

IN THE MAGISTRATES' COURT OF RIVERS STATE
IN THE PORT HARCOURT MAGISTERIAL DISTRICT
HOLDEN AT PORTHARCOURT BEFORE HIS WORSHIP. G.C.AMADI ESQ.
SITTING AT SMALL CLAIMS COURT AT CHIEF MAGISTRATE COURT 14, ON THE 8TH OF
MAY 2023

SUIT NO. PMC /SCC/28/2023

PATIENCE .N. CHIMARA

}

CLAIMANT

AND

MRS GIFT SUKU TOMBRA

}

DEFENDANT

JUDGMENT

This is the final judgment in this suit wherein the claim before the court, dated and filed on the 29th March, 2023 is for:

1. An order of this Court compelling the defendant to pay the Claimant, the sum of N76,400.00 as balance of money owed the Claimant by the defendant.
2. An order of this Court compelling the defendant to pay the Claimant. the sum of N50,000 as cost of litigation

In proof of his case, the Claimant called one witness and the defendant never appeared in this matter.

On the 20th March, 2023 an application to enter plea of not liable for the defendant by the claimant was granted and hearing notice was ordered to be served on the defendant and the matter was set down for hearing.

On the 6th day of June, 2023, the Claimant was present and the defendant was absent. On this date, the Claimant on record commenced his evidence in Chief and stated that on the 3rd December , 2022, the defendant came to her poultry and ordered for 218 pieces of old layers birds at the rate of N1,800 per bird to a total of N292,000

That at the end of the 2020,the defendant paid N140,000.In 2021, she paid another N76,000, Then in 2022, she paid N70,000 and after that she stopped paying.That in total she has paid the sum of N366,400 leaving a balance of N26,000 to be paid. That she made several demands all to no avail.



Concluding the CW1 stated that she wants the Court to grant her a balance of N26,000 owed to her by the defendant and N50,000 cost of litigation.

At the end of the evidence of CW1, the defendant is foreclosed from cross examining the CW1 and from defence and the matter was adjourned for judgment

That said, I will proceed to consider the case of the parties in the light of the relevant laws. I have noted the essence of the claim have also taken cognizance of the evidence before the court. I have read all the exhibits and I have couched a lone issue for determination and that is whether the Claimant has discharged the burden of proving his claim before the Court.

Suffice is to say that before the court adjourned the matter for hearing and heard the matter, the court always satisfied itself that:

1. The processes have been duly served on the defendant
2. That the time before the date of service and the date of hearing was sufficient for the defendant to have appeared had he intended to do so.

It is also important to note at this point that none of the facts stated by the claimant's witnesses were controverted in evidence or denied by the defendant and so will be deemed by this court as admitted. The law is that facts admitted need not be proved by evidence. Please refer to the case of Ayoke V. Bello (1992)10 NWLR (Pt 218) pg 380 Ratio 2; O.A.A Cooperative Society Vs. NACP Ltd (1999) 2NWLR (Pt 590) Pg 234, Ratio 4 to the effect that what is not denied is deemed admitted and what is admitted need not be proved.

On the undisputed and clear evidence before the court, the court will hold that the claimant has discharged the burden of proving that she is entitled to her claim before the Court.

IT IS THUS ADJUDGED that the Defendant to pay the Claimant, the sum of a balance of N26,000 (Twenty- Six Thousand Naira) as balance on the purchase amount for 218 pieces old layers chicken bought from the Claimant by the defendant worth N292, 400

AND, IT IS FURTHER ADJUDGED that the 1st defendant to pay the Claimant, the sum of N50,000 (Fifty Thousand Naira) as cost of litigation.

AND IT IS ORDERED that the defendant to pay the Claimant, the aforesaid sum of N26,000 (Twenty- Six Thousand Naira) to the defendant

AND IT IS FURTHER ORDERED that the defendant do pay to the Registrar of this court the total sum of N76,000 (Seventy Six Thousand Naira) above mentioned representing the balance sum of N26,000(Twenty Six Thousand Naira) and N50,000 (Fifty Thousand Naira) as cost of litigation.



TAKE NOTICE –That if payment is not made as above ordered, a warrant or warrants may issue requiring an officer of the court to levy the sum above mentioned, to the Claimant together with further costs.

GIFT C. AMADI, ESQ.
CHIEF MAGISTRATE
GD II

G.CHINYERE AMADI. ESQ.
CHIEF MAGISTRATE G.D.II

