

**IN THE SMALL CLAIMS COURT OF RIVERS STATE OF NIGERIA
IN THE PORT HARCOURT MAGISTERIAL DISTRICT
HOLDEN AT PORT HARCOURT**

CLAIM NO: PMC/SCC/344/2024

BETWEEN

CHARLES ANOZIE

(Trading under the name & style of Nekky Integrated Ventures Nig.)

CLAIMANT

AND

OLADAN GLOBAL SERVICES LTD.

DEFENDANT

Parties- Claimant is present.

Appearances- D.O. Ogwuwere appears for the Claimant.

JUDGEMENT

By a summons filed vide Form RSSC 2 on 10/12/2024, the Claimant is praying the Court for:

- The sum of five million Naira (N5,000,000.00) only being a set off out of the total sum of N7,525,000.00 arising from the hiring of Daniela 1 barge by the Defendant from 29/01/2024- 2/3/2024 at a daily rate of N215,000 (two hundred and fifteen thousand naira), only.

On the face of the affidavit of service, the Defendant was served by substituted means as ordered by the Court on the 04/02/2025. A plea of not liable was made by J.O. John, Claimant's counsel on behalf of the Defendant and hearing commenced on the 05/02/2025 with the Claimant opening its case and testifying as the sole witness. They tendered one exhibit and closed their case on the 06/02/2025. The Claimant filed its final written address on the 12/02/2025 and raised one issue for determination.

A hearing notice was thereafter issued on the Defendant. Notwithstanding, they neither defended nor did they enter appearance.

CLAIMANT'S CASE

By the Statement on oath of the Claimant dated/filed the 03/02/2025, the Claimant states that by an agreement of parties, the Defendant hired his barge at the rate of N215,000 only per day for 10 days but the Defendant held it for 25 extra days. According to the Claimant, the accumulated sum owed is over N5,000,000 but to allow the Court exercise its jurisdiction, they had to forego the excess. The Defendant had been served several demand notices yet she refused to pay, pleading for more time.

In their final written address dated/filed the 12/02/2025, Claimant raised one issue for determination wherein D.O. Ogwuwere on behalf of Claimant argued that the Claimant's evidence was unchallenged and they have discharged the burden on a balance of probabilities.

EVALUATION OF EVIDENCE DECISION

The Court shall adopt the sole issue for determination raised by Claimant's counsel, to wit:
Whether the Claimant has proved his case and so entitled to the relief sought.

'The law is that the burden of proof is on the party who would lose if no evidence were adduced. Generally in civil proceedings, the burden of proof though said not to be static, it is on the vulnerable party to lead credible evidence in proof to the contrary..' - **UNION BANK OF NIGERIA PLC V RAVIH ABDUL & CO. LIMITED (2018-12) Legalpedia (SC) 05711**

The Evidence Act 2023 in Sections 131, 132, and 133 places the burden of proof in civil matters on the Claimant.

Claimant who testified as the sole witness told the Court that he let his barge to the Defendant and parties reached an agreement to that effect which commenced on 29/01/2024 and is marked exhibit C1a-e. In line with exhibit C1a-e, the duration was for 8 days, on a daily fee of N215,000. By exhibit C1a-e, the Defendant being the hirer has the option of renewal which shall be exercisable within two days before the expiration of the current term. The agreement of parties further reviewed downwards, the amount to be paid when the Defendant is renewing.

A careful perusal of the document reveals that all the elements and characteristics of a valid and binding contract are present. However, the Claimant is alleging breach of the contract entered between parties.

I shall point out that in the statement on oath of the Claimant, the contract was for 10 days. In exhibit C1a-e which is the written agreement of parties, the contract was for 8 days. Should the Court construe that glaring discrepancy as the Claimant not having a full grasp of why he is in Court?

One thing is cardinal, the contract commenced on the 29/01/2024 as stated in exhibit C1a-e and for the purpose of this suit, it is to run for 8 days. Notwithstanding, the Defendant without a just cause, held it till the 05/03/2024 totaling 36 days, less 8 days as agreed by parties which equals 28 days extra. That is a clear breach of exhibit C1a-e and Claimant is entitled to damages.

By simple arithmetic construction, the sum due Claimant is beyond the monetary jurisdiction of this Court. However, the Claimant by a combined construction of paragraphs 6-8 and 12 of the statement of oath, has abandoned the excess, thus conferring jurisdiction on this Court.

Worthy of mention is the fact that the Defendant was served the originating processes, hearing notice as well as the final written address and yet, chose not to respond or put up appearance, thus leaving the evidence adduced by the Claimant as unchallenged.

In **SHITTA-BEY v A-G FEDERATION** (1978) 7 SCNJ 264 Pg. 287, that *apart from the presumption of regularity, there is the presumption that where there is no evidence to the contrary, things are presumed to have been rightly and properly done.*

The law enjoins the Court to admit all evidence not controverted and deem them accepted, and I so hold.

The burden placed on the Claimant has been discharged on a minimal proof, given that there was no evidence on the other side.

The Court is thus of the considered opinion that the Claimant has proved his case to entitle him to judgement and I so hold. Judgement be and is hereby entered for the Claimant. It is accordingly ordered that:

1. The Defendant pay the Claimant the sum of N5,000,000 (Five Million Naira) only, as full and final settlement owed the Claimant for the hire of the barge, 'DANIELA 1' from 29/01/2024- 05/03/2024.

It is also ordered that this order be obeyed not later than 20 days from today.

SIGNED
ANUGBUM, OBIARERI N.,
SMALL CLAIMS COURT III
28/02/2025

