

**IN THE MAGISTRATES' COURT OF ABIA STATE OF NIGERIA.**  
**IN THE SMALL CLAIMS COURT, ABA ZONE.**  
**BEFORE HIS WORSHIP, U. J. YOUNG-DANIEL (ESQ) CHIEF MAG. GRD 1.**  
**THIS 29<sup>TH</sup> DAY OF APRIL, 2025.**

**SCC/AB/181/25**

**BETWEEN:**

**MR. JAMES LUCKY OWOH.       ----- CLAIMANT**

**AND**

**MR. EMMANUEL OTTI.       ----- DEFENDANT**

***Claimant Present.***

***Defendant Present.***

***Appearances: A. E. Nwangwa Esq appears for the Defendant.***

***No representation for the Claimant.***

**MATTER IS FOR JUDGMENT.**

**JUDGMENT.**

Claimant by his Letter of Demand of *Form SCA1* claims from the Defendant the sum of **₦1,400,000.00 (One Million, Four Hundred Thousand Naira)** being arrears of rent from February 2023 to February 2025 as it is stated thereat. Defendant filed a Defence and a Counter Claim to the effect that he is not indebted to the Claimant and counter claimed the sum of **₦259,000.00 (Two Hundred and Fifty Nine Thousand Naira)**. In proof of the Claimant Claim, Claimant testified that he is claiming the sum of **₦1,400,000.00 (One Million, Four Hundred Thousand Naira)** of arrears of rent for a period of two years from the month of February, 2023 to February, 2025 and tendered the last rent receipt issued the Defendant of initial/first and only rent paid by the Defendant and same marked *Exhibit A*. Claimant also tendered *Exhibit B* of Rent Review and concluded his Evidence in Chief and was cross examined by the Defendant Counsel to the fact of when the Defendant packed into the Claimant premise wherein Claimant stated that it was in the month of March, 2021 and the rent paid was to expire in the month of February, 2023. However, Claimant admitted that the Defendant paid rent for the period of 24 months which was meant to lapse or expire in the month of

March, 2023, and that *Exhibit A* is to that effect. Claimant also admitted that the Defendant paid rent as is contained in *Exhibit A* for 3 flats. However, Claimant was further cross examined to the fact that he later took possession of one flat out of the three flats which fact Claimant denied. Nevertheless, Claimant was cross examined on this fact of occupancy of one flat out of the three flats to the effect that he had packed his personal belongings and tiles in one flat and same is under lock and key by him which circumstance Claimant admits but stated that he has only packed his tiles in the one flat, however, that the flat is not under lock and key by him. Claimant further stated under cross-examination that the tiles he had packed in the one flat was in the year 2021 and then that the rental value or sum for each of the flats upon which *Exhibit A* of rent receipt was issued to the Defendant was at ₦10,000.00 (Ten Thousand Naira) per month. Claimant was further cross examined to the fact that since after the expiration of the Defendant rent as was in paid in *Exhibit A*, that there has not been any rent increment known to the Defendant and to this, Claimant responded and stated that there is a rent increment and that *Exhibit B* of Letter of Rent increment is to that effect. Nevertheless, Claimant was cross examined to the fact that Defendant did not receive *Exhibit B* of Letter of Increment. However, when asked by the Defendant Counsel to show in *Exhibit B* where the Defendant acknowledged receipt, Claimant stated that he had enveloped Defendant copy of *Exhibit B* and sent to him and he had acknowledged same by Defendant call to him and relinquishing one flat which one flat Claimant also admitted is the flat he packed the tiles still at the moment. Claimant at his cross examination by the Defendant Counsel stated that the sum of ₦20,000.00 (Twenty Thousand Naira) of rent increment as is contained in *Exhibit B* is for the 3 (Three) bedroom flats Claimant is alleging the Defendant is occupying and not for 2 (Two) bedroom flats Defendant is alleging to be occupying at the moment. Defendant Counsel concluded the cross examination of the Claimant by telling the Claimant that he is not owing the Claimant which fact the Claimant denied. Defendant opened his Defence and stated that he is not owing the Claimant. Defendant further stated that he paid the Claimant the initial and first rent as is contained in *Exhibit A* in the month of February, 2021. Nevertheless, Defendant testified that after the rent as contained in *Exhibit A*, the flats or house was not yet in tenantable state wherein Defendant testified that the Claimant has requested or asked him to give him more money to complete the house. However, Defendant further stated that he personally

started to contribute or work on the house to a tenantable state in addition to the rent sum of ₦720,000.00 (Seven Hundred and Twenty Thousand Naira) initial rent paid the Claimant as contained in *Exhibit A* by buying of tiles and other building materials. Also that he had plastered the house and then that he had built the house stairs which the house did not have and connected electricity to the house and other things done in the house which Defendant testified amounted to the sum of ₦539,850.00 (Five Hundred and Thirty Nine Thousand, Eight Hundred and Fifty Thousand Naira) which sum Defendant testified was spent to complete and put the 3 (Three) flats he first paid for in a tenantable state. Defendant tendered receipts of items bought in the completion of the house and putting same in a tenantable state and Agreement between parties to the effect of the completion and putting the house to a tenantable state. The document titled *Memorandum/Receipt of Payment* is marked *Exhibit C*, *Authority/Approval to complete the uncompleted building* is marked *Exhibit D*. Receipts are marked are marked *Exhibits E, F, G, H, J, and K* respectively. Defendant further testified that the Claimant has never given him any Letter of Increment as is contained in *Exhibit B* and concluded his Evidence in Chief and was cross examined by the Claimant wherein Claimant cross examined the Defendant to the fact that he had signed a Memorandum with the Defendant as allegedly contained in *Exhibit C* tendered by the Defendant, however, that *Exhibit C* is not what he or both have signed and tendered *Exhibit L* as the document of Memorandum signed by both parties. Claimant cross examined to the fact that *Exhibit C* tendered by the Defendant as a Memorandum signed by parties is amended therefore, not what parties have signed and thus concluded the cross examination of the Defendant by the Claimant and the proof of the Claimant Claim and Defence/Counter Claim by the Defendant of this Claim. This Court has considered all that are before it in respect to this Claim including the *Exhibits* aforestated. Claimant is claiming arrears of rent from the Defendant for a 3 (Three) flats at the rent sum of ₦20,000.00 (Twenty Thousand Naira) per month at the sum of ₦1,400,000.00 (One Million, Four Hundred Thousand Naira) for a period of 24 months from the month of February, 2023 to February, 2025. Nevertheless, this Court states that the Claimant cannot claim arrears of rent for three flats as initially rented to the Defendant when he had admitted in his cross examination by the Defendant Counsel that he packed tiles in one out of the three flats regardless of whether he had locked the one flat or the Defendant is still with the keys of the one flat wherein Claimant had

packed the tiles. This Court states that the fact Claimant had admitted packing tiles in the one flat, that act is an evidence of taking possession or re-possession of the one flat and in that circumstance, cannot make any Claims of arrears of rent on that one flat as Claimant is claiming. Aside from admitting that he had packed tiles in the one flat out of the three flats rented to the Defendant, Claimant in his further cross-examination by the Defendant Counsel in respect of the issue of *Exhibit B* of Notice of Rent Increment, stated that he had packed the tiles in one of the flats after he had issued the Defendant with *Exhibit B* of Rent Increment to the rent sum of ₦20,000.00 (Twenty Thousand Naira) per month and the Defendant called his attention that to the effect of relinquishing the said one flat and so this Court wonders why the Claimant will still make a Claim of arrears of rent including the said one flat. This Courts states that by the fact of the testimony of the Claimant to the fact that it was after *Exhibit B* of Rent Increment was issued or served the Defendant that he packed the tiles into the one flat is a clear proof to this Court that *Exhibit B* of Rent Increment was served the Defendant or the Defendant was aware of *Exhibit B* contrary to what the Defendant is alleging that he was not served *Exhibit B* or not aware of same since or moreso the Defendant did not testify or bring to the Court attention how the one flat upon which the Claimant packed tiles became the situation since it was the Defendant that brought this fact to the effect that the Claimant packed tiles in the one flat. Therefore this Court states that there being no contrary fact before it as to what led to the Claimant packing tiles in the one flat invariably a possession act of the one flat out of the three flats, this Court accepts the testimony of the Claimant to that effect that the Defendant was indeed served with *Exhibit B* of Rent Increment. Also by the fact of possession of the one flat out of the three flats earlier rented to the Defendant, this Court states that the Claimant cannot be seen to approbate and reprobate by claiming rents for the one flat he packed his tiles which is an act of possession thereof and present or make a Claim of arrears of rent thereof. Therefore, this Court states that the rent increment as is contained in *Exhibit B* only applies to 2 (two) flats occupied by the Defendant for two years from the month of March, 2023 to February, 2025 as the period the increment ought to apply as it is indicated in *Exhibit B* of the Rent Increment and not from February 2023 to February 2025 as testified and or alleged by the Claimant. Nevertheless, this Court states that there is no variation between the two documents of *Exhibits C* and *L* as alleged by the

Claimant. A careful consideration of the two *Exhibits* indicates or proves to the fact that *Exhibit C* of the acknowledgment of a part payment of the sum of ₦400,000.00 (Four Hundred Thousand Naira) of rent for two bedroom comprising of three flats as it is stated in the *Exhibit C* and then *Exhibit L* is to the acknowledgement or proof of full payment of the sum of ₦720,000.00 (Seven Hundred and Twenty Thousand Naira) for the rent of two bedroom (comprising of three flats) which dates are of the 28<sup>th</sup> day of January, 2021 as it is contained in *Exhibit L* and, the 11<sup>th</sup> day of February, 2021 as is contained in *Exhibit C*. In essence, this Court states that *Exhibit C* corroborates with *Exhibit A* tendered by the Claimant to the effect of the sum of rent of ₦720,000.00 (Seven Hundred and Twenty Thousand Naira) paid of initial rent fee and by the Defendant which fact is not in dispute by parties. Then *Exhibits E, F, G, H and J* are invoices of various building materials allegedly purchased by the Defendant to the effect of completing the three bedroom flats and putting same in a tenable state which circumstance Claimant did not deny or challenge and to that effect, this Court states or accepts that same is the true fact in respect of the issue of this Claim. This Court has made a calculation of the sums contained in *Exhibits E to J* and it amounted to the sum of ₦239,450.00 (Two Hundred and Thirty Nine Thousand, Four Hundred and Fifty Naira). Meanwhile, the rent sum for the two bedroom flat at the rent sum of ₦20,000.00 (Twenty Thousand Naira) per month for the period of March 2023 to February 2025 of 24 (Twenty Four) months amounts to the sum of ₦480,000.00 (Four Hundred and Eighty Thousand Naira). Therefore, the sum of ₦239,450.00 minus or subtracted from the sum of ₦480,000.00 (Four Hundred and Eighty Thousand Naira) amounts to the sum of ₦240,550.00 (Two Hundred and Forty Thousand, Five Hundred and Fifty Naira). In that circumstance, the sum in arrears owed the Claimant by the Defendant is at the sum of ₦240,550.00 (Two Hundred and Forty Thousand, Five Hundred and Fifty Naira). Therefore, this Court orders that the Defendant pay to the Claimant the sum of ₦240,550.00 (Two Hundred and Forty Thousand, Five Hundred and Fifty Naira) of arrears of rent. There is no Order as to cost.



U. J. YOUNG-DANIEL (ESQ)  
CHIEF MAG. GRD 1.  
29/04/25.

**NWANOSIKE PATRICK C.**  
Head Registrar  
SCC Aba Zone