

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT COURT NO. 4, MAITAMA

ON THE 22ND DAY OF JANUARY, 2024

BEFORE HIS LORDSHIP: HON. JUSTICE U. P. KEKEMEKE

SUIT NO. FCT/HC/CV/2338/2019

COURT CLERKS: *JOSEPH ISHAKU BALAMI & ORS.*

BETWEEN:

JAKOH KOROSI CLAIMANT

AND

REDOX GLOBAL TRANSPORTATION

AND LOGISTICS LIMITED DEFENDANT

J U D G M E N T

The Claimant's Writ of Summons and Statement of Claim against the Defendant dated 2nd of July 2019 is for the following:

- (1) The sum of ~~N~~15 Million being general and special damages accruing to the Claimant for breach of contract for clearing the Claimant's goods.
- (2) Interest at 10% per annum only until final judgment and thereafter at the same rate until the Judgment sum is liquidated.
- (3) ~~N~~500,000.00 as cost of the action.

The Defendant was served. He filed a Statement of Defence and Counterclaim. The Defendant was further served with Hearing Notice.

The Claimant opened his case and gave evidence for himself. He is Jakoh Korosi. He swore to a Witness Statement on Oath dated 2/07/2019 and 25/02/2020. He adopted them as his oral testimony.

In the Witness Statement dated 2/07/2019, he states that he is a businessman resident in the FCT and carrying out business abroad. That Defendant is a transport and logistics Company.

That he entered into a valid contract with the Defendant for the clearing of his container from the Tinian Island Port on arrival from the United States of America with goods he had purchased.

The Defendant made an offer of ~~N~~1,807,500.00 and duly forwarded an Invoice for the said sum to him.

In line with the terms of the offer, he paid the sum agreed as consideration in full by electronic transfers on the 19th and 30th of April, 2019 to the Defendant's Stanbic IBTC Bank account.

That as part of the terms of the agreement, the Defendant had a 14-day period from the 30th day of April 2019 to

clear the goods from the Port as he was able to negotiate a grace period of 14 days with the Shipping Company.

That Defendant represented that it has the capacity to carry out the obligation as per the contract.

That further to paying the sum as agreed, he also forwarded the Bill of Lading and every relevant document that the Defendant would need to clear the container of goods at the Port.

That Custom charges were paid and container released on 30/05/2019 by one Mercpee Freight & Logistics Ltd whom Defendant subcontracted their obligations to.

The Defendant continued to default on its obligations as the container still remained in Tincan Island Port accumulating terminal charges on daily basis which totalled ₦1.8 Million.

That Defendant has caused him loss in earnings as a result of his inability to access the goods in the container.

That at the Defendant's behest he travelled to Lagos and spent five weeks under false representation that the goods were cleared within the said period.

That as a result of the breach and false representation he briefed his Counsel, Kyonne Isaac Mando who wrote the

Defendant a Letter of Demand. The Defendant still continued to renege.

The PW1 tendered the Exhibits A – A5.

- (1) Electronic Invoice dated 8/04/2019 with Certificate of Compliance.
- (2) First Bank First Online receipt dated 19/04/2019 with Certificate of Compliance.
- (3) First Bank First Online transaction receipt dated 30/04/2019.
- (4) Custom Clearance Note.
- (5) Letter from David M. Mando & Co. (Solicitors) dated June 10, 2019.
- (6) Friendly Loan Agreement dated 4/03/2019.

Witness orally urged the Court to grant the reliefs.

The Claimant's Final Written Address is dated 19/04/2023 but filed on the 2nd day of May, 2023. He raised a lone issue for determination which is:

Whether this Court ought to grant Judgment in favour of the Claimant on the strength of his evidence before the Court.

He canvasses that this Court ought to enter Judgment in favour of the Claimant.

That the evidence of the Claimant is unchallenged. That it is deemed admitted. He urges the Court to grant all the reliefs claimed.

I have read the evidence, exhibits and considered the Written Address of Counsel.

The Defendant was served. He filed a Defence and Counterclaim but failed to enter his defence or prove his Counterclaim. He abandoned same.

The Statement of Defence and Counterclaim are therefore struck out for lack of diligent prosecution.

The burden of proof of an allegation is on the Claimant. The onus does not shift until he has proved his claim. A Claimant succeeds on the strength of his case.

The Claimant in proof of his case tendered Exhibit A, i.e. the Invoice of the transaction from the Defendant. It is in the sum of ~~N~~1,807,500.

Exhibit A1 is the First Bank online transfer of ~~N~~707,500 to the Defendant dated 19/04/2019.

Exhibit A2 is evidence of another transfer to the Defendant in the sum of ~~N~~1,000,000 dated 30/04/2019.

Exhibit A3 is a Custom Service document showing that the container was released.

Exhibit A4 is a demand letter from Claimant's Solicitor.

The total sum shown to have been paid to the Defendant is ~~N~~1,707,500. The Defendant failed to give evidence in defence. Evidence is therefore one way.

The Defendant failed to put anything on his own side of the imaginary scale.

What it does mean is that the Claimant's evidence is uncontroverted. It is deemed admitted by the Defendant. I believe same.

The Claimant claims for damages for breach of contract.

A breach of contract means that the party in breach has acted contrary to the terms of the contract either by non-performance as laid down in evidence by the Claimant.

The damages which the Claimant ought to receive is such that should be fair and reasonable arising naturally from the breach.

General damages such as is claimed is the direct natural and probable consequence of the act complained of.

The evidence is unchallenged, the burden of proof is discharged upon minimum proof.

The Claimant did not specifically plead, particularise and strictly prove any special damages.

The claim for general damages succeed.

On pre-judgment interest

In **ABACHA FOUNDATION FOR PEACE & UNITY & 5 ORS. vs. UBA PLC (2010) 2-3 SC (PT. 11) p. 72**, the Supreme Court held that a Claimant, in order to succeed in a claim for interest must show how the entitlement for such interest arose, whether by law, contract, agreement or pleads facts showing that the claim is part of the loss or special damages, which Defendant's wrongdoing imposed on him.

The basis of the claim for interest must be made manifest.

The Claimant has claimed ~~N~~15 Million as damages for the breach. How can he claim interest on the said sum that has not been adjudged to be entitled to him.

The Claimant did not put any material before the Court to enable the Court grant the said interest. It fails.

Judgment is however entered in favour of the Claimant against the Defendant as follows:

1. The Defendant shall pay to the Claimant the sum of ~~N~~5 Million for breach of contract of clearing his goods at the Tincan Island Port.

2. 10% post-judgment interest from the date of Judgment until finally liquidated.
3. ~~N~~100,000.00 (One Hundred Thousand Naira) as cost of the suit.

HON. JUSTICE U. P. KEKEMEKE

(HON. JUDGE)

22/01/2024

Claimant present.

Defendant absent.

Kyonne Mando, Esq. for the Claimant with me is Aimodal

Israel Iliya, Esq. for the Claimant.

COURT: Judgment delivered.

(Signed)

HON. JUDGE

22/01/2024