

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 CHIEF MAGISTRATE COURT 8, ON THE 16TH OCTOBER, 2024

SUIT NO. PMC /SCC/239/2024

MR. IGWE NYEMAHAME

}

CLAIMANT

AND

PRINCE NWAKU ADUBADEN

}

DEFENDANT

JUDGMENT

This is the final judgment in this suit wherein the claim before the court, dated and filed on the 23RD September, 2024 is for:

1. An order of this Court compelling the defendant to refund the Claimant, the sum of N4,450,000 for being outstanding sum accrued and interest respectively on loan advanced to the Claimant.
2. An order of this Court compelling the defendant to pay the Claimant, the sum of N100,000 as cost

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

On the 11th of October, 2024, an application to enter plea of not liable for the defendant by the Claimant counsel was granted and hearing notice was ordered to be served on the defendants and the matter was set down for hearing.

On the 14th day of October, 2024, the Claimant was present and the defendant was absent. On this date, the CW1, who is also the Claimant on record adopted his evidence on oath wherein he deposed that the Defendant approached him sometime in the month of December, 2022, whereof he represented to him that he has a business opportunity which he intends to revamp with some capital for better prospects. That based on the defendant's representation and fervent plea to lend him some funds in that respect, he gave the defendant, the sum of N3 Million (Three Million Naira) only as loan facility subject to conditions and terms as agreed by both of them. That he duly disbursed the sum of



N3,000,000.00 to the Defendant thus and Agreement was executed between the defendant and I, wherein the terms and conditions for the grant and repayment of the amount, including interest, were specifically contained.

Testifying further on oaths, the defendant stated that this sum was given to the defendant for a tenor of four (4) months from the date of grant at an interest of 20% per month. The defendant secured this money by handing over the original copy of Deed of Conveyance over his property located at Rumuchiomana family land, Rumuapu, Rukpokwu, with a building comprising a six bedroom Duplex built by the defendant vide an unregistered Deed of Conveyance executed between one Mr. Ogechi Ejekwu as Vendor and the Defendant as the Purchaser. That the defendant did execute the loan Agreement as a mark of good faith to reassure him of the due payment of the agreed amount and accrued interest as at the due date, That rely on the contents of the agreement, That at the expiration of four months under the agreement, (5th, April, 2022) being the due date of repayment, the defendant willfully failed, refused and neglected to defray the amount granted and the accrued interest as agreed, despite the repeated demands I made for repayment.

That by the Agreement the defendant is obliged to pay 20% interest per month on the loan granted after the expiration of the due date of four months. That the defendant will continue to pay a 20% interest per month if the principal and interest granted remained unpaid and outstanding.

Further, the defendant testified that at all material time defendant took benefit of the funds and is obliged to repay the loan granted with the accrued interest as agreed. That despite taking benefits of the amount the defendant willfully refused to pay back the outstanding loan and accrued interest, rather he devised all form of excuses to continue in his indebtedness and all to his (Claimant's) detriment.

That the defendant was irregular in the repayment of the money but only paid little amount to service part of the interest. That the defendant continued to owe me so much that both the principal and the accrued interest became a total of N5,400,00.00 (Five Million Four Hundred Thousand Naira), as at April, 2024, which is about two years after the agreement. That as at July, 2024, the defendant agreed to pay him the sum of N4,450,000 (Four Million Four Hundred and Fifty Thousand Naira) only as full and final payment of the loan, if he would stop the reading of interest value to the loan.

That I acceded to the defendant's offer but despite the concession allowed the defendant he still failed and refused to pay the agreed sum of N4,450,000 or any other sum afterwards, rather the defendant had deliberately continued in his indebtedness causing my business to suffer huge losses and inconveniences notwithstanding the repeated demands I made on the defendant to liquidate same.

That except this Honourable Court intervenes, the defendant is resolved not to defray his indebtedness to him. That his business have greatly suffered and is still suffering greater hardship and losses as a result of the action of the defendant. That he claims against the defendant for the immediate payment of the sum of A4,4500,000.00 (Four Million, Four



Hundred and Fifty Thousand Naira) to me, being the discounted amount the defendant had offered to pay

The CW1 identifies the loan agreements and the deed of conveyance and the Claimant counsel applies to tender the documents in evidence. In the absence of any objection, the document were admitted in evidence and marked as Exhibits A and B respectively.

At the close of the evidence of CW1, the Claimant announced the close of their case. Prior to that, after sighting the hearing notices dated 30th September, 2024 and affidavit of service dated 30th September, 2024 and in line with Article 9 of the Small Claims Court Practice Direction, 2024; the Court having satisfied herself that the defendants have been served and have failed or refused or neglected to appear and defend the claim against him, the defendants were foreclosed from cross examining the CW1 and thereafter from defending the claim and the matter was adjourned for judgment.

A total of two (2) 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 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.

Suffice is to note at this point that none of the facts stated by the claimant's witness 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, as from the evidence of the Claimant and the claim before the Court as enumerated above in addition to the corroboration as in Exhibits A-B 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 as against the defendant.

IT IS THUS ADJUDGED that the defendant to refund the Claimant, the sum of N4,450,000 (Four Million, Four Hundred And Fifty Thousand Naira)only for being outstanding sum accrued and interest respectively on loan advanced to the defendant.



AND, IT IS ALSO ADJUDGED that the defendant to pay the Claimant, the sum of N100,000 (One Hundred Thousand Naira) as cost.

AND IT IS ORDERED that the defendant to pay the Claimant, the aforesaid sum of N4,450,000 (Four Million, Four Hundred And Fifty Thousand Naira)only for being outstanding sum accrued and interest respectively on loan advanced to the defendant and N100, 000 (One Hundred Thousand Naira) as cumulating to the total sum of N4,550,000.00(Four Million, Five Hundred And Fifty Thousand Hundred Thousand Naira Only).

AND IT IS FURTHER ORDERED that the defendant do pay to the claimant the total sum of N4,550,000.00(Four Million, Five Hundred And Fifty Thousand Naira Only) above mentioned with immediate effect.

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.



**G.CHINYERE AMADI. ESQ.
CHIEF MAGISTRATE G.D.I**

