

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

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT ABUJA**

**BEFORE HIS LORDSHIP: HON. JUSTICE ASMAU AKANBI - YUSUF**

**DELIVERED ON THE 13<sup>TH</sup> SEPTEMBER, 2021**

**SUIT NO. CV/3532/2020**

**BETWEEN**

**CHIEF CHUKWUEBUKA V. ATTAMA**

**CLAIMANT**

**AND**

**NWADINUME IMEZI-OWA COOPERATIVE THRIFT AND LOAN SOCIETY  
LIMITED (NCTS ENTERPRISES LIMITED)**

**DEFENDANT**

### **JUDGMENT**

By a Writ of Summons [undefended procedure] dated and filed the 23<sup>rd</sup> day of December 2020, the Claimant claims against the defendant as follows:

1. The sum of #10, 000, 000.00 (Ten Million Naira) only being the amount invested in the Defendant's cooperative on 27/9/2016.
2. The sum of #1,620,000.00 (One Million, Six Hundred and Twenty Thousand Naira) Only being the net accrued interest due and payable to the Claimant as interest on the #10,000,000.00 at the interest rate of 18% per annum between 27/9/2016 to 27/9/2017.
3. The sum of #4,860,000.00 (Four Million Eight Hundred and Sixty Thousand Naira) only being the net accrued interest due and payable to the claimant at interest rate of 18% per annum between 27/9/2017 to 27/9/2020.
4. Interest on the sum of #10,000,000.00 (Ten Million Naira) only at the interest rate of 18% per annum from 28/9/2020 till judgment is delivered.

5. Post Judgment interest on the sum of #10,000,000.00 (Ten Million Naira) only at the interest rate of 18% per annum from date of Judgment till the debt is liquidated.

The writ is supported by a 14 paragraphed affidavit deposed to by the claimant; annexed to the affidavit are three exhibits.

The exhibits are;

1. The letter of investment of #10,000,000.00 (Ten Million Naira) only dated 27/9/2016 marked as **EXHIBIT A.**
2. The Fixed Deposit Certificate No. 00018 issued to the Claimant marked as **EXHIBIT A1.**
3. A copy of the Letter of Demand dated 27/9/2019 marked as **EXHIBIT B**

The defendant in this case failed to respond to the processes served on it; it is of note that the aim of a cause

placed under the undefended list is to ensure Justice to a claimant, where there is obviously no defence to his claim and prevent the grave injustice that might occur through a protracted and ultimately frivolous litigation.

See **EDU SHELL VS TRUSTEES (NIG) LTD (2002) 5 NWLR PART 760 P. 277**. The Court must be satisfied that there are good grounds for believing that there is no defence to the claim before entering the suit in the undefended list.

*Order 35 Rule (3) (1) High Court Rule 2018 states*

- (1) Where a party served with the writ delivers to registrar, before 5 days to the day fixed for hearing, a notice in writing that he intends to defend the suit, together with an Affidavit disclosing a defence on the merit, the Court may give him leave to defend upon such terms as the Court may think just.*
- (2) Where leave to defend is given under this Rule, the action shall be removed from the undefended list*

*and placed on the ordinary cause list; and the Court may order pleadings, or proceeds to hearing without further pleadings.*

*(3) The claim before the court must be for a debt or liquidated money demand, and must be supported by an Affidavit verifying the claim; the affidavit must contain a deposition to the effect that in the belief of the Plaintiff, the Defendant has no defence to the claim.*

The Claimant deposed in his affidavit thus;

I CHIEF CHUKWUEBUKA V. ATTAMA, Businessman, of No. 205 Golf Estate, G.R.A Enugu State, adult, male, Christian, Citizen of the Federal Republic of Nigeria, do hereby make oath and state as follows: -

**Paragraph 1:** That I am the Claimant in this Suit

**Paragraph 2:** That the Defendant is a Private Limited Liability Company with registration Number 821714 engaged n the

operations of Co-Operative Societies/Partnerships with office at Ships No 78-80 1(L) Road, Sector F, Behind Skye Bank, Federal Housing Estate, Lugbe, Abuja within the jurisdiction of this Honourable Court.

**Paragraph 3:** That sometime in September, 2016, the Defendant's Officers, workers and/or agents introduced the Defendants Co-operative Society Concept to the Claimant and requested a creation of an investment account in the Defendants Co-operative Enterprise.

**Paragraph 4:** That the Defendant agreed that upon my investment of the sum of any amount, in the Defendants Co-operative Enterprise, I would be entitled to interest of 18% on the said sum per annum.

**Paragraph 5:** That on 27/9/2016, I invested the sum of #10,000,000.00 (Ten Million Naira Only) in the Defendant's Co-operative Enterprise.

(a) That the investment of N10,000,000.00 (Ten Million Naira Only) was for the tenor/period between 27<sup>th</sup>

September, 2016 to 27<sup>th</sup> September, 2017 (365 days)  
with option to re-negotiate after maturity.

- (b) That the Claimant and Defendant agreed interest rate is 18% per annum on the said #10,000,000.00 (Ten Million Naira Only).
- (c) That the Claimant and the Defendant agreed that the gross interest amounted to #1,800,000.00 (One Million Eight Hundred Thousand Naira Only).
- (d) That the Claimant and Defendant also agreed that the service charge due and payable to the Defendant as administrator of the Co-operative investment of the Claimant was #180,000.00 (One Hundred and Eighty Thousand Naira Only).
- (e) That I agreed with the Defendant that at maturity of the Co-operative investment, the net interest (Gross interest minus service charge is #1,620,000.00.

The letter of investment of #10,000,000.00 (Ten Million Naira Only) dated 27/9/2016 is herewith exhibited as

**EXHIBIT A**

**Paragraph 6:** That the Defendant also issued a Fixed Deposit certificate No. 00018 to me for the Co-operative Investment Deposit of #10,000,000.00 (Ten Million Naira Only) by the Claimant. The Fixed deposit certificate No.00018 is herewith exhibited as **EXHIBIT A1**.

**Paragraph 7:** That upon maturity of the Co-operative Investment Deposit of #10,000,000.00 (Ten Million Naira Only) made by me on 27/9/2016, I demanded for the payment of the investment deposit and accrued interest therein to the Claimant.

(a) That the Defendant failed to accede to my demand by failing, refusing and neglecting to pay the principal and the accrued interest to the Claimant.

(b) That the accrued interest on the said my co-operative investment of #10,000,000.00 (Ten Million Naira Only) with the Defendant at the rate of 18% per annum from 27/9/201



6 to 27/9/2017 is #1,620,000.00 (One Million Six Hundred and Twenty Thousand Naira Only).

- (c) That the accrued interest on the said my co-operative investment of N10,000,000.00 (Ten Million Naira Only) with the Defendant at the rate of 18% per annum 28/9/2017 to 27/9/2020 is N4,860,000.00 (Four Million Eight Hundred and Sixty Thousand Naira Only).
- (d) That I am entitled to payment of interest on the co-operative investment from 27/9/2020 till Judgment is delivered in this case and until final payment of the debt by the Defendant.

**Paragraph 8:** That I have made several demands (oral and written) to the Defendant to pay me the Co-operative Investment sum of N#10,000,000.00 (Ten Million Naira Only) and accrued interest therein to no avail. A copy of Letter of Demand dated 27/9/2019 is herewith exhibited and marked as **EXHIBIT B**.

**Paragraph 9:** That the Defendant will not pay me the Co-operative Investment sum of #10,000,000.00 (Ten Million Naira Only) and accrued interest therein unless ordered by this Honourable Court.

**Paragraph 10:** That I verily believe that the Defendant has no defence whatsoever to this claim.

**Paragraph 11:** That my claim is a liquidate money demand.

**Paragraph 12:** That this Suit be heard under the Writ of Summons.

**Paragraph 13:** That I urge the Court to grant my claims as in the reliefs contained in the Writ of Summons.

**Paragraph 14:** That I do solemnly and sincerely declare that I make this solemn declaration conscientiously believing same to be true and by virtue of the provisions of the Oaths Act.

Having considered the Affidavit in support of the writ as well as the exhibits attached thereto, particularly exhibit A which is clear and unambiguous. I find it pertinent to reproduce same:

## **NCTS ENTERPRISES LIMITED**

*... Empowerment through partnership*

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27<sup>th</sup> SPT, 2016.

ATTAMA CHUKWUEBUKA V  
NO 205 GOLF ESTATE G.R.A ANUGU

Dear Sir,

### **RE: INVESTMENT OF TEN MILLION NAIRA ONLY**

We are pleased to acknowledge the above deposit made by your good self with our cooperative under the following terms and conditions:

#### 1. TYPE OF NICTS FIXED

- |       |                   |                |
|-------|-------------------|----------------|
| i.    | Amount:           | ₦10,000,000.00 |
| ii.   | Value Date:       | 27-SEPT-16     |
| iii.  | Tenor:            | 365'           |
| iv.   | Maturity:         | 27-SEPT-17     |
| v.    | Interest Rate     | 18% per Annum  |
| vi.   | Gross Interest:   | ₦1,800,000     |
| vii.  | Service Charge:   | ₦180,000       |
| viii. | Net Amount:       | ₦1,620,000     |
| ix.   | Interest payment: | Maturity.      |

2. Any withdrawal before the Maturity date will attract a penalty of 75% on the accrued interest.
3. At Maturity of the contract, either party has the option to renegotiate the above terms.
4. Request for pre-mature termination of fixed deposit must be in writing, with a 10 working days advance notice.

Please indicate your acceptance of the above terms and conditions by having your authorized signatory (ies) sign across the affixed stamp on the attached copy of this letter and return same to us.

Yours Faithfully,

For: NWADINUME IMEZI-OWA COOPERATIVE THRIFT AND LOAN SOCIETY LTD (ATLASmfb)

Signed

signed

**Manager**

**Director**

It is clear from exhibit A that the claimant invested the sum of #10,000,000.00 in the defendant's co-operative enterprise for the period of 27/9/2016 to 27/9/2017 and it is not in evidence that the defendant paid the principal and accrued interest to the claimant upon maturity of the investment; therefore I find as a fact that the claimant is entitled to the principal sum and interest accrued thereon. Reliefs 1 and 2 succeeds

It is further stated in exhibit A, that upon maturity of the contract either of the party has the option to renegotiate the terms stated in exhibit A. I have gone through the

application; it is not in evidence that the terms agreed to by parties in exhibit A were varied, thus it is clear that parties shall be bound by their existing agreement. The law of equity shall prevail in this instance; since there is an existing contract which states that the claimant is entitled to 18% of the money invested with the defendant, I find as a fact that the claimant is entitled to reliefs 3 & 4. See NIGERIA PORTS AUTHORITY v. AMINU IBRAHIM AND COMPANY & ANOR (2018) LPELR-44464(SC)

*“...It is however a valid law that a Court can still grant pre-Judgment interest on a monetary or liquidated sum awarded to a successful party, even in a situation where such a party did not plead or adduce evidence in proof of such claim. Such interest, like in this instant case, naturally accrues from the failure or refusal to pay the amount involved over a long period of time, thereby depriving a party from the use of and/or enjoyment of the sum involved which is the fruit of his Judgment. See*

*Petgas Res Ltd v. Mbaneto (2007) 6 NWLR (pt 1081) 545."*

Furthermore, by the provision of Order 39 R 4 HCR, this court has the power to grant post judgment interest at a rate not less than 10% per annum; thus having granted reliefs 1 to 4, and in the exercise of my discretion I award 10% post judgment interest on the judgment sum until final liquidation.

For clarity sake, judgment is entered in favour of the claimant against the defendant as follows:

1. The sum of #10, 000, 000.00 (Ten Million Naira) only being the amount invested in the Defendant's cooperative on 27/9/2016.
2. The sum of #1,620,000.00 (One Million, Six Hundred and Twenty Thousand Naira) Only being the accrued interest due and payable to the Claimant as interest

on the #10,000,000.00 at the interest rate of 18% per annum between 27/9/2016 to 27/9/2017.

3. The sum of #4,860,000.00 (Four Million Eight Hundred and Sixty Thousand Naira) only being the net accrued interest due and payable to the claimant at interest rate of 18% per annum between 27/9/2017 to 27/9/2020.
4. Interest on the sum of #10,000,000.00 (Ten Million Naira) only at the interest rate of 18% per annum from 28/9/2020 till judgment is delivered.
5. Post Judgment interest on the sum of #10,000,000.00 (Ten Million Naira) only at the interest rate of 10% per annum from date of Judgment till the debt is liquidated.

ASMAU AKANBI – YUSUF

[HON JUDGE]

APPEARANCES:

Parties absent

B.O Etuk Counsel for the Claimant