

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT GARKI COURT 10, FCT, ABUJA
BEFORE HIS LORDSHIP: HON. JUSTICE S. B. BELGORE**

CLERK: CHARITY ONUZULIKE

COURT NO. 10

SUIT NO: FCT/HC/CV/1996/20

DATE: 22/3/2024

BETWEEN

JIBRIN MOHAMMED HASSAN..... CLAIMANT

AND

- | | | |
|---|---|-------------------|
| <p>1. KHALIFA LAWAL MOHAMMED
2. ALHAJI ALHASSAN BABANTINDI
(Sued for and on behalf of the Family and/or Executors
and Administrators of Estate of
Late Alhaji Lawal Mohammed)</p> | } | DEFENDANTS |
|---|---|-------------------|

**JUDGMENT
(DELIVERED BY HON. JUSTICE S. B. BELGORE)**

The Claimant in this case is one JIBRIN MOHAMMED HASSAN who initiated this suit against the Defendants KHALIFA LAWAL MOHAMMED and ALHAJI ALHASSAN BABANTINDI claiming the followings:

- (1) An Order restraining the Defendants either by themselves, their agents, servants, assigns and privies and or anybody whosoever from interfering with and/or distributing the Estate of Late Alhaji Lawal Mohammed pending the hearing and determination of this suit.

- (2) An Order of this Honourable Court directing the Defendants to pay to the Plaintiff from the Estate of late Alh. Lawal Mohammed the sum of **N14,300,000.00 (Fourteen Million, Three Hundred Thousand Naira Only)** being the monies received by late Alh. Lawal Mohammed from the plaintiff being the monies received by late Alhaji Lawal Mohammed from the plaintiff/applicant for procuring certificate of occupancy and regularization of an offer letter in respect of plot no; 2253 and 1375 respectively and having failed to do so before his demise.
- (3) An Order the directing the Defendants to pay the Plaintiff the sum of **5,000,000.00** as general damages.
- (4) Cost of this suit.

Upon service of the Writ of Summons with Statement of Claim on the Defendants, the Defendants neglected or refused to file their Statement of Defence hence this application of the Plaintiff for summary Judgment.

This application is brought pursuant to Order 11 Rule 1, of the High Court of FCT (Civil Procedure) Rules, 2018 and under the inherent Jurisdiction of this Honourable Court.

The Claimant/Applicant seeks in the application herein the following reliefs:

1. **AN ORDER** entering summary judgment against the Defendant/Respondent herein in accordance with the Claimant's Claim as endorsed on the Writ of Summons and

Statement of Claim in this Suit, on the ground of the Claimant's belief that the Defendant has no defense to the Claims, to wit:

- (a) *An Order restraining. The defendants either by themselves, their agents, servants and privies and or anybody whosoever from interfering with and/or distributing the Estate of late Alh. Lawal Mohammed pending the hearing and the determination of this suit.*
 - (b) *An Order of this Honourable Court directing the defendants to pay to the plaintiff from the estate of late Alh. Lawal Mohammed the sum of **N14,300,000.00 (Fourteen Million, Three Hundred Thousand Naira Only)** being the monies received by late Alh. Lawal Mohammed from the plaintiff being the monies received by late Alhaji Lawal Mohammed from the plaintiff/applicant for procuring certificate of occupancy and regularization of an offer letter in respect of plot no; 2253 and 1375 respectively and having failed to do so before his demise.*
 - (c) *An Order directing the defendants to pay the plaintiff the sum of **N5,000,000.00 (Five Million Naira Only)** as general damages.*
 - (d) *Cost of this action.*
 - (e) ***INTEREST on the above Judgment sum** at the rate of 10% per annum from the date of Judgment till final liquidation thereof.*
2. **AND** for such further or other orders as this Honourable Court may deem fit to make in the circumstance of this case.

BRIEF STATEMENT OF FACTS

The facts relied upon for this application is set out in the Affidavit in support of the application and are concisely set out as follows:

The Defendants who are sued for and on behalf of the family and/or Executors and Administrators of estate of late Alhaji Lawal Mohammed for the claims as contained in the writ.

The defendant also failed, refused and/or neglected to pay the said monies despite the demand notice dated the 4th day of October, 2019.

The Claimant following this development approached the Court for the payment of same and the defendant also failed, refused and/or neglected to pay the said monies or even to prosecute/defend the said matter despite the service of hearing notice to that effect.

The breakdown of the whole monies given to the late Lawal Mohammed are as contained in the writ before this Court of which the defendants have refused to defend despite average of opportunity to do so.

The Defendant failed, neglected and/or refused to pay his indebtedness despite demands.

Consequently, the Claimant instituted this action vide a Writ of Summons and Statement of Claim.

The Claimant in furtherance of its belief that the Defendant has no defense to this suit has brought the present application for Summary Judgment against the Defendant pursuant to Order 11 Rule 1 of the extant Rules of this Honourable Court.

ISSUES FOR DETERMINATION

We respectfully submit that the sole issue for determination is whether the Claimant/Applicant is entitled to the reliefs sought on the motion paper.

LEGAL ARGUMENT

Order 11 Rule 1 of the High Court of the F.C.T. (Civil Procedure) Rules of FCT 2018 under which this application is brought provides direction as to what the attitude of the Court should be while dealing with situations of this nature:

“Where a Claimant believes that there is no defense to his claim, he shall file with his originating process the Statement of Claim, the exhibits, the depositions of his witnesses and an application for summary judgment which application shall be supported by an affidavit stating the grounds for his belief and a written brief in respect thereof.”

The above provisions of the rules are clear as to its purport and intendment. It is meant to discourage the dilatory attitudes of a Defendant who though has no defense to the claims made against him is attempting to use trial as a means to delay and deprive a plaintiff from obtaining timeously the judgment to which he is due.

In **U.B.A PLC VS. JARGABA (2007) 11 NWLR (PT. 1045) 247 at 270 paras. F-G**, the Supreme Court per Muhammad, J.S.C. vividly stated the purpose of the summary judgment procedure as follows:

“[It] is designed to relieve the Courts of the rigors of pleadings and burden of hearing tedious evidence on sham defences mounted by defendants who have no

defense and are just determined to dribble and cheat plaintiffs out of reliefs they are normally entitled to.”

It is also clear that the Defendant/Respondent has refused and failed to pay the debt. These undisputed facts are certainly compelling to sustain the reliefs sought by the Applicant in this application.

He submitted from the foregoing that a careful perusal of the Claim and the documents filed with it clearly shows that the Defendant has no answer to the claims of the Applicant.

He submitted that in the circumstances of the instant Claim is one of such deserving cases where the Defendant should not be allowed to further delay and deprive the Claimant from getting judgment by presenting a defence.

It is clear from the provisions of Order 11 Rule 1 of the High Court of F.C.T. (Civil Procedure) Rules (supra) and the authorities referred to above that the era of protracted trials on sham and frivolous defences is over. Our Courts are enjoined to be proactive and to give judgments summarily in deserving cases.

He finally, urged the Court to grant his application as that is the only course that will meet the justice of the case.

I agree with Mr. A. E. Okelue that this application is brought before the Court aptly as there is no statement of defence nor counter-affidavit disclosing a defence on merit in this case. In the case of **ABU TEACHING HOSPITAL & ANOR VS. STAR GLOBAL MARKETING LTD (2021) LPELR – 53527 (CA)**, it was held thus:

“.....Where affidavit evidence in support of Motion for Summary Judgment depose to facts which lead to the conclusion that the defendant has no defence to it, so be it. Such a claim does not admit of other claims of the sum which can only be described as a claim in the realm of

general damages. Such a claim cannot be granted under the summary Judgment procedure.....”

From the holden of the Appellate Court above, it is clear from paragraph 3 (g) of the supporting affidavit that Defendants have no defence to the claim of the Plaintiff as there is no counter-affidavit or statement of defence before this Court.

Finally, this case succeeds in part as I enter Judgment in the sum of **N14,300,000.00** (Fourteen Million, Three Hundred Thousand Naira Only) in favour of the Plaintiff and against the Defendants.

This is the Judgment of this Court.

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S. B. Belgore
(Judge) 22/3/2024