

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 23rd
FEBRUARY, 2024.

SUIT NO. PMC /SCC/11/2024

VICTORIA OKECHUKWU

AND

BLESSING FRIDAY

} **CLAIMANT**

} **DEFENDANT**

JUDGMENT

This is the final judgment in this suit wherein the claim before the court, dated and filed on the 15TH January, 2024 is for:

1. The sum of N4,083,300 being the money deducted from the sales of the Claimant's goods by the defendant

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

On the 9th 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 20th of January, 2024, the Claimant testified as CW1 and stated that he is the Claimant. He applies to adopt his witnesses deposition on oath filed on the 20th of January, 2024. In the said deposition on oath, the CW1 stated that she employed the defendant as a sales girl in May, 2022. That the amount of goods brought forward on 16th of October, 2023 was seven million, three hundred and Forty eight thousand, Six Hundred And Seventy Naira (N7,348,670). That on that date, 40 cartons of malt at a unit price of N6,200 with a total sum of N248,000 was put in the shop. That 20 Cartons of '33' beer were put in the shop at a unit price of N5,000 and total sum of N100,000. That the price of the above goods were added to the sum brought forward and it became a total of sum of N7,696,670 less cash submitted and the cash sum is N395,000 and the balance becomes N7,301,670. That the increment of N300,00 for 127 crates of Chap Malt was N38,100 Plus N7,301,670 with a balance of N7,339,770. That on the 17th October, 2023, 105 chap malt at the sum of N399,000, 50 zero pet at the sum of N85,000; 329 OF 35CL coke bottles at the sum of N559,000, 30 Pepsi Pet of N107,500 and 12 fearless at the sum of N248,400 were supplied, N1,399,200 added to N7,339,770 and cash submitted was N505,000 and the balance was N8,233,970

That on the 18th October, 2023, 20 Beta Malt supplied to the shop at the total sum of N92,000 while 10 medium stout supplied at the sum of N105,000. The cash submitted was N860,000 and the balance was N7,570,970.

That on the 6th day of November, 2023, stock was taken and it was observed that N3, 244,150 was missing.

Testifying further, the CW1 stated that later, the defendant took from the sales of 380 crates of empty bottles at the rate of N1, 200 per crate which the total amount is N456, 000. That the defendant kept taking stock from her shop and it was observed that in every stock taking, money must be missing and she admitted to being responsible for taking the missing monies.

That the defendant wrote an agreement to pay her back her money. Same was identified by the CW1 and the Claimant's counsel applies to tender same in evidence, same is admitted in evidence and is marked as Exhibit A. That on the 30th November, 2023, the defendant turned around said she will no longer pay her any money. That even after the Exhibit A, the defendant later took another N383, 510 from the sales made in the shop

That the total amount of money taken by the defendant is N4, 083,660. That she wrote a 14 days demand notice to the defendant, but she still refused to pay.

The CW1 identifies the copies of the record book showing account of sales by the defendant, restocking of goods, financial value of the goods, money submitted by the defendant and money missing after each calculation and stock taking. Same were tendered in evidence and were admitted by the Court as Exhibit B.

At the end of the evidence of CW1, in the light of the affidavit of service before the Court dated the 7th day of February, 2024, 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 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 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, and on the strength of Exhibits A and B, the court will hold that the Claimant has discharged the burden of proving that she is entitled to her lone claim before the Court.

IT IS THUS ADJUDGED that the Defendant to pay the Claimant, the sum of N4,083,300 being the money deducted from the sales of the Claimant's goods by the defendant.

IT IS THUS ALSO ADJUDGED that the Defendant to pay the Claimant the sum of N150, 000 (One Hundred And Fifty Thousand Naira) as Cost

AND IT IS ORDERED that the defendant do pay to the Registrar of this court, the total sum of N4,233,300 (Four Million, Two Hundred And Thirty Three Thousand, Three Hundred Naira) Only representing the total sum of money deducted from the sales of the Claimant's goods by the defendant plus awarded cost.

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
G.D.I
SIGN. DATE

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

THE JUDICIARY
* *
W.C. BISHKE & BUNGE, ESQ
SIGN.
DATE. 27/2/2024
SMALL CLAIMS COURT