

**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. 32

CASE NUMBER: SUIT NO. FCT/HC/CV/2393/20

DATE: 17TH FEBRUARY, 2021

BETWEEN:

TOBI OMIBIYI.....CLAIMANT

AND

(1). FEMAZ MICRO-FINANCE BANK LIMITED }
(2). MRS. SANDRA NWUGO }.....DEFENDANTS

APPEARANCES:

Olabode Akindele Esq for the Claimant

JUDGMENT

The Claimant filed this suit against the Defendants via Undefended List procedure dated 11th day of August 2020 and filed on 12th day of August 2020. The Writ was issued by Abjibole Lawal of A & A Attorneys (Rehoboth Chambers) on behalf of the Claimant. The Claimant claims against the Defendants as follows: -

***“(1). AN ORDER of this Honourable Court ordering the 1st and 2nd Defendants to pay a sum of Twenty-Seven Million Naira (₦27, 000, 000.00) being sum owed the Plaintiff as a result of the investment paid to the 1st Defendant.*”**

- (2). ***AN ORDER of this Court for the sum of Six Million, Seven Hundred Thousand Naira (N6, 700, 000.00) owed the Defendant being promised interest on the invested sum paid to the 1st Defendant.***
- (3). ***Post judgment interest at the rate of 10% on the judgment debt until full liquidation.***
- (4). ***Cost of this action in the tune of Five Hundred Thousand Naira only (N500, 000.00).***
- (5). ***Any other Order(s) as the Court may deem fit to make in the circumstances of this suit.”***

In support of the Undefended List, the Claimant filed a 27 paragraphed affidavit deposed to by the Claimant himself. Attached to the supporting affidavit are annexures marked as Exhibits A – F respectively.

Addressing the Court today being the 17th day of February 2021, learned Counsel to the Claimant Olabode Akindele Esq urged the Court to enter judgment in favour of the Claimant after adopting all the processes filed in this suit.

It should be noted that by the Order of this Honourable Court dated 19th day of November, 2020, the Defendants were served with the originating processes via substituted means and hearing notice of today's hearing being 27th day of February 2021.

Having said this, it is trite law that the object of the Undefended List procedure is to enable a Plaintiff whose claim is unarguable in law and where facts are undisputed and it is inexpedient to allow a Defendant to defend for mere purpose of delay, to enter judgment in respect of the amount claimed. See the case of ***OBITUDE V ONYESOM COMM. BANK LTD (2014) 9 NWLR (Pt. 1412) 352 at 389-390, para F – A.***

Moreso, it is settled law that for a matter to be placed or marked under the Undefended List, it must relate to liquidated money demand. 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. In this respect, see the case of ***NKWO MARKET COMMUNITY BANK (NIGERIA) LTD V OBI (2010) LPELR – 2051 (SC)*** where it was held per MOHAMMED J.S.C. at Page 26, para E – G that:

“The Undefended List procedure is adopted when it is perceived that the Defendant could not possibly have any defence to the claim. A suit is maintainable under this procedure if it relates to a claim for a debt or liquidated money demand....”

In the instant case, a careful perusal of the entire averments in the supporting affidavit to the Undefended List particularly paragraphs 10, 11, 12, 13, 14, 15, 16, 21, and 22 will show clearly that the Claimant’s claim is a liquidated money demand. I so hold.

As pointed out earlier, the Defendants were served with the originating processes and hearing notice via substituted means, despite that, the Defendants failed and/or neglected to enter appearance and file necessary documents in defence of this case. In this regard, I refer to Order 35 Rule 4 of the Rules of this Court. It 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”.

Therefore, from the foregoing, the Defendants in this suit having failed and/or neglected to file Notice of Intention to Defend together with the affidavit to disclose defence on the merit, the only conclusion that can be reached is that the Defendants have no defence to this suit. I so hold.

In addition from the contents of Exhibit E titled “LETTER OF COMMITMENT”, it is clear and beyond doubt that the Defendants have admitted indebtedness. For clarity and ease of reference, I shall reproduce hereunder paragraph one, it reads thus: -

“We write to acknowledge your investment of ₦27, 000, 000.00 (Twenty Seven Million Naira Only) with Femaz MFB and earnestly apologize for our inability to pay back your investment and accrued interest as at when due”.

To this end and without further ado, I hereby enter judgment for the Claimant against the Defendants as per his claims as endorsed on the Writ of Summons.

SIGNED

**HON. JUSTICE SAMIRAH UMAR BATURE
17/2/2021.**