

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
HOLDEN AT JABI - ABUJA**

THIS TUESDAY, THE 27TH DAY OF APRIL, 2023.

BEFORE: HON. JUSTICE ABUBAKAR IDRIS KUTIGI – JUDGE

SUIT NO: CV/2450/2022

BETWEEN:

1. GAS SECURE SOLUTIONS NIGERI LIMITED
2. ASSETGUARD SERVICES NIGERIA LIMITED }CLAIMANTS

AND

KYC INTER PROJECT LIMITED DEFENDANT

JUDGMENT

By a Writ of Summons on the undefended list issued on the 22nd July, 2022, the Claimants' claims the following reliefs against the Defendant thus:

1. The sum of N8,504,994:00 (Eight Million, Five Hundred and Four Thousand, Nine Hundred and Ninety-Four Naira) only being the amount the Defendant owed the Claimants for guard services provided for the period of November, 2021 to April, 2022.

2. The cost of this action.

Pursuant to **Order 35 of the Rules of this Court**, the suit was on **7th December, 2022** placed for hearing on the undefended list.

From the Records, the Defendant was duly served with the originating court process on **27th March, 2023** vide proof of service filed by the bailiff of court dated **27th March, 2023**. The matter came up on **5th March, 2023** and despite the service

of hearing notice, the Defendant was not in court and did not file any process. The court adjourned the matter to 27th April, 2023 and the Defendant was again equally served with hearing notice. The Defendant was represented by one James Onoja of Counsel, but nothing was filed by Counsel on behalf of Defendant. Despite the more than ample time the Defendant had to react if they so desired, they have not reacted in anyway or specifically filed a notice in writing that they intend to defend the suit together with an affidavit disclosing a defence on the merit in compliance with **Order 35 Rule 3(1) of the Rules of Court**.

It is only where a defendant(s) takes these steps within the purview of **Order 35 Rule 3(1)** and does so within five days to the day fixed for hearing or within a time as may be extended by court upon an application that the court may then grant leave to defend on terms as the court considers just. Where however, a defendant neglects to take these steps or comply with **Order 35 Rule 3(1) of the Rules of Court**, as the defendant has elected to do in this case, then the provision of **Order 35 Rule 4** comes into play and in such circumstances, the suit shall be heard as an undefended suit and judgment given accordingly.

I have above given a brief analysis of the applicable rules. I will simply apply it to the facts of this case which is largely uncontested and straightforward and I will here summarise the substance of the case. The Plaintiffs case as made out in the affidavit in support is simply that the Claimants agreed with Defendant for the provision of Guard Services at the rate of **N1, 417, 499. 09** monthly.

The Claimants aver that the Defendant is in arrears of payment for the Guard Services provided to the Defendant from the period of November 2021 to the month of April 2022 in the total sum of **N8, 504, 994, 00** which has since become due and payable to the claimants, but which defendant has refused and failed to pay.

The claimants further aver that in the normal course of business, they usually raise invoice for payment by defendant. The invoices for the period November 2021 to April 2022 in the sum of **N8, 504, 994, 00** was annexed to the affidavit and marked as **Exhibit GA 1a to f**.

That despite repeated demands, the defendant has refused to live up to its commitments to pay for the Guard Services rendered and that on 9th May, 2022,

they wrote a letter of demand vide **Exhibit Ga2** to the Defendant for the payment of the outstanding payments for Guard Services wherein the defendant vide its letter dated **11th May, 2022** attached as **Exhibit GA3** admitted its indebtedness and gave an undertaking to pay the sum of **N8, 504, 994.00** by the end of June 2022. In spite of this letter, the defendant has still refused to pay this outstanding indebtedness. The Claimants were thus compelled to brief the law firm of Adeleye and Adeleye who wrote another letter of demand dated 1st June, 2022 vide **Exhibit GA4** but despite this letter, the defendant again failed or refused to pay for the Guard Services.

The above facts as stated earlier are largely uncontested. There is no dispute therefore that Guard Services were offered by claimants but the defendant has refused to pay for the services and despite the promises made by them to do so. This certainly is not fair. Agreements will have no meaning if parties do not live up to the commitments in the agreement.

As stated at the beginning of this judgment, the defendant has not in any manner challenged or controverted these clear depositions in support of the claims of claimants or filed any process disclosing any defence on the merit. Indeed on the processes on record, they even admitted they owe the sums claimed by claimants.

I accordingly therefore find these facts relating to the indebtedness of defendant as established. The defendant is therefore indebted to the Claimants to the extent of the outstanding balance now in the sum of **N8, 504, 994.00** only. I accordingly hold that the Claimants is entitled to judgment for the amount of **N8,504,994.00** as the defendant has not disclosed any defence on the merit enjoining me to transfer this matter to the general cause list. See **Ben Thomas Hotels Ltd V. Sebi Furniture Ltd (1989)5 N.W.L.R (pt.123)523**.

In summation and for the avoidance of doubt, pursuant to **Order 35 Rule 4 of the High Court Rules 2018**, I must proceed to enter judgment in favour of the Claimants. Judgment is hereby entered for the Claimants against Defendant for:

- 1. The sum of N8,504,994:00(Eight Million, Five Hundred and Four Thousand, Nine Hundred and Ninety Four Naira) only being the amount the Defendant owed Claimants for guard services provided for the period of November, 2021 to April, 2022.**

2. I award cost assessed in the sum of N50,000 (Fifty Thousand Naira) only payable by Defendant to Claimants.

Hon. Justice A.I. Kutigi

Appearances:

- 1. R.C. Ojiaku, Esq., for the Claimants.***
- 2. James Onoja, Esq., for the Defendant.***