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 COURT 6 PORT HARCOURT

PMC/SCC/253/2024

MR. AMECHI F. ASUGWUNI ..... **CLAIMANT**

AND

MR. PRINCEWWILL OKEMINI ..... **DEFENDANT**

JUDGEMENT

The Claimant instituted this action against the Defendant via forms RSSC 2 and RSSC 3 of this court filed on the 22-10-24 claiming for the following:

i. The sum of **₦ 458,000 (Four Hundred and Fifty Eight Thousand Naira)** being and representing total cost of the list of items damaged in the claimants property by the Defendant.

ii. **₦542,000 (Five Hundred and forty Two Thousand Naira)** as cost of this litigation.

In proof of his case the claimant called a sole witness CW1 (the Claimants Attorney, Titilayo K Okon Esq) and tendered Exhibits A- Power of Attorney, B- Tenancy Agreement and Exhibits C, C1 to C11 being certificate in compliance with Section 84 of the Evidence Act and Pictures of fittings in the apartment destroyed by the Defendant and Exhibit "D" claimants counsels final demand notice. The Defendant was represented by counsel and on 6-11-24 the defendants counsel cross examined CW1 half way and took a date to settle the case out of court, afterwards on subsequent dates the defendant counsel did not appear to either conclude cross examination of CW1, report settlement or defend the suit. Consequently the defendant was foreclosed from further cross examining CW1 or Defending this suit.

The summery of the facts of this case as put forward by the Claimant are that the Claimant is the owner of the Two (2) Bedroom Flat Apartment at Block E Amaechi Estate Opposite Hallel College, Rukporkwu, Rivers State, that the Defendant was a Tenant of the claimant in the said apartment until his rent expired on 15-09-15 and he moved out on 30-8-2023. Further facts are that upon taking possession of the apartment and inspection of same, the claimant discovered that the defendant has damaged several items and fittings in the apartment, that the defendant at the time orally promised to repair the damaged fittings inline with the tenancy agreement entered between the claimant and the defendant when the defendant entered the property. That the defendant refused to keep to his promise to repair the damaged fittings despite several demands by the claimant including a final letter of demand from the claimants counsel. Hence this suit.

The claimant closed his case on 27-11-24 and due to the consistent non appearance of the Defendants in court in this case the claimant on the 11-12-24 applied that the defendant be foreclosed from defending the suit and the application was granted as prayed. The claimant counsel waived her right to address the court and prayed the court to enter judgement in favour of the claimant.

The sole issue for determination as raised by this court in this judgment is ***"Whether considering the facts and circumstances of this case, the Claimant has put enough materials before this court to warrant the court to grant the reliefs of the claimant 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, the claimant is entitled to judgment on the merits of the case if he meets the standard of prove required by law. In a civil case such as this the standard of prove is on a preponderance of evidence. See: **Section 134 of the Evidence (Amendment) Act 2023** .The burden of this prove however rests on the claimant.,See the cases of **IBANIPIO V. ONYIYANGO (2000) 6 NWLR (PT. 661) PAGE 497 at paragraph E.**

The claimant as CW1 relied on Exhibits A to D in proof of his case and led evidence through CW1, The defendant did not successfully contradict any of the exhibits neither is there a defence against all the claims of the claimant before this court, the implication is that the Defendant is deemed to have admitted all the facts and claims as stated by the Claimant, the law is trite that facts admitted need no further proof, see **Section 123 Evidence (Amendment) Act, 2023** and the case of **CBN V. DINNEH (2010) 17 NWLR (PT. 1221) PAGE 125, 162 at paragraphs C-D.**

I have carefully considered the evidence adduced by the claimant in this case and all the prayers as sought by the claimant and which for the sake of emphasis I must repeat are not successfully challenged by the Defendants. I therefore find no difficulty in arriving at the conclusion that the claimant has proved his case on the standard required by law and that this is indeed a deserving circumstance for the court to order as prayed by the claimant except for prayer two being cost of this litigation
The law is that he who asserts must proof. See See **Amadi v Amadi (2017) 7 NWLR (PART 1563) S.C.**
There is nothing before this court to support this claim , in the circumstance prayer 2 fails and same refused.

Accordingly, it is adjudged that the claimant is entitled against the defendants to the following :

1. The sum of **₦ 458,000 (Four Hundred and Fifty Eight Thousand Naira)** being and representing total cost of the list of items damaged in the claimants property by the Defendant.

2. .**₦50,000.00 (Fifty Thousand Naira)** only as cost.

I make no further orders.

Dated this 19th day of December 2024

Signed:
SAMUEL S. IBANICHUKA , ESQ.
19/12/2024.

THE JUDICIARY
SIGN.....
DATE: 8/1/2025
SMALL CLAIMS COURT, P.H