



**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/3145/2019

BETWEEN:

**MONSOON RESOURCES INVESTMENTS NIG LTD.....CLAIMANT
(Suing through her lawful Attorney, OLIVE REAL ESTATE LIMITED)**

AND

LAMSTAR NIGERIA LIMITED.....DEFENDANT

JUDGMENT

This action was filed under the Undefended List, for the recovery of outstanding rent arrears in the sum of ₦9,166,666.66 (Nine Million, One Hundred and Sixty-Six Thousand, Six Hundred and Sixty-Six Naira, Sixty-Six Kobo) in respect of an Apartment let by the Plaintiff to the Defendant and situate at No. 81B, Nelson Mandela Street, Asokoro, Abuja, FCT. The Claimant is also seeking for an Order directing the Defendant to pay 10% Pre-Judgment interest on the outstanding rent with effect from 31st December, 2016 until the Judgment debt is fully paid.

By a Certificate of Service filed by the Bailiff of this Court, the Defendant was served with the Writ of Summons and hearing notice

on 19th June, 2020. The Defendant was also served hearing notice against the 12th of October, 2020 when this matter came up for hearing. However, the Defendant elected not to file any process in opposition to the claims of the Plaintiff.

The fact in support of Plaintiff's case is carefully set out in a supporting affidavit of 23-paragraphs deposed to by one Godwin Raphael who is a Director of the Plaintiff's Company. Some documents were annexed to the affidavit and marked as Exhibits AA to KK.

It is now trite Law that the duty of the Court under Order 35(3) of the Rules of this Court at this stage, is to peruse the records of the Court in order to know whether the Defendant filed a notice of intention to defend and duly supported by an affidavit showing a defence on the merit. Failure to file such notice, will entitle the Plaintiff to Judgment. In deserving cases, the Apex Court in **AKAHALI & SONS LIMITED Vs NDIC (2017) LPELR-41984 (SC)** explained this point as follows:

“It was explained in FIRST BANK (NIG.) LTD Vs KHALADU (Supra) at page 55, that the failure to deliver a notice of intention to defend means only one thing, that is, that the Defendant has no defence to the Plaintiff's claim. Therefore, failure to file or deliver a

notice of intention to defend as provided by the Rules is tantamount to an admission by the Defendant of the Plaintiff's claim and it is settled law that facts admitted need no proof.”

From facts disclosed in the affidavit of the Plaintiff, parties entered into a tenancy relationship sometimes in 2007 but the relationship became strained in 2016 upon the expiration of Defendant’s tenancy on 31st December, 2016. The Plaintiff wrote series of letter to the Defendant requesting for rent renewal but received no positive response. See Exhibits BB, CC, DD, EE, FF, GG, HH, JJ and KK forwarded by the Plaintiff to the Defendant.

On this point, I have considered the totality of the case of the Plaintiff and I find Exhibit HH quite germane to the determination of this case. The Exhibit forwarded by the Plaintiff through its Attorney to the Defendant shorn of its heading read as follows:

“4th October, 2018

The General Manager,
Lambstar Nigeria Ltd,
Ground Floor, Ogun State House,
Central Business District,
Abuja.

Attention: Mr. Osman Chanar
Dear Sir,

**RE: LEASE NO.81, NELSON MANDELA STREET, ASOKORO –
RENT DEMAND NOTICE/REMINDER**

Further to our letter of 5th June, 2017, 4th December, 2017 and 19th June, 2018, we write to remind and draw your attention to the current lease status of the above mentioned property by the deceased which has since expired on 31st December, 2016, but up until now (22 months and still running since last renewal) we have not been paid.

In view of the above, kindly make payable a cheque in favour of Messrs Monsoon Resources Investment Nigeria Limited for the sum of Nine Million, One Hundred and Sixty-Six Thousand, Six Hundred and Sixty-Six Naira, Sixty-Six Kobo (N9,166,666.66) only.

We look forward to your response.

Thank you.

Yours Faithfully,

SIGNED

Godwin Raphael
Manager

CC: Monsoon Resources Investment Nigeria Limited”

When the Defendant was served the above letter of demand, it responded vide Exhibit II. The content of the exhibit is very brief but explicit as set down below.

“8th October, 2018.

The Manager,
Olive Real Estate Limited,

Left Wing, 2nd Floor,
Labour House,
Plot 820/821 Central Business District,
Abuja.

Dear Sir,

**RE: LEASE NO. 81 NELSON MANDELA STREET, ASOKORO
RENT DEMAND NOTICE/REMINDER.**

Your letter dated 4th October, 2018 refers.

Please we write to request your good office to please give us up till November ending to settle the whole issue.”

Thanks.

Yours faithfully,

Jide Edu

Authorized signatory.”

What was played out in clear terms here is that the Defendant upon the receipt of Plaintiff’s demand notice to pay the outstanding rent arrears of ₦9,166,666.66k admitted the debt and requested for more time to pay the sum in dispute. It is instructive to note, that what the Plaintiff is claiming in the first leg of its claim is the exact amount admitted by the Defendant. In my view, the claim of the Plaintiff is liquidated in nature, as the sum claim is ascertainable and not subject to any controversy. I am satisfied that the first leg is proved and accordingly granted.

I have also considered the 2nd leg of Plaintiff's claim, which is for 10% Pre-Judgment interest and it is my view that the claim is not well founded. No evidence has been led to drive home this claim as it is trite Law that Pre-Judgment interest is not granted as a matter of course. See the case of **SURVEYOR AKPAN VS AKWA IBOM PROPERTY AND INVESTMENT CO. LTD (2003) LPELR 20753 (SC)** where Galadima, JSC noted:

“Generally, a claim for interest under the Undefended List bears the same principles as in a claim under the General Cause List. 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.”

In the final analysis, it is my view that this head of claim is not proved. It is therefore refused and dismissed.

SIGNED
HON. JUSTICE H. B. YUSUF
(PRESIDING JUDGE)
03/12/2020