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CASE DIGEST

CONTRACT: QUANTUM MERIUT; WHEN WORK IS DONE AT A DEFENDANT'S REQUEST, CAN A PLAINTIFF RECEIVE THE VALUE OF THE WORK DONE OR SERVICE RENDERED ON QUANTUM MERUIT?

C.G.C. NIGERIA LIMITED v. ALH. MUSTAPHA ISA

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SUPREME COURT OF NIGERIA

(KEKERE-EKUN; GARBA; OGUNWUMIJU; SAULAWA; JAURO, JJ.SC)

Background Facts

The defunct Petroleum Trust Fund (PTF) awarded a contract for the building of a dam at Sabke Village, Daura Local Government Area of Katsina State to C.G.C. Nigeria Limited (the Appellant). The Appellant in turn subcontracted to Alh. Mustapha Isa (the Respondent) for the building of eleven residential quarters where the Appellant's Senior Engineers would reside. The Respondent was given a design made by a company for the building of the residential quarters. However, before the construction of the residential quarters commenced, the Appellant gave the Respondent another design made by another company. The specifications contained in the two building plans were different as one contained a usable area of 173 metres, while the other had a usable area of 110 metres. There were also differences relating to roofing, tiling, ceiling, doors, etc. It was stated in the subcontract that the Respondent would be paid 60% of the amount paid to the Appellant by PTF. The Appellant paid the Respondent in instalments as the construction work progressed. After the completion of the project, the parties were at an impasse regarding the exact amount due to the Respondent and how much was left, if any, to be paid to him.

The Respondent wrote to the Appellant demanding his balance, but he was paid the sum of ₦2,526,000.00, such that the total amount paid to him prior to the commencement of the suit was ₦22,026,869.02. Due to the inability of the parties to reach a conclusive agreement on the amount to be paid to the Respondent by the Appellant, the Respondent instituted an action before the trial court via a writ of summons and statement of claim and sought certain reliefs.

At the conclusion of the trial, the trial court in its judgment found that the parties had abandoned their agreement under exhibit 2 (the subcontract) and that the Respondent expended his personal money on the project and he would ordinarily be entitled to claim on quantum meruit basis. However, it held that the amount claimed was not proven and it dismissed the claim.

Aggrieved by the judgment of the trial court, the Respondent appealed to the Court of Appeal. The Court of Appeal allowed the appeal, set aside the judgment of the trial court and ordered that the Appellant pays to the Respondent the sum of ₦7,622,9SS.98 as the reasonable sum on quantum meruit basis, having earlier paid him ₦22,026,860.02 and the sum of ₦500,000.00 as general damages.

Dissatisfied with the judgment of the Court of Appeal, the Appellant appealed to the Supreme Court. One of the issues raised for determination was: *Whether the court below was right when it, held that the Respondent expended his money on the project and incurred additional expenses on behalf of the Appellant and without having recourse to exhibit 2, awarded the sum of ₦7,622,955.98k on quantum meruit basis?*

Arguments

Learned counsel for the Appellant submitted that the Respondent pleaded the subcontract agreement (exhibit 2) in his statement of claim as the sub-contract that grounded the relationship of the parties and that both parties gave evidence thereon. He submitted that the sum of ₦22,026,869.02 paid in instalments by the Appellant to the Respondent was paid for the construction of the eleven Engineers Houses as contained in exhibit 2. It was submitted that the said sum was not paid on *quantum meruit* basis, hence there was no need for the court to have held so. Counsel submitted that the court below was wrong when it held that the Respondent expended his personal money on the construction project as he had received both the ENPLAN and HYDROPLAN drawings and therefore knew the cost of both before he accepted to undertake the project, and that the Respondent waited until he had been paid the last instalment of the money before sending a list showing the extra amount he purportedly expended on the project, which list was neither signed nor dated. Counsel lastly posited that the Respondent's claim at the trial court was not based on *quantum meruit* and that having failed to prove his entitlement to the reliefs sought, the Respondent was not entitled to fall back to claiming on a *quantum meruit* basis and urged the court to so hold.

In response to the above arguments, learned counsel for the Respondent submitted that the findings challenged by the Appellant were made by the trial court which the Appellant failed to challenge before the court below, only to bring them up before the apex court. It was submitted that those findings remain valid and subsisting and cannot be validly challenged in the apex court. On this, counsel further stated that the Appellant's failure to appeal to the lower court against the findings of the trial court enumerated earlier are indicative of his satisfaction with those findings. They thus remain, binding, conclusive and unalterable, and the court was urged to so hold.

Decision of the Court

In resolving this issue, the Supreme Court held that:

Where work is done or services are rendered by the plaintiff at the request of the defendant and of which the defendant has the benefit, the plaintiff can recover the value of the work done or service rendered on quantum merit. The argument by the Appellant is against the reliance placed by the court below on exhibit 22 which stated the extra costs incurred by the Respondent in completing the project. The exact sum was not challenged. Be that as it may, the position of the law is that the Appellant has an obligation to pay a reasonable sum on the basis of *quantum meruit* for the extra cost incurred by the Respondent.

Issue resolved in favour of the Respondent.

Kachi Chima Ochu, Esq., for the Appellant
Hussaini Sani, Esq., for the Respondent

This summary is fully reported at (2023) 5 CLRN.

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