

IN THE SMALL CLAIMS COURT OF RIVERS STATE OF NIGERIA
IN THE PORT HARCOURT MAGISTERIAL DISTRICT
HOLDEN AT PORT HARCOURT

ON FRIDAY THE 22ND DAY OF DECEMBER, 2023
BEFORE HIS WORSHIP A. O. AMADI-NNA, ESQ
CHIEF MAGISTRATE GD. 1

SUIT NO. PMC/SCC/140/2023

BETWEEN

EZINWO MINI

VS

EMESIOBI EMMANUEL

Claimant present.

Defendant absent.

B. Bruce appear for the claimant.

JUDGMENT

The claimant's claim against the defendant is for the sum of N80,000.00 (Eighty Thousand Naira) only which the claimant gave to the defendant as loan to pay within 4 months and an interest of 15% per month which the defendant was able to pay N19,400.00 (Nineteen Thousand Four Hundred Naira) only, leaving a balance of N78,400.00 (Seventy Eight Thousand Four Hundred Naira) only together with the interest now accruing to N140,000.00 (One Hundred and Forty Thousand Naira) only, which despite several pleas the defendant failed to pay.

A plea of not liable was entered for the defendant after which the defendant's counsel applied for leave to settle this matter out of court which the claimants counsel did not object to. When the matter came up for report of settlement on the 8th day of November 2023, claimant's counsel informed the court that he has not heard from the defendant and applied that the matter so on which application was granted.

In proof of his case the claimant gave evidence as CW1 and tendered 3 exhibits - Exhibits "A", "B" and "C" while the defendant did not defend this suit.

CW1, Mini Ezinwo the claimant in this suit said he does business in the name of Ezimini Services which is a registered business name. He does buying and selling and also give short term loan. That on the 3rd day of August 2022 the defendant approached him for a loan of N80,000.00 for a monthly interest rate of 15 percent and promised to pay in 4 months time but that on the first month, the defendant said he could not meet up with the loan. He further said that they entered into an agreement and tendered the loan agreement as Exhibit "A". Further that on the 6th day of September 2023 the defendant paid an interest of N10,000.00 instead of N12,000.00 and the 2nd month the defendant paid N32,000.00 and they had a principal balance of N62,000.00 while on the third month the defendant failed to pay anything. Also that on the 7th day of December 2022 defendant paid N20,000.00 and they had a principal balance of N60,600.00. That since that December 2022 till date he has refused to make further payments and currently owes him a balance of N62,600.00 and accumulated interest of N78,000.00 totaling N140,600.00. He had called the defendant severally and sent him monthly reminders. He has also called the defendants Guarantor called Mr. Joyful Ibianga and his also forwarded the reminder he sent to the defendant to the Guarantor. The defendant still refused to pay despite these and he then briefed his lawyer who wrote to him.

He tendered the demand letter as Exhibit "B". After the defendant still refused to pay he filed this suit in court through his Solicitors Fruitful Attorney and made a payment of N50,000.0. He tendered the receipt of payment of N50,000.00 as professional fees as Exhibit "C".

On the 22nd day of December 2023 when the matter came up for cross examination of CW1, the defendant was not in court to cross examine CW1 and was foreclosed from cross examining CW1. Claimant's counsel now informed the court that they have closed their case.

On the 19th day of January 2024 when the matter came up for defence, the defendant was not in court to defend the suit and was foreclosed from defending this suit. Claimant's counsel then applied that the court enter Judgment in line with the evidence led by CW1. The application was granted. I have reviewed the evidence of CW1, the claimant and also taken into consideration Exhibits "A", "B" and "C" tendered through CW1.

The lone issue that arise for determination is whether the claimant has proved his claim before this court on the preponderance of evidence for judgment to be entered in his favour.

CW1, the claimant has given evidence of how the defendant approached him for a loan of N80,000.00 on the 8th day of August 2023 for a monthly interest of 15% and promised to pay in 4 months time and has paid interest 4 times which he was stated and currently owes him a balance of N62,600.00 and an accumulated interest of N78,000.00 totaling N140,000.00. He tendered the loan agreement as Exhibit "A". He has also given evidence that he has called the defendant severally to no avail and also issued him a demand notice through his Solicitors, which he tendered the demand notice as Exhibit "B". He has also given evidence that he paid professional fees to his Solicitors to file this suit and he has tendered the receipt of payment as Exhibit "C".

The defendant did not defend this suit. The defendant's counsel only appeared before this court on the day this case came up for plea and he and claimant's counsel applied for an out of court settlement and did not appear before this court again.

An undefended case requires a minimum of proof. The claimant's evidence was not challenged and when evidence is not challenged the court ought to accept such evidence as proof of the issue in contest. See the case of **FOLARIN & ANOR V. SHALOUB (1994) 3 NWLR (Part 333) page 413 at 443 paras B-H**. Also see **OKUPE V. IFEMACHI (1974) 35C page 97 at 103**.

I hereby hold that the claimant has proved his case on the preponderance of evidence to be entitled to Judgment.

Accordingly Judgment is hereby entered in favour of the claimant on the following terms;

Court:

1. The defendant is to pay to the claimant the sum of N78,400.00 (Seventy Eight Thousand Four Hundred Naira) as balance of the loan he took from the claimant together with the interest now accruing at N140,000.00 (One Hundred and Forty Thousand Naira) only, which he has failed to pay despite several demands from the claimant.

Signed:

A. O. Amadi-Nna, Esq.

Chief Magistrate GD.1

26/1/2024