IN THE HIGH COURT OF JUSTICE OF THE F.C.T.

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT KUBWA, ABUJA

ON FRIDAY THE 21ST DAY OF JANUARY, 2022

BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA

JUDGE

SUIT NO.: FCT/HC/CV/324/20

BETWEEN:

GREEHAVEN ETATES LIMITED --------- } CLAIMANT

AND

ADEGBOYEGA MICHAEL --------- } DEFENDANT

JUDGMENT

On the 12th day of November, 2020 the Plaintiff Greenhaven Estates Limited filed this Writ claiming the following against the Defendant – Mr. Adegboyega Michael:

1. **A Declaration** that the Defendant has breached the Terms of Tenancy Agreement entered into by the parties.

2. **A Declaration** that the Tenancy Agreement was determined by Effluxion of time.

3. **A Declaration** that the act of Defendant by his wilful refusal to pay the rent of ₦5, 000,000.00 (Five Million Naira) amounts to a breach of the Tenancy Agreement.

4. **A Declaration** that the Defendant's wilful refusal to pay Service Charge of Two Hundred Thousand Naira (₦200, 000.00) amounts to breach of the Agreement validly entered into by the parties.

5. A Declaration that the Six (6) Months and Seven (7) Days Notices to Quit and Landlord Intention to Recover Premises respectively issued to the Defendant by landlord is valid Notices in line with the said Tenancy Agreement.

6. A Declaration that the Claimant is entitled to enter and take over the said property having validly given the requisite Notices to the Defendant.

7. An Order directing the Defendant to remove the personal belongings and/or properties from the premises of the Claimant and deliver up possession to the Claimant.

8. An Order directing the Defendant to pay up the rent already accrued as a result of his failure to move out of the premises until the full and final possession by the Claimant.

9. An Order directing the Defendant to pay to the Claimant the sum of Two Million Naira (₦2, 000,000.00) as cost of the Suit.

10. 10% Post Judgment Interest from the date of Judgment until final payment of the Judgment Sum.

The Plaintiff called a Witness – PW1 who testified and tendered five (5) documents.

In summary, the Claimant claimed that upon expiration of the initial Tenancy Agreement which has a clause for renewal, the Defendant renewed same for another two (2) years from 30th September, 2018 to 29th September, 2020. That the Defendant promised to pay but has refused to do so up till the time of filing this Writ. The several oral demand to pay the said rent was made. So also written demand. But Defendant failed/refused to pay. That the rent stood at ₦5.2 Million representing the Rent of Five

Million Naira (₦5, 000,000.00) and Service Fee of Two Hundred Thousand Naira (₦200, 000.00).

That sometime after the Defendant called Plaintiff and made promise to pay Two Million Naira (₦2, 000,000.00) part payment for the Rent, but never paid same. That he refused to give up the demised premises despite services of the Statutory Notices. Hence this Suit.

The Plaintiff called a Witness – PW1 and tendered four (4) documents marked EXH 1 – 4 namely: the Tenancy Agreement with the Renewal Clause, Profile of the Defendant before he came into possession of the property, Six (6) Months Notice to Quit and Seven (7) Days Notice of Landlord Intention to Recover Premises.

All the documents tendered were not objected to by the Defendant Counsel. The PW1 was Cross-examined by the Defendant Counsel. Plaintiff Counsel closed its case and filed Final Address.

The Defendant filed a Statement of Defence and Witness Statement on Oath. But he did not call any Witness to testify on his behalf. He filed Final Address.

In the Final Address by the Plaintiff it raised an Issue for determination which is:

> **"Whether the Claimant has proved its case by Preponderance of Evidence."**

The Plaintiff Counsel contended and submitted that the Tenancy Agreement ended by Effluxion of time for the second period on the 29th September, 2020 despite Defendant's failure and neglect to pay the Rent for the

entire period from 30th September, 2018 to 29th September, 2020.

That upon the expiration of the Tenancy on 29th September, 2020 the Tenant – Michael Adegboyega became a Tenant at Sufferance. He referred and relied on the case of:

A.P Limited V. Owodunni
(1991) LPELR – 213 (SC)

He urged Court to so hold. That Defendant was personally served with the two (2) Statutory Notices as required by law. That the Plaintiff tendered the said documents as EXH 3 & 4 respectively.

That the Tenancy Agreement between the parties automatically determined at the expiration of such Notices. That PW1 testified about the service of the Notices on the Defendant personally and presented before the Court the evidence of acknowledgment of same – EXH 3 & 4. He referred to the case of:

Cobra Limited & Ors V. Omole Estate Limited
(2000) LPELR – 6809 (CA)

That Defendant failed to honour those Notices and continued to deprive the Claimant his right to possession of the demised premises since after the expiration of the said Tenancy Agreement on 29th September, 2020; and notwithstanding the service of the Seven (7) Days Notice. That Defendant also refused to pay the outstanding Rent for the two (2) years. He relied on the case of:

Splinter Nigeria Limited V. Oasis Finance Limited

(2013) 18 NWLR (PT. 1355) CA

He urged Court to hold that the Tenancy has been determined by Effluxion of time and that act of the Defendant refusing to pay the rent is a breach of the Agreement of the parties validly entered into by them.

That Defendant failed to defend the Suit. That he only did a general denial of the averment in the Statement of Claim which is not an effective way to defend a Suit. He relied on the case of:

UBN V. Chimaezie
(2014) LPELR – 22699 (SC)

That the general traverse amount to an admission. He referred to the case of:

University of Uyo V. Akpan
(2013) LPELR – 19995 (CA)

That Defendant not denying the claims of the Claimant amounts to admission of same. That Defendant not leading evidence also amount to abandoning of his Statement of Defence. That Defendant resting his case on that of the Claimant by not leading any evidence means admitting the said claims made against him by the Claimant. He referred to the following cases:

Nigeria Brewery PLC V. Ikyarkyase & Ors
(2015) LPELR – 40409 (CA)

Cameroon Airlines V. Otutuizu
(2011) LPELR – 827 (SC)

He urged Court to hold that Defendant has no defence to the Suit of the Claimant and to determine the sole Issue in Claimant's favour and grant all its Reliefs as sought.

As already stated earlier, the Defendant filed a Statement of Defence and Witness Statement on Oath. But he did not call anyone to make an oral evidence. He did not attach any document in defence of the Suit. He Cross-examined the PW1, but did not object to the four (4) documents tendered by him.

As can be deciphered from his Statement of Defence, he claimed that he was not personally served with the Statutory Notices – Six (6) Months Notice to Quit and Seven (7) Days Notice of Landlord Intention to Recover Premises. That the PW1 is not the maker of the four (4) documents he tendered. That PW1 does not know anything about the two (2) Statutory Notices. That evidence of PW1 was based on Hearsay and is therefore inadmissible in law. That the second Tenancy Agreement was not tendered before the Court. That the Exhibits are Documentary Hearsay.

In the Final Address he raised an Issue for determination which is:

> **"Whether from the evidence and facts before this Court, the Claimant has proved its case to be entitled to the Judgment of this Court."**

He submitted that Claimant has failed to establish its case and is therefore not entitled to the Judgment of this Court. That PW1 could not establish that Defendant was served the Statutory Notices personally and he did not

state the mode of service of the Notices on the Defendant. That he was not the person who served the said Notices. That Court should not admit the evidence of the PW1 and the documents tendered by him. The Defendant Counsel referred to the case of:

Abalaka V. Min. of Health
(2006) 2 NWLR (PT. 963) 105 @ 129

UTB V. Ozoemena
(2007) 3 NWLR (PT. 1022) 448

That claim by Plaintiff Counsel that service of the Notices were done personally contradict the testimony of the PW1. He urged Court to discontinuance that. He referred to the case of:

Andrew V. INEC
(2018) 9 NWLR (PT. 1625) 507 @ 565 (SC)

On the signature in the Notices, he submitted that its only the person who served the Notices that can lead evidence on that. That there are different signatures on the documents tendered. That there is no how the PW1 can ascertain which signature is that of the Defendant since he was not the maker of any of those documents even if they were signed by the Defendant.

That Court of law cannot speculate for the Claimant. He relied on the case of:

Udoh V. State
(1994) 2 NWLR (PT. 329) 672 – Per Tobi JSC as he then was

On the documents being a Documentary Hearsay, he relied to the cases of:

Ladoja V. Ajimobi
(2016) 10 NWLR (PT. 1519) 87 @ 148 – per Ogunbiyi JSC

Victor Okezie Ikpeazu V. Alex Otti & Ors
(2016) LPELR – 40055

The Defendant Counsel further submitted that the Defendant laid evidence during Cross-examination of the PW1. That Defendant elicited evidence Cross-examination and that such evidence supported the case of the Defendant. He relied on the decision in the case of:

Andrew V. INEC Supra @ 584

He urged Court to so hold.

That Defendant was not defending the case as Claimant Claims does not automatically lead to Court entering Judgment for the Claimant. That the case of the Claimant is weak and was discredited under Cross-examination. He relied on the case of:

Susainah (Trawling Vessel) & Ors V. Abogun
(2006) 7732 CA

Haruna V. Salua
(1998) 7 NWLR (PT. 559) 653 @ 659

That Claimant failed to tender the Tenancy Agreement of 2018 – 2020 but tendered the Tenancy Agreement of 2016 – 2018. That Claimant did not state the reason for not tendering the Agreement. He urged Court to so hold that

there was no Tenancy Agreement between the parties and that Court should therefore dismiss the case since there is no dispute between the parties. That Claimant cannot put anything or nothing and expect it to stand. Finally, he urged Court to dismiss the case of the Claimant.

Upon receipt of the Defendant's Final Address the Plaintiff Counsel filed a Reply on Points of Law.

On the submission that of the service of Notices in that the information was supplied to PW1 by his lawyers renders the evidence of PW1 inadmissible, Plaintiff Counsel submitted that Plaintiff is company and any service by its agent does not render the evidence especially the service of the Notices and other documents tendered inadmissible and that those documents are therefore Documentary Hearsay. He relied on the cases of:

Comet S.A. Nigeria Limited V. Babbit Nigeria Limited (2007) 7 NWLR (PT. 712) 442 @ 452

Chemiron International Ltd. V. Stablini Visiooni Ltd. (2018) LPELR – 44353 (SC)

That though PW1 was not the person who served the said Notices yet he is competent to testify and tender the documents as agent of the Plaintiff. That his evidence is therefore admissible in that regard.

On service of the Notices on the Defendant, he referred to the provision of **S. 167 Evidence Act.** He submitted that the common natural course was followed in service of the Statutory Notices to the Defendant who personally signed and acknowledged receipts of same. That there is no evidence to the contrary that the Defendant was not

served. That even where there is irregularity on service of the Notice to Quit, that filing of an action in Court by the landlord to recover possession of property is sufficient Notice to the Defendant to give up possession. He referred to the recent case of the Supreme Court:

Pillars Nigeria Limited V. Desbordes
(2021) 12 NWLR (PT. 1789) 122 @ 124 SC

That the Defendant in this case has had more than Six (6) months Notice as this Suit was filed on the 12th November, 2020 and served on the Defendant on 13th November, 2020. He urged Court to so hold that service of the Writ on the Defendant was adequate Notice also in line with the decision of Supreme Court in:

Pillars Nigeria Limited V. Desbordes Supra

That by the service of the Writ on Defendant, it goes to show that as at 11th May, 2021 the Defendant was already in default. That if there was any irregularity on the service of the Notices on the Defendant as he alleges that the service of the Writ on him had cured such irregularity if any. He urged Court to discontinuance the argument and submission of the Defendant Counsel in that regard for lacking in merit and misleading. Beside, that the Defendant Counsel never objected to the admissibility of the documents – EXH 1 & 2. That the Defendant Counsel never stated that he will reserve his objection during Final Addresses. That Defendant Counsel cannot therefore raise the objection now. He referred to the decision in the case of:

Rite Time Aviation & Travel Services Limited & Anor V. Spring Bank PLC
(2018) LPELR – 46992 (CA)

He urged Court to hold that the testimony of the PW1, having not been controverted, is sufficient proof of the case of the Claimant. He also relied on the case of:

Yahaya V. Umaru
(2020) LPELR – 50822

That since the Defendant Counsel did nothing to challenge the Exhibit tendered by the PW1, he has waived his right to do so. Therefore he cannot do so at time of Final Address. He referred to the case of:

Odubawo V. FSDH Sec. Limited
(2020) 8 NWLR (PT. 725) 1

That relevancy governs admissibility and that all the documents tendered were relevant to the issue in dispute. That the Court ought to admit them and attach weight to them. He urged Court to so hold.

On Claimant not tendering the Tenancy Agreement for the 2018 – 2020, the Plaintiff Counsel submitted that the Tenancy Agreement of 2016 – 2018 has a renewal clause which does not require signing another Tenancy. Hence, there was no need to present same and that the Tenancy Agreement of 2016 – 2018 tendered suffices as the Renewal Clause covers any need to tender any other Agreement. He urged Court to discontinuance the argument/submission of the Defendant Counsel on that and uphold that the tendered Agreement of 2016 -2018 suffices. He quoted the said Renewal Clause in the

Tenancy Agreement of 2016 – 2018. He urged Court to so hold as parties are bound by the agreement they entered into. He urged Court to grant the Reliefs of the Claimant and award cost against the Defendant for withholding the property of the Claimant unlawfully and for delaying justice.

COURT:

The common mantra chanted in every contract Agreement, be it Tenancy Agreement or any other commercial contract, is that "parties are bound by the Terms of the Agreement." It is captured in the Latin Maxim **"Pacta Sunt Servanda."**

Once a Tenancy ends by effluxion of time and the Tenant holds over and not deliver possession to landlord, such Tenant becomes Tenant at Sufferance on the same Terms and Condition. See the case of:

A.P Limited V. Owodumi
(1991) LPELR – 213 (SC)

A Tenancy Agreement usually ends by effluxion of time. Again, a landlord who decides to recover possession of his property demised to a Tenant can do so by services of Notices on the Tenant. The length of such Notices depends on the nature of the Tenancy Agreement. Like in the present case where the Tenancy is yearly, it requires service of Six (6) Months notification on the Tenant personally or by post. That has been the practice and the norm until very recently. Any service short of that is before now deemed improper and unstatutory.

That method was somehow "abused" overtime by some Tenants who now anchored on ruse of faulty notification to overstay in the demised property which the landlord had laboured to build most probably with his last sweat and strength, with hope to use it to sustain himself and family – immediate and extended. See the recent Supreme Court case of:

Pillars Nigeria Limited V. Desbordes
(2021) NWLR (PT. 1789) 122 @ 124

Again, once a landlord wants to recover possession of the premises, the said landlord must also serve on the Tenant the Statutory Seven (7) Days Notice of Owners Intension to Recover Possession of the Premises. This is followed by an action filed in Court and may proceed to recover possession of the premises in terms of Judgment entered in its favour. See the cases of:

Iheanacho V. Uzochukwu
(1997) 2 NWLR (PT. 487) 257

Ayinke Stores V. Adebogun
(2008) 10 NWLR (PT. 1096) 612

Once any landlord who has instituted an action has established with good oral testimony and credible evidence that he had served such Notice, the Court will not hesitate to hold that such landlord had done the needful statutorily and in that regard, will grant the Claims as the case may be. Once there is a valid Notice served on the Defendant, the Tenancy is said to be determined at the expiration of such Notice. Anything short of that means that the Claimant had failed in that regard. See the case of:

Cobra Limited & Ors V. Omole Estate

It is the law and it is trite that Notice of Landlord Intention to Recover Premises is a condition precedence which must be fulfilled before a landlord can validly institute an action to recover premises, failure to do so will mare the landlord's case. See the case of:

Splinters (Nigeria) Limited V. Oasis Finance Limited (2013) 18 NWLR (PT. 1385)

Without further ado, going by the submission of the parties which I have summarized in great details above, can it be said that the Claimant has established his case on Preponderance of Evidence having laid evidence through PW1 and the four (4) documents he has tendered in support, bearing in mind that all the documents it tendered through PW1 were not signed by PW1 and that the PW1 was not the maker as the Defendant Counsel had raised? Was the Court right in accepting the documents in evidence when they were tendered bearing in mind that the Defendant Counsel did not raise any objection when the documents were tendered? Is the Claimant entitled to its Claims and has it proved its case going by the facts and evidence before the Court? Was the service of the Statutory Notices on the Defendant improperly done as the Defendant Counsel has claimed and as such the Defendant should not be held liable in this case and the Court should dismiss the case of the Claimant as the Defendant Counsel is postulating? Should this Court enter Judgment automatically since the Defendant did not call any evidence in this Suit to challenge Claimant's case?

Without answering the question seriatim, it is the humble view of this Court that the Claimant has proved its case on Preponderance of Evidence by the testimony of the PW1 and the four (4) documents it tendered in support and proof of its case. The Claimant is entitled to its claim. The Statutory Notices served were properly done. Besides, with the advert of the recent Supreme Court decision in the case of:

Pillars V. Desbordes Supra

the service of the Writ of Summons on the Defendant is due and very proper Notice.

The Defendant, not challenging the documents when they were tendered means that he had accepted the documents, though admitting the documents during hearing is different from attaching weight on the documents. The said documents were admitted because they were all relevant to the issue of Tenancy between the parties which is the issue in dispute.

Since the Claimant is a company and juristic person, it is operated by the human juristic persons who work and serve in the company and who are Managers, Servants and act as Agents of the company. Any action taken by any of them on behalf of the company is deemed to be the action taken by the company. Any service of Process by any of such human persons whether the document is made by such person or by some other persons working for or in that company is properly done. So also any of such persons is credible as a Witness to tender in Court documents that emanated from such company.

This Court was right to have admitted the documents tendered in evidence because of their relevancy to the issue in dispute. The Defendant who had all the leverage to challenge the admissibility of the documents did not do so. He therefore waived his right at that point. See the cases of:

Natsaha V. State
(2017) LPELR – 42359 (SC)

Rite-Time Aviation & Travel Services Limited & Anor V. Spring Bank PLC Supra

Yahaya V. Umaru Supra

Odubawo V. FSDH Sec Limited Supra

Since the Defendant did not call any evidence though it filed its Statement of Defence and Statement on Oath which he deposed to in person, failure to come before the Court to adopt such Statement on Oath as required by the extant provision of the Law and Evidence Act it is deemed that the Defendant had abandoned his Statement on Oath and Statement of Defence. But the Court has a power to look into all Processes filed by parties in order to get justice of the case. That is why the Court will consider the said Statements by the Defendant.

In this case, contrary to what the Defendant alleged that the Claimant did not tender the Tenancy Agreement for 2018 – 2020 and as such there is no Agreement between them and as such the Court should dismiss the case. The submission is strange and laughable because the same Defendant had stated in paragraph 6 of his Statement of Defence and Statement on Oath that thus:

> **"Paragraph 10 of Statement of Claim is admitted. The Defendant stated that he is willing and committed to paying the balance of his rent immediately his finance appreciates."**

The above speaks for itself.

It is imperative to state the content of paragraph 10 of the Statement of Claims.

Paragraph 10

> **"That sometime in January 2020 the Defendant called the Claimant's Secretary to ask if he could make a part-payment by deposit of Two Million Naira (₦2, 000,000.00) only into Claimant's Account 0021891097 with Access (Diamond) Bank PLC and pay the remaining ... before the end of July 2020."**

The same Defendant admitted paragraph 18 of the Claims in paragraph 10 of his Statement of Defence and his Oath where he averred on Oath that:

> **"That I am committed to paying my rent as soon as my finance improves."**

Meanwhile the paragraph 18 of the Claims which the Defendant admitted stated thus:

Paragraph 18 (Statement of Claim)

> **"The rent for the period from 30th September, 2018 to 29th September, 2020 still stands at ... Five Million Naira (₦5, 000,000.00) only with Service Charge of ... Two Hundred Thousand Naira**

(₦200, 000.00) which the Defendant had not paid. This debt is yet to be offset by the Defendant."

The above puts no one in doubt that the Defendant knows ad accepted that there was a Contract/Tenancy Agreement between him and the Claimant. He also accepted that the Rent was outstanding. He accepted the amount of the debt. He acknowledged that he was indebted to the Claimant and that he has not paid the Rent. He equally knows the period which the debt covers – 30th September, 2018 to 29th September, 2020. It is laughable and shocking that the same Defendant should turn around to claim that there was no Tenancy since the Claimant did not present before the Court a Tenancy Agreement covering the said period.

Of utmost imperative is the fact that in the Tenancy Agreement tendered which is for 30th September, 2016 to 29th September, 2018 there is a Renewal Clause in which it was expressly provided thus:

"Where a new Term is created and no new Tenancy Agreement is signed by the parties THIS AGREEMENT SHALL OPERATE TO APPLY SUCH NEW TERMS CREATED …"

Note please (Emphasis mine)

Without doubt, by the above clause, it is very clear that it is the intention of the parties that the same Terms are applicable to the Agreement of 2018 – 2020. Besides, parties are bound by the Agreement they have entered into – **Pacta Sunt Servanda.**

The Defendant is bound by the above Term. That is why this Court holds that there is a valid Tenancy Agreement and that the Claimant was right to have tendered the Agreement of 2016 – 2018. There is no need and no point to tender a separate Agreement for the Tenancy of 2018 – 2020. The Claimant is therefore right for filing the said **EXH 1** – Tenancy of 2018 – 2020. The Defendant submission on that cannot stand. It is discontnuanced and is hereby dismissed.

As per the service of Statutory Notices – Six (6) Months Notice to Quit and subsequently Seven (7) Days Notice of Owners Intention to Recover Premises, it is the view of this Court that the two (2) Statutory Notices were properly served and acknowledged by the Defendant.

A look at the signature in the letter written by the Claimant to Defendant acknowledging the receipt for the payment of the Rent written on 30th September, 2016 shows that the signature is same with that on the Six (6) Months Notice to Quit. It is also same with the signature the Defendant signed on the Tenancy Agreement. No doubt that the Defendant is the one that acknowledged receipt of that document. Having signed as so confirms that he was properly served with the said Six (6) Months Notice to Quit given the consistency in the two (2) signatures. He did not present before this Court any document at all to show that he was not the one that acknowledged receipt or that the signature are not his. So to the extent of the consistency in the signature in both the Tenancy Agreement and the Six (6) Months Notice to

Quit, this Court holds that the Defendant was personally served.

Again, his Statement on Oath which is before this Court shows in several paragraphs that he had due Notice. Most importantly, should this Court believe that the Defendant had no notice when in the several paragraphs of the Oath he acknowledged his debt and promised to pay when his economy improves?

In the recent decision of the Supreme Court, in the case of the service of the Writ on the Defendant in this Suit suffices as due and adequate notification. The Supreme Court had in the case of:

Pillars Nigeria Limited V. Desbordes
(2021) NWLR (PT. 1789) 122 @ 124

had performed the burial rites, did the requiems and had chanted the nunc domitis on the issue of default or irregularity on the service of Statutory Notice in issue of Tenancy and Recovery of Premises. That decision puts to an end without any hope of resurrection the ruse of faulty notice which most Tenants anchor on to frustrate landlords when they want to Recover Possession of their Premises which oftentimes was built with their sweat, energy and last kobo.

Anchoring on irregular service of Notice to Quit or Landlords Intention to Recover Possession of the Premises as a ploy to continue being in possession perpetually cannot be sustained in modern society under the guise of strict adherence to any technical Rule. Technical justice

does not lead to substantial justice. Besides, technicality is no longer part of our jurisprudence.

Equity, common sense and even morality demands that where there is any dispute on issue of service of Statutory Notice in a Tenancy matter or any irregularity in service of such Notices, once the Tenant had been served a Writ filed in an action to recover possession, it is sufficient notice to the Tenant to give up possession of the premises. Once the Writ is served, any irregularity on service of Statutory Notice is corrected and the defect cured. In that case, time to give Notice starts from the day the Writ is served. That brings to a final end any controversy on such irregularity.

Tenants should desist from the evil practice of refusal to vacate the premises once their Tenancy comes to an end on the ground that they were not served the Statutory Notices personally or at the required period. Such Tenants oftentimes deliberately delay Proceeding by filing frivolous application starting with Preliminary Objection and all other irrelevant applications challenging such cases for Recovery of Premises. They ensure that the cases are delayed and shortly by before the Judgment is pronounced, they stealthily pack out of the premises at night without paying neither the outstanding rent that has accrued. Some even lock up the premises and disappear into thin air. When the Court had given Order for landlord to possess the premises, they surface and file a Suit claiming that they left Millions of Dollars/Naira in the premises yet they could not pay the landlord his Rent. All those who connive, condone and support the perpetrators of such evil should desist from it.

Tenancy Agreement like all other Contract Agreements is a commercial investment. No landlord should be denied his rent in a property which they have slaved to build. The landlord in this particular case should not be denied the fruit of his investment.

The Witness who testified for the Claimant need not now about the service of the Notices because the Claimant in this case is a company – juristic person. Any staffer of the company can do so. See the cases of:

Comet S.A. Nigeria Limited V. Babbit Nigeria Limited Supra

Chemiron International Ltd. V. Stablini Visinoni Ltd. (2018) LPELR – 44353 (SC)

Companies act through their staffers, directors, managers. The PW1 knows enough about the transaction as a staff of the Claimant. He need not be the person who served the Process. Besides, the same PW1 by virtue of his position in the Claimant as a company Secretary, he is conversant with the facts in this case. More so, he is saddled with the responsibility of managing the Res in this case. By virtue of his position as the company's Secretary, he is competent to testify and tender the documents **EXH 1 – 4** though he is not the maker. He was even the person that signed the acknowledgment receipt for the Rent paid by the Defendant.

Contrary to the submission of the Defendant Counsel, the evidence of the PW1 is not a hearsay given his position in the company. Any action by any staff of a company is based on the instruction of the company. See the cases of:

Intergrill Nigeria Limited & Anor V. UBA PLC

Sale V. BON Limited Supra

Companies act through its agents and servants. The PW1 acts for the Claimant who is a company just like any other staff of the company. There is no how all the staffs of the Claimant that played role in this transaction should all be paraded to testify in Court for every action they took in their official capacity. That is why this Court holds that the testimony of the PW1 is **NOT A HEARSAY** as the Defendant Counsel claims. His evidence is equally not a hearsay. The submission of the Defendant Counsel on that is hereby discontinuanced and dismissed.

As already stated, by implication of the last clause in the Tenancy Agreement, there is no need to sign another Tenancy Agreement. So the Claimant not attaching the Tenancy Agreement for 2018 – 2020 is not of necessary.

There is every evidence that the Defendant became a Tenant at Sufferance immediately the second Tenancy ended based on effluxion of time and he held over the premises.

Going by the Tenancy Agreement, the second Term Tenancy ended on 29th September, 2020 by effluxion of time. The Defendant was notified statutorily. But he held over the premises up till now. His right as a Tenant had ended on 29th September, 2020. He continued to be in possession without any further Agreement with the landlord.

It is no doubt that the Defendant came into the premises lawfully by virtue of the Tenancy Agreement though he no

longer has an estate in it. The law deems his right to possession to have continued on the same Terms and Condition as the original Tenancy Agreement until possession is recovered or wrestled from him. Such Tenancy at Sufferance depends on law and not on agreement of the parties. It is determined by proper action for ejectment after due notification. That is what the Claimant has done in this case. Defendant is liable to pay and pack out of the premises.

Having analyzed the evidence tendered in this case, this Court finally holds that the Claimant was able to prove its case on Preponderance of Evidence before this Court. The case of the Claimant is very meritorious and it deserve it claims. This Court totally agrees with the submission of the Plaintiff Counsel in this case in all the issues raised.

This Court therefore grants its Claims A – I.

As to the payment for the cost of the Suit, there is fundamental inconsistencies in the amount claimed. In figure the cost claimed is Two Million Naira (₦2, 000,000.00) but in words the Claimant claimed One Million Naira (₦1, 000,000.00).

Based on the said inconsistency, this Court cannot award any cost.

Again, this Court did not see any receipt acknowledging the payment of the legal fees. The Claimant did not tender any though it pleaded it. So no award of any legal fees. All the parties should bear the cost of the legal services rendered to them.

This Court also awards 6.5% interest on the Judgment sum from date of Judgment until it is finally paid up.

This is the Judgment of this Court.

Delivered today the ____ day of _____ 2021 by me.

_____

K.N. OGBONNAYA

HON. JUDGE