

IN THE HIGH COURT OF JUSTICE OF THE F. C. T.
IN THE ABUJA JUDICIAL DIVISION
HOLDING AT APO, ABUJA
ON THURSDAY, THE 23RD DAY OF MARCH, 2023
BEFORE HIS LORDSHIP: HON. JUSTICE ABUBAKAR HUSSAINI MUSA
JUDGE

SUIT NO: FCT/HC/CV/2697/2021

BETWEEN:

MR MAXIMIN NWOGU

CLAIMANT

AND:

ACCESS BANK PLC

DEFENDANT

CONSENT JUDGMENT

Oghenemise Akpomiemie Esq.: appears for the Claimant.

V. O. Esifo Esq.: appears for the Defendant.

Counsel for the Claimant: The matter is for report of settlement and parties have reached a consensus. We equally filed our Terms of Settlement. Parties have agreed and reduced the terms in writing dated 08/12/2022 and filed on 16/03/2023. We seek to adopt same and urge the Court to grant same as the Consent Judgment.

Counsel for the Defendant: That is the position. I aligned myself with my learned Colleague.

COURT: By a Writ of Summons dated and filed on the 15th of October, 2021 the Claimant sought the following reliefs from this Court:-

1. *A Declaration that by virtue of the banker/customer relationship between the Defendant and the Plaintiff, the Defendant is bound to honour immediately the Plaintiff's request to withdraw his funds in the custody of the Defendant.*
2. *A Declaration that the refusal of the Defendant to honour the several demands by the Plaintiff to withdraw his funds is a breach of the contractual banker and customer relationship.*
3. *A Declaration that the Plaintiff having submitted his documents on two occasions to the Defendant which the Defendant misplaced was not bound to re-submit the documents for a 3rd time in order for the Defendant to honour his request for a withdrawal.*
4. *An Order directing the Defendant to close all accounts belonging to the Plaintiff in line with the Plaintiff's request dated May 24, 2020.*
5. *The sum of ₦20,000,000.00 (Twenty Million Naira) being general damages/compensation for breach of contract, inconvenience and loss of business occasioned by the acts of the Defendant.*
6. *Cost of this suit.*

The Claimant also filed a Motion on Notice dated the 31st of January, 2022 and filed on the same date. The Motion sought an Order of this Court for Summary Judgment. The Motion was brought pursuant to Order 11 Rule 1 of the Rules of this Court, 2018.

The matter came up for mention on the 10th of February, 2022. The Counsel on that date informed the Court that the parties were exploring the possibility of resolving the dispute amicably. After a series of adjournments occasioned by the ongoing settlement, the parties today have informed the Court that they have settled finally and, pursuant to this settlement, they have filed in Court the terms of settlement. The Terms of Settlement filed by the parties is reproduced verbatim hereunder:-

TERMS OF SETTLEMENT

1. **WHEREAS** the Plaintiff instituted the action herein seeking the following reliefs against the Defendants:
 - a. *A Declaration that by virtue of the banker/customer relationship between the Defendant and the Plaintiff, the Defendant is bound to honour immediately the Plaintiff's request to withdraw his funds in the custody of the Defendant.*
 - b. *A Declaration that the refusal of the Defendant to honour the several demands by the Plaintiff to withdraw his funds is a breach of the contractual banker and customer relationship.*
 - c. *A Declaration that the Plaintiff having submitted his documents on two occasions to the Defendant which the Defendant misplaced was not bound to re-submit the documents for a 3rd time in order for the Defendant to honour his request for a withdrawal.*

- d. An Order directing the Defendant to close all accounts belonging to the Plaintiff in line with the Plaintiff's request dated May 24, 2020.*
- e. The sum of ₦20,000,000.00 (Twenty Million Naira) being general damages/compensation for breach of contract, inconvenience and loss of business occasioned by the acts of the Defendant.*
- f. Cost of this suit.*

2. **WHEREAS** in a bid to settle the underlying dispute amicably and save the precious judicial time of this Honourable Court, the Plaintiff and the Defendant held a private settlement session for the purpose of compromise discussions pertaining to the dispute in this suit. The parties were able to come to a compromise in line with the terms hereunder:

NOW THEREFORE, in consideration of the mutual promises contained herein, the Parties hereto agree as follows:

- 1. **NO ADMISSION OF LIABILITY:** These Terms of Settlement shall not constitute an admission by either party in respect of this suit or any other issue incidental to the dispute between the parties. Also, neither these Terms of Settlement nor anything contained therein shall be admissible in any proceeding as evidence of liability or wrongdoing on the part of either party. However, these Terms of Settlement may be pleaded in any proceeding instituted to enforce its terms.

2. **SETTLEMENT PROPOSAL:** The Defendant has proposed to pay the Plaintiff the sum of **₦1,000,000.00 (One Million Naira)** (“Settlement Amount”) in the spirit of the amicable settlement and the Plaintiff has agreed to accept the said sum of **₦1,000,000.00 (One Million Naira)** from the Defendant as full and final settlement of the dispute and/or controversy in this suit including the costs of this litigation.
3. **PAYMENT OF THE SETTLEMENT AMOUNT:** In furtherance of the understanding of parties, the Defendant shall within two (2) clear weeks of the adoption of these Terms of Settlement as the Consent Judgment of the Court and receipt of the certified true copy of the Consent Judgment, pay to the Plaintiff the sum of **₦1,000,000.00 (One Million Naira)** as full and final settlement of the dispute in this suit, including but not limited to the claims in this suit or any pending suit or Judgments or Rulings or any other issue related to or connected howsoever with the dispute. The payment to be made by the Defendant to the Plaintiff shall be made via Bank Draft/Manager’s Cheque in the name of the Plaintiff’s Solicitors; CROMWELL & OKEKE.
4. **SUSPENSION AND DISMISSAL:** Notwithstanding anything herein contained, the parties agree that upon the payment of the Settlement Amount to the Plaintiff by the Defendant, the Plaintiff’s claims against the Defendant in this suit and/or any other pending suits or pending Judgments or pending Rulings related to or connected howsoever with the dispute

shall automatically abate and become unenforceable against the Defendant.

5. **RELEASE OF ALL CLAIMS:** In consideration of the payment of the Settlement Amount to the Plaintiff by the Defendant, the Plaintiff on behalf of himself, successors and assigns hereby releases and discharges the Defendant, its officers, directors, any past directors, shareholders, employees, successors and assigns from any and all liabilities and obligations, whether past, present and future, howsoever and whensoever arising, whether known or unknown, whether currently existing or arising in the future in relation with or in any way connected with the dispute in this suit, or the claims in this suit or in any other pending suit related to the dispute herein.
6. **BINDING EFFECT:** These Terms of Settlement shall be binding upon the Plaintiff and the Defendant and shall constitute the unappealable Judgment of the Court. It shall inure to the benefits of the parties' respective successors, assigns and personal representatives.
7. **NEGOTIATED TRANSACTION:** The Plaintiff and Defendant have participated in the drafting and negotiation of these Terms of Settlement. Accordingly, for all purposes, these Terms of Settlement shall be deemed to have been drafted jointly by them.
8. **COSTS:** each of the parties have agreed to bear their respective costs in this suit.

9. REPRESENTATION OF AUTHORITY: Each person signing these Terms of Settlement hereby represents and warrants that he or she has the authority to bind the entity or person on behalf of which he or she has signed.

The Terms of Settlement was dated the 08th day of December, 2022. The Parties to the suit and their respective Counsel duly executed the Terms of Settlement. The Terms of Settlement was filed on the 16th day of March, 2023.

COURT

Terms of Settlement dated 08/12/2022 and filed on the 16/03/2023 moved as Consent Judgment is hereby granted as prayed.

HON. JUSTICE A. H. MUSA
JUDGE
23/03/2023

APPEARANCES:

FOR THE CLAIMANT:

Ogozy Amarachi, Esq.
Jessica Michael, Esq.
Precious Okofu, Esq.
Oghenemise Akpomiemie, Esq.

FOR THE DEFENDANT:

Uchenna Okafor Esq.
I.N. Inyang, Esq.
L. S. Basse, Esq.
V. O. Esifo, Esq.