

IN THE MAGISTRATES' COURT OF RIVERS STATE
IN THE PORT HARCOURT MAGISTERIAL DISTRICT
HOLDEN AT PORTHARCOURT BEFORE HIS WORSHIP. G.C.AMADI ESQ.
SITTING AT SMALL CLAIMS COURT AT CHIEF MAGISTRATE COURT 14, ON THE 12th
OF OCTOBER 2023

SUIT NO. PMC /SCC/146/2023

TONYE SAMUEL DAVID

} CLAIMANT

AND

JEREMIAH IHIEZHE NWOBUEZE

} DEFENDANT

JUDGMENT

This is the final judgment in this suit wherein the small claim before the court, dated and filed on the 28th of August, 2023 is for:

1. An order of this Court compelling the defendant to pay the Claimant, the sum of N260, 000 representing money meant for school fees.
2. 10% interest of the capital sum from the month of April, 2023 to August 2023.
3. N130,000 as cost of filing this suit
4. N100,000 as general damages
5. 10% monthly interest on judgment until the total sum is liquidated

In proof of their case, the Claimant called one witness and the defendant never appeared in this matter.

On the 25th September, 2023, an application to enter plea of not liable for the Claimant was granted and the matter was set down for hearing.

On the 27th of September, 2023, the Claimant testified as CW1 and stated that he paid his school fees to the defendant, who is one of those in charge of uploading and processing fees ;but that he found out that the defendant never paid the fees into the School fees portal .That the said school fees was sent via bank transfer. The CW1 identifies the statement of Account and same is tendered in evidence and is marked as Exhibit 'A'.

That he paid 130,000 to his lawyer for professional fees. The receipt for the payment of professional fees is admitted in evidence and is marked as Exhibit B'

In conclusion, the CW1 stated that she wants the Court to grant their claim as on the face of the claim before the Court.



At the end of the evidence of CW1, in the light of the filed hearing notice and affidavit of service before the Court, the defendant was foreclosed from cross examining the CW1 and from defence and the matter was adjourned for judgment.

That said, I will proceed to consider the case of the parties in the light of the relevant laws. I have noted the essence of the claim have also taken cognizance of the evidence before the court. I have couched a lone issue for determination and that is whether the Claimant has discharged the burden of proving his claim before the Court.

Suffice is to say that before the court adjourned the matter for hearing and heard the matter, the court always satisfied itself that:

1. The processes have been duly served on the defendant
2. That the time before the date of service and the date of hearing was sufficient for the defendant to have appeared had he intended to do so.

It is also important to note at this point that none of the facts stated by the Claimant's witness above was controverted in evidence or denied by the defendant and so will be deemed by this court as admitted. The law is that facts admitted need not be proved by evidence. Please refer to the case of Ayoke V. Bello (1992)10 NWLR (Pt 218) pg 380 Ratio 2; O.A.A Cooperative Society Vs. NACP Ltd (1999) 2NWLR (Pt 590) Pg 234, Ratio 4 to the effect that what is not denied is deemed admitted and what is admitted need not be proved.

On the undisputed and clear evidence before the court, the court will hold that the claimant has discharged the burden of proving that she is entitled to his claim before the Court.

IT IS THUS ADJUDGED


1. That the Defendant to pay the Claimant the sum of N260, 000 (Two hundred and Sixty Thousand Naira) representing money meant for school fees.
2. That the Defendant to pay the Claimant 10% interest of the Capital sum from the month of April, 2023 to August 2023.
3. That the Defendant to pay the Claimant, N130,000 as cost of filing this suit
4. That the Defendant to pay the Claimant, N100,000 as general damages
5. That the Defendant to pay the Claimant, 10% monthly interest on judgment until the total sum is liquidated

AND IT IS ORDERED that the defendant to pay the Claimant, the aforesaid sum of **N620,000,00(Six Hundred And Twenty Thousand Naira)** representing money meant for school fees ,interest on the capital ,cost of filing the suit and general damages **with immediate effect**



AND IT IS ALSO ORDERED that the defendant to pay the Claimant, 5% monthly interest on judgment until the total sum is liquidated.

TAKE NOTICE -That if payment is not made as above ordered, a warrant or warrants may issue requiring an officer of the court to levy the sum above mentioned, to the Claimant together with further costs.

G.D.I
CHIEF MAGISTRATE
SIGN.  DATE.....

**G.CHINYERE AMADI. ESQ.
CHIEF MAGISTRATE G.D.II**