

**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 2 RUMUODOMAYA ON FRIDAY THE 20TH DAY OF  
OCTOBER, 2023**

**RMC/SCC/17/CS/2023**

***BETWEEN***

**BARR. OVUNDA L. T. AGORONDU - CLAIMANT**

**VS.**

**MR. GEORGE OGBO - DEFENDANT**

Matter for Judgment

Parties; .N. Opara, Esq. for the claimant

No appearance for the defendant.

**JUDGMENT**

The Claimant claims as follows:

The sum of N1,500,000.00 (One Million, Five Hundred Thousand Naira) only, being the balance of legal fees of N2,500,000.00 (Two Million, Five Hundred Thousand Naira) only, the defendant having paid only N1,000,000.00 (One Million Naira).

**Facts**

The claimant commenced this suit via a letter of demand, Form RSSC 1, claiming the sum of N1,500,000.00 (One Million, Five Hundred Thousand Naira) only from the defendant, being balance of legal fees of N2,500,000.00 (Two Million, Five Hundred Thousand Naira) only, wherein the defendant paid only N1,000,000.00 (One Million Naira) only. The letter of demand is dated 18<sup>th</sup> August, 2023.

A complaint Form RSSC 2 was also filed by the claimant, a summons Form RSSC 3 dated 4<sup>th</sup> September, 2023 was served on the defendant, the affidavit of service Form RSSC 6, sworn to by the Court bailiff is before this Court dated 11<sup>th</sup> September, 2023. He was served via WhatsApp on his phone number: +1(770) 8957869.

The defendant despite the service of the all of the above processes on him failed, refused and neglected to file any defence or counter claim.

The claimant's counsel, C. E. Wopara, on the 20<sup>th</sup> September, 2023, entered a plea of not liable on behalf of the absent defendant.

Cw1 led by .N. Opara appearing with C. E. Wopara, gave evidence on the same day, he gave his name as Ovunda Lucky T. W. Agorundu, from Rumuodomaya with office at No. 8 Airport Road, Rukpokwu, Obio/Akpor Local Government Area of Rivers State, a Lawyer by profession.

He knows the defendant, his client who engaged him to recover his property, which some 3<sup>rd</sup> parties were taking over in 2014, he recovered the property for him.

The legal fees were N2,500,000.00 (Two Million, Five Hundred Thousand Naira), the defendant paid N500,000.00 (Five Hundred Thousand Naira) on the 18<sup>th</sup> September, 2023, had paid N1,000,000.00 (One Million Naira) previously, leaving a balance of N1,000,000.00 (One Million Naira) to be paid. He made several demands from the defendant. The letters of demand identified by the claimant were admitted in evidence as Exhibits A1 and A2 respectively. He also served a demand notice on the defendant before coming to the Small Claims Court, cw1 identified the demand notice, which the Court admitted in evidence as Exhibit C (letter of demand, Form RSSC 1).

The WhatsApp correspondence between the claimant and the defendant are before me as Exhibit D, the transfer from Access Bank for the payment of N500,000.00 (Five Hundred Thousand Naira) made on the 19<sup>th</sup> September, 2023 is before me as Exhibit F, the certificate of compliance in accordance with Section 84(4) (A-C) of the Evidence Act 2011 is before me as Exhibit E.

He prayed the Court to enter judgment for the balance of N1,000,000.00 (One Million Naira) in his favour. At the end of his evidence thereof, he was foreclosed from cross examination by the defence due to the absence of the defence, in line with rules of Court. The case was thus adjourned for defence.

On the 6<sup>th</sup> October, 2023, the parties were absent, .N. Okpara appeared for the claimant, the claimant's counsel prayed the Court to foreclose the defence from entering his defence due to his absence, the Court conceded and foreclosed the defence from defending this suit, he also prayed the Court to waive his right to address the Court. The Court granted his prayers and adjourned for judgment.

The claimant filed an affidavit of facts stating that the defendant transferred the sum of N600,000.00 (Six Hundred Thousand Naira) to him on the 3<sup>rd</sup> of October, 2023, attached as Exhibit O.L.T., leaving a balance of N400,000.00 (Four Hundred Thousand Naira) unpaid.

### **Issue for Determination**

Whether the claimant is entitled to his claim?

## COURT

The Court has taken time to examine the case of the claimant against the defendant, with regards to the claim of payment of N400,000.00 (Four Hundred Thousand Naira) to the claimant by the defendant, as balance of legal fees.

Cw1, the claimant had testified to the fact that the legal fees agreed by both parties to be paid to the claimant was N2,500,000.00 for recovery of the property of the defendant. The defendant has paid a total of N2,100,000.00 (Two Million, One Hundred Thousand Naira) only, leaving a balance of N400,000.00 (Four Hundred Thousand Naira) unpaid, he paid N1,000,000.00, N500,000.00, and N600,000.00, i.e. paid in three instalments.

In proof of his claim, the claimant's counsel through the claimant tendered Exhibits A-E and Exhibit O.L.T.

1. Exhibit A – the letter for demand for payment of legal fees dated 17<sup>th</sup> April, 2014 of N2,500,000.00 (Two Million, Five Hundred Naira) to the defendant, written by the claimant.
2. Exhibit B – Final demand for the payment of N2,500,000.00 (Two Million, Five Hundred Naira), being legal fees for the prosecution of suit No. PHC/782/2012, concluded and judgment delivered on the 14<sup>th</sup> April, 2014, dated 28<sup>th</sup> January, 2019, written to the defendant.
3. Exhibit C – letter of demand via Form RSSC issued by Court, demanding for the payment of N1,500,000.00 (One Million, Five Hundred Thousand Naira), the defendant having paid N1,000,000.00 (One Million Naira).
4. Exhibit D – the WhatsApp correspondence between the parties with regards to the payment of the legal fees, the defendant acknowledging therein that he owes the claimant money and pleading with him to give him some more time to enable him pay the money.
5. Certificate of authentication of Exhibit E in compliance with Section 84 of the Evidence Act, 2011.
6. Exhibit O. L. T., the N600,000.00 (Six Hundred Thousand Naira) transferred from the defendant to the claimant, from Access Bank, dated 3<sup>rd</sup> October, 2023.

All these Exhibits go to proof the claim of the claimant in line with sections 131 and 134 of the Evidence Act, 2011.

The defendant is not denying that he is owing the claimant money, this is clearly seen in Exhibit D, the WhatsApp correspondence between the parties. The defendant clearly said, "Am not denying that I owe, then why are you going to Court? I gave you a promise note." This is an acknowledgement of his indebtedness to the claimant, this statement amongst others.

Facts admitted need no further proof, no Burden of Proof is needed, where the issue between parties is not disputed, as in the instant case before me.

The phrase 'Facts admitted need no further proof', is a legal principle that means if a fact is admitted by a party in a legal case, it doesn't require additional proof or evidence. It's often used to simplify legal proceedings when both parties agree on certain facts, and there's no dispute about them.

Section 20 of the Evidence Act 2011, suggest that this principle might be part of the legal framework or statutes of our jurisdiction, with regards to admission by a party in a suit. This I presume is the reason the defendant failed, refused and neglected to come to Court to defend this suit against him. See *Agbarebo Vs. UBN Ltd.* (2000) 7 NWLR (pt. 600) 534.

The evidence of the claimant not being controverted, challenged or discredited by the defendant, the Court ought to act on same and enter judgment in favour of the claimant.

Where a party in a suit gives evidence that is not challenged or discredited by the opposing party, the Court ought to accept same as true and rely on same in giving its judgment. It is only where the evidence is manifestly unreliable that the Court is not obligated to use such evidence in favour of the claimant.

In this instance case, the evidence of the claimant, Exhibits A-E and Exhibit O.L.T. suffice in proof of the claimant's case. Civil cases are decided on the preponderance of evidence and balance of probability; it is he who asserts that must prove. This the claimant in the instant case has sufficiently established.

The Court relying on the preponderance of evidence, Exhibits A-E and Exhibit O.L.T. is obligated to enter judgment in favour of the claimant.

The claimant was contracted to fulfil certain legal obligations to the defendant, which he has fully and sufficiently actualized, the defendant is mandated and obligated by law and morality, to execute his own part of the contract by the payment in full of the agreed legal fees of N2,500,000.00 leaving no balance unpaid. The defendant has acted in breach of the contract by owing the sum of N400,000.00 unpaid as part of the legal fee of the defendant.

It is trite law that parties are bound by their agreement entered into freely by them. See *Okoro Vs. Okoro* (2018) 16 NWLR (pt. 1640) 515.

The burden placed on the claimant is evidential burden. The claimant is to establish a prima facie case, in order for his claim to succeed. Once this is satisfied, the burden shifts to the defendant to establish the contrary, and failure to so establish the contrary, the evidence of the claimant remains unchallenged, and the Court is bound to act on it. See *UBA Plc. Vs. Luobai Nig. Ltd* (2008)2 NWLR (pt. 1071) 257 at 278-279 F-B; *M. W. Nig. Ltd. V.P.T.F.* (2007) 15 NWLR (Pt. 1058) 451 AG 475-476 H-C.

There abound before the Court, unchallenged and uncontroverted evidence of the claim before the Court. It is trite law that where evidence is credible and unchallenged, the Court will act on it, this the Court has complied with, See *Nitel Vs. Tugbiyele* (2003) 3 NWLR

(Pt. 912) P. 334 and Nigeria social Insurance Trust Fund Management Vs. Kliff Co. Nigeria Limited (2010)13 NWLR (P. 1211) pg. 307.

I have carefully considered all the above facts noting particularly that the defendant was served with the summons in this case, Form RSCC 3 and the demand letter Form RSCC 1, also Exhibit C, which both suffice as sufficient service of the Court's processes on him.

Consequently, the Court enters judgment in favour of the claimant and hereby orders as follows;

1. That the defendant pays the sum of N400,000.00 (Four Hundred Thousand Naira) only, to the claimant, being balance of unpaid legal fees, owed to the claimant by the defendant.
2. That this payment be made forthwith.

This is the judgment of the Court.



**MRS BARIYAAH .H. ABE**  
**Chief Magistrate**  
**20th October, 2023.**

