

IN THE MAGISTRATES' COURT OF RIVERS STATE OF NIGERIA

IN THE PORT HARCOURT MAGISTERIAL DISTRICT

HOLDEN AT SMALL CLAIMS COURT 2, PORT HARCOURT

BEFORE HIS WORSHIP COLLINS G. ALI, ESQ.,¹ TODAY WEDNESDAY, THE 4TH

DAY OF OCTOBER, 2023.

SUIT NO.:PMC/SCC/102/2023.

BETWEEN:

OSIAH CHUKWULADI

CLAIMANT

AND

NDEEKOR PEACE ZORBARI

DEFENDANT

Case called.

Claimant present.

Defendant absent.

JUDGMENT

The Claimant commenced this case against the Defendant on the 14th July, 2023 after serving demand letter and claimed as per his claim attached to the summons as follows:-

1. Debt/Amount Claimed - ₦192,000.00
2. Cost of litigation - ₦100,000.00
- Total = ₦292,000.00

The Defendant was served with the summons and claim personally on the 22nd July 2023 and he filed Form RSSC 5 on the 26th July, 2023 wherein he admitted the sum of ₦78,000.00 only and requested for three installmental payment. The first installment of ₦38,000.00 on 5th September, 2023; the second installment by end of November 2023 and the remainder by end of January 2024.

The Defendant pleaded not liable to part of the amount claimed; insisting that the monies now claimed by the Claimant were monies remitted by the Claimant to him for purposes of activating LTE Pro Account for him and another for business seminar

¹ LL B, LL M, BL, A. IDRI, Chief Magistrate Grade I, and the Presiding Magistrate, Small Claims Court 02, Port Harcourt, Rivers State.



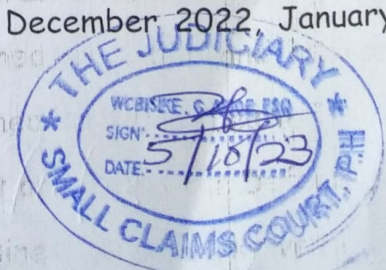
advertisement which the Claimant voluntarily supported with a view to sharing from the benefits of the advertisement and seminar in the future.

Following the disagreement by the parties, the case proceeded to trial with the Claimant and the Defendant testifying as CW1 and DW1 for and in defence of the claim. The Claimant tendered Zenith Bank Deposit Slips dated 02/11/2022, 16/11/2022 and 01/12/2022 as Exhibits A, B, and C respectively. The Claimant also tendered Certificate of Compliance dated 08/08/2023 and WhatsApp Chats with the Defendant as Exhibit D, E, E1 - E9. On his part, the Defendant tendered the WhatsApp Chats with the Claimant and Certificate of Compliance dated 31st July 2023 as Exhibits F, F1-F41 and G respectively. The Defendant also tendered a receipt for LTE Pro Seminar Hall hire dated 15/11/2022 as Exhibit H. The parties personally cross examined each other during the trial and the case was adjourned for judgment at the close of the trial.

After a careful perusal of the claim before the Court and the evidence adduced during the trial, the sole issue for determination in my opinion is thus:

Whether the Claimant has proved his case to be entitled to the reliefs sought?

The law is that he who asserts must prove. See section 131 (1) Evidence Act, 2011. By the oral testimony of the Claimant as CW1 and the Defendant they were participants in an online Platform named Workzone which crashed and following the Defendant's submissions on the platform, the Claimant aligned with him and he was introduced by the Defendant to another online platform named LTE Pro (Learn Trade and Earn Pro). Claimant stated that when he indicated interest and asked the Defendant to assist him in the trading, the Defendant told him the business was a risky venture. The CW1 testified that he remitted a total of ₦192,000.00 to the Defendant for the online business and they agreed on a small amount to be paid to him on monthly basis. The CW1 testified that part of their agreement was that he would be entitled to his capital and ₦15,000.00 monthly interest whether or not the Defendant encountered loses. The CW1 testified that the Defendant managed to pay him for December 2022, January 2023 and February 2023 but failed to pay in March 2023.



The Defendant as DW1 denied owing the sum of ₦292,000.00 as claimed by the Claimant. The DW1 testified that the Claimant paid him ₦84,000.00 first to assist him to buy dollars on binance for purposes of activating LTE Pro Account for him which was done. The DW1 testified that the Claimant further indicated interest to support the LTE Pro Business Promo for which he contributed ₦30,000.00 through him and the Business Seminars/Radio programs also duly held at Evergreen Tasty Eatry, Aba Road, Port Harcourt and aired on Family Love FM. The DW1 testified finally that the Claimant appealed to him that since the LTE Pro Company was encouraging members to learn how to trade, he was ready to learn and he agreed to teach the Claimant but the Claimant rather suggested to add to the Defendant's trade account for an agreed 20% returns monthly. The DW1 testified that he responded to the Claimant that it was risky but the Claimant sent him ₦78,000.00 to buy \$100 at the rate of ₦780.00 per dollar which was not even enough as he eventually added ₦2,000.00 to buy the dollars at the time. The DW1 testified that the investment was on 1st or 2nd December 2022 and they agreed that the Claimant would get his 20% monthly interest on the \$100 investment (₦78,000.00) on 1st January 2023; but the Claimant pleaded with him to pay in December 2022 due to the December season. The DW1 testified that he had paid the Claimant the agreed 20% for January 2023, February 2023 and March 2023. The DW1 testified that after the Claimant drew his attention to the stoppage of the LTE Pro signal in February 2023, he managed to pay him the 20% for March 2023 from his other sources and asked him for time to pay the capital of ₦78,000.00 as agreed because he too lost huge money following the stoppage of the LTE Pro signal.

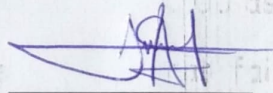
It is apparent from the evidence before the Court that the Claimant has failed to establish that the Defendant is indebted to him to the tune of ₦192,000.00. The only amount the parties agreed would be refunded the Claimant in the event of the stoppage of the trade is ₦78,000.00 which the Defendant also admitted. I find that the Claimant tried to be clever by half for demanding the refund of ₦84,000.00 and ₦30,000.00 which were monies paid by him for specific purposes and which were duly carried out by the Defendant. The Claimant obviously cannot eat his cake and have it as that is against



equity and good conscience. See the case of *Isienyi v Chukwu [2019] LPELR-48187 (CA)*. To ask the Defendant to refund the sums of ₦84,000.00 and ₦30,000.00, after LTE Pro Account had been successfully activated for the Claimant and the LTE Pro Business seminar and radio program done by the Defendant as agreed by the parties; and the Claimant derived benefits therefrom; would be likened to a customer asking for refund for goods purchased and consumed. The Claimant who himself attested to the risk involved the said online business and admitted that the Defendant also told him of the risk, should be grateful that the Defendant was able to pay him for three (3) months and is willing to refund him the capital of ₦78,000.00 as agreed despite the collapse of the LTE Pro Platform. I hold that the Claimant has failed to prove that Defendant is indebted to him beyond the sum of ₦78,000.00 as agreed and which the Defendant admitted. The claim for cost is hereby refused.

Judgment is partly entered for the Claimant as follows:

1. The Defendant is ordered to pay the sum of **₦78,000.00 (Seventy-Eight Thousand Naira)** only as outstanding debt to the Claimant within 14 days from today.
2. Parties shall bear their respective costs.



C. G. Ali, Esq.
Chief Magistrate Grade 1
04/10/2023

LEGAL REPRESENTATIONS:

1. **Osiah Chukwuladi, Esq.** appears in person.
2. Defendant not represented.

