

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT GARKI, ABUJA.  
BEFORE HON. JUSTICE S. B. BELGORE**

**CLERK: CHARITY ONUZULIKE  
COURT NO. 10**

**SUIT NO: FCT/HC/CV/82/2022**

**DATE: 7/3/2023**

**BETWEEN:**

**MR. EDDY CHIDOZIE ANULIGO..... PLAINTIFF**

**AND**

**MRS. AMAKA ANASONYE.....DEFENDANT**

**JUDGMENT  
(DELIVERED BY HON. JUSTICE S. B. BELGORE)**

By a Writ of Summons dated and filed on the 31/03/2022, the Claimant tabled the following claims against the Defendant before this Court, to wit:

- a. AN ORDER of this Honourable Court directing the Defendant to deliver vacant possession of the premises at House 29 Acacia Groove Estate, Wuye, Abuja in a tenantable condition.**
  
- b. AN ORDER of this Honourable Court mandating the Defendant to pay the Claimant the sum of N550,000.00 (Five Hundred and Fifty Thousand Naira) per month as Mesne profit until vacant possession of the premises is given up.**

- c. The cost of this suit assessed as N700,000.00 (Seven Hundred Thousand Naira).**
- d. Post-Judgment interest on the Judgment sum at 21% per annum from the date of Judgment until same is fully liquidated.**

There is a statement of claim and Claimant's Witness Statement on Oath in support of the Writ of Summons. Upon being served with the Claimant's Writ of Summons, the Defendant, on 28/09/2022, filed a Statement of Defence.

The case of the Claimant is that he entered into a Tenancy Agreement with the Defendant for one year certain. The Tenancy Agreement is pleaded and annexed as Annexure 1. Upon the determination of the tenancy by effluxion of time, the Claimant duly caused the statutory seven (7) days notice of owner's intention to apply to Court to recover premises pleaded by the Claimant and attached as Annexure 2. Notwithstanding the service of the statutory seven (7) days notice of owner's intention to apply to Court to recover premises on the Defendant, the Defendant refused to yield up possession.

In her defence, the Defendant did not join issues with the Claimant on the above facts as evident from her Statement of Defence particularly paragraph one thereof where she eloquently conceded as follows "The Defendant admits the averment contained in paragraphs 1, 2, 3 and 4 of the Claimant's Statement of Claim. The only Defence the Defendant projects apart from the preliminary objection she raised in her written address is that the Claimant served her the said statutory seven (7) days notice of owner's intention to apply to Court to recover premises through a third party and that there is a subsequent oral promise made to her by the Claimant to effect that she would no longer be paying

the rent agreed but for the service charge due to some misfortune that befell her with which the Claimant was mindful of identifying with.

Matters went to a full blown trial and both parties adopted their respective witness statement on oath, testified on their behalf and were cross-examined by Counsel. At the end of the trial, parties filed their respective final written address starting from the Defendant whose final written address was dated and filed on 6/1/2023 followed by the final written address of the Claimant which was dated and filed on 10/1/2023.

Parties adopted their final written addresses on 10/1/2023 and thereafter this matter was adjourned for judgment.

At page of four of the Defendant's final written address, the Defendant concreted this singular issue for the resolution of this matter:

**“Whether this honourable (sic) has the jurisdiction to entertain this suit?”**

On the part of the Claimant, the issue calling for the determination of this Court is distilled as follows:

**“Whether the Claimant's case discloses reasonable cause of action against the Defendant and if so, whether the Claimant has proved his case and is thereby entitled to all the reliefs sought?”**

The argument of the Defendant in the preliminary objection is to the effect that the Claimant's suit discloses no cause of action thereby divesting this Court of the requisite jurisdiction to enter into the adjudication of this case. Counsel submitted on behalf of the Defendant that paragraph 3-5 and 7 of the Defendant's

statement of defence were supposed to be rebutted by the Claimant by way of reply but the Claimant did not. He submitted that parties are bound by their pleadings. He argued that the Claimant is deemed to have admitted the facts pleaded by the Defendant where he failed to controvert same. He argued that following the oral promise of the Claimant, the Defendant was relieved of the payment of rent. The Claimant under cross-examination debunked the contention of the Defendant saying he was not a charity organisation. The Claimant, after referencing and relying on a string of authorities submitted that even a cursory glance at the facts concentered in his Statement of Claim will disclose that he has sufficiently set out an aggregate of facts which entitle him to seek redress against the Defendant.

#### **NOTICE OF PRELIMINARY OBJECTION:**

As it is foremost duty to dispose of this challenge to the jurisdiction of the Court, I hereby proceed to examine the issue raised by the Defendant/Objector. In line with the settled position of the law that where notice of preliminary objection is filed and moved, the Court is bound to consider the preliminary objection before venturing into the main suit or appeal, as the case may be, **KOMANDA VS. SAMBAJO & ANOR (2014) LPELR-23630 (CA) (Pp. 6-7 paras. F)**, I will first deal with the preliminary objection, **OBIDIGWE VS. KAY KAY CONSTRUCTION LTD (2014) LPELR-24561 (CA) (Pp. 5 paras. A)**. I have read the scanty submission of the Defendant and juxtaposed same with that of the Claimant on the issue raised by the preliminary objection of the Defendant/Objector. Without wasting the precious judicial time of this Court, I am of the firm belief that the facts as presented by the Claimant have sufficiently demonstrated that the Claimant has a cause of action against the Defendant. In determining the jurisdiction of the court or lack thereof, the law is to the effect that it is only the Claim of the Claimant that must be considered and not whatever defence the Defendant may have mounted to such

claims, **ADEYEMI VS. OPEYORI (1976) 9 – 10 SC 31**. What is to be distilled from a long line of decided cases is that in its determination of whether it has jurisdiction over a case or not, the processes to consider is the pleadings of the plaintiff; this is so because, it is the case of the plaintiff that shows whether the Court has jurisdiction or not, **ELABANJO VS. DAWODU (2006) 50 WRN 79; NSA & ORS. VS. HON. AG OF THE FEDERATION & MINISTER OF JUSTICE & ORS. (2018) LPELR-45278 (CA) (Pp. 6-10 paras. E)**. My intimate reading of the Defendant's preliminary objection leaves me with the conviction that it is tenuous and runs counter to the grains of the factual matrix undergirding the Claimant's suit. I, in consequence, have no hesitation in coming to the decision that the said mealy-mouthedly crafted preliminary objection is without any scintilla of merit which is liable to an order of dismal. I hereby enter an order outrightly dismissing same. This Ruling disposes of the sole issue raised by the Defendant in her final written address.

Having answered the question whether the case of the Claimant discloses a cause of action, I am left to deal with the question *whether the Claimant has proved his case and is thereby entitled to all the reliefs sought* as raised by the Claimant.

Tenancy agreement tendered and admitted as Annexure one sets out the relationship between the Claimant and the Defendant. By the wordings of the Annexure 1, the tenancy was determined on the 23<sup>rd</sup> day of December 2021. The Defendant does not deny this but rather seeks to avoid the consequences of the contract embedded therein on the premise that an oral promise made by the Claimant has altered the terms of the tenancy. Claimant denies the said oral promise vehemently. What I see as crystallizing is a competition between documentary and oral evidence. What is the position of the law on this? To determine this issue, I need to have recourse to sound principles of law as my trusted guide. According to our law, Danjuma, J.C.A. teaches us in **NWOBODO VS. OKOLIE**

(2020) LPELR-51267 (CA) (Pp. 58 paras. A) that where there is abundant documentary evidence on an aspect of a party's case, no oral evidence is admissible on that aspect, **BROSETTE VS. ILEMONA (2007) 5 SCJ 153 at 166 line 5-10**. This is because our adjectival law does not admit oral evidence on an aspect or area covered by a document, **OLALOYE VS. BALOGUN (1990) 5 NWLR (Pt. 148) 24**.

In **NWOBODO VS. OKOLIE (Supra)**, this is what the Court of Appeal teaches us:

*Documentary evidence being the best form of evidence in proof of a case as, while oral evidence may be subject to forgetfulness, fidgeting and lying, the cold documents stands, until proved otherwise. See ATTORNEY GENERAL OF RIVERS STATE VS. ATTORNEY GENERAL, BAYELSA STATE (2013) 3 NWLR (Pt. 1340) page 123 at 163.*

The above apart, parties are bound by the terms of their agreement, **KOIKI VS. MAGNUSSON (1999) 8 NWLR (Pt. 615) 492 at 514** and the Court will not read into it or allow either party to read into it what is not therein stated, **UNION BANK OF NIGERIA LTD VS. B. U. UMEH & SONS LTD (1996) 1 NWLR (Pt. 426) 565**. On this sanctity of a contractual agreement, this is what the Supreme Court teaches in **LARMIE VS. DATA PROCESSING MAINTENANCE & SERVICES LTD (2005) 18 NWLR (Pt. 958) page 438** where Mohammed, JSC (as he then was-later (CJN) correctly stated the law thusly:

*The law is trite regarding the bindingness of terms of agreement on the parties. Where parties enter into agree me not in writing they are bound by the terms thereof. This Court and indeed any other Court will not allow anything to be read into such agreement, terms on*

***which the parties were not in agreement or were not ad idem.***

See, to the same effect, also the cases of **BABA VS. NIGERIA CIVIL AVIATION TRAINING CENTRE, ZARIA (1991) 5 NWLR (Pt. 192) 388; SCOA (NIG) LTD VS. BOURDEX (1990) 3 NWLR (Pt. 138) 330.**

Guided by the above, is the Defendant calling upon this Court to alter the agreement of parties based on oral evidence which the Claimant strongly denies the right course for her? I think not as such course is not supported by any law of the land. I am not prepared to swim against the tide of the law. Oral evidence cannot supplant documentary evidence neither can it be used to alter documentary evidence. What rather is the case is that documentary evidence is the hanger for the assessment of oral evidence, **FASHANU VS. ADEKOYA (1974) 6 SC 83.** This law is old! **KIMDEY VS. MILITARY GOVERNOR OF GONGOLA STATE (1988) 2 NWLR (PT. 77) 445.** It is hornbook law that documentary evidence is the hanger on which to assess oral evidence, **HAWAD INTERNATIONAL SCHOOLS LTD VS. MIMA PROJECTS (2003) 36 WRN 57 at 69 and ADESANWO & ORS. VS. SALISU & ANOR (Pp. 28-29 paras. E).**

Reminding us of this ancient doctrine, the Court in **OBASUYI VS. EGUAGIE (Pp. 42-43 paras. F)** through Georgewill JCA teaches as follows:

***“My lords, the law is and has always been that whenever there is documentary evidence before the Court it is to be used as hangers on which the veracity of oral evidence is assessed. In other words, since documentary evidence, generally regarded as the best evidence, whenever available is the barometer by which the truth of oral evidence is gauged. See GLOBE MOTORS HOLDING NIGERIA LTD VS. IBRAHEEM (2021) LPELR –***

*54550 (CA) per Georgewill JCA. See also CBN VS. DANTRANS (NIG.) LTD & ORS. (2018) LPELR – 46678 (CA) per Georgewill JCA; GTB VS. GARBA (2015) LPELR – 41656 (CA) per Georgewill JCA; KIMDEY & ORS. VS. MILITARY GOVERNOR, GONGOLA STATE & ORS. (1988) LPELR – 1692 (SC); DAIRO VS. FRN (2012) 16 NWLR (Pt. 1352) 129.”*

Guided by the above, I cannot see my clear in agreeing with the Defendant with the postulations she has strained to push down the throat of this Court. The law does not allow her, I will not allow her. This is a simple case of a tenancy agreement for a term certain coming to an end. I find that the Claimant has diligently made out his case before this Court and he is entitled to judgment as per the terms of the reliefs which his Writ of Summons projects except the cost claimed which I am inclined to award less. I do not find merit in the defence of the Defendant which I must dismiss and is hereby dismissed.

I hereby grant the reliefs of the Claimant in the following terms:

- a. **AN ORDER** of this Honourable Court is HEREBY MADE directing the Defendant to deliver vacant possession of the premises at House 29 Acacia Groove Estate, Wuye, Abuja in a timetable condition.
- b. **AN ORDER** of this Honourable Court is HEREBY MADE mandating the Defendant to pay the Claimant the sum of **N550,000.00 (Five Hundred and Fifty Thousand Naira)** per month as Mesne profit until vacant possession of the premises is given up.
- c. I award a cost for the prosecution of this suit which I assess at **N200,000.00 (Two Hundred Thousand Naira)**.



d. I hereby equally award post-Judgment interest on the Judgment sum at 21% per annum from the date of Judgment until same is fully liquidated.

This shall be the judgment of this Court.

Signed  
**Suleiman Belgore**  
(Judge) 7/3/2023

**Appearance of Counsel:**

Chikaosolu Ojukwu Esq. with Ebere Nwanya Mrs. for the Claimant

Prince Adebisi Adetosoye Esq. with Isaac Idota Esq. for the Defendant