

IN THE MAGISTRATE COURT OF RIVERS STATE OF NIGERIA
IN THE PORT HARCOURT MAGISTERIAL DISTRICT
HOLDEN AT PORT HARCOURT
ON FRIDAY THE 4TH DAY OF AUGUST, 2023
BEFORE HIS WORSHIP A. O. AMADI-NNA, ESQ
CHIEF MAGISTRATE GD.1

SUIT NO. PMC/SCC/71/2023

BETWEEN

**NKAMBI JOSEPH POSI
(MYTIME COOPERATIVE)**

VS

OTAMIRI UGOCHI PATRICIA

Parties absent.

P. U. Amadi appear for the claimant.

Matter is for Judgment.

JUDGMENT

The claimants claim against the defendant is for;

1. The sum of N159,000.00 being money collected from Rumuokoro Mytime Cooperative Society Ltd, which has remained unpaid.
2. The sum of N100,000.00 as legal fees.
3. The sum of N50,000.00 as cost.

In proof of their case the claimant called only one witness who gave evidence as CW1 and tendered 4 exhibits, Exhibits "A1" to "A4" while the defendant did not appear before this court and did not defend this suit.

CW1 Nkambi Josephine Posi said she is the Manager of the claimant, Mytime Cooperative Limited and the defendant is a member of the

Cooperative. That the defendant collected a loan of N100,000.00 in April 2022 and promised to pay the sum of N7,000.00 on weekly which was to run for 4 weeks but she did not keep up to the terms of her payment. Further that the defendant filled a loan form and brought a Guarantor as her witness, gave them a receipt of her deep freezer, her national ID card and that of her Guarantor. She tendered them as exhibits "A1" to "A4" respectively.

On the 18th day of July 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.

On the 31st day of July 2023 claimant's counsel adopted his final written address dated the 28th and filed the 31st day of July 2023 as the final address for the claimant in this case.

In his address claimant's counsel submit that this Honourable court is enjoined to consider the whole evidence of both parties and give its Judgment thereon, after both parties have concluded their cases but when the defendant deliberately refused to appear before the court, the court will determine the matter based on the evidence before it. Further that in the instant case the only evidence before the court is that of the claimant and submits that it is the only evidence that the court will rely on to decide this case.

Counsel submits that following the decision in **EBEINWE V STATE (2011) 7 NWLR (Part 124) page 402 at 416** 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 to it.

I have reviewed the evidence of CW1 the claimant and I have also taken into consideration Exhibits "A", "B", "C" and "D" tendered.

The lone issue that arise for determination before this court is "whether the claimant has proved her case on the preponderance of evidence to be entitled to Judgment".

CW1, the claimant has given evidence that the defendant is the Manager of their Cooperative called My time Cooperative and collected a loan of N100,000.00 in April 2022 and promised to pay the sum of N7,000.00 weekly to run for 16 weeks but she did not keep to the terms of her payment. CW1 has also given evidence that the defendant filled a loan form and brought a Guarantor as her witness, gave them the receipt of her deep freezer, her National ID card and that of her Guarantor and tendered them as Exhibits "A1 - A4" respectively. The defendant did not defend this suit and did not appear before this court. An undefended case requires a minimum of proof. Further when evidence is not challenged, the court ought to accept such evidence in proof of the issue in contest. See the case of **FOLORUNSHO & ANOR. V. SHALOUB (1994) 3 NWLR, (Part 333) page 413 at 433 Paras B-H. Also see OKUPE V IFMACHI (1994) 3SC Page 97 at 103.**

I hereby hold that the claimant has proved her case on the preponderance of evidence to be entitled to Judgment.

Accordingly Judgment is hereby entered in favour of the claimant on the following terms;

Court:

1. The defendant is to pay to the claimant the sum of N159,000.00 (One Hundred and Fifty Nine Thousand Naira) being money collected from Rumuokoro Mytime Cooperative Society Limited as loan which has remained unpaid.
2. The defendant is to pay to the claimant the sum of N100,000.00 (One Hundred Thousand Naira) as cost.

Signed:
A. O. Amadi-Nna, Esq.
Chief Magistrate GD.1
4/8/2023

