

IN THE MAGISTRATES' COURT OF RIVERS STATE OF NIGERIA  
IN THE PORT HARCOURT MAGISTERIAL DISTRICT  
HOLDEN AT SMALL CLAIMS COURT 3, PORT HARCOURT  
BEFORE HIS WORSHIP COLLINS G. ALI ESQ.,<sup>1</sup> TODAY WEDNESDAY, THE  
21<sup>ST</sup> DAY OF JUNE, 2023.

SUIT NO.:PMC/SCC/58/2023.

BETWEEN:

ELUMA CHIDIUTO

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CLAIMANT

AND

EZIOKWUBUNDU BENSON

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DEFENDANT

Case called.

Parties absent.

JUDGMENT

The Claimant commenced this case against the Defendant on the 31<sup>st</sup> May 2023 after serving the Defendant with the mandatory demand notice on the 14<sup>th</sup> September 2022 as required under Art. 2 (e) RSSCC (Practice Direction) 2023. By the summary of claim contained in the summons, the Claimant claims against the Defendant as follows:-

1. Debt / Amount Claimed - ~~₦~~250,000.00
2. Fees - ~~₦~~375,000.00
3. Cost / Damages - ~~₦~~100,000.00

Total = ~~₦~~725,000.00

The Defendant was served with the claim and summons personally on the 5<sup>th</sup> June 2023 as shown in the affidavit of service deposed by Chinah Chamerline a Bailiff of Court attached to the Small Claims Court, Port Harcourt. When the case came up on 16<sup>th</sup> day of June 2023 for trial, the Defendant was absent and not represented.

<sup>1</sup> LL B, LL M, BL, A. IDRI, Chief Magistrate Grade II, and the Presiding Magistrate, Small Claims Court 03, Port Harcourt, Rivers State.

The Claimant in accordance with Article 8 (2) of the Small Claims Practice Direction 2023 proceeded to prove her claim. The Claimant testified as CW1 and tendered four (4) documents namely:

1. Agreement dated 08/12/2021 - Exhibit A
2. Three (3) Zenith bank transfer receipts dated 08/12/2021 - Exhibits B, B1, B2
3. Demand Letter dated 14/09/2022 - Exhibit C

The evidence of the Claimant is that she entered into a written agreement (Exhibit A) with the Defendant to finance his transportation business by contributing the sum of ₦250,000.00 for the purchase of a bus on the agreement that the Claimant would get the sum of ₦650,000.00 within three (3) months as return on the investment. The Claimant kept her side of the agreement by making her contribution as shown in the transfer receipts (Exhibits B, B1, and B2). The Defendant on the contrary failed to comply with the agreement and have since refused to pay the Claimant her capital and return on the investment. The Claimant on the grounds of the Defendant's failure to keep to the agreement, caused a demand letter to be served on the Defendant on the 14/09/2022; and finally instituted this suit on the 31<sup>st</sup> May 2023 to recover the money. The Defendant was duly served with the claim and summons, but he did not appear in court personally or through any legal representative.

The law is now settled that where the evidence given by the Claimant is unchallenged or uncontroverted, and particularly where the opposite party or side had the opportunity to do so, it is always open to the trial Court seised of the matter to accept and act on such unchallenged or uncontroverted evidence before it. See *Owners of M/V Gongola Hope & Anor. v Smurfit Cases (Nig) Ltd & Anor. [2007] LPELR-2849 (SC)*. I accept the unchallenged evidence of the Claimant as truth. The law is also settled that a cause of action in a suit for recovery of debt accrues when a debtor fails to pay his debt after a demand to pay the debt has been made. See *Akinsola & Anor. v Eyinnaya [2022] LCN/16153 (CA)*. I hold that the Claimant has proved her case and is entitled to the reliefs sought.

Judgment is hereby entered for the Claimant and against the Defendant as follows:

1. The Defendant is hereby ordered to pay the sum of **₦250,000.00 (Two Hundred and Fifty Thousand Naira)** only to the Claimant forthwith.
2. The Defendant is ordered to pay the sum of **₦375,000.00 (Three Hundred and Seventy-Five Thousand Naira)** only as general damages to the Claimant forthwith.
3. The Defendant is also ordered to pay the sum of **₦100,000.00 (One Hundred Thousand Naira)** only as cost to the Claimant forthwith.



**C. G. Ali Esq.**  
**Chief Magistrate Grade II**  
**21/06/2023**

**LEGAL REPRESENTATION**

1. **I. E. Wiche Esq. for the Claimant.**
2. **Defendant not represented.**

