

**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

SUIT NO: FCT/HC/CV/1632/22

DATE: 16/02/2024

BETWEEN:

NELSON KEBORDIH.....CLAIMANT/APPLICANT

AND

- | | | |
|---|---|-------------------|
| <ul style="list-style-type: none">1. FAMZHI INTERBIZ LIMITED2. FAMZHI AGRO INVESTMENT LIMITED3. FAMZHI FOODS, WATER, DRINKS
& CONSUMMABLES LTD4. FAMZHI GLOBAL RESOURCES5. FAMZHI GUARDS LIMITED6. FAMZHI REAL ESTATE LIMITED7. MIRIAM OMAYOZA SULEIMAN | } | DEFENDANTS |
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JUDGMENT
(DELIVERED BY HON. JUSTICE S. B. BELGORE)

This Judgment relates to an application for summary judgment brought pursuant to Order 11 Rule 1 of the Federal Capital Territory High Court (Civil Procedure) Rules, 2018 and under the inherent jurisdiction of this Honourable Court. The Applicant is by this application seeking the following reliefs:

A. AN ORDER of this Honourable Court granting summary judgment in favour of the Claimant/Applicant in respect of the

sum of **N31,605,506** (Thirty-one Million, Six Hundred and Five Thousand, Five Hundred and Six Thousand) Naira only being the total sum the Defendants' indebtedness to Claimant/Applicant.

B. AN ORDER of this Honourable Court directing the Defendants to jointly and severally pay to the Claimant/Applicant the total sum of **N31,605,506** (Thirty-One Million, Six Hundred and Five Thousand, Five Hundred and Six Thousand) Naira only being the agreed and acknowledged sum of indebtedness of the Defendants to Claimant/Applicant.

The grounds for this application are as enumerated in the body of the application. They are:

1. The Defendants jointly and severally are indebted to the Claimant to the tune of **N31,605,506 (Thirty-one Million, Six Hundred and Five Thousand, Five Hundred and Six) Naira** only which the Defendants vide a message to the Claimant acknowledged to be the sum of their indebtedness to the Claimant as at April, 2020.
2. The sum of **N31,605,506** (Thirty-one Million, Six Hundred and Five Thousand, Five Hundred and Six) Naira only being owed to the Claimant and acknowledged by the Defendants vide a message to the Claimant as sum of indebtedness to Claimant as at April, 2020 is a liquidated money demand.
3. The Defendants have willfully refused, failed and neglected to pay their acknowledged indebtedness to Claimant till date.
4. The amount being owed the Claimant/Applicant is a liquidated money demand.

5. The Defendants have neglected and failed to pay the Claimant/Applicant the Defendants' acknowledged sum of indebtedness or any amount till date despite demands since July, 2020.

6. The Defendants have no defence to this suit.

The application is supported by a 26 paragraphs affidavit deposed to by the applicant himself. We place reliance on all the paragraphs of the affidavit and exhibits attached therewith in urging your lordship to grant this application.

On the 15/2/2024, the Claimant/Applicant who appeared in person for himself moved the application. He referred to the 26-paragraphs supporting affidavit deposed to by himself. The Claimant/Legal Practitioner, placed firm reliance of the contents of the affidavits including the Exhibits attached. The Exhibits are A, B, C, D and E.

Exhibit A: Is a picture of the 7th Defendant.

Exhibit B: Is the picture taken from the farm

Exhibit C: Is the Famzhi Certificate of Investment

Exhibit D: Is the printout copy of short message from Famzhi number to the Claimant.

Exhibit E: Is another printed copy of conversation sent to the 7th Defendant.

The applicant then urged me to grant the application by entering summary Judgment in his favour. I have considered the application. The Claimant submitted a lone issue for determination which I considered to be apt and therefore adopted as mine. That is,

“Having regard to the entire circumstances of this case, whether the applicant is entitled to the reliefs sought.”

I feel free to quickly treat this issue in the affirmative. Why do I say so?

The strength of the affidavit evidence clearly supports this assertion of my paragraphs 3 – 19.

Paragraph 3:

“That 1st Defendant was introduced to me by the 7th Defendant as a corporate entity incorporated in accordance with the laws of the Federal Republic of Nigeria to principally undertake agro allied businesses and carries on business at Byazhin in Kubwa, Abuja within the Jurisdiction of this Honourable Court.

Paragraph 7:

“That I know as a fact that 2nd and 3rd Defendants / Respondents are 1st Defendant / Respondent complementary agro-business corporate entities, incorporated in accordance with the laws of the Federal Republic of Nigeria and carries on business at principally at No. 15 Zone B, Madaki Lane, Byazhin, Kubwa, Abuja-FCT within the Jurisdiction of this Honourable Court.

Paragraph 8:

“That I know as a fact that 4th, 5th and 6th Defendants/Respondents are respectively security and real estate development companies through whom the 7th Defendant invested investors’ funds including my investment funds meant solely for agro business investment. They respectively, carry on business substantially at No. 15, Zone B, Madaki lane, Byazhin, Kubwa, Abuja-FCT within the jurisdiction of this Honourable Court.”

Paragraph 9:

“That 7th Defendant/Respondent told me sometimes in July, 2019 at the Defendants’ farm site situate at Byazhin village in Kubwa in the Bwari Area Council within the FCT, Abuja and I verily her that she is the alter-ego, director, proprietor, founder, MD, CEO and directing mind of 1st to 6th Defendants.

Paragraph 10:

“That sometime in the month of July 2019, my colleague, Ayo Ogundele, Esq. introduced me to an agricultural Co-operative society where members poll resources together for agro-business investment and share profits therefrom. I became interested and want to know more. It was at that point that my colleague Ayo Ogundele, Esq. introduced me to the 7th Defendant who upon our meeting represented to me that she is the founder, Managing Director, Chief Executive Officer, Managing Director alter-ego and directing mind of the Cooperative.

Paragraph 11:

“That I became more curious and demanded to know the registration status of the Co-operative, including its main object and model of operation. The 7th Defendant who told me that she is the alter-ego and Managing Director and CEO of the Cooperative Society showed me a soft copy of the particulars of registration of Famzhi Interbiz Co-operative Society Limited or so, registered with the Bwari Area Council of the FCT in the presence of my colleague, Ayo Ogundele, Esq. I state further that for the avoidance of doubt, the person I spoke and continuously dealt with all through the course of my encounter, inquiries and eventual investment in the agro-business venture and subsequently as herein stated is the one in the picture herein marked as EXHIBIT A.

Paragraph 12:

“That the 7th Defendant unmistakingly and repeatedly told me that the business focus of the organization had been and would be purely agriculture. In a bid to further convince me about this, she thereafter took me on tour of the operational base of the agro-corporate organization situate at Byazhin in Kubwa of the FCT with marveling large scale agricultural investments comprising massive chicken coop, ranch, goat pens, fishery and processed fish department and aerated water supply and packaging sections. The 7th Defendant also told me how lucrative the venture has

been with further explanation on the average crates of chicken eggs per day, the numbers of chicken in the poultry, the cattle in the ranch or what she preferred to call abattoir, the fishery, the goats in the Goat pens, bottled and sachet water demand volume and supply capacity. The pictures taken from the farm are attached herewith as EXHIBIT B.

Paragraph 13:

“That after giving due consideration to the very alluring persuasion of the 7th Defendant, I became more convinced and accordingly made up my mind to invest the sum of N500,000.00 (Five Hundred Thousand) Naira only for trial. On the 12th July, 2019, I made deposit of N500,000.00 (Five Hundred Thousand) Naira into the account particulars she provided. The account details are as follows:

FAMZHI INTERBIZ LIMITED,

ACCOUNT NUMBER: 4242858013

FIRST CITY MONUMENT BANK PLC.

Paragraph 14:

“That I thereafter continually upgraded my investment until October, 2019. My accounts statements, some Famzhi upgrade forms I photocopied shall be relied upon during trial. I hereby give Notice to the Defendants to produce the original copies of all my upgrade forms filed with the Defendants. I also received certificates from the Co-

operative in order to keep track of my investment in the Co-operative since I was on roll-over. Famzhi Certificates of investment sent to me by Famzhi are attached herewith and marked as EXHIBIT C.

Paragraph 15:

“That since August, 2019 I have been on the roll-over plan and from October 2019, I was issued with certificates of investment as evidence of my investment status from time to time till March 2020. I shall rely on the print out copies of the said Certificates sent to my e-mail address by Defendants as follows: nelsonkebordih@gmail.com which e-mail address I supplied to the officials of the Defendants at the time of request at the principal office of the Co-operative.”

Paragraph 16:

“That sometime in April 2020, I went to the office of the organization to make request for certificate of investment for the month in order to keep tract of my investment but was told by an officer of the organization assigned for that purpose that there was an outstanding instruction from Management to stop issuance of certificates of investment but that any application or request by any investor could only be confirmed vide SMS through a designated FAMZHI number. On the 9th July 2020, I received an SMS from Famzhi designated phone number: 09094058368 through my phone number: 08051479581. The message is herein reproduced as follows:

FAMZHI INTERBIZ LIMITED,

Your request on F/12/203 has been approved and your current capital is 31,605,506M, as at the month of April 2020. Thank you for choosing Famzhi Interbiz Limited and stay safe.”

The Print out copy of the short message is attached herewith and marked as EXHIBIT D.

Paragraph 17:

“That on 22nd July 2020, I sent a request to the admin of the WhatsApp group for transmission to the 7th Defendant as she had directed, asking for the total withdrawal of my capital and profit from the organization, who promised to convey the request to the management. The printed copy of the conversation is herewith attached as EXHIBIT E.”

Paragraph 18:

“I hereby reaffirm the fact that since July, 2020 when I made the request for withdrawal of my investment and profits of the Defendants acknowledged indebtedness to me to the tune of the liquidated amount of N31,605,506 (Thirty-one Million, Six Hundred and Five Thousand, Five Hundred and Six Naira) only, the Defendants have refused and neglected to pay up till date. ”

Paragraph 19:

“That the sum of N31,605,506 (Thirty-one Million, Six Hundred and Five Thousand, Five Hundred and Six Naira) only which Defendants confirmed vide SMS

message as their total sum of indebtedness to me as at April, 2020 is a liquidated money demand.”

Secondly, **Order 11 Rule 1** of the Rules of this Court reads:

“Where a claimant believes that there is no defence 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 support of the application.

The Claimant in defence to the above provision of our Rules submitted along with the writ:

- (a) Statement of claim,
- (b) Exhibits A – E
- (c) Deposition of his witness
- (d) The extant Motion – M/5714/2022 for Summary Judgment.

The Defendants who were served as far back as 24th June 2022 and subsequently with hearing Notices on adjourned dates did not file any process in Court.

Now **Order 11 Rule 4** says:

“Where a party served with the processes and documents referred to in Rule 1 of this Order intends to defend the suit he shall, not later than the time prescribed for defence, file:

- (a) His statement of defence;***
- (b) Depositions of his witnesses;***
- (c) The exhibits to be used in his defence;***

- (d) *Counter affidavit; and*
- (e) *A written brief in reply to the application for summary judgment*

Order 11 Rule 5(2) says:

“(1)
(2) *Where it appears to the Court that the defendant has no good defence the Court may enter judgment for a claimant.*

It is on the strength of all the foregone that I find merit in this application. The Claimant is entitled to summary judgment and I have not the slightest hesitation in granting same in his favour.

In conclusion and for clarity purposes, the Defendants are hereby ordered to pay jointly and severally the sum of **N31,605,506 (Thirty-one Million, Six Hundred and Five Thousand, Five Hundred and Six Naira)** only being the agreed and acknowledged sum of indebtedness of the Defendants to Claimant/Applicant.

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S. B. Belgore
(Judge) 16/2/2024