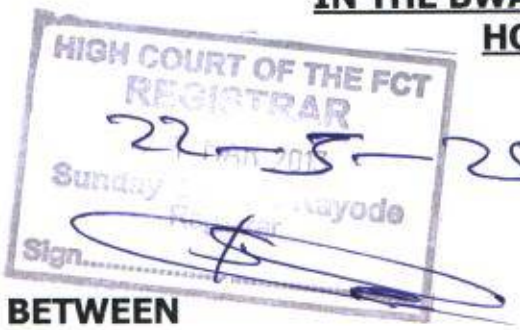
22 may, 2025.

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE BWARI JUDICIAL DIVISION
HOLDEN AT ABUJA



SUIT NO: FCT/HC/CU/7/41/2023

BETWEEN

AFRIGOS FILM & MEDIA ACADEMY LTD==========PLAINTIFF

AND

1. **PUBLIC SERVICE INSTITUTE OF NIGERIA (PSIN)**
2. **ABDULGANIYU OBATOYINBO**
   (Chief Administrator)
3. **SAHEED YUSUF**
   (Director Admin and Human Resources)
4. **HEAD OF SERVICE OF THE FEDERATION**

DEFENDANTS

1ST 2NDAND 3RD DEFENDANTS' FINAL WRITTEN ADDRESS

1.0 INTRODUCTION

That sometimes in 2019 the plaintiff approached the 1st Defendant and signified interest to lease the computer building. After, negotiation an offer letter dated 8th of July, 2019 was given to the plaintiff, wherein it was agreed that the plaintiff should pay Three Million naira per annum for three (3) years lease of the premises. That means the plaintiff was expected to pay Nine Million naira (₦9,000,000.00) for the three (3) years span of the lease.

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The offer letter stated that the plaintiff is to liaise with the legal adviser in order to complete the process of the negotiation and execution of the contract Agreement. The key of the premises was thereafter given to the plaintiff preparatory to signing a formal agreement, and for him to prepare cost of repairs and extent of the renovation. There was no cost of repairs submitted to the 1st Defendant by the plaintiff and there was no approval for the plaintiff to move in to the premises.

Surprisingly, he never came back and was never available after the keys were given to him to determine extent of renovation. However, when it was discovered that the plaintiff had moved into the premises without formalizing the process, the 1st Defendant restrained his access to the premises.

After series of meetings with the plaintiff, on 18th April, 2023 a joint inspection of the property was made by the plaintiff and 1st Defendant representatives, the plaintiff was told to make a formal application for the Institute to reopen the premises and pack his property in the face of the failed transaction. It was after this that the plaintiff alleged that his equipment were missing, via letters dated 4th & 13th May 2023 contained in Exhibit PW1 D. Thereafter the 1st Defendant reported the matter to the Police based on the plaintiff's allegation. The reports to the Police already admitted in evidence as Exhibits DW1 A and DW1 B respectively. The matter was being investigated by the Police when the plaintiff instituted this suit.

2.0 ISSUES FOR DETERMINATION

a) Whether there is a valid tenancy contract between the plaintiff and 1st Defendant.

b) Whether the plaintiff has proved his case as required by law to be entitled to the reliefs sought.

3.0 ARGUMENTS

Issue (a) whether there is a valid tenancy contract between the plaintiff and the 1st Defendant.

3.01 It is trite law that there is no legal contract without offer and acceptance. A tenancy agreement like any other enforceable contract requires offer and acceptance for it to be legally binding: A letter of acceptance is crucial for establishing a legally binding tenancy. Other requirements of a valid contract are consideration, capacity and intention to create legal relations.

3.02 **Exhibit PW1 A** letter of offer. Evidence at the trial adduced clearly shows that a letter of offer was given to the plaintiff by the 1st Defendant stipulating conditions for the contract and to which there was no letter of Acceptance. Evidence has shown that no letter of Acceptance. This is fatal to the case of the Plaintiff. Satisfactorily enough the offer letter was exhibited by the plaintiff to which the Defence has no objection. The letter of Acceptance does not exist, because ordinarily, acceptance letter should be in our custody and it would have been most convenient for us to tender it before this Honourable court.

3.03 There is no valid Tenancy Agreement between the plaintiff and 1st Defendant. Evidence adduced at the trial showed that the contract Agreement **Exhibited PW1 B** was unsigned by parties. This signifies clearly that there is no contractual relationship between the parties whatsoever. The legal effect of the unsigned Agreement goes to no issue and the court is urged to discountenance same as no probative value can be given to it. It should also be marked as tendered but rejected by the court.

3.04 The legal principle, "you cannot place something on nothing" or "ex nihilo nihil fit," is a common law maxim, meaning that a valid legal claim or action cannot be built on a non-existent or invalid foundation, applies to the this case in all fours, this means that a legal right or

obligation cannot arise from a void or non-existent basis. See the age long case of MACFOY Vs UAC (1958) at the Privy Council that went before the House of Lords. The letter of offer stipulated clearly that there are other conditions precedents to be fulfilled before the lease Agreement will take effect or come to life.

3.05 The legal principle enunciated in macfoy is very relevant to this case. There is no contract of lease between the plaintiff and 1st Defendant. During cross-examination, the plaintiff claimed that the letter of Acceptance was locked up. The question is locked up where? The crux of the matter is that there is no Legal Agreement between the parties and going by the evidence before this court and the legal authority cited, can the plaintiff, be heard to make claims under this void Agreement in view of this overwhelming evidence?. Lord Denning in the said case cited, (supra) which is a locus classicus has an answer to this in his dictum;

> *"If an act is void, then it is in law a nullity, it is not only bad but incurably bad. There is no need of the court to set it aside. It is automatically null and void without more ado, though it is sometimes convenient to have the court declare it to be so. And every proceeding which is founded on it is also bad and incurably bad. You cannot put something on it and expect it to stay there. It will collapse"*

The plaintiff's; failure to abide by the terms of the letter of offer has shown that there is no relationship between him and the 1st Defendant no contract of lease exist between them. We urge the court to hold that there is no lease agreement between the plaintiff and Defendant.

3.06 It has also been held in the Supreme Court case of Gaji and ors v Paye 14 NSCQR@ page 616, ratio 4, that the effect of failure to cross-examine a witness upon a particular matter is a tacit acceptance of the truth of the evidence of the witness as per D.O. Edozie JSC at page 629.There is nowhere at the trial where the 1st Defendant witness was cross-examined as to whether the 1st Defendant was in

receipt of the acceptance letter or why parties didn't sign a tenancy agreement. An unsigned document goes to no probative value and should be discountenanced by the court

We therefore urge the Honourable Court to hold that there is no lease agreement between the plaintiff and 1st Defendant.

3.07 The (8) Eight Exhibits tendered by the Plaintiff are documents in a series of singular transaction, the plaintiff tendered some, and it was very convenient for him to state that others documents were locked in the office. The court is urged to infer that those documents either does not exist or will be unfavorable to the Plaintiff as envisioned by Section 167 (d) of the Evidence Act. Lenee Okere V IGP (2021) legalpadia (SC) 01111 14th January, 2021.

The import of Section 167 (d) of the Evidence Act. 2011 is that the Evidence which could be and is not produced would, if produced, be unfavorable to the person who withholds it.

4.0 Issue (b) Whether the Plaintiff has proved his case as required by law to be entitled to the relief sought.

4.01 On standard of proof required in proof of specific claims; where there are specific claims it is the duty of the plaintiff to prove all the essential facts succinctly and with clarity to leave no one in doubt. In order to meet the standard required in proof of specific or special items of claims, the facts must not be wobbly or bent on susceptible to varying degrees of construction. I. C. Pats Acholonu JSC at page 260. In the Supreme Court case Neka Ltd v A C B 17 NSCQR @ page 245, ratio 10.

4.02 My lord it is trite law that the plaintiff must succeed on the strength of his case and where the plaintiff fails to prove his case on the balance of probability or on preponderance of evidence as in this matter his case will be thrown out, notwithstanding the fact that the Defendant did not prove his case, Civil Design construction Nigeria Ltd v SCDA Ltd (2007) ZSC 195.

4.03 The plaintiff had alleged that certain equipment of his were missing from the demised property. These allegations are unfounded. The evidence before this Honourable Court has revealed that the allegation of missing items is farfetched from the evidence before this Court. There is unimpeachable evidence before this Court that no inventory was taken between the plaintiff and the 1st Defendant representatives of the properties the plaintiff brought into the premises. How can one claim with certainty that his equipment is missing where there is no inventory of the properties he brought into the demised property. There were two (2) padlocks on the door of the premises and both were intact when parties visited the place.

4.04 During Cross-examination of the plaintiff he admitted in evidence that there were two padlocks on the door of the premises on the date of joint inspection by parties and the testimony the plaintiff made pointed to the fact that there was no break-in.

This suggests there is no way anyone could access the demised premises as the plaintiff has a key and the 1st Defendant has another key. Furthermore, during the cross-examination of the defendant's witness, it was confirmed that there are security guards at the main gate, entrance to the Institute and all around the premises. One can safely conclude that the premise is well protected from miscreants. The Plaintiff has failed to show that his properties were missing.

4.05 The items which were alleged to be missing for which he furnished hand written receipts and computer generated, items did not meet the requirements of Section 84(4) of the Evidence Act 2011. Supreme Court in a unanimous judgment dismissed an appeal in the case of Ojeh v FRN (2023)5 NWLR Part1876@ page 1, ratio 1, On whether photocopy of document printed from computer requires certificate of compliance with Section 84(4) of the Evidence Act, 2011.

> *"A party that intends to tender a photocopy of document printed from a computer is bound to produce a certificate that the copy printed from the computer complied with the requirement of section 84(4) of the Evidence Act 2011. In the*

instant case, the mere fact that exhibit P11 was a photocopy of what the prosecution printed from their computer did not relieve them the burden to produce the certificate of such compliance. There was no explanation for their failure to print another copy of the email from their computer....The situation would have been different if they were given a physical copy of the said email and attachment from which they photocopied and produced exhibit P11. In that case they would be under no obligation to produce a certificate that section 84(4) of Evidence Act was complied with and either the copy of such physical email received from the contact in the Bank or the photocopy of it would be admitted as evidence of what was received and the court would have to consider the weight to attach to it. But that was not the case. So the prosecution was bound to produce a certificate that section 84(4) was complied with when the email was printed by Gateway Telecoms Integrated Services Ltd from its computer"

4.06 It is to be submitted that the Supreme Court pronouncement in essence is aimed at ensuring that computer-generated evidence is reliable and trustworthy, by demonstrating the computer's consistent use and the integrity of the production process in line with the import of totality of section 84 with all its subsections.

4.07 Therefore Exhibits **PW1E, PW1F and PW1G** containing the alleged missing items should be marked as tendered but rejected for non-compliance. In their **paragraph 39** of witness deposition, they made undertaking, but no certificate of compliance was furnished. It is clearly shown that the hand written receipts were merely manufactured to tally with the prices of the computer generated items. Accordingly, we urge the honorable Court to discountenance the exhibits as they were made in contemplation of litigation.

4.08 It also goes to no issue to ask the Defendant witness where he deposed to the affidavit, whether the legal Advisers office or his office. **Section 108 (1)** provided that before an affidavit is used in court for any purpose, the original should be filed in the court, and the original or an office copy shall alone be recognized for any

purpose in the court. Therefore, the witness Statement on Oath made by the Defendant witness which original copy was duly filed with his passport photograph attached has satisfied the requirement of the law. The subsection (2) of same section has also recognized the deposition of Affidavits by electronic means duly done before an officer designated for such purposes.

4.09 Section **109 of the Evidence Act 3011** has also finally driven home the point by stipulating that any Affidavit sworn before an officer or any person duly authorized to take affidavits in Nigeria whether in person or through audio-visuals means may be used in the courts in all cases where affidavits are admissible.

On the strength of the above, we humbly submit that the plaintiff has failed woefully to prove his case as required by law. We urge the Honourable Court to so hold.

5.0 CONCLUSION

My lord, this is an illogical and incoherent situation where a would-be tenant is claiming to have lost equipment in a demised property and wants the landlord to pay. Assuming but not conceding that it was perfect landlord /tenancy situation, if the tenant losses his property to thieves, will the landlord be held responsible? The answer is No. My lord, the Plaintiff has failed woefully to prove his case before the court to be entitled to the reliefs sought. We therefore, urge this Honourable Court to dismiss his claims with costs and to order that the Plaintiff remove his equipment from the 1st Defendant's property so that same can be put to good use and pay compensation for the seven (7) years in which the Plaintiff's equipment occupy the property of the 1st Defendant. The 1st Defendant is a self-funding Federal Government Institution and has lost revenue over the demised property for seven (7) years, i.e. three million naira per annum, which translates to (₦21,000.000.00) Twenty-One Million naira only.

We are most grateful my Noble Lord

Dated this ..22nd.... Day of.....May,.....2025

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