

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

ON MONDAY THE 5<sup>TH</sup> DAY OF FEBRUARY, 2024  
BEFORE HIS WORSHIP WOBIA CRISTABEL AKANI, ESQ.  
SENIOR MAGISTRATE GD.1  
SITTING AT SMALL CLAIMS COURT 5

SUIT NO. PMC/SCC/257/2023

BETWEEN

UNOMIETA ASUQUO UWE                    --    --    --    CLAIMANT  
(Suing through his Lawful Attorney  
F. O. Omosigho, Esq.)

AND

EZE OCHIKWELI                                --    --    --    DEFENDANT

Claimant present.

Defendant absent.

F. O. Omosigho for the Claimant.

No appearance for the Defendant.

Matter is for Judgment.

JUDGMENT

The Claimant herein commenced this suit against the Defendant vide Form RSSC2 on 5<sup>th</sup> December, 2023 after serving the Defendant with the mandatory Letter of Demand on 23<sup>rd</sup> October, 2023 as required under Article 2(e) of the Rivers State Small Claims Court (Practice Direction) 2023. By the summary of claim contained in the Summons-Form RSSC3, the Claimant claims against the Defendant the sum of Six Hundred and Fifteen Thousand Naira (N615,000.00) only being the debt/amount claimed.

The Defendant was served with the claim and Summons personally on the 12<sup>th</sup> day of December 2023 as shown in the Affidavit of Service deposed to by Chinnah Chamberline, a Bailiff of Court attached to the Small Claims Court,

Port Harcourt. When the case came up on the 14<sup>th</sup> and 18<sup>th</sup> days of December, 2023, the Defendant failed to appear in court despite having being served with the Claim and Summons on 12<sup>th</sup> December 2023. Following the non-appearance of the Defendant, a plea of not liable was entered for the Defendant and the Claimant proceeded to prove his case on the directive of the court pursuant to the provisions of Article 8(2) RSSCC (Practice Direction) 2023.

The Claimant who appeared through his lawful attorney testified as CW1 and tendered the following documents in evidence as Exhibits-

1. Power of Attorney - Exhibit C1
2. First Bank statement of account for 14<sup>th</sup> January 2022 to 9<sup>th</sup> August 2022 - Exhibit C2
3. Letter of Demand - Exhibit C3

The Claimant advanced a total sum of ₦615,000.00 in a series of transfers to the defendant who is a native of Elingbu to assist the Claimant procure a building permit for the Claimant's property at Elingbu. The transfers were made from 13<sup>th</sup> April 2022 with the last transfer having been made in August 2022. However, the Defendant failed to procure the building permit and all efforts to get the Defendant to refund the said sum given to him for the procurement of the building permit have proved abortive. The Claimant has therefore prayed this court to order the Defendant to refund the money paid.

It is trite law that where the evidence given by a Claimant is unchallenged and uncontroverted, the court ought to accept it and act on it as a true version of the case it seeks to support. See **CONSOLIDATED RESOURCES LTD V. ABOFOR VENT. (NIG) LTD (2007) 6 NWLR (Pt. 1030) 221**. It is also the law that where a party who has had the opportunity to defend himself in an action fails to do so, the obvious and reasonable conclusion is that he does not intend to contest the case or he has chickened out. See **THE PRINCIPAL, GOVERNMENT SECONDARY SCHOOL, IKACHI AND ANOR V. DORCAS IGBUDU (2005) 12 NWLR**



(Pt. 940) 543. This is the position in the instant case. The Defendant was served with the processes in this suit and still failed to attend court. The clear conclusion is that he has no defence. I therefore have no hesitation in accepting the evidence of the Claimant as the truth and hold that the claimant has sufficiently discharged the burden of proof placed on him.

There is a clear case of breach of contract by the Defendant who received the sum of N615,000.00 from the Claimant for the procurement of a building permit and yet failed to do so till date. The Claimant is entitled to a refund of the said sum, the Defendant having failed to procure the building permit as agreed between the parties.

In the circumstance, I hold that the Claimant has proved his case and is entitled to the relief sought.

Accordingly, I enter judgment for the Claimant and against the Defendant and make the following order:-

1. The Defendant is hereby ordered to pay the sum of N615,000.00 (Six Hundred and Fifteen Thousand Naira) only to the Claimant forthwith being the sum received for the procurement of a building permit.



Wobia Cristabel Akani, Esq.  
Senior Magistrate GD.1  
05/02/2024