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IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE AKURE JUDICIAL DIVISION
HOLDEN AT AKURE
ON MONDAY THE 13TH DAY OF NOVEMBER 2006
BEFORE HIS LORDSHIP: THE HONOURABLE
JUSTICE LAMBO J. AKANBI - JUDGE

SUIT NO: FHC/AK/CS/92/99

BETWEEN:

FEDERAL BOARD OF INLAND REVENUE.....PLAINTIFF

A N D

CONFIDENCE INSURANCE PLCDEFENDANT

J U D G M E N T

In the amended statement of claim filed on the 9th day of September 2005, the plaintiff claims against the defendant as follows:

The sum of ₦2,911,288.31 being unpaid Company Income Tax and Education Tax from 1993 to 1998 plus interest and penalty and the cost of prosecuting the suit.

In proof of this claim, the plaintiff called one witness. He is Mr. Bamidele Muyiwa Aina, the Tax Controller for Ondo and Ekiti States.

The case for the plaintiff is that the defendant is a registered company under the Act and with the plaintiff for the purpose of tax.

The defendant being a going concern and fully in business from 1993 to 1998, submitted its annual returns from 1993 to 1996. It did not submit its annual for the years 1997 to 1998.

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The plaintiff examined these returns and raised assessment on the defendant's income based on the compilation submitted by its auditor. The assessments were sent to the defendant.

In spite of the notices sent to the defendant, the defendant did not pay taxes consequent upon which a demand notice was sent to it. The taxes up till date still remain unpaid.

Upon the failure by the defendant to pay the taxes, the plaintiff commenced this action in court to recover same. After the suit was filed, the defendant paid the sum of ₦250,000 only leaving the remaining balance unpaid.


The plaintiff therefore prays the court to give judgment to the plaintiff for the remaining unpaid balance.

Cross-examined by Mr. Wale Omotosho of counsel for the defendant, PW 1 admitted that the payment of the sum of ₦250,000 was made pursuant to the agreement between the parties that the defendant shall pay the sum of ₦1.5M as full and final payment of its liability to the plaintiff.

This is the case for the plaintiff.

The defendant did not give evidence as it relied on the evidence of the plaintiff.

In his address to the court, learned counsel for the defendant submitted that the plaintiff having admitted under cross-examination that the payment of ₦250,000 was made pursuant to the agreement between the parties that the defendant shall pay a total sum of ₦1.5M in full and final settlement of its liability to the plaintiff, the plaintiff is not entitled to


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anything more. He submitted that this constitutes an admission against interest under Section 23 of the Evidence Act.


He urged me to give judgment only in the sum of ₦1.5M less ₦250,000.

In reply, Mrs. Oniyangi of counsel for the plaintiff submitted that there is no written agreement between the parties that the plaintiff has agreed to accept the sum of ₦1.5M as full and final settlement of the defendant's liability to the plaintiff. She urged me to grant all the reliefs in the statement of claim.

The determination of this case does not present any difficulty. The plaintiff through PW 1 admitted that the parties indeed agreed that the defendant shall pay the sum of ₦1.5M as full and final settlement of its liability to it and that it was pursuant to this agreement that the defendant paid to the plaintiff the sum of ₦250,000.

The golden rule of practice is that what is admitted needs no further proof. I do not share Mrs. Oniyangi's view that before an agreement becomes binding, it should be reduced into writing. The evidence of PW 1, the plaintiff's witness is clear and unequivocal on this point. I therefore accept the evidence of PW 1 under cross-examination that the plaintiff has agreed that the defendant pays as full and final settlement of its indebtedness to the plaintiff the sum of ₦1.5M out of which the sum of ₦250,000 has been paid.


In the circumstance, I enter judgment for the plaintiff in the sum of ₦1.5M less the ₦250,000 paid by the defendant to the plaintiff as full and final liability of the defendant to the plaintiff.



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In addition, the defendant shall also pay to the plaintiff 10% per annum on the judgment sum till same is finally liquidated.

I am unable to award any sum of money in respect of the cost of prosecuting this case because I have no evidence before me of the cost of prosecuting the case.

This shall be the judgment of the court.


HON. JUSTICE L. J. AKANBI
JUDGE
13TH NOVEMBER 2006


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In addition, the defendant shall also pay to the plaintiff \$100.00

for the judgment and all sums lawfully awarded.

It is further ordered that the defendant shall pay to the plaintiff

the amount of the costs and expenses incurred by the plaintiff in the

prosecution of this case.

It is so ordered. The judgment of the court.

HON. JUSTICE T. W. M. C. M.
JUDGE
18th NOVEMBER 1905

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