

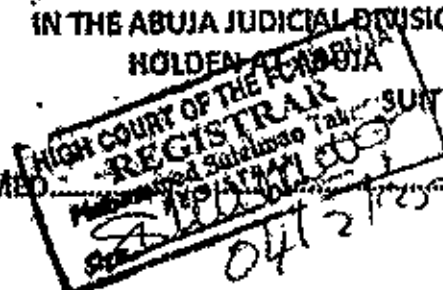
IN THE DISTRICT COURT OF FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION

BETWEEN:

DR. DATTI BABA-AHMED

AND

APPLIED-IMPACT SOLUTIONS LTD.DEFENDANT



SUIT NO. CV/171/2024

PLAINTIFF

DEFENDANT'S FINAL WRITTEN ADDRESS

1.0. INTRODUCTION

1.1. By an amended Civil Plaint filed on the 16/6/2025, the Plaintiff sought for the following reliefs:

- An order of this Honourable Court ejecting the Defendant from the demised premises located at House 6, No. 3 Water Park Road, Kado, FCT and granting vacant possession to the Plaintiff forthwith.
- Mense profit of N292,000.00 (Two Hundred and Ninety-Two Thousand naira) only per month running from the 1st day of September, 2022 until final possession is delivered up by Defendant to the Plaintiff or until Judgment is delivered.
- The cost N1,000,000.00 (one million naira) only being cost of legal fee and Sult.
- 10% monthly interest on the Judgment sum from the date of judgment till the final liquidation of the entire Judgment sum
- And any other order(s) as this Honourable Court may deem fit to make in the circumstance of this case.

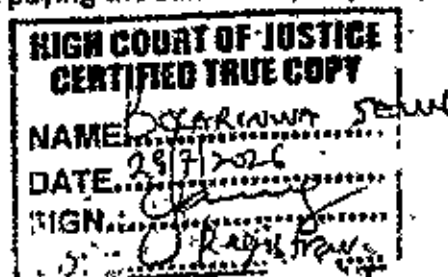
1.2. The Defendant on the other hand filed her Statement of Defence on the 4/9/2024.

1.3. After successful exchanged of pleadings the case was set down for trial.

2.0. BRIEF RELEVANT FACTS OF THE CASE

2.1. The Plaintiff commenced this action claiming that the Defendant is a yearly tenant paying the sum of N3,500,000 (Three Million Five Hundred Thousand

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Naira) per year and thus claimed mesne profits as captured in his reliefs. The Plaintiff further contended that the rent expired in 2022.

- 2.2. On the other hand, the Defendant denied paying of N3,500,000 (Three Million Five Hundred Thousand Naira) per year as the rental value, rather, the Defendant stated clearly that the rental value is N2,500,000 (Two Million Five Hundred Thousand Naira) per year. The Defendant contended that She had paid for 2022-2023 rent and that the rent did not expire in 2022.

3.0. THE CASE OF THE PLAINTIFF.

- 3.1. The Plaintiff opened his case on the 2/7/2025 by leading in examination in chief of Blessing Etamesor, who testified as PW1 for the Plaintiff. PW1 only tendered the Quit Notice of owner's to apply to recover possession and receipt of legal fees of N500,000 which were admitted and marked as Exhibit P1 and P2 respectively.

- 3.2. The evidence of PW1 is that the Defendant was paying N2.5 Million per year as rent. That the yearly rent was later increase to N3.5 Million naira per year. Furthermore, PW1 gave evidence that that the yearly tenancy expired on the 31/3/2022. That since the 1/4/2022, the Defendant has been a tenant at will.

3.3. EVIDENCE OF PW1 UNDER CROSS EXAMINATION.

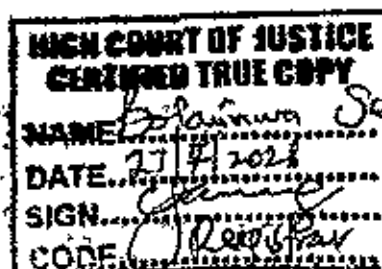
- 3.4. Consequently, PW1 was cross-examined. It is imperative to state at this stage that the evidence of PW1 was completely discredited under the fire of cross examination by the Defendant's Counsel

- 3.5. On the issue of exhibit P1 which is the quit notice of owner's intention to recover possession: PW1 stated that it is a public document and that it is not certified. Furthermore, PW1 stated that the court will not know who signed the said exhibit P1 since the name of the person who signed exhibit P1 is not stated or indicated on exhibit P1.

- 3.6. On the issue of increment of rent, PW1 agreed that the year, month or day the said increment was made is not in evidence before the court and also that there is no evidence of notifying the Defendant of the increase.

- 3.7. PW1 also confirmed that the Defendant had paid for 2022 to 2023 tenancy and that the Defendant is not owing rent for 2022

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3.8. In specific submission, there were irreconcilable facts between the PW1+ testimonies and exhibit P1, including the Plaintiff's pleadings as seen above. The legal implication is that there is no any credible and cogent evidence for this Honourable Court to act upon in granting the Plaintiff's reliefs. The Plaintiff failed to adduce any credible evidence showing that there was an agreement that the rental value of the yearly tenancy was N3,500,000. The Plaintiff also failed to prove with concrete evidence when the tenancy expired. By exhibit P1, the rent is said to expire in 2022. But the evidence of PW1 clearly stated that the Defendant has paid for 2022-2023 rent, meaning that the rent did not expire in 2022. These failures are fatal to the case of the Plaintiff.

4.0. DEFENDANT'S CASE

4.1. The Defendant opened her case on the 25/11/2025 by fielding in Dr. Odiakpo Obire (DW1), the Defendant's Managing Director. DW1 adopted his Witness Statements on Oath and tendered the following documents, to wit;

- a. Tenancy agreement (Exhibit D1)
- b. UBA Online Transfer Advice Receipt (Exhibit D2)
- c. Certificate of compliance (Exhibit D3)

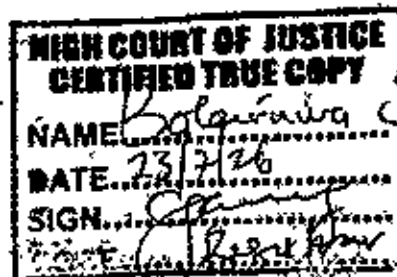
4.2. DW1 testified to the effect that the Defendant was a yearly tenant, paying the sum of N2,500,000 as yearly rent. It is the evidence of DW1 that the Defendant came into the property in 2020 and has continued to renew the tenancy under the same terms and conditions as captured in exhibits D1 and D2. DW1 further testified that She has never defaulted in paying her rent and had duly paid for 2022/2023 rent in respect to flat 6 as evidenced in exhibit D2. DW1 was duly cross-examined and his evidence was never discredited.

4.3. DW1 gave evidence under cross examination that the Defendant paid rent for 2022-2023. Furthermore, that the Defendant paid rent for 2020-2021 and 2021-2022 to Victor & Partners, while 2022-2023 to the Plaintiff as directed by the Victor & Partners. DW1 also stated that he does not know if the Plaintiff is the owner of the property or not and that he does not have any relationship with the Plaintiff.

5.0. ISSUES FOR DETERMINATION

5.1. The Defendant formulated a sole issue for determination as follow;
"Whether the Plaintiff has proved his case to be entitled to the reliefs sought?"

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5.2. **ARGUMENT**

5.3. We respectfully that the Plaintiff has failed woefully to prove his case. The Plaintiff sought for the following reliefs, to wit;

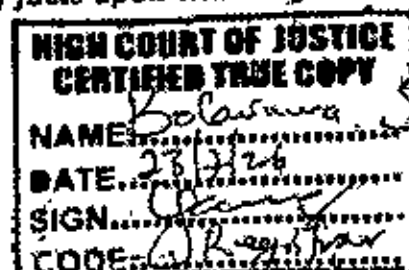
- a. An order of this Honourable Court ejecting the Defendant from the demised premises located at House 6, No. 3 Water Park Road, Kado, FCT and granting vacant possession to the Plaintiff forthwith.
- b. Mensse profit of N292,000.00 (Two Hundred and Ninety-Two Thousand naira) only per month running from the 1st day of September, 2022 until final possession is delivered up by Defendant to the Plaintiff or until Judgment is delivered.
- c. The cost N1,000,000.00 (one million naira) only being cost of legal fee and Sult.
- d. 10% monthly interest on the Judgment sum from the date of judgment till the final liquidation of the entire judgment sum
- e. And any other order(s) as this Honourable Court may deem fit to make in the circumstance of this case.

5.4. The position of the law is well settled that in civil case, the onus of proof squarely rests on the party who asserts the existence or non-existence of a fact or facts in issue. In B.A.L. Co LTD. V LANDMARK UNIVERSITY (2020) 2 NWLR (Pt 1748) 465 @ 470, paras: 4, the Court of Appeal in considering the onus of proof in civil cases has this to say;

"By virtue of sections 131, 132, 133, 136 and 138 of the Evidence Act 2011, in civil cases, the onus of proof squarely lies upon the party who alleges the existence or non-existence of probability or preponderance of evidence of a fact on the balance of probability or preponderance of evidence."

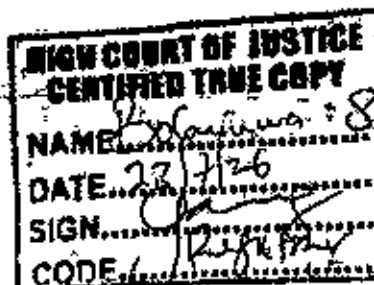
5.5. Honourable Justice Garba, JCA. In the case of ABAYOMI V SOAP-TECH (NIG) LTD (2020), NWLR (PT 1706) 453 @ 492 held as follows;

"The initial evidential burden of introducing evidence to prove a claim to a legal right or liability based on the assertions of facts upon which right or liability is claimed, is



placed on the claimant or plaintiff and until it is satisfactorily discharged on the balance of probability preponderance of evidence as required under section 134, it does not shift pursuant to section 183 (1) of the Evidence Act".

- 5.6. The law has long been settled that a Plaintiff must succeed on the strength of his own case and not on the weakness of the Defendant's case. See *OLASOPE V. N.B.N. LTD. (1785) 3 NWLR (Pt 11) 147 CA*
- 5.7. In this instant case, the Plaintiff asserted that the Defendant is paying the sum N3,500,000 per annum as rental value. See paragraph 2 of the Plaintiff's claim. We submit with respect that in order of this Honourable court to come to the findings that the rental value per annum is N3,500,000 and that the tenancy expired on the 31/3/2022, the Plaintiff must prove to the satisfaction of this court that there was an agreement between the Plaintiff and the Defendant for payment of N3,500,000 by the Defendant as yearly rent, and if there was any increase, the year, month and date of the increment and concrete evidence that the tenancy expired in 2022.
- 5.8. In the instant case, the Plaintiff failed to adduce evidence to show any payment in the sum of N3.5 million as agreed rental value in respect of the premises as pleaded by the Plaintiff in paragraph 2 of his claim. DW1 even complicated the matter when DW1 stated that the rent was increase from N2.5 million to N3.5 million without giving evidence of the day, month or year the said purported increment was made. DW1 also failed to produce any agreement between the Plaintiff and the Defendant of the purported increase and also failed woefully to produce any evidence to show that the rent was N3.5 million. The Plaintiff did not prove that the tenancy expired in 2022. If fact, the Plaintiff's witness-PW1 admitted that the Defendant is not owing in 2022 and has paid for 2021-2023. law is trite that pleaded facts not supported by evidence go to no issue and deemed abandoned. In the case of *MUSTAPHA V. BULKACHUWA (2020) 12 NWLR (PT. 1739) 391 @443, paras. A*, the Court of Appeal held that:
- "Pleadings without evidence goes to no issue."
- 5.9. Assuming without conceding that the plaintiff has attempted to increase the rent from N2.5 million to N3.5 million, we submit that such purported unilateral increase of rent is ineffective. *In Udlh v. Izedonmwem (1990) 2 NWLR (Pt. 132) 357 @ 365, Paras: E-F*, the Court of Appeal had held that



"Being a contractual agreement, a landlord's unilateral decision to increase the amount of rent payable under Tenancy agreement will be ineffective unless there is an agreement to that effect between the landlord and the tenant."

5.10. In this instant case, there was never an agreement that the yearly rent for the premises is/was N3.5 million. And the Plaintiff has failed to prove same. There is no way the Plaintiff will succeed on this!!! The effect is that the Plaintiff's relief B which seeks for mesne profit of N292,000.00 on the purported rental value of N3.5 million must failed, just as Plaintiff's relief A.

5.11. It is important to reiterate the fact that the Defendant had vehemently denied payment of N3.5 million as rent. Rather, the Defendant position is that the rent is N2.5 million and this is consistent with exhibits D1 and D2 tendered by the Defendant. This piece of evidence was never challenged by the Plaintiff.

5.12. Secondly, the Plaintiff has asserted that the rent of the Defendant expired on 31st day of March, 2022. See paragraph 3 of the Plaintiff's claim. However, under cross examination, the Plaintiff's witness-PW1 gave evidence confirming that the Defendant has paid for 2022-2023 rent and that the Defendant is not owing rent in 2022. The question was put to the PW1 as follows:

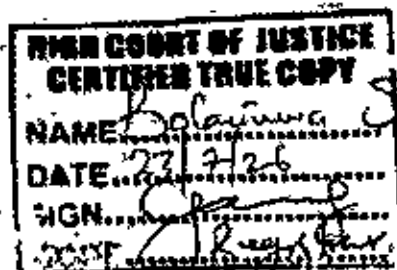
Question: Are you aware that the Defendant has paid 2022-2023 rent?

Answer: I am aware that the Defendant has paid for 2022-2023 rent.

Question: The Defendant is not owing rent for 2022?

Answer: Yes, the Defendant is not owing in 2022

5.13. Now, the question that begs for answer is that if the Defendant has paid for 2022-2023 rent, then on what basis is the Plaintiff instituting this action? This because, the Plaintiff's exhibit P1 (quit notice) clearly stated that the rent expired in 2022. The Plaintiff has admitted that the Defendant is not owing rent for 2022. The law is that facts admitted require no further proof.



5.14. Again, the Plaintiff in relief claimed for mense profit from 1st day of September, 2022. We submit that there is no any evidence in support of the claim. As a matter of fact, the Plaintiff in paragraph 3 alleged that the rent expired on the 31/3/2022. All these averments have not been proved.

5.15. From the above, it is very clear that the Plaintiff's oral evidence led at the trial is grossly at variance with the Plaintiff's reliefs and pleaded facts. The legal effect and implication is that the evidence of the Plaintiff is inadmissible and goes to no issue, and this Court is urged to so hold. In the Supreme Court case of *Abubakar v. I.N.E.C.* (2020) 12 NWLR (Pt. 1737) 37 at 73, paras. 35, the Apex Court held that:

"Oral evidence must be consistent with the pleadings, whether it is the statement of claim or the statement of defence or the witness statement on oath. This is because the case of the parties is erected by the pleadings and parties do not have the freedom to move out of the pleadings in search of a better case. Evidence which is at variance with the pleadings will go to no issue."

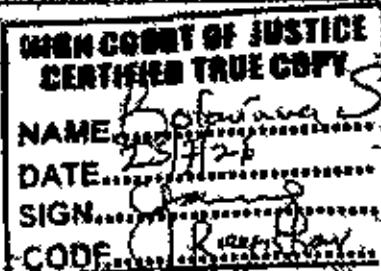
5.16. In the case of *NZELU V NZELU* (1997) 3 NWLR (PT.4494) 472 at 487-488, paras. H-A, the Court of Appeal had this to say on evidence which is variance with pleadings, to wit:

"It is settled law that where evidence led is at variance or conflicts with pleadings, or where evidence of a fact is not pleaded, such evidence is inadmissible. In the instant case, the respondent had claimed for the maintenance of each child of the marriage the sum of N400.00 per month, but in her evidence she claimed for N2,000.00 per month for each child"

5.17. The Court of Appeal in the above case, i.e., *NZELU V NZELU*, supra, at 487, paras: C-E, summed up the principle of law as follows:

"As I did say above, the parties are bound by their pleadings. No party, therefore, would be allowed to set up one case in or by his pleadings and, at the trial turn tail, somersault and set up another case. What am I trying to say? It is this."

"Any evidence which runs counter to or is at variance with the facts as pleaded ought not to be received in evidence as evidence. No of course, it is the duty of counsel to object to inadmissible evidence and the duty of the trial court to refuse to admit inadmissible evidence. But"



If such inadmissible evidence for any reason, either because it was not objected to or due to an oversight or otherwise be received and recorded, then it is the duty of the trial court when it comes to the judgment stage to treat the inadmissible evidence as if it had never been admitted. The decided cases both of the Supreme Court, the appeal court and the voices of infallibility, and the Court of Appeal on the point abound. They are apt and notorious. It is embarrassing cataloguing them. But if any needs must be mentioned, then, National Investment and Properties Ltd. v. Thompson Organisation Ltd. (1969) NMLR 99 (104), Idahosa v. Oronsaye (1959) 7 FSC 166; (1959) SCNI/R 407 are some."

5.18. Consequently, reliefs A and B must fail because there is no any evidence to sustain them. The law is he who asserts must prove. See HILLARY FARMS LTD V M/V "MAHTRA" (2007)14 NWLR(Pt1054)210.

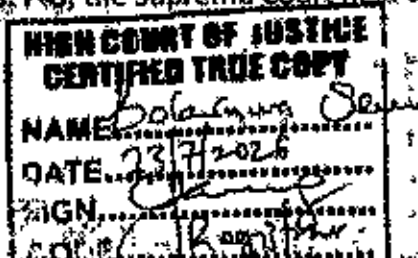
5.19. On the other hand, the Defendant had led evidence through DW1 to show that the rental value of the yearly tenancy is N2,500,000. This can be seen in exhibits D1. The Defendant has also led evidence to show that it has duly paid for 2022-2023 rent is evidenced in exhibit D2. Thus, the Defendant has successfully defended its case with concrete evidence, and we urge Your Worship to so hold and dismiss the Plaintiff's case.

5.20. On Plaintiff's exhibit P1 (Quit notice), PW1 admitted that exhibit P1 is a public document. PW1 admitted that P1 is not the original copy and there is no certification on it. The law is that a public document which is not the original must be certified before such can be admitted and acted on it. In the case of Achior v. Adejoh (2010) 6 NWLR (Pt. 1191) 537 at 550, paras.15, the Court of Appeal held that:

By virtue of the combined reading of the provisions of section 97(1)(e) and (2)(1) of the Evidence Act, secondary evidence of public document can only be admitted in evidence if they are certified true copies and none other, a photocopy is not therefore admissible as secondary evidence of a public document.

5.21. Furthermore, exhibit P1 is signed by any known person. The implication is that this court is deprived of jurisdiction to entertain the claim of the Plaintiff because, exhibit P1 is so fundamental to court assuming jurisdiction. In the case of Onward Ent. Ltd. v. Olam Intl Ltd, (2025) 14 NWLR (Pt. 2006) 505 at 523, paras. F-G, the Supreme Court held that:

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When the signatory of a court process cannot be identified, the document is considered fundamentally defective. In such cases, procedural rules cannot rectify the deficiency as they cannot override substantive legal requirements. Strict compliance with the mandated signing protocols for a court process is essential to confer jurisdiction upon the court and to maintain the integrity of the court process.

5.22. Thus, exhibit P1 being defective, it is herein submitted that the Plaintiff cannot put something on nothing and expect it to stand. See *Atribank (Nig.) Ltd. Plc v C.B.N (2025)13 NWLR (Pt2002)255 (SC)*.

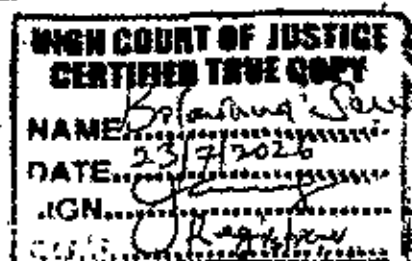
5.23. The law is that it is not always the case that where a document is tendered in evidence in court without objection that is unassailable and the court must rely on it. It must have probative value and satisfied the provision of the law for it to be so accepted and relied upon. See *Suleiman v Kanam Trad. Council (2024)10 NWLR (PT1947)533*.

5.24. Finally, we submit that the Plaintiff's relief seeking the award for legal fee (Attorney's fee) in the sum of N1 million cannot be granted in light of the settled position of the law. This is because the law is long settled that such award is in the realm of special damages and that the cost of litigation is not a loss arising from the breach of contract. In *U.B.A. PLC V. VERTEX AGRO LTD (2020)17 NWLR (Pt.1754)467@481, paras; 12 and 13*, the Court of Appeal held that:

"Damages cannot be awarded for costs incurred in an action to seek remedy for the loss suffered by a party to a contract as a result of the breach of the contract by the other party to the contract. The cost of litigation is not a loss arising from the breach of the banker-customer contract. An award of Attorney's fee as special damages for breach of contract runs contrary to the legally recognized principle for the award of damages for breach of contract. In this case, the trial court erred when it awarded N1million as cost of the respondent's attorney's fee for prosecuting this suit as special damages to the respondent for the breach banker-customer contract."

5.25. We submit that even from exhibit P2 which is the purported receipt of the legal fees, the amount contained therein is N500,000 and not N1 million naira. So, there's no way the court can grant that relief and we urge your Worship to so hold.

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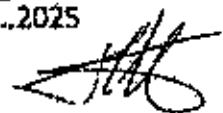
5.26. CONCLUSION:

5.27. We submit with humility that the Plaintiff has failed woefully to adduced credible and cogent evidence to prove his case and cannot be entitled to the reliefs sought. Thus, we respectfully urge this Honourable Court to dismiss the claims of the Plaintiff with a cost of N1 million naira.

May it please Your Worship

DATED THIS 4th DAY OF December 2025




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