

**IN THE HIGH COURT OF JUSTICE OF THE
FEDERAL CAPITAL TERRITORY ABUJA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT MAITAMA - ABUJA**

BEFORE: HON. JUSTICE O. C. AGBAZA

COURT CLERKS: UKONU KALU & GODSPower EBAHOR

COURT NO: 6

SUIT NO: FCT/HC/PET/433/2017

BETWEEN:

ABIODUN OLUWASEUN DADA.....PETITIONER

VS

ADEBOLA BASIRAT DADA.....RESPONDENT

RULING

This is a Ruling on the Admissibility or otherwise of a Certified True Copy of document issued by Social Development Secretariat of the Capital Territory Administration titled an Agreement Reached between Adebola Basirat Dada and Abiodun Oluwaseun Dada @ Family Service Office Area 3 Garki, Abuja dated 26/7/2012 now sought to be tendered by Respondent's Counsel through PW1 during Cross Examination. Petitioner's Counsel objects to the Admissibility of the said document on the ground that the document is an agreement reached between Adebola Dada and Abiodun Dada at the Family Service Office Garki, that the purpose of the document makes it in admissible because the document was made during negotiation in course of dispute. Further that the dispute was not an ordinary dispute but a dispute between husband and wife Refers to the case of Ashaka Cement Plc Vs Asharatil Mubasharun Investment Ltd (2016) LPELR – 40196 (CA). Therefore urge court to so hold.

Responding, Respondent's Counsel submits that what governs Admissibility of documents are whether the document is pleaded, whether it is relevant and whether it is admissible in law. Refer to Okonji Vs Njokanma (1999) 12 ACNJ 259. Submits further that the foundation laid by Petitioner's Counsel that the document was made in the course of negotiation is not correct, what defines the case of the parties is the pleadings. That from the pleadings of the parties, no way was the document pleaded that the document was made in the course of settlement between the parties, but in furtherance of the welfare of the children of the marriage. It was also pleaded that the document was made so that the children would not suffer. Urge court to discountenance the objection as it is a Certified True Copy made without prejudice.

I have carefully considered the submission of both Counsel for and against the Admissibility of the document in contention, as well as the statutory authorities cited; I find that the issue which calls for determination is;

“Whether the document is capable of being admissible in evidence”

The criteria which govern Admissibility of documentary evidence has been stated in a plethora of authorities as three-fold that is;

1. Is the document pleaded?
2. Is the document relevant?
3. Is the document admissible in law?

I have taken an insightful look at the document in contention vis-à-vis the pleadings of the Respondent who seek to tender the document through

PW1 during cross-examination and I find that the facts which the document refers are sufficiently pleaded in Paragraph 15 of the Respondent's answer and Cross Petition. I also find the facts relevant to the case. The pertinent question which follows is whether the document is admissible in law.

The document in contention is a Certified True Copy which emanates from the Federal Capital Territory Administration an official body within the meaning of Section 102 (a) (ii) of the Evidence Act thus admissible under the provision of Section 87, 89 (e) of the Evidence Act as Secondary Evidence. The court is of the firm view that there is nothing on the face of the document an agreement reached on 26/7/2013 to suggest that it was a mere negotiation. Therefore the contention of the Petitioner's Counsel cannot avail him as the document is said to an agreement between the parties.

From all of these having found the document in issue, pleaded, relevant to the case of the Respondent and also admissible as evidence same having been certified as Secondary evidence of a Public document, this court hereby overrule the contention of the Petitioner's Counsel against the Admissibility of the document and hold that the document is admissible as evidence accordingly the document, a Certified True Copy issued by the Social Development Secretariat of the Federal Capital Territory Administration titled Agreement Reached between Adebola Dada and Abiodun Dada dated 26/7/12 is admitted in evidence as Exhibit "DWD"

HON. JUSTICE O. C. AGBAZA

Presiding Judge

21/2/2022

APPEARANCE:

DR. OLUKAYODE AJULO ESQ. WITH HIM SAMUEL AKINOLA FOR THE PETITIONER.

C.U KALU ESQ. WITH HIM B.F EFEM ESQ. FOR THE RESPONDENT/CROSS PETITIONER.