

# NIGERIA – BLOOMFIELD LAW PRACTICE SUCCESSFULLY ENFORCES REDUNDANCY BENEFITS PAYMENT

Bloomfield Law Practice (the "Firm") recently secured a landmark judgment at the National Industrial Court on behalf of an expatriate employee (the "Claimant") in relation to redundancy benefits claimed for the period under employment by Seven Exploration and Production Limited (the "Defendant"). In the action instituted by the Firm, the Claimant sought to recover his redundancy benefits and three months' salary in lieu of Notice as contained in his engagement contract, which the Defendant had failed to pay. The Defendant had, contrary to the provisions of the Engagement Contract and the Redundancy Policy Manual, offered to pay only his salary in lieu of notice despite the fact that the termination was clearly and admittedly by reason of redundancy. The Claimant contended that he was fully entitled to his redundancy benefits because:

- (i) The disengagement letter clearly admitted that it was a redundancy;
- (ii) The policy had clearly set out the way and manner in which the redundancy policy was to apply; and
- (iii) The Defendant had put same into practice by paying out full redundancy benefits to all employees declared redundant within the past two years.

The Defendant, in its defence, contended that the Redundancy Policy was not intended to have a retrospective effect, but was rather, to be applicable to employees that were engaged in the Defendant's employment only from the date it was issued.

The Defendant further contended that in consequence, the redundancy policy was not applicable to the Claimant based on the date of execution and therefore payment should be calculated from the date the redundancy policy was issued..

On the contrary, the Defendant contended that even if the Claimant was entitled to the Redundancy policy, it had to be from effect from the date the policy came to effect and not from the date the Claimant signed his employment contract.

In a well-reasoned decision, Honourable Justice Bassi, in relying on the well-established judicial focus on the use of plain and ordinary meaning in the interpretation of contracts, awarded the claimed sum of One Hundred and Thirty-One Thousand One Hundred Pounds (GBP 131,100) to the Claimant and post judgment interest at the rate of 10%. In addition, the court also awarded the sum of One Hundred Thousand Naira (NGN100,000) as cost of action to the Claimant.

The Court, relying on the Court of Appeal case of *Rene Antoun & Anor v. Benson Oghene* which states that –"If an Agreement has been reduced into writing, it is the terms and conditions as contained in the document that is the determinant factor and no oral or extraneous evidence is permissible"

In addition to the above, the Court upheld the principle that more than document could be recognised and constitute the contract of employment and terms thereof between and employer and employee; and based on this, the Court found that the Redundancy policy executed by the Defendant, modified the contractual relationship between the parties, and thus found that the Claimant's contractual relationship was terminated by virtue of redundancy

Contrary to the Defendants contention, the Court stated that

*'...for an employee who was in service when the exhibit came into effect, it must apply to such employee in the absence of any express clause to the contrary*



## Implications

This foregoing decision reinforces the well-established use of the plain and ordinary meaning in the interpretation of employment contracts in Nigeria.

In similar circumstances, it is clear that Nigerian courts are averse to looking behind the ordinary meaning of words in contracts of employment, and ascribing interpretation outside the ordinary usage of the language.

The principle of law states that statutes are to be interpreted using the ordinary meaning of the language of the statute unless a statute explicitly defines some of its terms otherwise. According to the plain meaning rule, absent a contrary definition within the statute, words must be given their plain, ordinary and literal meaning. If the words are clear, they must be applied, even though the intention of the legislator may have been different or the result is harsh or undesirable.

In circumstances such as this case, it is clear that Nigerian courts are not averse to looking behind the ordinary meaning of words in contracts of employments, and ascribing interpretation outside the ordinary usage of the language. The literal analysis of the contract was the foundation for the judgement in favour of the Claimant.

In addition to the above, the judgement of the Court strengthens the position of local and expatriate employees seeking to enforce rights, which are clearly provided for in their respective employment contracts, policy manuals or employee handbooks.

The protections provided by the Courts would inevitably provide a greater level of confidence and assurance to all employees; more so, where expatriates have entered into clearly defined contracts of employment with local employees. By binding employers to the literal terms of the contracts, it prevents rescission from clearly stated obligations, and binds both parties to the agreement.

## Conclusion

The judgement of the National Industrial Court of Nigeria is a well-considered one, as it reinforces the position of engagement contracts as a primary source of obligations between parties, in an employment contract.

In addition, and more importantly, the judgement adopted a literal rule in the interpretation of the terms of the engagement contract. This is a logical and well thought out approach to the development of the law, and provides assurance to employment contracts and employment relations.

In addition to the foregoing, the judgement of the Court also reinforces the rights of employees to redundancy benefits, the denial of which constitutes unfairness under employment terms.

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