

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 8, ON THE 20TH
FEBRUARY 2024.

SUIT NO. PMC /SCC/204/2023

LAPO MICROFINACE BANK LTD

}

CLAIMANT

AND

- 1. DAVID MICHEAL UMUOSEN**
- 2. EZEKIEL ADIMORANMA NWONU**

}

DEFENDANTS

JUDGMENT

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

1. The sum of N739, 680.45(Seven Hundred And Thirty Nine Thousand, Six Hundred And Eighty Naira, Forty Five Naira) being the outstanding balance on the loan
2. The sum of N73,931(Seventy Three Thousand, Nine Hundred And Thirty One Naira) as default penal fees
3. The sum of N50,000 (Fifty Thousand Naira) as cost of litigation.

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

On the 25th January, 2024, an application to enter plea of not liable for the Claimant was granted and the matter was set down for hearing.

On the 16th of February, 2024, one Imadiyi Osamudiamé, testified as CW1 and stated that he is the recovery officer of the Claimant . He applies to adopt his witnesses deposition on oath filed on the 13th of February, 2024.In the said deposition on oath, the CW1 stated that on the 19th of August, 2023, that Wisdom Woko , the borrower , provided two guarantors, the defendants, whom entered credit contract agreement with the Claimant wherein the sum of N1,000,000 (One Million Naira)was granted and disbursed to Wisdom Woko for a duration of 10 months by the Claimants, and to repay with interest, the sum of N1,232,909,21(One Million , Two Hundred And Ninety Naira, Twenty –One Kobo) within the agreed durations.

That the loan was to be paid in installment with a monthly repayment of N123,290.92(One Hundred Twenty Three Thousand and Ninety Two Kobo) That commenced on the 19th September 2022 and expired 19th June, 2023.

That the total outstanding balance of the loan as at the date is N863,680.45(Eight Hundred And Sixty –Three Thousand Six Hundred Eighty Naira Forty –Five Kobo)that includes a default penal fee of N73,971 and N50,000 cost of litigation in conformity with the contract agreement.

That the defendants as guarantors authorized the Claimant by signing of the contract agreement to take any action (s) he considered necessary to recover the loan in the event of default.

Testifying further, the Claimant stated that by virtue of their guarantee, the defendants undertook that they are severally liable and shall return the total outstanding loan balance (Principal, the accrued interest, default penal fee and other charges incurred in the course of recovery debt) back to the Claimant in the event of default and breach of any of the terms and conditions in respect of the loan agreement and the acceptance of the offer of the credit facility. That all efforts to resolve and recover the debt from Wisdom Woko and the defendants failed, hence the serving of the letter of demand and the subsequent summons of the defendants for the repayment of the debt as aforementioned.

That by this summons, the Claimant is requesting that the defendants to meet their obligation as contained, signed and agreed to, in the loan contract agreement, they entered with the Claimant.

The CW1 identifies the offer /acceptance of the credit facility and the loan contract agreement. Same were tendered and admitted by the Court as Exhibit A and B respectively.

At the end of the evidence of CW1, in the light of the affidavit of service before the Court dated the 24th day of October, 2023 and the hearing notice dated the 8th day of February,2024, the defendants was 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 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 defendants
2. That the time before the date of service and the date of hearing was sufficient for the defendants 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 witness above was controverted in evidence or denied by the defendants 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, and on the strength of Exhibits A and B, the court will hold that the Claimant has discharged the burden of proving that he is entitled to his Claim before the Court.

1. The sum of N739, 680.45 being the outstanding balance on the loan
2. The sum of N73,931 as default penal fees
3. The sum of N50,000 as cost of litigation

IT IS THUS ADJUDGED that the Defendants to pay the Claimant, the sum of N739, 680.45 being the outstanding balance on the loan

IT IS ALSO ADJUDGED that the Defendants to pay the Claimant the sum of **N73, 931** as default penal fees

IT IS ALSO ADJUDGED that the Defendants to pay the Claimant, the sum of **N50,000** as cost of litigation

AND IT IS ORDERED that the defendants to pay the Claimant, the total sum of N863,611.45 (Eight Hundred And Sixty Three Thousand, Six Hundred And Eleven Naira, Forty Five Kobo) representing the loaned sum, the default penal fees and cost of litigation respectively.

AND IT IS FURTHER ORDERED that the defendants do pay to the Registrar of this court, the total sum of N863,611.45 (Eight Hundred And Sixty Three Thousand, Six Hundred And Eleven Naira, Forty Five Kobo) representing the loaned sum, the default penal fees and cost of litigation respectively on or before the 5th day of March, 2024.

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