

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. 14

CASE NUMBER : SUIT NO: CV/87/2019

DATE: : THURSDAY 2ND MAY, 2024

BETWEEN

ASSET MANAGEMENT CORPORATION OF NIGERIA } PLAINTIFF

AND

PERSONS UNKNOWN DEFENDANT

JUDGMENT

The Claimant commenced this action vide a writ of summons and statement of claim filed on 30th day of September, 2019 and wherein the Claimant claims the following:-

- a. An Order of this Honourable Court evicting the Defendants from and granting the Claimant vacant possession of its property being and situate at Plot 2151, Okanje District, Cadastral Zone C13, Abuja which is now been held over and occupied unlawfully by the Defendants despite several notices served on them to vacate and deliver up possession.

- b. An Order of this Honourable Court mandating the Defendants to pay the Claimant the sum of N2,000,000,000.00 (Two Million Naira) only as cost of legal fees incurred by the Claimant in prosecuting this action.
- c. And for such further or other Orders as this Honourable Court may deem fit to make in the circumstance in the overall interest of justice.

Upon service of the writ on the Defendants by substituted means, the Defendant did not file any process, the suit was set down for hearing. The case of the Claimant as distilled from the statement of claim and witness statement on oath deposed to by Mr. Usman Ahijo, a staff of the Claimant is that:

The case of the Claimant is basically one of recovery of vacant possession of its property situate at Plot 2151 Okanje District, Cadastral Zone C13, Abuja, from illegal occupants/squatters who are in unlawful occupation and use of the property.

Upon the takeover of the title, rights and interests in respect of the property from Minaj Holdings Limited in Plot 2151 Cadastral Zone C13, Okanje District, Abuja to the Claimant vide a consent judgment dated the 11th day of December, 2013, the Claimant became the title holder, beneficial owner and landlord of the property.

A copy of the Consent Judgment herein referred to is herewith attached and marked as Exhibit “AMCON 4”.

That the original title holder and landlord of the property was Minaj Holdings Limited, who used same as a security/collateral pursuant to a credit facility it obtained from Union Bank of Nigeria Plc. and consequently executed a Deed of Legal Mortgage in that regard in favour of Union Bank of Nigeria Plc. a copy of the Deed of Legal Mortgage herein referred to is herewith attached and marked as Exhibit “AMCON 1”.

That in line with the mandate of the Claimant, as provided in its establishment statutes, the Claimant purchased certain debts/non-performing loans from Union Bank of Nigeria Plc. amongst others, and consequently executed a loan purchase and limited servicing agreement with Union Bank of Nigeria Plc. in that regard. A copy of the loan

purchase and limited servicing agreement herein referred to is herewith attached and marked as Exhibit “AMCON 2”.

That following the Claimant’s move to enforce and recover the debt of Minaj Holdings Limited and realize the value of the eligible Bank Asset it purchased from Union Bank of Nigeria Plc., it commenced a debt recovery action against Minaj Holdings Limited before the Federal High Court, sitting in Lagos Judicial Division vide suit number **FHC/L/CS/1515/2012.**

That eventually, the Claimant and Minaj Holdings Limited decided to settle the matter out of Court and upon reaching a mutually acceptable understanding, the parties executed a settlement agreement wherein Minaj Holdings Limited

forfeited and transferred its title rights and interest in plot 2151, Cadastral Zone C13, Okanje District, Abuja, to the Claimant in partial liquidation of its outstanding indebtedness to the Claimant. A copy of the agreement dated the 15th day of June, 2012, is herewith attached and marked as Exhibit “AMCON 3”.

That upon the takeover of the title, rights and interest in respect of the property by the Claimant, the Claimant’s staff visited the property and discovered that certain unknown persons were unlawfully squatting on the property, and using same without any license, authorization or consent from any relevant person.

That the Claimant enquired from Minaj Holdings Limited about the status of the occupants met on

the property and Minaj Holdings Limited informed the Claimant that it did not let any persons into possession of the property and neither did they authorize or consent to the occupation and use of the property by any persons under any circumstances.

That the Claimant in the bid to recover vacant possession of the property, so as to put same to some profitable uses in accordance with its statutory mandate, then sent some staff from its Assets Management Department to the unknown persons squatting on the property for the purposes of persuading them to vacate the premises, however, the squatters did not budge despite promises made by them that they would vacate the property.

That the Claimant, seeing that the private entreaties made to the squatters to vacate the property did not yield any positive result decided to brief a law firm for the purposes of initiating the legal process of recovering vacant possession of the property through the judicial process.

That upon being briefed and instructed to initiate the judicial process pursuant to recovering vacant possession of the property, the law firm promptly issued and sought to serve the statutorily prescribed Quit Notice on the squatters and trespassers, being the persons unknown in used and occupation of the property, but despite taking cognizance of the Quit Notice, none of the occupants agreed to endorse the acknowledgment copy of the Quit Notice.

That because of the evasive and non-committal attitude of the occupants in endorsing the acknowledgment copy of the quit notice, the law firm took the decision to serve same by pasting at a conspicuous place on the property. Subsequently the law firm caused the Quit Notice to be pasted at a conspicuous place on the property. A copy of the Quit Notice herein referred to is herewith attached and marked as Exhibit “AMCON 5”.

That when it became obvious that the squatters were not prepared to vacate the property without judicial intervention, despite the Quit Notice served on them, the law firm issued and served a 7 days’ Notice of Owner’s Intention to apply to recover possession and also served same by pasting at a conspicuous place on the property. A

copy of the 7 days' Notice of Owner's Intention to apply to recover possession herein referred to is herewith attached and marked as Exhibit "AMCON6".

That the Defendants, despite the notices referred to which were both duly served on them, failed, neglected and blatantly refused to vacate and deliver up vacant possession of the property.

That it is now obvious that the Defendants, being the illegal squatters and unlawful occupants of the property, will not vacate the property, willingly and peacefully, except they are compelled to do so by the orders of this Honourable Court.

PW1 tendered the following documents in evidence;

1. Deed of Legal Mortgage
2. Loan Mortgage Agreement
3. Agreement dated 15th June, 2012
4. Court Judgment.
5. Quit Notice
6. 7 days' Notice.

On the part of the Defendant, he did not file anything, therefore, pave-way for the Claimant to file his final written address.

Learned counsel for the Claimant formulated sole issue for determination in his final written address to wit:

Whether from the preponderance, summation and evaluation of evidence adduced before this

Honourable Court, the Claimant has established by credible evidence, a case so as to merit a grant of all the reliefs sought in this suit against the Defendant.

It is the submission of learned counsel that, from the preponderance, summation and evaluation of all the evidence adduced before this Honourable Court in this suit, the Claimant has established by credible evidence that it merits, and therefore eminently entitled to, all the reliefs sought by it in this suit against the Defendant.

Learned counsel argued that any party who has been served with a statement of claim and who fails, neglects, or elects not to file any statement of defense to counter, challenge, dispute or contradict the facts made out vide the averments

in the statement of claim is deemed to have admitted those facts as true and established.

BAUCHI STATE GOVERNMENT VS. GUMAU & ANOR. (2019) LPELR – 47061 (CA) was cited.

Further argued on the above by the counsel is that, it is a trite law that facts admitted need not be proved. ***CHUKWU & ORS. VS. AKPELU (2013) LPELR – 21864 (SC) and section 1123 of the Evidence Act, 2011 were cited.***

Learned counsel submits on the foregoing authorities that the Defendant is deemed to have admitted the claims of the Claimant against him in this suit and consequently urge the court to find and hold that in the absence of a statement of defense, despite the service of all processes of this

suit on him, the Defendant is deemed to have admitted the case of the Claimant which entails that no further proof is required.

Counsel strongly submits that even though the Defendant has not challenged the case of the Claimant, an examination of the Claimant's witness and the evidence adduced/tendered at trial, will convince this Honourable Court that the case of the Claimant is strong and compelling enough to succeed on its merits and can all withstand even the stiffest of challenges.

Learned counsel further submits that it is imperative to also point out the position of the law that in situations where the Defendant does not offer any challenge to the case brought against him, all that will be required of a Plaintiff by the

court is to tender minimal evidence in order for the court to enter judgment in favour of the Claimant. The case of ***BAUCHI STATE GOVERNMENT VS. GUMAU & & ANOR*** (*Supra*) was cited.

Learned counsel submits on the 1st relief sought by the Claimant being a vacant possession of the property lying and situate at Plot 2151 Okanje District, Cadastral Zone C13, Abuja that a Claimant who desires to recover possession of his property from persons in occupation, when the occupants are not his lawful tenants and were not put into occupation by him, has to lead evidence to show that he is the owner of the property or that he, at least has a superior or better title to that of the person in occupation and which is why he is

entitled to an Order of Court granting him vacant possession of the property. ***NZEKWU & ORS. VS. NZEKWU & ORS. (1989) LPELR – 2139 (SC) was cited.***

Counsel submits that in the instant case, the Claimant who is a statutory corporation, painstakingly pleaded and proved how it acquired ownership rights in respect of the property from the original owner, being Minaj Holding Limited. ***See the case of ADEWUYI VS. YEWANDE (2015) LPELR – 41675 (CA).***

Learned counsel submits further that, in view of the foregoing, the Claimant has satisfied the requirement and is therefore entitled to the 1st relief sought in its writ of summons and statement

of claims and consequently urge the court to grant same as prayed.

Counsel argued on the 2nd relief sought by the Claimant in this suit, the sum of N2,000,000.00 (Two Million Naira) only as costs for filing and pursuing the action. It is trite law that cost follows the event and a successful litigant is entitled to costs for the expenses incurred in prosecuting the action. ***NNPC VS. CLIFIO NIGERIA LIMITED (2011) LPELR – 2022 (SC)***.

In view of the foregoing, counsel urge the court to find and to hold that the Claimant is entitled to costs and to grant the 2nd relief as prayed and sought by the Claimant in this suit.

In conclusion, learned counsel submits from the foregoing submissions and from the various statutory and judicial authorities herein cited in this final written address in support of the Claimant's case and argument that from the preponderance, summation and evaluation of evidence before this court, the Claimant has established a case so as to merit a grant of all the reliefs sought in this case.

In the instant case all that is required of the Claimant is to lead very minimal evidence to establish its case since there is no challenge to same. ***BAUCHI STATE GOVERNMENT VS. GUMAU & ANOR (Supra) was cited in support of his submission.***

In conclusion, counsel respectfully submits by urging this court to hold that the Claimant has established a case to merit a grant of all the reliefs sought in this suit and to consequently enter judgment in favor of the Claimant as per the writ of summons and statement of claims.

COURT:-

I have carefully read and digest the averments and evidence adduced by the Claimant in proof of its case and the documents tendered.

The crucial issue that arises for determination is whether or not the claimant has by the evidence adduced and in the light of the Defendant's failure to respond to the suit by filing a process made out

a case to justify a grant of the reliefs sought in the statement of claim.

The Claimant filed and served his statement of claim along with other originating processes and hearing notices on the Defendant but neither appeared in court nor filed any process in opposition to the suit.

The Defendants were served with the processes of this court by substituted means to with pasting on the notice board of this court in Maitama vide an order of this Honourable Court on the 9th day of March, 2020 but failed and or neglected to enter an appearance or cause same to be entered for them.

When it is obvious that the Defendants were not willing to enter an appearance, the Claimant was allowed to proceed with its case. The claimant opened its case on the 6th day of June, 2022. PW1 adopted his witness statement on oath and tendered Exhibits and same was admitted and marked as Exhibits 1, 2, 3, 4, 5 and 6 respectively.

At the close of examination in chief, suit was adjourned for cross – examination of PW1 and hearing notice was ordered to be served on the Defendants.

On the adjourned date, the Defendants were not in court and or represented. Consequently, the Defendants right to cross – examination of PW1 was foreclosed on the strength of the Claimant’s counsel’s application. The case was adjourned for

defence, the Defendants were not in court, consequently their right to defend the action was foreclosed on the strength application of the Claimant's counsel on the 17th day of January, 2023.

Claimant adopted its final written address on 22nd April, 2024, wherein sole issue was formulated for determination, to wit:-

Whether from the preponderance, summation and evaluation of evidence adduced before this Honourable Court, the Claimant has established by credible evidence, a case so as to merit a grant of all the reliefs sought in this suit against the Defendant.

It is clear from the reliefs sought that Claimant seeks to vacate possession of property from unknown tenants.

The following are the classes of tenancy in law.

1. Contractual Tenancy
2. Statutory Tenancy
3. Tenancy at sufferance;

Contractual Tenancy is the usual or common one that involves agreement between the landlord and tenant written or oral on the terms and conditions of the tenancy.

A statutory tenancy is a creation of statute for the benefit of the tenant and does not depend on the

will or acceptance of the landlord or on the existence of a contractual tenancy.

Tenancy at sufferance results from initial lawful occupation or possession either by contractual tenancy or license given by the owner or person entitled to the right of occupancy of premises and owners when the tenancy or license expires and the tenant or licensee holds over possession. See ***FARAJOYE VS. HASSAN (2006) 16 NWLR (Pt. 1006) Page 487 Paragraphs A – D;***

PAN ASIAN – AFRICAN CO. LTD. VS. NATIONAL INSURANCE CO. (1992) FNR 360 (1982) 9 S.C.

From the available evidence before the court, the Defendants who are still unknown are neither of

the tenants as discussed in the preceding part of this judgment.

Nevertheless, adequate notice was served on them, but they still failed and or neglected to show up in court and or vacate the said premises.

Claimant has shown enough courteousness and civility in trying to recover possession.

It is the law, that where the Claimant leads evidence in support of the averments in his statement of claim but the Defendant who was afforded opportunity fails to lead evidence in opposition or contradiction of the evidence of the Claimant's witness, such Claimant would be deemed in law to have discharged the onus of proof placed on him.

See CONSOLIDATED RESOURCES LTD. VS. ABOFAR VENTURES (NIG) LTD (2009) 6 NWLR (Pt. 1030) Page 221;

MOBIL PRODUCING UNLIMITED VS. MUNUKPO (2002)3 NWLR (Pt. 753) Page 48;

To determine whether the Claimant has discharged the burden of proof on it on minimal evidence, I have carefully examined both the oral and documentary evidence visa-vis the facts averred in the statement of claim.

It is worthy of note that the Defendants throughout this case failed and or neglected to enter an appearance as aforesaid in this case or cause same to be entered for them. The case is now left with the Court and the Claimant. The duty on the

Claimant to prove its entitlements to the reliefs on their own pleadings and evidence would not have changed. See *NIPOST VS. MUSA (2013) LPELR 20780*.

From the available evidence, Claimant came about the subject matter of litigation by virtue of taking over of the title, rights and interest in respect of the property from MINAJ HOLDINGS LIMITED in Plot 2151 Cadastral Zone C13, Okanje District Abuja to the Claimant vide an Agreement dated the 15th day of June, 2012 marked as Annexure “AMCON 3” and certified true copy of Consent Judgment pleaded and marked as Annexure AMCON 4.

In the circumstances, I am satisfied that the Claimant has made out a case not just on minimal

evidence but preponderance of evidence with respect to relief 1 claimed.

With respect to relief No. 2, which is a claim for the sum of N2,000,000.00 as cost of legal fees incurred by the Claimant in prosecuting this action. The court is in the realm of special damages which ought to have been specially pleaded with particulars and proved specifically. The Court ought to be satisfied by credible evidence how the sum was arrived at as the cost of this action. In the absence of pleadings and evidence in this regard, the claim has not been established and accordingly cannot be granted. It is hereby dismissed.

On the whole, Judgment is hereby entered in favour of the Claimant as per relief 1.

Justice Y. Halilu
Hon. Judge
2nd May, 2024