

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT APO

CLERK: CHARITY

COURT NO. 15

SUIT NO: FCT/HC/CV/843/20

DATE: 07-12-2020

BETWEEN:

JAIZ BANK PLC..... CLAIMANT

AND

GEEMONY GLOBAL KLEANERS..... DEFENDANT

JUDGMENT

(DELIVERED BY HON. JUSTICE S. B. BELGORE)

In this suit, marked Undefended, the plaintiff Jaiz Bank Plc=claims against the Defendant-Geemony Global Kleaners-as follows:

- (1)An Order for the payment of the sum of N44,421,100.87 (Forty Four Million, Four Hundred and Twenty One Thousand, One

Hundred and Eighty Seven Naira)only, being undisputed outstanding balance of loan due from the defendant to the claimant under Ijara Wa Iqtina (a Rental and Purchase schedule/RPS).

(2) The cost of this Action.

In support of this writ is a 7 paragraphed affidavits with annexures A, A1, B, C, D, E, F, G and H.

Annexure A: is the Offer Letter dated 30th June, 2017.

Annexure A1: is the memorandum of acceptance dated 30th June, 2017 also.

Annexure B: is the agreement between the Parties also dated 30th June, 2017.

Annexure C: is the Deed of assignment by which the original owner (Samuel Haruna) assigned the property to the Defendant (Geemony Global Kleaners Ltd). It is also dated 30th June, 2017.

Annexure D: is the Deed of Legal Mortgage between the Defendant and the Plaintiff.

Annexure E: is the letter of Demand from the Claimant's lawyer (U. M. Yamah & Co to the Defendant. It is dated 6th November, 2019 and served on 8th November, 2019.

Annexure F: is the Defendant' letter through their Solicitor to the Claimant admitting owing the Sum of N37,000,000 (Thirty Seven Million Naira) only. It is dated 25th November, 2019.

Annexure G: is the writ of Summons.

Annexure H: is the certificate of Pre-action Counseling.

The story of the Plaintiff by way of summary is that the claimant granted Ijara wa Iqtina Facility to the Defendant vide a letter dated 30th June, 2017 which the Defendant duly accepted on the same date. The said grant was to the tune of Eighty Two Million Naira-N82,000,000 only- and was for the purpose of purchasing a property. The monthly repayment was put at N3,269,000- (three Million, two hundred and Sixty nine thousand naira only).

Consequently, the parties entered another agreement, the claimant purchased a property known as Plot 1772, dwelling Plot 12599, Floor OO Block 17, Flat A, Bambari Crescent, Garki 1, Cadastral zone (AO2) Abuja. And the defendant was put into occupation. The agreement is annexure B.

To concretize the agreement, there was also a Legal Mortgage executed by the Parties. Afterwards, the defendant defaulted in some payments as previously agreed, leaving a balance of N44,421,100:87K (Forty Four Million, Four Hundred and Twenty one Thousand Naira, Eighty Seven Kobo) only unpaid. Despite all entreaties and Subtle efforts exerted on the Defendant by the Claimant, they still refused or neglected to pay. Hence, this action in court since the Claimant believed the Defendant has no defence to this suit. You can see paragraph 4 of the supporting affidavit to the writ as deposed to by one Rosemary O. Ogozi, a Legal Practitioner in the Law Firm of U.M. Yamah & Co.

Upon service of the writ and the supporting affidavit on the defendant, they filed no process. They simply ignored the suit as filed by the Claimant.

The case came up in Court on 26-10-20, which was the hearing date. I listened to the claimant's counsel- Desmond Yamah as he urged me to enter Judgment for the Claimant as the Defendant filed no Notice of intention to defendant.

On that day, I would have simply relied on Order 21 R3 and 4 and enter Judgment but for my ill-health disposition on that day I reserved Judgment till today.

My task now is simple. I had earlier said the Defendant who was duly served filed no affidavit or any process at all by way of challenging this suit. The implication is that I must allow the provision of Order 21 Rule

4 of the Rules of this court to take its cause by giving full effect to it. The said provision reads:

“where a defendant neglects to deliver the notice of Intention to defend and an affidavit prescribed by Rule3(1) or is not given leave to defend by the court, the suit shall be heard as an undefended suit and Judgment given accordingly.”

See the case of **BEN-THOMAS HOTEL LTD VS SEBI FURNITURE LTD (1989) 5 NWLR (PT. 123) 523**, Where it was held that when a matter under the undefended list come up for hearing, the court has only one duty. And that duty is to see if a Notice of intention to defend with a counter-affidavit in support was filed by the defendant. If none was filed, the court must proceed to Judgment.

On the strength of the Provision of Order 21 Rule 4 and the Supreme Court’s decision in **BEN-THOMAS HOTEL LTD’s** case (supra), I hereby enter Judgment for the Claimant as per the writ of Summons save claim two (2) which is not proved by the depositions in the supporting affidavit.

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S. B. Belgore
(Judge) 7-12-2020.