

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT JABI – ABUJA**

**THIS 13<sup>th</sup> DAY OF APRIL, 2022**

**BEFORE HIS LORDSHIP HON: JUSTICE A. A. FASHOLA**

**SUIT NO :FCT/HC/CV/2582/2021**

**BETWEEN**

**MR OKANI CHUKWUDI NWABUGO-----CLAIMANTS/APPLICANT**

**VS**

**FIRTS CITY MONUMENT BANK LTD-----DEFENDAN/APPLICANTS**

**RULING**

The ruling before this Honourable court is predicated upon the objection by learned counsel to the defendant herein to the admissibility of two receipts sought to be tendered by the plaintiff in this case one Mr Okani Chukwudi PW1 during his testimony.

The objection of the learned counsel to the defendant is on the ground that the said receipts are not originals and proper foundation was not laid as to the where about of the originals.

In response to the objection, leaned counsel to the plaintiff argued that by paragraphs 4 of the plaintiff statement of claim it is clearly stated that the original receipts are with the customer

who purchased the phone, counsel submitted further that the hallmark of admissibility is whether it is pleaded, relevant and in form, counsel relied on Section 4 & 6 of the Evidence Act 2011.

I deem it expedient at this stage to call in the provision of section 86 of the Evidence Act which states that:

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 with 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 content 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 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 V AG FEDERALIONAL (2021) 9 NWLR (PT. 1306) PAGE 419 (SC)**.

Admissibility of a document is quite different from the weight to be attached to it, it is only when it is admissible that the court considers weight to be attached thereof, See **OKOREAFIA V. AGWU (2012)1 NWLR (PT. 1282) PAGE 425 (CA)**.

At this juncture, it is imperative to state that there is a difference between the admissibility of a document and its probative value, Admissibility is based on relevance, while probative value depends on relevance and proof.

A careful perusal of the receipts sought to be tendered in Evidence by PW1 is a counterpart of the document and not a photocopy as argued by the learned defence counsel, hence the said document are admissible as primary evidence under Section 86 (3) of the evidence Act, consequently, the documents are hereby admitted in evidence as Exhibits FCB 4a and 4b respectively. I so Hold.

**Appearances:**

Parties in court

C.N Nwabueze for the Claimant Ademola Adewoye with Igaoakpo Ighorhiohwunu for the defendant.

Ruling read in open court

**Signed**

**Presiding Hon Judge**

**13<sup>th</sup> April 2022**