

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

**BEFORE: HON. JUSTICE O. C. AGBAZA**

**COURT CLERKS: UKONU KALU & GODSPower EBAHOR**

**COURT NO: 11**

**SUIT NO: FCT/HC/CV/187/2014**

**BETWEEN:**

**PRINCESS SANDRA O. WILLIAM.....PLAINTIFF**

**VS**

- 1. MRS. LUCY NDEKHEDEKHE**
- 2. NELLYYANI PROPERTIES AND INVESTMENT (NIG) LIMITED**
- 3. MR. AKINWANDE AKINPELU**
- 4. MRS. BUKOLA OLUFUNSHO AKINPELU.....DEFENDANTS**

**RULING**

By a Motion on Notice with No. M/3963/109 dated 15/2/19 but filed on 8/3/19, brought pursuant to Order 20 Rule 4 of FCT High Court (Civil Procedure) Rules, 2018 and under the inherent jurisdiction of this Hon. Court, Defendants/Applicants pray the court for the following:-

1. An Order of this Honourable Court entering judgment in favour of the Defendants/Applicants and against the Plaintiff/Respondent on facts admitted by Plaintiff/Respondent in her pleadings.
2. An Order of this Honourable Court directing the Plaintiff/Respondent to immediately pay the sum of

₦13,666,667.00 (Thirteen Million Six Hundred and Sixty Six Thousand, Six Hundred and Sixty Seven Naira) being the amount due and owing to the Defendants/Applicants as arrears of rent on the three bedroom apartment, and its appurtenances, situate at No. 1 Kwaji Close, Maitama Abuja FCT let at an annual rent of ₦2,500,000.00 (Two Million, Five Hundred Thousand Naira) from the 15<sup>th</sup> day of July 2014 till date including the unpaid sum of ₦2,000,000.00 (Two Million Naira) due to the dud cheque issued by the Plaintiff/Respondent.

3. An Order directing the Plaintiff/Respondent to pay Ten (10%) percent interest on the judgment sum per month from the date of the judgment till the final liquidation of the judgment sum.
4. And the Omnibus relief.

The Motion is supported by an affidavit of Twelve (12) Paragraph deposed to by Ruth Okoko, a Litigation Clerk in the law firm of Counsel to Applicants. Also filed a Written Address in support and adopts the Address in urging the court to grant the application.

In response, Plaintiff/Respondent filed a 9 Paragraph counter-affidavit deposed to by Ejike Ejiofor, Legal Practitioner in the law firm of Counsel to Plaintiff/Respondent. Relies on all the depositions. Also filed a Written Address and adopts the address in opposition to grant of the application.

In the Written Address of Applicants, Isaiah Opaaje of Counsel did not submit any issue for determination but relied on the Provision of Order 20 Rule 4 of Rules of Court and submit that the court has given credence to

the Provision of the Rule, refer to the cases of Mosheshe General Merchant Ltd Vs Nig. Steel Products Ltd (1987) 11 SCNJ, 11, Salawu & Anor Vs Yusuf & 2 Ors (2007) 5 SC 38 @ 60, Paras 10 – 20. Submits where a party, as in the instant either by pleadings, evidence or in writing admits facts which are relevant to facts in issue, the court is empowered to give judgment on the admitted facts and may proceed to continue hearing on facts still in dispute. That Plaintiff/Respondent in Para 1 of her Statement of Claim admitted she is a tenant put in actual possession and pleaded Tenancy Agreement in proof. Submit she admitted in Para 3 and 13 (c) of Statement of Claim that 3<sup>rd</sup>, 4<sup>th</sup> Defendants are new legal owners of the demised premises and her landlord. Further that she admitted in Para 7 that two years rent agreed is ₦5,000,000.00 and only paid rent for the first year.

In the Written Address of Plaintiff/Respondent, Chief I.A Solomon of Counsel submitted a sole issue for determination;

“Whether the Defendants/Applicants are entitled to the reliefs sought for the application”

And answer the issue in the negative and submit that the Applicants affidavit is incompetent in that the material depositions, in particular Paras 6 – 9 are conclusions and offends Provision of Section 115 (1) and (2) Evidence Act as opposed to Statement of facts and liable to be struck out, refer to Nig LNG Vs African Development Insurance Co. Ltd (1995) 8 NWLR PT. 416, 677, Governor Lagos State Vs Ojukwu (1986) 1 NWLR PT. 18 621

@ 641, Josien Holding Ltd & Ors Vs Lornamed Ltd & Anor (1995) 1 SCNJ, 133.

Submit that court is entitled to give judgment based on admission by a party if the admission is relevant to the facts in issue and that this is not the case in the instant. That the purported admissions cannot be relevant to the facts in issue in this case. That Defendants/Applicants have not cited any authority where judgment was entered based on alleged admissions arising from Statement of Claim of Plaintiff. Further that in matter of pleadings, it is for Plaintiff to plead sufficient material facts so that Defendant will know the case he is to face and then it's up to Defendant to admit or traverse these facts. That Plaintiff/Respondent in Statement of Claim pleaded sufficient material facts that enabled Defendants/Applicants to comprehend the case against them and consequent upon such comprehension filed their Statement of Defence and therefore a misunderstanding to assume that admissions arise or will arise out of Plaintiff's pleadings. Submits that this application is incompetent as it constitutes a total misapplication of the law and that the authorities cited by Applicants are against their application.

By way of adumbration, with leave, submit that in all cases where judgment is granted on admission, it is not granted on Defendant's application and refer to book "Civil Procedure" by Nwadialo @ Pg. 534 – 538, Pascoe Vs Richard (1881) 50 LJ CH 337. That in this case, parties have joined issue and the matter ripe for hearing. That such situation can only occur where Plaintiff by written Statement or affidavit that it has no

Claim against Defendant that Defendant can bring a case for judgment on admission. That this application is strange, urge court to dismiss it.

Replying on point of law and on the issue that the application is strange, Applicants Counsel refer the court to Order 20 Rule 4 of Rules of court and submit that the Order 20 Rule 4 supports their application.

I have carefully considered the affidavit evidence of the parties, the submission of both learned counsel as well as the judicial authorities cited and find that only one (1) issue can be distilled for determination;

“Whether or not Defendants/Applicants have made out a case to entitled them to the reliefs sought in their application”

The Applicants herein seek an Order of Court to enter judgment in their favour and against Respondents on facts admitted in her pleadings, in particular Paras 1, 3, 13(c) and 17, of her Statement of Claim and relied on the Provision of Order 20 Rule 4 of Rules of Court. Against this the Respondents contend that for court to be entitled to give judgment on admission the admission must be relevant to the facts in issue and that this is not the case in the instant. That the purported admission relied on by Applicants arose from Statement of Claim of Plaintiff/Respondent and they cannot be said to be relevant to the facts in issue in the instant case.

The Order 20 Rule 4 of the Rules of court relied upon by Applicants provides;

“The Court may on application at a Pre-trial Conference or at any other stage of the proceedings where admissions of facts have been

made, either on the pleadings or otherwise, make such judgment as upon such admission a party may be entitled to without waiting for the determination of any other question between the parties”

For admission to qualify as the basis for which a court may enter judgment under the Rules such admissions must be relevant to the facts in issue, clear, unequivocal, total, and straightforward on the pleadings or otherwise. See the case of *Kano Vs Government of Adamawa State & Ors* (2014) LPELR – 24161 (CA), *Taiwo Vs Adegboro* (2011) 5 SCNJ 251 @ 276 (SC). See also the book “Civil Procedure in Nigeria” Second Edition by Fidelis Nwadialo @ Pg. 534 – 538.

It is also law that to decide whether there was an admission in the pleadings to entitle the court to enter judgment, the court must look at the pleadings as a whole and not just consider each paragraph in isolation from a party’s pleadings. See *Titiloye & Ors Vs Olupo & Ors* (1991) LPELR 3250 (SC). See also *Pan Asian African Co. Ltd Vs Nikon Ltd* (1982) 9 SC, 1 @ 48 and *Steel Bell Nig Ltd & Ors Vs NDIC & Ors* (2014) LPELR – 23343 (CA).

In consonance with the said Order 20 Rule 4 of the Rules of Court which Provision has been given judicial appendage in Plethora of judicial authorities inclusive of the cases I cited above, I have perused the pleadings of Plaintiff/Respondent as enjoined by the law, in particular Para 1, 3, 13 (c) and 7 of Statement of Claim which Applicants equally hindges their application and find that indeed they are Statements that arose from the pleadings of Plaintiff/Respondent and in the circumstances in which the

arose, they cannot be said to be relevant to the facts in issue in the instant case and qualify as admission to entitled the court to enter judgment in line with the Rules and judicial authorities cited above. See Kano Vs Government of Adamawa State & Ors (Supra). See also Titilope & Ors Vs Olupo & Ors (Supra). I am, therefore, in agreement with the submission of learned counsel for Plaintiff/Respondent on the point.

In the instant Suit, parties have joined issues and having joined issues and in consideration of the pleadings, it is the view of the court that all the issues raised by the parties are such that would involve trial of the issues as a whole on the merit.

It is on this basis I refuse the application of Defendants/Applicants and consequently dismiss it. I so Order. I also order the accelerated hearing of this suit.

I made no orders as to cost

**HON. JUSTICE O. C. AGBAZA**

Presiding Judge

28/10/2019

**APPEARANCE:**

ISAIAH OPAAJE – FOR THE DEFENDANTS/APPLICANTS

CHIEF .I. A SOLOMON – FOR THE PLAINTIFF/RESPONDENT.