

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

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT KUBWA, ABUJA

ON TUESDAY, THE 12TH DAY OF APRIL, 2022

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

JUDGE

MOTION NO:M/12512/20

BETWEEN:

ASSET MANAGEMENT CORPORATION

OF NIGERIA (AMCON)-----JUDGMENT CREDITOR

AND

1. SHENSHUI CONSTRUCTION CO.NIG LTD-----JUDGMENT DEBTORS
2. HON.SANI SHA'ABAN APPLICANT
3. COMM. FOR WATER RESOURCES, KANO STATE
4. MIN. OF WATER RESOURCES, KANO STATE
5. KANO STATE WATER BOARD
6. ATTORNEY GENERAL OF KANO STATE

AND

1. THE DEPUTY SHERIFF FCT HIGH COURT, ABUJA----RESPONDENT

BENCH JUDGMENT

On the 27/7/12 the High Court Kano state delivered Judgment in this Suit. On the 14/6/18 the Court of Appeal Kaduna division delivered its Judgment in favour of the Judgment Creditor.

On the 17/2/21 this Court granted an Order to register the Judgment in this Suit. The Writ of Attachment was issued on the 23/2/21. The Judgment Debtors filed a motion challenging the Suit. But on the 1/9/21 the same Judgment Debtor filed a notice to discontinue the motion challenging the registration and Writ of Attachment. The Court on 13/10/21 struck out all the motions by the Judgment Debtor.

Out of abundance of caution the Judgment Creditor filed a motion to relist the suit. The Court granted same. The Ruling of the Court to that effect is deemed as if set hereunder seriatim.

The parties had before now filed Terms of Settlement. They had in turn adopted same and urged the Court to enter same as Consent Judgment of the parties as full and final settlement of the issues in dispute in this Court.

It is imperative to state that where warring parties had decided out of their own volition to negotiate their way out of the dispute and had penned down the terms of settlement and had filed same the only duty of the Court is to say Amen to the said Terms of Settlement. The Court has no right to add or subtract from the terms since the parties in this suit had after the long and treacherous battle decided to settle their dispute finally even outside the Judgment of the Court this Court has no reason not to chorus the Judicial amen to the said terms and enter same as Consent Judgment as the parties had in one voice and unanimously requested.

This Court will read out the said Terms and after enter same as their Consent Judgment which can be enforced if not already enforced by the Parties.

TERMS OF SETTLEMENT

The above named parties in Suit No: FCT/HC/M/12512/20 have resolved to explore possibility of achieving out of Court settlement of the disputed claims. The parties herein have agreed to an amicable settlement of the dispute and resolved that this Terms of Settlement be entered as a Judgment of the FCT High Court of Nigeria. In the Abuja Judicial Division, Holden at Kubwa, Abuja.

BACKGROUND

WHEREAS:

1. Judgment in Suit No.K/296/2009 was registered at Federal Capital Territory High Court Abuja on 17th day of February 2021 as Suit No.FCT/HC/M/12512/20
2. A Writ of Attachment was signed on 23rd of February, 2021 by Hon. Justice K.N. OGBONNAYA of Court No.24 (Kubwa) of the High Court of Justice Abuja.
3. On 26th of March, 2021 judgment was levied against the 2nd Judgment Debtor HON.SANI M. SHA'ABAN and the following properties were attached:
 - a. Range Rover –Reg. No.ZAR 500 FU
 - b. Mercedes Benz-Reg.No. ZAR 195 SS
 - c. Peugeot 508- Reg.No. ZAR 399 FU

4. The 1st Judgment Debtor and Judgment Creditor have agreed to settle the case out of Court under the following Terms and Conditions.

1. SETTLEMENT TERMS

- a. Total settlement amount: N267,225,848.59(Two Hundred and sixty-seven Million, Two hundred and twenty-five Thousand, Eight Hundred and forty-Nine naira fifty kobo Only.)
- b. Repayments to Date: N82,222,849.59(Eighty-two Million, two hundred and twenty-two thousand, eight hundred and forty-nine Naira fifty-nine kobo only)
- c. Net Settlement Sum: N185,000,000.00(One hundred and eight-five Million Naira Only).
- d. Good Faith Payment: N30,000,000.00 (Thirty Million Naira Only) already received.
- e. Restructured Balance: N155,000,000.00(One Hundred and Fifty-Five Million Naira Only).
- f. Tenor : Three (3) years
- g. Interest Rate: 10% P.A
- h. Moratorium: On principle repayment only
- i. Moratorium Period: three (3) month (from the date of accepting the offer letter).
- j. Repayment Frequency: Bi-annually.
- k. Effective Date: November 27th ,2021
- l. Expiry Date: November 27th,2024.
- m. Lump Sum Repayment and/or Asset Forfeiture: Allowed without penalty.
- n. Security: Personal Guarantee of Hon.Sani Sha'aban supported by a notarized Statement of net worth.

2. CONDITION PRECEDENT

- a) Unconditional acceptance of this offer by Shenshui Construction Company Limited within Seven (7) days from the date of the Judgment Creditor's offer letter dated 30th August 2021.
- b) A Board Resolution by Shenshui Construction Company Limited accepting this offer within seven (7) days from the date of our Offer letter.
- c) Personal Guarantee of the Managing Director, Hon. Sani Sha'aban supported by a notarized statement of net worth.
- d) Receipt of a viable proforma cashflow statement supporting the repayment plan within Fourteen (14) days from the date of our Offer Letter.
- e) Execution of all other legal documents pursuant to this offer.
- f) Any pending Litigation in respect of the underlying transaction against AMCON shall be discontinued/settled and order of the Court served to AMCON in this regard.
- g) In particular the following cases:
 - i. Supreme Court: Suit No: SC/1012/2018.
 - ii. FCT High Court Kubwa: Motion No: M/3384/2021

3. OTHER TERMS AND CONDITIONS

- a) All incidental expense (including insurance, legal expenses e.t.c on the facility is to be borne by the obligor.
- b) All collateral securing the facility shall only be released upon full settlement of the indebtedness.
- c) Accelerated repayment by the debtor shall be allowed with no penalty.

- d) The term of this settlement as communicated in our offer shall be entered in Court as Consent Judgment.
- e) Any confirmation of satisfactory account performance issued on the debtor to the CRMS, or any financial institution shall be withdrawn if the debtor defaults in installment or fails to honour any provision of the settlement agreement.
- f) No failure or delay by AMCON in exercising any remedy, right or power herein shall operate as a waiver or impairment thereof nor shall it affect or impair any such remedy, power or right in respect of any other subsequent default.
- g) Notwithstanding the terms of this offer, AMCON reserve to change the lending rates in line with money market realities without notice to or authorization of Shenshui Construction Company Limited.
- h) Comprehensive insurance over the properties pledge as collateral nothing AMCON as first loss payee.
- i) The provision of the Dishonored cheque Act Cap D11, Laws of the Federation of Nigeria and the Central Bank of Nigeria directive on issuance of Dud Cheques shall apply under this offer where any cheque issued in repayment is returned unpaid. In addition, the obligor shall refund all cost incurred by AMCON because of any returned cheque or AMCON shall debit the obligor's account for such cost incurred.

- j) Upon the execution of this agreement the three (3) cars mentioned above presently in Court custody shall be released to the Debtor.

4. EVENT OF DEFAULT

It is further agreed that where default of this Terms of Settlement occurs, all concessions granted by the Claimant shall be cancelled and the Claimant shall be entitled to enforce the Consent Judgment by levying execution of same on any other assets or funds of the 1st Defendants.

- i. Default shall be deemed to have occurred where; the 1st Defendant fails to adhere to the provision of this Terms of Settlements.
- ii. The Judgment Creditor/Respondent shall suspend Execution of Judgment until final settlement of debt owned by the 1st & 2nd Judgment Debtors/Applicants. Whenever there is default in payment of debt the judgment Creditor/Respondent reserves the right to go back to Court to urge continuation of execution.

The Court having read out the said Terms verbatim as set out hereby enter same as Consent Judgment of the parties.

This is the Judgment of this Court delivered today theday of2022 by me.

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K.N.OGBONNAYA

HON.JUDGE

