

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  
13<sup>TH</sup> DAY OF DECEMBER, 2023.

SUIT NO.: PMC/SCC/166/2023.

BETWEEN:

CHIEF DAMIAN NWACHUKWU  
 (Through His Attorney, Mr. Chinedu Nwachukwu) ----- CLAIMANT

AND

MR. EMEKA ONWUKA ----- DEFENDANT

Case called.  
 Parties absent.

JUDGMENT

The Claimant commenced this suit against the Defendant through his attorney Mr. Chinedu Nwachukwu after serving mandatory demand letter and claims as per the claim attached to the summons dated and filed on the 17<sup>th</sup> September, 2023 as follows:

Amount Claimed	-	<u>₦500,000.00</u>
Fees	-	<u>₦50,000.00</u>
Costs	-	<u>₦100,000.00</u>
<b>TOTAL</b>	-	<u>₦650,000.00</u>

The Defendant was served with summons and complaint form by substituted means on the 9<sup>th</sup> day of October, 2023. Plea of not liable was entered for the Defendant on the 11<sup>th</sup> October, 2023 and the case adjourned for trial. Hearing commenced on the 25<sup>th</sup> October, 2023 with the Claimant attorney Mr. Chinedu Nwachukwu testifying as CW1 and the sole witness for the Claimant. The CW1 tendered demand letter dated 30<sup>th</sup> August, 2023 as Exhibit A and Power of Attorney in his favour dated 28<sup>th</sup> July, 2023 as Exhibit B. The Defendant who is a legal

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

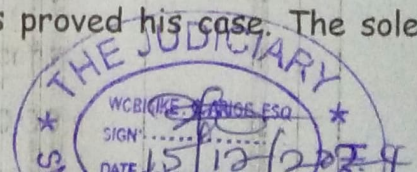


practitioner fully cross examined the CW1 but failed to defend the claims on the 8<sup>th</sup> November, 2023 and was consequently foreclosed from defence and address. After the close of trial on the 8<sup>th</sup> November, 2023, the learned Claimant counsel, A. A. Wejinya, Esq. waived his right of final address and the case was adjourned for judgment.

After a careful perusal of the claim of the Claimant in this case, the sole issue for determination is thus:

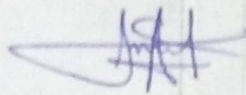
***Whether the Claimant has proved his case to be entitled to the reliefs sought?***

Article 2 (1) (d) of the Small Claims Practice Direction, 2023 states that a Claimant may commence an against the Defendant for simple liquidated money demand and/or related matters in a sum not exceeding ₦5,000,000.00 (Five Million Naira) including costs. The main claim against the Defendant herein is for ₦500,000.00 arrears of rent from 31<sup>st</sup> March, 2021 to 30<sup>th</sup> March, 2023 in respect of the three (3) bedroom flat occupied by the Defendant at the Claimant's premises situate at No. 16 Clitter Estate, Rumuokoro, Port Harcourt. The law is that a liquidated money demand is a debt or other specific sum of money usually due and payable and its amount must be already ascertained. See the case of *Gitto Contructioni Generali (Nig.) Ltd. v Innovate & Co Enterprises & Anor. [2015] LPELR-25725 (CA)*. Indeed, arrears of rent has been held to be liquidated money demand. See the case of *Ayinke v Lawal [1994] 7 NWLR (Pt 356) 263*. The CW1 testified that the Defendant is owing the Claimant arrears of rent from the 31<sup>st</sup> March, 2021 to 30<sup>th</sup> March, 2023 at the rate of ₦400,000.00 per annum but has only paid ₦300,000.00 and leaving the balance of ₦500,000.00 unpaid despite repeated demands. The Claimant caused a demand letter (Exhibit A) to be served on the Defendant before commencing this action. The law is that a cause action accrues in an action for recovery of debt upon issuance of demand letter on the debtor and he fails to pay. See the case of *Wema Bank v Owosho [2018] LPELR-43857 (CA)*. The Defendant appeared in Court but failed to defend the claim which implies that the Claimant claim is admitted. I hold that the Claimant has proved his case. The sole



issue is resolved in favour of the Claimant. Judgment is hereby entered for the Claimants as follows:

1. The Defendant is ordered to pay the sum of ₦500,000.00 (Five Hundred Thousand Naira) only as outstanding arrears of rent to the Claimant forthwith.
2. The Defendant is also ordered to pay the sum of ₦50,000.00 (Fifty Thousand Naira) only as fees to the Claimant forthwith.
3. The Defendant is also ordered to pay the sum of ₦50,000.00 (Fifty Thousand Naira) only as cost to the Claimant forthwith.



C. G. Ali, Esq.

Chief Magistrate Grade 1

13/12/2023

LEGAL REPRESENTATION:

1. A. A. Wejinya, Esq. for the Claimant.
2. Defendant not represented.

