

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

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT KUBWA, ABUJA

ON TUESDAY THE 30TH DAY OF JUNE, 2021

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

JUDGE

SUIT NO.: FCT/HC/BW/CV/2470/2017

BETWEEN:

MAURITZ WALTON NIGERIA LIMITED } ----- PLAINTIFF

AND

1. GOVERNMENT OF ABIA STATE
2. ATTORNEY GENERAL OF ABIA STATE
3. UNITED BANK FOR AFRICA PLC
4. ZIPLON CONCEPT LIMITED } ----- DEFENDANTS

COURT RULING

It is the duty of the Court to go through all the documents before it whether presented or tendered or abandoned or rejected.

It is clear to all litigation lawyers that relevancy pleading following due procedure permitted by law are the three (3) points or elements which is considered before Court can admit document as Exhibit. The chief among the three (3) is Relevancy.

It is also a known fact that admitting a document is different from attaching weight to document admitted. That means that though a document is admitted or even rejected, the Court has the right to attach or not to attach any weight to it at the end of the day depending

on the holistic consideration and circumstance of the case before it.

It is the right of a party to refuse to participate at any segment or any stage of the proceeding. The Court has no power to force a party to participate. The only duty of Court is to ensure that all the parties are given the equal leverage to have their say in the case at every stage. So it is right of a party to opt out of proceeding at any stage.

But it is important to state that the Court has the discretionary power to rule as the justice of the case warrants at that stage on any issue before it. Nobody can coase the Court or intimidate the Court. Failure to participate when opportunity is given is the problem of the party that fails to participate.

In this application, the issue is on admitting the document/letter attached to the Counter Affidavit of the Plaintiff challenging the Motion for Joinder of the 4th Defendant in this Suit.

This Court in its Ruling had ordered that the 4th Defendant be joined. Hence their presence in this Court.

But most importantly, the document sought to be tendered as eloquently presented by the Plaintiff Counsel is a letter addressed to the 4th Defendant Counsel, the Learned Silk, who had stated that he has nothing to say on the issue raised in the Re-examination because according to him the Re-examination is not legal; meanwhile that document is a letter that was addressed to him the 4th Defendant Counsel, copied to Charles Udeh one of the members of the Plaintiff's legal team.

The 1st – 3rd Defendants had challenged its admissibility on the ground of irrelevancy, photocopy and not in tune with the Evidence Act provision on admissibility. That

the PW1 through who it is being tendered is not the maker.

But a closer look at the document, has it its caption the name of the 1st Plaintiff and the PW1 through who the document is being tendered is the alter ego of the 1st Plaintiff – Mauritz Walton Nigeria Limited.

The content of this document is without more relevant to the issue in dispute. Besides, it has the name of the 1st Plaintiff. It was equally copied to the Plaintiff through their Counsel. That is why this Court holds that tendering the document through the PW1 is in order. The content also concerns them, that is why the Plaintiff was copied through their Counsel – Barr. Charles Udeh. The content is also very relevant in this case.

It is imperative to state also that Court is called upon to do justice at every stage in a case. All is done to ensure that the Court get to the justice of the case at the end of the day. Admitting a document is not same as attaching weight to document admitted.

The provision of S. 89 Evidence Act is clear in that the Court has right to allow party to Re-examine and if there is any new issue the Court has the right to allow the party to raise it and allow the other party to Cross-examine if it so wishes. All is done so that no stone is left unturned in getting to justice of the case. That is what this Court had allowed the Defendant Counsel to do and had called on them to Cross-examine the PW1 on the alleged new Issue raised in Re-examination.

It is evidently clear that the bulk of the question asked the PW1 by 4th Defendant Counsel was on issue concerning the 4th Defendant's engagement by Abia State government on issue of Recoveries. The content of this letter will greatly aid the Court to get to the justice of the

case on that issue as it pertains to Recoveries. The content of the document is relevant to that.

This Court adopt and totally agree with the Plaintiff Counsel's submission in both the main and response on point of law. The issue of photocopy was taken care of by the provision of S. 89 which the Plaintiff Counsel referred to.

Without much ado, this Court admits the document.

At the right time, the Court will place the document in the imaginary judicial scale to see if it has any weight to attach to it, after all parties have closed their respective cases.

Objection overruled.

Document admitted and marked as EXH 20.

This is the Ruling of this Court.

Delivered today the ____ day of _____ 2021 by me.

**K.N. OGBONNAYA
HON. JUDGE**