IN THE SMALL CLAIMS COURT OF RIVERS STATE OF NIGERIA

IN THE PORT HARCOURT MAGISTERIAL DISTRICT

HOLDEN AT PORT HARCOURT

CLAIM NO: PMC/SCC/757/2025

BETWEEN

OSSYTEFANO INTERNATIONAL CO.LTD **CLAIMANT**

AND

PETROLEUM FINANCIAL CORPORATE LTD **DEFENDANT**

Parties are absent

A.D.C. Briggs appears for the Claimant, holding the brief of Chief V.O Egbuawa.

JUDGEMENT

The Claimant instituted this suit on the 11/11/2025 and is praying the Court for:

a. The sum of N1,976,000 as balance of payment for the items supplied;

b. The sum of N1,500,000 as damages; and

c. The sum of N500,000 as cost.

As shown on the face of the affidavit of service, the Defendant was served on November 17, 2025 and the Claimant's counsel, V. O. Egbuawa on behalf of the Defendant, entered a plea of not liable.
Hearing commenced on 03/12/2025 with the Claimant fielding one witness, tendered four exhibits and closed its case on 08/12/2025.
The Defendant did not defend, though served with the originating process, hearing notice and the final written address.
The Claimant filed its final written address on 19/12/2025.

THE CLAIM

Ndumadu Osita Bartholomew the Managing Director of the Claimant, testified solely that: they deal in electronics; the Defendant is their customer who gave him a job order; on 11/02/2022 the Claimant supplied 10 pieces of air conditioners at the rate of N185,500= N1,855,000, 6 pieces of Skyrun table top fridge at the rate of N90,200 = N541,200; on 22/03/2022, the Claimant supplied fire proof safe at the rate of N580,000; Claimant issued an invoice to the Defendant; as agreed by the parties, the company was to pay in 45 days but they

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did not pay; the Claimant gave them one extra month; After six months, Defendant paid in N1 million; Claimant's lawyer wrote to the Defendant.
The Claimant in its final written address, raised and argued a lone issue for determination. Chief V.O. Egbuawa contends that the evidence of the Claimant, being unchallenged, the Court should enter judgement for the Claimant.

EVALUATION/DECISION

This Court has formulated a lone issue for determination, to wit: *Whether the Claimant has discharged the burden placed on it.*

Civil cases are determined on preponderance of evidence with the imaginary scale tilting in favour of the party with the more credible evidence.

"The person who would lose the case if on completion of pleadings and no evidence is led has the general burden of proof." – **ARO V ARO (2000) 1 NWLR (PART 649) 443.**

"It is elementary law that a party who wants judgment to be entered in his favour must establish his claims by cogent and verifiable evidence." – Per Muslim Sule Hassan, JCA in **MR. JULIUS OKE V. MR. EZEKIEL JAMI BUNA & ANOR (2024-11) Legalpedia 67715 (CA).**

The Claimant by this suit, is contending that the Defendant breached their contract as he has failed to fully liquidate the debt owed.

In the case of **FIC CONSTRUCTION LTD. V. NDIC (2013) 13 NWLR PT.1371 p.390 @ 406 - 407,** the court exposited that a contract is an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law. That it is a promise or a set of promises the breach of which the law gives a remedy, or the performance of which the law in some way recognizes as a duty. Parties must reach a consensus "ad idem" for a contract to be regarded as binding and enforceable. The two or more minds of the parties must meet at the same point, event or incident. The meeting of the minds of the contracting parties is the most crucial and overriding factor or determinant in the law of contract.

Going further, in the case of **BEST (NIG.) LTD VS. BH (NIG.) LTD. (2011) 5 NWLR Pt.1329 P.95 @ 127,** the Supreme Court defined a contractual relationship to mean a legally binding agreement between two or more persons by which rights are acquired by one party in return for acts or forbearances on the part of the other. It is a bilateral affair which requires the 'ad idem' of the parties. See the following decisions on the point: **ODUTOLA V. PAPERSACK (NIG.) LTD. (2006) 18 NWLR PT.1012 P.470; ORIENT BANK (NIG.) PLC. V. BILANTE INT'L LTD. (1997) 8 NWLR PT.515 P.37 AND S.G.B. (NIG.) LTD. V. SAFA STEEL AND CHEMICAL MANUFACTURING LTD. (1998) 5 NWLR PT.548 P.168.**

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In determining whether an enforceable contract has been formed, certain factors are to be considered. In **AMENA SUITS HOTELS LTD. V. PDP (2007) 6 NWLR PT.1031 P.453 12 @ 476,** it was held that for a contract to be validly formed or entered into, there must be: (i) Offer (ii) Acceptance (iii) Consideration (iv) Intention to create legal relationship, and (v) Capacity to enter into contract. All the five (5) elements or ingredients enumerated supra must be satisfied before there can be a valid contract in law. A contract cannot be legally entered into if any of these elements or ingredients is not satisfied or fulfilled. See also the cases of **OKUBULE V. OYEGBOLA (1990) 4 NWLR PT.147 P.723** and **PTF V. UWAMU (2001) 5 NWLR PT.705 P.112.**

The formation of contract is therefore governed by the making of an offer by the offeror and the acceptance of same by the offeree. The offer and the acceptance constitute an agreement of the two parties as "consensus ad idem", that is, the intention of both parties are the same. Therefore, for a contract to be valid in law, there must be an offer and an acceptance. An acceptance of an offer may be in writing, by conduct or by other means agreed to or acceptable to the parties. See **JOHNSON WAX (NIG.) LTD. VS. SANNI (2010) 3 NWLR PT. 2010 p. 235 @ 245.**

Exhibit C1a is a document from the Defendant. On the face of that document, the Defendant issued the document showing quotations and description of items to the Claimant.
Exhibit C1b is the quotation from the Claimant.
Exhibit C2 is an invoice issued by the Claimant to the Defendant, complementing exhibit C1.
To the mind of the Court, exhibit C1 shows that all the elements of a valid contract are present in the instant suit.
As has been led in evidence, the payment was due after 45 days, however, the Defendant paid N1 million after six months.
Exhibit C4 is an invoice dated 20/03/2022 for one fire proof safe at NN580,000, allegedly issued to the Defendant.
It is apposite to point out that exhibit C1 was issued by the Defendant, indicating items the Defendant needed. The invoice issued by the Claimant tallies with exhibit C1.
Exhibit C4 is not in tandem with exhibit C1. It does not follow the pattern set by the Claimant and no explanation was proffered by the Claimant. Though the evidence was not challenged, the law is that the Claimant succeeds on the strength of its case and not coast on the weakness of the Defense.

In the case of **AG RIVER STATE v. AG AKWA IBOM STATE (2011) 8 NWLR (Pt.1248) 31,** the Supreme Court staunchly held that:

"Where parties have entered into a contract or an agreement voluntarily and there is nothing to show same was obtained by fraud, mistake, deception, or misrepresentation they are bound by the provisions or terms of the contract or agreement. This is because a party cannot ordinarily resile from a contract or agreement just because he later found that the conditions of the contract or agreement are not favourable to him... Moreover, a Court of law must respect the sanctity of agreement reached by parties, where they are in consensus ad iden as regards

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the terms and conditions freely and voluntarily agreed upon by them und expressed in written form."

As was enunciated by the court, in **IBAMA v. SHELL (2005) 10 SC.74 PP 75- 76,** in determining the rights and obligations of the parties to a contract, the court must respect the sanctity of contract made by them. They are bound by the terms thereof; and the court will not allow a term on which there is no agreement to be read into it.

By virtue of the case of **ARJAY V AMS LTD (2003) 7 NWLR (Pt. 820) 577,** the whole essence of the doctrine of sanctity of contract or agreement is that the court is bound to construe the terms of the contract and the terms only in the event of an action arising therefrom. Hence, a party cannot midstream want to alter the terms of an agreement.

The terms of the contract entered between parties, as couched in exhibit C1a-z are clear and unambiguous and shall be given their ordinary meaning.

Has the Defendant breached the agreement reached in exhibit C1 a-z? In answering this, the Court shall attempt to look at what a breach of contract is.

A breach of Contract is committed when a party without lawful excuse, fails, neglects or refuses to perform an obligation he undertook in the contract or either performs the obligation defectively or incapacitates himself from performing the contract- **Fabiyi JCA** as he then was in **OBAJIMI V ADEDIJI [2008] 5 WRN 172.**

Furthermore, in the case of **UKPONGSON NIGERIA COMPANY LIMITED & ANOR v. BANK OF INDUSTRY LIMITED (2022) LPELR-57927(CA),** the Court of Appeal held thus: *"Breach of contract is no more than a failure, without legal excuse, to perform any promise which forms an integral part of a contract. It also connotes unequivocal and absolute refusal to perform an agreement. In ARE V OWOEYE (2014) LPELR - 41096 (CA), it was held that breach of fundamental terms occurs in a contract when a party fails to carry out the contract in its essential terms such a breach goes to the root of the contract."*

The inability of the Defendant to perform the central obligations created by Exhibit C1 amounts to a fundamental breach. It is germane to state that the term *fundamental breach is used to denote a performance totally different from that which the contract contemplated...* - **INTERNATIONAL MESSENGERS NIGERIA LTD V PEGOFOR INDUSTRIES LIMITED [2005] Legalpedia (SC) 81711.**

The Defendant has paid the sum of N1 million only which shows that they clearly breached the terms of the contract entered into between parties.

It is settled that in a suit for recovery of debt, a cause of action will accrue when a debtor fails to pay his debt after a demand to pay the debt has been made. See the cases of **UNION BANK OF NIGERIA LTD. V OKI (1999) 8 NWLR (PT.614) 255; AMEDE V UNITED BANK FOR AFRICA PLC (2008) 8 NWLR (PT.1090) 623; AKAT (NIG.) LTD. & ANOR. V UNITY BANK (2016) LPELR-40198 (CA).**

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In **BEVERLY DEVELOPMENT & REALTIES LTD. V TEC ENGINEERING CO. (NIG.) LTD. (2020) LPELR-52023 (CA),** the Court Per ABIRU, JCA, held as follows: *"It is settled law that where a creditor writes letters of demand to a debtor requesting settlement of debt and the amount of the debt is contained in each letter and the debtor does not query the respective figures written in the letters as the debt due, the debtor will be deemed to have impliedly admitted the quoted figures as the amount of debt due."*

In the instant case, the Claimant caused to be issued on the Defendant, exhibit C3a-f which is the letter of demand. The Defendant did not respond and its loud silence to the letter can be construed by this Court as an admission. I find and so hold.

Relief two deals with damages.

General damages are defined as the kind of damages which the law presume to flow from the wrong complained of by the victim. It covers all losses which are not capable of exact quantification, including non-financial losses. The manner in which general damages is quantified by the Courts is by relying on the opinion and judgment of a reasonable person in the circumstance of the case. See **BADMUS & ANOR V. ABEGUNDE (1999) LPELR-705 (SC); AKINTERINWA V OLADUNJOYE (2000) LPELR-358 (SC).**

On the claim for general damages, it is settled law that the fundamental objective for the award of damages is to compensate the Claimant for the harm and injury caused by the Defendant. See the cases of **G. CHITEX INDUSTRIES LTD. V. OCEANIC BANK INTERNATIONAL (NIG) LTD (2005) LPELR-1293(SC); AND OMONUWA V. WAHABI (1976) 4 SC 37 AT 41.**

Thus, it is the duty of the Court to assess the Damages; taking into consideration the surrounding circumstances and the conduct of the parties. See: **OLATUNDE LAJA V. ALHAJI ISIBA & ANOR. (1979) 7 CA.**

The quantum of damages will depend on the evidence of what the Claimant has suffered from the acts of the Defendant. In cases of breach of contract, the aggrieved party is entitled to recover such part of the loss which was reasonably foreseeable as liable to result from the breach. Thus, a Claimant is only entitled to damages naturally flowing or resulting from the breach. See **SWISS NIGERIAN WOOD INDUSTRIES LTD. V. BOGO (1971) 1 UILR 337; AGBAJE V. NATIONAL MOTORS (1971) 1 UILR 119.** The measure of damages, in such cases of breach of contract, is in the terms of the loss which is reasonably within the contemplation of the parties at the time of contract. See **JAMMAL ENGINEERING V. WROUGHT IRON (1970) NCLR 295; ALRAINE V. ESHIETT (1977) 1 SC 89.**

Items of general damages, unlike special damages, need not be specifically pleaded and proved. The measure or quantum of general damages is a matter that is at the discretion of a Court, taking into account the type of wrong committed or injury suffered.

In **ELF PETROLEUM V. UMAH & ORS (2018) LPELR-43000 (SC)** Ogunbiyi JSC restated the law as follows: *"It is pertinent to re-iterate herein that in the award of general*

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damages a wide spread power is given to the Court comparable to the exercise of discretion of the Court. It is enormous and therefore far-reaching and contrary to the contention held by the Appellant herein. The measure of general damages is awarded to assuage such a loss, which flows naturally from the Defendant's act. It needs not be specifically pleaded. It suffices if it is generally averred... Unlike special damages, it is generally incapable of exact calculation."

Given the maxim, *ubi jus, ibi remedium*, it is settled in the law of contract that having established in course of this judgement that the Defendant has breached the contract entered into by parties, the law is not unjust to send the Claimant away, empty handed. The Claimant is entitled to some form of recompense in the form of damages, to mitigate the breach occasioned by the acts of the Defendant. I find and so hold.

The last relief deals with cost.

Costs are not awarded to penalise a party who is ordered to pay them, nor are costs awarded as wind-fall to a successful party. Costs are meant to indemnify the winning party for his out of pocket expenses representing the actual and true/fair expenses incurred by the litigation.

The Claimant in a bid to recover its money, instituted this suit and has made some expenses and thus, entitled to some form of indemnity. I find and so hold.

The Defendants did not defend this suit, despite being aware of its pendency.

It is a settled principle of law that an unchallenged evidence is deemed admitted and the Court is enjoined to act on it. This principle was re-echoed by the apex Court in **GEOFFREY OFOZOBA IJOMAH V. OFOMA MOLOKWU (2025-03) LEGALPEDIA 51694 (SC)** held thus:

"The law is settled by unending case law that evidence not challenged or denied, if credible must be accepted and acted upon as establishing the facts stated therein." **– Per Emmanuel Akomaye Agim, J.S.C.**

The burden placed on a Claimant where the Defendant did not defend, is to be discharged not on a balance of probabilities, but on a minimal proof.

From the totality of the evidence placed before me and from the foregoing evaluation, I find that the Claimant has by credible, cogent and verifiable evidence, discharged the burden placed on it. Judgement be and is hereby entered in favour of the Claimant. It is consequently adjudged that the Defendant pay to the Claimant the following:

1. The sum of N1,976,200.00 only, being the balance of the unpaid debt;
2. The sum of N300,000 as damages; and
3. The sum of N200,000 as cost.

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These orders are to be complied with, not later than 14 days from the date of this judgement.

SIGNED

ANUGBUM, OBIARERI. N, ESQ.

CHIEF MAGISTRATE I

SMALL CLAIMS COURT IV

25th February, 2026