

**IN THE MAGISTRATE COURT OF RIVER STATE OF NIGERIA**  
**IN THE PORT HARCOURT MAGISTERIAL DISTRICT**  
**HOLDEN AT PORT HARCOURT**  
**BEFORE HIS WORSHIP S. S. IBANICHUKA, ESQ**  
**HOLDEN AT SMALL CLAIM COURT 6 PORT HARCOURT**  
**PMC/SCC/40/2024**

**MR UZOKWE SUNDAY**  
**VS,**  
**MR EMMANUEL OKON NSABASSEY**  
**JUDGEMENT**

The Claimant instituted this action against the Defendant via forms RSSC 2 and RSSC 3 of this court filed and dated the 26/02/24 claiming for the following:

- i. The sum of **₦850,000.00 (Eight Hundred and Fifty Thousand Naira)** being and representing the debt the defendant owes the claimant.
- ii. **₦150,000.00 (One Hundred and Fifty Thousand Naira)** only being cost of this litigation.

In proof of his case the claimant called a sole witness CW1 and tendered two Exhibits, Exhibit "A" (handwritten agreement between the Claimant and the Defendant) and Exhibit "B". the Defendants FCMB cheque leaf in favour of the claimant. The Defendant did not cross examine CW1, he did not defend this suit and was never represented in this suit despite proof of service in the courts file of the originating processes in this suit and a hearing notice as well. The claimant waived his right to address the court.

The summery of the facts of this case are that sometime on the 30<sup>th</sup> of June, 2020 the Defendants approached the claimant for a loan in the sum of **₦800,000.00 (Eight Hundred Thousand Naira)** only to enable him pay for a car, the the parties entered into a handwritten agreement that the defendant will repay the loan on or before December 2020 with an interest of **₦50,000.00 (Fifty Thousand Naira)** only, that the Defendant issued a post dated cheque in favour of the claimant. The claimant loaned the defendant the money and when the loan was due for repayment the claimant went to the bank with the cheque issued in his favour by the Defendant and there was no money in the account of the defendant, that the Claimant has been demanding his money from the defendant but the Defendant has refused to pay the claimant the money hence this suit. .

The sole issue for determination as raised by this court in this judgment is "*Whether considering the facts and circumstances of this case, the Claimant has put enough materials before this court to warrant the court to grant the reliefs of the claimant before this court?*"

The law is trite that where the claimant leads evidence in prove of his case and the Defendant adduces no evidence in rebuttal, the claimant is entitled to judgment on the merits of the case if he meets the standard of prove required by law. In a civil case such as this the standard of prove is on a preponderance of evidence. See: **Section 134 of the Evidence (Amendment) Act 2023** .The burden of this prove however rests on the claimant., See the cases of **IBANIPIO V. ONYIYANGO (2000) 6 NWLR (PT. 661) PAGE 497 at paragraph E.**

The claimant as CW1 relied on Exhibits A and B in proof of his case while being led in Evidence In Chief on 8-04-24 . The defendant did not contradict any of the exhibits neither is there a defence against all the claims of the claimant before this court, the implication is that the Defendant is deemed to have admitted all the facts and claims as stated by the Claimant, the law is trite that facts admitted need no further proof, see **Section 123 Evidence (Amendment) Act, 2023** and the case of **CBN V. DINNEH (2010) 17 NWLR (PT. 1221) PAGE 125, 162 at paragraphs C-D.**

I have carefully considered the evidence adduced by the claimant in this case and all the prayers as sought by the claimant and which for the sake of emphasis I must repeat are unchallenged by the Defendant.

With respect to prayer one , I find no difficulty in arriving at the conclusion that the claimant has proved his case on the standard required by law and that this is indeed a deserving circumstance for the court to order as prayed by the claimant in prayer one .

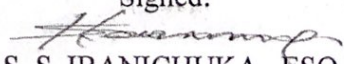
However, on prayer two which is the relief for **₦150,000.00 (One Hundred and Fifty Thousand Naira)** only being cost of this litigation, I find that in the cause of the CW1 evidence on the said 8-4-24 the CW1 did not lead any testimony or tender any document in support of this relief. As stated in The burden of this prove however rests on the claimant., See the cases of **IBANIPIO V. ONYIYANGO (Supra)** the burden of discharging the civil burden of proof rests on the Claimant for which the claimant failed to discharge. The said relief is deemed abandoned and accordingly refused.

It is hereby adjudged as follows: That the claimant is entitled to:

- i. The sum of **₦850,000.00 (Eight Hundred and Fifty Thousand Naira)** being and representing the debt the defendant owes the claimant.
- ii. cost of **₦50,000.00 (Five Thousand Naira)** only being in favour of the claimant. .

I make no further orders.

Signed:

  
S. S. IBANICHUKA , ESQ.  
24/04/2024.

