



**ADEQUACY OF ADMISSIONS TO AVOID  
DISPUTES: THE SUPREME COURT'S DECISION  
IN SEMBCORP ENGINEERING PTE LTD V. IPCO  
(WA) HOLDINGS LTD [2024] LPELR- 62984(SC)**

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Picture this scenario: you are owed \$4,700,000 by a business partner. Your contract contains an arbitration clause, but you are convinced that \$837,725 of that debt has been clearly admitted. Why arbitrate something that is not disputed? Why not secure summary judgment on the admitted portion whilst arbitrating only the contested balance?

This was precisely Sembcorp Engineering's strategy against IPCO entities. The Singapore contractor sought to split its claim, pursuing summary judgment for what it considered an admitted debt whilst accepting arbitration for the remainder. The Federal High Court agreed, granting judgment for \$837,725. However, the Court of Appeal found no clear admission and reversed the decision. When Sembcorp appealed to the Supreme Court, the apex court upheld the Court of Appeal's finding, delivering a judgment that offers crucial lessons for commercial litigation strategy.

Importantly, the Supreme Court did not reject Sembcorp's approach in principle. The court acknowledged that where a debt is genuinely admitted, there's no dispute to arbitrate and summary judgment is appropriate. As the court stated, arbitration clauses cannot be invoked "in vacuo" – there must be "a real and actual dispute within the meaning of the arbitration agreement." The court defined a dispute simply as "a disagreement or argument," occurring "where two or more people have a disagreement or are unable to agree on a matter or an issue." Conversely, "there cannot be a dispute or difference where a party has admitted to a point being made by another."

But here's the catch: proving that admission requires rigorous evidence. Under Nigerian law, admission is defined by Section 20 of the Evidence Act 2011 as "a statement, oral or documentary, or conduct which suggests any inference as to any fact in issue or relevant fact." The Supreme Court, drawing on established precedent, emphasised that admission is "a concession or voluntary acknowledgement made by a party of the existence of certain facts; a statement made by a party of the existence of a fact which is relevant to the cause of his adversary; a voluntary acknowledgement made by a party of the existence of the truth of certain facts which are inconsistent with his claims in an action."

Crucially, whilst admission is a question of law, the circumstances establishing such admission are matters of fact that must be proved by credible, cogent, and unambiguous evidence. This distinction proved fatal to Sembcorp's case. The court emphasised that even where affidavit evidence goes uncontroverted, courts retain the duty to examine whether that evidence is credible and sufficient to sustain the claims it purports to support.

Sembcorp's evidence appeared straightforward and clear: affidavit paragraphs asserting that IPCO owed \$837,725 supported by sixteen exhibits purporting to show invoices and express acknowledgments of this debt. IPCO filed no counter-affidavit at trial, leaving these assertions unchallenged. The Federal High Court accepted this unopposed evidence and found an admission of \$837,725. But when the Court of Appeal actually examined the exhibits themselves, the supposed clarity evaporated.

The documents were riddled with "handwritten figures and cancellations" lacking any explanation. The Court of Appeal specifically noted there was no indication of "why, how, where and by whom the alterations were made." Rather than clear documentary proof of admission, the exhibits presented a puzzle requiring significant interpretation. Even more troubling, the trial court's judgment failed to demonstrate how it reached its conclusion. As the Supreme Court observed, "it is doubtful how

the trial Court reached the conclusion that the Respondents admitted owing the Appellant the sum of \$837,725.00... the evaluation of evidence did not disclose how the Court came to such a conclusion."

In our view, Sembcorp made a critical tactical error that offers valuable lessons for practitioners. Rather than explaining these documents comprehensively in their initial application for summary judgment, they attempted to clarify the exhibits through detailed tables in their appellate brief before the Court of Appeal. Sembcorp's counsel drew up elaborate explanations showing how the various invoices supposedly added up to the claimed admission, complete with page references to make it easier for the court to do quick reference to the record.

The Supreme Court was unequivocal in rejecting this approach. As the court stated, "no matter how lucid and brilliant those explanations were, they could not have been and indeed were not of any help" because "submissions or address of counsel, no matter how brilliant, cannot take the place of evidence." The issue here is that explanations of what documents demonstrate constitute evidence, which must be given on oath in an affidavit. Counsel cannot give evidence through submissions – that's a basic principle of litigation procedure. Had Sembcorp provided detailed explanations in their supporting affidavit at trial – showing precisely how each exhibit demonstrated IPCO's admission, explaining any alterations, presenting clear calculations – they would have put IPCO to a choice. IPCO would either need to file a counter-affidavit challenging these explanations or risk their silence being construed as acceptance of Sembcorp's interpretation.

This decision has profound implications extending well beyond the arbitration context. The evidential principle established here applies equally to winding-up petitions based on allegedly undisputed debts, undefended list proceedings, and motions for summary judgment – all of which rely on establishing that debts are

admitted and therefore undisputed. The critical point is that the time-saving potential of these procedures – which can shave years off litigation – depends entirely on meeting the evidential threshold for proving admission.

For creditors, the tactical lessons are clear. When seeking to establish admissions, ensure your affidavit evidence is comprehensive from the outset. Don't merely exhibit documents and assert they show admission – explain how this is in detail within the affidavit itself and set out how each document supports your claim. Show your calculations. Explain any alterations or amendments. Present the narrative that connects the documents to the claimed admission. Basically, include sufficient detail in your initial application so that if the opposing party remains silent, their silence becomes an admission of everything you need to prove so that the court will not need to make any inferences.

Before accepting any acknowledgments of debt, creditors should insist that they should be drafted with precision – unambiguous in stating the exact amount owed, what it is owed for, to whom and that it is past due or immediately payable. Vague or qualified acknowledgments that require interpretation will likely fail the Sembcorp test.

For debtors, the decision provides tactical opportunities. Even minor ambiguities in purported admissions can be leveraged to force matters to full trial or arbitration. This reality creates strategic considerations: whilst the evidential threshold protects against spurious admission claims, in the context an attitude to abuse of court process rules that prioritises access to justice, it also provides a platform for debtors to create delays by challenging documents that appears to show clear admissions.

The decision also has implications for arbitration practice. The Supreme Court's confirmation that arbitration clauses cannot be invoked "in vacuo" – that there must be an actual dispute – reinforces that genuine admissions remove the basis for arbitration. But the threshold for

establishing such admissions is that the documents must speak clearly for themselves, without requiring extensive interpretation or explanation after the fact.

For practitioners handling commercial disputes, several practical points are emphasised. First, the decision demonstrates how critical the quality of initial pleadings and affidavits is. Everything must be in the foundational processes. The opportunity to explain or clarify evidence through counsel's submissions at appeal is increasingly limited, and this places an even greater premium on thorough preparation and comprehensive drafting at the outset of proceedings.

Secondly, the decision reinforces that Nigerian courts will independently scrutinise evidence even when it goes unchallenged. The days of assuming that an opponent's failure to file a counter-affidavit guarantees success are over. Courts will examine whether uncontroverted evidence is credible and sufficient to sustain the claims made.

Ultimately, the *Sembcorp* ruling from the Supreme Court has made it clear that while splitting claims to pursue admitted and contested debts differently (or indeed seeking summary judgement in spite of an arbitration clause) is still possible, the established evidentiary standards for proving admission must be met. This stance reinforces the integrity of arbitration agreements (and contested matters) while maintaining a faster pathway for genuinely undisputed debts within its well-defined boundaries. The decision serves as a powerful reminder that in commercial disputes, where time is often an important factor, the path to a quick resolution may rest on clear documentation

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*This case review examines the Supreme Court's decision in Sembcorp Engineering PTE Ltd v. IPCO (WA) Holdings Ltd [2024] LPELR-62984(SC). The analysis is intended for general guidance and does not constitute legal advice for specific situations.*

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