



**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDING AT MAITAMA
BEFORE HIS LORDSHIP: HON. JUSTICE H. B. YUSUF**



SUIT NO: FCT/HC/CV/148/2019

BETWEEN:

MICHAEL WINNER CHIKWZIE.....CLAIMANT

AND

HEDGEWORTH MICROFINANCE BANK LTD.....DEFENDANT

JUDGMENT

In this case which was filed under the undefended list the Claimant is seeking the following reliefs against the Defendant:

- (1) The sum of N16, 959, 582. 17 (Sixteen Million, Nine Hundred and Fifty-Nine Thousand, Five Hundred and Eighty-Two Naira, Seventeen Kobo) being the amount due and owing from the Defendant to the Claimant arising out of the Defendant's receipt of the aforesaid sum from the Claimant as a Fixed Deposit Investment which investment has matured and Defendant has failed to return to the Claimant.(SIC)

- (2) Interest at the rate of 10% per annum on the above sum from the date of Judgment until the final payment.
- (3) N3, 000, 000. 00 (Three Million Naira) only being the cost of this action.

There is an affidavit of 29-paragraphs detailing the fact of the claims. Some documents were annexed to the affidavit and duly marked as exhibits A, B1, B2, C1 and C2 to H.

Exhibit A is the investment certificate which shows that N14, 000, 000. 00 (Fourteen Million Naira) was invested at an interest rate of 26% per annum. Also exhibit C1 furnished on the Plaintiff by the Defendant on the 17/08/2018 revealed that the principal deposit with the Defendant had accrued to 16, 050, 358. 07. Exhibit C2 also written to the Claimant was an acknowledgment of the sum of N16, 359, 052. 63. This was dated 16/09/2018. Exhibit D is a demand letter for payment of N16, 673, 684. 25 representing outstanding investment with the Defendant.

Upon receipt of this letter of demand the Defendant caused its counsel to admit liability and pleaded for time to pay. Exhibit G (statement of account of the Claimant) with the Defendant also disclosed a balance of the amount claim as at 29/01/2019. The certificate of service filed by the Bailiff of this Court reveal that the Defendant was served hearing notice on the 03/12/2019.

However when this case comes up this morning no notice of intention to defend this suit on the merit supported by an affidavit disclosing such defence had been filed by the Defendant.

Under Section 35 of the Rules of this Court 2018 a Defendant served with a writ of summons under the undefended list shall within 5 days of receipt of the writ file notice of intention to defend the suit on the merit. Where no such notice is filed and the matter comes up for hearing the Court does not have option than to enter Judgment for the Claimant on his claims. See Order 35 (4) of the Rules of this Court. See also **BEN THOMAS HOTELS LTD VS SEBI FURNITURE (1989) 2 NWLR (PT. 123) 523.**

Accordingly and having gone through and considered the processes filed in support of this case, Judgment is hereby entered for the Claimant in respect of reliefs 1 and 2. Relief 3 is not a liquidated demand since it is not part of the agreement of parties. It is misconceived and therefore refused and dismissed for want of merit.

Signed.
Hon. Justice H. B. Yusuf
(Presiding Judge)
10/12/2019