

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT GUDU - ABUJA**  
**ON TUESDAY THE 31<sup>ST</sup> DAY OF MAY, 2022.**  
**BEFORE HIS LORDSHIP; HON. JUSTICE MODUPE OSHO -ADEBIYI**  
**SUIT NO. CV/3047/2020**

1. RIDOMS COMPANY (NIG) LTD ----- CLAIMANTS
2. MR. ROWLAND LODE

AND

1. LUCAS-NULLE LEHR UND MEBGERATE GMBH
2. MR. ROLF LUCAS-NULLE ----- DEFENDANTS
3. MR. STEFAN WELP

**RULING**

Learned counsel to the Plaintiff sought to tender in evidence through the PW1 an agreement between RidomsCompany Nig Ltd and Satimaiha Nig. Dated 5/9/2011, stamp duty and an unsigned consultancy services agreement between 2<sup>nd</sup> Claimant and one Ali Rezi ltd in respect of the extant case.

Counsel to the Defendant objected to the admissibility on the following grounds, that the agreement offends **Section 83 (3) of the Evidence Act and section 9 Stamp Duties Act** as the documents were made in 2011 and stamped in 2019 and no penalty. That the document was not stamped as a penalty basis but stamped as a fresh document. That they were never served with a copy of the unsigned consultancy services agreement.

In reply counsel to the Claimant submitted that the transaction was made in anticipation of getting his money. That the hallmark of admissibility is relevance hence once a document is relevant it is admissible. That the section on stamp duty is on criminal matter and its not the reason they are in court. That fee not being paid will only affect the weight to be attached. That the unsigned consultancy services agreement was pleaded in paragraph 23 but not frontloaded and that would not deprive the court the power to admit the document.

I have carefully considered the submissions on both sides. On the issue of **Section 83 (3) of the Evidence Act** which provides thus:

**“(3) Nothing in this section shall render admissible as evidence any statement made by a person interested at a time when proceedings were pending or anticipated involving a dispute as to any fact which the statement might tend to establish.”**

This is to say that a statement will only be inadmissible if it is made by (1) a person interested and, (2) at a time proceedings were pending or anticipated involving a dispute as to any fact which the statement might tend to establish. It is true that when the issue of admissibility is raised, three (3) questions are usually addressed by the court:

1. is the document pleaded?
2. is it relevant?
3. is it admissible in the form it is sought to be admitted in evidence?

In construing the section, this case was filed 2<sup>nd</sup> November, 2020 and the said agreement sought to be tendered was made and signed 5<sup>th</sup> September, 2011. However, the certificate of stamp duty attached and the stamp duty stamped on the said agreement that was made 26/11/2019. Purpose of stamp duty is generally for revenue generation and it is not all documents that requires stamp duty. I am yet to understand the purport of the stamp duty on the document as same is not a transferable instrument that requires registration. It is therefore, clear that the agreement was entered prior to this dispute having been entered 5/9/2011. If the Claimant feels that stamping it will bring it in conformity with requirement for admissibility (just as requirements in Section 84 of the Evidence Act or requirement as to certified true copy), it does not then connote that the document was made in anticipation of proceeding.

I have perused through the statement of claim dated 30/10/2020 and filed 2/11/2020, the said agreement sought to be tendered was pleaded, its relevant, it is admissible and was not made in anticipation of

proceeding. In the light of the above, the said letter sought to be tendered is hereby admitted.

On the objection to the admissibility of the second document which is an unsigned consultancy agreement between ALI REZI LIMITED and MR. ROLAND LODE on the ground that they were not served as it was not frontloaded as required by **Order 2 Rule 2 (d) of the FCT High Court Civil Procedure Rules 2018**. The said Order provides that a party who desires that a writ of summons be issued must file along with its statement of claim copies of documents which he intends to rely upon for his case. It is trite that the Evidence Act is the primary source of procedure for the admissibility of documentary evidence. It is the law that for a document to be admissible, it must be pleaded and relevant to the subject of inquiry and legally admissible as held in **OKOYE & ANOR V. OBIASO & ORS (2010) LPELR-2507(SC)**.

The first question to ask here though not a ground of objection from the Defendant counsel is, whether an unsigned document legally admissible? The settled state of the law as expounded by Tobi; JSC in **OMEGA BANK (NIG) PLC v. OBC LTD (2005) 8 NWLR (PT 928) 547 at 541** in this regard is that:

*"Where a document is not signed, it may not be admitted in evidence even if it is admitted in evidence the Court should not attach any probative value to it".*

The Supreme Court went further to state that unsigned document is worthless and does not have a legal status in **Maku v. AL-Makura & ors (2016) LPELR-48123 (SC)**. However, in **ASHAKACEM PLC v. ASHARATUL MUBASHSHURUN INVESTMENT LIMITED (2019) LPELR-46541(SC)**, the Supreme Court per **MARY UKAEGO PETER-ODILI, JSC (Pp. 27-29, paras. C-E)** held as follows;

*"The appellant is urging this Court to discountenance Exhibit L because it was unsigned but the appellant did not take up the findings of the Lower Court which stated that this case is of peculiar circumstance that cannot be ignored. The point has to be made that the requirement of signature is made by the law to determine its origin and authenticity with regard to its maker and*

*so where certain situations exist an unsigned document could be admissible as in this instance where oral evidence clarifying the document and its authorship as in the case at hand thereby rendering such an unsigned document admissible...”*

The Claimants pleaded that a consultancy agreement had been drafted between two parties being himself and a certain Ali-Rezi Ltd but the said consultancy agreement was never executed by both parties. In line with his pleadings claimant has indeed tendered an unsigned consultancy agreement. The unsigned consultancy agreement is pleaded in paragraph 22 of the statement of claim. The law is trite that evidence of any fact which are pleaded in a given case is admissible whether frontloaded or not. Facts are pleaded and evidence is led support of pleadings. The court is therefore bound to adjudicate and admit evidence arising from pleadings. Per Belgore JSC (as he then was) in **VANDERPUYE V. GBADEBO (1998) 3 NWLR Part 541 Page 271 at 279 Para D.**

I am of the view that the defendants have adequate notice that the plaintiff would rely on this unsigned document same having been pleaded. I would therefore admit.

The two document is hereby admitted as follows;

1. Agreement between RIDOMS Company Nigeria Ltd and Satimaiha Nigeria dated 5/9/2011 with certificate of stamp duty is admitted in evidence and marked Exhibit E1
2. An unsigned consultancy agreement between ALI REZI LIMITED and MR. ROLAND LODE is admitted in evidence and marked Exhibit E2

**Parties:** Claimant is present. Defendants are absent.

**Appearances:** Dr. E. West-Idahosa appearing with Onyekachi George for the Claimant. Defendants are not represented.

**HON. JUSTICE M. OSHO-ADEBIYI  
JUDGE**

**31<sup>ST</sup> MAY, 2022**

