

**IN THE MAGISTRATE COURT OF RIVERS STATE OF NIGERIA
IN THE PORT HARCOURT MAGISTERIAL DIVISION
HOLDEN AT PORT HARCOURT
BEFORE HIS WORSHIP NNEKA E. EZE-OBUZOR
SITTING ON THE 20TH DAY OF DECEMBER 2023
AT THE SMALL CLAIMS COURT 4 PORT HARCOURT**

SUIT NO: PMC/SCC/210/CS/2023

BETWEEN

INNOCENT PATRICK ----- CLAIMANT

AND

EVARISTUS CHIMA

PARTIES: Claimant present. Defendant absent

APPEARANCES: No Legal representation

JUDGEMENT

By a claim dated 03/10/2023, the claimant's claim against the defendant are as follows:

1. N1, 000, 000.00 being amount owed the claimant.
2. N1, 000,000.00 as cost.

PLEA

By the affidavit of service availed this court, the defendant was served the originating process in this suit by substituted means by pasting at the door of the defendant on the 22nd of November 2023 at 3pm. On the 24th of November 2023, a plea of not liable was entered for and on behalf of the absent defendant.

SUMMARY OF EVIDENCE

The claimant in proof of his case called a lone witness, the claimant himself and tendered three exhibits marked exhibits A, B and C.

The defendant never appeared to defend this suit hence no evidence was entered for the defendant.

The relevant facts from the case of the claimant as presented by the claimant himself is that he is a teacher and in 2008, he approached the defendant who sold him a portion of land to the tune of N1,000,000.00 with the business name Meg Associates. That the said plot is located at Oka-Gbara Ogale in Eleme Local Government Area of Rivers State. That the said N1, 000,000.00 was paid in agreed instalment. Receipts evidencing payment were admitted as Exhibits A1-A5 respectively. Note of acknowledgement was also admitted as Exhibit B. That upon completion of the said sum, the defendant in his business name executed a deed for the claimant. Copy of the said deed was admitted as Exhibited C. That since then the defendant has failed to put the claimant in peaceful possession. That they had gone to the police where the defendant came and paid the sum of N400, 000.00 and refused to make any further payment. That he's also asking for cost of N1,000,000.00 as he paid surveyor twice the sum of N150,000.00 and N100,000.00 totalling N250,000.00.

The defendant never appeared either by himself or through a counsel to defend this suit even after service of hearing notice hence he was foreclosed from cross examining the CW1 and from defending this suit.

The claimant waived his right to address and asked that judgement be entered as per his claims.

RESOLVE

In determination of this suit, I will raise a lone issue

Whether the claimant is entitled to his claims

As already stated, the failure of the defendant to make an appearance means that the entire evidence adduced by the claimant is unchallenged. The law is trite that a Court is at liberty to accept and act on unchallenged and uncontroverted evidence. See the case of **OFORLETE V. STATE (2000) 12 NWLR (PT. 681)415**. The court in the case of **ADELEKE V. IYANDA (2001) 13 NWLR PART 729 PAGE 1 AT 23-24 PARA H-A** held that where the claimant has adduced admissible evidence which is satisfactory in the context of the case, and none available from the defendant, the case will be decided upon a minimum of proof as this makes the burden lighter.

From the case file, the claimant has complied with the provisions of **ARTICLE 2 AND 3 OF THE RIVERS STATE SMALL CLAIMS COURT PRACTICE DIRECTION 2023** for the fact that this is a liquidated money demand not exceeding Five million (N5M), the defendant was served with a demand letter, there is a complaint form, there is an affidavit of service of the summons of court on the defendant.

On the first claim of the claimant, by way of evidence, the claimant has tendered the receipts which he used in making payment to the defendant. The deed evidencing the entire transaction was also tendered. However per the evidence of the claimant, the defendant has paid the sum of N400, 000.00 out of the N1, 000,000.00 meaning the defendant is in debt to the claimant to the tune of N600, 000.00

On the last claim, Cost follows event and a successful party is entitled to the cost of prosecuting or defending the action either wholly or partly unless he misconducts himself in such a manner that deprives him of such an award. See the case of **UBANI-UKOMA VS. SEVEN-UP BOTTLING CO. & ANOR (2022) LPELR-58497 (SC)**.

Flowing from the above, I hold that the claimant is entitled to the reliefs sought.

In conclusion, judgement is entered for the claimant as follows:

1. The defendant is ordered to pay the claimant the sum of N600, 000.00 being money owed him for the land bought.
2. The sum of N500, 000.00 is awarded as cost in favour of the claimant.