

IN THE SMALL CLAIMS COURT OF RIVERS STATE OF NIGERIA
IN THE PORT HARCOURT MAGISTERIAL DISTRICT
HOLDEN AT PORT HARCOURT

ON WEDNESDAY THE 21ST DAY OF JUNE, 2023
BEFORE HIS WORSHIP A. O. AMADI-NNA, ESQ
CHIEF MAGISTRATE GD.1

SUIT NO. PMC/SCC/13/2023

BETWEEN

**NKAMBI JOSEPHINE POSI
(MYTIME COOPERATIVE)**

VS

NNA EMEKA ADAMS

Parties absent.

E. N. Obua appear for the claimant.

JUDGMENT

The claimant's claim against the defendant is for failing and/or refusing to pay the sum of N318,000.00 which the defendant collected from the claimant as loan.

The claimant also claims the sum of N50,000.00 as cost of this action.

In proof of her claim the claimant gave evidence as CW1 and was the only witness in support of her claim while the defendant did not appear before this court and did not defend this suit.

The claimants case is as follows:-

CW1, Nkambi Josephine Posi said that she works with Mytime Cooperative and the defendant is one of their members who collected loan from her sometime in February 2022 and promised to pay in 8 months but the period passed and he did not pay as promised. That at the time they filed this suit the defendant was owing the sum of N318,000.00.

Further that the defendant in obtaining the loan filled a loan form, a hand written application and deposed to an affidavit. She tendered them as Exhibits “A1”, “A2” and “A3” respectively. At the close of the evidence of CW1 the case was adjourned for cross examination of CW1

but on the 26th day of June, 2023 when the matter came up for cross examination of CW1 the defendant was not in court to cross examine CW1 and was foreclosed from cross examining CW1.

The claimant then closed her case and the matter was adjourned for defence.

On the 13th day of June 2023, the defendant was not in court to defend this case and the claimant’s counsel went ahead and adopted his final written address filed on the 13th day of June 2023.

Claimants submits in his address that having regard that the defendant refused to appear before this court, the court is enjoined to consider the evidence adduced by the claimant and give Judgment in favour of the claimant.

Submits that evidence that is neither challenged nor rebutted remains good and credible evidence which the court is enjoined to rely upon and ascribe probative value. Counsel refer to **EBEINWE Vs. STATE (2011) 7 NWLR (Part 1246) page 402 at 416.**

I have reviewed the evidence of CW1 and carefully considered the submissions of the claimants counsel and the exhibits tendered. The issue that arise for determination is whether the claimant has proved her case in the preponderance of evidence to be entitled to Judgment. CW1 the claimant has given evidence of how the defendant collected loan from their cooperative and promised to pay back in 8 months time and failed to do so. CW1 has tendered exhibits “A1”, “A2” and “A3” that

is the loan form filled by the defendant, the defendant's hand written application and the affidavit deposed to by the defendant before he collected the loan. CW1 has also told the court that the defendant is owing the sum of N318,000.00.

The defendant did not defend this suit or appear before this court. An undefended case requires a minimum of proof.

Uncontroverted evidence is deemed admitted and when evidence is deemed admitted the court ought to accept such evidence in proof of the issue in contest.

See the case of **FOLORUNSHO Vs. SHALOUB (1997) 3 NWLR (Pt 333) page 413 at 433 paras B-H.**

Accordingly from the foregoing I hereby hold that the claimant has proved her case in the preponderance of evidence to be entitled to Judgment. Judgment is hereby entered in favour of the claimant in the following terms.

Court:

1. The defendant is to pay to the claimant the sum of N318,000.00 which the defendant collected from the claimant as loan.
2. The defendant is to pay to the claimant the sum of N30,000.00 as cost.

Signed:

A. O. Amadi-Nna,
Esq.

Chief Magistrate
GD.1

21/6/2023

