

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

ON WEDNESDAY THE 19TH DAY OF APRIL, 2023
BEFORE HIS WORSHIP A. O. AMADI-NNA, ESQ
CHIEF MAGISTRATE GD.1

CLAIM NO. PMC/SCC/07/2023

BETWEEN

MR. NSE AKPAN

VS

MR. NELSON GODSON

Claimant present.

Defendant absent.

C. C. Ndah appear for the claimant.

JUDGMENT

The claimant claims against the defendant the sum of N4,253,000.00 (Four Million Two Hundred and Fifty Three Thousand Naira) being indebtedness on account of the purchase of 120 bags of rice from the claimant on or about May 2022.

In proof of his claim the claimant gave evidence as CW1 and tendered Exhibits 'A1', 'A2' and 'A3'. While the defendant did not defend this case.

The claimant's case is as follows:

CW1 Nse Akpan said he is a businessman who trades on food items while the defendant is his customer who usually buys goods from and supply and bring back the money to pay him and collect another one. That the last goods the defendant collected from him last year was 120 bags of rice at the cost of N3,996,000.00. When he waited until the end of August last year, 2022, the defendant did not pay him, he went to the defendant who told him that the company had not paid him. He waited until end of September, 2022 and went to the defendant's house who told him that the company had still not paid him. Further that in October 2022 the

defendant issued him 2 cheques. One was dated 19th of October 2022 valued ₦1,986,000.00 while the other one was dated 28th October valued ₦2,010,000.00. That before this time the defendant had come to his shop and collected good valued ₦257,000.00. He also said that when he went to the bank and presented the first cheque, the sum of ₦1,986,000.00, the bank dishonoured the cheque saying there was insufficient funds. That on the 23rd day of October 2022 he presented the second cheque of ₦2,010,000.00 the bank also dishonoured the cheques saying he should take it back to the defendant that there is a mistake on the face of the cheque. The defendant now asked him to wait that he will pay the money. He then waited until around 2nd February 2023 when he contacted his lawyer who sent a letter of demand to the defendant who did not contact or reach him and he then instructed his lawyer to file this claim. He tendered the cheques the defendant issued to him as Exhibits 'A1' and 'A2' and the letter of demand issued to the defendant as Exhibit 'A3'. He further said that the defendant is owing him the total sum of ₦4,253,000.00. He prayed the court to help him recover his money.

On the 5th day of April, 2023 when the matter came up for cross examination of CW1, the defendant was not in court to cross examine CW1 and he was foreclosed from cross examining CW1. The claimant's counsel then informed the court that they have closed their case and the case was adjourned for defence.

On the 6th day of April, 2023 when the matter came up for defence the defendant was not in court to defend the case and was foreclosed from defending the case.

Claimant's counsel adopted the claimant's final written address dated and filed the 14th day of March 2023 on the 18th day of March 2023 as the claimant's final argument in this case.

In his address claimant's counsel raised a lone issue for determination. That is; "Whether the claimant is entitled to Judgment, his evidence having been unchallenged or uncontroverted".

Counsel submits that the claimant is entitled to Judgment. That that law is trite that unchallenged and uncontroverted evidence ought to be acted upon by trial court. Counsel referred to the case of **IKULUGHAN & ORS Vs. OKULU & ORS (2021) LPELR - 56103 (CA)**.

Further that in the instant case the defendant failed to enter appearance after service of the summons on him. That the claimant led evidence which was unchallenged and never controverted to show that there was a transaction between the parties. Exhibits 'A1', 'A2' and 'A3' were tendered in evidence, the cheques issued by the defendant and the demand letter from the claimant's counsel to the defendant.

Counsel urged the court to accept and act on the unchallenged evidence of the claimant and grant the reliefs sought by the claimant.

I have reviewed the evidence of CW1 for the claimant. I have also taken into consideration the exhibits tendered and the written submission of counsel. The issue that arise for determination before this court is "whether the claimant has proved his claim on the preponderance of evidence to be entitled to Judgment". The claimant CW1, has given evidence of how the defendant who usually buys foods from him collected 120 bags of rice last year, 2022 worth ₦3,996,000.00 and has not paid this money since then. He has also given evidence that the defendant further collected goods from him valued ₦257,000.00. He has tendered as Exhibits 'A1', 'A2' and 'A3', the cheques issued to him by the defendant and the demand letter issued by his lawyer to the defendant. He has also said the defendant is owing him a total of ₦4,253,000.00.

The defendant did not defend this suit and never appeared before this court.

An undefended case requires a minimum of proof. The defendant not having adduced any evidence in their defence, the trial court is entitled to find for the claimant based on the claimant's evidence. The defendant is deemed to have accepted the evidence of the claimant. See the case of **OKPOKPO COMMUNITY BANK LTD Vs. IGWE P. C. (2013) 15 NWLR (Part 1376) 167, OKUPE Vs. IFEMACHI (1974) SC 97 at 103.**

Accordingly from the foregoing I hereby hold that the claimant has proved his case on the preponderance of evidence to be entitled to Judgment.

Judgment is hereby entered in favour of the claimant in the following terms:

Court: The defendant is to pay to the claimant the sum of N4,253,000.00 (Four Million Two Hundred and Fifty Three Thousand Naira) being indebtedness on account of his purchase of 120 bags of rice from the claimant on or about May, 2022.

Signed:

A. O. Amadi-Nna, Esq.

Chief Magistrate GD.II

19/4/2023

