

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE NYANYA JUDICIAL DIVISION**  
**HOLDEN AT NYANYA ON THE 4<sup>TH</sup> DAY OF MARCH, 2019.**  
**BEFORE HIS LORDSHIP: HON. JUSTICE U.P. KEKEMEKE**  
**SUIT NO: FCT/HC/CV/2078/18**

**COURT CLERKS: JOSEPH BALAMI ISHAKU & ORS.**  
**BETWEEN:**

**OGUN STATE GOVERNMENT.....PLAINTIFF**

**AND**

**THE WEAVER'S INN LIMITED .....DEFENDANT**

**JUDGMENT**

The Claimant's Writ of Summons and Affidavit placed under the Undefended List Procedure against the Defendant is for the following:

1. The sum of N23,756,000.00 being the amount left unpaid of rent from 1<sup>st</sup> January 2017 to 31<sup>st</sup> December 2019.
- b. Cost of the Suit.

In support of the Writ of Summons is a 14 paragraph Affidavit sworn to by Faith Joseph of 74 Ralph Shodeinde Street, CBD, Abuja. Learned Claimant's Counsel relied upon same.

In the said Affidavit, the deponent states:

That the Plaintiff is the owner of the building known as Ogun House situate and lying at No. 74 Ralph Shodeinde Street, Central Business District, Abuja. That Plaintiff sometimes appointed Inter-Topex Nig. Ltd to act for it as the Property Manager. That the rent and service charge payable by tenants in the property are payable in advance. The Defendant is a tenant that operates hotel business within the property for a term of 15 years and five months, paying the sum of N8,352,000.000 per annum, payable in advance every three years period during the lease. The tenancy agreement is dated 1<sup>st</sup> day of August 2013.

The Defendant's total rent for the 2<sup>nd</sup> lease period for the 24 bedroom hotel accommodation on the 3<sup>rd</sup> and 4<sup>th</sup> floors of the property measuring approximately 696 sqm is N25,056,000. The Defendant after several demands only paid the sum of N1,300,000.00 leaving the balance of N23,756,000.00 unpaid despite

repeated demands. The letter of demand dated 24/05/17, payment receipts dated 9<sup>th</sup> January, 2018 and 8<sup>th</sup> June, 2018 are relied upon.

That Claimant's property Manager wrote several letters to the Defendant to demand for the payment of the outstanding rent, but failed to pay. The acknowledged copies of the letter written to the Defendants dated 28<sup>th</sup> February, 2018 and 18<sup>th</sup> day of May 2018, refers.

The Defendant deliberately neglected, failed and or refused to pay its outstanding rent up to date despite repeated demands. The Defendant has no defence to this Suit. The Defendant filed a Notice of Intention to defend with an Affidavit. The Defendant deposes that the Tenancy Agreement between the Plaintiff and the Defendant for the 2<sup>nd</sup> lease is N25,036,000 out of which N2 Million was paid to the Plaintiff as rent and the balance of N23,056,000 being a total of part deductions and set off for expenses incurred in repairing the property, repairing damages arising from

outside the demised area, repairing and maintaining the common areas, and in providing and servicing facilities in the Plaintiff's property which were supposed to have been undertaken by the Plaintiff and or his Facility Manager.

That the aforesaid deductions and set offs formed part of the express term of the lease which permits the Defendant to pay rent in the manner aforesaid net of all deductions abatement or set off whatsoever. He unequivocally denies that the Defendant is indebted to the Plaintiff to the tune of N23,756,000 rent as claimed.

That the rent of N8,352,000 per annum payable in advance every three years was entered into with an understanding that subject to a formal contract being entered into between Plaintiff and Defendant, the leasehold property which is a 24 bedroom hotel/accommodation would fully be serviced with facility as 500 KVA Generator set, 24 hour security, passenger lifts, dedicated transformer, uniformed security personnel, general clearing of common parts

and gardening. The Ogun State Government Letter of Offer for Lease dated the 2<sup>nd</sup> of August 2013, refers.

That the Plaintiff also undertook to refurbish the entire building prior to and during the pendency of the first period of the lease and had sent officials on 3 different occasions but no refurbishment ever took place. The dilapidated, dysfunctional, dangerous and unkept state of the property have affected the Defendant's business resulting in serious financial and reputational damage.

That it is common in buildings with multiple occupation and tenancies, the Plaintiff is responsible for repairs and maintenance of common parts such as reception areas, staircases/stairwell areas, roads and parking areas, water supply, electricity supply and lifts etc. That it was on the premise of the above content of the Plaintiff's Offer Letter that the Defendant entered into the Lease Agreement and further extracted a Clause in the said agreement permitting it to make deductions, abatement or set-off for expenses

incurred in provision of facilities where the facilities stated above are not provided by the Plaintiff.

That acting on the impression and representation made to it that the above facilities which would ordinarily aid its hotel business in the heart of Abuja City Centre would be provided by the Plaintiff, the Defendant undertook massive renovation and structural work with the approval of the Plaintiff to make the demised premises befitting for hotel business.

That acting under false representation made by the Plaintiff to it that the premises was fully serviced and ideal for an hotel business which requires efficient and constant electricity supply whether by the public power supply or an electricity generator to make up for shortfall, an operational lift in view of the fact that the hotel was located on the 3<sup>rd</sup> and 4<sup>th</sup> Floors of a high rise building, the Defendant after paying the initial rent for the 1<sup>st</sup> term of the lease further spent the total sum of about N30,000,000 in extensive renovation captured in Exhibit B. That the matter should be

transferred to the General Cause List. That renovation work could not be completed on schedule because of several persons who were on the premises leased to it etc.

The kernel of the Claimant's Suit under the Undefended List procedure is the unpaid rent of N23,756,000.00 from 1<sup>st</sup> January 2017 to 31<sup>st</sup> December 2019 which is payable in advance. The Exhibit A attached to the Claimant's Affidavit is the leasehold agreement.

There is no evidence that the Defendant has paid the said sum. I have read the 56 paragraph Affidavit sworn in support of the Notice of Intention to Defend and the Exhibits thereon. It is a catalogue of complaints of service that were not rendered by the Claimant. The Defendant relied on a provision in the Lease Agreement which allows for set off, and net deductions. There is no particulars of such set-off or deductions.

The Defendant has been paying rent to the property Manager of the Claimant.

See Exhibits C and D attached to the Claimant's Affidavit in support.

There is no evidence that the letters of demand Exhibits B and E were replied raising the issues of set off on net deductions at the earliest opportunity. The particulars of the said set off or deductions were not specifically set out in the Affidavit in support of the Notice of Intention to defend.

Parties are bound by the leasehold agreement which is Exhibit A. Paragraph 53 of the Defendant's Affidavit is not captured by the aforesaid Lease Agreement.

In my humble view, the Notice of Intention to defend and the deposition contained in the Affidavit in support are an afterthought. The Defendant in paragraph 14 of its Affidavit admitted owing the sum but relied on set off or deductions which were not expressly and graphically placed before the Court,



which amount is being owed as rent. An otherwise simple matter of Landlord and Tenant cannot be made complex by the length of the Defendant's Affidavit in support.

The Defendant's defence in my humble view is contrived. It is not a real defence. Consequently, the Defendant is hereby denied leave to defend this action.

Judgment is hereby entered in favour of the claimant against the Defendant as follows:

The Defendant shall pay to the Claimant the sum of N23,756,000 being the amount left unpaid of the rent from 1<sup>st</sup> January, 2017 to 31<sup>st</sup> December, 2019.

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**HON. JUSTICE U.P. KEKEMEKE**

**(HON. JUDGE)**

**4/03/19.**