

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY, ABUJA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

BEFORE HON. JUSTICE J. ENOBIE OBANOR
ON THIS 19TH DAY OF JUNE, 2024

SUIT NO.: FCT/HC/CV/8035/2023

BETWEEN:

1. F.T. EXPORT SRL
2. UNITED SERVICE FOR IMPORT AND TRADE LIMITED.....CLAIMANTS

AND

1. LIFECAT NIGERIA LIMITED
2. PRINCE KINGSLEY ENWEREM DEFENDANTS

RULING

DELIVERED BY HON. JUSTICE J. ENOBIE OBANOR

By Motion on Notice with Motion No: M/14561/2023
the Claimants/Applicants are seeking the following reliefs:

1. An order entering summary judgment against the Defendants in favour of the Claimant as per the reliefs sought in the Writ of Summons and Statement of Claim.
2. And such further or other order(s) as the Honourable Court may deem fit to make in the circumstances.

In support of the Motion is a thirteen (13) paragraph affidavit deposed to by Amaechina Francis Obinna, a Director in the 2nd Claimant. Attached to the affidavit are documents marked as Exhibits A, B, C1 & C2, D-series, E and F1 & 2 and a written address adopted by Counsel urging the court to grant the application.

In the Written Address of Claimants/Applicants filed by their Counsel a sole issue was distilled for determination as follows:

Whether the applicants are entitled to the reliefs sought from this Honourable Court?

In response, the Defendants/Respondents filed a counter-affidavit of 18 Paragraphs on 4th December, 2024 deposed to by Kingsley Enwerem, the 2nd Defendant. Annexed to the counter-affidavit are documents marked as Exhibits A & B and also filed was a Written Address adopted by Counsel, urging the Court to dismiss the application.

The Defendants/Respondents have in their written address raised a lone issue for the determination of the Court as follows:

Whether the defendants' (sic) have shown that they have a defence on the merit to warrant a trial on the merit in the light of the circumstances of this case.

Upon receipt of the Counter-affidavit filed by the Defendants/Respondents, the Claimants/Applicants on 29th January, 2024 filed a five (5) paragraph further affidavit deposed to by Morenikeji Oni and reply on points of law.

After thorough consideration of the arguments presented by both Counsel in support of and against the application, along with the authorities cited and exhibits attached, it is my view that the issue raised by the Claimants/Applicants is sufficient to resolve the issue before the Court as follows:

Whether the Claimants/Applicants are entitled to the reliefs sought from this Honourable Court?

Order 11 of this Court's Rules outlines the procedure for summary judgment, designed to swiftly dispose of cases, without the need for a full trial. This procedure is applicable when it is clear beyond reasonable doubt that the Claimant is entitled to judgment and when allowing the Defendant to defend would only serve to cause unnecessary delay. It is intended for straightforward cases. See *UBA PLC & ANOR v. JARGABA* (2007) LPELR-3399(SC).

It was held in the case of *THOR LTD v. FCMB LTD* (2005) LPELR-3242(SC) Per DENNIS ONYEJIFE EDOZIE, JSC (Pp 12 - 12 Paras B - D).

"The summary judgment procedure which is similar to the undefended list procedure, is designed to enable a party obtain judgment especially in liquidated demand cases, without the need for a full trial where the other party cannot satisfy the Court that it should be allowed to defend the action: see Nishizawa Ltd. v. Jethwani (1984) 12 SC 234, Macaulay v. NAL Merchant Bank (1990) 4 N.W.L.R. (Pt. 144) 283, 314, Pan Atlantic Shipping and Transport Agencies Ltd. v. Rhein Mass G.M.B.H. (1997) 3 N.W.L.R. (Pt. 493) 248."

In an application for summary judgment, such as the one before me, the Claimants/Applicants must present in their affidavit supporting the application both the facts that the Defendants lack a valid defence to the claim, along with the grounds for such belief. When a Plaintiff seeks summary judgment, the burden shifts to the Defendant to demonstrate to the court that they possess a credible defence or to disclose additional facts warranting a defence.

In this instant suit, the Claimants/Applicants are requesting the court to grant summary judgment, thereby resolving the case swiftly and decisively in their favour. They argued that the Defendants/Respondents lack a viable defence to their claim. Despite the Claimants/Applicants' assertions, the Defendants/Respondents have vigorously refuted the claim in their counter-affidavit and have filed a Statement of Defence.

After carefully examining the affidavit evidence provided by the Claimants/Applicants and reviewing the attached exhibits in their application for summary judgment, juxtaposed with the facts presented by the Defendants/Respondents, it is my considered view that the Defendants/Respondents have disclosed triable issues that warrant this suit to be heard on the merit. The facts presented by the Claimants/Applicants and the accompanying exhibits necessitate clarification from their end, which can only be achieved through the presentation of evidence. Therefore, I am inclined to exercise my discretion in favor of the Defendants/Respondents by granting them leave to defend this suit. Consequently, I dismiss the application made by the Claimants/Applicants.

This is the decision of the Court.

HON. JUSTICE J. ENOBIE OBANOR

Judge

Legal Representation:

For the Claimants/Applicants; Wonder Ajibobola, Esq.

For the Defendants/Respondents; C.N. Nwafor, Esq.