

IN THE MAGISTRATE COURT OF RIVER STATE OF NIGERIA
IN THE PORT HARCOURT MAGISTERIAL DISTRICT
HOLDEN AT PORT HARCOURT
BEFORE HIS WORSHIP S. S. IBANICHUKA, ESQ
HOLDEN AT SMALL CLAIM'S COURT 6 PORT HARCOURT
PMC/SCC/122/2024

LAPO MICROFINANCE BANK LIMITED

VS.

1. PERPETUAL NKIRU AGBAEZE

2. FRANCIS AGBAEZE

JUDGEMENT

The Claimant instituted this action against the Defendants via form RSSC 3 of this court filed on 08-05-24 claiming for the following:

- i. The sum of **₦339,637.00 (Three Hundred and Thirty Nine Thousand Six Hundred and Thirty Seven Naira)** only being and representing the principal sum owed to the Claimant by the Defendants.
- ii. **₦150,000 (One Hundred and Fifty Thousand Naira)** being fees.
- iii. **₦100,000.00 (One Hundred Thousand Naira)** representing cost.

In proof of its case, the Claimant called a sole witnesses (CW1) one Imadie Osamudiene the recovery officer of the Claimant and relied on two Exhibits, Exhibit's "A and B" being the offer/acceptance credit facility document and the Loan agreement . The Defendants never appeared in this case and were never represented by counsel despite being served the originating processes in this suit and a hearing notice. The Claimant at the close of its case applied that the Defendants be foreclosed from cross examining CW1 and subsequently from defending the case. He also waived his right to file final written address and prayed the court to enter judgement. The prayers were granted as prayed

The facts of this case as put forward by the CW1 are that sometime in the year 2022 the 1st Defendant was granted a loan facility for the sum of **₦1,500,000.00 (One Million and Five Hundred Thousand Naira)** by the Claimant and agreed with the Claimant that the loan period is from 13-04-2022 to 13-04-2023 , that prior to the expiration of the loan the 1st Defendant was approached to repay the balance of the loan of **₦489,637.00 (Four Hundred and Eighty Nine Thousand**

Six Hundred Thirty Seven Naira) and that the 1st Defendant has refused to pay the Claimant the said money despite several demands by the Claimant to the 1st Defendant and also to the 2nd Defendant who signed as guarantor to the 1st Defendant to be liable if the 1st Defendant fails to repay the loan. Hence this suit.

The sole issue for determination in this case is “*Whether the Claimant has placed enough materials before the court for the court to grant the claimants reliefs before this court*”?

The law is trite that where the Claimant leads evidence in prove of his case and the Defendant adduces no evidence in rebuttal, in such circumstances the Defendant is deemed to have admitted the claims of the Claimant and in deserving cases the Claimant will be entitled to his claim. See: **Section 123 of the Evidence (Amendment) Act 2023** and the case of **CBN V. DINNEH (2010) 17 NWLR (PT. 1221) PAGE 125, 162 at paragraphs C-D.**

The Claimant relied on Exhibits “A and B” in proof of the fact that the 1st Defendant took a loan from the Claimant and the 2nd Defendant guaranteed to be liable if the 1st Defendant fails to repay the loan. That Claimant has testified that the 1st Defendant has failed to repay the loan and this testimony is unchallenged.

I have carefully considered the evidence adduced by the Claimant in support of his claims (to which the Defendant did not oppose) and on the strength of Exhibits “A and B” before this court, I find that the Claimants claims are at variance with the evidence led before the court. In the Circumstances and in the interest of justice the Claimant shall be entitled only the claims proved before this court.

Accordingly it is adjudged as follows:-

- i. That the Claimant is entitled to the sum of **₦489,637.00 (Four Hundred and Eighty Nine Thousand Six Hundred Thirty Seven Naira)** being and representing balance of the loan owed the Claimant by the Defendants.
- ii. Cost of **₦100,000.00 (One Hundred Thousand Naira)** only is awarded in favour of the Claimant.

I make no further orders.



Signed:
S. S. IBANICHUKA , ESQ.
10/07/2024.

