

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 1ST DAY OF JULY, 2025.

SCC/AB/740/24

BETWEEN:

**OMEIRE PHARMACEUTICAL MANUFACTURING INDUSTRIES LTD. (OPMI LTD) --
CLAIMANT**

VS

SYLVANUS IZUNWANNE ----- DEFENDANT.

Claimant Attorney Present.

Defendant Absent.

Appearances: Kanu Chukwuemeka Esq appears for the Claimant.

N. C. Isintume Esq appears for the Defendant.

MATTER IS FOR JUDGMENT.

JUDGMENT.

Claimant by its Attorney claims the sum of ~~₦~~1,450,000.00 (*One Million, Four Hundred and Fifty Thousand Naira*) being arrears of rent as it is contained and or stated in the Claimant Letter of Demand. Defendant filed a Defence to the effect that he is not indebted to the Claimant who purport to be his landlord. He does not know the Claimant/Attorney and does not have any landlord/tenant relationship with the Attorney. He has been making payments to his landlord. The Claimant is alien to him. The property in question, subject matter of this Claim is a question of its Title being contested as there is no judgment delivered on the matter. This is an attempt by the Claimant to rubbish him and mislead this Court and urge this Court to discountenance this Claim as same is anchored in falsehood, same as contained in the Defendant Defence of *Form SCA5*. Nevertheless, Claimant Attorney testified to the fact that he is the Managing Director of the Claimant and claiming the sum of ~~₦~~1,450,000.00 (*One Million, Four Hundred and Fifty Thousand Naira*) of arrears of rent for the period of the year January, 2020 to October, 2024. Also that the Defendant is owing rent for the period of November, 2024 till date of the sum of

₦500,000.00 (Five Hundred Thousand Naira) all rent in arrears owed by the Defendant totaling the sum of ~~₦1,950,000.00~~ *(One Million, Nine Hundred and Fifty Thousand Naira)* and tendered *Exhibit A* of rent receipt to that effect and concluded his evidence in chief and was cross examined by the Defendant Counsel to the fact that the Defendant is not owing the Claimant any rents in arrears because, Defendant acting up in a directive from the trustees of the Claimant Attorney's late father made payments of the sum of ₦100,000.00 (One Hundred Thousand Naira) which the Claimant Attorney responded that it is not a fact. However, Defendant Counsel cross examined the Claimant Attorney to the fact that the estate of his late father is known as *M. O. KANU LTD* wherein Claimant Attorney responded and stated that it is a fact of the name aforesaid of the estate of his late father, however that the Claimant issue in respect of the Claim under consideration is of company known and called *O. P. M. I. LTD* which is not part of the estate of *M. O. KANU LTD*. Claimant Attorney was further cross examined to the fact that *Exhibit B* of the Claimant Attorney late father's *will* states to the fact that *O.P.M.I. LTD* is part of the estate of *M. O. KANU LTD* which Claimant Attorney responded and stated it is not a fact. Claimant Attorney admitted that he became a director after *Exhibit B* of the *Will*. Claimant Attorney responded in his further cross examination that the said sum of ₦100,000.00 rent allegedly paid into the trustees account is not a fact and then that the trustees signatures were forged as such there is no such thing as trustees account. The said receipt issued by the trustees is marked *Exhibit C*. Claimant Attorney admitted being tried in a charge in respect of forging the Ordinary Resolution and Appointment of the Claimant Attorney as the Director of *M.O. KANU & SONS LTD* and the charge is marked *Exhibit D*. Claimant Attorney admitted in his further cross examination that he was not a Director of the Claimant as at the year 2008 when his father made *Exhibit B* of *will*. Claimant Attorney admitted in his cross examination to the fact that his late father though being a Director of the Claimant/Company, however gave the right of the management of the properties purchased in the name of the Claimant of *O.P.M.I LTD* and *M.O. KANU SONS & CO. LTD* which the property subject matter of this Claim of No. 62/64 Asa Road Aba is one of them, to his elder brother, Uche Kanu and sister Nnenna Nwachukwu Nee Kanu through *Exhibit B* of *will*. Nevertheless, further responded and stated that his father could not have done that rightly, that is, giving the

trusteeship of the properties to his brother and sister because there were other Shareholders and Directors of *O.P.M.I. LTD*. When cross examined to the fact of whether he had obtained Judgment violating his father's *will* as in *Exhibit B* in regard to appointing trustees of individuals to manage the properties of the estate of *M.O. KANU SONS & CO. LTD*. or in respect of properties bought in the name of the Claimant/Company, Claimant Attorney responded and stated that he has two judgments to that effect and tendered *Exhibits E* and *F* of Judgment of a High Court Aba of *Suit No: A/67/2021* and *Suit No: A/M44/2023* respectively. Claimant Attorney also admitted in his further cross examination that when his father allegedly made him a Director in an alleged *Board Resolution* of *M.O. KANU SONS & CO. LTD* as the Claimant Attorney is alleging done was by his father hence his powers to make Claims of arrears of rent in this Claim and other brother Claims as Attorney there was allegedly in existence *Exhibit B* of his father's *will* wherein his father gave the management of the properties bought in the name of *O.P.M.I. LTD* and *M.O. KANU SONS & CO. LTD* to his elder brother and sister respectively. However, further responded and stated that, though that is the situation with the content of *Exhibit B* of *will*, nevertheless his father did not have the power to what he had done of appointing the trustees in that respect. Also Claimant Attorney admitted in his further cross examination that *Exhibit B* of his father's *will* is the last will of his father and that there is no cordial revoking *Exhibit B* of *will*. Defendant Counsel cross examined Claimant Attorney that he does not have the locus standi based on *Exhibit B* not yet set aside to file this Claim and the Claimant Attorney responded that he has locus standi to that effect and then added that the Company and Allied Matters Act issues supersede the issues Defendant Counsel is raising in the Claimant Attorney Cross examination which issues centered in the content of *Exhibit B* of *will* which *Exhibit B* cannot over ride the status of Directors of a Company and not as personal wish of an individual as acted by his late father in *Exhibit B* of *will* by giving the trusteeship and management of the properties bought in the names of the companies - *M. O. KANU SONS & CO. LTD* and *O.P.M.I. LTD* respectively to his elder brother and sister. When cross examined in his further cross examination to the fact that he is still not the sole director of the alleged incorporated company of *M. O. KANU SONS & CO. LTD* and Claimant Attorney responded affirmatively, however, when cross examined that one Director cannot

sign for a company as he has been doing, Claimant Attorney responded and stated that his son authorize the filing of this Claim against the Defendant as a Director of the Claimant/Company and that the Board resolution to that effect is with the Corporate Affairs Commission. Finally, Claimant Attorney was cross examined to the fact that nothing before this Court including the *Exhibits* are to the effect that this Court has jurisdiction to enter this Claim at this stage and the Claimant Attorney responded and stated that the Court has jurisdiction to entertain this Claim on the ground that there is no Suit or Claim about ownership and Title in any Court whereupon at this stage Claimant Attorney tendered *Exhibit G* which is titled *Complaint Against Irregular Filing of M. O. KANU SONS & CO. LTD* dated the 22nd Day of June, 2022. Thus concluded the proof of the Claimant Claim. However, because the Defendant filed a Defence challenging the jurisdiction of this Court to entertain this Claim and there being proceedings similar to the proceedings in this Claim of similar issues in other sister Claims of *M. O. KANU SONS & CO. LTD* in respect of another property Defendant in this Claim and other brother Claims did not testify. Nevertheless, in a brother Claim of *SCC/AB/768/2024 Between: O.P.M.I. LTD VS EPHRAIM ONUOHA & LAZARUS, Exhibit A* of a Judgment and Judgment Order respectively in *Suit No: FUC/ABJ/CS/797/2023 Between: (1) UCHE KANU (2) THE TRUSTEES OF THE ESTATE OF LATE M. O. KANU VS (1) CORPORATE AFFAIRS COMMISSION (2) THE REGISTRAR GENERAL CORPORATE AFFAIRS*. The foregoing stated the issues in this Claim. This Court has also considered all that are before it including the *Exhibits* tendered aforesaid. This Court states that the issues of this Claim are one and similar to the issues in the Sister Claims of the brother company and Claimant in *M. O. KANU SONS & CO. LTD* in respect to the property known and called No. 44A Ngwa Road Aba upon which there are High Court Civil Suits and a High Court of the Federal Capital Territory of a Criminal Charge respectively in respect of issues bothering on Title/Ownership of the two properties of No. 62/64 Asa Road Aba and in respect to this Claim and brother Claims and the property known and called No. 44A Ngwa Road Aba filed by the sister company of *M. O. KANU SONS & CO. LTD* which Judgment has been delivered to the effect that this Court lacks the jurisdiction to grant the Claims as sort thereto. This Court states that *Exhibit E* of a High Court Judgment in *Suit No: A/67/2021 Between: UCHE KANU VS EMEKA KANU* which Suit was struck out on the grounds of jurisdiction cannot or

could not have decided on any issues before it. Therefore, this Court states that the issue of appointing the Trusteeship and Management of the Estate of *M. O. KANU SONS & CO. LTD* as contained in *Exhibit B* of will in favour of the Claimant Attorney elder brother and sister by their late father which fact Claimant Attorney admits however states or is of the view that is improper as done by his late father which is part of the issues in the pending Suits before the High Courts of Civil and Criminal have not yet been deliberated upon by a Court of competent jurisdiction and Small Claims Court is not a Court of competent jurisdiction to that effect. In other words, this Court states that there is no Court of competent jurisdiction Judgment granting powers strict a sensu on the Claimant and Attorney at this state upon which this Court will rely on and determine that for a fact the Claimant and or Attorney are the right or proper person or entity to bring this Claim and other brother Claims for recovery of arrears of rent as it is presently done under consideration. This Court further states that *Exhibits E and F* in this Claim of the High Court Judgment aforestated which was struck out on the grounds of jurisdiction and the Judgment Order in respect of *Suit No: A/M44/2023* respectively of Judgment order enforcing the Claimant Attorney Fundamental Right are not in any ways Judgment setting aside *Exhibit B* of Will and or determining issues of Title/Ownership of the property known and called No. 62/64 Asa Road Aba, subject matter of this Claim for recovery of arrears of rent thereto as these pertinent issues are in respect of the pending Suits to determine in the High Courts of Aba, of Courts of competent jurisdiction. Therefore, this Court states that until these issues are determined one way or the other, this Court having nothing before it yet as to proper party or person to claim arrears of rent, it lacks the jurisdiction to determine the issues of Claim for arrears of rent by the Claimant through its Attorney. Claimant Attorney by *Exhibits* in the Sister Claims of *M. O. KANU SONS & CO. LTD* has joined issues in the said Suits by filing Statements of Defence, in that circumstance, this Court states that parties exercise patience till the determination of the Suits by the appropriate Courts of competent jurisdiction in regard to proper party/parties to make Claims of recovery of arrears of rent of the properties whether *M. O. KANU SONS & CO. LTD; O.P.M.I. LTD* of companies upon which the properties were bought or the individual Trustees as appointed by *Exhibit B* of Will or *NZE CHUKWUMA C.* By his friend mother Nanbam Jacqden Kanu or any other person whomsoever laying claims to

the ownership of the properties. Nevertheless, *Exhibit A of a Judgment Order* and its Judgment in respect of *Suit No: FHC/ABJ/CS/797/2023* Between: (1) *UCHE KANU* (2) *THE TRUSTEES OF THE ESTATE OF LATE M. O. KANU VS (1) CORPORATE AFFAIRS COMMISSION (2) THE REGISTRAR GENERAL CORPORATE AFFAIRS*. This Court states that the issues of the content of *Exhibit B of Will* of Trusteeship and Management of the properties bought by the names of *M. O. KANU SONS & CO. LTD and O.P.M.I. LTD* by the Claimant elder brother and sister Nnenna Nwachukwu of Trustees of *Exhibit B of Will* has been decided and to that the issues of Trusteeship and Management of the properties as contained in *Exhibit B of Will* has been settled and to that extent, Claimant Attorney is not the proper person or party to make claims in respect of the recovery of the arrears of rent of the properties bought in the names *M. O. KANU SONS & CO. LTD and O.P.M.I. LTD* respectively as filed in this Claim rather the Trustees to the *Will* to that effect. In that circumstance, this Court states that it lacks the jurisdiction at this stage to grant this Claim. This Claim is therefore struck out. There is no Order as to cost.

In the circumstance, this Judgment applies in all aspects to all the brother Claims before this Court in respect of *O.P.M.I. LTD* as Claimant.



U. J. YOUNG-DANIEL (ESQ)
CHIEF MAG. GRD 1.
01/07/25.

NWANOSIKE PATRICK C.
Head Registrar
SCC Aba Zone