

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

**TERRITORY**

**HOLDEN AT COURT NO. 8, MAITAMA - ABUJA**

**ON WEDNESDAY THE 13TH DAY OF MARCH 2020**

**BEFORE HIS LORDSHIP: HON JUSTICE O. ADENIYI**

**SUIT NO: FCT/HC/CV/591/2021**

**BETWEEN**

CHUKWUEMEKA OJI... ..CLAIMANT

**AND**

ADEWUMI SARA .....DEFENDANT

## **JUDGMENT**

The Claimant commenced the instant action by Writ of Summons filed under the Undefended List Procedure of this Court on 01/03/2021, whereby he claimed from the Defendant the liquidated sum of

**₦50,000,000.00 (Fifty Million Naira)** only being capital sum and accrued profit he invested in the Defendant's forex trading platform which became due and payable on 30/11/2019, but which sum the Defendant has refused to pay to him.

The Court, upon assessing the case of the Claimant, particularly the affidavit filed to support the Writ of Summons, placed the suit under the Undefended List Procedure of this Court.

Upon being served with the originating processes, the Defendant filed, out of time, but with the leave of Court, Notice of Intention to defend the suit to which an affidavit disclosing a defence is attached, contending that she has a prima facie defence to the Claimant's case.

The Claimant's case is straight-forward. Sometime in 2019, the Defendant approached him to invest in her forex trading business platform, which he did. As agreed to by both parties, the Defendant shall pay the Claimant a total sum of **₦50,000,000.00 (Fifty Million Naira)** representing the principal sum invested and accrued profit on or before **30<sup>th</sup> November, 2019**.

In furtherance of this agreement, the Defendant issued to the Claimant a Guarantee Trust Bank (GT Bank) Cheque dated 13/11/2019, for the sum of ₦50,000,000.00. Copy of the cheque is attached to the affidavit in support on **Exhibit 3**.

Furthermore, the Defendant further wrote, in longhand, a "**Letter of Undertaking**" on the same **13/11/2019**, by which she undertook to pay the Claimant by the end of **November, 2019** the sum of

**₦50,000,000.00 (Fifty Million Naira)**, accrued profit plus capital invested in forex trading under the platform.

The said letter of undertaking is attached to the affidavit in support as **Exhibit 1**.

The Claimant's case is further that on 30/11/2019, the date due for repayment of the sum the Claimant invested and the accrued profit as agreed, the Defendant called him on the phone to plead with him to give her one month's grace before proceeding to present the GT. Bank cheque issued for the sum of **₦50,000,000.00 (Fifty Million in favour of the Claimant**.

According to the Claimant, the Defendant requested for extension till **11/1/2020** before he should present the cheque, which the Claimant said to have

consented to. On the said **11/1/2020**, the Defendant failed to make do her promise but rather wrote another letter of Agreement to start liquidating the said sum of ₦50,000,000.00 (Fifty Million Naira) as from **20<sup>th</sup> January, 2020**. Copy of the said hand-written undertaken is attached to the affidavit in support as **Exhibit 2**.

The Claimant further deposed that the Defendant failed to honour her undertaking on 20/1/2020 as promised by failing to make any payment to him and that the Defendant directed him to present the cheque on **22/1/2020**, which he did; and that the cheque was returned unpaid by the Bank.

Consequently, the Claimant wrote a letter to the Defendant, through his Solicitors, to formally demand payment of the said sum of ₦50,000,000.00 (Fifty

Million Naira). Copy of the said letter dated February 18, 2020, written by **Omolara Ogunya Adetola, Esq.**, for **T. P. Tochukwu & Co.**, is attached to the affidavit in support as **Exhibit 4**.

It is on the basis of these stated facts that the Claimant had commenced the instant action under the Undefended List Procedure of this Court.

I had carefully examined the Affidavit purporting to disclose a defence on the merit filed by the Defendant.

The only tangible assertion she made was that the principal sum invested with her by the Claimant was the sum of **₦14,500,000.00 (Fourteen Million Five Hundred Naira)**. Apart from this, the Defendant did not deny writing the **Letters of Undertaking** dated **13/11/2019** and the **Letter of Agreement** dated **11/02/2020, Exhibits 1 and 2** respectively, by which

she categorically and unequivocally admitted the debt of **₦50,000,000.00 (Fifty Million Naira)** as principal sum together with accrued profit on the Claimants investment in her forex trading platform.

The Defendant did not also deny issuing the GT Bank cheque for the sum of **₦50,000,000.00 (Fifty Million Naira)** to the Claimant on 13/11/2019, to cover the debt.

The position of the law is that in an action filed under the Undefended List Procedure, where a Defendant seeks to contend the presence of a prima facie defence, unless he deposes to adequate particulars of such defence, the Court will not be obliged to transfer the matter to the General Cause List. ***See Nwankwo & Anor vs. Ecumenical Development Co-operative Society (2007) LPELR – 2108(SC).***

Again, in an action for recovery of liquidated debt placed under the Undefended List; the proposed defence of the Defendant will be predicated on substantial and bona fide grounds. Such defence must touch on the substances of the debt in its particulars, either by showing that the amount due has been paid fully, partly or the amount due requires the taking of account. ***See again Durumogo Resources Ltd. vs. Zenith Bank Plc (2016) LPELR – 404 87 (CA).***

From the depositions in the affidavit filed by the Defendant, she has failed to deny owing the debt of ₦50,000,000.00 (Fifty Million Naira). She did not also dislodge or deny issuing the promissory notes in **Exhibits 1, 2 and 3** attached to the Affidavit in support. As such, it cannot be said that the Defendant



has made out a prima facie defence in the circumstances of this case.

The **Rules** guiding the procedure under which the instant suit was commenced are designed to relieve the Courts of the rigours of pleadings and the burden of hearing evidence on sham defences *maintained* by defendants who are just determined to dribble and prolong the grant of the Claimant's reliefs, which are normally *patently clear and* unassailable as in the instant case.

In my view, the Defendant's proposed defence to the instant action can best be described as cosmetic and a sham.

In the final analysis, I hold that the affidavit filed by the Defendant on 13/10/2021 discloses no prima facie defence to the Claimant's action.

Accordingly, I hereby enter judgment in favour of the Claimant in the sum of **₦50,000,000.00 (Fifty Million Naira)** being capital sum invested in the Defendant's forex trading platform which sum was due and payable by the Defendant to the Claimant on **30/11/2019**, but which sum the Defendant failed to pay.

I further order that the Defendant shall pay the said Judgment sum of **₦50,000,000.00 (Fifty Million Naira)** to the Claimant at an interest rate of **10%** per annum from the date of this judgment until the same is finally liquidated.

I make no orders as to costs.

**OLUKAYODE A. ADENIYI**  
**(Presiding Judge)**  
**13/10/2021**

**Legal representation:**

**F. A. Ekuahorovwe (Miss)** – *for the Claimant*

**S. D. Okoro, Esq.** – *for the Defendant*