

**IN THE MAGISTRATE COURT OF RIVERS STATE OF NIGERIA
IN THE PORT HARCOURT MAGISTERIAL DIVISION
HOLDEN AT PORT HARCOURT
BEFORE HIS WORSHIP NNEKA E. EZE-OBUZOR
SITTING ON THE 27TH DAY OF JANUARY 2025
AT THE SMALL CLAIMS COURT 4 PORT HARCOURT**

SUIT NO: PMC/SCC/300/CS/2024

BETWEEN

IYOWUNA MILTON ABIBO ESQ

AND

CREATIVE AND INNOVATIVE AGRICULTURAL COOPERATIVE SOCIETY LTD

BARA FINANCE AND INVESTMENT LTD

PARTIES: Absent

APPEARANCES: N.N. Tamunoibime Esq. for claimant

JUDGEMENT

By a summons dated 6/11/2024, the claimant's claim against the defendants are as follows:

1. N266, 000.00 (N140,000.00 + 15% interest for 6 months)
2. N134, 000.00 as cost of litigation

PLEA

By the affidavit of service availed this court, the defendants were served the originating process in this suit by substituted means by pasting at their last known address at No 106 Old Aba Road by KICC, Port Harcourt on the 19th of November 2024 at 4pm. On the 25th of November 2024, a plea of not liable was entered for and on behalf of the absent defendants. Case was adjourned to the 2/12/2024 for hearing.

SUMMARY OF EVIDENCE

The claimant in proof of his case called a lone witness, the claimant himself and tendered three exhibits marked Exhibits A, B and C.

The defendants never appeared to defend this suit hence no evidence was entered for the defendants.

The relevant facts from the case of the claimant as presented by the claimant himself is that he made an investment with the defendants and they have persistently failed to keep to their part of the agreement. In support of that claim, the claimant tendered a receipt showing his payment to the 1st defendant, which was admitted as Exhibit A. He also tendered an email exchange between himself and the 1st defendant and an attachment, which was admitted as Exhibit B1 and B2 respectively. Letter of demand from the small claims court was also admitted as Exhibit C. It was the testimony of the Claimant that he made an investment of N140 000.00 in the office of the defendants in Port Harcourt. That after making the investment, he never heard from them again. That he went to their office and they kept telling him to come back and after 2 months, they were no longer in that space. That the defendants were supposed to give him 15% for 6 months as shown on the receipt. Case was adjourned to the 9/12/2024 for cross examination of CW1.

The defendants never appeared either by themselves or through a counsel to defend this suit even after service of hearing notice hence they were foreclosed from cross examining the CW1 and from defending this suit.

The claimant waived his right to address hence case was adjourned for judgement now being read.

RESOLVE

In determination of this suit, I will adopt a lone issue to wit.

Whether the claimant has proved his case to be entitled to judgement

As already stated, the failure of the defendants to make an appearance means that the entire evidence adduced by the claimant is unchallenged. The law is trite that a Court is at liberty to accept and act on unchallenged and uncontroverted evidence. See the case of **OFORLETE V. STATE (2000) 12 NWLR (PT. 681)415**. The court in the case of **ADELEKE V. IYANDA (2001) 13 NWLR PART 729 PAGE 1 AT 23-24 PARA H-A** held that where the claimant has adduced admissible evidence which is satisfactory in the context of the case, and none available from the defendant, the case will be decided upon a minimum of proof as this makes the burden lighter.

From the case file, the claimant has complied with the provisions of **ARTICLE 2 AND 3 OF THE RIVERS STATE SMALL CLAIMS COURT PRACTICE DIRECTION 2023** for the fact that this is a liquidated money demand not exceeding Five million (N5M), the defendant was served with a demand letter, there is a complaint form, there is an affidavit of service of the summons of court on the defendant.

On the first claim of the claimant, by way of evidence, the claimant has tendered the receipt used in making payment to the 1st defendant which was admitted as Exhibit A, He also tendered Exhibit B1 and B2 to show that he had a business transaction with the defendants. In **BABATUNDE & ANOR VS. BANK OF THE NORTH LTD & ORS (2011) LPELR-8249 (SC)** the Supreme Court per Adekeye, JSC stated this principle thus: "The law is that written contract agreement freely entered into by the parties is binding on them. A Court of law is equally bound by the terms of any written contract entered into by the parties. Per Exhibit A, the first claim of the claimant succeeds.

The second claim of N134, 000.00 as cost of litigation. Cost follows the event and a successful party is entitled to the cost of prosecuting or defending the action either wholly or partly unless he misconducts himself in such a manner that deprives him of such an award. See the case of **UBANI-UKOMA VS. SEVEN-UP BOTTLING CO. & ANOR (2022) LPELR-58497 (SC)**. Accordingly, cost of N134, 000.00 is awarded in favour of the claimant.

In conclusion, judgement is entered for the claimant as follows:

1. The defendant is ordered to pay the claimant the sum of N266, 000.00 being the amount for investment made and interest for 6 months.
2. The defendant is ordered to pay the claimant Cost of N134, 000.00.