

**IN THE SMALL CLAIMS COURT OF RIVERS STATE OF NIGERIA
IN THE PORT HARCOURT MAGISTERIAL DISTRICT
HOLDEN AT PORT HARCOURT
BEFORE HIS WORSHIP W. C. AKANI ESQ.
SITTING AT SMALL CLAIMS COURT 5 ON MONDAY, 1ST JULY 2024**

CLAIM NO: PMC/SCC/116/2024

BETWEEN

BARR. BRIGHT UMEH

AND

MR. CHINEDU NWOSU

-

CLAIMANT

-

DEFENDANT

PARTIES: Absent

APPEARANCES: No appearances

JUDGMENT

The Claimant commenced this suit against the Defendant vide Form RSSC 2 on 2nd May 2024 following service of the mandatory Letter of Demand on the Defendant. By the summary of claim contained in the Summons - Form RSSC 3, the Claimant's claim against the Defendant is for the sum of ₦380,000.00 being debt sum of ₦ 250,000.00, fees of ₦ 50,000.00 and costs of ₦ 80,000.00.

The Defendant was served with the Claim and Summon by substituted means on 24th May 2024.

On 24th June 2024 when the matter was fixed for plea and hearing, the Defendant was not in court and had no legal representation and so a plea of not liable was entered for the Defendant following which the Claimant went on to prove his case.

At the close of the evidence-in-chief of CW1, the matter was adjourned to 25th June 2024. On the said date, neither the Defendant nor his Counsel were in court and so the Defendant was foreclosed from cross examining the witness. The case was then adjourned to 26th June 2024 for defence. Again, the Defendant did not show up and did not send any legal representation and was thus foreclosed from defending this suit following which the case was set down for judgment.

The Claimant says the Defendant is his tenant at his property situate at 7 Rumuibekwe town, Port Harcourt wherein he occupies a one room apartment. The Claimant says that the Defendant is in arrears of rent from 2021 to 2023 amounting to N250,000 and that all efforts to get the Defendant to pay the sum owed have proved abortive hence the filing of this action.

As earlier stated, the Defendant did not defend this suit. He neither filed any pleadings nor did he attend court throughout the proceedings.

It is settled law that uncontroverted facts are deemed admitted and facts which are admitted require no further proof. See Section 123 of the Evidence Act and the case of ALHASSAN & ANOR V. ISHAKU & ORS (2016) LPELR 40083 (SC).

It is also the law that when a party in a legal duel has been given an opportunity to defend himself and fails to do so, the obvious conclusion is that he does not intend to contest the suit or he has chickened out. See MANKANU V. SALMAN (2005) 4 NWLR (Pt. 915) 270.

In the instant case, the defendant was served with the originating processes but he chose not to come to court or challenge the Claimant's case. It is obvious that the Defendant has admitted to the claims of the Claimant and does not intend to contest the suit. What is then required of the Claimant is minimal proof. See NWABUOKU V. OTTIH (1961) 1 All NLR 487.

The Claimant has given uncontroverted evidence of the Defendant's indebtedness to him in the sum of ₦ 250,000. The law is that the court ought to accept it and act on it. See NZERIBE V. DOVE ENGINEERING LIMITED (1994) 8 NWLR (Pt. 361) 124 at 137.

I am therefore satisfied that the Claimant has proven his entitlement to the debt claimed and I so hold.

However, the Claimant has made a claim for fees. The Appellate Court has held that fees i.e. cost of litigation is in the realm of special damages which must be specifically pleaded and proved. See FORTIS MICROFINANCE BANK V. AMAEFULA & ORS (2021) JELR 108777.

There is nothing before this court in support of this head of claim. Accordingly, I hold that the claim for fees fails.

In the final analysis, I enter judgment for the Claimant and make the following orders -

1. The Defendant shall forthwith pay to the Claimant the sum of Two Hundred and Fifty Thousand Naira (N250,000.00) being arrears of rent owed to the Claimant from 2021 - 2023.
2. ₦ 50,000 costs to the Claimant.



W.C. AKANI
Senior Magistrate Grade 1
01-07-2024

