

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 16TH
FEBRUARY 2024.

SUIT NO. PMC /SCC/202/2023

LAPO MICROFINACE BANK LTD

} CLAIMANT

AND

VICTOR CHINEDU UKAEGBU

} DEFENDANT

JUDGMENT

This is the final judgment in this suit wherein the claim before the court, dated and filed on the 28TH September, 2023 is for:

1. The sum of **N1,941,377.77 (One Million, Nine Hundred and Forty One Thousand, Three Hundred And Seventy Seven Thousand, Seventy –Seven Kobo)** being the outstanding balance on the loan
2. The sum of **N95,470.95 (Ninety Five Thousand, Four Hundred And Seventy Naira, Ninety Five Kobo)** as default penal fees
3. The sum of **N50,000(Fifty Thousand Naira)** as cost of litigation

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

On the 6th November, 2024, an application to enter plea of not liable for the Claimant was granted and the matter was set down for hearing.

On the 8th of February, one Imadiyi Osamudiamen, testified as CW1 and stated that he is the recovery officer of the Claimant . He applies to adopt his witnesses deposition on oath filed on the 14th of November, 2023.In the said deposition on oath, the CW1 stated that on the 17th October, 2023, that Christian John Mbah , the borrower , provided two guarantors, Okoli Chidi and the defendants, who entered credit contract agreement with the Claimant wherein the sum of N1,700,000 (One Million, Seven Hundred Thousand Naira)was granted and disbursed to Christian John Mbah for a duration of 10 months by the Claimants, and to repay with interest, the sum of N2,201,578(Two Million , Two Hundred And One Thousand, Five Hundred And Seventy Eight Naira) within the agreed duration.

That the loan was to be paid in installment with a monthly repayment of N202,158(Two Hundred And Two Thousand , One Hundred And Fifty Eight Naira) Only That commenced on the 17th November, 2023 and expired 17th August, 2023.

That the total outstanding balance of the loan as at the date is N1,941,377.77 (One Million, Nine Hundred And Forty One Thousand, Three Hundred And Seventy Seven Thousand, Seventy Seven Naira) that includes a default penal fee of N95,470,95 and N50,000 cost of litigation in conformity with the contract agreement.

That the defendants as guarantors authorized the Claimant by signing of the contract agreement to take any action (s) he considered necessary to recover the loan in the event of default.

Testifying further, the Claimant stated that by virtue of their guarantee, the defendants undertook that they are severally liable and shall return the total outstanding loan balance (Principal, the accrued interest, default penal fee and other charges incurred in the course of recovery debt) back to the Claimant in the event of default and breach of any of the terms and conditions in respect of the loan agreement and the acceptance of the offer of the credit facility. That all efforts to resolve and recover the debt from Christian John Mbah and one guarantor called Okoli Chidi has absconded and cannot be found; hence the serving of the letter of demand and the subsequent summons of the defendant for the repayment of the debt as aforementioned.

That by this summons, the Claimant is requesting that the defendant to meet his obligation as contained, signed and agreed to, in the loan contract agreement, they entered with the Claimant.

The CW1 identifies the loan contract agreement offer and the acceptance of the credit facility and same were tendered and admitted by the Court as Exhibit A and B respectively.

At the end of the evidence of CW1, in the light of the affidavit of service before the Court dated the 25th day of October, 2023, 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 he is entitled to his Claim before the Court.

1. The sum of N1,941,377.77 being the outstanding balance on the loan
2. The sum of N95,470.95 as default penal fees
3. The sum of N50,000 as cost of litigation

IT IS THUS ADJUDGED that the Defendant to pay the Claimant, the sum of **N1,941,377.77 (One Million, Nine Hundred and Forty One Thousand, Three Hundred And Seventy Seven Thousand, Seventy –Seven Kobo)** being the outstanding balance on the loan

IT IS ALSO ADJUDGED that the Defendant to pay the Claimant the sum of **N95, 470.95 (Ninety Five Thousand, Four Hundred And Seventy Naira, Ninety Five Kobo)** as default penal fees

IT IS ALSO ADJUDGED that the Defendant to pay the Claimant, the sum of **N50, 000 (Fifty Thousand Naira)** as cost of litigation

AND IT IS ORDERED that the defendant to pay the Claimant, the total sum of **N2,086,848.72(Two Million, And Eighty Six Thousand, Eight Hundred And Forty Eight Naira, Seventy two Kobo** representing the loaned sum, the default penal fees and cost of litigation respectively.

AND IT IS FURTHER ORDERED that the defendant do pay to the Registrar of this court, the total sum of **N2,086,848.72(Two Million, And Eighty Six Thousand, Eight Hundred And Forty Eight Naira, Seventy two Kobo** representing the loaned sum, the default penal fees and cost of litigation respectively on or before the 5th day of March, 2024.

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
G.D.I.
SIGN: _____ DATE: _____

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

