

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT MAITAMA COURT 4, F.C.T., ABUJA.**

**BEFORE HIS LORDSHIP: HON. JUSTICE O. O.GOODLUCK**

**SUIT NO.: FCT/HC/CV/966/2019**

**B E T W E E N:**

**IKECHUKWU UZUEGBU**

}

**PLAINTIFF**

**AND**

**OJOCHIDE OCHAI**

}

**DEFENDANT**

**J U D G M E N T**

The Plaintiff is by this suit praying this Court for an order for the Defendant to pay his arrears of rent and service charges for 2017/2018 and 2018/2019 being rent owed and payable to the Plaintiff.

In addition, Plaintiff is praying for an order for cost in the sum of ~~N~~500,000.00 (Five Hundred Thousand Naira) also against the Defendant.

In support of this suit, the Plaintiff deposed to a 15 paragraph affidavit mindful that this suit was instituted under the undefended list.

The facts disclosed in the affidavit in brief, are that the Defendant rented a three Bedroom flat with a one Bedroom Boys quarters from the Plaintiff, the owner of the property located and situate at No. 5 Chu

Okongwu Street, Katampe Extension, Abuja at an annual rent of ~~N~~2,000,000.00 (Two Million Naira) per annum.

The Plaintiff disclosed that the Defendant rented the three Bedroom Flat for a year which tenancy expired on the 31<sup>st</sup> October 2017, hereafter, the Defendant has refused and or neglected to pay his rent. By a letter dated 30<sup>th</sup> November, 2018 the Plaintiff's Estate Manage, (Chinwe Emedo Consulting Estate Surveyors) wrote a letter of demand dated 30<sup>th</sup> November, 2018, Exhibit B, requesting for the sum of ~~N~~4,900,000.00 (Four Million Nine Hundred Thousand Naira).

The Defendant in reaction wrote a letter dated 10<sup>th</sup> December, 2018 pleading for time to pay the outstanding, Exhibit C.

Following service of the Plaintiff's Notice of Intention to recover possession, Exhibit D, the Defendant's Lawyer Nzedigwu Chidozie Kenneth Esq., wrote Plaintiff admitting his indebtedness to the Plaintiff.

Plaintiff also contends that he engaged his solicitors Amake Eze & Co. to institute this suit and he paid them the sum of ~~N~~500,000.00 (Five Hundred Thousand Naira) professional fees in furtherance of his brief to recover the Defendant's indebtedness to him.

It is the case of the Plaintiff that the Defendant has no defence on the merit hence he is claiming Judgment in this suit.

Having considered the facts of their case, I am not left in doubt that it is a suit which has been appropriately filed under the Undefended List of this Court.

The Defendant having failed to file a defence notwithstanding service of the originating process, it can be assumed that the Defendant has no defence on the merit hence this Court can invoke its powers under Order 35 Rule 4 of the High Court of the FCT Civil Procedure Rules.

In the circumstance, Judgment in the sum of ~~N~~4,900,000.00 (Four Million Nine Hundred Thousand Naira) is hereby ordered to be paid by the Defendant to the Plaintiff representing the arrears of rent and the service charge payable by the Defendant.

The claim for Plaintiff's professional fees of ~~N~~500,000.00 (Five Hundred Thousand Naira) is however declined as the Plaintiff has failed to show cause why the Defendant is obligated to pay solicitors fees in the absence of an agreement between parties that same will be paid by the Defendant in the event of default.

Besides, the claim is against public policy accordingly it is hereby declined. Claim for Solicitors fee cannot be an entertained under the Undefended List except parties are mutually agreed on payment of Solicitor's fees.

Costs in the sum of ₦50,000.00 (Fifty Thousand Naira) is awarded against the Defendant.

**O.O. Goodluck,  
*Hon. Judge.*  
25<sup>th</sup> September, 2019.**

**APPEARANCE**

**Parties absent**

**Christabel Ayuk Ms.: For the Claimant.**