

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE GWAGWALADA JUDICIAL DIVISION
HOLDEN AT GWAGWALADA
BEFORE HIS LORDSHIP: A. S. ADEPOJU
THIS 24TH DAY OF JANUARY, 2024**

SUIT NO: FCT/HC/CV/2785/2021

BETWEEN:

FADAKA AISOSA NASCO -----CLAIMANT

AND

1. ADEWALE ALADE ANA

2. SAPHIRE SCENTS LTD

-----DEFENDANTS

***ADOKWE ADAMS ADOKWE** appears with **SOLOMON ABDULKADIR** for the Claimant.*

Defendants are not in Court.

JUDGEMENT

The Plaintiff in the Writ of summons dated 22nd October, 2021 and filed on the same day, seek for the following reliefs:

1. A mandatory order compelling the Defendants jointly and severally to pay to the plaintiff, the sum of **N5,625,000 (Five Million Six Hundred and Twenty Five Thousand Naira)** only, the sum of **N3,000,000 (Three Million Naira)** being the capital sum of the Plaintiff's investment and **N2,625,000 (Two Million Six Hundred and Twenty Five Thousand Naira)** being the interest on return on investment or 21 months commencing from the 18th of October 2019 to 18th September, 2021 by virtue of Memorandum of Understanding executed between the parties on the 18th October 2019.

2. A mandatory order compelling the Defendants jointly and severally to pay to the plaintiff the sum of **N375,000 (Three Hundred and Seventy Five Thousand Naira)** every three months effective from the 18th of September 2021 by virtue of the Memorandum of Understanding executed between the parties on the 18th of October 2021 pursuant to which the plaintiff is entitled to the sum of **N375,000 (Three Hundred and Seventy Five Thousand Naira)** representing **12.5%** of the capital as profit on return on investment until judgement is delivered.
3. An order awarding the sum of **N50,000,000 (Fifty Million Naira)** as general damages against the Defendant in favour of the Claimant.
4. Post- judgement interest at the rate of 10% per annum on the judgement sum until debt is fully liquidated.
5. The cost of action.

The case of the plaintiff was that sometime in 2019, he stumbled on the 1st Defendant on the instagram, who presented himself as the MD/CEO of Sapphire Scent Ltd, the 2nd Defendant on record. The 1st Defendant claimed on his instagram page and other social media platforms that his company (2nd Defendant) is worth over One Billion Naira with over One Thousand distributors across thirty states in Nigeria, the UK, USA, Ireland, Ghana, Cameroon, Benin, Cote d' ivory, Cyprus and South Korea. The 1st Defendant invited members of the public to invest their money for profit as interest in return on investment. The Claimant indicated interest and precisely on the 11th day of April 2021, the 1st Defendant personally lured the Claimant via social media (Whatsapp) chats into transferring the sum

of **N3,000,000 (Three Million Naira)** from his Zenith Bank account No. 2009056943 into the 2nd Defendant's GTB company's account No. 0128626840 with the name Sapphire Illuminations Consults pursuant to which the 1st Defendant forwarded a prepared memorandum of understanding to the Claimant to sign and send back to him via the internet. In the memorandum of understanding it was agreed that the Defendant repay the Claimant the capital sum of **N3,000,000 (Three Million Naira)** within six (6) months along with the sum of **N750,000 (Seven Hundred and Fifty Thousand Naira)** as profit in return on investment upon the expiration of the said six months which was 11th October 2019. However after the expiration of the said period, the Defendants refused to pay the said capital and interest to the Claimant, and rather persuaded the Claimant to reinvest the said sum of **N3,000,000 (Three Million Naira)** for another three months in return for the sum of **N375,000 (Three Hundred and Seventy Five Thousand Naira)** representing 12.5% as profit in return on investment. The Claimant agreed to reinvest his capital of **N3,000,000 (Three Million Naira)** on a condition that his original interest be paid first. The Defendants paid the initial interest in the sum of **N750,000 (Seven Hundred and Fifty Thousand Naira)** on 18th October 2019 pursuant to which the Defendant forwarded another prepared Memorandum of Understanding vide the internet for the Claimant to sign in respect of the re-investment for another three months.

When the said re-investment became due on the 18th January, 2020, the Defendant again deliberately refused to pay both the capital sum of

N3,000,000 (Three Million Naira) and the accrued interest in the sum of **N375,000 (Three Hundred and Seventy Five Thousand Naira)** to the Claimant as agreed, and since the said 18th of January 2020 to the month of March 2020, the Defendant kept giving the Claimant assurances for the repayment of his capital and interest but failed. The Defendant also capitalized on the outbreak of Covid-19 to make excuses for not keeping to his agreement. The total indebtedness to the Claimant as at 18th of September stands at **N5,625,000 (Five Million Six Hundred and Twenty Five Thousand Naira)** only, the sum of **N3,000,000 (Three Million Naira)** being the capital sum of the Plaintiff's investment and **N2,625,000 (Two Million Six Hundred and Twenty Five Thousand Naira)** being the interest on return on investment or 21 months as captured in Memorandum of Understanding signed by parties.

The Claimant claimed that the 1st Defendant deliberately and persistently refused to answer his call, and have also resorted to intimidating him. By virtue of clause 7 of the memorandum of understanding that disputes or grievances between parties be settled by way of mediation, the Claimant caused his counsel Messrs Liman, Liman & Co to write a letter dated 20th August 2020 requesting the Defendant to appoint a lawyer who will sit in a meeting with the Claimant's law firm to mediate between the parties on 26th August 2020 as suggested but on the 27th August 2020, the Defendants served the Claimant counsel a letter of reply requesting for another date for the meeting and the 1st of September was fixed for another meeting served on the Defendants and acknowledged without

response. The Defendants failed to neither attend the meeting nor send any representation.

The Claimant peered by the conduct of the Defendants referred the matter to Justice Uwais Dispute Resolution enter wherein the Claimant filed his statement of issues on 4th September 2020, which was served on the Defendants on Wednesday 9th of September 2020. The Defendants refused to file their statement of issues in response to the Claimant's statement of issues within 7 days allowed by the practice direction and rules of the Uwais Resolution Centre. The Claimant instituted the instant suit when it became obvious that the Defendants were not ready to pay the Claimant his principal sum and the accrued interest.

Hearing commenced on 21st February 2023 with the Claimant calling as his first witness a subpoenaed witness from Zenith Bank, Gwagwalada. The witness was examined in chief and tendered the Claimant's Zenith Bank account statement, which was admitted as Exhibit ZN1. The witness was not cross-examined as the Defendants did not come to Court even though hearing notices were served on the 1st Defendant in accordance with the order of this Court for substituted means by pasting/dropping at the last known address of the 2nd Defendant and being the registered business address of the 2nd Defendant. The Claimant also testified as the second plaintiff's witness (PW2) and tendered Exhibit A, the memorandum of understanding between him and he Defendants. PW2 also identified Exhibit ZN1 as his statement of account. The PW2 was also not cross-examined. It is on record that the oral testimony of the Claimant's witness and documents tendered were not challenged nor

contradicted by the Defendants. The Claimant closed his case and applied that the Defendant be foreclosed from either cross-examining or defending the matter since they have never shown interest in defending the suit and same was granted. The parties were ordered by the Court to file and exchange written addresses. Only the Claimant Complied by filing a written address dated 7th December, 2022 and filed on the 14/12/2023.

The Claimant's counsel **Adokwe Adams Adokwe** in the written address formulated a sole issue for determination to wit:

Whether the Claimant has established his case in a preponderance of evidence as to be entitled to the reliefs sought in this case.

The said address with the arguments therein were adopted by the learned Counsel on 24/1/2024. I have gone through the arguments of counsel in support of the sole issue formulated for determination and I am in total agreement with the Counsel's submission in that this is a case of simple contract. I also endorse the Counsel's submission that there was a legally binding agreement between the Claimant and the Defendant, with reference being made to Exhibit A the Memorandum of Understanding duly signed by the 1st Defendant on behalf of the 2nd Defendant. The Court further agrees with Counsel that the content of Exhibit ZN1 and A demonstrate that there was a legally binding agreement between the Claimant and the Defendants and that the Claimant have fulfilled his obligation while the Defendant defaulted.

On what the term '*breach of contract*' connotes; the Claimant's counsel relied on the case of **B. A. C. CO. LTD V LANDMARK UNIVERSITY (2020)**

15 NWLR (PT. 1748) PG 498 PARS A – C; I agree with the Claimant's Counsel that there is a breach of contract of the terms of agreement contained in Exhibit A by the Defendants. The Defendants have also refused and or neglected to put up any defence to the claim of the Claimant. This failure of the Defendants is tantamount to an admission of the claims of the Claimant by the Defendants. It is trite that facts not controverted needs no further proof. See **AKAHOU & SONS LTD V NIGERIA DEPOSIT INSURANCE CORPORATION (2017) LPELR 41984 SC, OMALE V FEDERAL MINISTRY OF LANDS, HOUSING & URBAN DEVELOPMENT & ORS (2015) LPELR 25906 CA, BAUCHI STATE GOVERNMENT V SAMAILA AHMADU GUMAU & ANOR (2019) LPELR 47061 CA' ANSA & ORS V GLOBACOM.**

The duty of the Court is to ensure that the Defendant is given opportunity to defend a case against him by service of the Originating Process and hearing notices, and not to force an unwilling litigant to defend the case against him. I am satisfied that the Defendants are fully aware of the pendency of this case as can be seen from the proof of service in the record of the Court. The Plaintiff's case in the absence of any defence filed by the Defendants is therefore entitled to judgement having proved his case with the evidence adduced. Consequently judgement is hereby entered for the plaintiff in the following terms:

1. The Defendants are hereby compelled jointly and severally to pay to the plaintiff, the sum of **N5,625,000 (Five Million Six Hundred and Twenty Five Thousand Naira)** only, the sum of **N3,000,000 (Three Million Naira)** being the capital sum of the Plaintiff's

investment and **N2,625,000 (Two Million Six Hundred and Twenty Five Thousand Naira)** being the interest on return on investment or 21 months commencing from the 18th of October 2019 to 18th September, 2021 by virtue of Memorandum of Understanding executed between the parties on the 18th October 2019.

2. The Defendants are also compelled jointly and severally to pay to the plaintiff the sum of **N375,000 (Three Hundred and Seventy Five Thousand Naira)** every three months effective from the 18th of September 2021 by virtue of the Memorandum of Understanding executed between the parties on the 18th of October 2021 pursuant to which the plaintiff is entitled to the sum of **N375,000 (Three Hundred and Seventy Five Thousand Naira)** representing **12.5%** of the capital as profit on return on investment until judgement is delivered.
3. The sum of **N20,000,000 (Twenty Million Naira)** is awarded as general damages against the Defendant in favour of the Claimant.
4. Post- judgement interest at the rate of 10% per annum on the judgement sum until debt is fully liquidated.
5. While the sum of **N500,000 (Five Hundred Thousand Naira)** is awarded as cost of action.

Sign

**Hon Judge
24/01/2024**