

**IN THE HIGH COURT OF JUSTICE OF THE
CAPITAL TERRITORY ABUJA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT MAITAMA - ABUJA**

BEFORE: HON. JUSTICE O. C. AGBAZA

COURT CLERKS: UKONU KALU, GODSPOWER EBAHOR & ORS

COURT NO: 6

SUIT NO: FCT/HC/CV/1926/2020

BETWEEN:

MR. SAMSON EPHRAM TARKIGHIR.....CLAIMANT

VS

GUARANTY TRUST BANK PLC.....DEFENDANT

RULING

This is a Ruling on the Admissibility or otherwise of a set of documents titled, General Requirements & Eligibility Terms and another titled Get More Out of Your Account With Quick Credit Issued by GT Bank, along with a Certificate in Compliance with Section 84 of the Evidence Act 2011 (As Amended) dated 6/1/2021 and signed by Rahmat Musa, sought to be tendered in evidence through the PW1 by Defendant's Counsel, during the Cross-examination. Claimant's Counsel objects to the admissibility of the said documents on the ground that the documents are computer generated documents and no Certificate of Compliance in compliance with Section 84 of the Evidence Act, secondly, the witness is not a staff of GT Bank and not the maker of the document, therefore not in the position to answer to the content of the document. Therefore urge court to reject the documents

and mark same accordingly, that the witness had earlier entered in court the terms and conditions for the loan refer to Exhibit "C2".

Responding, Defendant's Counsel submits that there is indeed a certificate in line with Section 84 of the Evidence Act dated 6/1/2021, which satisfies the said Section.

Secondly, that the law is settled that secondary evidence may be given of the content of a document where a Notice to Produce has been issued to the person legally in possession of the document. Refer to Section 91 of the Evidence Act. And that the witness has confirmed in his testimony that he was given Notice, but failed. Submits further that the Exhibit "C2" referred to is scheduled of loan repayment which is not Terms and Condition.

Submits finally that the document was pleaded in Paragraph 36 of their Statement of Defence and Notice to Produce in Paragraph 37 and their witness admitted in Paragraph 6 of his Statement of Claim, Defendant now seeks to tender the document to test the veracity of the testimony of the witness under Section 223 of the Evidence Act. The document was frontloaded over a year ago and Defendant did not deny it. Urge court to admit the document.

Replying on points of law, Claimant's Counsel submits that the purpose of Section 84 of the Evidence Act is that only the maker of the certificate. that should tender the certificate. The certificate was made by Rahmat Musa and not the witness, urge court to reject the document.

Having carefully considered the submission of Counsel and the judicial authorities cited, I find that only one issue calls for determination that is;

“Whether the documents in contention are capable of being admissible evidence”

The criteria which guides the Admissibility of documentary evidence has been stated in a Plethora of cases to be three-fold, it includes;

- (1) Is the document pleaded?
- (2) Is the document relevant?
- (3) Is the document admissible in law?

See Okonji Vs Njokanma (1999) 12 SCNJ 259 @ 272.

I have taken a look at the pleading of the Defendant, that is her Statement of Defence filed on 6/1/2021 vis-à-vis the criteria stated in the above cited case and I find that facts which the documents relates are sufficiently pleaded in Paragraph 36 of the Defendant’s Statement of Defence. I also find that those facts are relevant to the case.

The question which follows is whether the documents are admissible in law? The court notes that the documents in issue are sought to be tendered in evidence through the PW1 during Cross-examination and in line with Section 223 of the Evidence Act, the sky is said to be the limit of the party cross-examining a witness, thus the witness can be confronted with any question as in the case, so far as it is relevant to the facts of the case.

The contention of the Claimant's Counsel is that document are not accompanied by a Certificate in Compliance with Section 84 of the Evidence Act, the documents being computer generated documents, whereas the Defendant contents that there is a Certificate in that regard. I have stated earlier in the course of this Ruling that the documents sought to be tendered in evidence by through PW1 is accompanied by a Certificate of Compliance, I have taken a considered look at the said certificate and I find the certificate is satisfactory and in conformity with Section 84 of the Evidence Act and thus admissible in law.

From all of these and having found the documents pleaded and the facts contained therein relevant to the case of the Defendant. And also found in compliance with Section 84 and 223 of the Evidence Act this court hereby dismiss the objection of the Claimant's Counsel to their Admissibility and accordingly the documents titled "General Requirements & Eligibility Terms" and another titled "Get More Out of Your Account with Quick Credit Issued by GT Bank" along with Certificate in Compliance with Section 84 of the Evidence Act dated 6/1/21 signed by Rahmat Musa are collectively admitted as Exhibit "G1-3".

Signed.

HON. JUSTICE C.O. AGBAZA

Presiding Judge.

4/10/2022

EWERE A. ALIEMEKE ESQ FOR THE CLAIMANT

AYOTUNDE OGUNLEYE ESQ FOR THE DEFENDANT, WITH CHINYERE
OKOUNA ESQ, ALIMEND MURITALA ESQ