

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

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT KUBWA, ABUJA

ON WEDNESDAY THE 6TH DAY OF JULY, 2022

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

SUIT NO.: FCT/HC/BW/CV/191/2021

BETWEEN:

OLOWOKERE OLUSOLA

}

CLAIMANT

AND

SAPPHIRE SCENTS LIMITED

}

DEFENDANT

BENCH JUDGMENT

In this Suit, the Plaintiff – Olowokere Olusola claims the sum of Thirty Five Million Naira (₦35, 000,000.00) only against the Defendant – Sapphire Scents Limited as the Principle Sum allegedly invested in the Defendant and accruable interest due as at 7th May, 2021.

The Plaintiff also claims the sum of Eight Hundred and Thirty Three Thousand, Three Hundred and Thirty Three Naira and Thirty Three Kobo (₦833, 333.33) commencing from the month of May till Judgment is delivered in this case.

The Plaintiff also claims 10% interest on the Judgment Sum from date of Judgment till final liquidation.

Attempts to serve the Defendant personally with the Originating Process failed and on the 7th October, 2021 this Court gave an Order for the Defendant to be served by substituted means – dropping the document(s) at its last known address which is its registered address. That Order was carried out to the later. There were several adjournments and the Court ensured that the Defendant were served with Hearing Notices as per the subsisting Order of Court. The evidence of service and Bailiff's Affidavit to that effect refers.

Today, the Plaintiff Counsel had moved the application meanwhile this matter was based on a Writ filed by the Plaintiff on the 7th of June, 2021. Because of the nature of the claim, the Court, based on an application by the Plaintiff which was made Ex-parte as statutorily required, marked the Writ "Undefended." This was done before the Defendant was served.

It is the law that once a claim is predicated on a debt or liquidated money demand, that the Court will, upon application of the Plaintiff or even suo motu, mark the Writ "Undefended." Where that is done, the Defendant should, upon service of same on it, file a Notice to Defend within 5 days and should also file an Affidavit in support stating all the reasons why the matter should be transferred to the General Cause List showing that it has a prima facie defence on merit. If there is merit in it, the Court will transfer it to the General Cause List otherwise Judgment will be summarily delivered.

The Defendant in this case did not enter appearance. It did not file any Notice to Defend and did not file any Affidavit in support of such Notice.

It is on record that the Defendant, Sapphire Scent Limited had been served with the Hearing Notices over a year and some months now. It did not come to Court or had Counsel representation.

Today, the Plaintiff Counsel had moved their application as it were which they have supported with Affidavit of 9 paragraphs. He had attached several documents – 14 in all marked as **EXH A – I**. The facts and averments in the Affidavit has not been challenged even as I deliver this Judgment. The Plaintiff Counsel had urged Court to enter Judgment in the favour of the Plaintiff.

A close look at the said averment puts no one in doubt that there is a contractual relationship between the Plaintiff and the Defendant. There was the Memorandum of Understanding entered into on the 7th of August, 2019 where there is evidence of agreement on the investment and where parties spelt out their respective obligations. In it, the amount invested was spelt out. The interest on the invested capital – 25% was also spelt out in paragraphs 1 & 2. That document was signed by the parties. There is also an agreement of 7th October, 2020 where the Defendant failed to fulfil its own obligation under the agreement. The Plaintiff made several demand for the return of investment money and also on the invested sum. This is seen in the letter from his Counsel, Lawrence Alabi Esq. in the letter dated 19th February, 2021.

There is also a reply to the said letter dated 22nd February, 2021 written by the Defendant to the Plaintiff where they stated that the Defendant is taking step to mitigating the challenge and make remittance. That letter shows that the Defendant acknowledged its indebtedness to the Plaintiff on both the money invested and the return on investment as agreed.

There was also further letter to Plaintiff's Solicitor dated 5th May, 2021 and reply by Plaintiff on 7th May, 2021.

All these documents put no one in doubt that actually the Defendant is heavily indebted to the Plaintiff. Besides, there is no challenge to the Plaintiff's claim by the Defendant.

It is the law that unchallenged facts are deemed admitted and are actually admitted. The Defendant was given all judicial leverage to challenge and file Notice to Defend and actually to defend this Suit but it failed to do so. This Court holds that it has no Defence to the Suit. That may be the reason why the Defendant never entered appearance or took any step to defend or challenge this Suit.

That being the case, the Suit of the Plaintiff remains unchallenged and uncontroverted. The fact in support speaks louder than the human voice.

This Court hereby hold that the Suit of the Plaintiff is meritorious and that Plaintiff deserves the Judgment of this Court being entered in his favour. The claims are therefore granted to wit:

Prayer 1 and 2 granted as prayed.

The Defendant is to pay 4% interest on the Judgment sum from the date of delivery until the said Judgment sum is fully and finally liquidated.

This is the Judgment of this Court.

Delivered today the ___ day of _____ 2022 by me.

K.N. OGBONNAYA
HON. JUDGE