

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, ESO
SITTING AT SENIOR MAGISTRATE COURT 6 PORT HARCOURT

SUIT NO: PMC/SCC/10/2024

BETWEEN

TAYO MARTINS DANIEL

AND

NIGERIAN UNION OF JOURNALIST, RIVERS STATE COUNCIL

JUDGMENT

This suit was instituted via a summons dated and filed on the 12-1-24 wherein the Claimant's claims against the defendant is for:

- i. The sum of ₦200,000 (Two Hundred Thousand Naira) only being and representing principal sum.
- ii. ₦120,000 (One Hundred and Twenty Thousand Naira) only for damages,
- iii. ₦80,000.00 (Eighty Thousand Naira) only representing cost of filing/litigation.

The Defendant in reaction via form RSSC 5 of this court filed a Defence on 24/01/24 disputing the claimant's claim in its entirety. In prove of their cases the claimant and the Defendant called one witness each and two exhibits , exhibits a and B were tendered by the Claimant, CW1 and CW2 were cross examined, parties closed their respective cases. The parties were given opportunity to file final written addresses but did not utilize the opportunity.

The summery of the facts of the Claimants case are that, on the 14-11-22 his association needed a hall for an event and he approached the Defendant through its Chairman for use of its hall. That he deposited the sum of ₦200,000 (Two Hundred Thousand Naira) into the Defendants account and in proof of this fact he relied on "Exhibit A", his bank statement showing the transfer of the said sum to the Defendant, That on same day he proceeded to the Police headquarters at Mosco road to get permit to hold the meeting and he was informed by the Police of the pendency of an Executive Order by the then Governor of Rivers State and so the Police refused him permission to hold his meeting, that he immediately went back to the Defendant and requested for a refund of the ₦200,000 (Two Hundred Thousand Naira) which he paid for the hall, that the Defendant informed him that the money is being processed, and that up till today the defendant is yet to refund him the said money despite several demands. The summery of the Defendants case is that upon receipt of the sum of ₦200,000 (Two Hundred Thousand Naira) from the Claimant for use of the defendants hall on the agreed date. The defendant bought diesel and made other logistics for the claimant to use the hall, that the claimant failed to use the hall despite being given several opportunities to use the hall.

The issue for determination before this court is "*Whether the claimant has placed enough materials before this court to entitle him to his claims before this court?*"

As stated earlier parties did not adopt any final written addresses before this court and this court shall rely on its records in determining the sole issue for determination as this court is bound by its records of proceedings on any matter and takes notice of their contents in arriving at a just decision. See: **AGBAREH V. MIMRA (2008) 2 NWLR (PT. 1071, 378) (SC)**. In civil cases the standard of proof required of the claimant is a proof on preponderance of evidence, see: **Section 134 of the Evidence (Amendment) Act, 2023**.

It is not in dispute that the parties before this court entered into an oral agreement or contract and the law is that parties are bound by the terms of their agreements, see the case of **Evbuomwan & 3 Ors v Eleme & 2 Ors (1994) 7 -8 SCJN (pt II) 243**. The exception however is if one party can prove any of the vitiating elements of a valid contract such as, mistake of facts, duress, illegality, undue influence, misrepresentation and incapacity to convince the court that the contract already entered without fully being completed now stands void. From the facts of this case and the documents tendered, I deduce that all the aforementioned vitiating elements are absent in the instant case except one, to wit: mistake of facts. The court of appeal defined mistake of fact in the case of **Knight, FrankRutley v A.G Kano (1990) 4 NWLR (pt 143) 210**. as "where the subject matter of a contract has without the knowledge of either party ceased to exist or never existed before the contract was made, the contract will as a general rule be void on grounds of mistake,

A party seeking to invalidate a contract must lead evidence and give reasons as to why the court should nullify the contract. The claimant as CW1 testified on 24-01-24 that after agreeing with the defendant to rent the hall for the sum of ₦200,000 (Two Hundred Thousand Naira), he went to get permission from the Police but upon reaching there the police denied him permission to hold his meeting on the ground of an existing Executive order prohibiting public gathering at public places and that he came back to the defendant with the report that he will not be able to make use of the hall again and that he demanded for a refund of his money, this fact was not rebutted by the defendant, the law is that facts admitted need no further proof See section See **Section 123 of the Evidence (Amendment) Act 2023**. It follows therefore that the Claimant in this suit was labouring under the mistaken fact which no longer was in existence that he can still conduct his associations meeting at the defendant's facility before he entered into the contract before the true position was revealed to him by the Police, it must be noted however that this mistake of facts is not the fault of any of the parties to the contract, The claimant throughout this case maintained that he returned to the defendant's chairman to demand for a refund of his deposit of ₦200,000 (Two Hundred Thousand Naira) but the Defendant refused to refund the money, the DW1 in defence of this case testified on 05-02-24 that the claimant came back a few days later after making deposit for use of the defendant's hall to demand for his money. He further testified that the defendant gave the claimant several opportunities to come and make use of the hall but the claimant did not make use of any of the

opportunities that once the claimant paid for the hall, the defendant bought diesel and did other logistic arrangements and that the hall was available to the claimant for use but he did not use it. The question that is left unanswered is in view of the evidence stated above, what day did the claimant apply to use the hall that the defendant had made ready for the claimant and the claimant did not use the hall? The undisputed evidence before this court is that the claimant booked for reservation of the hall for the 15-01-23 it is also not disputed that the claimant paid for the hall on the 14-11-22, in the circumstance I do not believe the evidence of the defendant that he prepared the hall for use of the claimant before the claimant came back to rescind the contract. The law is that he who alleges the existence of any fact must prove same. see **AMADI V. AMADI (2017) 7 NWLR (PART 1563) S.C.**, the Defendant alleges that the hall was prepared for the claimant and several opportunities were given to the claimant to use the hall but has failed to prove same, particularly when the claimant denies same, the claimant's claim that he applied for the use of the hall about two months from the date he paid for the hall is unchallenged and same is not in dispute hence the evidential burden of proof which shifts or oscillates consistently as the scale of evidence preponderates shifts to the defendant. See the case of **APOSTLE PETER EKWEZOR & ORS V. REGISTERED TRUSTEES OF THE SAVIOR APOSTOLIC CHURCH OF NIGERIA (2020) LPLER - 49568 (SC)** relating the above to the instant case and on the strength of the Exhibits before this court, the claimant has discharged the burden of proof required of him in the circumstances the burden now shifts to the Defendant. This score is resolved against the defendant. The Claimant also claims for cost of this litigation and testified that he resides in Osun state and has to travel down for the case, he also claims for damages and the two claims were not rebutted or challenged by way of cross examination. I hold that the claimant has proved his claim before this court according to the standard required of him by law. Accordingly it is adjudged as follows:

That the claimant is entitled to the following as per his claim before this court:

1. The sum of ₦200,000 (Two Hundred Thousand Naira) only being and representing the money owed to him by the Defendant.
2. The sum of ₦120,000 (One Hundred and Twenty Thousand Naira) being and representing damages.
3. The sum of ₦80,000.00 (Eighty Thousand Naira) only representing cost of filing/litigation.

I make no further orders.

Parties are reminded of their rights to appeal.

Dated this 28th day of February, 2024

Signed:

S. S. IBANICHUKA, ESQ.

28/02/2024.

