

IN THE HIGH COURT OF JUSTICE OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT MAITAMA, ABUJA

BEFORE HIS LORDSHIP: HON. JUSTICE H. MU'AZU

ON MONDAY 22nd DAY OF NOVEMBER, 2021

SUIT NO: FCT/HC/CV/236/2021

BETWEEN:

TRANSCORP HOTELS PLC

(Trading under the name and style

(Transcorp Hilton Abuja) CLAIMANT.

AND

ENGR. UNEKWU ACHILE DEFENDANT.

RULING

The Plaintiff took a Writ of Summon dated 29/1/2021 and seeks for two reliefs as on the writs.

He also filed a 29 paragraph affidavit with annexure in support of the writ, the affidavit is deposed to by one Simon Odiba and a Written Address adopted as their oral and final argument. He also attached Exhibit X01 – 08 and urges the Court to adopt same as evidence.

The writ of Summon is issued under the undefended list the Claimant seeks for two reliefs.

- (1) The sum of ₦17,504,676.25 “(Seventeen Million, Five Hundred and Four Thousand

Six Hundred and Seventy Six Naira, Twenty five kobo only) being the outstanding amount due to the Claimants Transcorp Hilton, Abuja from the Defendant on account of Hotel accommodation and other facilities/services extended to her by the Claimant's Transcorp Hilton, Abuja between 15th March -31st July 2020.

- (ii) Interest on the said amount at the rate of 25% Per annum from 1st October, 2020 till date of judgment and this after at the rate of 10% per annum till the final settlement of the judgment.

The Defendant has not file a Notice of Intention to defend. They rather filed a statement of defence.

The affidavit in support was deposed to by one Simon Odiba, male Nigerian Credit Manager of Transcorp Hilton No.1 Aguiyi Ironsi Street Maitama on behalf of the Claimant Transcorp Hotels Plc.

That he is the Credit Manager of the Claimant's Transcorp Hilton Hotel Abuja, is familiar with the facts of the suit and have the consent of the Claimant to depose to the affidavit.

The Claimant is a public liability company registered under the companies and Allied Matters Act.

The Claimant is the proprietor of Transcorp Hilton, Abuja a five star Hotel which is into Hotels and hospitality business in the Federal Capital Territory, Abuja the defendant was an in-house guest of the Hotel (Transcorp Hilton between 6th March – 3rd July 2020.

That the Defendant was in their hotel with her family (within the period in question) left a bill of ₦17,504,676.25 (Seventeen Million, Five Hundred and Four Thousand Six Hundred and Seventy Six Naira, Twenty five kobo only) incurred during her stay in our hotel.

That the Defendant incurred the said bill or charges (specifically between 15th March and 31st July 2020) on account of accommodation and other facilities/services extended to her.

She incurred the said bill or a charge in the name of Achile Unekwu is also her name. A copy of the hotel's invoice which is in the Defendant's said name. Achile Unekwu is produced and shown to me marked "S01".

That the names by which the Defendant is known by our hotels includes Engr. Unekwu Achile V. U and Gideon Achile Victoria Unekwu. The Defendant confirms that she is known by the said names in her letter of undertaking date 20th July 2020.

That in her letter of undertaking which she gave to the hotel on 20th July 2020, the Defendant acknowledged her indebtedness to the hotel in the sum of ₦17,504,676.25 (Seventeen Million, Five Hundred and Four Thousand Six Hundred and Seventy Six Naira, Twenty five kobo only) and under took to pay the sum on or before 30th September 2020.

The Defendant in her letter of undertaking also promised to vacate the hotel on or before 31st July 2020. The letter of the undertaking is produced and marked "S02".

The Defendant on 20th July 2020 issued two post dated cheque for (8,504,700 and ₦9,000,000.00) respectively in favour of the hotel in the total sum of ₦17,504,676.25 payable 30th September 2020. A copy of her cheque is produced and marked "S03".

In addition to the post dated cheques she also left a copy of her international Passport and a lease agreement executed in favour of one

Christ Eaglets Foundation who is a total stranger to her contract with the hotel.

The Defendant left her copy of International Passport and a lease agreement to serve as a proof of her committed to settle the said sum of ₦17,504,676.25 on 30th September 2020, the copy of the Defendant International Passport and lease Agreement are marked “S04” and “S05” respectively.

The Defendant vacated the hotel on 31st July 2020 as promised by her vide her said letter of undertaking but failed or neglected till date to fulfill her promise to settle her ₦17,504,676.25 indebtedness.

That both our hotel and the Solicitors Abuka & partners tried severally (between October and November 2020) to reach the Defendant on phone but all their effort proved abortive on 27th October 2020, the Claimant presented the Defendant post dated cheques to its bankers UBA PLC for payment but the cheques were marked “DAR” from ground that the account was not funded. A copy of the account statement from our bankers UBA PLC is produced and marked “S06”.

The Claimants Solicitor Abuka and Partner upon instruction of the Claimant wrote a letter dated 13th November 2020 to the Defendant and demand the immediate settlement of the indebtedness to our hotel in the sum of ~~₦~~₦17,504,676.25. A copy of the Claimants’ Solicitor letter is marked “S07”.

The Defendant wrote a letter dated 27th November 2020 to the Solicitor Abuka and Partners in the letter headed of one Christ’s Eaglet Foundation for their inability to meet their proposed dates for payment. A copy of the letter dated 27th November 2020 marked “S08”.

That the Defendant vide her letter sought to digress from the main issue that Christ’s Eaglet Foundation had business relationship with the hotel which spans several years and that Christ’s Eaglet Foundation had an

unresolved payment due to it from the hotel in 2015 which was only offset in 2020 without legal charges or interest payment thereon.

The Defendant also claimed that but without anything showing that Christ's Eaglet Foundation has an outstanding refund to the tune of Twenty-Two Thousand Dollars (\$22,000.00) with the Waldorf Astoria (Hilton Group) Jerusalem since 2014 and that Christ Eaglet Foundation consulted with the Waldorf Astoria in June 2020 and the later promised to resolve the issue after the pandemic when they reopen for business.

That the Defendant is not saying that Christ Eaglet Foundation is a party to her present contract with our hotel or that our hotel has any outstanding indebtedness to the foundation.

That the Defendant in the letter did not show that the Claimant is a privy to any contract between Christ Eaglet Foundation and Waldorf Astoria or that Christ's Eaglet Foundation is purportedly owed in Jerusalem is not separated and distinct from herself who is indebted to our hotel.

The Defendant's letter of undertaking dated 20th July 2020 (Exhibit S02) shows clearly that the Defendant is the one indebted to our hotel not Christ's Eaglet Foundation which is a total stranger to the Defendants contract with the hotel.

That the Defendant in her letter to the Claimant's Solicitor dated 27th November 2020 (Exhibit S08) acknowledge her indebtedness to our hotel in the sum of ₦17,504,676.25 and agreed to settle same.

That the Defendant having retained the Claimant's ₦17,504,676.25 since September, 2020 when due, the Claimant is entitled to interest thereon at rate of 25% per annum from 1st October 2020 till the date of judgment and thereafter at the rate of 10% per annum till the final settlement of the judgment sum.

That I belief the Defendant has no defence to this suit.

That it will be in the interest of justice to grant the Claimant's relief as prayed.

The Counsel to the Claimant filed a Motion Ex-Parte on behalf of the Claimant/Applicant to serve the Defendant with the Writ of Summon in support, affidavit in support and any other processes in this suit by substituted means to wit:

By posting same at No.7, second Arome Centage Estate Apo, Abuja. And for such further or other order as this Honourable Court may deem fit to make in the circumstance.

And a 7 paragraph affidavit in support is filed and deposed to on behalf of the Claimant/Applicant by one Obasesam Usang male, Nigerian Litigation executive of Adanawa meeting room, Transcorp Hilton Hotel Maitama Abuja.

A Litigation Executive in the Law Firm of Abuka & Partners, legal Practitioner to the Claimant in this suit, that I have the consent of the Claimant and the Law to deposed to the affidavit.

He avers that he was informed by the bailiff of this Honourable Court, one Mr. Leonard Emenike in the premises of this Honourable Court on 22nd March 2021 at about 2.03am for the purpose of effecting the service of the originating process on her.

That he went to the Defendant given address, that is No.7, second Avenue Centage Estate, Apo Abuja on 22nd February 2021 at 9:40am for the purpose of effecting the service of the originating process on her.

That the security man at the main gate of the Defendant's Estate directed him to the defendant's Apartment, that is No.7 second Avenue, Centage Estate Apo, Abuja and on getting to the said apartment he discovered that the Defendant was not at home.

And I also went to the Defendant usual last address that is No.7 second Avenue Centage Estate Apo, Abuja on 25th February 2021 at 4:30pm to confirm whether the Defendant was indoors, but told by the security man at the main gate of the Defendant Estate that the Defendant was not at home.

And I was informed by the Claimant Credit Manager, Mr. Simon Odiba in our office of Adamawa meeting room Transcorp Hilton Maitama, Abuja on 22nd March 2021 at about 2:30pm and a believe as follows.

- (i) That No.7 second Avenue Centage Estate Apo Abuja is the Defendant's usual/last address.
- (ii) That the originating process and any other processes in this suit would be brought to the attention of the Defendant if served by substituted means that is as prayed herein.
- (iii) That it will be in the interest of justice to grant the Claimants application.

That I dispose to this affidavit in good faith believing the contents to be true and correct to the best of my Knowledge.

ISSUES FOR DETERMINATION

The sole issue for determination is whether having regard to the affidavit in support of the Claimant's motion, this Honourable Court ought not to grant the Claimant's application.

ARGUMENT OF THE SOLE ISSUE

“The sole issue for determination is whether having regard to the affidavit in support of the Claimant’s motion, this Honourable Court ought not to grant the Claimant’s application”.

The Counsel urges this Honourable Court to resolve the sole issue in favour of the Claimant’s application.

The Counsel to the Defendant Charles Donglong Esq filed MEMORANDUM OF APPEARANCE dated 13th September 2021.

The Defendant has not filed a Notice of Intention to defend. He wrongly a filed a Defendant Statement of Defence.