

IN THE HIGH COURT OF JUSTICE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT HIGH COURT MAITAMA –ABUJA

BEFORE: HIS LORDSHIP HON. JUSTICE S.U. BATURE

COURT CLERKS: JAMILA OMEKE & ORS
COURT NUMBER: HIGH COURT NO. 34
CASE NUMBER: SUIT NO. FCT/HC/CV/271/19
DATE: 3rd FEBRUARY , 2020

BETWEEN:

AMRON GLOBAL SERVICES LTD & 1 OR.....CLAIMANTS

AND

NATIONAL EMAERGENCY MANAGEMENT AGENCY.....DEFENDANT

APPEARANCE

Ifeoluwa Adigu Esq for the Claimant.

JUDGMENT

The Claimants filed this suit on 7th November, 2019 under the undefended list claiming against the defendants as follows:-

- (1) An order of this Honourable Court for the payment of the Sum of ₦3,022, 479.00 (Three Million, Twenty two Thousand, Four Hundred and Seventy Nine Naira Only) by the Defendant to the plaintiff being the payment of the debt owed to the plaintiffs by the Defendant for the supply of materials.

The writ is supported by a 16 paragraphed affidavit deposed to by Engr. Ibrahim Adigun, the managing Director of the 1st Claimant and the 2nd Claimant in this matter. Attached to the supporting Affidavit are annexures marked as Exhibit Amron 1 to 7 respectively.

Addressing the court on 3rd of February 2020, learned counsel to the Claimant referred the court to the depositions in the supporting Affidavit as well as the Exhibits and urged the court to enter Judgment for the Claimant since the defendant having being served with the originating processes and have not filed any notice of intention to defend the suit.

Now, it is settled under the law in order 35 Rules 1 and 2 of the Rules of this Court, 2018 that the purpose of bringing matters under the undefended list procedure is to avail a Claimant swift Justice in respect of a debt or liquidated sum by allowing a court to give judgment without the need of going into a full trial and without calling witness in order to save judicial time and expense. See the cases of IMONIYEME HOLDINGS LTD & ANOR VS SONEB ENTERPISES LTD (2010) 4 NWLR (PT. 1185) 518 at 542.

Having carefully gone through the writ of Summons brought under the undefended list Procedure, the reliefs sought, the affidavit in support and the annexures attached therewith, it is my humble view that a liquidated money demand is a debt which has become due and payable having been ascertained or capable of being ascertained without any further investigation. Basically, where the amount claimed by the claimant can be ascertained by calculation, or fixed by any scale of charges, or positive data like a receipt of invoice of payment, it is a liquidated money demand.

The Claimants deposed in supporting affidavit particularly at paragraphs 4, 5, 6, 7, 8, 9 and 10 to the effect that a contract was approved by the Defendant and the total contract sum is Three Million, Twenty two Thousand, Four Hundred and Seventy Nine Naira only (₦3, 022,479.00). That the defendant till date has failed and refused or neglected to pay the claimant the contract sum agreed.

I have equally studied the Exhibits attached to the supporting affidavit particularly Exhibits Amron 1, 2, 3, 4, 5 and which shows that the Claimants have performed their own part of the contract.

Also Exhibit Amron 6 shows that the Claimants demanded from the defendant payment of the contract sum.

However it is on record before the court that the defendant was served with originating processes on 16th January, 2020. Order 35 Rule 4 of the rules of this court provides thus:-

“Where a defendant neglects to deliver the notice of defence and an affidavit prescribed by Rule 3 (1) or is not given leave to defend by the court the suit shall be heard as an undefended suit and judgment given accordingly.”

In addition, it is equally on record that the defendant who was duly served as stated above, failed and or neglected to file Notice of intention to defend the suit as required by the rules of this court. In the circumstance therefore, I am satisfied that the claimant’s claim before the court is liquidated money demand. I so hold.

To this end and in the light of the above, I hereby enter judgment for the claimants against the defendant as per the claims in the writ of Summons and order that the defendant should pay forthwith the sum of ₦3,022,478.00(Three Million Two Thousand Four Hundred and Seventy Nine Naira only) to the plaintiff being the payment of the debt owed to the Plaintiffs by the defendant for the supply of relief materials.

Signed

Hon. Justice Samirah Umar Bature

3/02/2020

Claimant’s Counsel: Most Grateful.