

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 10th
MAY, 2024.

SUIT NO. PMC /SCC/104/2024

LIVINGSTONE C WOYIKE ESQ

AND

MR. RAPHEAL KOKO

}

CLAIMANT

}

DEFENDANT

JUDGMENT

This is the final judgment in this suit wherein the Claim before the court, dated and filed on the 16th April, 2024 is for:

i The sum of Three Million Naira(N3,000,000,00) being debt owed the Claimant for services rendered for the defendant.

ii The sum of Two Hundred Thousand Naira(N200,000) representing cost of action.

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

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

On the 7th of May, 2024, the Claimant testified as CW1 and stated that he is the Claimant. He applies to adopt his witnesses deposition on oath filed on the 7th of May, 2024. In the said deposition on oath the CW1 stated that on the 23rd day of December, 2019, the defendant briefed him to take up a matter involving his son by name Mr. Monday Raphael who was arrested by the men and officers of the Nigerian Police on sundry offences on the 7th day of December, 2019. That the defendant agreed to pay him N3,000,000.00 in tranches which includes the sum of N500,000 before the 31st day of March, 2020. The sum of N500,000 on or before the 30th day of December, 2020. the sum of One Million Naira (N1,000,000,00) only, on or before the 30th day of March 2021. The sum of N500,000 on or before the 30th June 2021 and finally the sum of Five Hundred Thousand Naira(N500,000) only, on or before the 30th day of December, 2021.

That upon the acceptance of the offer by the defendant, the Claimant did the following:

I. That he applied for the CTC of the charge and the record of proceedings

- II. He filed a bail application after visiting the defendant's son at the correctional facility which were struck put because of the filing of information by the state in PHC/167/2020 pending before Hon. Justice M.O Opara
- III. Subsequently he filed a motion on Notice for bail application which the Court granted on stringent terms on the 17th day of December 2020
- IV. That due to the stringent bail conditions he applied for variation of court condition which was granted
- V. That he perfected the release of the defendant's son from custody after spending 4 years at the Nigerian Correctional facility

That after the release of the defendant's son from custody, the defendant refused to pay his fees as agreed after several pleas.

That he served the defendant with a demand letter on the 18th of December, 2023

The defendant identifies letter of demand, application for variation or review of bail. Motion for application of bail and attachments, a copy of information in Charge No:PHC/93cr/2020.Further Affidavit in PHC/167/2020 dated and filed on the 2nd day of March, 2020 and attachments and another motion Non Notice for bail dated and filed on the 21st January,2020 and attachments in Charge in PMC /2482C/2019 and record of proceedings at the Magistrate Court dated and filed on the 20th January,2020 are all admitted in evidence and marked as Exhibits A, B, C, D, E,F,G and H respectively.

In conclusion, the CW1 stated that she wants the Court to grant their claim as follows:

i The sum of Three Million Naira(N3,000.000,00) being debt owed the Claimant for legal services rendered for the defendant.

ii The sum of Two Hundred Thousand Naira(N200,000) representing cost of action.

At the end of the evidence of CW1, in the light of the affidavit of service before the Court dated the 30th day of April, 2024, 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, the court will hold that the claimant has discharged the burden of proving that he is entitled to his 1st Claim before the Court.

On the Claim for cost of litigation: The 2nd claim for cost of litigation fails because the claim for cost of litigation is classified as special damage and requires strict proof. There is nothing before the Court to show for that cost head.

IT IS THUS ADJUDGED that the Defendant to pay the Claimant the sum of **Three Million Naira(N3,000.000,00)** being debt owed the Claimant for legal services rendered for the defendant.

AND IT IS ORDERED that the defendant to pay the Claimant, the aforesaid sum of **Three Million Naira(N3,000.000,00)** being debt owed the Claimant for legal services rendered for the defendant.

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
CHIEF MAGISTRATE
G.D.I.
SIGN..... DATE.....

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

