

IN THE HIGH COURT OF JUSTICE OF THE F.C.T.

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT KUBWA, ABUJA

ON THURSDAY THE 17TH DAY OF JUNE 2021

BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA

JUDGE

SUIT NO. FCT/HC/CV/2660/20

BETWEEN:

ALLSTATES TRAVEL AND TOURS(NIGERIA)LIMITED...CLAIMANT

AND

1. ABUBAKAR IBRAHIM

2. SALMAN GLOBAL VENTURES LTD.....DEFENDANTS

RULING

On the 18/9/20 the Plaintiff All State Travel and Tours (Nigeria) Ltd, instituted this action against Abubakar Ibrahim and Salman Global Ventures Ltd Claiming the following reliefs:

1. An Order of this Court directing the Defendants to pay to the Plaintiff the sum of N31,422,291.00 only, being cost of Air Tickets and cash transfer received from the Claimant.
2. 20% interest on the above sum from date of Judgment until the total sum is fully and totally

liquidated with all the said accrued interest to the said sum.

The Plaintiff supported that with Affidavit of 15 paragraphs. He attached several documents most of which are Air tickets the 1st Defendant and other persons including infants. Because it is based on liquidated money demand the Court, upon application by the Plaintiff Counsel marked it as undefended. To the Plaintiff the Defendants have no prima facie defence to this case. They asked the Court to enter Judgment in its favour.

Upon receipts of the specially marked Writ the Defendant filed a joint notice of intention to defend in a 6 paragraph Affidavit sworn to by Adekunle Toafeek. That most of the names showing on the exhibits attached to the writ are strange to him. That he never and cannot remember instruction or authorising any person(s) to issue air ticket totalling the alleged amount claimed or any amount at all.

That there was not a demand notice written or served on him before initiating this action. That he is very distinct from the 2nd Defendant, though he is the M.D of the 2nd Defendant which is a limited liability company. That the purported cheques of N5,000,000.00 (Five Million Naira) and N7,000,000.00 (Seven Million Naira) only, were in the name of the 2nd Defendant not in his own name . That the said cheques do not relate to him as an individual. That the issues of the purported cheques has nothing to with or had any bearing with him as a person.

That though Exhibit J attached to the writ was addressed to him yet it was never received by him neither did he authorize any one to collect the purported letter on his behalf. That he saw the said Exhibit J, after he was served the Originating Processes. That no demand letter was served on the 2nd defendant before this matter was instituted. That the 1st and 2nd Defendant were not one and the same person as he is an individual natural person and the 2nd defendant is an unnatural person. That different parties were lumped together by the claimant in this Suit. That the Defendants severally, jointly vehemently deny the liabilities as claimed by Plaintiff. That it will be in the interest of Justice to transfer this matter to the general cause list for proper trial.

The Plaintiff filed a further Affidavit of 8 paragraph upon receipt of the Notice of intention to defend and Affidavit in support of Intention to defend. In their further affidavit the Plaintiff averred that contrary to the averment in paragraph 5 of the Affidavit of the defendant intention to defend, that the name of the 1st Defendant appeared severally on exhibits attached in the Originating processes.

That Claimant served the Defendants with Demand Notice, before instituting this action against them. Again, that the 1st Defendant is the alter ego of the 2nd Defendant and its Managing Director. That 2nd defendant did not deny the fact that it collected the 2 cheques of N5 Million and N7 Million from the Claimant. That the averment in paragraph 5(g) of the Notice to Defend further confirms and buttresses that the Defendants are

indebted to the Claimant and that the nature of their business transaction does not cancel their indebtedness to the Claimant. That 1st Defendant is still M.D of the 2nd Defendant and that both Defendants approached the Plaintiff as a single entity. They were also served Demand Letter; though not doing so cannot vitiate this suit. The claimant had stated detailedly how the Defendants approached the claimant at different time to collect the amount in issue.

That Defendants' had not shown any good reason for the Court to transfer this case to the general cause list. That it will be in the interest of justice to enter Judgment for the Claimant.

In response on point of law to the further Affidavit of the Claimant, the defendants submitted that the Rules of the undefended list does not provide or envisage further Affidavit. They referred to the case of:

ODU Vs AGBOR EMERSON (2004) FWLR (PT.188) 940

That further Affidavit will prolong this case as it is not provided for in the Rules of this Court. That the Defendants jointly and vehemently deny the liabilities claimed against them. That it will be in the interest of justice to transfer this case to the general cause list for proper trial.

COURT:

Having summarised the Notice to Defend and the Plaintiff's response in the further Affidavit can it be said that based on the facts as contained therein the Defendant has real prima facie defence and that this

court should transfer the case to the general cause list or has the Plaintiff's Affidavit in support and its further affidavit shown that actually there is no prima facie defence and as such the Court should enter Judgment in Plaintiff's favour and grant all the reliefs sought? It is the humble view of this Court that the defendants have no prima facie defence to the case of the Plaintiff. The Claim in action is on liquidated money demand. The issue in dispute is not strange to the Defendants. The Plaintiff made a demand for the payment of what is owed it by the defendants as evidenced in the documents attached especially the cheques. The Defendants did not deny receiving these cheques which were issued to them by the Claimant. The issue in dispute is not strange to them either. The Claimant had in the Affidavit in support stated how the debt was incurred by the Defendant. There is no discrepancies in the amount in issue. The Defendants only stated that they were not notified or that the demand notice were not served on them. That is not true because the Plaintiff attached letters of demand addressed personally to the 2nd Defendant who had describe himself as the managing Director and of course the mouth piece and the person through who the 2nd Defendant perform all its physical responsibilities. The print out of the Bank transaction as well as the cheques No. 1011566574 of 6/12/19 and as the pay in slip shows the specific instruction to pay the N5 Million into the account of the 2nd Defendant in which the 1st Defendant holds sway.

The Bank slip print out shows that the transaction was successfully done. So also the cheque of ₦7, 000,000.00

issued on the 28/2/20 by Plaintiff to the Defendant paid into 2nd Defendants Account at Keystone Bank. This money was successfully transferred as shown in the bank slip and the photocopy of the cheques attached to his Writ.

One of the fundamental principles of liquidated money demand is that there should be evidence of demand for payment of the sum owed and that the sum in issue is ascertainable.

The Plaintiff fulfilled that in his principle by the letter he instructed his solicitors to write to the Defendant. That instruction was carried out on the 6/8/20. It was addressed to the 1st Defendant and received in the office of the 1st Defendant on the 13/8/20. In the letter the Defendant formally made a written demand for the whole sum allegedly owed by the Defendant asking for the date of payment. This is in line with the decision of the Court in the case of:

**INTERCONTINENTAL BANK Vs. BRIFINA LTD (2012)
13 NWLR (PT.1316) 1**

The demand was made asking for immediate payment within 14 days that is in line with the laws. The 1st Defendant arguing that the letter was not brought to his notice does not make the content of the letter strange to him. If the content is strange to him he should have taken certain obvious legal steps against Plaintiff if it had out of the blues demanded the said sum. The content of the letter is instructive and not doubtful.

Again the 1st Defendant had in the Affidavit of the defendant's been described as the Managing director of

the 2nd Defendant. This court therefore holds that from all indication the Defendants have no prima facie defence to the case of the Plaintiff. The Court cannot therefore transfer this matter to the general cause list. To that extend the intension to defend this suit lacks merit; It cannot stand and therefore hereby DISMISSED as the Defendant have no prima facie defence to the Suit of the Plaintiff.

**This is the Ruling of this Court delivered today
the.....day of2021 by me.**

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K.N.OGBONNAYA

HON. JUDGE