

IN THE MAGISTRATES' COURT OF RIVERS STATE
IN THE PORTHARCOURT MAGISTERIAL DISTRICT
HOLDEN AT SMALL CLAIMS COURT BEFORE HIS WORSHIP. G.C. AMADI ESQ.
SITTING AT CHIEF MAGISTRATE COURT, 8, PORT HARCOURT ON THURSDAY, THE 29th
MAY, 2024.

SUIT NO. PMC/SCC/85/2024

MR. ALAMINA WALTON SELEMA

}

CLAIMANT

AND

SOTONYE SABASTIAN OWUBOKIRI

}

DEFENDANT

JUDGMENT

This is the final judgment in this suit wherein the Small claim before the court, dated and filed on the 28th March, 2024 is for:

- A. An order directing the defendant to refund the Claimant, the sum of N1,356,800 which is 45% of N4,200,000 as professional fees
- B. N2,000,000 for fees
- C. N1,643,200.00 as cost

In proof of their case, the Claimant called two witnesses and the defendant also called two witnesses and a total of Twenty Eight (28) exhibits were tendered in evidence.

On the 29th day of April, 2024, the defendant counsel applies for plea of not liable to be entered on behalf of the defendant and the matter was set down for hearing.

On the 12th April, 2024, the CW1, the Claimant on record commenced his evidence in Chief and stated that he adopts his written statement on oath dated 13th May, 2024 wherein he stated that he knows the Defendant as his Client since 2009 till date with respect to his property situate and lying at 53 Nwachukwu Street, Mile 2 Diobu, Port Harcourt. That sometime in 2009, the defendant approached him through one of his family relations, Chief T.K Tobin to render legal services to him with respect to his property situate at 53 Nwachukwu Street, Mile Two, Diobu, Port Harcourt as he was unable to take possession of the said property from some tenants and intruders (Chf. Emmanuel Odungweru).

Testifying further, the CW1 stated that he went into an oral agreement in June, 2009 that (a)h will be entitled to be paid his legal fees of 60% rent on each individual tenant of the 25 rooms in the said property for 4 tenancy years period immediately after taking possession same. (b) he shall be paid #20,000 to write the immediate legal papers (c) All other expenses ,he shall incur in the process shall be refunded back to him after taking possession of the property which he never refunded till today. That he went into action in compliance with the said agreement even though the said amount of #20,000 has not been paid and immediately wrote petition to the

Commissioner of Police for the arrest of some of the tenants and the intruder, Chf. Emmanuel Odungweru who were at a time threatening the defendant's life. He also filed a defense on his behalf at the Federal High Court, Port Harcourt in 2009 to challenge a fundamental Human Rights action that was filed against him by the said Chf. Emmanuel Odungweru and the tenants with respect to his property known as 53Nwachuku Street, Mile 2 Diobu, Port Harcourt which was eventually dismissed in favor of the defendant.

That thereafter he filed an ordinary summons against seven of the tenants for possession in the magistrate court where judgment was entered in favor of the defendant. That in all the above mentioned agreements, the defendant never at any time kept to the said agreement as he never brought out money to me to file any of the legal papers save the person alone despite the bill of quantity given to him. He never refunded his one Million Naira he spent in pursuit of his property, the subject matter of the agreement by filing processes, Transportation, letter writings etc. That the defendant's failure to abide by the said agreement got him vexed not to continue with the defendant and his matters but for the intervention of his sister, Dame Mina Benebo, who pleaded with him to continue and to have pity on him as no lawyer was ready to do matter for him because of attitude.

That because of his failure to abide with the oral agreement and the intervention of his sister who brokered peace, he requested that all subsequent agreements be reduced into writing which he wrote personally. That the defendant finally took possession of the property in 2019 courtesy through his efforts and reneged to abide by the agreement he personally wrote. That he puts in and collects rent from tenants without reference to him. When confronted, defendant told him that the property belongs to him and shall do whatever he likes with it. The tenancy agreements he was to write for fees for potential tenants were hoarded from him. That this unhealthy development continued until early 2024 when he got information that the said property was about to be sold by the defendant. That he immediately called the defendant to know the truth of same but he denied having knowledge of same. That the defendant finally sold the property after denying knowledge of its sale and on investigation, it was revealed that he sold the property for #35,000,000.00 (Thirty five Million) Naira but refused to pay me for my complete legal fees for legal services rendered since 2009 till date.

That on hearing of the sale of the property, he approached the defendant for his legal fees wherein he requested of my account details which was in fact forwarded to him with the amount due me. That he was surprised when he saw an amount of #533,200 only as money transferred to me as my legal fees. When asked, the defendant said it is his right to give to me any amount of his choice and nobody has the right to query him on that.

That this again infuriated him and made him to demand for the balance in a letter dated 28th February, 2024. The defendant also on receipt of his letter replied to the said letter dated 29th Feb, 2024. 15. With the payment of the sum of #533,200, he is entitled to the balance #1,357,800 only including #1,000,000 used in defence and pursuit of his property situate at 53, Nwachukwu Street, Mile 2, Diobu, Port Harcourt.

That tenancy within the Mile 2, Diobu, Port Harcourt where the defendant's property is situate goes for #8,000.00 and above per room and per month but he decided to come down to #7,000 per room and month as a discount. A friend of mine who is a tenant that lives at the Mile 2, Diobu axis where the defendant's property is situate pays #8,000 per room and per month which receipt he gave to me. That prior to the said agreement, the defendant and himself went and inspected the property as to know the number of rooms and confirmed 25 rooms in same.

The CW1 identifies the judgment order, the notice of demand of payment of legal fees, the rent receipt, notice of payment of legal fees and a sketch labelled 53 Nwachukwu Street, Mile 2,

Diobu, Port Harcourt and same were all tendered in evidence and is marked as Exhibits A,B,C,D,&E respectively.

During the cross-examination of the CW1 on the 14th May, 2024, he stated that he does not have a power of attorney for the property because he was not managing the property, that he only did legal jobs for the Claimant.

That the agreement was made orally and that he afterwards directed the defendant to reduce it to writing. That the meeting was held in 2009. That they agreed that 60% legal fees accruing from each tenant of the property and 20, 000 Naira for writing papers. That the legal fees cover the entire thing until the defendant gets possession. Apart from N20,000 for legal papers and that the defendant never paid and did not even refund his logistics expenses. That the defendant got possession of the property through him and there are 25 rooms in the property. That in the course of the proceedings at the Court, he discovered that that the tenants pay N5,000 as rent. That he does not have the judgment proceedings, That he has one agreement after the defendant reneged on all the previous agreements. That he affirms paragraph 6 of his evidence. That it is not true that the defendant is owing him N38,080 because the defendant is oweinh him over One (1) Million Naira.

That he cannot remember if N50,000 was awarded as cost when the matter went on appeal at the High Court and that he cannot remember if he struggled with the defendant whether the cost money belonged to him or the defendant. That the defendant did not remit N50,000 to him and never issued a cheque to that sum. That the receipt he tendered is on respect to the property at Mile 2, Diobu, Port Harcourt and not in respect to 53 Nwachukwu Street. The amount he arrived at is calculated at 8,000 Naira per room which is N70,000 per tenant times N25,000. That as at 2021, per room is N8,000 per room, That there is no agreement with the defendant that spreads up to 2021. That he has complained to T.K Tobin and others before coming to court

After the evidence of CW1, The Claimant closed her case and the matter was adjourned for defence.

On the 20th day of May, 2024, the DW1, who is also the defendant on record commenced his evidence and stated that he is adopting his written statement on oath as his evidence before the Court wherein he adopts his evidence and states that he is the defendant on record in this instant case by virtue of which I am conversant with the facts of this case. That he had some legal battles over his property at No. 53 Nwachukwu (Omuma) Street, Mile 2 Diobu, Port Harcourt from 1990 till 2004 wherein judgment was finally delivered in his favour. Unfortunately after the execution of the Court order by a court Bailiff, another person, one Chief Emmanuel Odungweru surfaced falsely to claim ownership of the property but also failed.

That he also knows the claimant in this matter whom his uncle, Chief T. K. Tobin brought and introduced to him to handle his property at No. 53 Nwachukwu Street, Mile 2 Diobu, Port Harcourt, sometime on the 19th June, 2009.

That he bought a property from the Rivers State Abandoned Property Development Committee known and called No. 53 Nwachukwu Street in a dilapidated form hoping to commence major renovation before the legal battle in respect of the ownership started wherein the property was so devastated arising from lack of maintenance as a result of years of legal battle. That some of these legal battles include: The Magistrate Court cases in Suit No. PMC/343/347-348/2011 and PMC/341-350/2011, High Court matter in Suit No. PHC/815/2016 respectively.

That on the first day when the claimant was introduced to him by Chief T.K. Tobin to handle his property, legally and otherwise, the claimant informed him in the presence of Chief T. K. Tobin that he will accept to take up the matter on the condition that his professional fee will be thirty

percent (30%) of the rent payable by each tenant in the property and another twenty Thousand Naira (N20,000.00) as filing fee.

That at the end of the meeting/discussion, the claimant directed him to put the resolution into a written document and bring to him for vetting before signing. Which I obliged him and wrote the agreement, unfortunately when he presented it to the claimant and after vetting it, he said I should sign. Accordingly I signed the Agreement dated the 19/06/2009

That at 2009 when the claimant came into the property, the rent was N2,000.00 per month which amounted to Twenty-Four Thousand Naira (N24,000.00) only per year. And from 2014 to 2017 he increased the rent from N24,000.00 to N36,000.00. During the pendency of the matter, only three (3) out of the 16 tenants accepted to be paying their rent to me while all other tenants refused to pay contending that apart from the dilapidated condition of the property, the property is under dispute and same is on-going in Court.

That the condition of the property was so bad to the extent that it has no place of convenience as tenants had containers for themselves in their respective rooms and their families which they used in the night and arranged with other neighbors during the day period and public places. It is therefore very difficult to increase rent in such a property apart from having serious contenders.

That barely a year after, the matter in Court commenced as stated above, and in 2010 the claimant opted for fresh agreement between him and defendant wherein he demanded for 60% to 40% sharing formula from the tenancy rent accruable for a period of two (2) years for the second time. That again, to show my sincerity, he also reduced the second time/condition of agreement into writing dated the 20th day of December, 2010 signed and delivered to the claimant as he opted not to counter signed same with me.

That in one of my meeting/discussion with the claimant, he advised the Claimant to visit the property as to ascertain the level of devastation and general condition of the property, but the claimant refused to go. The property contained only 16 rooms and 2 small apartments used as kitchen. The Defendant will at the trial urge the court to visit the property and ascertain the verity of the parties' claim.

That for the third time, the claimant decided to make a u-turn from the second agreement to demand for two (2) rooms to be given to him out of the property permanently for him to be putting his own tenants and collecting rent as part of his legal fee. And on this third condition I refused to accept wherein the claimant threaten to take legal action against me.

That it was at this stage of the Claimant's threat that the former Permanent Secretary, Rivers State Ministry of Justice, Dame (Mrs.) Mina Benebo heard of it and decided to intervene to bring some level of sanity and understanding between us which brought about the execution of the third Agreement dated 22nd day of February, 2016. That as usual, he wrote this third Agreement dated 22nd February, 2024 and took it to him which the defendant signed, because he had earlier informed Dame (Mrs.) Mina Benibo that the Claimant had refused to counter-sign all other Agreements earlier presented for him to sign.

That arising from the temporary peaceful resolution of the matter before the former Permanent Secretary, the following resolution seem to be amicably reached to wit:

a. That the defendant should pay the sum of Twenty Thousand Naira (N20,000.0) only to the claimant for the filing fee in court for the striking out of the matter in court as afore stated.

b. The sum of Five Hundred Thousand Naira (N500,000.00) only or in the alternative 45% of rent accruable from the proceed of the tenancy rent for the first two (2) years of rent from the property whichever one that is acceptable by the claimant, shall be paid to him by the defendant based on Thirty-Six Thousand Naira (N36,000.00) only per annum for 18 rooms for his professional fee.

c. The Claimant is to handle the drafting of all the tenancy agreement for the new and incoming tenants into the property having completely and successfully won the legal battle.

That the Claimant opted for the 45% of rent option accruable from the proceed of the tenancy rent for two (2) years at the rate of N36,000.00 per year from 18 rooms. And barely three (3) months thereafter, the claimant demanded for N250, 000.00 as part of his anticipated accruable legal fee to enable him commence the handling of some cases early, even when he was aware that the property was not bringing forth any revenue because of the activities of the hoodlums and bad boys stationed in and around the property and its vicinity.

That based on the assumed peaceful settlement arising from the execution of the third Agreement of 22nd February 2016, he decided to carry out major renovation project on the property to the knowledge of the claimant. Unfortunately some person are bent to continue to frustrate my peaceful enjoyment, and thereafter arranged and paid money to some "bad boys" to be stationed in and around the property to ensure that no work is carried out on the property to the knowledge of the claimant.

That the Claimant further demanded for another Fifty Thousand Naira (N50,000.00) as apart payment before he can take any action in any matter whatsoever. In fact it was the Permanent Secretary, Ministry of Justice, Dame (Mrs.) Mina Benebo, Esq who raised a cheque for N50,000.00 for me to settled him in respect of his legal fee. That, because of the unfortunate ugly situation, it was very difficult for both the claimant and defendant to access to the property as bad boys and hoodlums were terrorizing the entire street and its environ looking for whom to devour. This action arising from the activities of the hoodlums greatly stalled any work to be carried out on the property.

That throughout the period of the pendency of the matter in Court, he had been paying all the necessary filing fees as demanded by the claimant as well as his transport fares and for any lawyer who represented him in court. Even when the court will not sit and although those sundry expenses were part of the legal fees as agreed upon in his 45% rent accrual proceed from the tenancy rent as contained in the agreement.

That there was no time any tenant had paid up to N7,000.00 in the property, No. 53 Nwachuku Street or any other street in Mile 2 Diobu which had never been renovated since after the Nigeria Civil War and had no convenience for the tenants' use. That he will at the trial urge the court to visit the subject-matter as to ascertain whether the property worth what the claimant is contending as contained in the Claimant's letter to me dated the 28th February, 2024 captioned: NOTICE OF PAYMENT OF LEGAL FEES which is exhibit D before the Court.

That the Claimant had never visited the property throughout the period he was in charge of the property and therefore do not know the numbers of rooms in the property and the condition of the property generally.

That the claimant claim the property he was in control was No. 52Nwachuku Street and I vehemently oppose to his assertion by stating that the property that was allocated to him by the Rivers State Government is No. 53 Nwachuku Street all in Mile 2 Diobu, Port Harcourt. He will at the hearing of the matter challenge the Claimant to the strictest proof of his assertion.

That he maintains the tenants only paid rent the rate of N3,000.00 which amount to N36,000.00 per annum due to the dilapidated nature of the property. There are 16 rooms and 2 smaller rooms used as kitchen all within the property while the claimant is contending that the current rent is N7,000.00 amounting to N84,000.00 per annum with a total number of 25 rooms. I will at the trial further urge the court to visit the property to ascertain the verity of who says what.

That the current tenancy rent at No. 53 Nwachuku Street and all other buildings in the nature of the said property, is within the range of

N3,000.00 per month and N36,000.00 only per annum and for 16 rooms amount to N576,000.00 for a year, while for 2 years will be N576,000.00x 2 which is N1,152,000.00 only as at 2016. That 45% of N1,152,000.00 is N518,400.00 only. That he had transferred the sum of N533,200.00 to the claimant on the 22/02/2024 which he acknowledged same and accordingly a balance of N88,880.00 is yet to be remitted as final balance to the claimant.

That he could not remit or pay the said balance of N88,080.00 to the claimant. because after the judgment of the appeal court delivered by Hon. Justice Wodi, the court awarded the sum of N50,000.00 naira in his favour but the claimant consistently told me that the award sum (N50,000.00) was meant for him, the Counsel in the mater which said claim had been a bone of contention between us till date.

That, in spite of all the written Agreements entered into with the Claimant, he had paid all sundry expenses in respect of filing fees and transport fares of the Claimant not excluding the transport fares of other Lawyers that represented him on his order on some court days and he will also at the trial rely on my entry note in respect of monies paid to the claimant in every transaction made to the knowledge of the claimant.

That he is only indebted to the Claimant to the tune of N38,080.00 only after subtracting the sum of N50,000.00 awarded by the State High Court in my favour which the Claimant was not ready to accept the said amount as the balance of N38,080.00 due to him before filing this action in Court.

That since 2018 after the judgment in the said appeal at the State High Court, the claimant had further abandoned him to his fate and the property from taking any action, writing any letter or making any inquiry into or about the status of the property for the fact that he told him that, the cost awarded by the State High Court in respect of the appeal matter is for im and for other reasons. That there was no time a bill of quantity was given to him by the claimant and there was nothing to warrant him to refund One Million Naira (N1m) to the claimant since his legal fee covers all expenses incurred except the ones he paid as part of transportation.

That the claimant abandoned his official assignment from 2009 to 2016 when the former Permanent Secretary, Ministry of Justice, Dame (Mrs)Mina Benibo intervened and brokered peace in the matter that brought about the third agreement. That considering all the negative factors by the hoodlums militating against him in the property not excluding all the financial constraint, in the absence of the Claimant who had not been showing up, he decided to sell off the property in 2024 which prompted the claimant to resurface from after abandoned me and property for more than five (5) years of silence. That he is ready and prepare to remit the said balance of N38,080.00 to the claimant.

The DW1 identifies the UBA cheque for Fifty Thousand Naira, certificate of execution of warrant of possession, UBA Electronic transfer form and handwritten legal proceedings of the High Court/Magistrate Court, drafted records of expenses, settlement meetings, letter to Commissioner of police threatening violence dated 25th February, 2015. Agreement dated 20th

December, 2010, Photographs, Four rent receipts are tendered in evidence and marked as Exhibits F, G, H, J, K, L, M, N, O1-O10.

During the cross-examination of the DW1 on the 21st day of May, 2024, he stated that the work of the defendant ended in 2018 on the day the judgment was gotten. That at the point of the sales of the property, he didn't even inform the claimant because he is only owing him rent and not the proceeds from the sales of the property. That he never lied about the intended sale. That it is correct that it is only the 2016 agreement is subsisting and that it is not correct that because he did not keep to the terms of the oral agreement and that is why they entered another agreement in 2016. That in Exhibit E, he didn't indicate the number of rooms but that on the face of exhibit E, there are 16 occupants. That it is not true that they both went to the property to inspect and counted the rooms. That the Claimant have never been to the property. That though the cheque was issued by Mene Benibo and there is nothing on the face of the cheque that has to do with him, but he is the one that presented the cheque to you and asked you to endorse your signature which you did

That it is not true that on the letter of 29th February 2024, he admitted owing you but his testimony before the Court, he admitted to owing N38,000. That he does not have any document to show that the Claimant have collected his money from him from the professional job, that everything was orally agreed. That it is not true that the Claimant funded the entire proceedings until judgment was delivered. That he paid for filing and paid appearance fees of N2,000 for lawyers that the Claimant sent to Court. That Exhibit K is his personal diary.

There is nothing on the face of Exhibit O1 -O10 to indicate 53 Nwachikwu street

Testifying further, the defendant stated that it was never mentioned in the 2016 agreement that N36,000 is to be paid per room, per annum for professional fees.

That there is also nothing before the Court to show that cost was awarded at Justice Nwaji's Court and that the Claimant collected same and that is also not correct that after judgment was delivered, that the Claimant pertook in execution. That he paid for the fees and took the lette to the police.

On the 21st of May, 2024, the DW2, Pastor Jesse Iwuji, adopts his written statement on oath wherein he states that he is the Deponent herein and also the caretaker of No. 53 Nwachukwu Street, Mile 2 Diobu, Port Harcourt, the subject matter of this instant case from 2010 to 2018 and I deposed to this Affidavit in good faith. That he knows both the Claimant and Defendant in this matter. The Defendant was the landlord of the property, No. 53 Nwachukwu Street, Mile 2 Diobu, Port Harcourt while the Claimant is the Lawyer to the Defendant. That he knows the property very well as the caretaker who supervised the property in the absence of the landlord from 2010 to 2018 and collects Rent from the Tenants to the landlord who always issued receipt immediately for them through me. That initially there were two (2) landlords to the property with two (2) caretakers appointed by the two (2) landlords separately, each of the caretakers loyal to his master, as I was appointed by the Defendant before the Defendant won the other landlord in court. The name of the other landlord was Chief Emmanuel Odumgwere from Ikwerre which made majority of the Tenants who are Ikwerres paying Rent to him. That the property has 16 rooms with 2 smaller rooms which was later converted to and used as kitchen. About 3 tenants apart from me, the caretaker were paying rent to the defendant, while more than 8 tenants paid their rent to the other landlord. Some of the tenants were not paying rent to any of them because the matter was in dispute before the court.

That most of the tenants stayed only one (1) year or two (2) years and packed to another place because of the condition of the yard and dilapidated nature of the property. That he had been arrested by the Rivers State Environmental Sanitation Authority many times because of the condition of the house and it's environment.

That he entered into the property when the rent was N24,000.00 per year and after about 4 years later, it was increased to N36,000.00 per year. It was only 3 tenants apart from me that paid their rent through me in most cases to the Defendant and he collect their receipt back to them accordingly. That he had worked closely with both the Defendant and Claimant in many ways as it relates to the property. That in most cases, he had collected rent from tenant to the landlord and after writing the receipt in the receipt booklet, the landlord will tear it for me to give to the respective tenant. And sometimes the landlord will direct him when he visits him to pick the receipt booklet from the drawer were they were usually kept and after writing the receipt, he will take it back to the usual place.

That he had visited the Lawyer severally with my landlord in his office, in most cases when the landlord will either to pay the Lawyer for his transport fare or to sent the transport fares to the lawyers that will represent him in court. That the landlord house is at No. 88 Bende Street while the lawyer's office is at same street, No 79 Bende Street, Port Harcourt. Sometimes he walked with his landlord from his house to the lawyer's office for one business transaction or the other.

That the most worrisome aspect of it is that, since I entered the premises the property has remain the same without any minor or major renovation because of the litigation matter. The property has no place for convinience apart from an abandoned old toilet system which will managed by children because of the expose nature of the place over the years.

That he has also escorted the landlord (Defendant) to the former Permanent Secretary, Ministry of Justice, Dame (Mrs) Mina Benibo when she issued a cheque of Fifty Thousand Naira (N50,000.00) only in the name of the Lawyer (Claimant). But he did not follow the landlord to the lawyer's office to submit the cheque to him because we were going in opposite direction and of course the landlord's house is very close to the lawyer's office.

That a very good and renovated houses along Nwachukwu street and other streets within Mile 2 Diobu goes for N48,000.00 to N72,000.00per annum depending on the street. Some houses have bore-hole water installed by the landlord and a meter for regular light supply whenever the light comes.

That he is aware that sometimes in 2016, the landlord intended to commence renovation on the property but some hoodlums and or bad boys could not the project to continue smoothly until the landlord was forced to abandon it.

During the cross-examination of DW1 on the same date stated that there are 16 rooms plus 2 kitchen in the property and that he is not aware the DW1 identified Exhibit E as his sketch and he does not know if the DW1 identified Exhibit E as his sketch, That the price of a store is the same as a room. That Exhibits P1-P4 are the DW1's receipts for tenant. That he is not aware that the Claimant and the DW1 had an agreement.

At the close of the evidence of the DW2, the matter was adjourned for the adoption of final addresses

That said, I will proceed to consider the case of the parties in the light of the relevant laws. I have noted the essence of the claim and have also taken cognizance of the evidence of the claimant and the defendant and her witness before the court.

ISSUE FOR DETERMINATION:

Whether The Claimant Has Proved His Case To entitle him To The Following orders:

The claimant in their written address , the Claimant have stated that there is a valid agreement between the parties as admitted by the parties and the said agreement is dated the 22nd day of

February, 2016, The Claimant further submits that the wordings of the paragraphs 3 and 4 of agreement have not been fully complied with as the defendant has been denied to opportunity write the tenancy agreements thereby depriving of the opportunity to earn the fees from the preparations of the tenancy agreements.

The defendant on the other hand submitted that the Court does not have the jurisdiction to hear this matter because the Claimant failed to file and attach his bill of charges to his claim as stipulated under section 16 of the legal practitioners Act on the recovery of Legal Practitioners charges has robbed the Court of Jurisdiction, That also the arbitrary charge of 45% of the accruable tenancy rent for the first two years on the property of the defendant is in contravention of the Legal Practitioners (Remuneration for Business, legal services and Representation) Order 2023 and has robbed the Court of jurisdiction especially when it is not the Claimant that is in charge of the property, and on the third issue that the Claimant have failed to prove their claim on the preponderance of evidence before the Court.

That said, I will proceed to consider the case of the parties in the light of the relevant laws. I have noted the essence of the claim have also taken cognizance of the evidence before the court. I have read all the exhibits and the written final addresses and I choose to first, address the issue of jurisdiction raised by the defendant Counsel in his final address.

The defendant counsel have submitted that the Court does not have the jurisdiction to hear this matter because the Claimant failed to file and attach his bill of charges to his claim as stipulated under section 16 of the legal practitioners Act on the recovery of Legal Practitioners charges has so that has robbed the Court of Jurisdiction

It is trite that a legal practitioner has a right to be remunerated for his services which can either be paid in advance upon named fees or reliance on the terms of any agreement reached as for his fees. If the defendant, has not received his fees, he has to sue for his fees, however, he must comply with the procedure laid down by law under the Section 16 of Legal Practitioners Act, Cap L.11, L.F.N 2004.

In the case of *Thompson and Anor v. Barrister Gbenga Akingbehin* (2021) 16 NWLR (Pt. 1802) 283 at 303, 306, 322-322 the Court held to the cumulative effect that the three conditions that must be met before a legal practitioner can commence an action for recovery of his fees are that, he must prepare a bill of charges or a bill for the charges which must particularize the principal items of his claim; he must serve his client with the bill; and he must allow a period of one month to elapse from the date the bill of charges was served under Section 16(2)(b) of the Legal Practitioners Act before filing the action, and that failure to comply with or fulfil these conditions precedent would render the entire action and the subsequent trial a nullity, no matter how well conducted, placing reliance on the cases of *First Bank of Nigeria Plc. v. NdomaEgba* (2006) All FWLR (Pt. 307) 1012 at 1034; *Madukolu v. Nkemdilim* (1962) 2 SCNLR 341, *Saude v. Abdullahi* (1989) 4 NWLR (Pt. 116) 397, *Nigeria Dev. Co. Ltd V. Adamawa State Water Board* (2008) 9 NWLR (Pt. 1093) 498." Per IKYEGH, J.C.A.

Furthermore, it must be noted that the action must be filed in a court of competent jurisdiction. The Legal Practitioners Act in section 19 defines a court of competent jurisdiction for this purpose as: the High Court of the State in which the legal practitioner in question usually carries on his practice or usually resides or in which the client in question usually resides or has his principal place of business or, in the case of a practitioner authorised to practise by warrant,

the High Court of the State in which the proceedings specified in the application for the warrant were begun.

On the basis of all of the foregoing, this Court hereby holds that the condition precedent provided by the Law under the legal practitioners Act before filing an action for the recovery of professional fees have not been complied with and hence the Court does not have the jurisdiction to hear this matter and the claim for professional fees is hereby struck out.

There is no award as to Cost.



G.CHINYERE AMADI. ESQ.
CHIEF MAGISTRATE G.D.I

