

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT JABI, ABUJA**

**BEFORE HIS LORDSHIP: HON. JUSTICE MUHAMMAD S. IDRIS**

**COURT: 28**

**DATE: 8<sup>TH</sup> MARCH, 2022**

**FCT/HC/CV/79/2021**

**BETWEEN:-**

**NKWOKA CHRISTIANA I-----**

**CLAIMANT**

**AND**

- 1. CROWN CONTINENTAL LTD**
- 2. MOHAMMED RABIU**
- 3. JUBRIN ILEMONA**
- 4. IDAKWOJI ELIJAH**
- 5. AKINDIPE SHINA**
- 6. OGBE THANKGOD**
- 7. CLEMENT OKOH**

**DEFENDANTS**

**RULING**

On 3<sup>rd</sup> February, 2022, the Claimant, Nkwoka Christiana I, was examined before this Court, after which claimant's Counsel sought to tender in evidence certain documents. The defence Counsel for all seven Defendants objected to the admission of most of the exhibits into evidence on various grounds. He argued thus:-

1. That the purchasing receipt did not bear the name of the Claimant, and that 90% of the document is written in another language.
2. Secondly, the certificate of insurance, the cash/credit sales invoice, the proof of Ownership Certificate and the Allocation of Residential Accommodation all bears different names.
3. The identity card and allocation of residential accommodation were not pleaded.

Counsel further argued that where there is a document to be tendered and the document is in a foreign language, it should be translated into English, being the language of the Court. He relied on ***OJENGBEDE VS ESSIEN (2001) 18 NWLR (pt 746 ) page 771 -790 paragraphs A-B and ISITOR VS FAKOREDE (2008) 1 NWLR (pt 1067) page 602 at 624 paragraphs F-H.***

Furthermore, Counsel avers that a document sought to be tendered into evidence must be pleaded and relied upon.

(1999) 11 and 12 SCNJ page 259-273.

Counsel further states that the way a party choose to arrange his name matters and cites ***ESENOWA VS UKPENY (1999)6 NWLR (pt 608).***

Counsel finally urges the Court to hold the said documents as tendered but rejected in evidence, on the ground that they have not satisfied the requirements of the law.

On the other hand, Claimant's Counsel argued that the test of admissibility are that the document must be relevant, pleaded and admissible in law.

He urges the Court to look at order 5 rule 2 of the rules of the Court regarding the documents not pleaded. He further argues that the document claimed to not be in English is actually written in English language. Finally, he avers that the names on the documents are the same as the name of the Claimant. He prays the Court to admit the exhibits.

Section 1 of the Evidence Act 2011 provided thus:-

*"Evidence may be given in any suit or proceeding of the existence or non – existence of every fact in issue and of such other facts as are hereafter declared to be relevant, and of no others"*

Provided that:-

- a. The Court may exclude evidence of facts which though relevant or deemed to be relevant to the issue, appears to it to be too remote to be material in all the circumstances of the case; and .
- b. This section shall not enable any person to give evidence of a facts which he is disentitled to prove by any provision of the law for the time being in force.

Regarding the receipt not being written in English language, it was held in **DARMA V BALAGARAWA (2002) 17 NWLR (pt 796) 243** that:-

*"The Court cannot admit and rely on a document written in a language other than the official language of the Court which, in the instant case is English. The language of all Courts of record in this country is English. The Court cannot use its own knowledge of the language to engage in the translation of the document without compromising its own position as an arbiter by playing the dual role of a judge and a witness whose evidence or view of the content of the document had not been brought out and subjected to forensic test of cross examination in open Court"*

This was reiterated in **MAMMAN V STATE (2017) LPELR – 43188 (CA)**. Thus, where a document is in a language other than English, being the official language of the Court, it should be translated.

Secondly, on the issue of the two documents not pleaded, it was held in **MADUKA & ORS V ANYADIEGWU (2014) LPELR – 23751 (CA)** among many other cases that evidence not pleaded is inadmissible. Oredola JCA states thus:-

"It is the law that evidence in a case is based on pleadings in that case and a case is proved by admissible evidence.

Consequently, evidence which is not based on pleadings goes to no issue and should be disregarded. Such evidence in law is inadmissible”

Hence, the Identity card and allocation of residential allocation are inadmissible as they were not pleaded.

On the issue of the names on the documenta it appears to be the name of one person, even though arranged differently or initialized or abbreviated.

It therefore can be taken to be a case of mere technicality. In ***M.C. VS NEPA (1992) 6 NWLR (pt 246) 132 At 137 ratio 6,*** it was held that (our) Courts have deliberately shifted away from the narrow technical approach to justice which characterized some earlier decisions of Court on the matter.

Instead, it now pursues the course of substantial justice see also ***GOODWILL COMPANY LTD V CALABAR CEMENT COMPANY (2009)LPELR – 8351 (CA).***

Notwithstanding, the main determinant in the admissibility of evidence is the relevance of the evidence. In ***RIVERS STATE HOUSING AND PROPERTY DEV. AUTHORITY (2010) LPELR 4899 (CA)***, it was stated thus:-

*"..... It is now firmly settled that in determining the admissibility of evidence, it is the relevance of the evidence such as a document, that is important and not how it was obtained. In otherword, admissibility of*

*evidence and particularly documents depend again, on the purpose for which it is to be tendered.”*

See also ***OGBE V ASIDE (2010) 40 NSCQR 386 AT 424, ROYORK (NIG) LTD V AG & CJ SOKOTO STATE & ANOR (2017)LPELR -42506 (CA), HAMZA V STATE (2019) LPELR – 47858 (SC).***

Finally, order 5 rule 2 of the FCT Rules of Court provide that:-

- (a) An application to set aside for irregularity any step taken in the course of any proceedings may be allowed where it is made within a reasonable time and before the party applying has taken any fresh step after becoming aware of the irregularity.
- (b) An application under this rule may be made by summons or motion and the grounds for objection shall be slated.

Hence, Counsel may, by way of summons or motion apply to plead the documents not pleaded and translate the document not written in English in order for them to be admissible without a doubt.

Having considered the objection raised by the defendants Counsel and also the grounds for his objection. It is my view that general admissibility of document is generally govern by relevance as provided under section 6 of the Evidence Act. The requirement of the admissibility of document in evidence is usually govern by three requirement it is document pleaded is it admissible in evidence is the document relevant to the facts in issue in my view

all the document have satisfied the three requirements I consider it imperative in this ruling to reproduce the process of section 14 of the Evidence Act Evidence obtained.

- a. Improperly or in contravention of a law or
- b. In consequence of an improperly or of a contravention of a law shall be admissible unless the Court is of the opinion that the admissibility of admitting the evidence is outweighed by the inadmissibility of admitting evidence that has been obtained to the manner in which the evidence was obtained to also add weight to my position.

I hereby relied in the case of ***HARUNA VS AG OF THE FED.*** The Court held generally speaking admissibility of document in evidence is governed by section 6 of the Evidence Act once a document is relevant there -----is admissible irrespective of how it was obtained also the Supreme Court in the case of ***TARFI VS UL ---(1984) 1 SC*** held once document is relevant there is admissibility from the -----effect of the above judicial authority and the -----provision of section 14 of the Evidence Act made me to overrule the objection -----consequently the proof of ownership bearing the name of Mrs. Nkwoka Christiana Ifeyinwa is relied in evidence and marked as exhibit 2. -----bearing the name of Nkwoka C.I dated 5<sup>th</sup> May, 2015 is exhibit 3 certificate of insurance bearing the name of the Claimant dated 20<sup>th</sup> July, 2016 exhibit 4.

Allocation of residential accommodation bearing the name of the Claimant dated 5<sup>th</sup> November, 2013 exhibit 5 staff Identity card of the Claimant exhibit 6. The -----document tendered which was

not -----of the language of this Court and same document runs contrary to order 5 rule 2 of the rules of this Court and other authorities cited above ---- ruling shall be made tender being rejected in evidence.

-----  
**HON. JUSTICE M.S IDRIS**  
**(Presiding Judge)**  
**8/3/2022**