

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT COURT NO. 4, MAITAMA

ON THE 7TH DAY OF MARCH, 2024

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

SUIT NO. FCT/HC/CV/368/2022

COURT CLERKS: *JOSEPH ISHAKU BALAMI & ORS.*

BETWEEN:

1. PRISTINE MOBILE NETWORK (NIG.) LTD	}	CLAIMANTS
2. BISS NETWORK (NIG.) LTD		

AND

1. KINGSLEY IFEANYI ADONU	}	DEFENDANTS
2. PERPETUAL ADONU			
3. S. MOBILE NETZONE LTD			

RULING

The Claimants' Writ of Summons and Affidavit dated the 10th day of November 2022 against the Defendants placed under the Undefended List is for:

- (1) The sum of ₦30,714,145,763.83 Billion only being the outstanding amount of trade capital as at 30th September 2022 advanced to the Defendants (at

their request) by the Claimants (on behalf of Core Investors and other investors) in respect of the 3rd Defendant's purported telecommunication (data products) business with MTN.

- (2) Return on Investment (ROI) on trade capital the Claimants (including Core and other investors) provided the 3rd Defendant at predetermined interest rates, more particularly specified in the Claim calculated from 1st September 2022 until the date of Judgment.
- (3) Interest on the Judgment sum at the rate of 10% per annum from the date of Judgment until after liquidation.
- (4) The sum of ~~N~~5 Million as cost of action.

It is supported by an Affidavit deposed to by Babatunde Said Adeola of Block B10, Flat 518, 1004 Estates, Victoria Island, Lagos. It is of 47 paragraphs.

The summary of the Claimants' case is that they were induced by the 1st & 3rd Defendants' fraudulent misrepresentation to provide trade capital and invite other core investors for the Defendants.

That the Defendants deceived the Claimants and other investors into believing that the trade capital provided by them was secured in MTN products.

The Defendants did not utilize the trade capital for the purpose for which it was raised. The Defendants unjustly enriched themselves with the trade capital raised for the 3rd Defendant's purported telecommunication business.

That Defendants diverted the trade capital contributed by the Claimants to their personal use, and that the 1st & 2nd Defendants are using the said trade capital to fund and feather their lavish and luxurious lifestyle.

That the Defendants are indebted to the Claimants to the tune of N30,714,145,763.83 as at 30th September 2022.

The Defendants are yet to repay the trade capital provided by the Claimants and the Return on Investment due to the Claimants despite being served with the letter of demand. That the Defendants have no defence.

The Claimants attached 67 exhibits in support.

A Defendant who intends to defend an action brought under the Undefended List Procedure is expected to file a Notice of Intention to Defend together with an Affidavit disclosing a Defence on the merit.

See **HAIDO vs. USMAN (2004) 3 NWLR (PT. 859) 65.**

The Defendants in the instant case filed a Notice of Intention to Defend dated 24/03/2023 with a 36 paragraph Affidavit and 18 exhibits.

When a matter under the Undefended List such as this comes up for hearing as in this case, the Court has only one duty, that is to see if a Notice of Intention to Defend with an Affidavit is filed in support and whether the

evidence contained in the said Affidavit disclose a defence on the merit or a triable issue.

I have considered the deposition in the Affidavit in support of the Notice of Intention to Defend sworn to by 1st Defendant.

He deposes that 3rd Defendant is registered with Nigeria Communications Commission to carry out the business of sales and installation of telecommunication gadgets, devices, accessories and products.

It is also an authorised trade partner with MTN. That the 3rd Defendant only agreed to partner with the Claimants on the condition that the Claimants will raise a trading capital of ₦1,250,000,000.10k for the business.

The Claimants were unable to meet their obligation of 70% contribution as agreed while the 3rd Defendant contributed its 30% share of trading capital.

That 1st & 2nd Claimants and 3rd Defendants were jointly managing the business of the partnership and Claimants were paid their Return on Investment according to the quantum of their contribution to the trade capital until 20/11/2022 when they invited the Police to arrest him on trumped up charges.

He did not sign any memorandum of agreement dated 1/10/2020. That 1st & 2nd Claimants were later discovered not to be incorporated.

That 3rd Defendant did not receive the said amount contained in paragraphs 19 and 20 of the Affidavit in support of the Writ.

That the other fictitious and imaginary investors are not known to him neither did he agree to pay 5% - 6% or 15% to 25% as Return on Investment.

That he never at any time apologise to Claimants. That the cellular phone recording is not his voice.

He was forced to write an Undertaking by the Police. That part of the agreement reached by parties is that when there is a deadlock, parties shall submit to mediation.

The Defendants are not indebted to Claimants. That the Defendants have a good defence.

That the suit is not a liquidated money demand. It is clear that there is conflict in the Affidavit of parties. The Defendants are denying owing the amount claimed.

The amount said to be invested by the Claimants in the Defendants' Affidavit is ₦1,250,000,000 while the Claimants deposed that they invested about ₦24,945,988,402.70k.

The Defendants deposed that their Return on Investment were fully paid according to their contribution. The Claimants' deposition is that they were not fully paid.

That the Defendants fraudulently induced them to collect the various sums invested on the business.

The only way to resolve the conflict in the Affidavit evidence of parties is to transfer the case to the General Cause List.

Consequently, this suit is hereby transferred to the General Cause List for trial.

Parties are ordered to file Pleadings in accordance with the Rules of Court while suit is adjourned to 27/05/2024 for Mention.

HON. JUSTICE U. P. KEKEMEKE, ACIArb (UK), FICMC
(HON. JUDGE)
07/03/2024

Parties absent.

Hosanna **Jacob Taina**, Esq. for the Claimant holding the
brief of Amaka Eke, Esq.

Avong Emmanuel, Esq. and Martins Ekpah, Esq. for the
Defendants.

COURT: Ruling delivered.

(Signed)
HON. JUDGE
07/03/2024