

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

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

SUIT NO. PMC/SCC/154/2023

BETWEEN

IBINYE DAN-JUMBO

VS

LEADWAY ASSURANCE COMPANY LIMITED

Claimant present.

G. K. Elikor appear for the claimant.

Matter is for judgment.

JUDGMENT

The claimant claims against the defendant as follows;

1. The sum of N2,200,000.00 (Two Million Two Hundred Thousand Naira) for 2 assurance policies she entered with the defendant for a period of 3 years from 2019 – 2022 vide No. LS P/90 32943 and No. DAP19032942 for N1,100,000.00 (One Million One Hundred Thousand Naira) each which after the claimant had completed her payment, the defendant turned around claiming that the claimant had an outstanding payment for 2 months on each policy and refused to pay her.
2. The sum of N1,000,000.00 as damages.
3. The sum of N500,000.00 as cost of litigation.

A plea of not liable was entered for the defendant.

In proof of her case, the claimant gave evidence as CW1 and tendered 15 exhibits –

Exhibits: "A1", "A2", "B1", "B2", "C1", "C2", "C3", "D1", "D2", "E1", "E2", "F1", "F2", "F3 and G while the defendant did not defend this suit and did not appear before this court.

CW1, Ibinye Dan Jumbo said she entered into a policy with the defendant through their agent and they agreed the sum of N50,000.00 per month for 3 years and she gave them the sum of N100,000.00 to pay for 2 months of October and November 2019. That after the first payment they brought the policy document and she agreed with the agent for one policy of N50,000.00 per month.

The agent later informed her that his boss said he should share the policy into 2 since she was about to retire. She told him she could not pay N50,000.00 for each of the policy each month from her salary since she has responsibilities and the agent said she can pay what she has. She therefore decided to be paying N30,000.00 for each of the policy for a period of 3 years from October 2019 to September 2022. At the expiration of the policy she asked for her statement. That when they brought it, instead of a total of N1,100,000.00 she saw N1,040,000.00 which was short of N60,000.00 in each of the policies. Further that when she asked they said the months of May and October 2020 were not paid.

Also that she presented the receipts to them and all efforts to make them reconcile the policy to make them pay her money failed so she contacted a lawyer who wrote them on several occasions and all attempts failed. She prayed the court to compel the defendant to pay her her money. Further that the policy ended in September 2022 over a year now. That she had intended to use the proceeds from this policy to start something before she retired. That she retired in September 2023 and does not have any means of livelihood. They have not started paying her her pension. That both policies are supposed to be N2, 200,000.00. She tendered Exhibits "A1, "A2, B1,

B2", C1", C2", C3", D1", "D2, "E1, "E2, F1", "F2", "F3" and G in support of her evidence.

At the conclusion of the evidence in chief of the CW1, the claimant the defendant was not in court to cross examine CW1 and was foreclosed from cross examining CW1.

The case came up for defence on the 23rd day of October 2023 and the defendant was not in court to defend its case and was foreclosed from defending this case.

On the 26th day of October, 2023 when the matter came up for adoption of final written address, claimant's counsel informed the court that they were waiving their right to final written address and urged the court to enter Judgment based on the evidence of the claimant.

I have reviewed the evidence of CW1 the claimant. I have also taken into consideration all the 15 exhibits tendered.

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

CW1 the claimant has given evidence of how she entered into an assurance only with the defendant through their agent and how after some initial payments they later agreed that she should be paying the sum of N30,000.00 per policy per month which she paid for 3 years from October 2019 to September 2022. She has also given evidence that at the end of her policy she asked for her statement and saw that it was short of N60,000.00 for each policy and that since then she has not been paid her money. She has tendered 15 exhibits in support of her evidence- Exhibits, "A1, "A2, "B1, "B2", "C1", C2", "C3, "D1", "D2", "E1", "E2", "F1", "F2", "F3" and "G" in support of her case.

The defendant did not defend this case and never appeared before this court.

An undefended case requires a minimum of proof.


The claimant's evidence was not challenged. When evidence is not challenged the court ought to accept such evidence as proof of the issue in contest. See the case of **FOLARIN & ORS vs SHALOUB** (1994) 3 WLR (Part 333) page 413 at 443 paras B-H. Also see **OKUPE v IFEMACHI** (1974) 3 SC page 97 at 103.

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

I hereby hold that Judgment is hereby entered in favour of the claimant as follows:-

Court:

1. The defendant is to pay to the claimant the sum of N2,200,000.00 (Two Million Two Hundred Thousand Naira) for 2 assurance policies the claimant entered with the defendant for a period of 3 years from 2019 – 2022 Viz No. LS P19032943 and No. DAP19032942 for N1,100,000.00 (One Million Naira) for each policy which after the claimant had completed the payment, the defendant turned around and claimed that the claimant had an outstanding payment for 2 months on each policy and refused to pay the claimant the money.
2. The defendant is to pay to the claimant the sum of N300,000.00 as general damages.
3. The defendant is to pay to the claimant the sum of N200,000.00 as cost.

Signed: 
A. O. Amadi-Nna, Esq.
Chief Magistrate GD.1
1/11/2023