

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

HIS LORDSHIP: HON.JUSTICE M.S. IDRIS

COURT NUMBER: 28

DATE:-15TH JUNE, 2022

FCT/HC/CV/2078/2021

BETWEEN:

JAMES OLOBO-----

CLAIMANT

AND

1.ARMONIA CONSTRUCTION LIMITED }

2.ALI KAREEM }

DEFENDANTS

RULING

The claimant in this suit filed a writ against the two Defendants and also subsequently filed a motion on notice seeking the leave of the Court to enter judgment as per the Claimants claim. The Defenant initially was instantly served by way of substituted means severally in this trial. However the Defendant failed or neglected to filed its defence it is on this note that the Court deem it just to allow the Claimant move his application. However before i delved into the entire application it become imperative on the part of this Court to first of all take into consideration the issue of jurisdiction so as for the Court to ascertain its power on the issue of jurisdiction.

A party who signs an agreement is bound by it. The judicially approved function of the Court is to interpret the agreement and enforce its terms without more. If the provision of an agreement are clear and unambiguous and there is nothing to enable the Court to put upon them a construction different from that which the words

connote it will remain intact. Thus parties to a written contract are mutually bound by the term contained in the agreement.

The Court intervention can only arise where it is shown that the terms are illegal or contrary to public policy. See **MARYAM VS IDRIS (2000) FWLR (PT.23)1237 APROTECL VS M.I .A & (SONS)LTD (2000) SC (PT11)** from the motion filed by the Claimant in this Court with motion M/5281/2021 with 17 paragraphs affidavit attached. In exhibit JO1 paragraph J is that the Donor shall have right of action against the Donee and may proceed against the donee should it fail, refuse or neglect to comply with the terms of this agreement.

This shall be through arbitration with the Federal republic of Nigeria from the above the Court can only construe literally the intent of the parties. In otherwords parties are bound by their agreement although in exhibit JO2 the 2nd Defendant undertook in 2017 to pay the principal sum contained in the writ. The question have is whether 2nd Defendant is a party to the loan agreement. Exhibit JO1 the answer is no. Under all circumstances the Claimant shall refer this case to arbitration first before subsequently same my proceed and filed a suit against the 1st Defendant and may also in addition join the 2nd defendant. Strictly speaking the Court cannot at this point in time proceed without taking the 1st step of referring the matter to the arbitration instrument. An agreement is enforceable in law. An essential feature of contract is a promise by one part to another to do or for bear from doing certain specified acts; the offer of promise becomes a promise and acceptance. Contract is that species of agreement whereby a legal obligation is constituted and agreed between the parties to it. For a contract to come into existence there must be an offer even if made to the whole world. There must be an unqualified acceptance from the offeree.

For the contract to be complete and became legally binding and enforceable the question of dispute as to whether there was an existing contract, the onus is on sa party asserting to prove and acceptance. In the case of contract only the party injured can sue. The express terms in the agreement or statute has to be construed to determine the intention of the parties see ***NGUN BERNERD VS MOBIL PRODUCING NIG. LTD(2013)ALL FWLR (Pt677)665. CHIEF D.S YARO VS AREWO CONSTRUCTION LTD & ORS (1998) LPELR 3517 SC.*** From the above judicial authorities as per the agreement duly signed by the Claimant and the 1st Defendant this Court lack jurisdiction to entertain this suit unless and until parties have resort to arbitration and same has failed before the Court can be said to have jurisdiction to determine this case . i therefore refer this case to arbitration.

**HON. JUSTICE M.S IDRIS
(Presiding Judge)**

Appearance

Nasir Laufe:-For the Claimant