

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT JABI – ABUJA

THIS 19th DAY OF MAY, 2022

BEFORE HIS LORDSHIP HON: JUSTICE A. A. FASHOLA

PET: FCT/HC/CV/093/2021

BETWEEN

GEOFFERY NDUBUISI OSUJI-----PETITIONER

AND

ALICE AKWONYA OSUJI-----RESPONDENT

RULING

The ruling before this Honourable Court is predicated upon the objection raised by learned counsel to the Respondent herein to the admissibility of 3 documents sought to be tendered by the petitioner in this case by one Osuji Godrick Chukuma Uche Pw2 during his testimony.

The objection of learned counsel to the Respondent is on the ground that proper foundation was not laid as the witness is not the maker of the document.

In response to the objection learned counsel to the petitioner argued that what governs admissibility of document is relevancy, counsel further submitted that the witness had told the court

how the document emanated and that the documents are in possession of the witness asking him to identify same is not necessary.

I deem it expedient at this stage to call in aid the provisions of section 86 of the Evidence Act 2011 which states:

- (1) Primary evidence means the document itself produced for the inspection of the court.
- (2) Where a document has been executed in several parts, each part shall be primary evidence of the document.
- (3) Where a document has been executed in counterpart, each counterpart being executed by one or some of the parties only, each counterpart shall be primary evidence as against the parties executing it.
- (4) Where a number of documents have all been made by one uniform process, as in the case of printing, lithography, photography, computer or other electronic or mechanical process, each shall be primary evidence of the contents of the rest; but where they are all copies of a common original, they shall not be primary evidence of the contents of the original.

In the case of **GANA VS FRN (2018) LPELR-44344 (SC)** the apex court held that "Generally where a person produce a receipt it is Evidence of payment See **ETAJATA VOLOGBO (2007) 16 NWLR (PT.1061)**.

The principle of law with regards to the admissibility of evidence is relevance, once evidence is probative of the fact in issue it is considered to be relevant and therefore admissible, because relevancy determines admissibility. Therefore, once a piece of evidence is relevant for proper determination of any fact in issue the court is bound to admit it. **See HARUNA A VS AG FEDERATION (2021) 9 NWLR (PT.1306) PAGE 419(SC)**.

Admissibility of evidence is governed by section 6 of the Evidence Act 2011, once a piece of evidence is relevant it is admissible in evidence irrespective of how it was obtained. **See FAWEHINMI VS N.B.A (No.2) (1989) 2 NWLR (PT 105) 558**

At this point it is imperative to state that there is a difference between the admissibility of document and its probative value, admissibility is based on relevance while probative value depends on relevance and proof. In effect a piece of evidence has probative value if it tends to prove on issues. See **NYESON VS PETERSIDE (2016) 7 NWLR (PT 1412) PAGE 452**

On the strength of the above statutory and judicial authority, I find that the documents sought to be tendered by pw2 are all admissible, same are hereby admitted in evidence and marked as Exhibit

1. Bank statement/certificate of compliance of UBA bank dated 13 July 2006-15 June 2007. Exhibit GA1
2. Receipt (from Ad-Hoc committee on sale of FGN Houses in Abuja) dated 05 June 2007. Exhibit GA2
3. Letter of Allocation dated 22 April 1999. Exhibit GA3 respectively.

Appearances

Parties absent

Onwusoronye Ekene for the respondent

Barth Ogar for the claimant

Ruling read in open court. Case is adjourned to 21st June, 2022 for hearing.

Signed

**Presiding Hon Judge
19th/05/2022**