

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY  
IN THE GWAGWALADA JUDICIAL DIVISION  
HOLDEN AT GWAGWALADA  
BEFORE HIS LORDSHIP: A. S. ADEPOJU  
THIS 11<sup>TH</sup> DAY OF MARCH, 2024**

**SUIT NO: FCT/HC/CV/7737/2023**

**BETWEEN:**

**THE SHELL PETROLEUM DEVELOPMENT -----CLAIMANT  
COMPANY OF NIGERIA LIMITED**

**AND**

**INDUSTRIAL AND GENERAL INSURANCE PLC -----DEFENDANT**

*G. O. MADUKA for the Claimant.*

**JUDGEMENT**

The Claimant's claim is for:

- a. A declaration that the Defendant is indebted to the Claimant in the sum of **\$96,608.58 (Ninety Six Thousand Six Hundred and Eight Dollars, Fifty Eight Cents)** only being the Defendant's admitted outstanding indebtedness to the Claimant in its letter dated 3<sup>rd</sup> November, 2022 further to the release and settlement agreement of 5<sup>th</sup> October, 2018 arising from the insurance policy transaction which commenced from 1<sup>st</sup> April, 2012 to 1<sup>st</sup> November, 2014 and was further extended to 31<sup>st</sup> October, 2018.
- b. An order of this honourable court directing the Defendant to pay to the Claimant the sum of **\$96,608.58 (Ninety Six Thousand Six Hundred and Eight Dollars, Fifty Eight Cents)** only being the Defendant's admitted outstanding debt to the Claimant in its letter

of 3<sup>rd</sup> November, 2022 further to the release and settlement agreement of 5<sup>th</sup> October, 2018.

- c. Post judgement interest at the rate of 10% per annum on the judgement debt until full liquidation.

The Claimant's claim was brought under the undefended list procedure pursuant to the provision of order 35 of the High Court Civil Procedure Rules. And in accordance with the rules, the Writ was supported by a 21 paragraph affidavit deposed to by one **Rasheed Adedamola Oyewole**, a Financial Advisor in the Claimant's Insurance team. The case of the Claimant was that sometime in 2012, it commenced the construction activities with respect to the Yokri Integrated Project which includes engineering design, procurement, installation, construction, testing and commissioning in Nigeria. And in furtherance of the project in 2021 the Claimant entered into an insurance policy contract with Sovereign Trust Insurance Plc "Lead Insurance" and 19 Co Insures (including the Defendant) to provide Erection All Risk Insurance Policy on Forcados Yokri Integrated Project onshore and offshore in Nigeria (Policy Number OIL/OE/04/12/HQ/00794) which started from 1<sup>st</sup> April, 2012 to 1<sup>st</sup> November, 2014 and was extended to 31<sup>st</sup> October, 2018. A copy of the said insurance policy and its extension are attached and marked as Exhibit A. That under the said insurance policy, the defendant undertook to indemnify the claimant to the tune of 10% of the total risk covered by the policy if a damage occurred on the said project.

The Claimant progressed the construction of Forcados Yokri Integrated Project onshore and offshore in Nigeria. And in 2015, there was a damage to the 12-inch associated gas (AG) pipeline (against which the insurance policy was taken) during installation at Forcados Yokri field and all the insurers and co-insurers (including the Defendant) were notified immediately. The damage was reported to the "Lead insurer" Sovereign Trust Insurance Plc (who leads the panel of co-insurers) for insurance claim recovery and a loss adjuster was appointed by the Lead insurer for assessment and claim adjustment. The assessment and claim adjustment concluded in year 2018 consequent upon which the Release and Settlement Agreement was executed on 5<sup>th</sup> October, 2018 between the Claimant (Insured), Lead Insurer (on behalf of itself and all co-insurers "all referred to as reinsured") in the insurance policy for the purpose of ascertaining their liabilities and spelling out modes of discharging the claims of the Claimant against each and every one of the insurance companies. A copy of the Release and Settlement Agreement is attached and marked as Exhibit B. and the Release and Settlement Agreement, the liability of the Defendant and other insurance companies, were reflected against their respective names. The defendant's liability and indebtedness to the Claimant from the Release and Settlement Agreement as at 5<sup>th</sup> October, 2018 stood at the sum of **\$96,608.58 (Ninety Six Thousand Six Hundred and Eight Dollars, Fifty Eight Cents)** only.

The Claimant through its broker, “Ark Insurance Broker Limited” made repeated unsuccessful demands on the Defendant to pay the balance of its debt in the sum of **\$96,608.58 (Ninety Six Thousand Six Hundred and Eight Dollars, Fifty Eight Cents)** only. The Ark Insurance Broker Limited wrote a letter dated 27<sup>th</sup> October, 2022 to the Defendant demanding the payment of **\$96,608.58 (Ninety Six Thousand Six Hundred and Eight Dollars, Fifty Eight Cents)** only. A copy of the letter is marked as Exhibit C.

On the 3<sup>rd</sup> November, 2022, the Defendant wrote a letter to Ark Insurance Broker Limited acknowledging its debt. A copy of the said letter dated 3<sup>rd</sup> November, 2022 is attached to the affidavit and marked as Exhibit D. And since the defendant’s acknowledgement of its debt in its letter dated 3<sup>rd</sup> November, 2022, the Defendant failed/refused and neglected to pay its said outstanding debt of **\$96,608.58 (Ninety Six Thousand Six Hundred and Eight Dollars, Fifty Eight Cents)** to the Claimant. And upon the instruction of the Claimant, **Okechukwu Ajunwa Esq.**, of **Ajunwa & Co** wrote a final demand letter to the defendant demanding for the discharge of the said outstanding debt of **\$96,608.58 (Ninety Six Thousand Six Hundred and Eight Dollars, Fifty Eight Cents)** only. The letter is marked as Exhibit E. The Claimant has made both oral and written demands to the Defendant to pay the said outstanding debt, however the Defendant wilfully neglected/failed to pay the said debt till date. The Claimant believes that the Defendant does not have any defence to the claimant’s suit.

From the record of court the defendant was served with the Originating Process by the Bailiff of the Court as can be noticed from the proof of service endorsed at the back of the process as well as the affidavit of service sworn to by the Process Server of the Court. It is apparent that the defendant does not have any defence to the claim of the Claimant. Going by the provision of Order 35, Rule 3 of the Rules of this Court, a Defendant is expected to file a Notice in writing that he intends to defend the Claimant's suit upon being served with the undefended writ before five days to the date fixed for hearing.

Furthermore, pursuant to Order 35, Rule 4, where a defendant neglects to deliver the notice of defence and an affidavit prescribed by Rule 3(i) or is not given leave to defend by the Court, the suit shall be heard as an undefended suit and judgement given accordingly. The defendant have in fragrant disobedience to the provision of Order 35 (3) failed to file a notice of intention to defend and an affidavit disclosing a defence on the merit. The Provision of Order 36, Rules 3 and 4 and have been given impetus in a plethora of cases such as **ECHISCAN SERVICES LTD V SHULTH (2010) LPELR 4070 CA, NIGERIA NAVY V SHIPPING CO SARABV & ORS (2021) LPELR 53403 CA.**

The essence of instituting an action under the undefended list procedure is to expedite the hearing and determination of the action for claim of liquidated sum especially where it is clear that the defendant does not have defence to the Plaintiff's demand or action. See the case of **MARY V**

**ADEKUYA (2017) LPELR 43157 CA** where the Court of Appeal Per **Owoade JCA** relied on the decision of the Court in **DELTA HOLDINGS NIG LTD V ROBERTS ATIMI 13 NWLR (PT. 1425) 590 @ 629** thus:

*“The object of the undefended list procedure is to enable a plaintiff whose claim is unarguable in law and where the facts are undisputed and it is inexpedient to allow a defendant to defend for mere purpose of the delay to enter judgement in respect of the amount demanded.”*

See also the case of **RANGE AGRICULTURE & INVESTMENT LTD & ANOR V UNITY BANK PLC (2017) LPELR 43341 CA** where the Court also held that:

*“The summary Judgement procedure and undefended list procedure are both designed to expedite judgement in case of debt and liquidated money demand.”*

The Plaintiff’s claim is for a liquidated money demand, the defendant have failed to file a notice of defence together with an affidavit disclosing a defence on the merit. The Plaintiff is therefore entitled to judgement. And judgement is hereby entered as per the claim endorsed on the Writ of Summons.

**Sign**

**Hon Judge  
11/3/2024**