIAL DIVISION

HOLDEN AT COURT 8, NYANYA ON THE 16TH DAY OF JUNE, 2021

BEFORE HIS LORDSHIP, HON. JUSTICE U. P. KEKEMEKE

SUIT NO: FCT/HC/ CV/1614/17

COURT CLERK: JOSEPH BALAMI ISHAKU

BETWEEN:

1. ONWUNEGBO ONYEBUCHI MARCELLINUS)

2. AGAH STANLEY IKECHUKWU)..CLAIMANTS

AND

FRANK FRIDAY EDEH.....DEFENDANT

RULING

The Judgment Creditor's application dated 11/02/21 No. M/1203/21 is for:

1. An order of committal against the defendant herein for neglecting to obey the Judgment of this Court delivered on 19/03/20 which ordered him to transfer the original title documents of the subject matter.

The application is supported by a 5 paragraph Affidavit.

The gravermen of the Affidavit evidence is that this Court delivered Judgment in this case on the 19/03/20.

The defendant was served with the Judgment.

That the Judgment Debtor was served with Forms 48 and 49.
That he failed to obey the Judgment of Court.

The Judgment Debtor relied upon his Counter Affidavit.
He said he did not disobey the Judgment of this Court.

That he paid N200,000 being the Judgment debt. That the delay in paying the debt was due to Covid 19 pandemic.

He said the original copies of the title document of the shop were the endorsed copies which he got from the original allottees.

That ownership has been transferred to the Claimant and he has taken possession.

That he transferred all original documents in Mr. Linus Nweke's possession to the Claimant.

The Judgment Creditor's argument in his Written Address is that he has by his Affidavit in support proved his entitlement to the reliefs sought.

I have the Motion, Affidavit and Counter Affidavit and the succinct Address of Judgment Creditor's Counsel.

The law is that once a trial Court delivers its Judgment in a suit, it became functus officio with respect to the suit.

Thereafter, the Court can only make concilliary orders such as an order for stay of execution of the Judgment or

payment of the Judgment debt by installment by virtue of the relevant provisions.

See **KADUNA TEXTILES LTD VS. OBI (1999) 10 NWLR (PT.621) 138.**

It is also the law that every Judgment of the Court must be obeyed and it is effective from the date of delivery or from such a date as the judgment itself appoints. If there is failure, the Judgment Creditor is entitled to commence enforcement proceedings.

A Judgment ordering or restraining the doing of an act such as the judgment in issue may be enforced by an order of committal or a writ of sequestration against the property of the disobedient person. Contempt of Court is any act or conduct that tends to bring into disrepute or disrespect the authority of the Court or administration of justice.

See **EJEMBI VS. A.G. BENUE STATE (2003) 16 NWLR (PT.846) 357.**

EZEJI VS. IKE (1996)1 NILR 173

ATAKE VS. A.G. FEDERATION 2 SC 153.

The judgment of this Court delivered on 19/03/20 is sequel to the terms of settlement entered by this Court. It ordered the defendant to do the following:

1. To superintend the transfer of the original title documents of the said shop to wit: Notice of Change of the ownership dated 3/10/2008, Deed of assignment dated 14/09/2007, Power of Attorney dated 14/09/07, Letter of authority dated 3/10/08, Letter of Offer dated 22/01/07 and any document relating thereto from Mr. Nwafor Linus Nweke to the 1st Claimant.
2. The Defendant shall ensure that immediately upon the execution of these terms, all necessary documents including but not limited to the irrevocable Power of Attorney, Deed of Transfer of ownership of the said Shop from the said Mr. Nwafor Linus Nweke to the 1st Claimant is actualized.

The above Judgment is clear.

The Judgment Debtor is to superintend the transfer of the original title documents of the shop.

He is also duty bound by the Judgment to ensure all original title documents are transferred from Linus Nweke to the Claimant.

I have read Exhibits OU5 and OU6 attached to Judgment Creditor's application. They are letters from Judgment Creditors' Counsel's reply.

The Judgment Debtors' excuse contained in his Counter Affidavit are dodgy.

The Judgment is clear.

He has no excuse in disobeying the order of this Court freely entered into by him on a consent Judgment.

The Judgment Creditor served Forms 48 and 49. The Judgment Debtors failed to obey the judgment. The Judgment Debtor/Respondent is therefore guilty of contempt. He is therefore convicted.

A warrant of arrest is hereby ordered to be issued for the arrest and detention of the Judgment Debtor pending the time he shall purge himself of the contempt.

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HON. JUSTICE U.P. KEKEMEKE

(HON. JUDGE)

16/06/21.

Parties absent.

Henry O. Chichi for the Claimant/Applicant.

Defendants/Judgment Debtor not represented.

Signed.

Hon. Judge.

16/06/21

