

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 14, ON THE 12th
OF OCTOBER 2023

SUIT NO. PMC /SCC/150/2023

MRS MERCY C EMEASOBA BASIL

} CLAIMANT

AND

MR JOHN NDIDI NWANGUMA

} DEFENDANT

JUDGMENT

This is the final judgment in this suit wherein the small claim before the court, dated and filed on the 28th of August, 2023 is for:

1. An order of this Court compelling the defendant to pay the Claimant, the sum of N425, 000 representing monies paid and expenses made for the purchase of land situate at Okwunkwa Farmland in Umalikpor Igbo-Etche, Rivers State.

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

On the 14th, September 2023, an application to enter plea of not liable for the Claimant was granted and the matter was set down for hearing.

On the 9th October, 2023, the Claimant testified as CW1 and stated that she bought land from the defendant and the defendant later sold the land as part of a larger whole to a company. That she kept asking him for a refund but he would not budge and that she wrote a demand letter to him and yet there was no response. That she wants to adopt her witness deposition on oath dated and filed on the 19th of September, 2023. The CW1 identifies the deed of conveyance evidencing the purchase of the land and the Access bank statement evidencing that the purchase price was transferred to the defendant. Both document was admitted in evidence and marked as Exhibit A and B respectively. In conclusion, the CW1 stated that she wants the Court to grant their claim as on the face of the claim before the Court.

At the end of the evidence of CW1, in the light of the filed hearing notice and affidavit of service before the Court, the defendant 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 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.

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 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 she is entitled to his claim before the Court.

IT IS THUS ADJUDGED that the Defendant to pay the Claimant the sum of N425,000(Four Hundred And Twenty Five Thousand Naira)only representing monies paid and expenses made for the purchase of land situate at Okwunkwa Farmland in Umalikpor Igbo-Etche, Rivers State.

IT IS FURTHER ADJUDGED that punitive cost of N100, 000 (One Hundred Thousand Naira) only be paid to the Claimant by the defendant

AND IT IS ORDERED that the defendant to pay the Claimant, the aforesaid sum of N525,000,00(Five Hundred And Twenty-Five Thousand Naira) representing refund money and punitive cost **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.

GIFT C AMADI, ESQ
CHIEF MAGISTRATE
C.D.I
SIGN. _____

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