

IN THE MAGISTRATE COURT OF RIVER STATE OF NIGERIA
IN THE PORT HARCOURT MAGISTERIAL DISTRICT
HOLDEN AT PORT HARCOURT
BEFORE HIS WORSHIP S. S. IBANICHUKA, ESQ
HOLDEN AT SMALL CLAIM'S COURT 6 PORT HARCOURT

PMC/SCC/44/2024

OKECHUKWU STEVEN NYECHE
VS.
MR HARRISON BESTMAN

JUDGEMENT

The Claimant instituted this action against the Defendant via form RSSC 3 of this court filed on 08-03-24 claiming for the following:

i. The sum of **₦4,360,000 (Four Million Three Hundred and Sixty Thousand Naira)** only being and representing the principal sum and interest on loan owed to the Claimant by the Defendant.

ii. **₦100,000 (One Hundred Thousand Naira)** representing costs.

In proof of his case, the Claimant called a sole witness (CW 1), the Claimant himself and relied on two Exhibits, Exhibit "A" (the Defendants G T bank cheque issued to the Claimant) and Exhibit "B" car particulars of one Mr Anthony Worgu. The Defendant never appeared in this case and was never represented by counsel despite being served the originating processes in this suit and a hearing notice. The Claimant conducted the case himself and went on to conclude his case and asked the court to enter judgement in his favour according to his claim before the court.

The facts of this case are that, on the 5-5-21 the Defendant took a loan of the sum of **₦400,000.00 (Four Hundred Thousand Naira)** at an interest rate of 30% per month, the loan was agreed to be repaid in one month, that the Defendant used the car particulars of one Mr Anthony Worgu, a car he was driving as collateral for the loan and that the Defendant has refused to pay the Claimant the said money despite several demands by the claimant.

The sole issue for determination in this case is "*Whether the Claimant has placed enough materials before the court for the court to grant the claimants reliefs before this court*"?

The law is trite that where the claimant leads evidence in prove of his case and the Defendant adduces no evidence in rebuttal, in such circumstances the Defendant is deemed to have admitted the claims of the Claimant and in deserving cases the claimant will be entitled to his claim. See: **Section 123 of the Evidence (Amendment) Act 2023**

and the case of **CBN V. DINNEH (2010) 17 NWLR (PT. 1221) PAGE 125, 162 at paragraphs C-D.**

The claimant relied on Exhibits "A" and "B" in proof of the fact that the Defendant owes him the sum of **₦4,360,000 (Four Million Three Hundred and Sixty Thousand Naira)**. I have carefully considered the evidence adduced by the claimant in support of his principal relief being relief one in the summons (to which the Defendant did not oppose) and following the Supreme Courts decision in **Uzoukwu v Idika (2022) 3 NWLR (Pt 1818) 403, per Juaro JSC at Page 451, Paras A - C**, where my lord endorsed the findings of Galadima JCA (As he then was),

"that the parties herein had a binding contract not in any way tainted by fraud or illegality the respondent did not deny that he enjoyed and benefited from the money he took from the appellant by the respondent for the money he received and the agreed interests he should pay, which interest the appellant would have earned had she lodged the money in the bank or invested it. This court will frown at an attempt made by the respondent to deprive the appellant of her principal sum and interest thereon under the misconception that the law that has by its own tenor clearly excluded her, at same time applies to her thus is to allow the respondent to gloat over his unjust enrichment at the expense of the appellant"

Furthermore, parties are bound by the terms of their agreements, See **A. G. RIVERS STATE V. AG AKWA IBOM STATE (2011) NWLR (PT. 1248) 31 AT 81.**

Going by the above legal authorities I find that the claim of the claimant on this score is in sync with the relevant position of the law.

I therefore have no difficulties in holding that the Claimant has proved his claim before this court according to the standard required by law.

Accordingly it is adjudged as follows:-

I. That the claimant is entitled to the sum of **₦4,360,000 (Four Million Three Hundred and Sixty Thousand Naira)** only being and representing the principal sum and interest on loan owed to the Claimant by the Defendant.

II. The sum of **₦100,000 (One Hundred Thousand Naira)** representing costs.

I make no further orders.

Signed:


S. S. IBANICHUKA, ESQ.

16/04/2024

