

**IN THE HIGH COURT OF JUSTICE FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT JABI, ABUJA  
BEFORE HIS LORDSHIP: HON. JUSTICE D. Z. SENCHI  
COURT CLERKS: T. P. SALLAH & ORS  
COURT NUMBER: HIGH COURT NO. 13  
DATE: 2/07/2019  
FCT/HC/CV/1653/19**

**PREMEX NIGERIA LIMITED----- PLAINTIFF**

**AND**

**MINISTRY OF NIGER DELTA AFFAIRS-----DEFENDANT**

**JUDGMENT**

The claimant commenced this suit against the Defendant vide a writ of summons dated the 17<sup>th</sup> April, 2019 and filed on the same date. The writ of summons is accompanied with an affidavit of 11 paragraphs with four exhibits marked MNLO1 – MNLO4 respectively. The claim of the Plaintiff against the Defendant are as follows:-

1. The sum of N4,876,000.00 (Four Million Eight Hundred and Seventy Six Thousand Naira being debt due for the renovation works done for the Defendant.)
2. The sum of Five Hundred Thousand Naira (N500,000.00) only being general damages for breach of contract and inconveniences.
3. The sum of Five Hundred Thousand Naira only (N500,00.00) for the cost of suit.
4. Interest at the commercial rate of 30% per annum on the said N4,876,000.00 Naira until the judgment of this Honourable Court.

5. Post judgment interest on the judgment sum awarded by this Honourable Court at the rate of 10% per annum until the execution of the judgment or liquidation of same.

On the 23<sup>rd</sup> May, 2019 the Defendant was duly served with the Plaintiff's writ of summons accompanied with other processes. The Defendant acknowledged receipt of the processes filed by the Plaintiff but the Defendant failed to file a notice of intention to defend the suit together with an affidavit disclosing a defence. Thus, the learned Counsel for the Plaintiff urged me to enter judgment for the Plaintiff as the Defendant failed, refused or neglected to file a notice of intention to defend the suit in accordance with order 35 rule 4, Rules of this Court. The claimant's Counsel further submitted that the claim of the Plaintiff is a debt or a liquidated money demand arising from the renovation works done and carried out on the Defendant by the Plaintiff. The learned Counsel referred me to exhibits MNLO1-MNLO4 i.e exhibit MNLO1 is the contract of award by the Defendant to the Plaintiff while exhibit MNLO3 is the certificate of job completion issued by the Defendant to the Plaintiff. The Plaintiff's Counsel then referred me to exhibit MNLO4, the letter of demand by the Plaintiff to the Defendant. The learned Counsel finally submitted that the Defendant has no defence in this suit and she urged me to enter judgment for the Plaintiff.

After listening to the submissions of learned Counsel for the Plaintiff; and having perused the reliefs or claims of the Plaintiff as shown on the face of the writ of summons; and having also carefully perused the affidavit evidence and the exhibited documents in support of the claim, it appears from the averment of the Plaintiff at paragraphs 5-10 of the supporting affidavit, the Plaintiff has aver facts to support the claim of the Plaintiff which claim is a debt or a liquidated money demand, the exhibits especially exhibits MNLO1, MNLO3 and MNLO4 supports the claims of the Plaintiff.

By virtue of order 35 Rules 3(1) and 4, Rules of this Court, the Defendant have been served with the writ under the undefended list and the Defendant served with the writ shall deliver to the registrar within 5 days to the day fix for hearing, a notice of

intention in writing that he intends to defend the suit together with an affidavit disclosing a defence. The Defendant did not deliver the notice in writing that he intends to defend the suit neither has the Defendant filed an affidavit disclosing a defence. Hence by order 35 Rule (4), Rules of this Court, the Defendant having neglected to deliver the notice in writing and an affidavit, the Court may proceed to enter judgment in favour of the Plaintiff particularly where the claims of the Plaintiff against the Defendant are unassailable.

In the instant case, from the affidavit evidence of the Plaintiff and the exhibited documents, there are material facts or grounds deposed to in the supporting affidavit upon which the claim is based. And the averment of the Plaintiff at paragraph 11 of the supporting affidavit that the Defendant has no defence to this action is supported by his failure to come forward to defend the suit. In other words, the Defendant must have seen that the case of the Plaintiff is unassailable and thus he has no defence to the action.

Hence therefore, by the letter and spirit of the undefended list procedure, it is a procedure that is sui generis to enable the Plaintiff obtain judgment without the rigours of filing pleadings and calling of oral evidence. Hence therefore from the affidavit evidence this is a clear case in which this Court ought to exercise its discretion judicially and judiciously and enter judgment for the Plaintiff in accordance with order 35 rules 3 (1) and 4, Rules of this Court.

Accordingly, judgment is hereby entered for the Plaintiff against the Defendant in the sum of N4,876,000.000 being debt or sum arising from the renovation works done for the Defendant by the Plaintiff. Further interest is hereby granted at the commercial rate of 30% per annum from the date of the award to date of judgment being 2<sup>nd</sup> July, 2019 post judgment interest at 10% per annum from the date of this judgment until final liquidation of the entire judgment sum. Reliefs 2 and 3 are hereby refused and dismissed as such claims cannot be accommodated under the undefended list procedure.

That is the judgment of this Court.

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**HON. JUSTICE D. Z. SENCHI**  
**(Presiding Judge)**  
**2/7/2019**

Parties:-absent  
M.I Keyi:-For the claimant

**Sign**  
**Judge**  
**2/7/2019**