

IN THE MAGISTRATES' COURT OF RIVERS STATE OF NIGERIA  
IN THE PORT HARCOURT MAGISTERIAL DISTRICT  
HOLDEN AT SMALL CLAIMS COURT 1, PORT HARCOURT  
BEFORE HIS WORSHIP COLLINS G. ALI, ESQ.,<sup>1</sup> TODAY WEDNESDAY, THE  
14<sup>TH</sup> DAY OF FEBRUARY, 2024.

SUIT NO.:PMC/SCC/215/2023.

BETWEEN:

1. MR. EGBO VALENTINE  
2. MR. TOCHUKWU EGBO  
(Trading under the name and style of  
E. Toskel Global Co. Nig.) } CLAIMANTS

AND

1. MR. AHMED HASSAN  
2. SHEPHARD CARE FAMILY HEALTH & EDUCATION  
INITIATIVE } DEFENDANTS

Case called.  
Parties absent.

JUDGMENT

The Claimants commenced this case against the Defendants on the 1<sup>st</sup> November, 2023 after serving the mandatory demand letter on the Defendants and claims as per the claims attached to the summons as follows:

Debt/Amount Claimed	-	<u>₦2,208,000.00</u>
Professional Fee	-	<u>₦800,000.00</u>
Damages	-	<u>₦1,800,000.00</u>
TOTAL	=	<u>₦4,808,000.00</u>

The originating processes were served on the Defendants on the 16<sup>th</sup> January, 2024 on the Order of this Honourable Court for substituted service granted on the 10<sup>th</sup> December, 2023. The Defendants failed to appear in Court despite been served with the summons, claim and hearing notice. Plea of not liable was therefore entered for the Defendants on the 23<sup>rd</sup> January, 2024 and the case adjourned for trial.

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

The Claimants in proof of their claim testified as CW1 and CW2 on the 30<sup>th</sup> January, 2024 and tendered Demand Letter dated 19<sup>th</sup> June, 2023 in evidence as Exhibit A; while a Fidelity Bank statement of account from 20<sup>th</sup> May 2021 to 27<sup>th</sup> May 2021 was tendered and received in evidence as Exhibit B. The Claimant witnesses were not cross examined by the Defendants. The Defendants did not also call witnesses and therefore were foreclosed from defence and final address. At the conclusion of trial, the Claimant counsel filed final written address wherein he urged the Honourable Court to enter judgment in favour of the Claimants, arguing that the evidence of the Claimants is unchallenged. Counsel cited the cases of *Ebeinwe v State* [2011] 7 NWLR (Pt.1246) 402 at 416, *Monkom v Odili* [2010] 2 NWLR (Pt. 1179) 419 at 442 paras. D-E and *Adeleke v Iyandu* [2001] 12 NWLR (Pt. 729) 1 at 22-23.

After a careful examination of the claims, evidence and final written address of counsel for the Claimants, the sole issue for determination in this case is thus:

***Whether the Claimants have proved their case and entitled to the reliefs sought?***

The law is that whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist. See section 131 (1) of the Evidence Act 2011 (as amended). The Claimants as CW1 and CW2 testified that the total sum of ₦2,208,000.00 was paid to the 1<sup>st</sup> Defendant who held himself out as the Manager of the 2<sup>nd</sup> Defendant NGO for purposes of securing a Masters Program admission for the 1<sup>st</sup> Claimant into an agreed University in Spain. The 1<sup>st</sup> Defendant and his 2<sup>nd</sup> Defendant NGO eventually did not secure the admission for the 1<sup>st</sup> Claimant despite the payment made by the 2<sup>nd</sup> Claimant to the Defendants as agreed. The statement of account of the 2<sup>nd</sup> Claimant (Exhibit B) clearly captures the payment of the said sum of ₦2,208,100.00 to the 1<sup>st</sup> Defendant. The evidence of the Claimants as argued by the learned Claimants' counsel is unchallenged by the Defendants. The law is now settled that facts which parties are deemed to have admitted in any civil proceedings need



no further prove. See section 123 of the Evidence Act, 2011 (as amended). See the case of *Owners of M/V Gongola Hope & Anor. v Smurfit Cases (Nig) Ltd & Anor. [2007] LPELR-2849 (SC)* wherein the Court held *inter alia* that unchallenged evidence is deemed admitted and the Courts are enjoined to accept and act on such unchallenged evidence. I hold that the Claimants' claims are deemed admitted by the Defendants.

Beside the main claim, the Claimants prayed the Court for professional fees and damages of ₦800,000.00 and ₦1,800,000.00 respectively. Award of cost and damages is at the discretion of the Court, eventhough cost follows the event in litigation. I hold that the Claimants are entitled to cost and damages but the amount claimed are unreasonable in the circumstance of this case. The sole issue is resolved in favour of the Claimants and against the Defedants. I hold that the Claimants have proved their case and are entitled to judgment.

Judgment is accordingly entered in favour of the Claimants as follows:

1. The Defendants are hereby ordered to pay the Claimants forthwith, the sum of ₦2,208,100.00 (Two Million, Two Hundred and Eight Thousand, One Hundred Naira) only representing unremitted admission processing and school fees paid by the Claimants.
2. The Defendants are hereby ordered to pay the Claimants forthwith, the sum of ₦200,000.00 (Two Hundred Thousand Naira) only as legal fees.
3. The Defendants are also ordered to pay the Claimants forthwith, the sum of ₦100,000.00 (One Hundred Thousand Naira) only as damages.



C. G. Ali, Esq.  
(Chief Magistrate)  
14/02/2024

**LEGAL REPRESENTATION:**

No legal representation for the parties.

