

IN THE MAGISTRATES' COURT OF RIVERS STATE OF NIGERIA  
IN THE PORT HARCOURT MAGISTERIAL DISTRICT  
HOLDEN AT SMALL CLAIMS COURT 3, PORT HARCOURT  
BEFORE HIS WORSHIP COLLINS G. ALI ESQ.,<sup>1</sup> TODAY THURSDAY, THE 6<sup>TH</sup>  
DAY OF JULY, 2023.

SUIT NO. JPMC/BCC/59/2023.

BETWEEN:

MRS. LOUISA JOSEPH

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CLAIMANT

AND

AMAHAOTU CHIDINMA THERESA

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DEFENDANT

Case called.

Claimant present.

Defendant absent.

JUDGMENT

The Claimant commenced this case against the Defendant on the 31<sup>st</sup> May 2023 and claimed as per the claim attached to the summons as follows:-

1. Principal sum - ₦500,000.00
2. Arrears of interest unpaid - ₦1,050,000.00
3. Cost of action - ₦100,000.00

Total = ₦1,650,000.00

The Defendant was served with the claim and summons personally on the 7<sup>th</sup> June 2023 and she filed an admission FORM RSSC 5 on the 9<sup>th</sup> June 2023 wherein she admitted owing the Claimant ₦350,000.00 and asked for permission to pay the sum with costs on a monthly instalment of ₦10,000.00 on the 30<sup>th</sup> of every month as there is a slow down in her business coupled with her mother's burial preparation.

Plea of not liable was entered for the Defendant and the case proceeded to trial. The Claimant testified as CW1 and called one Mr. Victor Okorie who testified as CW2. The Claimant tendered her Access Bank Statement of Account from 1<sup>st</sup> May 2021 - 20<sup>th</sup>

<sup>1</sup> LL B, LL M, BL, A. IDRI, Chief Magistrate Grade 1, and the Presiding Magistrate, Small Claims Court 93, Port Harcourt, Rivers State.



June 2021 and Demand Letter dated 9<sup>th</sup> May 2023 as Exhibits A and B. The Defendant testified as DWI and closed her case.

At the close of trial, the Defendant waived her right of address while the learned Claimant counsel, J. Nwonodi-Morgan, Esq. filed final written address on behalf of the Claimant on the 26<sup>th</sup> June 2023. The Claimant's final written address was adopted on the 30<sup>th</sup> June 2023 and the case adjourned for Judgment.

The learned Claimant counsel raised a lone issue for determination in the Claimant's final written address thus:

*Whether the Claimant has proved that by agreement of friendly loan, she is entitled to the principal sum and the 10% interest agreed by the parties?*

The Claimant's testimony as CWI is that the Defendant came to her for financial assistance through one of the Defendant's friend by name Esther. The CWI testified that the Defendant agreed that she will pay ₦50,000.00 monthly on the capital sum of ₦500,000.00 for three months; and thereafter repay the capital. The CWI testified that after the ₦500,000.00 was given to the Defendant to solve her business challenges, the Defendant paid the ₦50,000.00 interest for three months but have since failed to repay the principal sum of ₦500,000.00 despite repeated demands. The CWI denied ever giving anyone money and collecting interest in the past; and said all she wants from the Court is for the Defendant to repay her ₦500,000.00. On her part, the Defendant as DWI admitted that the Claimant gave her loan of ₦500,000.00 but insisted that she has repaid ₦150,000.00 and now owes the Claimant the sum of ₦350,000.00 which she said she is ready to pay but needs time as she is preparing for her mother's burial.

The evidence before the Court shows that the Claimant gave what seems like a friendly loan of ₦500,000.00 to the Defendant to revive her ailing business but on the understanding that the Defendant would repay the money within three months with a monthly interest of ₦50,000.00. The Defendant by the evidence before the Court has repaid the three months interest of ₦150,000.00 and is now owing the principal sum of ₦500,000.00. Although, the Defendant claimed that the ₦150,000.00 paid to the Claimant is part of the principal sum, I do not agree that the soft or friendly loan of



₦500,000.00 was given to the Defendant interest free. The CN2 who witnessed the transaction confirmed that ₦50,000.00 monthly interest was agreed as testified by the Claimant. What the Claimant is asking for by her oral testimony in Court as opposed to her claim, is the repayment of the principal sum of ₦500,000.00 only. Therefore the submission of the learned Claimant Counsel that the Claimant in this case falls under the exception of a Money Lender and therefore entitled to charge interest is not supported by evidence. The law is settled that address of counsel no matter how brilliant and alluring cannot take the place of evidence before the Court. See the case of *NIPOST v Musa* [2013] LPELR-20780 (CA). The Claimant did not give evidence on the interest of ₦1,050,000.00 as contained in the summons. The law is that failure to give evidence in support of a claim implies that the claim is deemed abandoned. See the case of *Adeweri v Okobi* [1997] LPELR-8055 and *Ifeta v S.P.D.C* [2006] 7 MJSC 121, 123.

I hold that the Claimant has partly proved her claims. Accordingly, judgment is entered for the Claimant against the Defendant as follows:

1. The Defendant is hereby ordered to pay the sum of ₦500,000.00 (Five Hundred Thousand Naira) only to the Claimant forthwith.
2. The Defendant is also ordered to pay the sum of ₦100,000.00 (One Hundred Thousand Naira) only as cost to the Claimant forthwith.



C. G. Ali Esq.  
Chief Magistrate Grade II  
06/07/2023

**LEGAL REPRESENTATION**

1. J. Nwonodi-Morgan, Esq. for the Claimant.
2. Defendant not represented.

