

**IN THE HIGH COURT OF JUSTICE OF THE
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/CV/2313/2017

BETWEEN:

AFIMS HOTELS LTD.....CLAIMANT

VS

MULTIVERSAL COMMLINK LTD.....DEFENDANT

RULING

This is a Ruling on the Admissibility or otherwise of a bundle of documents number II issued by Abuja Electricity Distribution Company Plc sought to be tendered in evidence by PW1 during his Examination-In-Chief. 1st Defendant's Counsel objects to the Admissibility of the Document on the ground that; the document was produced by A.E.D.C and the witness is not an employee of the A.E.D.C and therefore not the proper person to be cross-examined on the face of the document. Secondly, the documents are electronically generated document same can only be tendered and admitted upon compliance with Section 84 of the Evidence Act, and since there is no certificate to show compliance.

3rd party Counsel aligns with the grounds of objection by the 1st Defendant's Counsel, however emphasizes further the non-compliance with

Section 84 of the Evidence Act and urge court to mark the documents as rejected.

Responding, Claimant's Counsel submits that the documents are personal documents received by the Claimants whose name is on the face of the document and were issued to him to pay the sum contained therein and are now being tendered as payment to A.E.D.C. The stamp of the A.E.D.C is also a fined on the documents submits further that the documents were not generated by computer and urge court to admit the document in evidence.

Having considered the submission of Counsel for and against the admissibility of the document in contention. I find that only one issue calls for determination that is;

"Whether the bundle of documents in issue are capable of being Admissible in evidence"

The criteria which governs the Admissibility of documentary evidence have been stated in a Plethora of cases to be three-folds that is;

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

See Okonji Vs Njokanma (1999) 12 SCNJ 259.

Applying these principles; I have taken a considered look at the Amended Statement of Claim of the Claimant and the document vis-à-vis the said criteria for the Admissibility of documentary and I find that the facts which

relates to the document are sufficiently pleaded in Paragraph 13 and 14 of the Amended Statement of Claim of the Claimant. I also find the facts relevant to the case. The question which follows is whether the documents are admissible in evidence.

Section 85 of the Evidence Act 2011 prescribes that contents of documents may be proved either by Primary or by Secondary Evidence. Section 86 of the Act defines Primary Evidence as the document itself produced for inspection by the court as well as other counter documents regarded as Primary Evidence. Section 87 (a) – (e) of the Evidence Act describes what would be accepted as Secondary Evidence of a document. The documents in contention are issued in the name of the Claimant and are described by the issuer as Electricity Bill and are in their original form, duly authenticated with the stamp of the issuer. And therefore admissible within the meaning of Primary Evidence as provided by Section 86 of the Evidence Act. And not a document which requires only the maker to tender in evidence as submitted by the Counsel for 1st Defendant. And although the receipts may have been generated by means of a computer, the witness cannot have the control and management of the computer from where the document was generated. This exception to the Provision of Section 84 of the Evidence Act which stipulates that a witness ought to attach a Certificate of Compliance while tendering a computer generated document, was made by the court in the case of Stanbic Bank Plc Vs Long-Term Global Capital Ltd & Ors Appeal No. CA/1093/2017; 68 – 20. Thus the grounds for the objection to the Admissibility of the bundle of documents

cannot avail the 1st Defendant Counsel as well as Counsel for the 3rd Party I so had.

From all of these, and having found the facts contained in the document pleaded and relevant to the case and having also found the document admissible as originals under Section 85 and 86 of the Evidence Act, thus court hereby dismissed the objection of the 1st Defendant Counsel and Counsel for the 2nd Party accordingly the bundle of documents number 911 issued by Abuja Electricity Distribution Company Plc described as Electricity Bills are Collectively admitted in Evidence as Exhibit "C1-11".

HON. JUSTICE C.O AGBAZA

Presiding Judge

7/6/2022

APPEARANCE:

A. O. DEWORITSE FOR THE CLAIMANT

M.I. BALOGUN FOR THE 1ST DEFENDANT

C. C. AGIDI FOR THE 3RD PARTY, WITH HIM DANIEL IDIONG.