IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
HOLDEN AT ABUJA
ON TUESDAY 7TH DECEMBER, 2021
BEFORE HIS LORDSHIP: HON. JUSTICE O. A. ADENIYI
SITTING AT COURT NO. 8 MAITAMA, ABUJA

SUIT NO: CV/3220/2017

BETWEEN:

CHIEF GODWIN OBLA, SAN
(Poviding Legal Services Under the Name and Style of OBLA & COMPANY) } CLAIMANT

AND

ECONOMIC AND FINANCIAL CRIMES COMMISSION .. .. .. DEFENDANT

JUDGMENT

The Claimant is a Senior Advocate of Nigeria and the Principal Partner in the registered law firm of ***Obla and Company.*** The crux of his claim is that at various times between 2008 and 2015, both prior to and after his elevation to the Inner Bar as a Senior Advocate of Nigeria, the Defendant engaged him as one of her external solicitors to prosecute some of her anti-graft

cases against persons alleged to have been involved in economic and financial crimes, and to also defend her in cases where she was sued; which cases in all numbered over **forty (40)**.

According to the Claimant, he diligently and effectively led the prosecution of these actions, in which he successfully obtained several Judgments, Rulings and Orders for the Defendant, including a substantial number of interim and final forfeiture orders, prominent amongst which is the recovery of ***Brifina Hotels Ltd.*** valued at **₦1.2 billion (One Billion, Two Hundred Million Naira)** only, at the material time.

The case of the Claimant is further that sometime in 2016, the Defendant formally disengaged his professional services, following after which he wrote to the Defendant to demand for settlement of his outstanding legal fees and expenses which debt the

Defendant failed to settle, despite reminders sent to her by the Claimant.

Being aggrieved by the Defendant's alleged continued refusal to pay his professional and other fees, the Claimant commenced the instant suit by **Writ of Summons and Statement of Claim** filed in this Court on 19/10/2017; and by his operative **Amended Statement of Claim** filed with leave of Court on 27/10/2020, he claimed against the Defendant the substantive reliefs set out as follows:

1. ***An order directing the defendant to pay to the plaintiff the sum of ₦685,389,928.10 (Six Hundred and Eighty-Five Million, Three Hundred and Eighty-Nine Thousand, Nine Hundred and Twenty-Eight Naira and Ten Kobo) and $202,460.47 (Two Hundred and Two Thousand, Four Hundred and Sixty Dollars and Forty-Seven Cents) or its Naira equivalent at the prevailing Central Bank of Nigeria exchange rate, being professional fees for legal services rendered by the***

Plaintiff to the Defendant at sundry times at/on the Defendant's request.

2. ***An order compelling the Defendant to pay to the Plaintiff 10% of the current value of Brifina Hotels Ltd. in the sum of ₦130,000,000 (One Hundred and Thirty Million Naira) only which was forfeited to the Federal Government and in respect of which the Plaintiff obtained orders of interim and final forfeiture on behalf of the Defendant, which is assessed and valued by the Defendant at ₦1,300,000,000 (One Billion, Three Hundred Million Naira) only.***

3. ***An order directing the defendant to pay to the plaintiff the cost of this Suit assessed at ₦10,000,000 (Ten Million Naira).***

4. ***An order directing the Defendant to pay to the Plaintiff pre-judgment interest on the sums of ₦685,389,928.10 and $202,460.47 respectively at the prevailing Central Bank of Nigeria (CBN) prime***

lending rate of 16.77% from 16th April 2016 until the date of filing this suit.

5. ***An order directing the Defendant to pay interest on the judgment sum at the prevailing Central Bank of Nigeria (CBN) prime lending rate from date of judgment until final liquidation.***

The Defendant joined issues with the Claimant and contested his claim by filling her Statement of Defence on 30/04/2018. Whilst the Defendant conceded that the Claimant was retained to handle a number of cases for her, she however denied owing him the amount claimed as professional fees and out of pocket expenses; and that it was not the agreement of parties that payment of fees for forfeited assets and shares was to be based on a percentage of the value of the assets or shares recovered; and that she paid the Claimant for the cases he was retained to handle for the Defendant upon his achieving agreed milestones.

The Defendant further contended that upon terminating the Claimant's services and receiving the Claimant's claims for unpaid fees, she invited him for reconciliation, which invitation he refused to honour; but rather instituted the present action.

The Claimant thereafter filed Reply to the Defendant's Statement of Defence on 11/06/2018.

At the plenary trial, the Claimant testified in person and called no other witness. After adopting his *Statements on Oath*, he tendered in evidence a total of **sixty-three (63)** set of documents as exhibits to establish his claim. He was subjected to cross-examination by learned counsel for the Defendant.

The Defendant in turn called a sole witness, by name **Chile Okoroma**, the Director of Legal and Prosecution Department, in the employment of the Defendant at the material time. Upon adopting his *Statement on Oath*, he in turn tendered **six (6)** sets of documents in evidence

as exhibits in further support of the Defendant's case. He was also duly cross-examined by the Claimant's learned senior counsel.

At the close of plenary trial, parties proceeded to file and exchange their written final addresses in the manner prescribed by the **Rules** of this Court.

The Defendant filed her final written address on 20/01/2021 wherein her learned counsel, **Sir Steve Odiase,** formulated a sole issue as having arisen for determination in this suit; to wit:

> ***Whether the Plaintiff has proved his case on the strength of the evidence led.***

The Claimant in turn filed his final written address on 12/01/2021, wherein his learned senior counsel**, Dr. J. Y. Musa, SAN,** also distilled a sole issue for determination in the suit, namely:

> ***Whether by the entirety of the pleadings and evidence placed before this honourable Court, the Plaintiff has***

proved his claim as contained in the Amended Statement of Claim dated 27th October 2020 as ordered by leave of Court on the 13th day of November 2020 and is thereby entitled to the grant of the reliefs sought.

The Court opts to adopt the issue formulated by the Claimant's learned senior counsel, which is similar to that formulated by the Defendant's learned counsel, in determining this suit. Suffice to add that I had taken due benefits of the totality of the arguments canvassed by the respective learned counsel in their respective written addresses, which I need not recapitulate any more. I shall however endeavour to make reference to specific aspects of learned counsel's arguments as I deem needful in the course of this judgment.

RESOLUTION OF ISSUES

ON INSTRUCTIONS TO ACT:

I should not suppose that the Defendant seriously contested the Claimant's claim that she engaged and instructed his law firm to undertake many litigation cases for the Commission at the material time. The **DW1** had testified on the one hand in _paragraph 5_ of his *Statement on Oath* that it was only on two occasions that the Defendant issued letters of instructions to the Claimant to represent her. He tendered in evidence **Exhibit D1** – letter of instruction written by the Defendant to the Claimant on July 30, 2010 to defend _*Suit No. PHC/1171/2008: MAGNUS NGEI Vs. EFCC*_, as evidence of an isolated circumstance where the Defendant formally briefed the Claimant to represent her.

However, the **DW1**, in his deposition in _paragraph 17_ of his *Statement on Oath*, made reference to the Claimant's letter of 26th November, 2010, by which the Claimant forwarded a Bill of Charges for sixteen (16) cases he was handling for the Defendant at that time

and the Defendant's Internal Memo dated December 20, 2010, by which the Defendant approved payment of the sum of **₦28,750,000.00** as payment due to the Claimant on these cases. The two documents were admitted as **Exhibits D2** and **D2A** respectively.

I note that the Memo, **Exhibit D2A,** in particular, was endorsed by the **DW1** in person, recommending payments to the Claimant for the cases referred to in the Memo.

Apart from the letter, **Exhibit D2** and the Memo, **Exhibit D2A,** evidence of other instances in which the Defendant engaged the services of the Claimant without any formality are replete on the record. I refer to **Exhibits C1-C28,** which are certified true copies of Court processes filed by the Claimant in the cases he claimed to have handled for the Defendant at the material time. I also refer to the bundle of documents, **Exhibit C59,** which contains copies of letters written by

the Claimant to the Defendant by which he formally gave updates of cases being handled by him at the material time.

Again, under cross-examination by the Claimant's learned senior counsel, the **DW1** admitted as much when he stated as follows:

> ***"It is correct that apart from the cases for which we issued specific letters of instructions to the Claimant, I am aware that the then Chairman, Farida Waziri, invited the Claimant and briefed him directly on some cases."***

Evidence on record therefore firmly established that in most circumstances, the Defendant indeed referred cases to the Claimant without any formal instructions and that both parties followed this established pattern of engagement for the duration of their relationship. I so hold.

<u>ON AGREEMENT FOR FEES PAYABLE</u>:

The case of the Claimant is that the understanding he had with the Defendant is that his professional fees for each case assigned to him was between the sums of **₦10,000,000.00** and **₦20,000,000.00**, depending on the status of the Claimant at the material time and in accordance with the Defendant's standard practice.

The Claimant's case is further that it was mutually agreed between the parties that for every recovery/forfeiture secured by the Claimant by an order of interim or final forfeiture, that the Claimant would be entitled to **10%** of the value of the recovered sums. The case of the Claimant is further that for assets recovered pursuant to forfeiture actions (including shares and real property), that the Claimant shall be paid amounts representing **10%** of the total value of the recovered assets.

To support his claim, the Claimant tendered in evidence as **Exhibit C63**, a letter he wrote to the Defendant on

14th April, 2014, pursuant to his being debriefed by the Defendant on 14th March, 2016, by letter **Exhibit C62.** Attached to the said letter is the Claimant's Bill of outstanding Charges, by which he detailed **29 (Twenty Nine)** matters he claimed to have handled for the Defendant and the sums of money he claimed as fees on each case, all totalling the sum of **₦685,389,928.75** and the sum of **$202,460.47**.

The case of the Claimant is further that upon his efforts, the property known as **Brifina Hotels**, located at Plot 1106, Durumi, Area 1, Abuja was recovered vide forfeiture order he obtained at the Federal High Court in 2011; and that the property was currently valued at **₦1.3 Billion**, thereby entitling him to the sum of **₦130,000,000.00**, being **10%** of the value of the property.

The Claimant wrote another letter to the Defendant, dated 27 February, 2017, admitted as **Exhibit C61**, to further demand for payment of his professional fees.

In the said letter, **Exhibit C61**, written in furtherance of his earlier letter of 14th April, 2016, **Exhibit C63**, the Claimant further stated as follows:

> ***"Kindly recall that our remuneration in respect of the following cases as agreed in your office on the 10th day of June, 2013, is 10% of the value of the recovered and forfeited assets…"***

The Defendants denied the Claimants' claim as to the agreed fees claimed as payable on each of the cases the Claimant detailed in **Exhibits C63** and **C61** respectively. The **DW1** testified in *paragraph 14* of his *Statement on Oath* as follows:

> ***"14. That the Defendant and the Plaintiff had at no time agreed to additional professional fees, out-of-pocket expenses and 10% of value of whatever***

sum/property or shares recovered in the course of discharging his professional services."

In order to support his evidence in <u>*paragraphs 14 and 15*</u> of his *Statement on Oath*, the **DW1** tendered in evidence as **Exhibit D3**, letter written by the Claimant on 2nd August, 2011, by which he requested for fees of the sum of **₦10,000,000.00** for securing freezing orders on cash sum of **₦1.3 Billion** and assets worth **₦2 Billion** in <u>*Suit No. FHC/CS/607/2011 – EX PARTE FREEZING AND SEIZING ORDER AGAINST DR. SHUAIBU & 34 OTHERS*</u>.

The **DW1** further tendered in evidence, **Exhibit D3A**, which is the Defendant's response to the Claimant's letter, **Exhibit D3**, by which it was recommended that the Claimant be paid the sum of **₦4,000,000.00**, only, in line with guidelines on payment of professional fees.

I had examined the totality of the documents tendered in evidence by the Claimant, particularly the bundle of

two hundred and nineteen (219) letters tendered as **Exhibits C59** and **C60** respectively. These were letters by which the Claimant updated the Defendant with the status of the various cases he handled for her at various stages of litigation. However, the Claimant is unable to tender any document that contained the Defendant's agreement with him that he shall be paid the sums enumerated in his Bill of Charges, **Exhibits C63** and **C61** respectively, constituting professional fee; out-of-pocket expenses and **10%** of the value of assets and properties recovered on behalf of the Defendant as a result of forfeiture actions. The Claimant's oral testimony is that he, with full knowledge of the Defendant incurred out-of-pocket expenses; and that the Defendant fully agreed and understood that the Claimant's professional fees per assignment would be between the sums of **₦10,000,000.00** and **₦20,000,000.00** depending on the status of the

Claimant at the material time and in accordance with the Defendant's standard practice.

Whilst answering questions under cross-examination by the Defendant's learned counsel, the Claimant further testified as follows:

> ***"It is correct that I claim 10% of properties forfeited. My professional fees take the pattern of trade practice. The Defendant did not specifically have an agreement with me to pay me 10%. I rely on trade practice of legal practitioners in making claims for 10% of forfeited properties that obtained for the Defendant. There was no written agreement between the Defendant and I to claim other fees apart from my professional fees. In terms of criminal prosecutions, I was entitled to ₦20,000,000.00 per case as agreed with the Defendant's Chairman at the material time. Non-SANs were entitled to ₦10,000,000.00 and SANs were entitled to ₦20,000,000.00.... There was no written agreement between the Defendant and I as to the amount to be***

paid to me for recoveries made in civil proceedings; so I had to rely on trade practice."

The sum total of the testimony of the Claimant on the issue of payment of fees for professional services rendered to the Defendant at the material time is therefore that there was no written agreement between the parties as to the amount of fees to be charged per case, apart from the understanding had with the Chairman of the Defendant; and that with respect to fees to be charged on forfeited assets, he relied on trade practice of legal practitioners to charge **10%** of the value of the recovered assets.

Now, in the Bill of Charges, **Exhibit C63,** the Claimant had claimed the sum of **₦120,000,000.00** as fees, representing **10%** of the value of **Brifina Hotel,** purportedly valued at **₦1,200,000,000.00 (One Billion, Two Hundred Million Naira)** only, pursuant to

final forfeiture order secured with respect of the property.

However, under cross-examination by the Defendant's learned counsel, he had this much to say on the same issue:

> ***"It is correct that I received the sum of ₦4,000,000.00 as fees for interim forfeiture for Brifina Hotel. As far as the interim forfeiture was concerned, the ₦4,000,000.00 paid to me was the final fees. It is correct that I demanded for ₦10,000,000.00 for the interim forfeiture and I was paid ₦4,000,000.00. .... I am not aware of any clear cut policy of the Defendant with respect to civil cases."***

This evidence was equally corroborated by the DW1 under cross-examination by learned senior counsel for the Claimant.

In order to establish the pattern followed by the Defendant in remunerating the Claimant for matters

handled on her behalf, the **DW1** tendered the Document, **Exhibit D2A,** which gave an insight thereon. The document is a Memo prepared by the **DW1** in response to the Claimant's request for settlement of professional charges with respect to certain number of cases handled for the Defendant in 2010. The Memo states in part as follows:

> ***"According to the Commission's schedule of fees the fee for principal case that gave rise to all others in this matter is between ₦10 million to ₦15 million. Taking into consideration the complex nature of the case, the number of accused persons, and the splinter cases that emanated from the principal case, it is recommended that the Commission pays a total sum of ₦15,000,000.00 (Fifteen Million Naira)."***

It is also seen, from the said **Exhibit D2A,** that the Defendant considered the nature and complexity of each case in recommending payment of fees to the Claimant and did not pay beyond the sum of

₦4,000,000.00 for each case and only recommended payment of the sum of **₦10,000,000.00** only in one instance in view of the complexity of the case.

The **DW1** again tendered the Claimant's letter of demand for professional fees, **Exhibit D3**, by which he requested for fees of **₦10,000,000.00** for securing freezing order for assets worth **₦1.3 Billion** in cash and properties. It is noted that in this instance, the Claimant did not claim **10%** of the total value of the recovered assets, purporting to worth the sum of **₦1.3 Billion**.

The **DW1** further tendered his Memo, **Exhibit D3A**, by which the recovery of assets case is categorized under the uncomplicated cases and on that basis recommended payment of the sum of **₦4,000,000.00** to the Claimant.

The **DW1** again tendered **Exhibits D5** and **D5A,** which were Bills for outstanding fees presented by the

Claimant to the Defendant in 2014 and the **DW1's** Memo, recommending payments on the basis of the assessment of the nature of each case.

In his evidence, at *paragraph 24* of his *Statement on Oath*, the **DW1** testified that Defendant does not owe the Claimant the professional fees attached to his claim as payments were made to him severally and he acknowledged same as fees for professional services without any protest.

What is clear to me, from the evidence on record, as analyzed in the foregoing, is that by established pattern, there is no instance in which the Defendant paid the Claimant the entire amount of bill presented for every case with respect to which bills were presented. The Defendant always had the final say and there is no evidence on record that the Claimant ever complained of the slashing of the bills he

presented to the Defendant at every occasion. I so hold.

In some instances, cases presented by the Claimant as distinct suits were lumped as splinters of a major suit in the assessment and payment of fees by the Defendant. All of these facts were established in **Exhibits D2, D3** and **D5** series tendered in evidence by the **DW1**.

Now, with respect to the Claimant's claim from his Bill of Charges, **Exhibit C63**, three issues arise. The first is whether or not the Claimant established that indeed there were **twenty nine (29)** cases with respect to which he is entitled to fees from the Defendant? If, so, is the Claimant entitled to the sums claimed on each of the cases? And lastly, is the Claimant entitled to claim of **10%** of value of assets recovered as also tabulated in **Exhibit C63**?

On the first issue, the Defendant did not lead any evidence to challenge the number of cases listed by the

Claimant in **Exhibit C63**, which was conveyed by a letter dated 14th April, 2016. When the Defendant failed to respond to **Exhibit C63**, the Claimant wrote the letter dated 27 February, 2017, **Exhibit C61**, by which he again re-presented the Bill of Charges to the Defendant. The Defendant again did not respond to the letter. The **DW1** merely stated in his evidence, at *paragraph 27* of his *Statement on Oath*, that when the Claimant was debriefed and returned the case files, the Defendant invited him for reconciliation which invitation he never honoured. Apart from this oral evidence, there is other corroborative evidence of invitation extended to the Claimant for reconciliation or in what manner the said invitation was communicated to the Claimant.

In the absence of any evidence to the contrary, I accept the tabulation contained in **Exhibit C63** as representing the number of cases handled by the

Claimant for the Defendant with respect to which he is entitled to be paid professional fees.

Now, the most crucial question is the issue of quantum. Did the Claimant establish that he is entitled to be paid the sums claimed against the cases listed in **Exhibit C63**, in the absence of any specific or clear cut agreement as to the scale of fees?

The position of the law is that there are two key elements that must be present in order for a legal practitioner to claim professional fees for work done. Even if there was instruction to act, but no clear agreement as to fees, the Claimant is duty bound to comply with the provision of **s. 16(2)** of the **Legal Practitioners' Act**, which provides that where a legal practitioner opts for court action in order to recover professional fees from a client, he has to, before commencing the action, fulfill two essential conditions, namely:

i. That he must prepare a bill for the charges containing particulars of the principal items included in the bill and signed by him, or in the case of a firm, cause the bill to be served on the client personally or left for him at his last address as known to him or sent by post addressed to the client at that address; and

ii. He must allow for a period of one month beginning with the date of delivery of the bill to elapse or expire.

See also _Oyo Vs. Mercantile Bank (Nigeria) Limited_ *[1989] 3 NWLR (Pt. 108) 213 @ 223.*

The Claimant clearly complied with these conditions precedent which entitled him to commence the present action. **Exhibits C63** and **C61** respectively were Bills of Charges he submitted to the Defendant repeatedly, receipt of which the Defendant did not deny. The suit was also instituted on 19/10/2017, well over one

month after the Claimant submitted **Exhibits C63** and **C61** to the Defendant.

Decided authorities are also replete as to what constitutes principal item that a bill of charges should contain, as required by **s. 16(2)(a)** of the **LPA**. See *Oyekanmi Vs. NEPA [2000] 15 NWLR [Pt. 690] 414 [also reported in [2001] FWLR (Pt. 34) 404]; Akingbehin Vs. Thompson [2008] 6 NWLR (Pt. 1083) 270.*

In the present case, I had also critically examined the details of the bills separately prepared with respect to each of the cases in issue, in the light of the guidance provided by the authorities cited in the foregoing. I am well satisfied that the bills were sufficiently explicit to have captured the principal items as required by **s. 16(2)(a)** of the **LPA**.

Now, with respect to the quantum of fees, the evidence of the Claimant, as already captured in the foregoing,

is that he had an understanding with the Defendant that his professional fees was between **₦10,000,000.00** and **₦20,000,000.00**, depending on his status at the material time when the cases were referred to him; and that every case assigned to him after he was elevated to the Rank of Senior Advocate of Nigeria (SAN), in 2013, commanded fees of **₦20,000,000.00**.

Now, apart from this piece of oral evidence, the Claimant did not lead evidence to substantiate the said understanding he had with the Defendant on the purported agreed fees. At least no document is tendered in that regard as correctly submitted by the Defendant's learned counsel.

If on the other hand the understanding is oral as the Claimant seemed to have suggested, the settled position of the law is that an agreement could be entered into orally, so long as the party alleging it

adduces concrete evidence to substantiate the agreement. See _Odutola Vs. Papersack (Nigeria) Limited_ *[2006] 18 NWLR (Pt. 1012) 470.*

In the present case, the Claimant has not placed any concrete or cogent evidence before the Court to establish his claim as to the quantum of fees the Defendant agreed to pay him for cases referred to him; if indeed there was any such agreement. I so hold.

Furthermore, there is also no evidence before the Court that the Defendant agreed to pay the Claimant out-of-pocket expenses as a distinct aspect of his fees, from his professional fees.

The Claimant has also claimed that the Defendant agreed to pay him an amount representing **10%** of the total value of assets, either as cash, shares or fixed properties, which were subject of final forfeiture orders. As also correctly submitted by the Defendant's

learned counsel; the Claimant failed to support these claims with documentary or cogent evidence.

Rather, the **DW1** tendered documents to show that the Defendant pay the Claim random fees, depending on the nature and complexity of each case and at no time was he paid any amount exceeding the sum of **₦15,000,000.00**, as fees for any case, no matter the nature of the case. The documents, **Exhibits D2, D3** and **D5** series established the random pattern of fees paid by the Defendant to the Claimant.

Nevertheless, the fact that it is held that the Claimant did not establish a clear cut agreement for fees on which his claim is predicated is not the end of his case. In so far as it is established on record; and indeed it is; that the Claimant rendered legal services to the Defendant for which he is entitled to be remunerated; he must be remunerated.

Now, the general principle, with respect of payment of solicitor's fees is that a legal practitioner can either be paid in advance upon named fees or rely on the terms of any agreement reached for his fees. However, if he has not received his fees and no agreement was reached as to what they would be, he must submit his bill of charges. See *Oyo Vs. Mercantile Bank (Nig.) Ltd.* *(supra)*; *FBN Plc. Vs. Ndoma-Egba [2006] All FWLR (Pt. 307) 1012*; *Guaranty Trust Bank Plc. Vs. Udoka Anyanwu, Esq. [2011] LPELR 4220 (CA)*.

All the relevant authorities are further united on the established position that reasonable remuneration must be given for the actual work or services rendered by a claimant on *quantum meruit* (which is the Latin expression for ***"as much as he deserved."***). See also the Supreme Court decision of *Savannah Bank of Nigeria Plc. Vs. Opanubi [2004] 15 NWLR (Pt. 896) 437 [also reported in [2004] All FWLR (Pt. 222) 1587]*.

The principle of law relating to *quantum meruit*, which is applicable in the circumstances of this case, was again explained by the Supreme Court in Olaopa Vs. O. A. U, Ile-Ife *[1997] 7 NWLR (Pt. 512)* 214, where it was held as follows:

> ***"A party to an entire contract partly performed by him and was, by the act of the other party, prevented from proceeding further with performance, the law entitles him to be paid for the fruits of the labour he has already rendered. In situation like this, two alternative remedies are open to him:-***
>
> ***(a) damages for breach of contract;***
>
> ***(b) reasonable remuneration in quantum meruit for the work already done."***

The position of the law is further that a party who builds a case on breach of contract based on *quantum meruit* must prove by evidence the reasonable value of services rendered by him, arising from the contract; in

order to prevent unjust enrichment against the Defendant.

In the present case, it is on record that it was the Defendant, by the letter, **Exhibit C62**, that terminated the Claimant's engagement with respect to all cases referred to him at the material time. It is also well established that there was no clear cut agreement between the parties as to the amount of professional fees the Claimant is entitled to on the cases handled for the Defendant. As such, the state of the evidence on record makes it imperative for the Court to adopt the principle of *quantum meruit* in determining the amount of fees the Claimant is fairly, reasonably and justly entitled to with respect to the cases on which he had submitted bill of charges to the Defendant. I so hold.

I have also taken account of the submissions of the Claimant's learned senior counsel, that the Defendant did not impeach the case of the Claimant, with the aid

of graphic tables, relating to the particulars of the legal services rendered by the Claimant for the Defendant and the outstanding professional fees payable, including out-of-pocket expenses.

As I had also found in the foregoing, it is factually correct that the Defendant did not in any way react to or challenge any of the items of claim captured in **Exhibits C63** and **C61** sent to her by the Claimant, containing the bills of charges; other than stating that the Claimant is not entitled to the reliefs he has claimed in this suit. On this basis, the Claimant's learned senior counsel had contended that the Claimant is entitled to his Claim as endorsed.

But then, even as it is found that the Defendant failed to challenge the bills submitted by the Claimant, the subject of the issue at hand, the correct position, particularly in a situation where it is established that there was no clear agreement between the parties for

the amount of fees to be charged; thereby rendering the principle of *quantum meruit* to be applicable; is not for the Court to accept the bill put up by the claimant hook, line and sinker, and give a judgment thereupon; the Court is still under a duty to critically examine the bill in other to arrive at a decision as to what is fair and reasonable fees to which the claimant might be entitled in the totality of the circumstances of the case.

A proper guide in assessing what is due to a claimant in a situation as the one at hand in the present case was explicitly set out by the Supreme Court in <u>*Savannah Bank of Nigeria Plc. Vs. Opanubi*</u> *(supra)*, where it was held, *per* **Uwaifo, JSC**, as follows:

> ***"In the same manner, other professionals or indeed other persons or bodies rendering services which may need to be assessed for compensation on a quantum meruit would be required to particularize their claim or at any rate, give helpful information for fair assessment. As already indicated, it is on the basis of such particulars or***

information that a trial judge may be expected to reach a decision as to what is reasonable or fair remuneration for the work done. I have looked at random for an example and it seems to me I can, with profit, present the way Barry, J. went about it on the particulars submitted to him in William Lacey (Hounslow) Ltd. Vs. Davis [1957] 1 WLR 932, to make a quantum meruit award when he said at page 940:

> *'As to amount, I have considered the plaintiff's charges as set out in the schedule with some care. On the rather scanty information available to me, I have come to the conclusion that while some of the items may well be undercharged, certain of the larger items cannot be fully justified. The plaintiffs are entitled to a fair remuneration for work which they have done, but they cannot, in my view, quantify their charges by reference to professional scales. Doing the best I can, I think the plaintiffs would be fairly recompensed if I deduct 100 pounds from the amount claimed, leaving a balance of 250 pounds, 13 shillings, 5 pence.'*

It will be seen that the plaintiffs in that case itemized the different aspects of the services rendered, giving some idea of what was involved in each item, and then indicated an amount against each item. Upon the available information, the trial judge was able to exercise his judicial discretion to make what he considered a reasonable remuneration.”

Flowing from the decision in this case, it is seen that whether or not a defendant challenges the bill itemized by a claimant in his bill of charges, the Court is still entitled to examine the same and on the basis of all available parameters as shown on the record, fix an amount he considers as appropriate and reasonable remuneration for the claimant in the circumstances. In other words, the Court is entitled to exercise its discretion, on the basis of the evidence on record, in determining a claimant’s entitlement on a claim based on *quantum meruit*.

Now, I note that the Claimant has set out separate heads of claims, for instance, for consultation; attendance of meetings, assembling, preparing and filing of documents and processes, constitution of legal team, writing of letters, etc; in calculating his total legal fees for each of the cases listed in **Exhibit C63**. I also note that based on these parametres, the minimum fee charged by the Claimant is the sum of **₦10,000,000.00**; and the maximum he charged is the sum of **₦20,000,000.00**.

I must note that upon established evidence on record, there is no clear cut agreement between the parties for the Claimant to be paid fees for out-of-pocket expenses and other itemized sundry charges for which the Claimant claimed specific amounts. In the circumstances, the decision of the Court, on the basis of the application of *quantum meruit*, is that it will fair, reasonable and just, considering the nature of the cases, the amount of work done, and the totality of the

circumstances of this case, to award the flat sum of **₦5,000,000,00** with respect cases **Nos. 1, 4, 7, 8, 10, 11, 12, 13, 14, 18, 19, 21, 22, 26, 27** (totaling the sum of **₦75,000,000.00** only), in which the Claimant has claimed sums of **₦10,000,000.00** or fractions in excess thereof as fees.

With respect to each of the others cases listed in **Nos. 2, 3, 6, 9, 15, 16, 17, 20, 23, 24 and 25** in which the Claimant claimed each sum of **₦21,000,000.00**, I hereby award the flat sum of **₦10,000,000.00** each (totaling the sum of **₦110,000,000.00** only).

With respect to the bill for the sum of **₦120,000,000.00** representing **10%** of the value of **Brifina Hotels Ltd.**, also captured in **Exhibit C63,** I had earlier on held that there is no evidence of agreement between the parties for the Claimant to charge or be entitled to fees in percentage of the value of assets recovered. I had earlier referred to **Exhibit D3,** by

which the Claimant submitted a flat bill of **₦10,000,000.00** to the Defendant, on 2nd August, 2011, for securing interim forfeiture order with respect to the same property and other assets valued at **₦2 Billion**. The Claimant did not claim any percentage in the said letter. By the Defendant's Memo, **Exhibit D3A**, it was recommended that the Claimant be paid the sum of **₦4,000,000.00**, which he did not deny to have received.

Since the process of securing interim and final forfeiture orders with respect to the same set of assets are undertaken in the course of the same suit, and it is categorized as an uncomplicated case, I do not consider it fair and just to award any further sum to the Claimant on this head of claim.

I note that whereas the Claimant had included the sum of **₦120,000,000.00**, being **10%** of the value of **Brifina Hotels Ltd.**, in his Bill of Charges contained in

Exhibit C63, which brought the total claim, alongside bills for other cases in the bundle to the sum of **₦685,389,928.10** claimed as _relief (1)_ in his _Amended Statement of Claim_; he repeated the same claim for the sum **₦130,000,000.00** as **10%** of current value of **Brifina Hotels Ltd.**, as a separate claim again in _relief (2)_ in his _Amended Statement of Claim_. In other words, the amount claimed in _relief (2)_ is a replication of an amount already taken into account in arriving at the total amount claimed in _relief (1)_. On this basis; and having rejected the claim for **10%** of the purported value of **Brifina Hotels Ltd.**, as set out in **Exhibit C63**, I must reject and refuse _relief (2)_ of the Claimant's claim.

With respect to the Claims for the sum of **₦102,299,727.55** and the sum of **$202,460.47** purporting to represent **10%** cash assets recovered pursuant to final forfeiture orders obtained by the Claimant, I note that these recoveries formed part of the same asset recovery case in _Suit No._

FHC/ABJ/CS/607/2011 relating to **Brifina Hotels Ltd.**, of which the Claimant claimed the sum of **₦10,000,000.00** as fees from the Defendant, *vide* **Exhibit D3** and for which he was already paid the sum of **₦4,000,000.00**. On this basis, I do not consider it fair and just to further award any further amount as fees to the Claimant on this head of claim, since I had held earlier on, that the Claimant failed to establish by credible evidence, that the Defendant agreed with him to claim any amount representing **10%** of the value of the recovered assets.

In conclusion, and on the basis of the computation I undertook in the foregoing, I hold that on *quantum meruit* basis, the Claimant is entitled to the sum of **₦185,000,000.00 (One Hundred and Eighty-Five Million Naira)** only, as outstanding professional fees for legal services rendered to the Defendant, at the material period.

Apart from the principle of *quantum meruit*, which gives the Court the discretion to determine the quantum of compensation due to a claimant in a case of claim for professional fees; I am equally mindful that the Court is entitled to grant a lesser monetary relief than what is claimed in an action, insofar as it is proved by evidence on record. See the authorities of *Akinterinwa Vs. Oladunjoye* *[2000] All FWLR (Pt. 10) 1690;* *Okuilor Vs. Jite* *[2005] All FWLR (Pt. 287) 855.*

The Claimant has also claimed pre-judgment interest at the prevailing Central Bank of Nigeria (CBN) prime lending rate of **16.77%** from 16th April, 2016 until the date of judgment in this suit.

Now, the position of the law, with regards to pre-judgment interest is that where interest is being claimed as a matter of right, as in the present case, the proper practice is not only to claim entitlement to it in the Writ of Summons, but also to plead facts to show such an

entitlement in the Statement of Claim and to give evidence thereupon. In other words, it is a claim in the region of special damages which must be specifically pleaded and specially proved. Evidence called at the trial in such a case will also establish the proper rate of interest and the date from which it should begin to run – whether from the accrual of the cause of action or otherwise. See *Ekwunife Vs. Wayne West Africa Ltd. [1989] 5 NWLR (Pt. 122) 422 @ 445; UBA Plc Vs. Lawal [2008] 7 NWLR (Pt. 1087) 613.*

In the instant case, the Claimant led no iota of evidence as to how he became entitled to pre-judgment interest. No evidence was led as to how he came about the CBN prime lending rate of **16.77%**. On this basis, I hold that the Claimant has failed to justify his entitlement to the claim for pre-judgment interest.

With respect to the claim for post-judgment interest, I find it appropriate, considering the circumstances of

this case, to hold that the Claimant is entitled to an award post-judgment interest on the liquidated Judgment sum to which he is entitled hereby, in pursuance of the provisions of **Order 39 Rule 4** of the **Rules** of this Court, which gives the Court the latitude to order interest to be paid on a Judgment debt at a rate not higher than **10%** *per annum*, even where the party entitled thereto has not specifically asked for it. See *Stabilini Visioni Limited Vs. Metalum Limited [2008] 9 NWLR (Pt. 1092) 416; G. K. F. Investment Nigeria Limited Vs. NITEL Plc. [2006] All FWLR (Pt. 299) 1402.*

In the final analysis, I enter judgment partly in favour of the Claimant against the Defendant, upon terms set out as follows:

1. The Defendant is hereby ordered to pay to the Claimant forthwith, the sum of **₦185,000,000.00 (One Hundred and Eighty Five Million Naira)** only, being professional

fees for legal services rendered by the Claimant to the Defendant at sundry times at/on the Defendant's request.

2. The Defendant shall pay to the Claimant interest on the judgment sum, at the rate of **10%** per annum from the date of this judgment until the same is finally liquidated.

3. I award costs of this action, in the sum of **₦1,000,000.00**, in favour of the Claimant against the Defendant.

OLUKAYODE A. ADENIYI
(*Presiding Judge*)
07/12/2021

***Legal representation*:**

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Sir Steve Odiase – *for the Defendant*