

**IN THE SMALL CLAIMS COURT OF RIVERS STATE OF NIGERIA
IN THE PORT HARCOURT MAGISTERIAL DISTRICT
HOLDEN AT PORT HARCOURT**

CLAIM NO: PMC/SCC/313/2024

BETWEEN

MR. SAMUEL ONYEKACHI UGO

CLAIMANT

AND

LEADWAY PENSURE PFA LIMITED

DEFENDANT

Parties- Claimant is present

Appearances- A. Enyindah with P.G. Isikima appears for the Claimant.

JUDGEMENT

The Claimant took out a Summons on the 18/11/2024 seeking for the total sum of N3,480,908.29 (Three Million, Four Hundred & Eighty thousand, Nine Hundred & Eight Naira, Twenty-Nine Kobo), being the money standing to the credit of Claimants, part of which are from the savings of Late Mrs. Glory Nne Ugo which is held by the Defendant.

Pursuant to the proof of service filed the 25/11/2024, Defendant's counsel Chime S. Chime entered a plea of not liable on the 11/12/2024 and hearing commenced immediately. The Claimant called in one witness, tendered five exhibits and closed their case on the 23/01/2025. The Claimant filed its final written address on 27/02/2025 and raised one issue for determination. The defense commenced their defense on the 27/01/2025, calling in one witness and closed their case on the 19/02/2025. On their part, the defense filed her final written address on the 21/02/2025.

RULING

The Court shall pause here to deal with the notice of Preliminary Objection filed by the Defendant.

The Defendant/Applicant filed a notice of preliminary objection on the 12/12/2024 praying for the following:

1. An order dismissing or striking out this suit for want of jurisdiction;
2. Any other order or orders as the Honourable Court may deem fit to make in the circumstances in the interest of justice, equity and fairness.

The Defendant/Applicant set out two grounds upon which the application was brought. The application is supported by an affidavit of 5 paragraphs deposed to by one Amaka Uzor the Litigation secretary of the Applicant's Counsel. They filed a written address, raised one issue

for determination and argued that the instant suit is labour-related and thus only the National Industrial Court is imbued with jurisdiction.

In response, the Claimant/Respondent filed a written address on the 23/01/2025 and raised one issue for determination. In their argument, they submitted that the National Industrial Court's jurisdiction arises when the dispute is connected to the Claimant's employment or service as an employee. It does not apply to insurance companies which enter into a separate personal contract with workers, notwithstanding that the insured may use his/her salary to service the savings scheme.

The grouse of this objection as can be gleaned from the notice filed by the Defendant/Applicant is that the National Industrial Court and not this Court, has jurisdiction to entertain this suit.

Jurisdiction is the bedrock upon which an action rests for its determination... It is akin to the blood in the vein of a living being; if it dries up it signifies the end of its existence. It cannot be overlooked or waived.

The Supreme Court *Per Habeeb Adewale Olumuyiwa Abiru JSC* in 2025 in **ENERGY COMMISSION OF NIGERIA V PSC IND. LTD. & 2 ORS [2025] 2 NWLR PART 1975 @ 67** rightly held that, '*only matters of substantive justice can be raised anytime and which if resolved against a party, render the entire proceedings a nullity...Substantive justice is donated by the enabling statute or the Constitution and thus, cannot be waived.*'

Where a Court is drained of the jurisdiction to entertain a matter, the proceedings flowing from it, no matter the quantum of diligence, dexterity, artistry, sophistry, transparency and objectivity injected into it, will be marooned in the intractable web of nullity, see **ELUGBE V. OMOKHAFFE (2004) 18 NWLR (PT. 905) 319; LOKPOBIRI V. OGOLA (2016) 3 NWLR (PT. 1499) 328.**

Since the provision of the *grund norm* is the cynosure of this knotty limb, it is germane to mine it out whence it is domiciled in Section 254C (1) (k) of the Constitution of the Federal Republic of Nigeria, 1999. *ipsissima verba: Notwithstanding the provisions of sections 251, 257, 272 and anything contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the National Industrial Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters-*

- (a) *relating to or connected with any labour, employment, trade unions, industrial relations and matters arising from workplace, the conditions of service, including health, safety, welfare of labour, employee, worker and matters incidental thereto or connected therewith;*
- (b) ...
- (c) ...
- (d) ...

(e) ...

(f) ...

(g) ...

(h) ...

(i) ...

(j) ...

(k) *relating to or connected with disputes arising from payment or nonpayment of salaries, wages, pensions, gratuities, allowances, benefits and any other entitlement of any employee, worker, political or public office holder, judicial officer or any civil or public servant in any part of the Federation and matters incidental thereto;*

This jurisdiction covers industrial, employment, trade, labour relations and matters related thereto including matters connected with international best practices and /or interpretation of international labour standards. Under section 254 C (1), the National Industrial Court has jurisdiction to the exclusion of all other courts in civil matters and cases connected with or arising from Factories Act, Cap FI, L.FN, 2004, Trade Dispute Act, Cap. T8, L.FN, 2004, Trade Unions Act, Cap. T14, LFN, 2004, Labour Act, Cap. L1, LFN, 2004, Employees Compensation Act, Cap E7A, LFN, 2004, Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, Cap. T23, LFN, 2004, Sexual Harassment at Workplace, disputes over the interpretation and application of the provisions of Chapter IV of the Constitution of the Federal Republic of Nigeria, 1999 as it relates to any employment, labour, industrial relations, trade unions, employer's associations.

In the exercise of its interpretation jurisdiction, Courts are enjoined to construe a document in its ordinary and grammatical meaning without any colouration- **DALEK NIG LTD V OMPADEC [2007] 7 NWLR (PT 1033) 402 AT 441.**

In construing a document, the Court is enjoined by law to apply the literal rule as a canon of interpretation, *id est*, in order to accord the words deployed therein their ordinary grammatical meaning without any embellishments, see **UBN V. OZIGI (1994) 3 NWLR (PT. 333) 385, UBN LTD. V. SAX (NIG.) LTD. (1994) 8 NWLR (PT. 361) 150; ENILOLOBO V. N.P.D.C. LTD. (2019) 18 NWLR (PT. 1703) 168.** This Court will thus pay due obeisance to these legal commandments, on canons of interpretation of a document, in order not to hurt the law

Per Abubakar Sadiq Umar, JSC states thus: *'A Court of law cannot add to or subtract from the provisions of a statute... the statute is the master and all that a Court of law can do is to interpret the provisions of a statute to obtain or achieve the clear intentions of the lawmaker'* - **SCC NIGERIA LIMITED & ANOR V DAVID GEORGE & ANOR (2024-07) Legalpedia 05590 (SC)**

On the shoulders of this Court is placed the herculean duty of deciding whether the instant suit is one within the exclusive enclave of the National Industrial Court.

In the instant case, the contention of the Claimant is that the Defendant owes him some money from the retirement savings plan maintained by his late mother with the Defendant. The late mother Mrs. Glory Nne Ugo operated that savings account with deductions from her salary as a teacher at Police Secondary school.

Can that relationship be that of employer/employee or is it labour-related? The answer is glaring even to the blind and it is in the negative. The relationship between the Late Mrs. Glory Nne Ugo and Defendant is purely contractual. She is not in the employment of the Defendant but a customer. That PENCOR regulates the operations of the Defendant/Applicant does not in itself change the status of parties to employer-employee. By no stretch of legal imagination can a retirement savings plan metamorphous into labour relations.

The provisions of the Constitution is crystal on jurisdiction of the National Industrial Court. The words used in statutes and legal instruments are to be construed literally that is, by giving the words their ordinary grammatical meaning. See the case of **GLOBAL EXCELLENCE COMM. LTD V DONALD DUKE (2007) 16 NWLR (PT. 1059) 22**

The Court shall also call in to aid, the maxim, *expressio unius personae vel re est exclusio alterius* and this simply means the express mention of one thing is the exclusion of others- See the case of **EHUWA V O.S.I.E.C & 3 ORS (2006) 18 NWLR (PT. 1012) 544 at 568 – 569**. The Constitution in Section 254 C has listed certain matters, thus, what is not contained therein is impliedly omitted.

It follows therefore that this Court cannot read into the Constitution what the Constitution did not provide for.

Suffice it to say therefore, that this Court and not the National Industrial Court is imbued with the requisite jurisdictional powers to adjudicate over the subject matter, and I so hold. The objection being a misconception, mis-interpretation and mis-construction of the law, is dismissed with no order as to cost.

CLAIMANT'S CASE

The Claimant who is suing in his capacity as the administrator of the estate of Late Mrs. Glory Nne Ugo, testified that: His mother worked at the Police Secondary school; From her salary she maintained a retirement savings plan in 2007 till October 02nd 2021 when she died; a specific amount was deducted from her account monthly from 2007- October 2021; Two years after Late Mrs. Glory Nne Ugo passed on, Claimant and his dad approached Defendant demanding for the money; the Defendant gave them a list of requirements including copies of her employment letter, birth certificate, pay slip, hers and Claimant's passport, and letters of administration; they were given a form from Court and they took it to Defendant; Defendant disclosed the monetary balance standing to the credit of Late Mrs. Glory Nne Ugo which as at November 2023 was N2, 980,908; After documentation, Defendant refused to pay; initially, Defendants gave them three months to return, it elapsed, and they gave another

three months which elapsed in July 2023; Claimant caused his lawyer to write to the Defendant but they also refused to pay; the Claimants consulted and paid their lawyer to handle this matter; the Defendant should also pay them the accrued interest.

In their final written address, Claimant contends that: the Court should examine to the fullest, the contents of documents before it; that the instant case borders on breach of personal retirement savings plan contract and not employment as argued by the defense; that failure to reply to the letter sent by Claimant to Defendant on 16/07/2024, being a business letter, amounts to admission of liability by the Defendant; that the Defendant did not contradict the fact that all the documents required from the Claimant was provided/submitted.

THE DEFENSE

Abara Aniefe George the Customer Service Representative testified as the sole witness for the Defense. It is his testimony that; When complaints are lodged at their Port Harcourt office, National Pensions Commission (PENCOM) does its independent investigation and verification; PENCOM deals with the head office which in turn communicates to the Port Harcourt office; from the first documents Claimant submitted, they had processed the first documentation, as he met the requirements as at then; the process takes time as it must come from Pensions; the Claimant's application was lodged in February 2024; the Claimant could not meet up with providing the documents required for submission to PENCOM for reconciliation and approval, and he was asked to go; the Claimant ran to this Court and not the National Industrial Court, for relief.

In their final written address, the Defense raised one issue for determination. The central theme of their argument is that this Court lacks jurisdiction as the subject matter of this suit by virtue of Section 254 of the Constitution of the Federal Republic of Nigeria, 1999 is within the exclusive preserve of the National Industrial Court.

EVALUATION OF EVIDENCE/DECISION

Parties have each raised one issue for determination before this Court. The Court is empowered to reframe issues raised by parties. The Supreme Court held that *a Court of law is permitted to formulate issues different from those formulated by the parties, as long as it covers the issues at stake between the parties... It is done to narrow down the issue or issues in controversy, also to make the issues precise, clear and in some cases, to avoid proliferation- Per Chidiebere Nwaoma in MR ALLEN EGBE V AYODEJI ODU SC/47/2015.*

The issue formulated by this Court is thus, *whether the Claimant is entitled to judgement.*

The Claimant is asserting entitlement to the reliefs before the Court and the burden lies on him to so prove.

The case of the Claimant is that he is an administrator of the estate of his mother late Mrs. Glory Nne Ugo who maintained a retirement savings plan with the Defendant, prior to her death in 2021. The Claimant is one of the beneficiaries named in the scheme by his late mother.

As at when the late mother died, the contribution she made to Defendant from her salary account had reached N2,980,908. 29. The Claimant made demands of the payment from the Defendant who asked that certain documents be made available and Claimant provided but Defendant is yet to pay.

This Court is a specialized Court with clearly delineated powers and jurisdiction. In resolving the lone issue for determination, recourse shall be had to statutory and judicial authorities. The **Rivers State Small Claims Practice Direction 2024 in Article 2** provides thus: An action may be commenced in the Small Claims Court where:

- a) The Defendant or any one of the Defendant resides or carries on business in Rivers State at the time of commencing the action;
- b) The cause of action arose wholly or partly in Rivers State;
- c) The claim is for a simple liquidated money demand and/or related matters in a sum not exceeding N5,000,000 (five million naira), including cost;
- d) The Claimant must have served on the Defendant a letter of demand as in Form RSSC1.

As has been led in evidence, the Defendant resides in Rivers State, particularly at No 6 Igbodo street, Old GRA Port Harcourt. The cause of action also arose wholly in Rivers State. A demand letter as in Form RSSC1 was also served on the Defendant. This leaves us with the requirement that the claim should be for a liquidated money demand and/or related matter.

Article 18 of the Practice Direction, *op.cit* defines liquidated money demand to mean, 'a debt or other specific sum of money usually due and payable and its amount must be already ascertained or capable of being ascertained as a mere matter of arithmetic without any further investigation.'

In **INNOSON NIG. LTD (2018) 2 NWLR (PT. 1601) 1**, the Court defined debt as "an obligation to pay a sum of money or other consideration arising from a transaction, whether such obligation is present or future, absolute or contingent, or whether such obligation is owed jointly or severally."

Is the Defendant in possession of the savings of late Mrs. Glory Nne Ugo? Is the Defendant under obligation to pay the sum of money to the named beneficiaries? Is the sum due and payable? Is the amount standing to the credit of Late Mrs. Glory Nne Ugo ascertained or capable of being ascertained? These questions to the mind of the Court are all answered in the affirmative. Exhibits C2 and C3 show that there is a relationship between the Defendant and Claimant's late mother. Parties are *ad idem* on the fact that the late mother of the Claimant maintained a retirement savings plan with the Defendant and the Claimant and his younger brother are the named beneficiaries. Parties also agree that the Claimant has made a demand for payment but the Defendant is still holding unto the money. These facts need no further proof.

Claimant contends that in 2023 he and his father approached the Defendant demanding for the money and Defendant gave them a list of what is required before payment can be made which

includes, copies of Claimant's mother's employment letter, birth certificate, pay slip, Claimant and his mother's passport photographs, letters of administration and Claimant provided all the requirements. In their defense, Defendant is saying that they informed the Claimant of the document holding their payment but Claimant has not provided them? The Claimant listed the document asked of him. The Defendant carefully refused to place before this Court what further document it needed and demanded. Furthermore, the Claimant led in evidence that the time given to him to return for payment by Defendant elapsed in July 2023. A cursory look at exhibit C4a-b clearly shows that the Claimant wrote to Defendant demanding for settlement of the liquidated sum. The Defendant did not dispute receipt as their endorsement is clearly written on its face, neither did they lead any evidence of their reply to that letter.

Failure to respond may be interpreted as an admission of liability in certain cases, leading to legal complications. The court of appeal in the case of **GWANI VS. EBULE [(1990) 5 NWLR (PT. 149) 201]** held succinctly as follows:

"Silence in circumstances in which a reply is obviously expected raises an irrebuttable presumption of admission by conduct or representation. In the instant case, failure of the defendant to reply to letters written by the claimant both personally and through their solicitors demanding payment for the labor he supplied from the defendant constituted an admission of liability by the defendant and lent credence to the claimant's side of the case."

The applicable principle of law to a demand letter is that it be construed as an admission by conduct or representation. The inference the Court can draw from the loud silence of the Defendant is that, they are not disputing the contents of exhibit C4a-b which is the letter of demand. At best what the defense did was that on the 27/11/2024 while the matter was in Court, according to the Claimant, they asked Claimants to submit documents which he had previously submitted, for verification and processing. That is an after-thought and a failed attempt at mitigating the situation and doing damage control.

I find from the foregoing that the Claimant has discharged the burden placed on him with respect to this relief and I so hold.

The Claimant is laying claim to cost and in proof, tendered and the Court admitted exhibit C5. In consideration of the entire case before me, Order 15 rule 3 and Order 16 rule 1 all of the Magistrate Court (civil procedure) rule 2007, and the pronouncement in **SEABY V. OLAOGUN (1999) 10-12 SC 45 at 59** and **ERO V TINUBU (2012) 8 NWLR (PT. 1301) 104** where the Court held that costs follows event and a successful party should not be deprived of his costs unless for good reasons, I find that the Claimant is entitled to cost and I so hold.

The Court finds that the Claimant has discharged the burden placed on him with respect to the award of cost and I so hold.

Let me pause here to take a look at the contention of the Defendant in their final written address. Worthy of mention is the fact that the argument in the final written address of the defense is on all fours with that contained in their notice of preliminary objection. In resolving

that issue as raised by the defense, for the purpose of clarity and emphasis, this Court shall reiterate that this Court and not the National Industrial Court has jurisdiction to adjudicate on the subject matter before this Court, and I so hold.

From the foregoing therefore, I find that the Claimant has by credible, cogent, verifiable and compelling evidence, discharged the burden placed on him. Judgement is accordingly entered for the Claimant. It is thus adjudged that:

1. The Defendant pay to the Claimant being the administrator of the estate of Late Mrs. Glory Nne Ugo, the sum of N3,480,908.29 as savings due her from her retirement savings plan, including cost;
2. The Defendant pay to the Claimant being the administrator of the estate of Late Mrs. Glory Nne Ugo, the accrued interest on her retirement savings from November 2023 until final liquidation.

These orders are to be complied with not later than 21 days from the date of this judgement.

SIGNED

ANUGBUM, OBIARERI N.,
SMALL CLAIMS COURT III

17/03/2025

