

**HIGH COURT OF JUSTICE OF THE F.C.T.**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT APO, ABUJA**  
**ON THURSDAY, THE 13<sup>TH</sup> DAY OF JULY, 2023**  
**BEFORE HIS LORDSHIP: HON. JUSTICE ABUBAKAR HUSSAINI MUSA**  
**JUDGE**

**CHARGE NO: FCT/HC/CR/284/2021**

**BETWEEN:**

**FEDERAL REPUBLIC OF NIGERIA**

**COMPLAINANT**

**AND**

**IDRIS IBRAHIM**

**DEFENDANT**

**JUDGMENT/SENTENCING**

The Defendant was arraigned before this Honorable Court on the 09<sup>th</sup> day of February, 2022 on a two-count charge of obtaining by false pretence contrary to section 1(1)(a) and punishable under section 1(3) of the Advanced Fee Fraud and Other Related Offences Act, 2006. Upon the reading of the Charge to him, the Defendant pleaded not guilty. Though the Defendant's Counsel applied for the bail of the Defendant and the Prosecution opposed the bail application, this Court admitted the Defendant to bail on the same conditions as the bail earlier granted by the Honourable Justice S. C. Oriji. The Court thereafter adjourned the trial to the 1<sup>st</sup> of March, 2022.

The Court did not sit on the 1<sup>st</sup> of March, 2022, but it sat on the 6<sup>th</sup> of April, 2022. On that date, the Defendant's Counsel informed the Court the Defendant

had approached the Prosecution for plea bargaining. The Prosecution, Counsel, in response, confirmed that the Defence had approached him for plea bargaining only that morning. He however insisted on calling one of his witnesses who was in Court. The witness confirmed that he understood the English language. He was affirmed by the Court clerk.

In his evidence-in-chief, he gave his name as Shehu Ibrahim and his address as 72 Ahmadu Bello Way, Central Business Area, Abuja. He swore that he worked with Taj Bank where he held the office of a Compliance Officer in the Regulatory Unit. He further averred that he liaised with law enforcement agencies, the Central Bank of Nigeria, the Nigeria Deposit Insurance Commission as well as the Security and Exchange Commission.

He narrated how his employer received a letter from the Economic and Financial Commission directing it to produce the account opening package of Usme Global Concept Ltd. After confirming that the information on the record and on the letter from the Economic and Financial Commission were identical, they released the certified true copies to the Commission. When the Prosecution sought to tender the documents in evidence, the Defence objected to its admissibility on the ground that the documents which the witness identified were different from the document sought to be tendered. The Prosecution Counsel therefore applied to withdraw the document. The Court thereafter adjourned the trial to the 9<sup>th</sup> of June, 2022 for continuation of trial.

The Court came up on the 9<sup>th</sup> of June, 2022, the 21<sup>st</sup> of September, 2022, the 2<sup>nd</sup> November, 2022, the 14<sup>th</sup> of December, 2022 without making any appreciable progress. On the 15<sup>th</sup> of February, 2023, the Prosecution applied that the bail of the Defendant be revoked, a bench warrant issued for his arrest, having failed to appear in Court for the fourth time and the Defendant's sureties ordered to appear in Court to show cause why they should not forfeit

the bail bond. The Defence Counsel aligned himself with the application of the Prosecution. This Court, in a considered bench ruling granted the prayers of the Prosecution and adjourned the trial to the 4<sup>th</sup> of May, 2023.

On the 4<sup>th</sup> of May, 2023, the Prosecution arraigned the Defendant on an amended charge dated and filed on the 13<sup>th</sup> of December, 2022 and containing two counts. The Defendant pleaded guilty to the two counts contained in the charge.

This Court, in compliance with the provisions of section 270 (9), (10) and (11) of the Administration of Criminal Justice Act, 2015 interrogated the Defendant on his understanding of the implication of the plea bargain arrangement and he answered in the affirmative. The Prosecution informed the Court of the plea bargain the Prosecution entered with the Defendant dated and filed on the 13<sup>th</sup> of December, 2022. The Prosecution Counsel also informed the Court that certain properties which the Defendant purchased with the proceeds of the crime were uncovered in the course of the investigation. Though he wanted to call the Investigating Officer to testify as PW1 on the strength of the amended charge, the Court however adjourned the case to the 24<sup>th</sup> of May, 2023 for trial.

On the 24<sup>th</sup> of May, 2023, the Counsel for both parties informed the court that they were ready for the proceeding of that day. The Prosecution Counsel further told the Court that the Defendant defrauded the nominal complainant of the sum of ₦70,000,000.00 but was returning properties worth only ₦55,000,000.00, adding that the nominal complainant had not been restored to the state he was before the Defendant's act. The nominal complainant, when asked by this Court, confirmed that he was willing to accept the properties. It was upon this understanding that the Prosecution Counsel called the first Prosecution Witness to lead evidence on the amended charge.

The Witness was affirmed. He told the Court that his name was Mubarak Isa, that he lived at Plot 301/302 Institution and Research District, Idu, Abuja and that he was an Assistant Superintendent at the Economic and Financial Crimes Commission. He went on to describe his job schedule which included inter alia interviewing parties, recording their statement and writing investigation reports. He confirmed that he knew the Defendant and further narrated that his knowledge was derived from a petition the office of the Executive Chairman received from the office of the Attorney-General of the Federation on behalf of the nominal complainant, one Fatai Ibrahim, alleging that the Defendant misrepresented to the nominal complainant that he would help him secure the position of an auctioneer with regards to properties that had been forfeited to the federal government.

The witness further swore that the Defendant demanded for ₦100,000,000.00 from the nominal complainant as proof of financial strength, adding that the Defendant claimed the requirement was from the office of the Attorney-General of the Federation and Minister of Justice. He averred that as part of the investigation, the Commission despatched letters to the Corporate Affairs Commission, Taj Bank and the United Bank for Africa. He went on to state that upon an analysis of the statements of account obtained from Taj Bank and United Bank for Africa, it was discovered that the nominal Yusamah Global Concept in December, 2020, adding that the sum of ₦40,000,000.00 was transferred from this account to one Yahaya Haliru.

According to the witness, the Defendant was arrested in Sokoto and transferred to Abuja where his statement was taken under word of caution. The Witness further averred that the Defendant admitted the allegations contained in the petition of the nominal complainant, adding that the Defendant authorized the transfer of ₦40,000,000.00 to one Yahaya Haliru for the

construction of a six-bedroom bungalow at Gwandangaji Quarters in Kebbi State.

The witness went on to state that the case was referred to the legal unit for necessary action upon the conclusion of investigation. He stated that though the Defendant pleaded not guilty when he was arraigned on the 9<sup>th</sup> of February, 2022 when he was initially arraigned, he however pleaded guilty to the amended charge dated the 13<sup>th</sup> of December, 2022 and also agreed to plea bargain. He added that the Defendant agreed to forfeit some properties he acquired with the money the nominal complainant transferred to him and that the nominal complainant agreed to accept the property as the final payment of his ₦70,000,000.00. He also confirmed that both the Defendant and the nominal complainant signed the plea bargain agreement.

The witness tendered a number of documents in evidence in the course of his testimony. These are the petition to the Economic and Financial Crimes Commission dated the 21/06/2021 marked as **Exhibit A1-A8**, the statement of the nominal complainant marked as **Exhibit B1-B10**, investigation activities dated 23/08/2022 marked as **Exhibit C1**, re-investigation activities dated 25/08/2021 marked as **Exhibit D1**, re-investigation activities dated 07/10/2022 marked as **Exhibit E1**, Defendant's statement from Sokoto Command of the Economic and Financial Crime Commission dated 09/07/2021 marked as **Exhibit F1-F4**, the Defendant's statement from Sokoto command of the Economic and Financial Crimes Commission dated 11/02/2021 marked as **Exhibit G1-G4**, Deed of Assignment marked as **Exhibit H1-H3**, Sale Agreement marked as **Exhibit I1-I7**, investigation activities and bank statements of Yusamah Global Concept marked as **Exhibit J1-J7** and the Defendant's statement in Abuja, the headquarters of the Economic and Financial Crimes Commission marked as **Exhibit K1-K14**.

Counsel for the Defendant declined the Court's invitation to cross-examine the witness. There was, accordingly, no re-examination. The witness was therefore discharged. The Court thereafter adjourned to the 13<sup>th</sup> of July, 2023 for Judgment.

I have taken the pain to provide a concise version of the proceeding in this case so that the plea bargain agreement can be situated in its appropriate context. I am privileged to go through the plea bargain agreement and I am inclined to reproduce it here verbatim for the sake of clarity.

### ***PLEA BARGAIN AGREEMENT***

*This Plea Bargain Agreement is made pursuant to section 270 of the Administration of Criminal Justice Act, 2015 this ..... day of December, 2022 between Federal Republic of Nigeria (represented by the Economic and Financial Crimes Commission) and Idris Ibrahim.*

### **WHEREAS**

- 1. Following a Petition from the Office of the Attorney-General of the Federation and Minister of Justice dated 21<sup>st</sup> June, 2021 alleging a case of obtaining money by false pretence addressed to the Economic and Financial Crimes Commission, one Idris Ibrahim was arrested by the Commission in Abuja.*
- 2. Investigation carried out by operatives of the Commission revealed that Idris Ibrahim falsely represented to one Alhaji Fatai Ibrahim that he had the Attorney-General's mandate to receive the sum of N70,000,000.00 to show capacity and facilitate the appointment of ALhaji Fatai Ibrahim as Auctioneer for the sale of jewelry and ornaments forfeited to the Federal Government of Nigeria.*

3. *During the course of investigation/prosecution by the Commission, Idris Ibrahim admitted receiving the sum of Seventy Million Naira (N70,000,000.00) from Fatai Ibrahim that the money was to show capacity to execute a contract of auctioning assets forfeited to the Federal Government of Nigeria.*
4. *The Defendant through his Counsel has applied to the Prosecution for plea bargain and the Prosecution after consultation with the investigating officer hereby accepts as stated herewith.*

**IT IS HEREBY AGREED AS FOLLOWS:**

1. *That before the conclusion of this agreement, the Defendant was informed:*
  - i. *That he has the right to remain silent.*
  - ii. *Of the consequences of not remaining silent.*
  - iii. *That he is not obliged to make any confession that could be used in evidence against him.*
2. *That the Defendant shall plead guilty to the charge of cheating dated 13<sup>th</sup> December, 2022 and filed on the 13<sup>th</sup> of December, 2022 before this Honourable Court.*
3. *That the Defendant is the beneficial owner of that property and appurtenances lying and situate at Gwandangaji Quarters, Residential Layout, Birnin Kebbi, Kebbi State valued at N55,000,000.00 and has agreed to hand over the said property to the Complainant as full and final settlement for the money received from him by the Defendant.*
4. *That the capital value of N55,000,000.00 referred to in (3) above was arrived at after an evaluation exercise by officers of the Federal Ministry of Works and Housing.*

5. *That the Defendant has made out a Deed of Assignment in respect of the said property dated \_\_\_ \_ \_ in favour of the Complainant – Fatai Ibrahim the receipt of which the Complainant hereby acknowledges alongside documents of title to the property to wit – Sales Agreement between Alhaji Faruku Musa Yaro (Seller) and Idris Ibrahim (buyer) dated 28<sup>th</sup> January, 2021 and attached Letters of Grant issued by the Kebbi State Government.*
6. *That upon conviction, sentencing of the Defendant by this Honourable Court shall be one year imprisonment.*
7. *That the Complainant agrees to take over the property as full and final restitution.*
8. *That the Defendant shall depose to an affidavit of undertaking to be of good behavior before this Honourable Court.*

Both the Prosecution and the Defendant, along with their respective Counsel, as well as the Investigating Officer, executed the plea bargain agreement.

The above is the plea bargain agreement between the Prosecution and the Defendant. Plea bargain, simply put, is a negotiated agreement between a prosecutor and a defendant by virtue of which the defendant pleads guilty to a lesser offence, or, in a charge involving multiple counts, then to one or more of the counts in exchange for some concession by the prosecutor, usually, a more lenient sentence, or, in the case of a multiple-count charge, a dismissal of the other charges. See the case of ***Igbinedion v. FRN (2014) LPELR-22766 (CA) per Ogunwumiju, JCA at pp. 20 – 26, paras B.*** see also ***Ogboka v. State (2016) LPELR-41177(CA) and Muhammed v. FRN (2019) LPELR-48107 (CA).***



Section 270 of the Administration of Criminal Justice Act codifies the concept of plea bargain in Nigeria’s criminal jurisprudence. This section contains elaborate guidelines on the application of plea bargain. Of particular relevance in this case are the provisions of section 270(1)(a), (2)(a) and (b), (3), (4)(a) and 5(b) of the Administration of Criminal Justice Act, 2015. Subsection (3) enjoins the Prosecution to either offer or accept plea bargain if the offer or acceptance would be “*in the interest of justice, the public interest, public policy and the need to prevent abuse of legal process.*” Paragraph (b) of subsection (5) contains the following illuminating provisions:

***“With regard to the nature of and circumstances relating to the offence, the defendant and public interest;***

***Provided that in determining whether it is in the public interest to enter into a plea bargain, the prosecution shall weigh all relevant factors, including:***

- (i) the defendant’s willingness to cooperate in the investigation or prosecution of others,***
- (ii) the defendant’s history with respect to criminal activity,***
- (iii) the defendant’s remorse or contrition and his willingness to assume responsibility for his conduct,***
- (iv) the desirability of prompt and certain disposition of the case,***
- (v) the likelihood of obtaining a conviction at end of trial and the probable effect on witnesses,***
- (vi) the probable sentence or other consequences if the defendant is convicted,***

- (vii) the need to avoid delay in the disposition of other pending cases,**
- (viii) the expense of trial and appeal, and**
- (ix) the defendant's willingness to make restitution or pay compensation to the victim where appropriate."**

In ***Olugbenga v. FRN (2018) LPELR-47572 (CA)***, the Court of Appeal per Aboki JCA held ***pp. 13 – 15, paragraph F – F*** of the law report that ***"Plea bargain arrangements can be achieved in Nigeria by a combination of prosecutorial discretion, defence options and judicial discretion."*** As to the nature of plea bargain, the erudite jurist went on to state: ***"It is my view that the concept of plea bargain is akin to a court entering a consent judgment in a civil suit."***

Prior to the filing of the Amended Charge dated the 13<sup>th</sup> of December, 2022, the Defendant was arraigned on a two-count charge of obtaining by false pretence under section 1(1) of the Advanced Fee Fraud Act and punishable under section 1(3) of the same Act. Following discussions between the Prosecution and the Defendant, the Prosecution charged the Defendant with the offence of cheating under section 320 of the Penal Code Act and punishable under section 322 of the same Act. Section 322 provides that ***"Whoever cheats shall be punished with imprisonment for a term which may extend to three years or with fine or with both."*** Under the plea bargain agreement, the Prosecution and the Defendant agreed that the Defendant shall be sentenced to a term of imprisonment of one year.

Though the Defendant pleaded not guilty to the counts contained in the earlier charge, he however pleaded guilty to the amended charge. This is consistent with the terms of the plea bargain agreement already before this Court. The Court in ***Olugbenga v. FRN (2018) supra*** described such step by the

Defendant as ***“an overt act on the part of the accused person in evidence of the plea bargain.”*** See also ***PML Securities Co. Ltd v. FRN (2018), LPELR-47993 (SC)***. The effect of the plea of guilty is not lost on this Court. In ***Adamu v. FRN (2020) 2 NWLR (Pt. 1707) 129***, the Supreme Court per Peter-Odili JSC held at **page 157, paras D – G** thus:

***“When a plea of guilt takes place with full understanding, then that cuts off delay and the court, upon such a plea in full compliance with section 218 of the Criminal Procedure Act, need not further ask the accused person to go and prepare a defence”***

The Court went on to state at **page 158 paras A – C** of the law report that

***“By virtue of section 218 of the Criminal Procedure Act, if the accused pleads guilty to any offence with which he is charged, the court shall record his plea as neatly as possible in the words used by him and if he is satisfied that he intended to admit the truth of all the essential ingredients of the offence of which he has pleaded guilty, the court shall convict him of that offence and pass sentence upon or make an order against him unless there shall appear sufficient cause to the contrary.”***

In ***Simon v. FRN (2020) 12 NWLR (Pt. 1739) 525 at pages 548, paras E – F; 548 – 549, paras H – F; 550, paras A – B; 553 paras D – E***, the Court of Appeal per Adefope-Okojie JCA held thus:

***“In criminal proceedings, once an accused person pleads guilty to the charge, the prosecution can ask the leave of the Court to tender exhibits after summarizing the facts of the case and then urge the Court to convict the accused who pleaded guilty to***

***such charge. The court then remains with the discretion to straightaway convict and sentence the accused person through summary trial procedure if it is satisfied that he actually intended to own up to the guilt of the offence or, in the alternative, ask the prosecution to call witness or witnesses and proceed with full-blown trial. Thus, it is proper and flawless where the trial court adopts the procedure which leads to the tendering and admission in evidence of exhibits. It is a proper procedure by the prosecution where, after the plea of guilty, documents are tendered from the bar...***

In the case before me, the Defendant pleaded guilty to the charge read to him. He confirmed that he understood the language of the Court. The Prosecution through the witness who gave evidence on the amended charge tendered exhibits to substantiate the allegation of cheating with which the Defendant was charged. I therefore hold that the procedure adopted by the Prosecution is proper and in compliance with the procedure laid down by the law as seen from section 274 (which is *in pari materia* with the provisions of section 218 relied upon by the Supreme Court and the Court of Appeal in the cases of ***Adamu v. FRN (2020) supra*** and ***Simon v. FRN (2020) supra*** respectively). Section 274(1) and (2) provides as follows:

***(1) “Where a defendant pleads guilty to an offence with which he is charged, the court shall:***

***(a) record his plea as nearly as possible;***

***(b) invite the prosecution to state the fact of the case; and***

**(c) enquire from the defendant whether his plea of guilty is to the fact as stated by the prosecution;**

**(2) Where the court is satisfied that the defendant intends to admit the truth of all the essential elements of the offence for which he has pleaded guilty, the court shall convict and sentence him or make such order as may be necessary, unless there shall appear sufficient reason to the contrary.”**

In view of the foregoing, therefore, this Court hereby hold that the Defendant indeed committed the offence of cheating contrary to the provisions section 320 and punishable under section 322 of the Penal Code Act CAP 532 Laws of the Federation (Abuja) and accordingly finds him guilty of the offence of cheating.

Pursuant to the above, therefore, I shall now proceed to sentencing. In this case, however, there is a plea bargain agreement; and the Court has been invited to give effect to the provisions of this plea bargain agreement. It must be stated here, however, that the Administration of Criminal Justice Act, 2015 gives the Court a certain discretion regarding the adoption of the terms of a plea bargain agreement before it. Subsection (10) of section 270 of the Administration of Criminal Justice Act, 2015 gives the Judge or Magistrate the power to **“ascertain whether the defendant admits the allegation in the charge to which he has pleaded guilty and whether he entered into the agreement voluntarily and without undue influence.”** Where the Judge or Magistrate is so satisfied, he can proceed to convict the Defendant on his plea of guilt and shall award the compensation to the victim in accordance with the terms of the agreement.

Similarly, subsection 11 of section 270 of the Act provides that

***“Where a defendant has been convicted under subsection (9) (a) the presiding Judge or Magistrate shall consider the sentence as agreed upon and where he is:***

***(a) satisfied that such sentence is an appropriate sentence, impose the sentence;***

***(b) of the view that he would have imposed a lesser sentence than the sentence agreed, impose the lesser sentence; or***

***(c) Of the view that the offence requires a heavier sentence than the sentence agreed upon, he shall inform the defendant of such heavier sentence he considers to be appropriate.”***

I have carefully considered the offence with which the Defendant is charged. I have also given serious thought to the punishment provided for the offence in the Penal Code Act. I have studied the evidence tendered in this case by the Prosecution and admitted as exhibits by the Court. I have reviewed the testimony of Mubarak Isa who gave evidence in support of the two heads of offences under the amended charge. When these are tied together with the plea of guilty of the Defendant, it can be seen readily that the Prosecution has established the offence of cheating beyond reasonable doubt.

To this end, therefore, I hereby sentence the Defendant to the following punishment:

- 1. That the Defendant is hereby sentenced to a term of imprisonment of one (1) year with an option of fine of ₦500,000.00.**
- 2. That the Defendant shall deliver ownership and possession of the property particularly described as a six-bedroom bungalow lying and situate at Gwandangaji Quarters, Residential Layout, Birnin**

Kebbi, Kebbi State valued at ₦55,000,000.00 to the nominal complainant, Alhaji Fatai Ibrahim as full and final restitution of the sum of ₦70,000,000.00 the Defendant obtained from the nominal complainant.

3. That the Defendant shall deliver all the documents of title relating to the property and execute all necessary documents of transfer of title to the property to give effect to the transfer of the property from the Defendant to the nominal complainant.
4. That the Defendant shall depose to an affidavit of undertaking to be of good behavior.

This is the Judgment of this Court delivered today, the 13<sup>th</sup> day of July, 2023.

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**HON. JUSTICE A. H. MUSA**  
**JUDGE**  
**13/07/2023**

**APPEARANCE:**

**For the Prosecution:**  
**Attah M. Ocholi, Esq.**

**For the Defendant:**  
**A.O. Abdullahi, Esq.**  
**Philip Ezea, Esq.**  
**J. O. K. Irikefe, Esq.**