

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT MAITAMA

BEFORE HIS LORDSHIP: HON. JUSTICE Y. HALILU

COURT CLERKS : JANET O. ODAH & ORS

COURT NUMBER : HIGH COURT NO. 14

CASE NUMBER : SUIT NO: CV/3349/2020

: MOTION: M/12667/20

DATE: : WEDNESDAY 8TH DECEMBER, 2021

BETWEEN

KOLA ABEJIDE (Doing business under the name and style of Kola Abejide & Associates) } **CLAIMANT**

AND

TELEMIT INTERNATIONAL LTD. DEFENDANT

RULING

By a Writ of Summons filed on the 4th day of December, 2020, Claimant claimed against the Defendant as follows:

- a. An Order of this Honourable Court directing the Defendant to deliver up the vacant possession of the 4 – bedroom detached duplex situate at No. 1319E, Ganges Street, Maitama District, Abuja to the Claimant.
- b. An Order of this Honourable Court directing the Defendant to pay the sum of N17,000,000.00 (Seventeen Million Naira) only being arrears of rent owed the Claimant by the Defendant between 20th June, 2017 to 19th June, 2019.

- c. An Order of this Honourable Court for the payment of the sum of N900,000.00 (Nine hundred Thousand Naira) per month as mesne profit from 9th April, 2019 till possession is recovered.
- d. The sum of Five Million Naira (N5,000,000.00) only as cost of litigation.

In support of the writ of summons, 16 paragraphs affidavit deposed to by Samson Olasanoye.

The Defendant was duly served and represented though no statement of defence filed.

Upon this, Claimant vide a Motion on Notice brought pursuant to Order 43 Rule (1)(2) and Order 11(1), Rules of this Court pray for the following:-

- a. An Order entering summary judgment for the Claimant/Applicant as per the second relief sought by the Claimant in the writ of summons to the tune of N17,000,000.00 (Seventeen Million Naira) only which the Defendant has duly admitted owing the Claimant as at August, 2018.
- b. And for such further and/or other Orders as this Honourable Court may deem fit to and just to make in the circumstances of this application and suit.

The application is supported by affidavit of 13 paragraphs deposed to by Samson Olasanoye.

It is the deposition of the Applicant/Claimant that the Defendant is the tenant occupying the said 4

bedroom detached Duplex situate at No. 1319E, Ganges Street Maitama District, Abuja at an annual rent of N10,000,000.00 (Ten Million Naira) per annum.

Claimant avers that following the breach of tenancy agreement on the part of the Defendant as regard the failure to pay rent, the Claimant caused to be served on the Defendant series of demand letters dated 21st September, 2017, 21st November, 2017 and 2nd April, 2019 respectively requesting for the payment of the said N17,000,000.00 (Seventeen Million Naira). The letters of demand are hereby annexed and marked as Exhibits “K5”, “K6” and “K7” respectively.

The Claimant avers that the Defendant sent replies to them dated 1st December, 2017 and 14th day of

August, 2018, wherein it admitted owing the said sum of N17,000,000.00 (Seventeen Million Naira) and begged for more time to settle their indebtedness. The reply letters sent by the Defendant admitting indebtedness are hereby annexed and marked as Exhibits “K8” and “K9” respectively.

That the Defendant has expressly admitted being indebted to the Claimant to the tune of N17,000,000.00 (Seventeen Million Naira) as at August, 2018 by virtue of their correspondences.

In line with law, the application is excorted with a written address wherein a sole issue was raised for determination to wit:-

Whether this Honourable Court ought to grant the application in the circumstance.

Learned counsel submits that the Defendant is not in dispute as to N17,000,000.00 (Seventeen Million Naira) owed the Claimant. The Defendant's admission to the said sum shows that he has no defence to the Claimant's leg of claim. Order 11 Rule (1) of the High Court (Civil Procedure) Rules 2018 was cited.

Counsel further submits that by virtue of the affidavit evidence and materials placed before this court, the Defendant does not have a "valid or "reasonable" defence to the Claim of the Claimant and thus, the Claimant is entitled to a favourable judgment. *NIGHIZAWA VS JETHWANI (1984) 12 SC. 234 was cited.*

Counsel respectfully and humbly urge this court to grant the application and enter summary judgment in favour of the Claimant/Applicant as per his claims on the writ of summons.

COURT

The Claimant vide application dated the 2nd December, 2020 approached the court for an Order entering summary judgment for the Claimant/Applicant as per the second relief sought by the Claimant's the writ of summons to the tune of N17,000,000.00 (Seventeen Million Naira) only brought pursuant to Order 43 Rules (1)(2) and Order 11 (1) of the Rules of this court 2018.

I have considered the application and the weight therein as alluded by the Claimant and I have also

averred my mind to the 27th September, 2021 when this said application came up, SeunAmolade Esq. represented the Defendant in this matter wherein he stated that their client is aware of the said amount that is why they did not file any application.

The courts through plethora of judicial decisions have put to rest the issue of uncountered affidavit. Averments/deposition not having been specifically denied or challenged are deemed as accepted and unchallenged facts and the court can act on them. See *FALOBI VS FALOBI (1976) SC 1*.

UGUANWYI VS NICON INSURANCE PLC. (2013) LPELR – 2009 (SC);

NWANKWO VS KAY KAY CONSTRUCTION LTD – (2014) LPELR – 24336 (CA).

I am mindful of Exhibits “K5”, “K6”, “7”, “K8” and “K9” showing series of demands and the Defendant in reply admitting indebtedness to the Claimant.

I must reiterate that where admissions are made out of free will and volition, they can be relied and acted upon.

A Defendant who has no real defence to the action should not be allowed to dribble and frustrate the Plaintiff and cheat him out of the judgment he is legitimately entitled to by delay tactics aimed not at offering any real defence to the action, but at gaining time within which he may continue to

postpone meeting his obligation and indebtedness.

See *Aniagolu JSC in NIGHIZAWA VS JETHWANI (1984) 12 SC 234.*

Flowing from the above coupled with the deemed admission of the Respondent, the Claimant/Applicant is entitled to his claim.

Accordingly, I hereby Order as follows:-

The Defendant to pay the sum of N17,000,000.00 (Seventeen Million Naira) only being arrears of rent owed the Claimant be paid to the Claimant.

This is the ruling of this court.

Justice Y. Halilu
Hon. Judge
8th December, 2021

APPEARANCES

Justina A. Adeniyi, Esq. – for the Claimant.

Defendant not in court and not represented.

Counsel however sent in a letter for adjournment.