

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY,
IN THE ABUJA JUDICIAL DIVISION,
HOLDEN AT COURT NO. 7 APO, ABUJA.
BEFORE HIS LORDSHIP: HON. JUSTICE O. A. MUSA.**

SUIT NO. FCT/HC/CY/1426/2019

BETWEEN:

BERNARD E. AFU

(Practicing under the name of

Bernard Etta Afu & Associates Suing as Landlord's Agent) **CLAIMANT**

AND

1. RT. HON. HASSAN SALEH

2. TUAREG LOGISTICS LTD **DEFENDANTS**

JUDGMENT

DELIVERED ON THE 17TH DECEMBER, 2021

The Claimant (also called the Plaintiff) by a writ of summons with statement of claim commenced this suit on 26/03/2019. Wherein the Plaintiff seek the following reliefs against the Defendants:-

(a) A Declaration that the continuous occupation of the demised premises by the Defendants after expiration of the tenancy and without payment of rent is unlawful.

(b) An Order granting the Claimant immediate vacant possession of the demised premises i.e., House No. 27, Kampala Street, Wuse II, Abuja, currently being held over by the Defendants.

(c) An Order directing the Defendants to pay outstanding unpaid arrears of rent of N3,000,000 (Three Million, Naira Only) being arrears of rent owed for the period of 1st July, 2018 to 30th December, 2018.

(d) An Order directing the Defendants to pay accrued *menes profit*, calculated pro-rata at N541,666.66 per month, from 31st December, 2018 until date of judgment of this Honourable Court.

(e) The sum of N2 Million Naira being Legal and professional fees to Ben Jones Akpan, Esq. for filling and prosecuting this suit.

While the Defendants filed their statement of defence/counter-claim on the 16/05/19 and sought the following reliefs:

- a. The sum of N10,568,663.83 (Ten Million, Five Hundred and Sixty Eight Thousand, Six Hundred and Sixty Three Naira, Eighty Three Kobo) being the cost of agreed repair works undertaken by the Counter Claimants at No. 27 Kampala Street, Wuse II, Abuja.
- b. In the alternative, an order of this Honourable Court setting off the Claimant/Defendant to the Counter-Claim's demand for outstanding rent from the Counter-Claimants with the sum of money expended on the agreed repairs as contained in relief 5(a) above while the balance therefore (if any) be paid by the Defendant to the Counter-Claim to the Counter-Claimant.

In the alternative, an order of this Honourable Court setting off the Claimant/Defendant to the Counter-Claim's demand for outstanding

rent from the Counter-Claimants with the sum of money expended on the agreed repairs as contained in relief 5(a) above while the balance therefore (if any) be paid by the Defendant to the Counter-Claim to the Counter-Claimant.

The Plaintiff filed a reply to the statement of defence and a defence to the counter-claim. The suit thereafter went into trial. At the trial, the Plaintiff testified as PW1. He his statement on oath filed on 26/03/2019 and the further witness statement on oath filed on the 20/05/2019 and tendered Exhibits 1, 2, 3, 4, T5, T7, TL-9, TL-10, TL-11, TL-12, TL-13, AA16, AA17 respectively.

The defendants opened their defence and Mr. John Angaye testified as DW1, adopted his witness statement on oath filed on 6/05/2019. He tendered Exhibits DD1, DD2, DD3 to DD24 as was cross examined by the Plaintiff counsel.

At the close of evidence, written addresses of counsel were ordered. Learned counsel to the Defendants filed the Defendants final written address as well as a reply to the Plaintiff's final written address. Learned counsel also filed the counter-claimant's final written address. Learned counsel to the Claimants filed the Plaintiff's final written address. Counsel on both sides adopted their respective written

addresses as their final oral submission in support of the case of parties.

The PW1- BERNARD E. AFU evidence at the trial is that as an agent to the landlord, he entered a tenancy agreement with the 1st Defendant who is the alter-ego of 2nd Defendant in respect of House No. 27 Kampala Street, Wuse II, Abuja and who negotiated with him and part-paid the agreed rent. EXHIBIT TL-4, is copy of the 1st Defendant's bank cheque and EXHIBIT TL-3 is the Claimant's acceptance letter of part-payment from the 1st Defendant.

It is PW1's further testimony that the lease is a yearly tenancy for an initial period of two years beginning from 31st December, 2015. EXHIBIT TL-2 is a tenancy agreement executed by the Claimant and sent to the Defendants.

The witness went further to state that at the expiration of the tenancy, he wrote a letter to the 1st Defendant giving him notice of expiration of the tenancy. Exhibit TL-5 is the Claimant's letter to the 1st Defendant notifying the 1st Defendant of the expiration of the tenancy on 30th December, 2017.

Also, PW1 stated that, he served the Defendants a seven (7) days notice dated 15th February, 2018. EXHIBIT TL-6 is the seven (7) days notice. PW1 said after the Defendant received the seven days notice,

the Defendant wrote him a letter dated 16th February, 2018 and undertook to pay rent on or before 31st March, 2018. EXHIBIT TL-7 is the Defendant's letter seeking Plaintiff's understanding and undertaking to pay rent on or before 31st March, 2018.

The PW1 said after several unheeded demands and various unfulfilled promises made by the Defendants the Defendants again wrote a letter dated 2nd May, 2018 apologizing for not paying rent. EXHIBIT TL-9 is the Defendants letter dated 2nd May, 2018.

He stated further that, the Defendant later paid N3, 500,000 as part-payment of rent for the year commencing 31st December, 2017 – 30th December, 2018. EXHIBIT TL-10 is the Claimant's letter acknowledging part-payment.

PW1 said after several demands to the Defendants for payment of rent failed, he then served the Defendants a six (6) months notice to quit and yield up possession. EXHIBIT TL-11 is the six (6) months notice to quit.

PW1 further stated that he subsequently served the Defendants a seven (7) days notice of owners intention to apply to recover possession. EXHIBIT TL-12

The Defendants on their part through DW1 testified and adopted his witness statement on oath as his oral testimony in support of his case.

His evidence is that he is a staff of the 2nd Defendant, and head, finance and administration. His evidence is to the effect that the tenancy with the Claimant commences 21st January, 2016. DW1 also maintained that the Defendant repaired the Claimant's property with the sum of N10, 568,663.83. The totality of the evidence of DW1 is a denial of the Defendants liability to the Plaintiff's case.

The evidence of DW2 having adopted his witness statement on oath was to effect that, he is an accountant of one (SABC LTD) contracted by the 2nd Defendant to carry out survey and repair works for N10, 568,663.83.

The evidence of PW1 in support of the reply to the statement of defence and defence to the counter-claim is as follows: That he did not agree orally or in writing with the Defendants to carry out repair for N10, 568,663.83 or any other amount. That he specifically informed the Defendant in writing that any renovation works or improvement on the interior of the property was to satisfy the Defendants taste and need. Exhibit B2 is the Claimant's letter dated 7th April, 2016. That he was not aware neither was he part of any agreement for the engagement of another company called SABC LTD to carry out any repair works on the Plaintiff's property.

Learned counsel to the Defendants formulated a sole issue for determination to wit:

1. *Whether the statutory notices issued to the Defendants were valid in law and if the answer is in the negative, what is the effect on the Claimant's suit?*

For his part, learned counsel to the Claimant submitted two issues for determination to wit:

1. *Whether the Claimant has made out his case to necessitate the grant of the Claimant's claims in this suit;*
2. *Whether the Defendants proved their counter-claim as to be entitled to the reliefs sought?*

Learned counsel to the Defendants in his written address submitted that parties were at ad-idem regarding the contractual terms of offer and acceptance but that the parties did not agree on the commencement date of the tenancy. That whilst the Claimant says the tenancy commenced on 31st December, 2015, the Defendant argued that the tenancy commenced on 21th January, 2016, learned counsel stated that because the Defendant failed to sign the tenancy agreement, such agreement lack probative value in evidence cited *JINADU V. ESURONBI –ARO* (citation supplied).

Learned counsel submitted that the notices served on the Defendants by the Claimants were ineffective because according to the Defendants, the tenancy commenced on 21st January, 2016 instead of 31st December, 2015, learned counsel relied on ODUTOLA V. PAPERSACK (2006) 18 NWLR (PT. 1012) 470 SC. He further urged me to hold that the 7 days notice served on the Defendants was equally invalid and dismisses the suit for being incompetent.

Learned counsel to the Claimant in his written address argued that the Claimant have proved his case and therefore entitled to the reliefs claimed. He submitted that there is no dispute on the commencement date agreed by the parties as clearly stated in Exhibits 2, 3 and 14 respectively, where the commence date of the tenancy agreement with the Defendant is shown as 31st December, 2015 and further relied on Section 128(1) of the Evidence Act 2011, and F.I.B PLC V. PEGASUSTRAD OFFICE (2004) 4 NWLR (PT. 863) P. 369 at PP. 387 – 388 TSOKWA OIL MARKETORY CO. LTD. V. BON LTD (2002) 11 NWLR (PT.77) 163 at 197, ASUWON V. AKANNI (1993) 9 NWLR (PT. 316) 182 – 200, to submit that the Defendants cannot be allowed to vary the contents of Exhibits 2, 3 and 14 respectively and introduce a dimension not contemplated by parties thereto.

Learned counsel contended that the Defendants failed to prove there was another agreement anywhere that commenced the tenancy on another date other than the agreed date of 31st December, 2015. He submitted that it is clear from the unchallenged Exhibits 2, 3 and 14 respectively that the commencement date of the tenancy is 31st December, 2015.

Learned counsel to the claimant submitted further, that the Defendant's claim of another non-existing date of commencement of the tenancy is not supported by any iota of evidence. He further urged me to grant the Claimant's claims as the Defendants did not deny the claimant claim of non-payment of outstanding rent.

On the claims of N2 Million as legal and professional fees, learned counsel submitted that same is in the realm of special damages which has been specifically pleaded and strictly proved. He finally urged me to grant all the reliefs claimed by the Claimant.

The issues formulated by the learned counsel to the Claimants would suffice in the determination of this suit and I so hold. They are:

- (1) *Whether the Claimant has made out his case to necessitate the grant of the Claimant's claim in this suit.*

(2) Whether the Defendant proved their counter-claim as to be entitled to the reliefs sought.

In arguing issue one (1), counsel submitted that it is trite, that the general burden of proof in civil cases lies on the party against whom judgment would be entered if no evidence was adduced by either party. See EZINWA V. AGU (2004) 3 NWLR PT. 861 PG. 431 and R.E.A.N V. ANUMNU (2003) 6 NWLR PT. 815 PG. 52.

It is not in dispute among parties that the Defendants entered into a tenancy agreement with the Claimant in respect of House No. 27 Kampala Street, Wuse II, Abuja. It is also not in dispute that the 1st Defendant indeed negotiated and paid the initial rent. EXHIBIT TL-4 is the 1st Defendant's Bank cheque and EXHIBIT TL-3 is the Claimant's letter of acceptance of part-payment from the 1st Defendant. EXHIBIT TL-2 is tenancy agreement. The law is settled that facts admitted need no further proof. I find proved the fact that the 1st Defendant negotiated terms of the tenancy agreement with the Claimant, and indeed made the 1st part-payment. It is also find that, in furtherance of the terms of tenancy negotiated and agreed between the 1st Defendants and the Claimant, the rental sum of N6, 500,000 (Six Million, Five Hundred Thousand Naira) per annum a total of N13,000,000 (Thirteen Million Naira), being rent for two years is not disputed. I further find other terms of the tenancy agreed by parties

were that the tenancy commenced on the 31st December, 2015 and terminates on the 30th December, 2017 the initial two years. renewable upon further agreement of parties, I find further prove of the fact that it was upon agreement of parties that the 1st Defendant indeed paid the initial sum of N6,500,000 (Six Million, Five Hundred Thousand Naira Only) in his GTBank cheque at the National Assembly, Maitama. EXHIBITTL-4.

The only area the Defendants did not agree with the Claimant is on the date of commencement of the tenancy. PW1, Exhibits 2, 3 and 14 were not contradicted. All points to the fact that the tenancy agreement with the Defendant commenced on 31st December, 2015.

EXHIBIT TL-2: Tenancy Agreement read as follows:

“In consideration of the yearly rent hereinafter reserved and covenants and conditions on the part of the tenant to be paid, performed and observed, the landlord hereby demised unto the tenant all that residential building consisting of a 4 bedrooms detached house and two (2) bedrooms boys quarters, located at 27 Kampala Street, Wuse II, Abuja, (hereinafter referred to as “the demised premises) for an initial term of two (2) years commencing from the

31st December, 2015 to 30th December, 2017, at a total rent of N13,000,000 (Thirteen Million Naira Only), paying and yielding N6,500,000 (Six Million, Five Hundred Thousand Naira Only) per annum. The sum of N6, 500,000 (Six Million, Five Hundred Thousand Naira Only) including (agency fee) paid in advance having been accepted by the landlord's agent as payment for one (1) year rent. (the receipt whereof the landlord's agent hereby acknowledge) the balance sum of N6, 500,000 payable in two separate installations subsequently”.

I further find that both EXHIBITS TL-2 AND TL-3 are clear on the date of commencement of the tenancy as 31st December, 2015. I also find that even EXHIBIT B10, which is the 2nd Defendants letter dated 6th April, 2016 addressed to the Claimant seeking for understanding to pay balance rent on a later date did not dispute the commencement date of 31st December, 2013. I so hold.

It is clear from the above that the commencement date of the tenancy is 31st December, 2015. I so hold. The Defendants therefore has a duty to abide by the terms of the tenancy agreed between the parties. In the present circumstances the onus has shifted to the

Defendants to show the existence of any other agreement reached between the parties indicating another commencement date for the tenancy. It is only where the Defendants have successfully discharged this onus that they would be exonerated of the Plaintiff's claim and I so hold.

The Defendants who did not deny that they were tenants by virtue of the tenancy agreement EXHIBIT TL-2. The Defendant also did not deny owing outstanding rents. It is obvious from the combined pleadings, that the Defendants has not deny liability and had a burden duty to prove the fact of such other agreement between the parties and I so hold.

EXHIBITTL-2, is not denied by the Defendants as tenancy agreement throughout their pleadings, its contents are very clear as to the purpose. There is nothing to suggest that the parties entered into another tenancy agreement. There is no ambiguity on the date of commencement of the tenancy. In the face of the denial of the existence of another tenancy agreement that commenced on the 26th January, 2016, the Defendants had a duty to prove such oral agreement. The law is trite that parties are bound by the terms of their written agreement and it would be unfair for a court to read into such terms on which there is no such agreement. See LAYADE V. PANALPINA WORLD TRANS. NIG. LTD (1996) 6 NWLR PT. 456 PG.

544. The law is that where a contract is in writing any agreement which seeks to vary the original agreement must in itself be in writing. See C.B.N. V. IGWILLO (2007) 14 NWLR PT. 1054 PG. 393 per Ogbuagu JSC.

I have no hesitation in coming to the conclusion that the Defendants has failed to prove the existence of another tenancy agreement between the parties that commenced on another date than 31st December, 2015, and I so hold.

By Section 133(2) of the Evidence Act, the burden shifted to the Defendants to adduce credible evidence to disprove the Claimant's evidence and establish that there exist another tenancy agreement.

In the light of the forgoing, the court is in agreement with the Claimant's counsel that Defendant failed to show existence of another tenancy agreement. The decision of the court is that from evidence before it, the tenancy commenced on the 31st December, 2015. And that, all the requisite legal notices were duly and validly served on the Defendants on the expiration of the tenancy. I so hold.

The Question that agitated my mind is whether the Claimant is entitled to the Claims in this Action?

The claims of the Claimant against the Defendants are: (1) A declaration that the continuous occupation of the demised premises

by the Defendants after expiration of the tenancy and without payment of rent is unlawful; (2) An order granting the Claimant immediate vacant possession of the demised premises i.e., House No 27, Kampala Street Wuse II, Abuja, currently being held over by the Defendants, (3) An order directing the Defendants to pay outstanding unpaid arrears of rent of N3,000,000 (Three Million Naira Only) being arrears of rent owed for the period of 1st July, 2018 to 30th December, 2018. (4) An order directing the Defendants to pay accrued men's profit calculated pro-rata at N54, 666.66 per month, from 31st December, 2018 until date of judgment of this Honourable Court. (5) The sum of N2 million being legal and professional fees. From the decision of the court above, I hold that the Claimant has proved his case and therefore is entitled to his claims.

The Claimant further claims as follows:

- (a) The sum of N2 Million Naira being legal and professional fees to Ben Jones Akpan, Esq. for filing and prosecuting this suit.

The PW1 testified that the Claimant paid the sum of N2 Million Naira to his solicitors Ben Jones Akpan, Esq. to prosecute this suit. He tendered exhibit TL-13, which is the receipt of payment of the sum of N2 Million Naira issued to him Claimant by Ben Jones Akpan Esq. evidence of PW1 was not discredited under cross examination. In the case of DIVINE IDEAS LTD V. UMORU (2007) ALL FWLR PT. 380 PG.

1468, it was held by the court of appeal that costs of action or solicitor fees are in the realm of special damages which must be specially pleaded and strictly proved.

In *INTERCONTINENTAL BANK LTD V. BRIFUNA LIMITED* (unreported) delivered by the SC on Friday 11th May, 2012 in suit No. SC.67/2004, it was held per Galadima JSC that legal fees sought to be recovered falls within the category of special damages which must always be strictly pleaded and proved.

It is my humble view from all the above legal authorities is that a claim for solicitor's fee is in the realm of special damages and where specifically pleaded and strictly proved the court may award same. The Claimant evidence that he paid N2 Million Naira as solicitor's fees to prosecute this action is not dispute. The Claimant in paragraph 20 of his statement of claim averred as follows:

“20 The Claimant avers that he paid Messrs Ben Jones Akpan, the sum of N2million being legal and professional fee for filing and prosecution of this case. Copy of receipt of payment is hereby pleaded and shall at the trial be relied upon”.

PW1's testimony on this point is as follows:

”That because of this action I had to pay the sum of N2 million to my solicitor for bringing this suit to court. Copy of receipt of payment is attached as Exhibit TL-13

EXHIBIT TL-13 is receipt of payment of N2 million issued to the Claimant as evidence of payment to Ben Jones Akpan Esq, for prosecution of the instant suit. The fact of payment of solicitor’s fee for a case that arose out of the action of the Defendant’s towards the Claimant was specifically pleaded. I find this head of claim proved, and I so hold.

In conclusion, judgment is entered in favour of the Claimant in this suit and it is hereby ordered as follows:

And it is hereby ordered as follows:-

- (a) That the continuous occupation of the demised premises by the Defendants without payment of rent is unlawful.
- (b) That the Claimant is entitled to immediate vacant possession of the demised premises; i.e., No. 27 Kampala Street, Wuse II, Abuja currently being held over by the Defendants.
- (c) That the Defendants pay the Claimant the sum of N3, 000,000 (Three Million Naira Only) being rent owed for the period of 1st July, 2018 to 30th December, 2018.

- (d) That the Defendants pay the sum of N19, 499,999.76 (Nineteen Million, Four Hundred and Ninety Nine Thousand, Nine Hundred and Ninety Nine Naira Seventy Six Kobo) accrued rent calculated pro-rata at N541, 666.66 per month.
- (e) The sum of N2 Million Naira being legal and professional fees to Ben Jones Akpan, Esq. for filing and prosecuting this suit.

On issue as to whether the Defendants has proved their counter-claim to be entitled to the reliefs sought, The Defendants claim vides their counter-claim as follows:

- a. The sum of N10,568,663.83 (Ten Million, Five Hundred and Sixty Eight Thousand, Six Hundred and Sixty Three Naira, Eighty Three Kobo) being the cost of agreed repair works undertaken by the Counter Claimants at No. 27 Kampala Street, Wuse II, Abuja.
- b. In the alternative, an order of this Honourable Court setting off the Claimant/Defendant to the Counter-Claim's demand for outstanding rent from the Counter-Claimants with the sum of money expended on the agreed repairs as contained in relief 5(a) above while the balance therefore (if any) be paid by the Defendant to the Counter-Claim to the Counter-Claimant.

It is trite that for all intent and purposes, a counter-claim is a separate, independent and distinct action and the counter –Claimant, like all other Plaintiffs in an action must prove his claim against the

person counter-claimed against before he can obtain judgment in the counter-claim. See JERIC (NIG) PLC V. UBN PLC 92000) 15 NWLR PT. 691 PG. 447. It follows that the instant Defendants have a burden duty to prove that they are entitled to the reliefs claimed in their counter-claim by cogent and credible evidence.

The Defendants case is that they had an agreement with the Claimant wherein they spent the sum of N10, 568,663.83 to repair the demised premises and that they are entitled to same, or in the alternative, that the Defendant counter-claimant be set-off from the Claimant's claim for outstanding rent. The Defendants Dw2 tendered receipts which were admitted in evidence.

The Claimant denied the Defendants counter-claim. He denied ever agreeing with the Defendant to repair the demised premises for the sum of N10, 568,663.83 or any other amount. He said wrote to the Defendant counter-claimant that whatever improvement on the demised premises was to satisfy the need and taste of the Defendants counter-claimant EXHIBIT TL-14 is the Claimant's reply to the Defendant counter-claimant's letter of 6th April, 2016 EXHIBITTL-14 states that:

".....On the issue of renovation, while our client will appreciate the improvement on the interior of the property to satisfy your need and taste..... Please

refer to us for any structural alternation and obtain our consent in writing before embarking on any such structural alternation. Please note again that all costs incurred during the said repairs are personal and non-transferable to rent”

Learned counsel to the Defendant counter-claimant in his written address submitted that the Defendants has proved their counter-claim and therefore outright to the reliefs sought therein.

Learned counsel to the Claimant on his part submitted that the Defendants have failed to prove their counter-claim and urged me to so hold. He urge me to hold that the receipts relied upon by the Defendants are forged and dismiss the Defendants counter-claim.

I have gone through the pleadings of the Defendant counter-claimant and the defence of the Claimant to the counter-claim. I am of the view that the relevant paragraphs of the Claimant’s defence to the Defendants counter-claim are paragraphs 2, 3, 4, 6 and 7 to the counter-claim respectively. It is significant to note that the Defendant counter-claimant did not file any reply to the Claimant’s defence.

The Claimant in paragraph 2, 3, 4 and 6 respectively averred thus:

“2 In further denial of paragraphs 1, 2 and 3 of the Counter-Claim, the Claimant/Defendant states that at

no point did the Claimant/ Defendant agreed with nor granted any form of approval to Defendants/Counter-Claimants to used their personal funds and carry out any repair on the property to the tune of N10, 568,663.83 (Ten Million, Five Hundred and Sixty Eight Thousand, Six Hundred and Sixty Three Naira, Eighty Three Kobo) or any other amount. Indeed the Counter-Claimant did not carry out any form of repair as the demised property was in a perfect habitable condition and no single repair was required. The reference to repairs in the Claimant/Defendant letter of 22nd January, 2016, was for the Counter-Claimants to bring in tenants fixtures and interior decorations. No mention was made of the sum of N10, 568,663.83 or any amount.

“3 Further to paragraph 2 above, and in further answer to paragraphs 1, 2 and 3 of the Defendants Counter-Claim, the Claimant/Defendant states that when the 1st Defendant/Counter-Claimant failed and neglected to pay the balance rent the 2nd Defendant

Counter-Claimant in a letter dated 6th April, 2016, requested for extension of time to another four (4) weeks, and the Claimant/Defendant in a reply letter dated 7th April, 2016 declined to grant the request and stated clearly defined repairs as “improvement on the interior of the property by the Defendants Counter-Claimants was to satisfy the Defendants/Counter-Claimant’s need and taste. The letter further asked the Defendants/Counter- Claimants to first seek and obtain the Claimant’s written consent before embarking on any form of repair or structural alteration”. The Claimant shall at the trial rely on the Defendants Counter-Claimant’s letter of 6th April, 2016 and the Claimant/Defendant’s letter of 7 April, 2016.

“4 In further answer to paragraphs 1, 2 and 3 of the Defendants Counter-Claim, the Claimant/Defendant contend that it was obviously ironical if not unthinkable, for the Defendants/Counter-Claimants who could not afford rent at the commencement of

tenancy or even pay balance rent of N3,000,000 (Three Million Naira Only) for well over four (4) months, and were seeking extension of time for another four weeks, to now turn around and began claiming to have expended as much as N10,568,663.83 (Ten Million, Five Hundred and Sixty Eight Thousand, Six Hundred and Sixty Three Naira, Eighty Three Kobo) on “repairs” and without the written consent of the Claimant

“6 In further answer to paragraph 4 of the Counter-Claim, the Claimant/Defendant states that the Counter-Claimant has never sought for nor obtain any written consent from the Claimant/Defendant to effect any form of repair. The Claimant/Defendant shall at the trial contend that attempts by the Counter-Claimants to set up the frivolous issue of spending N10, 568,663.83 (Ten Million, Five Hundred and Sixty Eight Thousand, Six Hundred and Sixty Three Naira Eighty Three Kobo) repairs is part of the 1st Defendant/Counter-Claimant’s malicious schemes

and wicked designs to hold unto the property of the Landlord without payment of rent.

In my view, the Defendants who claim to have spent N10, 568,663.83 has a duty to file further evidence in reply to the Claimant's defence to their counter-claim. The Claimant was consistent in his denial. His evidence is that he had no agreement with the Defendant to repair the demised premises for the sum of N10, 568,663.83 or any other amount.

In my view, the Defendant counter-claimant have failed to adduce evidence to prove the existence of an agreement with the Claimant that enabled the Defendants spend a whopping sum of N10,568,663.83 as repairs and I so hold.

In the final analysis, the Defendant counter-claim fails and it is dismissed.

APPEARANCE:

Ben Jones Akpan, Esq. for the Claimant

Oladele Gbadeyan, Esq. for the Defendant /Counter Claimant with me

Abiola Anansiola, Esq.

Sign
Hon. Judge
17/12/2021