

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

ON WEDNESDAY THE 1ST DAY OF NOVEMBER, 2023
BEFORE HIS WORSHIP A. O. AMADI-NNA, ESQ
CHIEF MAGISTRATE GD.1

SUIT NO. PMC/SCC/151/2023

BETWEEN

ROSEMARY ALAROIGONI INKO-DOKUBO

VS

CHRISTIAN EMMANUEL OWO ESQ.

Parties absent.

R. Igwe appear for the claimant

Matter is for judgment.

JUDGMENT

The claimant's claim against the defendant is for the sum of N250,000.00 (Two Hundred and Fifty Thousand Naira) which she gave to the defendant to assist her after the defendant had informed her that she collected money from the members of her Cooperative to supply rice for them to share at Christmas which she gave the defendant the money but has remained unpaid till date.

In proof of her case the claimant gave evidence as CW1 and tendered one Exhibit – Exhibit "A", her bank statement from Access Bank in evidence and did not call any other witness while the defendant did not defend this case and did not appear before this court.

The claimant's case is as follows:

CW1, Rosemary Alaroigoni Inko-Dokubo said the defendant who is legal practitioner colleague and worship in the same church with her approached her on the 23rd day of December 2020 that she collected money from members of her cooperative to buy rice for them to share that Christians and they had fixed the date of 24th day of December 2020 to share the rice amongst themselves. That unfortunately for her she had tempered with the money and required the sum of

N250,000.00 to make up the money she tampered with belonging to members of the cooperative. Further that she should assist her with the sum of N250,000.00 so that she will not be embarrassed by the members of the cooperative and that she will return the money on the 30th day of January 2021.

The defendant further told her that she owns a property at Obigbo which was leased out and issued as a primary school and the proprietor of that school pays rent every January. That based on that assurance and being a colleague and a church member she transferred the sum of N250, 000.00 to the defendant's account from her Access Bank savings account No. 0715973612. She tendered her statement of account as Exhibit "A". She further said that having given the defendant this money the defendant did not pay despite demanding for the money severally from her. The defendant stopped attending several meetings they attend together. She made a formal report to the church and the church invited the defendant and her husband but they refused to come or answer to the complaint made.

She now filed this claim in court. She prayed the court to help her recover her money.

On the 23rd day of October 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.

The claimant's counsel then informed the court that they have closed their case and the matter was adjourned for defence.

On the 26th day of October 2023 when the matter came up for defence the defendant was not in court to defend the claim against her and was foreclosed from defending this suit. Claimant's counsel informed the court that they were waiving their right to final address and urged the court to enter judgment in favour of the claimant.

I have reviewed the evidence of CW1 for the claimant and taken into consideration Exhibit "A" tendered.

The lone issue that arise for determination is "Whether the claimant has proved her claim to be entitled to judgment"?

An undefended case require a minimum of proof.

The claimant CW1 has given evidence of how she gave the defendant the sum of N250,000.00 after the defendant came to her to assist her with the sum of N250,000.00 which the defendant promised to return the money on the 30th day of January 2021. The claimant has also given evidence that the defendant has failed to return her money till date despite demanding for the money. She has tendered as Exhibit "A" her Access Bank Statement of account showing the transfer she made to the defendant's account from her Access Bank account.

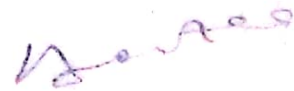
The claimant's evidence was not challenged when evidence is not challenged, the court ought to accept such evidence as proof of the issue in contest. See the case of **FOLARIN & ANOR V SHALOUB (1994) 3 NWLR (Part 333) page 413 at 443 paras B-H**. Also see **OKUPE V IFEMACHI (1974) 3 SC Page 97 at 108**.

I hereby hold that the claimant has proved his case to be entitled to Judgment.

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

Court:

1. The defendant is to pay to the claimant the sum of N250,000.00 (Two Hundred and Fifty Thousand Naira) which the claimant gave to the defendant to pay back money which the defendant collected from members of her cooperative which the defendant has failed to pay back to the claimant till date.
2. The defendant is to pay to the claimant the sum of N50,000.00 as cost.

Signed: 

A. O. Amadi-Nna, Esq.

Chief Magistrate GD.1

1/11/2023