

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT MAITAMA

BEFORE HIS LORDSHIP : HON. JUSTICE Y. HALILU
COURT CLERKS : JANET O. ODAH & ORS
COURT NUMBER : HIGH COURT NO. 13
CASE NUMBER : SUIT NO: CV/4154/2024
DATE: : TUESDAY 17TH DECEMBER, 2024

BETWEEN:

LANRE SHITTU MOTORS (NIG.) LTD. CLAIMANT

AND

THE NATIONAL ASSEMBLY DEFENDANT

JUDGMENT

This Ruling is at the instance of the Claimant/Applicant who approached this Honourable Court vide a Motion on Notice dated 24th September, 2024, and filed same day, praying the Court for the following:-

1. An Order entering Summary Judgment against the Defendant/Respondent and in favour of the Claimant/Applicant in terms of the Statement of Claim as follows:
 - a. The sum of N502,569,925 (Five Hundred and Two Million, Five Hundred and Sixty-Nine Thousand, Nine Hundred and Twenty-Five Naira) only being the outstanding contract sum due to the Applicant for the supply and delivery of 30 units of Toyota Land Cruiser VXR V8 (2019/2020 Edition) to the Respondent on 18th February, 2020.
 - b. The sum of N1,606,162,044 (One Billion, Six Hundred and Six Million, One Hundred and Sixty-Two Thousand, Forty Four Kobo Only) being the total interest for delayed payment due to the Applicant for the supply of

30 units of Toyota Land Cruiser VXR V8 (2019/2020 Edition) delivered to the Respondent on 18th February, 2020.

- c. The sum of N112, 097,855.00 (One Hundred and Twelve Million, Ninety- Seven Thousand, Eight Hundred and Fifty- Five Naira Only) being the deductions made by the Respondent supposedly as withholding tax from the amount due to the Applicant but never remitted to the appropriate tax authorities.
- d. The sum of N2,779,170,176.00 (Two Billion, Seven Hundred and Seventy Nine Million, One Hundred and Seventy Thousand, One Hundred and Seventy-Six Naira Only) as reparation for the substantial financial losses incurred by the Applicant due to the persistent non-disbursement of the amounts owed, during which period the Naira experienced significant depreciation in value between March 2020 and April 2024
- e. General Damages in the sum of N500,000,000 (Five Hundred Million Naira) for breach of the Contract by the Defendant.

2. Cost of instituting and maintaining this action in the sum of N30,000,000 (Thirty Million Naira).
3. AND for such further order or other orders as this Honourable Court may deem fit to make in the circumstances.

The Grounds upon which this Application is brought are as follows:

- i. The Defendant/Respondent ("Respondent") is indebted to the Claimant/Applicant ("Applicant") in the cumulative sum of N5,000,000,000 (Five Billion Naira) which arose from the Contract entered into by the Applicant and Respondent for the supply of Vehicles.
- ii. The Applicant has fully supplied the Vehicles to the Respondent since March 2020, but the Respondent has failed, refused or neglected to fulfill its contractual obligations.
- iii. The Applicant has demanded for the payment of the above debt by the Respondent without success.

- iv. The Respondent has failed or refused to provide the Applicant with a concrete plan for the liquidation of the debt.
- v. The debt has adversely impacted the Applicant's business.
- vi. The Applicant is entitled to bring this Application pursuant to the Rules of this Honourable Court, specifically Order 11 thereof.

The application is supported by a 15 paragraphs affidavit duly deposed to by one Mr. Rasheed Shittu, Director of the Claimant/Applicant in this suit that the Applicant was awarded the contract by the Respondent to supply 30 units of Toyota Land Cruiser VXR V8 (2019/2020 Edition) as Per an award letter dated December 4, 2019, with reference No: NASS/SSC/03/09/07/UV/A utility vehicles (the "Vehicles") to the Respondent. Attached herewith and marked Exhibit AO 1 is the Respondent's Award Letter dated 4th December, 2019.

That upon acceptance of the award, the Applicant and the Respondent executed a contract for the supply of 30 units of Toyota Land Cruiser VXR V8 (2019/2020 Edition) dated 20th December, 2019. The Contract was awarded at a unit cost of N88,087,500.00 (Eighty Eight Million, Eighty Seven Thousand, Five Hundred Naira Only) for a total contract sum of

N2,642,625,000.00 (Two Billion, Six Hundred and Forty-Two Million, Six Hundred and Twenty-Five Thousand Naira Only) upon agreement that the Respondent (as purchaser under the Contract) shall pay the Applicant (as supplier under the Contract) upon delivery and acceptance of the Vehicles. Attached herewith and marked Exhibit "A02" is the Agreement for Supply between the Respondent and the Applicant dated 20th December, 2019.

That the Applicant and Respondent agreed that the Vehicles were to be supplied within four (4) weeks from the agreed date of commencement, as outlined in clause 7 of the Contract. In adherence to this timeframe, the Applicant duly delivered all the Vehicles as agreed on 18th February, 2020. Subsequently, the Transport Division of the Respondent issued the Applicant a Job Completion Certificate on 10th March, 2020, to evidence the completion of the Applicant's obligation under the Contract. Attached herewith and marked Exhibit "A03" is a copy of the Job Completion Certificate issued by the Transport division of the Respondent dated 10th March, 2020.

That the Respondent inspected the Vehicles physically delivered by the Applicant with no complaints whatsoever and clause 4.02 of the Contract which reads ***"supplier shall be paid for the***

goods physically supplied and accepted by the purchaser", was automatically invoked. The Respondent in an attempt to comply with this clause paid the sum of N2,140,055,075 (Two Billion, One Hundred and Forty Million, Fifty Five Thousand, Seventy Five Naira) to the Applicant leaving an outstanding balance of N502,569,925 (Five Hundred and Two Million, Five Hundred and Sixty Nine Thousand, Nine Hundred and Twenty Five Naira Only). of the amount paid, the Respondent deducted a total sum of N112,097,855.00 (One Hundred and Twelve Million, Ninety Seven Thousand, Eight Hundred and Fifty-Five Naira only) at the rate of N10,570,500.00 (Ten Million, Five Hundred and Seventy Thousand, Five Hundred Naira Only) per Vehicle as withholding taxes, which was never remitted to the Federal Inland Revenue Services in favour of the Applicant. Attached herewith and marked Exhibit "A04" is the Appendix of Agreement for Supply between the Respondent and the Applicant dated 20th December, 2019.

That contrary to the unequivocal terms of the Contract, specifically clause 4.04, which obligated the Respondent to remit full payment to the Applicant upon acceptance of the Vehicles, the Respondent failed, refused, or neglected to discharge its

financial obligation, consequently, the Balance of the Contact Sum remains unpaid till date.

That the Applicant and the Respondent did not anticipate a scenario of delayed payment by the Respondent or any similar case rather prompt payment upon satisfactory execution hence the contract was silent on issues as to delayed payments and other related issues. However, due to the status of the Respondent as an arm of government, the Applicant applied the provisions of the Public Procurement Act 2007 particularly Section 37 thereof, which provides that any payments for the procurement of goods supplied to either a Ministry or government agency due after more than 60 (Sixty) days from the date of the submission of invoices for such payments shall be deemed a late payment and same shall attract an interest rate.

That due to an anticipation of prompt payment as stipulated in the contract, the Applicant and Respondent did not address the issue of interest that will arise principally due to delayed payment. Thus, the Applicant in the computation of interest that has accrued from 10th March, 2020 to 30th April, 2024 as a result of the Respondent's unwillingness to liquidate its debt adopted the

average Central Bank of Nigeria's interest rates on prime lending and maximum lending rates and determined the total interest amount for delayed payment to be N1,606,162,044 (One Billion, Six Hundred and Six Million, One Hundred and Sixty-Two Thousand, Forty-Four Kobo Only) (the "Interest Rate). Attached herewith and marked Exhibit "A05" is a report that contains the basis of the computation of the Interest Rate.

That since March 2020, when the Applicant fully discharged its contractual obligations without any complaints, there have been significant fluctuations in the value of the Naira, resulting in a substantial devaluation of the currency. Furthermore, the Respondent's continued indebtedness has severely impacted the Applicant's business, as the Applicant is not a local manufacturer of these Vehicles but rather an importer who purchases them in foreign currencies. The Respondent's current indebtedness no longer holds the same monetary value as it did when the debt accrued, due to ongoing Naira fluctuations and the time value of money. The Applicant therefore asserts that to be fairly compensated for the substantial losses incurred as a result of the Respondent's continued non-payment, it is entitled, at a minimum, to the sum of N2,779,170,176.00 (Two Billion, Seven Hundred and Seventy-Nine Million, One Hundred and Seventy Thousand,

One Hundred and Seventy Six Naira Only), accounting for the massive loss in value of the Naira between March 2020 and April 2024.

That the Applicant instructed its solicitors, Messrs. A02 Law to demand for the liquidation of the Respondent's indebtedness. The Applicant's solicitor wrote a letter of demand dated 25th June, 2024, to the Respondent and same was served on the Respondent and acknowledged, wherein the Applicant demanded the immediate liquidation of the Respondent's debt which stood at the sum of **N5,000,000,000.00 (Five Billion Naira only)**. Attached herewith and marked Exhibit "A06" is the Applicant Solicitor's letter of demand dated 25th June, 2024.

That the Respondent has continually displayed a definite intention not to repay to indebtedness owed to the Applicant despite demands for same.

That it is in the interest of justice and equity that the Court should grant the reliefs sought by the Applicant in this Application as the Respondent's indebtedness to the Applicant is not in contention.

In line with the law and procedure, learned counsel for the Claimant filed written address wherein sole issue was formulated for determination to wit;

Whether the Applicant is entitled to Summary Judgment against the Respondent in accordance with the Rules of this Honourable Court in view of the facts and materials before the Court?

Arguing on the above issue, learned counsel submits that the Rules of this Honourable Court permit this Honourable Court to grant Summary Judgment in favour of a claimant where it appears that a defendant has no good defence to the claimant's claim. He cited Order 11, Rule 1 of the High Court of the Federal Capital Territory, Abuja (Civil Procedure) Rules 2018 and the case of ***NBN LTD. VS. SAVOL W.A. LID. (1994) 3 NWLR (Pt. 333) 435 at 452 Paragraphs E - F.***

Learned counsel contends that the procedure (Summary Judgment) thus ensures speedy dispensation of justice and is usually deployed in cases where a claimant has fully performed its own obligations under a contract while of ***WOODGRANT LTD. VS. SKYE BANK PLC. (2011) 12 NWLR (Pt. 1260) 61 at 97;***

***CHIEFIELD (NIG.) LTD. VS. ORIENT BANK (NIG.) PLC.
(2004) 3 NWLR (Pt. 1860) 251 at 262 were cited.***

Learned counsel argued that Respondent in this instant case as stated in paragraphs 5-7 of the affidavit in support of the application awarded the Applicant a contract to supply 30 units of Toyota Land Cruiser VXR VB (2019/2020 Edition) utility vehicles at unit cost of **N88,087,500.00 (Eighty Eight Million, Eighty Seven Thousand, Five Hundred Naira only)** for a total contract sum of **N2,642,625,000.00 (Two Billion, Six Hundred and Forty Two Million, Six Hundred and Twenty Five Thousand Naira only)**. It executed a contract to this effect and the Applicant fulfilled its obligation under the contract and the Respondent in satisfaction, issued the Applicant a job completion certificate. However, the Respondent has flagrantly failed to fulfill its obligations as agreed.

The Applicant further contends that the Respondent has no legal justification for its adamant refusal to settle the outstanding sum of **N5,000,000,000 (Five Billion Naira only)**.

Learned counsel further argued that the Respondent's failure to respond to the Applicant solicitor's demand letter dated 25th June, 2024 is an admission of its indebtedness. It is a settled principle

of law that where a person fails to respond to a business letter, same will be deemed as an admission of the content of the letter. He cited ***TILLEYGYADO & AMP CO. (NIG.) LTD. VS. ACCESS BANK PLC. (2019) 6 NWLR (Pt. 1669) Page 399 Ratio 3.***

Learned counsel submits that there being no dispute as to performance of the contract and the existence of the outstanding sums, this is a proper case in which this Honourable Court may enter Summary Judgment in favour of the Applicant and that having enjoyed and taken benefit of the Applicant's goods and services, the Respondent cannot under any guise, evade fulfilling its contractual obligations. The case of ***OFFA LG. VS OLADIPO (2013) 11 WRN 124 at 142 was cited.***

Learned counsel further submits that the law is settled where an applicant has shown by affidavit and documentary evidence that it is entitled to the sums claimed (payment for services rendered and interests on principal sum), a court of law is enjoined to enter judgment on those sums in his/its favour unless the respondent can show that he has a good defence. He ***cited MACAULAY VS. NATIONAL MERCHANT BANK (1990) 4 NWLR (Pt. 144) SC 283 at 324-325 Paragraphs G-E.***

Learned counsel submits that it is clear that the transaction between the parties is commercial in nature and the Applicant has been kept out of its funds for years without any justification.

HARBUTT'S PLASTICINE LTD VS. WAYNE TANK & PUMP CORPORATION LTD (1970) 1 All ER Page 225 at 236 was cited.

Learned counsel contends that given the circumstances of this case it is only just and equitable to award the interests as claimed by the Applicant, considering that the extant action is in the nature of a monetary claim, judgment for return of money is usually accompanied by an award of interest for the period for which it is claimed. The case of ***F.B.N PLC. VS. YERMA (2020) 8 NWLR (Pt. 1725) 63 at 83 Paragraph B was cited.***

Learned counsel argues that it is a valid law that a court can still grant pre-judgment interest on a monetary or liquidated sum awarded to a successful party, even in a situation where such party did not plead or adduce evidence in proof of such claim, such interest like in this instant case, naturally accrues from failure or refusal to pay the amount involved over a long period of time, thereby depriving a party from the use of and/or enjoyment of the sum involved which is the fruit of his judgment. He cited

PETGAS RES LTD. VS. MBANEFO (2007) 6 NWLR (Pt. 1031) 545.

Learned counsel submits that this Honourable Court has the power to consider documentary evidence together with the prima facie facts deposed to in the affidavit in support of this application in order to award pre-judgment interest in the Applicant's favour without necessarily having to go through trial. The court is urge to so hold.

Learned counsel further submits that Applicant has also sought for cost of this action and while urging the court to grant same, he cited the provision of Order 56(1) of the High Court of the Federal Capital Territory, Abuja (Civil Procedure) Rules 2018 on the award of cost of an action.

In conclusion, it is on the premise of the foregoing argument the court is humbly urge to grant this application in the interest of justice to so do.

On their part, Defendant filed 25 paragraphs counter affidavit deposed to by Selman Falum Dashe, Principal Legal Officer in the office of the Defendant.

It is the deposition of the Defendant/Respondent indeed that it awarded the contract for the supply of the vehicles to the claimant, vide Exhibit "A01" and the agreement Exhibit "A02" was executed between the parties.

That the Applicant breached the terms of the letter of award of the contract and the agreement for supply by failing to keep to the terms clearly stated therein, thereby causing colossal loss to the defendant as time was obviously of the essence. The claimant supplied the vehicles well out of time and fraudulently, with the connivance of some unauthorized person in the National Assembly, obtained a Certificate of completion and other documents and payments were commenced.

That the Claimant's vehicles were inspected by unauthorized persons in unclear circumstances.

That the Defendant remits all taxes to the Federal Inland Revenue Services from source and has remitted the tax (VAT) on this contract to the FIRS despite the issues observed by management in the poor execution, fraudulent involvement of staff in receiving the goods even when supplied in breach of the contract out of time and outside the words and letters in the award letter and agreement for supply.

That the Defendant denies not remitting funds to the Federal Inland Revenue Services as stipulated under Rule 234-235 of the Financial Regulations 2009, such funds are deducted from source at the Central Bank or defendant's bank and never gets to the defendant's coffers. The defendant denies any indebtedness to the claimant in that regards.

That the sum of money so far paid to the claimant was erroneously paid to it, though being part of what is lawfully and contractionally due to it from the full performance of the contract as stipulated in the letter and agreement, assuming there were no breaches.

That the Defendant has not refused, neglected, failed to pay the Applicant or discharge the financial obligation on this contract for no reason.

That the contract resulted in colossal loss to the defendant as the purpose was defeated by the time the vehicles were supplied out of time in March, 2020, well outside the period agreed.

That the defendant did not know that the Applicant could not execute the contract and could disappoint it and cause the legislature to suffer so much immeasurable damages in their work,

as so many oversight functions were abandoned because the vehicles did not come in when expected.

That the CBN interest rate is not applicable in this instance in favour of the Applicant who is in breach anyway.

That the Claimant neglected the contract and faced other businesses after it had gotten the go ahead on 20th December, 2019 when the contract commenced to supply the vehicles which they claimed they had on ground at the time of the bid.

That the claimant never reverted to the defendant or sought any extension of time until they surreptitiously smuggled the vehicles into the National Assembly long after other options of transportation had been explored and the oversight works of the various committees for February and March, 2020 were frustrated by the none supply of the vehicles.

That the defendant has good defence to the entire claims of the Claimant

That the Defendant/Respondent denies the entire claims of the claimant and urges the Court not to make any declarations, orders or costs in the interest of the claimant in this matter.

That no pre action notice was issued to the defendant or the Senate before the institution of this suit and this court lacks jurisdiction to entertain this matter.

That the defendant counterclaims in the matter.

That the court is urge to dismiss this motion and the suit against the defendant with cost.

In compliance with law and procedure, written address was filed wherein sole issue was formulated for determination to-wit;

"Whether the claimant has made out a case to warrant the grant of summary judgment or leave to defend."

It is the argument of the learned counsel that Claimant made his position without satisfying the condition under which a claimant under a contract can claim for a liquidated sum of money under summary judgment, which is similar to undefended list or default judgment claims. He cited ***G. C. & OIL MILLS LTD. VS. AS-AHEL INTERNATIONAL MART & PRO. LTD. (2000) 4 NWLR (Pt. 652) 310, 326.***

Learned counsel further added that claimant in this case is economical with the truth only that the documents he relies on and his depositions of breach of the contract gave him out the

Claimant cannot benefit from any quick justice by assuming that because he smuggled vehicles into the National Assembly after breaching the words and letters of the contract award letter and the agreement for supply, the National Assembly is bound to kowtow to his terms and conditions. It is fraudulent and an attempt to defraud the Nigerian government of the tax payers hard earned money and the court is urge not to encourage that.

Learned counsel contends that Claimant/Applicant is not entitled to summary judgment in view of the facts of this case, there are ample defence to the suit and these are already before the court. They include triable issues as to the breach of contract, the fraud and mischief by the claimant and the counter claim by the Defendant. The case of ***NIGERIA PORTS AUTHORITY VS. AMINU IBRAHIM & COMPANY & ANOR (2010) 3 NWLR (Pt. 1182) 487, 499 – 500 Paragraphs F-B*** was cited.

He further cited **Order 11 Rule 5** of the FCT High Court Civil Procedure Rules, 2018.

Learned counsel submits that the depositions of the Affidavit in support of the application for summary judgment is an attempt to mislead this court and to obtain further payments from the defendant deceptively, knowing that the Claimant obtained the

payments already made to it in breach of the terms of the contract by delaying the supply and smuggling the vehicle into the National Assembly and procuring a certificate of completion. No such amount claimed is owed by the Defendant in the light of the obvious delay in the execution of the contract and the imminent breach and losses resulting to the Defendant/Respondent.

Learned counsel further submits that it is not a sham defence for the Defendant to bring to the knowledge of the court that the claimant went outside the written terms of the contract documents to act on his own to the chagrin of the Defendant. The case of ***U.B.N. PLC. VS. GAP CONSULTANTS LTD. (2017) 11 NWLR (Pt. 1577) 357, 399 - 400 Paragraphs A-H and A-F was cited.***

Learned counsel in conclusion submits that the Claimant/Applicant case does not qualify for summary judgment, considering the defenses put forward and the counter claims of the defendant/counterclaimant, the court is urge to take the proper step of disallowing the Motion on Notice and granting the defendant leave to defend this matter on the general cause list and even prove the counter claims against the Claimant/Applicant.

A further affidavit in opposition to the Defendant/Respondent's counter affidavit to the motion for Summary Judgment and reply address was filed by the Claimant/Applicant.

In the said further affidavit, Claimant/Applicant re-iterated the fact that Defendant/Respondent in an attempt to comply with the term of the contract paid the sum of N2,140,055,075.00 (Two Billion, One Hundred and Forty Million, Fifty Five Thousand and Seventy Five Naira) to the Claimant and that the issue of refund of the said amount was never requested by the Defendant/Respondent till date and that there are no materials placed before the court to suggest that the said part payment was made in error, and or any issue of breach, fraud was raised prior to now; and that the act of filing a defence and counter affidavit in opposition to a motion for summary judgment does not automatically make the suit contentious.

Learned counsel for the Claimant/Applicant contended in their reply address that Defendant cannot evade liability simply on ground of fraud and having benefitted from the same contract.

The case of ***BB APUGO LTD. VS. O.H.M.B. (2016) 13 NWLR (Pt. 1529) 206, S.C, was cited.***

Claimant on the whole, urged the court to enter summary judgment.

COURT

I have considered the affidavit and further affidavit of the Claimant/Applicant for summary judgment, on the one hand, and the counter affidavit filed by the Defendant/Respondent in opposition to the application for summary judgment on the other hand. I have similarly abraised myself with the arguments contained in the written addresses filed by both counsel for the parties.

I need mention at this juncture that Summary Judgment pursuant to Order 11 of the Rules of this court is slightly distinct from Order 35 of the Rules of this Court.. Whereas in the case of Order 11, there could be other claims that are not ascertainable and or liquidated which shall be determined through led evidence, only liquidated claim are entertained under Order 35 of the Rules of this Court. With above prelude, I now proceed to the claim for Summary Judgment.

The Claimant/Applicant was awarded contract by the National Assembly of Nigeria to supply 30 Toyota Land Cruiser VXR Utility Vehicles to the National Assembly vide an award letter dated the

4th December, 2019, and an agreement between Claimant/Applicant and the Defendant/Respondent dated 20th December, 2019 was duly signed.

The total contract sum stood at N2,642,625,000.00 (Two Billion, Six Hundred and Forty Two Million, Six Hundred and Twenty Five Thousand Naira).

The contract agreement contained condition of the contract and dispute resolution clause.

Claimant/Applicant supplied the said 30 nos. Land Cruiser Utility Vehicles to specification to the National Assembly and in satisfaction, a job completion certificate was issued to Claimant, and a part payment of N2,140,055,075.00 (Two Billion, One Hundred and Forty Million, Fifty Five Thousand and Seventy Five Naira) leaving an unpaid balance of N502,569,925.00 (Five Hundred and Two Million, Five Hundred and Sixty Nine Thousand, Nine Hundred and Twenty Five Naira).

Claimant who took out a writ of summons against the Defendant seeking for Judgment on the unpaid balance of the executed contract, similarly claimed for damages on the unpaid sum for the delayed payment..

Claimant similarly filed motion on notice for Summary Judgment pursuant to Order 11 of the Rules of this Court.

Claimant/Applicant who filed the instant application for Summary Judgment pursuant to Order 11 of the Rules of this Court, which is being opposed, prays the Court to give them Summary Judgment on the other heads of claims.

This procedure is not in any way novel to our jurisprudence... it is a fast-track means of obtaining Summary Judgment for unchallenged monetary Claims.

The best form of evidence in law, is documentary evidence.

See ***FELICIA AKINSIBADE VS. THE STATE NCC Vol. 2 (2007) Page 75 (6284);***

ALI SANI VS. APC & ORS (2023) ELC 7778 (SC) Page 1.

It is not in doubt that there was a Contract Agreement duly signed by both Claimant and Defendant arising from the Award Letter issued to the Claimant for the supply of 30 nos. of Toyota Land Cruiser SUV. The issue therefore, has been narrowed to whether the contract was performed to specification or not. The issue of performance of the contract has been dwarfed by the issuance of job completion certificate and the eventual part

payment of over N2,000,000,000.00 (Two Billion Naira) being part payment for the job completed, leaving a balance of over N500,000,000.00 (Five Hundred Million Naira).

In ***A.A. MACAULAY VS. NAL MERCHANT BANK NSCQR (1990) Page 53 or (1990) NWLR (Pt. 144) 283 (6809) ABDUL G.O. AGBAJE (JSC)*** as he then was stated as follows:-

It does seem to me that in deciding whether there is a fair dispute to justify letting in the defence, - one ought to be fully satisfied there is no defence, or that there is only sham defence that would result in delay before refusing leave. I gratefully adopt the comments of lord Halsbony, Lord Chancellor in ***JACOB'S VS. BOOTH'S DISTILLERY COMPANY (1901-2) Vol. 85 Law Times Report 212 HL.*** There, the learned Lord Chancellor said:

There are some things too plain for argument; and where there were pleas put in simply for the purpose of delay and where it was not in aid of justice that such things should continue, Order XIV was intended to put an end to that state of things.

It was similarly held in the case of ***JACOBS VS. BOOTH'S DISTILLERY COMPANY (Supra)*** that judgment can only be Ordered in application for Summary Judgment as in this case,

where assuring all the facts in favour of the Defendant, they do not amount to a Defence in law. By the same token where in an application for Summary Judgment and the only point involved is the construction of a document which document is capable of more than one meaning, then one tries and fathoms all the meanings capable of being given to the document, and if any of them gives the Defendant a defence in law to the action, then there is a fair dispute as to the meaning of the document which will entitle the Defendant to defend the action. If on the other hand, none of the meanings which the document is capable of bearing can give a Defendant a defence to the action then there can be no fair dispute as to the meaning of the document.

In which case, the Defendant has not shown that they have raised triable issues in their statement of defence warranting a full contest with respect to the unpaid outstanding contract sum.

Arising from above settled position of law, where then lies the defence of the Defendant to the instant application for Summary Judgment?

Indeed a Defendant who has no defence to the claims of a Claimant must not attempt to dribble and cheat a Claimant out of Judgment, and where he so attempts, the Court shall not allow

him score any such goal, even if he were to be a Ronaldo or Messi.

Having paid the Claimant N2,140,055,075 Billion, Defendant shall not be allowed to dribble and cheat the Claimant out of Judgment on the spurious allegation of fraud or breaches after issuing Claimant Job Completion Certificate

Defendant has no Defence to this claim of unpaid balance of contract sum.

I have no doubt in my mind that Claimant/Applicant is entitled to the payment of the unpaid balance.

Accordingly, Judgment is hereby entered in the sum of N502,509,925.00 Million being unpaid balance of the contract sum due to the Claimant/Applicant.

I make no Order with respect to the other claims which are not ascertainable under Summary Judgment Procedure. Evidence shall be led in the main suit.

Justice Y. Halilu
Hon. Judge
17th December, 2024

APPEARANCE

Samuel O., Esq. with **Abdulbaki J., Esq.** – for the Claimant/Applicant.

Selman S. Dashe, Esq. – for Defendant.