

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

**THIS TUESDAY THE 14TH DAY OF JUNE, 2022.**

**BEFORE: HON. JUSTICE ABUBAKAR IDRIS KUTIGI -- JUDGE**

**SUIT NO: CV/063/18**

**BETWEEN:**

**NNAEMEKA ORJIAKOR.....PLAINTIFF**

**AND**

**AMAECHE EZEKEKE.....DEFENDANT**

**BENCH RULING**

I have carefully considered the submissions on both sides of the aisle. When the question of admissibility arises, 3 issues are addressed:

1. Is the document pleaded?
2. Is it relevant?
3. Is it admissible in the form it is been tendered?

The objection here is on the 3rd element above to wit:

**“That the documents are all photocopies and no proper foundation was laid for reception of the photocopies .”**

Now in law and by **Section 85, 86, 88**, the contents of documents may be proved by primary evidence or the original document itself. Where primary evidence is not available, secondary evidence can be tendered however within the purview of **Section 89 and 90 of the Evidence Act.**

What this means is that where the original is not available, then the witness is expected to give evidence of what happened to the original. If it is lost or destroyed, the witness is expected to say so.

In this case when counsel asked Defendant as to the where about of the originals, the Defendant stated thus:

**“They are with you. I gave you the originals.”**

What this means is that the original documents are available and there cannot be room for reception of secondary evidence. In the circumstances, the following documents to wit:

1. 4 copies of receipts issued by .Commy Jones Enterprises.
2. 12 copies of receipts issued by Diamond Water Guest Inn Lagos.
3. 7 pages of paper containing receipts issued by different motor companies
4. Document titled transaction between Mr. A. Ezeokeke Daniel Uchenna Oruche & N. Orjiako aka (invoice) Block 43, Shop 460 Abuja 2017-2018 are all inadmissible for not complying with the clear provisions of the Evidence Act. They are all to be marked tendered and rejected.

**Signed**

**Hon. Judge**

**14th June, 2021**