

IN THE MAGISTRATES' COURT OF RIVERS STATE OF NIGERIA  
IN THE PORT HARCOURT MAGISTERIAL DISTRICT  
HOLDEN AT SMALL CLAIMS COURT 1, PORT HARCOURT  
BEFORE HIS WORSHIP COLLINS G. ALI, ESQ.,<sup>1</sup> TODAY WEDNESDAY, THE  
10<sup>TH</sup> DAY OF JANUARY, 2024.

SUIT NO.: PMC/SCC/197/2023.

BETWEEN:

MR. BARIVARE BORNU

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CLAIMANT

AND

1. MR. ONUOHA LAWSON FRIDAY

2. EXCELLENT JEWELS COMPANY NIG. LTD. ----

DEFENDANTS

Case called.

Claimant present.

Defendants absent.

P. I. Imabibo, Esq. with D. E. Williams, Esq. for the Claimant.

Defendants not represented.

SUMMARY JUDGMENT

The Claimant in this case claims against the Defendants as per his particulars of claim dated 12<sup>th</sup> day of October, 2023 and attached to the summons as follows:

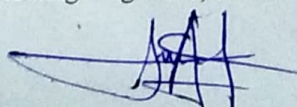
Debt/Amount Claimed - ₦1,568,200.00

Cost of litigation - ₦300,000.00

Total Amount = ₦1,868,200.00

The Defendants were duly served with the complaint form and summons and they filed Form RSSC 5 dated and filed on the 8<sup>th</sup> day of November, 2023. The Defendants admitted in their said Form of Admission that they are indebted to the Claimant in the sum of ₦1,518,200.00 (One Million Five Hundred and Eighteen Thousand, Two Hundred Naira) only, and requested to make installmental payment of ₦50,000.00 only per month; from the 31<sup>st</sup> January, 2024 which the Claimant opposed.

<sup>1</sup> LL B, LL M, BL, A. IDRI, Chief Magistrate Grade I, and the Presiding Magistrate, Small Claims Court, Port Harcourt, Rivers State.





Total Amount = ₦95,000.00

The Defendants were served with the Court issued Summons together with the Complaint Forms personally on the 12<sup>th</sup> October, 2023. However, the Defendants failed to appear in Court when the cases were called up for plea on the 25<sup>th</sup> October, 2023 and plea of not liable was entered on their behalf. Also following the similarity of the subject matters and the cases been filed by the Claimant against the Defendants separately, the cases were consolidated pursuant to **Order 11 Rule 23 MCCPR, 2007** and **section 30 MCL No.2 2004**.

The Defendants were not present in Court on the 8<sup>th</sup> November, 2023 when the case came up for trial, but trial proceeded in their absent with the Claimant testifying as CW1 in proof of her claims. The Claimant also tendered three (3) Demand Letters filed on the 29<sup>th</sup> August, 2023 and served on the Defendants as **Exhibits A, A1 and A2** respectively. The Defendants were foreclosed from cross examination and defence and the case adjourned for adoption of final written address in line with the Small Claims Practice Direction, 2023.

The Claimant's final written addresses dated and filed on the 12<sup>th</sup> December, 2023 were adopted by the Claimant counsel Stanley Miediakumo, Esq. on the 10<sup>th</sup> day of January, 2024 and the case adjourned to the 17<sup>th</sup> January, 2024 for judgment.

The learned counsel for the Claimant formulated a lone issue for determination in the Claimant's final written address thus:

***Whether the Court has the jurisdiction to entertain the instant suit?***

The learned counsel for the Claimant answered the question in the affirmative contending that the Claimant is asking this Honourable Court for debt (arrears) that is due to the Claimant from the Defendants who were her tenants but had various unpaid arrears of rent before fleeing the premises they were occupying at No. 71 Ojoto Street, Mile 1, Diobu, Port Harcourt. The learned Claimant counsel submitted that Black's Law Dictionary, 10<sup>th</sup> edn., defines debt as liability on a claim, a specific sum of money due by agreement or otherwise. Counsel contended further that an action for debt lies where a party claims the recovery of debts: that is liquidated or



certain sum of money due him. The learned Claimant counsel submitted that the Court in the case of *Ayanfulu v Agazie*,<sup>2</sup> expressly pronounced that arrears of rent is the right of the landlord that is recoverable anytime in Court. The learned Claimant counsel citing the case of *Okonkwo v Cooperative and Commerce Bank (Nig.) Plc. & Ors.*,<sup>3</sup> contended that the Defendants reneged on their agreement to pay rents and therefore the Claimant is entitled to seek redress. Counsel prayed the Court to grant the Claimant's claims.

After a careful perusal of the claim of the Claimant against the Defendants, the evidence of the Claimant and the final written addresses of the learned Claimant counsel, the sole issue for determination of this case is thus:

*Whether the Claimant has proved her case to be entitled to the reliefs sought?*

The Small Claims Court entertains claims for simple liquidated money demand not exceeding ₦5million cost inclusive. See Article 2 (1) (d) RSSCC PD, 2023. The testimony of the Claimant as CW1 is that the Defendants who are her tenants were owing arrears of rent of ₦95,000.00, ₦96,000.00 and ₦95,000.00 respectively and have refused to pay despite repeated demands. The Claimant therefore seeks the order of court mandating the Defendants to pay the outstanding arrears of rent. The learned Claimant Counsel had argued that rent is the right of a landlord and I agree completely. The entitlement to rents in a property is a right flowing to the landlord in a landlord and tenant relationship. See *Ossai v Wakwah*.<sup>4</sup>

Arrears of rent undoubtedly is liquidated money. The Supreme Court in the case of *Ayinke v Lawal & Ors.*<sup>5</sup>, have long stated that rent is liquidated while *mesne profits* is not. *Mesne profits* is not the same as arrears of rent which is liquidated damages. See the case of *Bolori v Offorke*.<sup>6</sup> In law, a money demand is liquidated where the money or debt claimed is agreed by the parties and can easily be

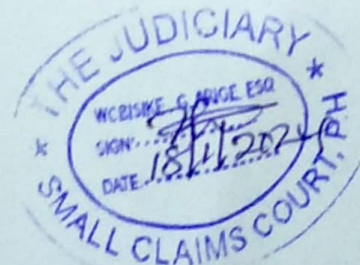
<sup>2</sup> [2006] 5 NWLR (Pt.973) 260.

<sup>3</sup> [2003] 8 NWLR (Pt. 882) 347.

<sup>4</sup> [2006] All FWLR 239 at 262 paras. B.

<sup>5</sup> [1994] LPELR- 680 (SC).

<sup>6</sup> [2010] LPELR-3886 (CA).



ascertained by mere arithmetic calculation. See *Muhammad & Anor. v Maglodan (Nig.) Ltd.*<sup>7</sup>

There is unchallenged evidence before the Court that the Defendants were owing arrears of rent and were served demand notices by the Claimant prior to the commencement of this consolidated cases. I hold that the Defendants are liable to pay their outstanding arrears of rent as claimed. The sole issue is resolved in favour of the Claimant.

In the final analysis, judgment is hereby entered for the Claimant and against the Defendants as follows:

**RESPECTING THE 1<sup>ST</sup> DEFENDANT:**

The 1<sup>st</sup> Defendant is ordered to pay the sum of ₦95,000.00 (Ninety-Five Thousand Naira) only to the Claimant forthwith.

**RESPECTING THE 2<sup>ND</sup> DEFENDANT:**

The 2<sup>nd</sup> Defendant is ordered to pay the sum of ₦96,000.00 (Ninety-Six Thousand Naira) only to the Claimant forthwith.

**RESPECTING THE 3<sup>RD</sup> DEFENDANT:**

The 3<sup>rd</sup> Defendant is ordered to pay the sum of ₦95,000.00 (Ninety-Five Thousand Naira) only to the Claimant forthwith.



C. G. Ali, Esq.  
Chief Magistrate  
17-01-2024

**Legal Representation:**

1. Stanley Miediakumo, Esq. for Claimant.
2. Defendants not represented

<sup>7</sup> [2017] LPELR-43191 (CA).

