

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 15, ON THE 22nd of
MAY 2023

SUIT NO. PMC /SCC/53/2023

HON KINGSLEY LEGBORSI LEH

}

CLAIMANT

AND

MR. HENRY OGBONNA

}

DEFENDANT

JUDGMENT

This is the final judgment in this suit wherein the claim before the court, dated and filed on the 21st of March, 2023 is for:

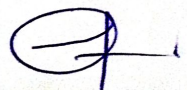
1. An order of this Court compelling the defendant to pay to the Claimant, the sum of N490,000 (Four Hundred & Ninety Naira only) as money owed the landlord.
2. Seventy Thousand Naira as cost of litigation and professional fees

In proof of his case, the Claimant called one witness and the defendant did not call any witness in this matter.

On the 30th May, 2023 an application to enter plea of not liable for the defendant by the Claimant counsel was granted and the matter was set down for hearing.

On the 8th day of June, 2023, the Claimant was present and the defendant was not present and on this date, the CW1, who is also the Claimant on record commenced his evidence in Chief and stated that he is in court because of his tenant, the defendant who pays N350,000 as rent annually, paid the sum of N210,000 as rent last year and so he called his lawyer to demand his money and the lawyer demanded the money in writing as in a demand notice and yet the defendant did not pay up the rent of the balance of N140,000 for last year. That he is in court to ask for his balance.

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
No exhibits were tendered in evidence in the course of the trial.



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 and the filed defence before the Court, I have also taken cognizance of the oral evidence before the court and I have couched a lone issue for determination and that is: Whether, the Claimant have 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.

Suffice is to note at this point that none of the facts stated by the claimant as CW1 was 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 he is entitled to his claim before the Court.

On the issue of professional fees and cost, the position of the Court is that professional fees and cost of litigation are in the class of special damages and need to be strictly proven. No exhibit was tendered to prove cost of litigation and professional fees.

Lonestar Drilling Nig. Ltd v. New Genesis Executive Security Ltd [2011] LPELR – 4437 CA

International Offshore Construction Ltd & 3 Ors. v Shoreline Lifeboats Nig. Ltd [2003] 16 NWLR [Pt. 845] p. 157

The Claimant in this case did not attach any documentary evidence in the form of receipts or proof of transfer of funds to a counsel or firm evidencing the cost of proceeding.

In the absence of any proof of the special claim for cost of litigation, the claim for cost of litigation fails

IT IS THUS ADJUDGED that the Claimant to pay the defendant the sum of N140,000 (One Hundred & Forty Thousand Naira) as balance of his outstanding annual rent.

AND IT IS ORDERED that the defendant to pay the Claimant, the aforesaid sum of N140,000 (One Hundred and Forty Thousand Naira) with immediate effect

AND IT IS FURTHER ORDERED that the defendant do pay to the Registrar of this court the total sum of N140,000 (One, Hundred & Forty Thousand Naira)

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