

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

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT KUBWA, ABUJA

ON TUESDAY, THE 11TH DAY OF NOVEMBER, 2021

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

JUDGE

SUIT NO.: FCT/HC/CV/BW/438/2019

BETWEEN:

ASO SAVINGS & LOANS PLC } ----- CLAIMANT

AND

ANTHONY EDEH } ----- DEFENDANT

RULING

This matter came before this Court and was mentioned as lawyers prefer to say on the 3rd June, 2020. It was under the Undefined List. The Court marked it so per the application of the Plaintiff Counsel – Olufemi Fabumi Esq. The Defendant was served. He filed a Notice to Defend with Affidavit. The Plaintiff countered same. The Court Ruled that the Defendant has right to be heard and that justice of the case will be gotten if the matter is transferred into the General Cause List. The Court transferred same and ordered the Plaintiff to

file Statement of Claim and serve on the Defendant and Court so that the matter will be heard.

Till today, the Plaintiff has not done that. That is there is no Claim before this Court filed by the Plaintiff.

There were several adjournments. Olufemi Fabumi was changed. C.C. Anyamwu came on board. He also fizzled away. The Plaintiff did not equally file any Statement of Claim as ordered by the Court. Then came Ifeanyichukwu Ugwu Anichi. He told Court on record that they are new. The Court ordered that he should file Notice of Change of Counsel before the next adjourned date. He promised to do so. Till now, even as I am reading this Ruling, the said Ifeanyichukwu Ugwu Anichi has not filed any Notice of Change of Counsel.

He came to Court today to represent the Plaintiff. He just told Court that he just filed Notice of Change of Counsel in February, 2021. That this morning he wanted to serve the Court with the said Notice but the Registry refused to accept it because the Judge has ordered that Process for a matter already scheduled to be heard today should not be accepted the same day.

There is no Statement of Claim in this Suit as I write and read this Ruling.

The same Ifeanyichukwu Ugwu Anichi has told this Court in glee as he narrated how he met and discussed with the Defendant on Settlement. How a senior personnel of the Plaintiff has told he met with Defendant and the issue of giving the Defendant chance to pay Fifty Million Naira (~~N~~50, 000,000.00) in

settlement of the case. But there is nobody to corroborate with the claims he had made about settlement.

It is shockingly strange that a Counsel who represents a bank, the Plaintiff and who went all the way to help broker settlement between the parties could not come up with any document evidence of the so called brokered settlement of payment of Fifty Million Naira (₦50, 000,000.00).

Again, it is surprising that the same Plaintiff Counsel could not reach out to his colleague who he met in Court at the last adjourned date when he promised to file Notice of Change of Counsel. More shocking and most unfortunately is the fact that the said Counsel said that the Hearing Notice served on him did not say that the matter is for Hearing. Meanwhile he was in Court on the last day the matter was adjourned yet he claimed it could have been for further mention. That is very unbecoming from a lawyer.

He had stated before this Court on record that matter ought to be for Report of Settlement. The Court reminded him that it has no record that parties are exploring settlement. It was when the Defendant Counsel had said that there was nothing like that and that his client said he is not interested in settlement that the Court knew the truth behind the so called settlement.

The Plaintiff Counsel has hammered on settlement and reminded Court that settlement is allowed by the Court

Rules. But he, claiming to speak the truth from the Bar, did not remember that the settlement, as allowed by the Rules, can only come where there is a Statement of Claim filed by the Plaintiff/Claimant. That where settlement is based on a case where Claim is not filed may only happen in work in mediation process.

He had claimed that there was nothing to show that Hearing Notice served on them is for Hearing since it was not stated therein.

The Plaintiff Counsel did not notice that the same document he raised which he claim does not have anything Hearing on it is captioned **“Hearing Notice.”** It even referred to the Rule of Court.

I guess the Ifeanyichukwu Ugwu Anichi is busy thinking of his acclaimed negotiation/settlement that he forgot to notice that in the said document.

It is shockingly unbelievable that a lawyer will raise a Hearing Notice in Court and claim it has no word Hearing when the same document has in its first paragraph the word **“transferred from the Cause List to Hearing Paper.”**

The Defendant Counsel made two (2) applications which bothers on:

- (1) Striking out the Suit.
- (2) Awarding cost of One Hundred Thousand Naira (₦100, 000.00) if it is not struck out.

But a Court can only strike out a Writ where there is a Claim Counter and something the Plaintiff is seeking

for. But in this case there is no Statement of Claim before this Court as the Plaintiff has not filed any. Beside, as it is the Court has nothing to strike out.

On the issue of cost of One Hundred Thousand Naira (₦100, 000.00) as an alternative prayer if matter is adjourned, this Court cannot award cost because if the Court adjourn for Hearing, what will be heard, as there is nothing before the Court to be heard. Again, it may take the Plaintiff another eight (8) months to file their Claim.

The question is should this Court grant the request to strike out and/or award cost? The Court will not strike out because there is nothing to strike out.

The Court will hereby DISMISS the Suit for very obvious reason as stated above.

Cost not awarded because there is no need for that.

This matter FCT/HC/BW/CV/438/19 – ASO SAVINGS & LOANS PLC VS. ANTHONY EDEH is hereby **DISMISSED.**

This is the Ruling of this Court.

Delivered today the ___ day of _____ 2021 by me.

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