

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, ESQ
HOLDEN AT SMALL CLAIM'S COURT 6 PORT HARCOURT

PMC/SCC/284/2024

OGBONNAYA IGBOKE **CLAIMANT**

AND

ALHAJI ISA ONYEKWERE **DEFENDANT**

JUDGEMENT

The Claimant instituted this action against the Defendants via form RSSC 3 of this court filed and dated the 25-10-24 claiming for the following:

- i. The sum of **₦1,100,000 (One Million-One Hundred Thousand Naira)** only being and representing balance of the debt owed by the defendant to the Claimants.
- ii. The sum of **₦500,000 (Five Hundred Thousand Naira)** only as cost of instituting this action.
- iii. **₦1,000,000.00 (One Million Naira)** as damages

In proof of its case, the Claimant called a sole witness (CW 1) and relied on two Exhibits, "Exhibit's A and B". the Defendant never appeared in this case but at a point in this proceeding was represented by counsel the parties took dates for report of settlement but the settlement was reported failed and the defendants counsel stopped appearing in court. The claimant adopted his witness statement on oath filed 9-01-25 on 14-1-25, the defendant was not in court to cross examine the CW1. Claimant's counsel applied and the Defendant was foreclosed from cross examining CW1 and Defending this suit, after which the Claimants Counsel waived his right to address the court either orally or in writing.

The facts of this case as presented by CW1 are that, the Defendant stole some of his goods and when the defendant was caught, the goods were valued at **₦3,000,000 (Three Million Naira)** only and that the defendant promised to pay the money to the claimant. However, till date the Defendant has only been able to pay the claimant the sum of **₦1,900,000.00 (One Million-Nine Hundred Thousand Naira)** leaving a sum of **₦1,100,000.00 (One Million-One Hundred Thousand Naira)** only and that the

Defendant has refused to pay the Claimant the said balance despite several demands by the claimant to the defendant.

The sole issue for determination in this case is "*Whether given the facts and circumstances of this case the Claimant is entitled to his reliefs before this court*"?

The law is trite that where the Claimant leads evidence in prove of his case and the Defendant adduces no evidence in rebuttal the Defendant is deemed to have admitted the claims of the Claimant and in deserving cases the Claimant shall be entitled to his claim(s). See: **Section 123 of the Evidence (Amendment) Act 2023** and the case of **CBN V. DINNEH (2010) 17 NWLR (PT. 1221) PAGE 125, 162 at paragraphs C-D.**

The Claimant relied on Exhibit A being a petition to the Commissioner of Police by the claimant against the defendant and Exhibit B being the claimants solicitors receipt in favour of the claimant for this brief in proof of the fact that the Defendants admits to being indebted to the claimant and that the claimant paid the sum of **₦500,000 (Five Hundred Thousand Naira)** as cost of this litigation.

I have carefully considered the evidence adduced by the Claimant in support of his case and I have no difficulties in holding that the Claimant has proved his claim's before this court on a balance of probabilities being the standard prescribed by law. Except for prayer three which the court has no jurisdiction to grant, same not being in line with Article 2(c) of the Rivers State Small Claims Court Practice Direction 2024 and the hand book of this court, to the effect that this court can grant only simple liquidated money demand. Prayer three of the claimants claim is accordingly refused. it is hereby adjudged that the claimant is entitled to the defendant as follows:-

- 1, The sum of **₦1,100,000 (One Million-One Hundred Thousand Naira)** only being and representing balance of the debt owed by the defendant to the Claimants.
2. The sum of **₦500,000 (Five Hundred Thousand Naira)** only as cost of instituting this action.

I make no further orders.

Dated This 21st Day of January 2025

Signed:

S.S. IBANICHUKA, ESQ.

21/01/2025.

