

**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: UKONUKALU, GODSPOWEREBAHOR& ORS.**

**COURT NO: 6**

**SUIT NO: FCT/HC/CV/1663/2015**

**BETWEEN:**

**ZIMMERMAN BROTHERS NIGERIA LTD.....CLAIMANT**

**VS**

**1. SPIRENT LIMITED**

**2. D'JES ENTERPRISES LTD**

**3. SIMON ABOKI**

**4. DR. (MRS) T.J. AMAGBO**

**5. DR. (MRS) PRECIOUS GBENEOL.....DEFENDANTS**

**RULING**

This is a Ruling on the Admissibility or otherwise of document issued of Felix Dumebi & Company dated 17/12/2015 to the Principal Partner Ikwueto Titled RE: Outstanding Debt to Zimmerman Brothers Ltd, sought to be tendered in evidence by Counsel for 2<sup>nd</sup>/3<sup>rd</sup> Defendant through PW1 during Cross-examination. Claimant's Counsel objects to the tendering of the document on the ground that the document was made by the Claimant in their Statement of Claim and is not the case of the Claimant that he was asked by the 2<sup>nd</sup>/3<sup>rd</sup> Defendants Counsel to refund money paid. That the document cannot be tendered.

Counsel to 1<sup>st</sup>, 4<sup>th</sup> and 5<sup>th</sup> Defendants not opposing the tendering of the document as it is in furtherance of the case of the 2<sup>nd</sup>/3<sup>rd</sup> Defendants.

Responding 2<sup>nd</sup>/3<sup>rd</sup> Defendant's Counsel submits that the document is pleaded in Paragraph 23 of the 2<sup>nd</sup>/3<sup>rd</sup> Defendant's Joint Statement of Defence and it is law that a party can rely on the pleading of the adversary, submits further that once pleaded by any of the parties, it suffice and can be tendered in evidence.

Submits finally that the document is in conformity with the condition upon which a document can be admitted in evidence. Pray the court to admit the document while refusing the objection of Claimant's Counsel.

Having carefully considered the submission of both Counsel for and against the admissibility of the document in contention, I find that the issue which calls for determination is;

“Whether the document in contention is capable of being admissible in evidence”

The criteria which governs the admissibility of documentary evidence has been stated to be three-folds in a Plethora of authorities. It includes;

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

See the case of Okonji Vs Njokanma & Ors (1999) 12 SCNJ 259 @ 274.

I have taken a look at the document in issue vis-à-vis the criteria stated above and I find that the fact which the documents relates is sufficiently pleaded in Paragraph 23 of the Joint Statement of Claim of the 2<sup>nd</sup>/3<sup>rd</sup> Defendants in reply to the pleading of the Claimant in Paragraph 23 of her Statement of Claim. I also find these facts relevant to this case. The question which follow is whether the document is admissible in law.

The document contains on its file confirmation of receipt, of the document and the witness has already identified the letter as well as the content of the letter, Section 87 (b) and 89 (a) of the Evidence Act permits the court to admit such document in evidence. It is worthy to note that the document in contention is being tendered through PW1 during Cross-examination, when a party is allowed to rest the veracity of the evidence of a witness by raising any question under Section 223 of the Evidence Act. Therefore Claimant's Counsel cannot claim that the document cannot be tendered in evidence especially the face of the finding of the court that the document is pleaded, relevant and allowed under Section 87 (b), 89 (a) and 223 of the Evidence Act.

From all of these, the court holds that the document issued by Felix Dumebi & Company dated 17/12/2015 to the Principal Partner Ikwueto Titled "RE: Outstanding Debt to Zimmerman Brothers Limited is admitted in evidence as Exhibit "I". Accordingly the objection of the Claimant's Counsel to the Admissibility of the document is hereby dismissed.

Signed  
**HON. JUSTICE C.O. AGBAZA**  
Presiding Judge.  
24/10/2020

**APPEARANCE:**

NWATARALA NNEKA ESQ. FOR THE CLAIMANT WITH YS. BAYERO ESQ.

VINCENT ENEMUSAH ESQ. WITH HIM U.C. IKEJI ESQ. HOLDING BRIEF OF  
ANTHONY AGBONLAWA ESQ. FOR THE 1<sup>ST</sup>/4<sup>TH</sup> AND 5<sup>TH</sup>  
DEFENDANTS/COUNTER CLAIMANTS

F.D. ESUME ESQ. WITH UZO UZOEZI.

ESARE ESQ. FOR THE 2<sup>ND</sup>/3<sup>RD</sup> DEFENDANTS/COUNTER CLAIMANTS