

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT COURT 1, GUDU - ABUJA
DELIVERED ON WEDNESDAY THE 20TH DAY OF NOVEMBER 2024.
BEFORE HIS LORDSHIP; HON. JUSTICE MODUPE R. OSHO-ADEBIYI

SUIT NO.FCT/HC/CV/785/2019

BETWEEN:

EXPRESS INTERNATIONAL AFRICA LIMITED===== CLAIMANT

AND

ZEROSET NIGERIA LIMITED===== DEFENDANT

JUDGMENT

By an amended Writ and a further Amended statement of claim, the Claimant filed this suit against the Defendant claiming the following reliefs: -

1. A DECLARATION that the Defendant is indebted to the Claimant in the sum of \$209,807.56 USD [Two hundred and nine thousand, eighthundred seven United States Dollars, fifty-six cents].
2. AN ORDER directing the Defendant to pay the Claimant the sum of \$209,807.56 USD [Two Hundred and nine thousand, eight hundred seven United States Dollars, fifty-six cents].
3. AN ORDER directing the Defendant to pay the Claimant the sum of N1,000,000 [One million Naira] as cost of instituting this action.
4. AN ORDER directing the Defendant to pay 15% [Fifteen percent] interest on the total judgment sum found to be due to the Claimant by this Honourable Court, from 16th June 2016 (the date the outstanding debt became due and payable) until the date of delivery of judgment in this suit.

5. AN ORDER that the Defendant pay on an annual/yearly basis, 10% [Ten percent] post-judgment interest on the total judgment sum found to be due to the Claimant by this Honourable Court, from the date of delivery of judgment until final liquidation of same by the Defendant.

Upon receipt of the Claimant's processes, the Defendant filed its statement of defence. At the close of pleadings hearing commenced with the Claimant calling its sole witness in proof of its case. A brief summary of the Claimant's case is that in November 2014, the Defendant engaged the Claimant in an international sale transaction involving the mass production of diaries, desk planners, and notebooks in Beirut, Lebanon, to be delivered to Abuja, Nigeria. That prices were agreed and despite the Claimant's policy of requiring full payment before delivery, the diaries were released prior to payment due to the Defendant's requests. That in 2016, the Defendant commissioned additional transactions for more diaries without settling previous debts. That the Defendant's total outstanding debt amounted to \$219,807.56, which was due to multiple transactions where the Claimant delivered goods without receiving full payment. That the Defendant has no defence against this claim hence this suit for the outstanding sums due the Claimant.

In support of its case the Claimant, through the PW1 tendered the following documents which was admitted into evidence as follows:

1. 10 sheets of email correspondences between Vuk Preradovic and excel995@gmail.com for the following dates 30th June, 2016, 1st July, 2016, 3rd July, 2016, 9th July, 2016, 11th July, 2016, 19th July, 2016, 25th July, 2016, 1st August, 2016, 29th August, 2016, 30th August, 2016, 31st August, 2016, 8th September, 2016, 22nd September, 2016,

3rd October, 2016, 4th October, 2016, 6th October, 2016 and 7th October, 2016 as Exhibit A1 - A10.

2. Quotation for the Senate President 2015 dated 20/11/2014 as Exhibit A11.
3. Quotation for the Senate Deputy President 2016 dated 2/2/2016 as Exhibit A12.
4. Quotation for the Senate Principal Officer 2016 dated 2/2/2016 as Exhibit A13.
5. Quotation for the Senate Principal Officer 2016 dated 3/6/2016 as Exhibit A14.
6. Invoice 20150150 dated 11/02/2016 as Exhibit A15.
7. Invoice 20160134 dated 7/03/2016 as Exhibit A16.
8. Invoice 20160133 dated 7/03/2016 as Exhibit A17.
9. Invoice 20160135 dated 10/03/2016 as Exhibit A18.
10. Invoice 20170002 dated 16/06/2016 as Exhibit A19.

The Claimant's witness was duly cross examined by the defence Counsel where PW1 maintained being privy to the transaction as well as personally delivered the diaries to the Defendant and the case was adjourned for the defence to open its case.

On the other hand, a summary of defence case is that the Defendant engaged the Claimant to mass-produce diaries and desk planners for the Nigerian Senate, initially agreeing to pay 50% upfront. However, due to non-payment from the National Assembly, the Defendant requested a review, leading to an agreement where the Claimant would be paid upon National Assembly funding. That the Claimant produced and supplied the

items without upfront payment. That upon Claimant demanding the outstanding amount of \$219,807.56, the Defendant reminded them of the payment agreement, explaining that National Assembly had not yet paid. That to demonstrate good faith, the Defendant paid \$10,000, reducing the outstanding debt to \$209,807.56. That the suit ought not to have been filed by the Claimant.

The defence failed to call a witness in support of their case, however, Counsel to the defence sought the leave of the Court to tender a copy of a bank teller evidencing payment of the sum of \$10,000.00 to the Claimant on the 17th day of July 2018, which was admitted without objection from the Claimant as Exhibit A20. The defence thereafter closed its case, and the Court adjourned for the parties to file their respective written addresses.

The Defendant from the written address filed, raised three issues for determination as follows: -

1. Having regard to the entire facts and circumstances of this case, whether this suit discloses any cause of action against the Defendant.
2. If the answer to issue no. 1 is in the negative, whether this Honourable Court has jurisdiction to entertain this suit.
3. Having regard to the facts and circumstances of this case and the evidence led at trial, whether the Claimant has made out any case to warrant the grant of the reliefs sought.

Arguing issues one and two Defendant's Counsel John Odeh, Esq., submitted that parties had agreed that payments would only be made to the Claimant upon receipt of payments from the National Assembly. Submitted that the Claimant's failure to respond to the Defendants allegation of this fact, the Claimant clearly admits to the position as true. Consequently, the defendant is not bound to prove the averment of facts same having been admitted by

the Claimant and as such, the cause of action is yet to accrue which robs this court of the requisite jurisdiction to determine this case. Counsel urged the Court to so hold.

Counsel arguing issue 3 submitted that the Claimant has not placed any evidence before this Court to prove its entitlement to the claims as sought and urged the Court to discountenance the evidence of the PW1 as hearsay and failing to link the documentary evidence to the case before this Court. Counsel relied on a number of cases some of which are: -

1. Aghwarianovwe V. PDP (2024) 1NWLR (Pt. 1918) 45 SC
2. Yare V. National Salaries, Wages and Income Commission (NSWIC) (2013) 11 NWLR (PT. 1367) 173 SC, at 186, paras. E-F,
3. Ode V. Uzor (2023) 13 NWLR (Pt. 1900) 1 SC,
4. Sifax (NIG.) LTD. V. Migfo (NIG.) LTD. (2018) 9 NWLR (PT. 1623) 138 SC AT 191, Paras. B-D.
5. Uwazuruonye V. Gov., Imo State (2013) 8 NWLR (PT. 1355) 28 SC
6. A.G. (Fed.) V. Sode (1990) 1 NWLR (PT. 128) 500 SC,
7. Bello V. A.-G., Oyo State (1987) 1 NWLR (PT. 53) 678 SC.
8. APC v ESIEC (2021) 16NWLR (Pt. 1801) 1 SC,
9. Ubani Ukoma V. Seven up Bottling Co. Plc (2023) 2 NWLR (PT. 1867) 117 SC
10. Adamu V. Nigerian Airforce (2022) 5 NWLR (Pt. 1822) 159 SC,
11. Barde V. INEC (2024) 5 NWLR (Pt. 1932) 561 SC

The Claimant on its part, raised two issues for the Court's determination as follows:

1. Whether the Claimant is entitled to the reliefs sought in this suit?
2. Whether arguments canvassed in the Defendant's final written address are lacking in merit?

Arguing issue 1, Counsel for the Claimant, Umar Faruq, Esq., submitted that from the evidence and exhibits before this Court, the Claimant has successfully shown that the Defendant is indebted to the Claimant for the supply of Diaries which remains unpaid. Submitted that the Defendant's defence lacks merit and urged the Court to grant all the reliefs sought in this instant suit.

Arguing issue 2, Counsel submitted that the issues one and two of the Defendant lacks merit and is misconceived as it is only the statement of claim that is to be determined to know whether or not a cause of action has arisen and looking at the statement of claim, it clearly discloses a cause of action and urged the Court to hold that the issues raised by the Defendant lacks merit. Submitted further that Claimant clearly linked the documents tendered, to the evidence before this Court and the argument of the defence Counsel that the documents were dumped on the Court is greatly misconceived. Counsel submitted finally that the PW1, being in the employ and an agent of the Claimant had been privy to the negotiation and delivery of the Diaries to the Defendant and urged the Court to discountenance the argument of the Defendant and enter judgment in favour of the Claimant. Claimant's Counsel relied on, amongst others, the following cases:

1. Abubakar v. Joseph (2008) 13 NWLR (Pt. 1104) 307 at P.357 paras. D-E
2. Ajero v. Ugorji (1999) 10 NWLR (Pt.621) 1@ P.19 paras H
3. Adedeji v. Obajimi (2018) 16 NWLR (Pt.1644) 146 @ P.175, paras. D - E
4. B.A.L Co. Ltd. v. Landmark University (2020) 15 NWLR (Pt. 1748) 465 @ P.498, paras. A-C
5. Chemiron International Limited vs. Stabilini visinoni limited (2018) 17NWLR (Pt. 1647) 62 @ Pp. 77- 78 paras. H- C
6. Fouani Nig. Ltd. v. Idoko (2020) 2 NWLR (Pt. 1709) 401 (pp.435-436, paras.G-A)

7. G.K.F.I(Nig.) Ltd. v. NITEL Plc (2009) 15 NWLR (Pt. 1164) 344 @ P.376 para-G
8. Interdrill (Nig) Limited vs. UBA Plc. (2017) 13 NWLR (Pt. 1581) 52 @ P. 67,paras E -H
9. Modibbo v. Usman (2020) 3 NWLR (Pt. 1712) 470 at 529 paras. F -G
10. Ogbimi v. Ololo (1993)7 NWLR (Pt. 304) 128 at 136 paras. B-C
11. Ogundipe v. NDIC (2009) 1 NWLR (Pt. 1123) 473 at 503

Counsel to the Defendant upon receipt of the Claimant's written address, filed a reply on points of law which is a further argument to the existing points raised in the Defendant's address and cannot qualify as a reply on points of law.

Having considered the facts and evidence led by the Claimant together with the evidence elicited by the Defendant during cross examination, as well as the written addresses of respective Counsel, the issue to be determined in this case is.

Whether the Claimant has successfully proved its case to be entitled to the reliefs claimed.

Before I proceed, I must first deal with the contention of the Defendant's Counsel that this Court lacks jurisdiction to entertain this suit as the cause of action is yet to accrue. In AKIBU V ODUNTAN (2000) 13 NWLR (pt.685) 446 at 463, the Supreme Court defined cause of action as:

"A cause of action is defined as the entire set of circumstances giving rise to an enforceable claim. It is in effect the fact or combination of facts which give rise to a right to sue, and it consists of two elements:

(a) The wrongful act of the Defendant which gave the Plaintiff his cause of complaint, and

(b) The consequent damage.”

The law is well settled that the assertion that a Claimant’s suit lacks a cause of action can only be determined by reviewing the facts presented in the Statement of Claim. Consequently, the Court must focus on the details outlined in the Statement of Claim and not the statement of defence when evaluating whether the Claimant has a valid cause of action. See *CIL Risk and Asset Management Ltd v Ekiti State Govt and Ors* (2020) LPELR -49565 (SC) and *A.G OF KOGI STATE & ORS V. ACHUBA &ORS* (2024) LPELR-61940(CA)

In this instant case, from the entirety of the statement of claim and the reliefs sought, the fact or combination of facts on which the Claimant has premised its right to commence this action against the Defendant on the grounds of breach of contract can be gleaned from paragraphs 4 to 15 of the further amended statement of claim. A statement of claim is said to disclose a cause of action when it sets out the legal right of the Claimant and the obligations of the Defendant. It must further set out the action constituting the infraction of the Claimant’s legal right or the failure of the Defendant to fulfil his obligation in such a way that if there is no proper defence, the Claimant will succeed in the relief or remedy which he seeks. See *NWAKA V SHELL* (2003) 3 MJSC 136 AT 149, *IBRAHIM V OSIM* (1988) 3 NWLR (pt.82) 257 at 271 - 272.

Having carefully considered the Statement of Claim, I am satisfied that it has clearly set out the legal rights of the Claimant, the obligation of the Defendant and the alleged breach of that duty/obligation. The argument of the Defendant on this issue is clearly misconceived as the cause/right of

action of the Claimant clearly arises upon the facts stated in the Claimant's claim. The Claimant from the facts before this court as gleaned from the statement of claim has the right to bring its complaint to this Court. The Defendant has merely stated hypothetical/phantom arguments in respect of the Claimant instituting this action prematurely. The issue of whether the parties agreed for payments to be received when the National Assembly pays the defendant as raised in the statement of defence is not what would be determined to know whether or not the Claimant's rights or cause of action accrues. It is therefore my view, and I so hold that the Claimant's right of action and cause of action accrued upon the alleged failure of the Defendant's payment of monies for the supply of the Diaries from the Claimant.

I have examined the totality of the Claimants' case, evidence adduced, both oral and documentary as well as the written address of respective Counsel. I must at this point state again that the defence did not give evidence in defence of this case. The law is trite that where a party elects not to give evidence in his defence, the defence is deemed abandoned. See the case of *ONYEKA v. OFOCHEBE (2024) LPELR-61924(CA)* (Pp. 20 paras. A) where the Court held thus:

"The respondent filed a defence to the counterclaim but did not offer evidence in support of the pleadings. The law is settled that in the absence of evidence to support the statement of defence, the defence is deemed abandoned for all time. See FIRST BANK V. MOMOH (2020) LPELR-51517 (CA) AT 28-29 (D-F). MILITARY GOV OF LAGOS STATE & ORS V. ADEYIGA & ORS (2012) LPELR-7836(SC) AT 55(A-B)."

Also, in MILITARY GOV OF LAGOS STATE & ORS v. ADEYIGA & ORS (2012) LPELR-7836(SC) Per RHODES-VIVOUR, J.S.C in (Pp. 55 paras. A) held

"In the absence of evidence to support the statement of defence, the pleadings of the defendants/appellants were abandoned. The defence is deemed abandoned for all time. See: Okechukwu v. Okafor 1961 2 SCNLR p.369."

Be that as it may, this Court will consider the evidence elicited by Counsel to Defence in course of the cross-examination of the PW1 together with the case of the Claimant to reach a decision.

Now the issue to be resolved in this instant suit is whether or not the Claimant has successfully proved its case to be entitled to the reliefs sought.

The law is well settled that the burden of proof in civil cases is on the person who asserts the existence of such facts and desires the Court to give judgment in his favour. See Sections 131 to 134 of the Evidence Act 2011. See also the case of UNITY BANK V AHMED (2019) LPELR-47395(SC). Thus, it behoves on the Claimant in this suit to sufficiently prove its case to be entitled to the reliefs sought. The Claimant's relief's one is declaratory in nature. It is crucial to note that a declaratory relief is a special claim that does not follow the usual rules of pleadings particularly with respect to admissions. It is a tool for ascertaining and determining the right of parties. The Claimant who is seeking a declaratory relief must therefore provide credible evidence to convince this Court that it is entitled to same, as declaratory reliefs are not granted as a matter of course. See the case of ATTORNEY GENERAL OF RIVERS STATE v. ATTORNEY GENERAL OF THE FEDERATION & ANOR (2022) LPELR-57708(SC) where Per OGUNWUMIJU, J.S.C in (Pp. 38 paras. A) held as follows: -

"A declaratory relief is a procedural device for ascertaining and determining the rights of parties or for the determination of a point of law. Although the power to make a binding declaration of right is a discretionary power, the Plaintiff must establish a right in relation to which the declaration can be made. The claim to which the declaratory relief relates must be substantial. Thus, a declaration will only be granted where there is a breach of a right. It is the practice that a declaratory relief will be granted where the Plaintiff is entitled to relief in the fullest meaning of the word. Furthermore, the relief claimed must be something which it would not be unlawful or unconstitutional or inequitable for the Court to grant. It should also not be contrary to the accepted principles upon which the Court exercises its jurisdiction."

The Claimant to prove its case gave evidence via its sole witness, both oral and documentary to the fact that it produced Diaries for the Defendant in accordance with the invoices wherein the quantities and price were agreed upon by the parties. That the said Diaries were duly supplied and delivered to the Defendant. That upon delivery, the Claimant sought for the payment from the Defendant to which the Defendant refused to make payments. This piece of evidence of the Claimant was uncontroverted.

The nature of the suit before this Court is on breach of contract of sale of goods and the Claimant to prove the existence of a contract between the parties, tendered Exhibit A11 to A14, which is a quotation stating the specification as well as the terms of sale between the parties duly signed by the Defendant as accepting the said terms. Claimant also tendered Exhibits A15 to A19, which are, the invoices showing the total quantity to be

produced, the description of the Diaries to be produced, the unit price, and total. The question that begs to be answered at this point is can these documents be enough to establish a contract between the parties? The Court in GLOBE MOTORS HOLDINGS NIG. LTD v. IBRAHEEM (2021) LPELR-54550(CA) Per GEORGEWILL, J.C.A in (Pp. 37-38 paras. A-A) in determining whether and invoice constitute a contract held as follows:

"What is an 'invoice' in Law and does it by itself constitute a contract under the circumstances of the instant appeal? The simple answer is that, depending on the contents of an invoice, particularly where there has been prior negotiation between the parties and which is subsequently reduced into an invoice or bill of cost it could amount to, or constitute a written contract....."

In this instant case, it is clear from Exhibits A11-A14 that the Defendant's executed the invoices presented to it by the Claimant upon satisfaction of the number of diaries and price to be paid for the production of the diaries. There is undisputed fact before me that there exists contractual relationship between the Claimant and the Defendant for the production and supply of diaries. It is therefore evident that there exists a contract between the parties.

There is also uncontroverted evidence before me that the Diaries sought to be produced by the Defendant were duly delivered to the Defendant, however, the Defendant failed to make payment to the Claimant and despite repeated demands as can be gleaned from the e-mail correspondence in Exhibits A1 to A10, between the representative of the Claimant and the representative of the Defendant, the Claimant had continuously requested for payment of the amount due since 2016. The Claimant had made several

demands from July of 2016 seeking for payment to which the Defendant's representative finally responded on the 30th of August 2016 as follows:

*"Subject: -SPAM-Re: UPDATES ON SENATE ORDERS/PAYMENTS
Sorry for delay in response
The last time I went the chairman said they want to finish buying
the senators car then they can start paying
I've not been feeling well close to a week now once am stronger will
go back and check then get back to you
So sorry
Thank you for your patience"*

Further emails were sent to the Defendant requesting payment to which the Defendant's representative responded on the 22nd of September 2016 thus:

*Sorry just saw your missed calls
No I haven't because they went on break for upto two week
because of the Eid holiday they just resumed on tuesday will go
and meet them next week need to allow them to settle
Am hoping they will pay me some money that can pay of all bill by
end of this month or beginning of October that is when they
usually get money
Sorry for delay am sure you are a bit aware of what is going on in
the country with the recession it has not been easy but we thank
God
Will inform you immediately something come up
Sorry for the inconveniences
God bless you"*

From the above e-mails it is clear that the Claimant had fulfilled their own part of the contract while the Defendant was yet to fulfil its part and despite sending the above mails, the Defendant refused to pay, as the Claimant sent further e-mails to the Defendant requesting payment. The e-mail correspondence between parties went on back and forth with the Claimant requesting payment and Defendant dragging its foot on the payment with several excuses.

The law is trite that where there is a contract by which one party undertakes to supply the other with goods at a stipulated price, the seller is bound to deliver the goods, and the buyer, upon accepting the delivery of the goods is bound to pay the purchase price of the goods. See the case of ABBA v. SHELL PETROLEUM DEVELOPMENT COMPANY OF NIGERIA LIMITED (2013) LPELR-20338(SC) where Per GALADIMA, J.S.C in (Pp. 21 paras. A) held as follows

".....The contract between the parties being one for supply of goods for payment on acceptance of the supply, is clearly governed by the terms of the contract, namely the terms contained in the LPO, and the law governing the transaction between the parties on the subject of sale of goods under the Sale of Goods Law of Rivers State of Nigeria on Exhibit No. 5, 1988. The Law is well settled that where there is a contract by which one party undertakes to supply the other with goods at a stipulated price the seller is bound to deliver the goods, and the buyer, upon accepting the delivery of the goods, is bound to pay the purchase price of the goods. Clement Horst Co V. Biddel Bross. (1912) AC 18)."

See also IJESU FOODS (NIG) LTD v. GUINNESS (NIG) PLC (2021) LPELR-54560(CA) (Pp. 31 paras. A).

The fact that the Diaries were to be used by the National Assembly is inconsequential as a transaction for supply of the said Diaries is solely between the Claimant and the Defendant. The Claimant is clearly not Privy to the arrangement made between the Defendant and National Assembly and should not be made to suffer if the National Assembly delayed or failed in making payments to the Defendant. The Claimant having fulfilled its own

part of the contract ought to be paid for the supply of the goods it made to the Defendant, it is therefore utterly unacceptable and morally reprehensible that Defendant who has received the supplied goods would blatantly and wilfully disregard their contractual obligation to make the agreed-upon payment. Such behaviour demonstrates a complete lack of integrity and respect for the principles of fairness and honesty that underpin the legal and business relationships upon which our society is built. The Defendants being a debtor must understand that it is its obligation to meet the responsibility it has incurred, and I must state that I find the tone of the Defendant's emails to the Claimant particularly in Exhibits A8 and A9 both reprehensible, disappointing and unacceptable for someone in debt. The actions of the Defendant in withholding payment undermines the trust necessary in international commercial transaction and invariably taints the image and reputation of this Country.

In this case, there is uncontroverted evidence before this Court that the total amount paid by the Defendant towards the sum claimed by the Claimant is \$10,000.00 (ten thousand dollars) as part payment for the amount owed for the production of the Diaries. From the totality of the evidence before this Court, it is my view that the Claimant has successfully proved its entitlement to relief 1 and I therefore hold that the amount owed the Claimant in this instant suit; the Defendant, having made the total sum of \$10,000.00, is the sum of \$209,807.56.

The Claimant in relief two is seeking for an order directing Defendant to pay to the Claimant the sum of \$209,807.56 (Two hundred and nine thousand, eight hundred and seventy United States Dollars, fifty-six Cents). Having held that the Defendant is indebted to the Claimant in the sum of \$209,807.56, the Defendant is hereby ordered to forthwith pay the Claimant the said sum.

Relief 3 is for an order directing the Defendant to pay the Claimant the sum of ₦1,000,000.00 (One million Naira) as cost of instituting this action. The award of cost is discretionary and generally is required by law to be exercised judicially and judiciously. The Court in CAPPAL D'ALBERTO v. NDIC (2021) LPELR-53379(SC) Per ABBA AJI, J.S.C in (Pp. 12 paras. D) held thus

"A successful party is entitled to costs unless there are special reasons why he should be deprived of his entitlement. In making an award of costs, the Court must act judiciously and judicially. That is to say with correct and convincing reasons. See Per RHODES-VIVOUR, JSC in NNPC V. CLIFCO NIG. LTD (2011) LPELR-2022(SC) (P. 23, PARAS. D-A)."

The Claimant has clearly expended funds instituting this instant suit as well as incidental cost in the process of getting what is due to it from the Defendant, this Court will therefore award cost in the sum of ₦1,000,000 as claimed.

With respect to relief for 15% interest on the total judgment sum found to be due to the Claimant by this Honourable Court, from 16th June 2016 (the date the outstanding debt became due and payable) until the date of delivery of judgment in this suit.

The law is well settled that a Court has the power to award interests in two different circumstances; that is, as of right and as conferred by statutes in the exercise of the court's discretion. See the case of POLARIS BANK v. CENTRE POINT TRAVEL AGENCY LTD (2022) LPELR-57359(CA) at (Pp. 56 paras. A) where the Court held that a Claimant could request pre-judgment interest if it is specified in the agreement between the parties or if it is a customary practice in the industry. The Claimant must provide facts and explain the basis for the entitlement to interest, whether it is based on

statute, contract, custom or equity. See OLUWADARE V. GTB PLC (2022) LPELR-58853(CA) (Pp. 37-38 paras. F). In this case, the Claimant did not plead nor lead evidence on the basis of this claim. Also, how the Claimant arrived at a specific interest rate is not before this court. The court in AMS LOGISTICS LTD & ANOR v. INFINITY TYRES LTD (2022) LPELR-56846(CA) Per MOHAMMED, J.C.A in (Pp. 17-18 paras. B-B) held that

"It is also trite that a claim for interest must not only be specifically pleaded, it must be proved by satisfactory evidence. In HIMMA MERCHANTS LTD v ALH. INUWA ALIYU (supra), the same Supreme Court, per Onu JSC, held that:

"The best method of satisfying a Court about the existence of any matter is by adducing credible, sufficient and satisfactory evidence about it. In the case in hand, there is no evidence whatsoever about the rate of interest agreed upon by the parties and the basis upon which it is computed."

Also, in TRANSNATIONAL CORPORATION OF NIGERIA PLC v EGBE & ANOR (2017) LPELR-42243(CA), this Court, per Garba, JCA (as he then was, now JSC), also held at pages 27 - 28, para. D, that:

"...However, because the 1st Respondent has claimed a particular rate of interest against the Appellant, he has a duty to plead sufficient facts and produce satisfactory evidence in proof of the rate claimed. Perhaps, I should point out here that the proof required is not of entitlement to claim interest on the sum paid to the Appellant, but rather, the proof required is as to the entitlement to the specific rate of interest claimed in the peculiar circumstances of the case."

Consequently, having failed to prove the entitlement of this relief, the relief therefore fails.

With respect to relief for 10% interest on judgment sum, the power to award post judgment interest is provided under statute, in this case in accordance with the rules of Court. By Order 39 Rule 4 of the High Court of Federal Capital Territory (Civil Procedure) Rules, 2018, the Court at the time of making any Judgment or Order or at any time afterwards may direct the time within which the payment is to be made or other act is to be done, reckoned from the date of judgment or order, or from some other point of time as the Court may deem fit and may order interest at a rate not less than 10% per annum to be paid upon any Judgment. Armed with this provision, this Court will exercise its discretion in favour of the Claimants. This relief is hereby granted.

Consequently, it is hereby ordered as follows:

1. I hereby declare that the Defendant is indebted to the Claimant in the sum of \$209,807.56 (Two hundred and nine thousand, eight hundred and seventy United States Dollars, fifty-six Cents).
2. The Defendant shall forthwith pay to the Claimant the sum of \$209,807.56 (Two hundred and nine thousand, eight hundred and seventy United States Dollars, fifty-six Cents) being the outstanding sum due the Claimant.
3. The Defendant shall pay the sum of N1,000,000.00 (One million Naira) in favour of the Claimant as cost of instituting this action.
4. 10% (Ten percent) annual interest on the total judgment sum is hereby awarded in favour of the Claimant against the Defendant, from the date of delivery of judgment until judgment sum is fully liquidated.

Parties: Absent

Appearances: Umar Faruq Hassan appearing with S. A. Lima and K. I. Oghoghorie for the Claimant. Daniel Ijohor appearing for the Defendant.

HON. JUSTICE MODUPE R. OSHO-ADEBIYI

JUDGE

20/11/2024