

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY IN
THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA
ON MONDAY 29TH DAY OF MARCH, 2021
BEFORE HIS LORDSHIP: HON. JUSTICE MUHAMMAD S. IDRIS
SUIT NO: FCT/HC/CV/3129/20

BETWEEN:

CHIEF JOHN AKAKPORO.....CLAIMANT/RESPONDENT

AND

**1. BUKANA LINKS SERVICES LIMITED }
2. BASIL OSIGWE }..... RESPONDENT**

JUDGMENT

By motion on notice with motion No/M/1314/21 brought pursuant to orders 20, 39 Rule 4 of the High Court FCT Civil Procedure Rule 2018 and under the Inherent powers of this court. The Applicant/Judgment debtor. An Order of court entering Judgment in favour of the claimant for the payment of the sum of N12,000,000.00 as admitted by the Judgment Debtor by way of monthly Installmental payment of the sum of N100,000 until the whole sum is liquidated.

And for such further Order(s) as this court may deem fit to make. Attached to the motion on notice is a 17 paragraphs affidavit deposed to

by one EKENE ARUEKLEZE a counsel with law firm of Goal Cast legal service, counsel to the applicant in this suit. Counsel relied on all the paragraphs. Attached to the affidavit is a Medical repayment mark as Exhibit A of the 2nd applicant. In compliance with the rules of this court the learned counsel to the applicant filed a written address. On the other hand the Respondent filed his Counter Affidavit of 9 paragraphs deposed to by one CHIEF JOHN AKAKPORO the respondent himself.

In compliance with the rule of the court the Respondent's counsel also filed a written address. Having in summary reproduced the position of both sides above. The applicant in his paragraph 7-17 contained the Medical condition of the inability of the applicant power to pay the sum wholly which led to his application of installmental payment while on the other hand the Respondent counsel in paragraph 8 urged the court to take same into consideration when granting this application.

The court is called upon today to determine how much would be payed by way of an installmental payment to the claimant see paragraph 8 of the claimant's counter affidavit and defendant motion on notice and paragraph 11 of the affidavit in support. In **ACB LTD BENIN CITY VS. EHIEMA & ANOR (1978)2 PELR-24933 (SC)** and Order 29 Rule 8 of the High Court CPR 1958. The 2nd defendant is however, proposing to pay N400,000.00 per month installmentaly which the claimant refused and proposed N2,000,000 per month **FN ISYAKU VS. VAURA (2017) LPELR43117 CA.** the law is settled that in making an order of

instelmental payment the trial court should try not to frustrate their own Judgment as doing so will amount to taking away from the Judgment Creditor the very Judgment the court has awarded. In **ACB LTD VS. G HIEMUNA (1978) 2 (SC) 73 Q 76** held a situation where a judgment creditor is allowed to take 26 years to repay a Judgment sum of 6,000.000 would amount to frustrating the Judgment the trial Judge awarded to the Plaintiff. Per jauro JCA (Pp.15-16) paragraphs 5. The 2nd defendant in this suit has alleged hardship as the reason for the delay of his payment. The defendants have however, not put anything before this court by way of documentary Evidence to back up this claim. In **DANTY TIMES VS. KUSOMOTU (2002) LPELR 1093 CA.**

...It is not sufficient to depose simply that the applicant has no resource or they have not made profit. The burden is on them to establish this. They must make a full disclosure of their assets and liberalities. In **CHRIS CHUKWU VS. R ONYIN (1990) 2 NWLR (PT 130) 8.**

This is the only way the court can best exercise its discretion to grant or refuse the stay. It is not the duty of the Judgment Creditor to show that the Judgment debtor has means to pay the debt. He is entitle only to his fruits of his litigation. The burden is on the Judgment debtor to satisfy the court that placing his liabilities and obligations against his income and also his assets he deserves to be granted some relief equitably in regards to his indebtedness that is why the applicant must not suppress or misrepresent facts affidavit of the applicant must present detailed

facts with every conclusion. **per coladins** JCA Pp (22-23) paragraphs A. although the applicant's counsel in his affidavit in support the Application particularly paragraph 11-17 deposed to same facts the burden remain on him to convincingly make this court to grant his application see section 135 Evidence Act . I have no doubt in my mind if the application of the applicant is granted court will take more than 12years for the Judgment Debtor Applicant to pay the Judgment sum. Consequently the application for installmental payment by way of N100,000 is hereby refused. Instead it is hereby order that the Judgment Debtor Applicant shall make a down payment of 2,000.000 on or before the 30/4/21 to the Judgment Creditor. And subsequently the Judgment Debtor shall be paying the sum of N500,000 effective from 30/5/21 until the whole Judgment Sum is liquidated. Far above on the part of the Judgment Debtor to comply with above directive the sum or outstanding sum involve as per this Judgment would be come due and payable immediately.

Sighed
Hon. Judge
29/3/2021