

**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/BW/CV/105/2021

BETWEEN:

IBRAHIM ATTA CLAIMANT

AND

1. ZAMTRAC MANAGEMENT & CITY INVESTMENT LIMITED
2. JOSEPH IDAKWO
3. ALIYU DASUKI DEFENDANTS

JUDGMENT

DELIVERED ON 14TH MARCH, 2022

This suit was filed via undefended list procedure dated 16th March, 2021 and filed on the 22nd March, 2021, the Claimant claims are as follows:-

1. A declaration that the 1st, 2nd and 3rd Defendants are in breach of the contract between them and the Claimant by failing to transfer the property known as House 2, Unit 2 of 5 Bedroom Luxury Terrace Duplex with Boys Quarters at No: 1 Amazon Close Maitama to the Claimant.

2. An order directing the 1st, 2nd and 3rd Defendants to pay the Claimant the sum of Fifty Two Million Naira (N52,000,000.00) being the money the Claimant pay for the said property.
3. And any other relief(s) that this Honourable Court may deem fit to grant in this circumstance.

The writ is supported by a thirty eight (38) paragraphs statement of claim, certificate of pre-action counseling, and a thirty three (33) paragraphs witness statement on oath sworn by the Claimant himself Ibrahim Atta. Annexed also are Exhibit A, B, C, D, E, F1 –F2, G, H, I – M, EM, N and Exhibit O respectively.

From the record of the court, the Defendants were served with all the processes and hearing notice, neither did they file any process nor appear in court to defend the Claims against them. Case was then adjourned 13th December, 2021.

At the returned date, the Defendants were not in court nor files any process in defence.

On the next adjourned dated which was 14th March, 2022, the Claimant's Counsel orally apply pursuant to order 35 rule 4 of the rules of this court, for the court to proceed to grant judgment in favour of the Claimant relying on the Writ of

summons and all the accompany documents filed on behalf of the Claimant.

Having stated all above, Order 35 Rule 4 provides thus:-

“Where a defendant neglects to deliver the notice of defence and an affidavit prescribed by Rule 3(1) or is not given leave to defend by the court the suit shall be heard as an undefended suit and judgment given accordingly.”

Also it is trite law that uncontroverted facts in an affidavit which are not challenged are deemed admitted. See the case of Obumseli & Anor Vs. Uwakwe (2019) LPELR – 46937 (SC) Ratio 2 pg. 1.

Without been much labored, judgment is hereby entered in favour of the Claimant as per the Claimant writ of summons filed before the court thus:-

1. It is hereby declared that the 1st, 2nd and 3rd Defendants are in breach of the contract between them and the Claimant by failing to transfer the property known as House 2, Unit 2 of 5 Bedroom Luxury Terrace Duplex with

Boys Quarters at No: 1 Amazon Close Maitama to the Claimant.

2. That the 1st, 2nd and 3rd Defendants are hereby ordered to pay the Claimant the sum of Fifty Two Million Naira (N52,000,000.00) being the money the Claimant pay for the said property.

APPEARANCE:

Musa Etubi, Esq. for the Claimant

Defendant Counsel not in court.

Sign
Hon. Judge
14/03/2022