

IN THE HIGH COURT OF JUSTICE OF THE F.C.T.

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT ZUBA, ABUJA

ON FRIDAY THE 2ND DAY OF MAY, 2025

BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA
JUDGE

SUIT NO.: FCT/HC/CV/1362/2020

BETWEEN:

DANMADU OIL AND GAS LIMITED ----- CLAIMANT

AND

GUARANTY TRUST BANK PLC ----- DEFENDANT

JUDGMENT

In a Writ filed on the 9th of March, 2020, the Claimant, Danmadu Oil and Gas Limited, claims the following against the Defendant, Guaranty Trust Bank PLC:

- (1) **US\$20, 000.00 (Twenty Thousand US Dollars) and ~~₦~~2, 000,000.00 (Two Million Naira) as Special Damages for loss suffered by the Claimant.**
- (2) **~~₦~~5, 000,000.00 (Five Million Naira) as General Damages because of Defendant's negligence.**
- (3) **~~₦~~2, 000,000.00 (Two Million Naira) as cost of the Suit.**

Both parties called one (1) Witness each. The PW1 tendered 6 documents, and 2 documents were tendered during Cross-examination by the Defendant Counsel. They were marked as **EXH 1 – 6** and **EXH 7 & 8** respectively. The DW1 tendered 4 documents marked as **EXH 9 – 12**.

It is the claim of the Claimant that:

1. The Claimant operates the following accounts with the Defendant:
 - (i) US Dollar domiciliary account with number 0266301399.
 - (ii) Naira account with number 0266300419 (together called "the Claimant's Accounts).
2. The Claimant entered into an Agreement dated 22nd February, 2018 with Oryx Energies (Oryx). The Claimant and Oryx agreed to jointly operate the Claimant's Accounts for domiciling funds payable in respect of the Agreement. Two representatives of Oryx were nominated as Category A, while the Claimant's Managing Director was nominated as Category B regarding signature mandate for transactions on the Claimant's Accounts.
3. By a Board Resolution dated 3rd May, 2018, submitted to the Defendant and duly acknowledged, the Claimant specified that one of the Category A's signatures and Category B's signature must always be included before

any transactions on the Claimant's Accounts can be processed by the Defendant.

4. To the Claimant's dismay, on 7th June, 2018, an unauthorized debit of debit of US\$1, 241,724.94 (One Million, Two Hundred and Forty-One Thousand, Seven Hundred and Twenty-Four Dollars, Ninety-Four Cents) was made from the Claimant's US Dollar domiciliary Account. On 11th June, 2018, another unauthorized debit of ~~N~~16, 163,452.79 (Sixteen Million, One Hundred and Sixty-Three Thousand, Four Hundred and Fifty-Two Naira, Seventy-Nine Kobo) was also made on the Claimant's Naira Account.
5. The Claimant's enquiries indicated that the foregoing transactions were carried out by Category A representatives of Oryx as the signatories, violating the provisions of the Board Resolution as there was no signature by the Claimant's Category B representative.
6. The debits made via the transactions were more than the consideration due to Oryx by the tune of US\$20, 000.00 (Twenty Thousand US Dollars) and ~~N~~2, 000,000.00 (Two Million Naira) from the Claimant's Dollar and Naira Accounts respectively.
7. The Claimant, through its duly authorized representatives, made several verbal complaints and

visits to the Defendant to ensure that the unauthorized transactions were reversed, all of which were fruitless. This prompted the Claimant to instruct its erstwhile solicitors, Messrs Ikpeazu Chambers to write a letter dated 9th July, 2018 to the Defendant demanding a reversal of the excess funds debited from the Claimant's Accounts with the Defendant due to its negligence. The Defendant failed to respond to the said letter or reverse the unauthorized transactions.

8. Following the Defendant's persistent refusal to undo the unauthorized transfers, the Claimant briefed the Law Firm of Messrs AELEX Partners who wrote a letter to the Defendant dated 14th November, 2019, requesting the reversal. Despite the Claimant's repeated demands to the Defendant, the Claimant is yet to receive a reversal of the unauthorized transactions.
9. The Claimant strongly asserted that the excessive and unauthorized withdrawals made from the US Dollar Account and Naira Account in the care of the Defendant, were due to the Defendant's negligence.
10. Pursuant to the foregoing, the Claimant instituted this action seeking redress.

The Claimant raised 3 Issues for determination which are:

- (1) Whether there is an established Banker-Customer Relationship between the Claimant and the Defendant?
- (2) Whether there is sufficient evidence before this Honourable Court in proof that the Defendant breached the duties of its Banker-Customer relation with the Claimant?
- (3) Whether the Claimant has proven that it is entitled to the Reliefs claimed against the Defendant in this Suit.

On Issue No. 1 – whether there is an established Banker-Customer Relationship between the Claimant and the Defendant, the Claimant submitted that there is, considering the facts and evidence between the parties which is based on the contract where they opened Account at the Defendant. They referred to **EXH 3** and the case of:

**Access Bank PLC V. Okpu
(2021) 6 NWLR (Pt. 1773) 587**

That the Defendant also admitted that fact too during Cross-examination of the DW1 on 19th February, 2024. They referred to **S. 123 of the Evidence Act, 2011**. They urged the Court to so hold.

On Issue No. 2 – whether the Defendant breached the fiduciary duty of the said Banker-Customer Relationship with the Claimant, they submitted that the Defendant by allowing the unauthorized debit of US\$1, 241,724.94 (One Million, Two Hundred and Forty-One Thousand, Seven

Hundred and Twenty-Four Dollars, Ninety-Four Cents) by SWIFT transfer made on the Claimant's US Dollar Account on 7th June, 2018, and another debit of ₦16, 163,452.79 (Sixteen Million, One Hundred and Sixty-Three Thousand, Four Hundred and Fifty-Two Naira, Seventy-Nine Kobo) made on 11th June, 2018. That the Defendant did not exercise reasonable care, diligence, and skill in carrying out its responsibility. They referred to the case of:

**Kuve V. Commissioner of Police
(2020) 9 NWLR (Pt. 1729) 296 @ 322 Para D – G**

That the allegation made against the Defendant is not criminal but civil contrary to the submission of the Defendant. That the prove of such civil matter is based on preponderance of evidence and balance of probability.

That unauthorized debits made the Claimant's Accounts domiciled with the Defendant is a breach of fiduciary duties. They referred to the case of:

**G.T.B V. Imananagha
(2024) 5 NWLR (Pt. 1930) 61 @ 68 Pg. 108 – 109 Para G
– A**

That failure to exercise reasonable care breached the relationship. That the Defendant has not shown that it exercised reasonable care in managing the Claimant's funds in their care as required by law.

That the Board Resolution (**EXH 7**) was solely executed with Oryx Energies as an instruction to the Defendant, and

the Defendant acted upon an instruction from a third party, and contrary to instruction from the Claimant, the holder of the Accounts. That the Defendant ignored the instruction of the Claimant as shown in **EXH 2**.

That the Defendant's Witness admitted that fact during Cross-examination. They urged Court to so hold.

That the Defendant allowing the unauthorized deductions from the Accounts of the Claimant breached their fiduciary duty.

That the Defendant did not discharge the burden of proving that it received the **EXH 7** from the Claimant in this Suit as it never requested for confirmation from the Claimant of **EXH 7** akin to confirmation requested for in **EXH 10**.

That from facts before it shows and establishes that the Claimant did not submit the said **EXH 7** as an instruction to the Defendant. That the Defendant raising such issue during Final Written Address cannot stand. They referred to the case of:

Jibeco Nig. Ltd V. FBN PLC
(2023) 1 NWLR (Pt. 1864) 39 @ 75

That **EXH 9** clearly show that both documents were sent to Oryx Energies on request and on behalf of the Claimant, not on request of Oryx as the Defendant claims. They urged Court to hold that the Defendant breached their duty in the contract. They referred to the case of:

Omni Products Nig. Ltd V. U.B.N PLC
(2021) 10 NWLR (Pt. 1783) 92

And that the Defendants are negligent in fulfilling the said fiduciary duty by failing to manage the said funds with reasonable care as prescribed by law. They relied on the case of:

**Inntraco Universal Services Ltd V. U.B.N
(2020) 9 NWLR (Pt. 1728) 48 @ 77**

That the Defendant and DW1 are aware of the fact that they should show reasonable care in managing the funds of the Claimant in its care.

That failure to honour **EXH 2**, and refusal to communicate such refusal to the Claimant is dereliction of the Central Bank of Nigeria (CBN) Regulation in that regard. They urged the Court to so hold.

That the Claimant suffered damage due to the breach of the duty of care, and are entitled to Damages as they have not had access to the funds, and it has hindered the Claimant's growth. They referred to the case of:

**British Airways V. Atoyebi
(2014) 13 NWLR (Pt. 1424) 253**

They urged Court to reject the submission of the Defendant that Court should reject **EXH 1** for being unsigned, as there are other documents that show that the parties intended and actually for the document to go into effect. That **EXH 1** is not contested in this case. That the Account in the Bank is evident enough. They referred to the case of:

**Ogbonna V. KSDP Co. Ltd
(2014) 11 NWLR (Pt. 1417) 185 @ 201**

That **EXH 1** forms the foundation of the mutual transactions between the parties whether or not it is signed.

On Issue No. 3, they submitted that the Claimant is entitled to the Reliefs sought, having established its case and negligence of the Defendant in handling the Banker-Customer Relationship. That the Claimant is entitled to Special Damages against the Defendant, having proved so in its Statement of Claim and the Statement on Oath of PW1 and in its evidence before the Court.

That not all the money in the Account belongs to the Claimant as it is jointly operated going by **EXH 1**. That the Special Damages were specifically pleaded and justified their entitlement thereto. They referred to the case of:

Agu V. General Oil Ltd
(2015) 17 NWLR (Pt. 1488) 327 @ 355

They urged Court to Order the Defendant to restore the funds to where it was before the unauthorized deductions were made in the Accounts. They referred to the case of:

Unity Bank V. Ahmed
(2020) 1 NWLR (Pt. 1705) 364

They urged Court to grant the Special Damages as sought.

That the Claimant is equally entitled to General Damages of **₦5, 000,000.00 (Five Million Naira)**, because of the negligence. That it has, since the deductions, suffered monetary losses due to the negligence. They referred to the cases of:

Onyiorah V. Onyiorah
(2019) 15 NWLR (Pt. 1695) 247 -248

Unity Bank V. Ahmed
(2020) 1 NWLR (Pt. 1705) 364 – 390

Access Bank V. Ogboja
(2022) 1 NWLR (Pt. 1812) 547 @ 586

They urged Court to so hold and exercise its discretion in awarding and determining the quantum of Special Damages.

They also urged Court to grant the Solicitor's Fee paid by the Claimant to its Counsel.

They urged Court to grant all its Reliefs since it had established its case.

The Defendant in their Final Written Address submitted as follows, raising the following issues for determination:

- (1) Whether the Claimant proved its case on Balance of Probability to be entitled to the Reliefs.**
- (2) Whether it has established any reasonable cause of action against the Defendant.**
- (3) Whether a claim for Solicitors Fees, which does not form part of the Claimant's cause of action can be granted.**

On Issue No. 1, they submitted that the Claimant has not established its case on Balance of Probability to be entitled

to the Reliefs sought in this case. That they asserted and failed to prove.

That the parties agreed to jointly operate the Account – **EXH 2**. That document to that effect was subsequently submitted to the Defendant – **EXH 7**, detailing the signatories and categories of signatories.

That the Contract Agreement – **EXH 1** which the Claimant heavily relied on, is not signed or dated. They referred to the case of:

Conoil V. Vitol S.A
(2018) 9 NWLR (Pt. 1625) 463 @ 492

Hence, **EXH 1** has no efficacy.

That the Defendant is not a party to **EXH 1**, and ought not to know, and was never communicated by anyone to place a lien on the Accounts. That Oryx should be held responsible not the Defendant only who gave effect to the instruction from the parties. They referred to the case:

Oderinde V. Ayodele & Anor
(2014) LPELR – 23706 (CA)

That the Claimant could not prove the allegation of fraud raised against the Defendant or show evidence that it made any report to the Police to that effect. They referred to **S. 135 of the Evidence Act** and the case of:

Bagobiri V. Unity Bank PLC
(2016) LPELR – 41161 (CA)

That **EXH 2** is contrary expression of **EXH 7** duly executed on 26th February, 2018. While **EXH 2** is Board Resolution of 3rd May, 2018, which was sent to the Defendant by the Claimant.

That the PW1 sent a Board Resolution to the Defendant altering the signatures without written consent and approval as required by **EXH 7**, making the PW1 a co-signatory who must co-sign, which is not free as per **EXH 7**.

That they contacted the Oryx via the letter of 7th May, 2018 – **EXH 10** to confirm **EXH 2**, and that Oryx wrote **XH 8** dated 8th May, 2018 in response, denying the existence mandate and further strengthened by **EXH 7**. That the Defendant should be commended for being vigilant and lived up to their responsibilities by writing **EXH 10** to Oryx, and allowing the Claimant to have its way via **EXH 2**. They urged Court to hold that it acted within the ambits of its responsibility in Banker-Customer Relationship, and not therefore negligent of its duty. That **EXH 7** preceded **EXH 2**.

They urged Court to hold that the Claimant failed to establish its case as it did not place cogent and direct evidence to support its case. That there is inconsistency in the pleadings by the Claimant. They relied on the case of:

**C.N. Okpala & Sons Ltd V. N.B PLC
(2017) LPELR – 43826 Pg 12 & 13**

They urged Court to dismiss the Suit of the Claimant while upholding the submission of the Defendant, and resolve the Issue in favour of the Defendant.

On Issue No. 2, the Defendant submitted that the Claimant has not shown any cause of action against the Defendant. Hence, they are not entitled to the Reliefs sought. They relied on the case of:

Ibrahim V. Osim
(1988) 3 NWLR (Pt. 82) 257

That no written Notice was made to the Defendant by the Representatives of Oryx.

That Court should strike out the case of the Claimant, and hold that it has not shown or disclosed reasonable cause of action, and resolve the Issue in favour of the Defendant.

On Issue No. 3 – that the Claimant’s Solicitors fees is not part of the cause of action which can be granted, they relied on the cases of:

Bluenest Hotels Ltd V. Aerobell Nig. Ltd
(2018) LPELR – 43568 (CA)

Guinness Nig. PLC V. Nwoke
(2000) 15 NWLR (Pt. 689) 135

Michael V. Access Bank
(2017) LPELR – 41981 (CA)

They urged Court to dismiss the Suit with heavy cost as it unmeritorious, vexatious, and aimed at gold-digging.

The Defendant filed Reply to the Claimant's Final Written Address and submitted that the Counsel who signed the Claimant's Final Written Address was not in Court.

That PW1 admitted signing **EXH 7**. Hence, **EXH 7** is relevant to the case. That the submission that the PW1 never handed over **EXH 7** to the Defendant cannot hold any water. That **EXH 7** was submitted to the Defendant by the Claimant and the Representative of Oryx. That the Defendant is not Agent of Addax Enegies S.A.

That Oryx as partner of the Claimant has equal right over the Accounts, and can give directives. Hence, the Defendant is right to honour the Oryx instruction. That as joint owner of the Accounts, Oryx is not a third party to the Accounts.

They urged Court to discountenance the Final Written Address of the Claimant. They urged Court to enter Judgment in favour of the Defendant.

COURT

This Court has summarized the stand of the parties, and in answer to the questions posed by the Claimant in their Final Written Address, it is the humble view of this Court that:

There is an established Banker-Customer Relationship between the Claimant and the Defendant by virtue of Account opening which is not in doubt, and which all the parties acknowledged, and which the Defendant never

challenged. This can be seen and deciphered from the correspondences between the parties in **Exhibits 2, 3, 4, 5, 10, 8 & 9**. By the contents of these letters for both parties, it is not in doubt that there is a fully established Banker-Customer Relationship between the Claimant and the Defendant in this case.

In answer to the second question, it is the humble view of this Court that there is no sufficient evidence to show that the Defendant breached the Banker-Customer Relationship with the Claimant. This is so because the Bank is right in refusing to honour the document – **EXH 2**, which is the purported Board Resolution notifying the Defendant that there is a change in signatories – rearrangement, in that there are 2 persons in Category B as against what was in the original arrangement and in the Power of Attorney.

It is the strong and humble view of this Court that the Claimant did not put sufficient evidence before this Court in proof that the Defendant breached the duties of its Banker-Customer Relationship with the Claimant.

To start with, after the signing of the Agreement – **EXH 1** on the 22nd of February, 2018, the Claimant donated Power of Attorney to the Defendant, which is irrevocable. The said Power of Attorney was tendered as **EXH 7**, granted on 27th February, 2018, just a few days (5 days) after the parties signed the Agreement – **EXH 1** on 22nd February, 2018. In the Irrevocable Power of Attorney the Claimant stated that any alteration or amendment to the signature mandate

shall be valid only if authorized by the authorization representative of the Donee.

Again, in paragraph 1 of the Power of Attorney – **EXH 7** it states thus:

Para 1. Rentals

“... ”

Such Account shall be under the irrevocable and absolute control and discretion of the Donee.”

Of interest is the content of **paragraph 3** of the Rental in **EXH 7**, which states:

“By another Board Resolution dated 16th February, 2018, the Donor further resolved to grant a Power of Attorney to the Donee to have irrevocable and absolute control of the Account and operate it on behalf of the Donee.”

In the said **EXH 7** the signature mandate shows that there are 2 Categories of signatory – **A & B**. There is one person in A and 2 persons in Category B. The **CEO, PW1** and one **Nwachukwu Nnadozie** are in Category B. While **Olubanji Kayode** is the signatory on Category A.

Again, by the Agreement of the parties, the Account is jointly operated in that any Cheque or transaction thereto must be by authorization of a person from Category A and one person from Category B. That was resolved and agreed by the parties, and as donated by the Donee in **EXH 7**.

There is nothing before this Court in this case to show that the Power of Attorney was revoked or that the Agreement of the parties was altered or vacated.

Again, the **EXH 2**, which is the purported Board Resolution altering Category of the signatories, was signed by 2 Directors who did not put their names. They only signed as Directors. Anyone could have signed the document.

But the Defendant, upon receipt of the said **EXH 2** which now categorized **Nwachukwu Nnadozie** as Category A, wrote to the Oryx (Addax) referring to the Board Resolution of 3rd May, 2018. It is strange that the same Board Resolution was made on 3rd May, 2018; the same day as the letter – **EXH 2**, was sent to the Bank, and was received the same 3rd May, 2018 at 2:34 pm at the CBD Branch of the Defendant in Abuja.

Upon receipt of the letter of 3rd May, 2018, the Defendant out of abundance of caution, and as any Banker will do, wrote to Addax to ascertain if they are aware and have given their consent to the change in Category of signatories. That letter was tendered as **EXH 10**, written 4 days after the **EXH 2** was written to the Defendant. It is imperative to state that the Defendant did not copy the Claimant after it received the letter from the Oryx. It is also strange that it did not copy the Claimant in the letter it wrote to the same Oryx. Ordinarily, the Defendant ought to have copied the Claimant the letter it wrote to

Oryx, and should also have forwarded a copy of the responses it received from Oryx to the Claimant. Failure to do so means that the Defendant had failed in their duty as Banker to the 2 parties who had Joint Account in that regard. To that extent only, the Defendant failed in its Banker-Customer Relationship. The Defendant ought to have written to the Claimant noting that the other partner had notified it that it has not given its consent to the Claimant in the change in Category of Signatory.

Again, since as far back as May 2018, that the Defendant had information and notification that there is no consent given in the alleged changed Category of Signatories, it ought not to have done the transfer of fund or payment of money from the said Accounts without notifying the other party – the Claimant, since it had information that there is a kind of misunderstanding between the parties as to change in signature Category. It should have clarified the issue by inquiring whether the parties have resolved the issue on signature Category, especially from the Claimant who sent a letter from the Board of the Claimant.

Aside from failure of the Defendant to notify the Claimant on the stand of the Oryx on the Board Resolution, every other action of the Defendant is within the ambits of its duty as Banker-Customer relationship.

But the Claimant did not put sufficient evidence to show that the Defendant breached the Banker-Customer relationship.

The Claimant did not deny granting the Power of Attorney. It did not show that it has revoked the said Power so donated in which it authorized the Oryx to have absolute control.

Again, it did not call the said **Nwachukwu Nnadozie** as a Witness to testify that actually he is aware that he was changed from Category B to Category A as the Claimant claims in the Board Resolution – **EXH 2**. Besides, the said Power of Attorney is, according **Para 1.4**, “is and shall be constructed as part of the Agreement between the parties.”

A closer look at **EXH 7** raises a lot of questions. It is strange that the same Power of Attorney – **EXH 7** tendered by the Defendant through PW1 was never denied or challenged but was acknowledged by the Claimant and all the other documents and correspondences it had with the Defendant and Oryx. The document – **EXH 7**, was signed by the Claimant to show that it was donated to the Oryx by the Claimant.

Even in the letter of 7th May, 2018, the Defendant referred to, and wrote letter to Oryx referring to the Power of Attorney.

This Court holds that the Defendant did not fail in their duty to that extent. Again, it is glaringly clear that the **EXH 7** was sent to the Defendant in the course of Account opening process. Again, Oryx/Addax said that they did not give their consent.

Notwithstanding that the Defendant released the money in July 2018 did not make the Defendant to fail in its Banker-Customer relationship responsibility, as all the steps it took by writing and alerting the Oryx, were the right steps in the right direction. Hence, this Court holds that the Defendant did not breach the Banker-Customer relationship with the Claimant.

Since the Claimant did not establish with sufficient evidence that the Defendant breached the Banker-Customer relationship, it is therefore not entitled to the Reliefs sought which is for payment of the fund purportedly transferred from the Accounts. This is because, before the fund was transferred from the said Naira and Domiciliary (Dollar) Accounts, the right number and category of signatories signed. That is the Category A as represented by **Olubanji Kayode** and Category B as represented by **Nwachukwu Nnadozie**, signed as agreed by the parties in the said Agreement. The Bank did not commit any wrong.

The Claimant is bound by the Agreement it has entered into with the Oryx, and it is also bound by the Power of Attorney which it willingly donated to the said Oryx. So this Court holds. And all the actions of the Defendant were in accordance with the Agreement and Power of Attorney.

The Claimant did not suffer any loss. If the Bank paid the Oryx more than was supposed to be paid to it or more

that it is entitled to, the Claimant should bring an action against Oryx to refund the extra money. It is not for the Claimant to seek to get the refund from the Defendant who it has only a Banker-Customer relationship with, that was not breached.

In the world of contract, parties are bound by the terms of the Agreement they have entered. Moreso, when the terms are still open and subsisting, even if the terms are not palatable to the parties.

In this case, the Agreement between the parties is still subsisting. The Banker-Customer relationship was not breached. The Defendant performed its obligation under the Banker-Customer relationship, and cannot suffer or be punished by the self-imposed negligence of the Claimant. If the Claimant has a grouse against Oryx, it should not bring same into the relationship it has with the Defendant, which is different and distinct from its relationship with Oryx or Addax.

To be entitled to damages, it is incumbent that the party who claims damages must prove same with credible evidence and testimony before the Court. Moreso, where the party seeks Special Damages, it must also establish same with credible evidence.

In this case, since the Claimant failed to establish that the Defendant breached its Banker-Customer relationship with it, the Claimant is not entitled to any General Damage. It also failed to establish the Special

Damages it claimed in this Suit. Hence, it is not also entitled to Special Damage.

Having failed to establish its case, the Claimant's case is meritless, and it is therefore STRUCK OUT.

This is the Judgment of this Court.

Delivered today the _____ day of _____ 2025 by me.

K.N. OGBONNAYA
HON. JUDGE

APPEARANCE:

CLAIMANT'S COUNSEL: REBECCA EBOKPO ESQ.

DEFENDANT'S COUNSEL: OJILE ABAH NATHANIEL
ESQ.