IN THE CHIEF MAGISTRATE COURT OF RIVERS STATE OF NIGERIA
IN THE RUMUODOMAYA MAGISTERIAL DISTRICT
HOLDEN AT RUMUODOMAYA

BEFORE HIS WORSHIP B.H. ABE (MRS) ESQ., SITTING AT THE CHIEF MAGISTRATE COURT 1 RUMUODOMAYA ON FRIDAY THE 1ST DAY OF DECEMBER, 2023

RMC/SCC/14/CS/2023

BETWEEN

GUARANTY TRUST BANK LIMITED - CLAIMANT
(C/O OGECHI .Q. AGBAI, ESQ.)

VS.

UMUOKORO IFONI BENSON - DEFENDANT

Matter for Judgment

JUDGMENT

The Claimant claims as follows against the defendant;

1. Repayment of the loan sum of N4,831,940.79K (Four Million, Eight Hundred and Thirty-One Thousand, Nine Hundred and Forty Naira, Seventy-Nine Kobo).

2. 10% monthly interest on the said loan sum.

3. N200,000.00 (Two Hundred Thousand Naira) cost of this suit.

Facts

On the 3rd August, 2023, the claimant's counsel Ogechi Agbai, Esq. informed the Court that the defendant had been served with the Court's originating processes via WhatsApp, the claimant centered a plea of not liable for the defendant who was absent and not represented.

The complaint for Form RSSC 2, containing the particulars of both parties and the Court's summons RSSC 3 are both before the Court, the affidavit of service Form RSSC 6 dated 1st August, 2023 is also before the Court.

The crux of this matter is as follows; The defendant took a loan of N7,000.000.00 (Seven Million Naira) in 2021 and is yet to fully repay the loan

and interest. The amount owed as at 25th May, 2023 is N4,831,940.79K (Four Million, Eight Hundred and Thirty-One Thousand, Nine Hundred and Forty Naira, Seventy-Nine Kobo) and interest which keeps accruing.

The claimant demands the total sum of N4,831,940.79K (Four Million, Eight Hundred and Thirty-One Thousand, Nine Hundred and Forty Naira, Seventy-Nine Kobo), 10% monthly interest and N200,000.00 (Two Hundred Thousand Naira) cost, because they have demanded the money and the defendant refused to pay.

On the 19th September, 2023, both parties were absent, O. Q. Agbai appeared with O. O. Wamini, the defendant was absent. The claimant opened their case.

Cw1 gave her name as Vanessa Enujuha a litigation officer with Infinite Law Attorneys, she gave her evidence and tendered Exhibits A to C.

On the 4th October, 2023, the parties were absent, .S. Long Williams with O. Q. Agbai (Mrs) appeared for the claimant, the Court was informed that the defendant had been served via WhatsApp, they applied for service via substituted service, the Court granted same and also ordered that the defendant should be served via WhatsApp.

The order for substituted service is dated 4th October, 2023 served by the Court bailiff on the 16th October, 2023, see Form RSSC 6.

The claimant's counsel on the 16th October, 2023, applied to expunge the evidence of cw1 and retrieve all the Exhibits tendered.

The Court granted her prayers and confirmed Proof of Service on the defendant.

The defendant was absent on the 20th October, 2023, when cw1 gave evidence.

She gave her name as Stella .C. Ugo Nwoke with GTBank, Azikiwe Road. A relationship manager, managing the account of the defendant. The defendant took N7,000,000.00 facility from the bank in 2021 in two different facilities, he repaid some back to the bank.

The bank had an agreement with the defendant, an offer letter was given to him with the loan facility, the defendant signed the agreement in the presence of his witness, Mr. Timothy Umokoro.

He was called on the phone, he did not respond, the address he gave to them was visited and he could not be found.

Their solicitors sent him a demand notice but got no response.

Exhibits A1 – A8 were tendered and admitted in evidence, the exhibits are as follows;

1. The bank statement of the defendant with N4,442,199.00 and two other statements from two other accounts with the bank before me as Exhibits A1, A2 and A3 respectively.
2. Offer of banking facility, two facilities stated before me as Exhibit A4 with N4,000,000.00 (5th November, 2021).
3. The Keystone statement stating the loan granted to the defendant and the amount his owing with his balance, N7,860,873.67k admitted as Exhibit A5.
4. The term loan agreement between the bank and the defendant dated 5th November, 2021 with Timothy Umuokoro as witness, before me as Exhibit A6.
5. A demand notice of the money owed by the defendant being N4,831,930.79K dated 30th June, 2023 admitted as Exhibit A7. All photocopies and originals with the defendant.
6. A certificate of authentication in line with section 84 of the Evidence Act admitted as Exhibit A8.

She prayed the Court in conclusion to grant all their claims as stated in their demand notice.

The Court foreclosed her from cross-examination by the defendant due to his consistent absence and adjourned for defence to the 24th October, 2023.

On the said 24th October, 2023, the defence was foreclosed from defending this suit, due to his consistent absence.

On the 8th November, 2023, the claimant's counsel adopted her final written address dated.

In her final written address, she posited as follows;

The law is trite that a customer(s) has the duty to meet up with their financial obligations … and customers must always repay the loans extended to them. Once a customer has approached a financial institution to seek for a credit facility and same granted, the customer is duty bound to repay the said loan.

See Banks and other Financial Institutions Act (BOFIA), 2020.

By Exhibits A4-A6, being an offer of banking facility, Global standing instruction, and term loan agreement of 5th November, 2021 signed to the defendant, the defendant is duty bound to repay same as stated on his contract documents.

We humbly state that by the defendant receiving the loan sum of the claimant, and subsequently refusing, neglecting, and or failing to fully liquidate the entire loan sum have led to the defendant's breach of his financial obligation. This breach now entitles the claimant to demand for an immediate liquidation of the entire outstanding loan sum of N4,831,940.79K (Four Million, Eight Hundred and Thirty-One Thousand, Nine Hundred and Forty Naira, Seventy-Nine Kobo) only, exhibited on A1-A3.

The law is well settled that a debtor who benefitted from a loan facility from a bank has both moral and legal duty and obligation, express or implied, to repay the loan.

See; Afribank Vs. Alade (2000) 13 NWLR (pt. 685) 591, National Bank Vs. Shoyoye (1977) 5 SC 181 and FCMB Vs. Rophine Nigeria Limited & Anor (2017) LPELR 42704 (CA).

Your Worship, we humbly submit that the acceptance and subsequent signing of Exhibit A4, A5, and A6, also, the service of A7, which was ignored by the defendant, the claimant has satisfied the requirements of the law on this claim and has therefore made out a substantial claim entitling it to the reliefs sought and the right to recover the outstanding loan sum of N4,831,940.79K (Four Million, Eight Hundred and Thirty-One Thousand, Nine Hundred and Forty Naira, Seventy-Nine Kobo) only, claimed with accruing interest and cost.

Also, the defendant never appeared in Court from the inception of this suit till date nor was represented, despite being served the claim and the order of substituted service of this Honourable Court. Consequently, this Honourable Court after the time afforded the defendant to cross examine the cw1 and upon application by the claimant's counsel, foreclosed the defendant from defending this suit on 24th October, 2023.

We humbly submit that the defendant has by his conduct waived his right to defend this suit and by so doing, admitted to the evidence of the claimant, as the law is trite that facts admitted need no further proof.

See John Andy Sons and Co. Limited Vs. Mfon (2006) 12 NWLR (pt. 995) 461 @ 478 para. N.

"Where a party in a legal duel receives a hearing notice but decides to be absent, the obvious conclusion is that he does not intend to contest the case or he has chickened out or he has abandoned it".

See Newswatch Comm. Ltd. Vs. Atta (2006) 12 NWLR (pt. 993) 144 SC Banna Vs. Tele Power (Nig.) Ltd. (2006) 15 NWLR (Pt. 1001) 198 SC.

We humbly submit further also that a fact and or evidence neither denied nor challenged are deemed admitted and need no further proof.

See Section 123 Evidence Act, 2011, Ogolo Vs. Fubara (2003) 11 NWLR (pt. 831).

We humbly submit that the claimant has proven on the preponderance of evidence, that the defendant is liable to the claimant in the reliefs sought. It is in consideration of the totality of these facts, circumstances and decided authorities that we submit that the claimant has proved their case as required by law and is thus entitled to their claim as represented in the particular of claims.

We urge this Honourable Court to so hold, resolve the above lone issue in the affirmative and grant all the reliefs sought by the claimant in this suit.

Issue for determination

Whether the claimant is entitled to their prayers having regard to the facts of this case and the evidence led by the claimant?

COURT

I align with the submissions of the claimant's counsel as postulated by her in her final written address, wherein she posited that a customer of a bank who has sought the assistance from a bank for a loan facility is duty bound to pay the loan upon the terms agreed by both parties. This is not just law but common knowledge.

A customer cannot just walk into a bank, apply for a bank loan and then fail and refuse to repay back the loan when due for repayment, as the defendant has done in this case.

The banks and other financial institutions Act (BOFIA) 2020 frown deeply at this.

Cw1 who gave evidence in this case, as the sole witness of the claimant, testified that the defendant took a loan facility of N7,000,000.00 from the bank in 2021, in two different facilities, he repaid some part of the loan and left the balance outstanding.

The defendant who undertook to repay the loan, did this in the presence of a witness, Mr. Timothy Umokoro.

The defendant has clearly acted in breach of the loan contract entered into between him and the claimant. He has refused to liquidate till date the balance

of the loan sum, which entitles the claimant to sue for the repayment of the said loan amounting to N4,831,940.97.
In proof of their claims against the defendant, the claimant via cw1 tendered Exhibits A1 to A8.

The defendant is morally and legally obligated to repay the loan and keep to his own part of the contract. The defendant cannot after utilizing the loan from the claimant, fail and refuse to pay up the balance of the loan.

A party who has taken the benefit of a contract cannot be seen to refuse to perform his own obligation to the contract to the detriment of the other party, as in this instant case.

In determine the issue before the Court, I need to identify the points in the case of the claimant.

The claims of the claimant are predicated on the loan contract entered into between both parties in 2021. See Exhibits A1 – A7 admitted by the Court. The contention of the claimant is that out of the N7,000,000.00 loan facility awarded to the defendant, he has a balance of N4,831,940.97 pending which he has not liquidated, he is in breach of the loan agreement, hence the claim for 10% damages by the claimant, that is, 10% monthly interest on the said loan sum.

The proper document the Court will need to look at to resolve this issue of repayment of this loan, is the loan facility offer, this is what the law provides.

In Agbareh Vs. Mimra (2008) 2 NWLR (pt. 1071) 378, the Supreme Court held that “parties are bound by their agreement”,

“When parties enter into an agreement, they are bound by its terms and that either of them or the Court cannot legally or properly read into the agreement terms on which the parties have not agreed to. As a matter of act Section 132 of the Evidence Act states that the only admissible evidence of a contract is the contract itself although the Section recognizes exceptions. Thus if and where there is any disagreement as to what is or are the terms or terms of an agreement on any particular point the authoritative and legal source of information for the purpose of resolving the disagreement is of course the written agreement executed by the parties”

The Court of Appeal also held in ZENITH BANK PLC V. EMIRATES CREDITCORE AND INVESTMENT LTD (2016) LPELR-41586 (CA) thus:

“It is a well settled general principle of law that when parties enter into an agreement and they have reduced same into writing that is what should govern their relationship. If there is any dispute the agreement will be the reference

point and none of the parties would be allowed to vary add or subtract or resile from it."

See UBA V. OZIGI (1994) 3 NWLR (PT. 333) 385.

It is trite that to sustain this claim the claimant in this instant suit has to prove the alleged breach or breaches of the defendant.

The law places the burden on he who asserts to lead evidence to establish the existence or non-existence of what he alleges. See Sections 131(1) and 133 (1) of the Evidence Act 2011 and ORJI V. DORJI TEXTILE MILLE NIG LTD (2010) ALL FWLR (PT. 519) 999.

The law is settled that where a party's principal claim fails, the accessory claims that are appendages to it will also fail. This cardinal principle of law was espoused by the Supreme Court in the cases of FAGUNWA V. ADIBI (2004) 17 NWLR (PT. 903) 544 and AKINDURO V. ALAYA (2007) 15 NWLR (PT. 1057) 312.

The principle traces its paternity to the latin maxim – accessorium seguitur principale - which means, "an accessory thing goes with the principal to which it is incidental to".

See the cases of; NSUGBE V. OKOBI & ANOR (2012) LPELR-2448 (CA),

ADEGOKE MOTORS Vs ADESANYA (1989) 3 NWLR (PT. 109) 250 AT 260,

TUKUR V. GOVT OF GONGOLA STATE (1989) 4 NWLR (PT. 117) 517 AT 544-565;
UNILORIN TEACHING HOSPITAL V. ABEGUNDE (2013) LPELR- 21375 (CA).

The evidence in support of the claims are largely documentary in this instant suit.

The relationship manager, cw1 testified that the defendant took a loan facility of N7,000,000.00 from the bank in 2021 in two different facilities. An offer letter was given to him with the loan facility.

The claimant's counsel in her final written address posits that;

Your Worship, we humbly submit that the acceptance and subsequent signing of Exhibit A4, A5, and A6, also, the service of A7, which was ignored by the defendant. The claimant has satisfied the requirements of the law on this claim and has therefore made out a substantial claim entitling it to the reliefs sought and the right to recover the outstanding loan sum of N4,831,940.79K (Four

Million, Eight Hundred and Thirty-One Thousand, Nine Hundred and Forty Naira, Seventy-Nine Kobo) only, claimed with accruing interest and cost.

From the Exhibits before the Court, especially Exhibits A4 – A7, the contract documents, it is clear that the defendant was offered a loan facility from the claimant, but failed to keep to the terms of the offer.

The evidence of the claimant in support of the claims are basically documentary, as aforementioned, albeit they are;

1. Exhibits A1 – A3 – The bank statements of the defendant with three different bank account numbers though all with Guaranty Trust Bank, Nnamdi Azikiwe Road, Port Harcourt.
2. Exhibit A4 – The offer of Banking facility written to the defendant, extending to him, a credit facility of N5,739,869.52 subject to the terms and credit therein stated, dated 5th November, 2021. Two facilities are mentioned;

    a. N4,442,199.92 for a tenure of five months with monthly repayment of interest and annual principal, a restructuring fee etc., same applies to facility two, though the loan sum here is N1,297,69.6.

3. Exhibit 5A – The key facts statement stating the loan sum of N5,739,869.52 for fifty-one months; total amount to pay back, N7,860,873.69.
4. Exhibit A6 – The term loan agreement between the defendant and the claimant dated 8th November, 2021, signed in the presence of Timothy Umukoro as witness.
5. Exhibit A7 – Demand for the repayment of the loan by the claimant's counsel dated 30th June, 2023.
6. Exhibit A8 – Certificate of compliance. The claimant tendered the Certificate of compliance in proof of their case in compliance with section133/134 of the Evidence Act, 2011, Civil cases are decided upon the preponderance of evidence and balance of probability. The documents best prove the contract between both parties.

Once documentary evidence supports oral evidence, oral evidence as in the instant case of cw1 becomes more credible for the Court to rely on. See Kimdey Vs. Military Govenor of Gongola State (1988) 5 SCNJ 28.

The claimant has proved their case on the preponderance of evidence by tendering Exhibits A1 to A8.

The law is that where a contract is reduced into writing (See Exhibit A before the Court), extraneous matters will not be permitted to vary or add to the terms of the contract validly entered into by both parties. See Atiba Iyalamu Savings

and Loan vs. Suberu & Anor (2018) LPELR 44009 SC. Even if the defendant had appeared to defend this suit, he will not be allowed to vary the terms of the offer of loan facility entered into between him and the claimant.

In Afribank Vs. Alade (2000) 13 NWLR (pt. 685) 291, the Court held;

The law is that where a contract is reduced into writing, extraneous matters cannot be permitted to vary or add to the terms validly agreed to by parties. See ATIBA IYALAMU SAVINGS AND LOANS V. SUBERU AND ANOR supra LPELR 44 069 (SC).

In a very recent case of FCMB V. ROPHINE NIG LTD AND ANOR (2017) LPELP 42704 (CA) the Court of Appeal was very emphatic on the obligation of a debtor to pay his loan. The Court held thus:

"In the case of AFRIBANK Vs ALADE (2000) 13 NWLR (PT. 685) 591 it was held that a debtor who benefited from a loan or over draft from a bank has both the moral and legal duty and obligation express or implied to repay it as and when due. See also NATIONAL BANK OF NIG VS SHOYOYE (1977) 5 S.C 181. Since the Respondent did not dispute benefiting from the facility granted them by the appellant and did not make or prove that they have fully repaid the facility as and when due, they owe both the legal and moral obligation and duty to repay or pay what they owe the appellant as proved by the unchallenged and satisfactory evidence and placed before the High Court as demonstrated in the lead Judgment with which I completely agree."

In this case the Defendants to the counter claim haven benefited from the loan facility granted and are under obligation to repay their debt. I am therefore satisfied that this claim has merit and I grant it.

In FCMB Vs. Rophine Nig. Ltd. and Anor (2017) LPELP 42704 CA on the obligation of a debtor to pay his loan and National Bank of Nigeria Vs. Shoyoye (1977) SC 181, The Courts held in all these cases, that the debtor has a legal/moral authority to repay a loan.

Since the defendant refused to appear before the Court to defend this suit, challenge or controvert the evidence of cw1, the Court has taken it to mean that he has admitted the facts therein against him, as rightly pointed out by the claimant's counsel in her final written address, para. 4.9.; "the defendant has waived his right to defend this suit and so admitted to the facts by the claimant. Section 123 of the Evidence Act, 2011 provides that admitted facts need no further proof".

The defendant did not dispute the loan facility granted to him, he did not prove that he had fully repaid the loan granted to him, did not appear to defend the

claims against him, the evidence of the claimant remained unchallenged, uncontroverted and undisputed.

Exhibits tendered especially Exhibits A4 to A7 are satisfactory evidence in support of the claimant's claims against the defendant, which the Court so relies on to give judgment in this case against the defendant in favour of the claimant.

The defendant having benefited from the loan facility is obligated legally and morally to repay the loan sum with accrued interest having kept the claimant out of the loan sum for a long while.

The Defendant was foreclosed from defending this suit due to the consistent absence of the Defendant. He never appeared before this Court despite being served with the Court's summons and Hearing Notice from the commencement of this case till date.

This Honourable Court is clothed with the powers to in addition to the judgment sum award such damages as the justice of this case may require or make an order which it considers necessary for doing justice; whether such an order has been expressly asked for by the party entitled to the benefit of the order or not. It has also been held that damages arising from breach in paying money due to a claimant as at when due, is the interest on the amount due. This was held by the Court of Appeal (Port Harcourt Division) in SPDC Ltd. Vs. Nnabueze (2014) AFWLR (pt. 724) pg. 117 at 138 paras. E-G when it sated as follows:

"Damages arising from a breach in paying money due to a plaintiff at the time it was due, is the interest on the amount due. The reason is that such interest will place the plaintiff on the financial strength he would have been if he was paid as at when due in a situation arising from commercial matters, party holding on to the fund of another, for so long without justification ought to pay compensation for so doing. In the instant case where the defendant withheld the plaintiff's money for contract executed, the interest claimed thereon by the plaintiff was rightly awarded by the trial Court".

The claimant's counsel in her final written address had prayed the Court for 10% post-judgment interest on the judgment sum from the date of judgment till the judgement sum is liquidated.

As regards which involves the claim of post judgment 10% interest, against the defendants by the claimants, it is trite that monetary judgment attracts appropriate interest even when none is claimed or proved. The Supreme Court in the case of NPA Vs. Aminu Ibrahim & Co. (2018) 12 NWLR (pt. 1632) 62 at 87-88 held as follows:

"However, a Court can still grant pre judgment interest on a monetary or liquidated sum awarded to a successful party, even in a situation where such a

party did not plead or adduce evidence in proof of such claim. Such interest naturally accrues from the use of and/or enjoyment of the sum involved which is the fruit of judgment. In this case, the respondents had for quite a long time, submitted their report to the appellant but the latter refused or neglected to pay them their entitlement as agreed upon".

In line with the Supreme Court decision, the Court of Appeal per Tobi JCA in the case of Dana Airlines Ltd. Vs. Aikhomu (2020) AFWLR (pt. 1043) pg. 503 paras. B-C made it very clear when it held as follows:

"The purpose of pre-judgment or post-judgment interest is to make parties in a case to be responsive or alive to their responsibility. If a party looks beyond legality and do the right thing according to conscience, some cases would not need to be decided by the Court taking all the time and resources. Failure to be alive to civil responsibility and to punish people for oppressive act, a party is allowed in law, to avoid pre-judgment and post-judgment interest".

The defendant never appeared to defend this suit despite being served with the originating summons via substituted service by the order of the Court and via a WhatsApp message albeit electronically.

The law is that the originating processes in this case; Forms RSSC 2, RSSC 3 suffice as sufficient notice of the case filed against the defendant, also the demand letter before me dated 30th June, 2023; demanding for the immediate repayment of the sum of N4,831,930.97K being loan and accrued interest owed to the claimant Guaranty Trust Bank Limited, the defendant was warned therein that, all legal and equitable means will be used to recover this debt from him and also charge him for all recovery fees.

Despite these, the defendant failed and refused to appear before this Court, to defend this suit.

This entitles the claimant to all their reliefs as prayed. See also paragraphs 4.9. to 4.10. of the claimant's counsel written address, this the Court conceeds to. See the following cases;

1. Odutola Vs. Haddard (1973) 1 SC 35.
2. Nigeria Maritime Services Limited Vs. Alhaji Bello Afolabi (1978) 2 SC 19.

The Courts here emphatically stated that the Court is allowed to act on the uncontroverted evidence of the claimant in giving its judgment, this is applicable in the instant case before me. The onus of proof is discharged on a minimal proof, where the defendant fails to rebut the case of the claimant.

See Kosite Vs. Folarin (1999) 3 NWLR (pt. 107).

The Court will grant the claims of the claimant on the preponderance of evidence for claim 1, for claims 2 and 3, the law is that, “an accessory thing goes with the principal it is incidental to”, as buttressed by the Supreme Court in;

1. Akinduno Vs. Alaya (2007) 15 NWLR (pt. 1057) 312.
2. Fagunwa Vs. Adibi (2004) 17 NWLR (pt. 903) 544.
3. UniIlorin Teaching Hospital Vs. Abegunde (2013) LPELR 21375 (CA).

The law is settled that where a party’s principal claim fails, the accessory claims that are appendages to it will also fail. This cardinal principle of law was espoused by the Supreme Court in the cases of FAGUNWA V. ADIBI (2004) 17 NWLR (PT. 903) 544 and AKINDURO V. ALAYA (2007) 15 NWLR (PT. 1057) 312.

The principle traces its paternity to the latin maxim – accessorium seguitur principale - which means, “an accessory thing goes with the principal to which it is incidental to”.

In the case of NSUGBE V. OKOBI & ANOR (2012) LPELR-2448 (CA) the Court of Appeal stated the law thus:

“The principal claim of the appellant was for a declaration that he is entitled to a statutory right of occupancy over the disputed land. The claim for damages for trespass and injunction are like leaches the success of which was dependent on the principal claim succeeding. Since the principal claim was not granted the Lower Court was right in refusing to grant the reliefs of damages for trespass and injunction against the 1st Respondent. The legal principle is that the principal having fallen through the adjunct would equally be taken away. See 22 ADEGOKE MOTORS Vs ADESANYA (1989) 3 NWLR (PT. 109) 250 AT 260.”

See TUKUR V. GOVT OF GONGOLA STATE (1989) 4 NWLR (PT. 117) 517 AT 544-565; AND UNILORIN TEACHING HOSPITAL V. ABEGUNDE (2013) LPELR- 21375 (CA).

Accordingly, the claim fails and it is dismissed.

Similarly, reliefs 3 to 6 are all based on a finding that the Defendant is in breach of its agreement with the Plaintiffs. This Court having found otherwise it would amount to a futile exercise to embark on consideration of the reliefs. Just like the 1st and 2nd reliefs they also fail because they are lacking in merit and are accordingly dismissed.

The Court in compliance with the above principle, hereby grants claims 2 and 3 also.

Notwithstanding, also due to the demand notice written to the defendant which he failed to respond to, wherein it was stated that the defendant will bear the cost for legal fees.

Hearing notice was also served on him but he did not appear before the Court.

The claimant's counsel rightly submitted, "that the defendant has by his conduct waived his right to defend this suit and by so doing, admitting to the evidence of the claimant, as the law is trite that facts admitted need no further proof." Citing John Andy Sons and Co. Limited Vs. Mfon (2006) 12 NWLR (pt. 995) 461 @ 478 para. N;

"Where a party in a legal duel receives a hearing notice but decides to be absent, the obvious conclusion is that he does not intend to contest the case or he has chickened out or he has abandoned it".

RELYING on Newswatch Comm. Ltd. Vs. Atta (2006) 12 NWLR (pt. 993) 144 SC Banna Vs. Tele Power (Nig.) Ltd. (2006) 15 NWLR (Pt. 1001) 198 SC.

It was rightly further submitted therein and I agree that a fact and or evidence neither denied nor challenged are deemed admitted and need no further proof.

See Section 123 Evidence Act, 2011 and Ogolo Vs. Fubara (2003) 11 NWLR (pt. 831).

Accordingly, the Court is satisfied that the claimant has proved their entitlement to their claims and consequently orders as follows;

1. That the defendant pays immediately to the claimant, the loan sum of N4,831,940.79K (Four Million, Eight Hundred and Thirty-One Thousand, Nine Hundred and Forty Naira, Seventy-Nine Kobo) only.

2. That it is also ordered, the defendant pays 10% monthly interest on the said loan sum until the loan sum is fully liquidated.

3. That it is finally ordered, the defendant pays the claimant, the cost of N200,000.00 (Two Hundred Thousand Naira) only, for instituting this unavoidable action against him.

This is the judgment of the Court.

MRS BARIYAAH .H. ABE
Chief Magistrate
1st December, 2023.