



**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/943/2020**

**BETWEEN:**

1. HON. FAROUK ADAMU ALIYU )  
2. SETRAD NIGERIA LIMITED ).....PLAINTIFFS

**AND**

1. DR. BRIGHT ECHEFU )  
2. GLINT TECHNOLOGIES LIMITED ).....DEFENDANTS

**JUDGMENT**

On the 30<sup>th</sup> of January, 2020, the Plaintiffs filed a Writ of Summons under the Undefended List, praying this Honourable Court for the following reliefs:

- (1) An Order of this Honourable Court that the Plaintiffs are entitled to the payment of the sum of N100, 000, 000. 00 (One Hundred Million Naira) only, by the Defendants being part of the amount the 1<sup>st</sup> Plaintiff paid to either the 1<sup>st</sup> Defendant or to various customers of 2<sup>nd</sup> Defendant at the instance of the 1<sup>st</sup> Defendant pursuant**

- to the “Proposal for Investment in Glint Technologies Limited” dated 22<sup>nd</sup> November, 2018.
- (2) An Order of this Honourable Court that the Plaintiffs are entitled to the payment of the sum of \$160, 000. 00 (One Hundred and Sixty Thousand United State Dollars) only, by the Defendants being part of the amount the 1<sup>st</sup> Plaintiff paid to either the 1<sup>st</sup> Defendant or to various customers of the 2<sup>nd</sup> Defendant at the instance of the 1<sup>st</sup> Defendant, pursuant to the “Proposal for Investment in Glint Technologies Limited” dated 22<sup>nd</sup> November, 2018.
- (3) An Order of this Honourable Court that pursuant to the ‘Letter of Indemnity/Guarantee’ executed by the 1<sup>st</sup> Defendant in favour of the Plaintiffs, dated 22<sup>nd</sup> November, 2018, the 1<sup>st</sup> Defendant is under obligation to pay to the Plaintiffs the sum of N100, 000, 000. 00 (One Hundred Million Naira) only, being part of the money the 1<sup>st</sup> Plaintiff paid to either the 1<sup>st</sup> Defendant or to various customers of the 2<sup>nd</sup> Defendant at the instance of the 1<sup>st</sup> Defendant pursuant to the ‘Proposal for Investment in Glint Technologies Limited’ dated 22<sup>nd</sup> November, 2018.
- (4) An Order of this Honourable Court that pursuant to the ‘Letter of Indemnity/Guarantee’ executed by the 1<sup>st</sup>

**Defendant in favour of the Plaintiffs, dated 22<sup>nd</sup> November, 2018, the 1<sup>st</sup> Defendant is under obligation to pay to the Plaintiffs the sum of \$160, 000. 00 (One Hundred and Sixty Thousand United State Dollars) only, part of the money the 1<sup>st</sup> Plaintiff paid to either the 1<sup>st</sup> Defendant or to various customers of the 2<sup>nd</sup> Defendant at the instance of the 1<sup>st</sup> Defendant pursuant to the “Proposal for Investment in Glint Technologies Limited” dated 22<sup>nd</sup> November, 2018.**

- (5) An Order of this Honourable Court commanding the Defendants, either severally or collectively to forthwith pay to the Plaintiffs the sum of N100, 000, 000. 00 (One Hundred Million Naira) only, being part of the amount the 1<sup>st</sup> Plaintiff paid to either the 1<sup>st</sup> Defendant or to various customers of 2<sup>nd</sup> Defendant at the instance of the 1<sup>st</sup> Defendant pursuant to the “Proposal for Investment in Glint Technologies Limited dated 22<sup>nd</sup> November, 2018, same having remained unpaid and unredeemed till date.**
- (6) An Order of this Honourable Court commanding the Defendants, either severally or collectively to forthwith pay to the Plaintiffs the sum of \$160, 000. 00 (One Hundred and Sixty Thousand United State Dollars) only,**

**being part of the amount the 1<sup>st</sup> Plaintiff paid to either the 1<sup>st</sup> Defendant or to various customers of 2<sup>nd</sup> Defendant at the instance of the 1<sup>st</sup> Defendant pursuant to the “Proposal for Investment in Glint Technologies Limited” dated 22<sup>nd</sup> November, 2018, same having remained unpaid and unredeemed till date.**

- (7) An Order of this Honourable Court commanding the Defendants to pay 18% (eighteen percent) Pre-Judgment interest on the Judgment sum until Judgment is delivered in this case.**
- (8) An Order of this Honourable Court commanding the Defendants to pay 10% (ten percent) Post-Judgment interest on the Judgment sum until the total sum is satisfied thereof.**
- (9) An Order of this Honourable Court commanding the Defendants to pay the sum of N5, 000, 000. 00 (Five Million Naira) only, being the cost of prosecuting this case.**

There is an affidavit of 30-paragraphs deposed to by the 1<sup>st</sup> Plaintiff to which he annexed some documents, marked as Exhibits SERAD 1, 2, 3 to SETRAD 4 and 5. He place reliance on the affidavit and the exhibits attached. The Defendants were served by substituted

means, pursuant to an Order of this Court. They were also served hearing notice against today. However, the Defendants did not file notice of intention to defend. He urged the Court to enter Judgment in their favour, as the Defendants have no defence to the Plaintiffs claim.

I have carefully listened to the learned counsel to the Plaintiffs and the point must be made that the law is clear, that when a matter which is filed under the undefended list, comes up for hearing, the business of the Court is to scrutinize its record for the purpose of discovering if the Defendant has filed a notice of intention to defend the suit on merit, supported by an affidavit disclosing such defence. If no such defence has been filed and the Court has not granted extension, as prescribed under Order 35 (2) of the Rules of this Court, the Court would have no option than to proceed and enter Judgment for the Plaintiff on its claims, pursuant to Order 35 Rule 4, of the Rules of this Court, 2018.

See the case of **BEN THOMAS HOTELS LTD VS SEBI FURNITURE LTD (1989) 5NWLR (PT. 123) 523.**

I have carefully perused the claims of the Plaintiffs and it is my view that reliefs 1 to 4 are declaratory in nature, although they are not so christened. The Plaintiffs cannot pursue such claims under the Undefended List Procedure. By the clear provision of Order 35 Rule

1, the procedure is specially designed for recovery of debt or liquidated money demand. If that be the case, reliefs 1 to 4 are misconceived and therefore struck out of the record.

Relief 5 and 6 respectively seeks refund for monies advanced to the Defendants by the Plaintiffs. The claims are duly supported by documentary evidence attached to the Plaintiffs' affidavit. Having established these head of claims and taking into account that they are liquidated money demand, I grant the reliefs as prayed.

The next relief is for 18% Pre-Judgment interest on the Judgment sum, until Judgment is delivered in this case. I have considered this head of claim and I form the view that it is not well founded. In the first place, the Plaintiffs cannot claim "Pre-Judgment interest" on a Judgment yet to be delivered, as done in this case. Secondly, a claim for Pre-Judgment interest is not granted as a matter of course. A Claimant for Pre-Judgment interest must show how the entitlement to such claim arose, whether by law, contract or agreement. At common law, the General Rule is that Pre-Judgment interest is not payable on a debt or loan in the absence of express agreement or some course of dealings, practices, customs and usages to that effect. See the case of **A. G FERRERO & CO. LTD Vs HENKEL CHEMICAL NIGERIA LTD (2011) LPELR 12 SC**, where the Supreme Court stated the law thus:

**“It follows that before a party can claim Pre-Judgment interest, he has to plead not only his entitlement to the interest, but the basis of the entitlement either by statute or contact/agreement between the parties, or mercantile custom or principle of equity, such as breach of fiduciary relationship. It is not for the Court to speculate, conjecture or assume the facts relevant to the claim.”**

See also the case of **SURVEYOR AKPAN VS AKWA IBOM PROPERTY AND INVESTMENT COMPANY LTD (2003) LPELR 20753 SC**, where **Galadima, JSC** held thus:

**“Any Plaintiff claiming interest under the Undefended List must disclose in his affidavit how his right to interest accrued and how the rate thereof was arrived at.”**

Regrettably, I have no evidence before me to support the 18% Pre-Judgment interest claimed by the Plaintiffs. The affidavit and documents in support of the Plaintiffs’ case is silent on this point. The claim is therefore refused and dismissed.

The next relief is for 10% Post-Judgment interest. The power to grant this head of claim is statutory, as it is donated by Order 39 Rule 4 of the Rules of this Court, 2018 and it is designed for the benefit of a victorious party. Evidence need not be given for it to be

awarded. However, the Court has a discretion to decide whether or not to award the interest on the Judgment debt.

In this case, I have considered the commercial nature of the transaction between parties and I form the view that the Plaintiffs are entitled to the award of Post-Judgment interest. The claim is accordingly granted.

The last relief sought by the Plaintiffs is for the sum of N5, 000, 000. 00 (Five Million Naira) being the cost of prosecuting this case. I have carefully considered the claim and it is my view that the claim is not within the contemplation of parties. The claim is ambitious and unsupportable. It is refused and dismissed.

At the end of the day, Plaintiffs' case succeeds in part. For the avoidance of doubt, reliefs 5, 6 and 8 are granted, while reliefs 1, 2, 3, 4, 7 and 9 are refused and dismissed.

**Signed**  
**Hon. Justice H. B. Yusuf**  
**(Presiding Judge)**  
**05/11/2020**



