

IN THE MAGISTRATES' COURT OF RIVERS STATE OF NIGERIA
IN THE PORT HARCOURT MAGISTERIAL DISTRICT
HOLDEN AT SMALL CLAIMS COURT 1, PORT HARCOURT
BEFORE HIS WORSHIP COLLINS G. ALI, ESQ.,¹ TODAY WEDNESDAY, THE
24TH DAY OF APRIL, 2024.

SUIT NO.:PMC/SCC/41/2024.

BETWEEN:

MR. UZOKWE SUNDAY

CLAIMANT

AND

INNOCENT OBI

DEFENDANT

Case called.

Claimant present, Defendant absent.

JUDGMENT

This is a judgment on the recovery of debt claim filed by the Claimant against the Defendant on the 26th February, 2024 after serving the Defendant with mandatory demand letter dated 2nd February, 2024. The claims of the Claimant as shown in the claim attached to the complaint form and summons are as follows:

| | |
|----------------------------|------------------------------------|
| 1. Debt / Amount Claimed - | ₦ 2,901,200.00 |
| 2. Costs | - ₦ <u>200,000.00</u> |
| TOTAL | = ₦ <u>3,101,200.00</u> |

The originating processes were served on the Defendant by substituted means on the 2nd April, 2024 on the order of this Honourable Court, but the Defendant failed to enter appearance in Court. Plea of not liable was entered for the Defendant in accordance with the rules of this Court. The Claimant testified as CW1 on the 17th April, 2024 and tendered one (1) document which was received in evidence as Exhibit A. The Defendant was foreclosed from the cross examination of CW1 and defence for failure to appear in Court despite been served with originating processes; and the case was adjourned for judgment.

The summary of the oral testimony of the Claimant Mr. Uzokwe Sunday as CW1 is that on the 9th November, 2023, the Defendant who is retailer on glasses came to his shop and purchased 15 sheets of 10mm grail glasses, 30 sheets of 5mm

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

grail reflective glasses, 30 sheets of 5mm plain glasses, and 30 sheets of 5mm blue reflective glasses which amounted to ₦7,350,000.00. The CW1 testified that the Defendant paid the sum of ₦3,206,000.00 only leaving a balance of ₦4,144,000.00 unpaid and that a receipt/invoice was issued to the Defendant upon the payment. The CW1 testified further that after one month, the Defendant paid additional sum of ₦1,242,500.00 only leaving an unpaid balance of ₦2,901,200.00 till date despite selling off the goods.

The evidence of the Claimant is unchallenged and therefore deemed admitted. The law is now settled that facts which parties are deemed to have admitted in any civil proceedings need no further prove. See section 123 of the Evidence Act, 2011 (as amended). See also the case of *Owners of M/V Gongola Hope & Anor. v Smurfit Cases (Nig) Ltd & Anor.* [2007] LPELR-2849 (SC) wherein the Supreme Court held *inter alia* that unchallenged evidence is deemed admitted and the Courts are enjoined to accept and act on such unchallenged evidence. Again, in a suit for recovery of debt, a cause of action will accrue when a debtor fails to pay his debt after the demand to pay the debt has been made. See *Akinsola & Anor. v Eyinnaya* [2022] LPELR-57284 (CA) (Pp. 27 paras. B). I hold that the Claimant has proved his case and is entitled to judgment. Judgment is hereby entered for the Claimant and against the Defendant as follows:

1. The Defendant is hereby ordered to pay the Claimant the sum of ₦2,901,200.00 (Two Million, Nine Hundred and One Thousand, Two Hundred Naira) only representing unpaid debt forthwith.
2. The Defendant is hereby ordered to pay the Claimant the sum of ₦200,000.00 (Two Hundred Thousand Naira) only as costs forthwith.



C. G. Ali, Esq.
(Chief Magistrate)
24/04/2024

LEGAL REPRESENTATION:

1. Chief N. J. Iheanacho for the Claimant.
2. Defendant not represented.

