

**IN THE CHIEF MAGISTRATE COURT OF RIVERS STATE, NIGERIA
IN THE RUMUODOMAYA MAGISTERIAL DISTRICT
HOLDEN AT RUMUODOMAYA**

**BEFORE HIS WORSHIP B.H. ABE (MRS), ESQ., SITTING AT THE CHIEF
MAGISTRATE COURT 1, RUMUODOMAYA ON MONDAY THE 23RD DAY OF
DECEMBER, 2024**

RMC/SCC/23/CS/2024

BETWEEN

EMONO BRIDGET

-

CLAIMANT

VS.

- 1. AGATHA UWABUNKEONYE**
- 2. ASMAU ISAH**
- 3. EMMANUEL CHINEDU DIKE**

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}

DEFENDANTS

JUDGMENT

Parties Absent

Lord Ikonwa, Esq., for the claimant, no appearance for the defendant;

The Claimant claims against the Defendant as follows:

The defendants collected the sum of N1,150,000.00 (One Million, One Hundred and Fifty Thousand Naira) only, from the claimant to produce furniture for her and they have refused to supply the furniture to her despite repeated demands and a letter of demand served on them.

She also claims N300,000.00 (Three Hundred Thousand Naira) only for legal fees and N150,000.00 (One Hundred and Fifty Thousand Naira) only for damages.

Facts

The defendants were served with the Court’s processes in this suit via substituted service on the 26th October, 2024, the affidavit of service Form RSSC 6 is before me, complaint Form RSSC 2, summons RSSC 3 are both also before me.

The claimant’s counsel, Agochi Amadi, Esq, made the application for same on the 30th September, 2024, he appeared with Lord Ikonwa, Esq.

Cw1, Emono Bridget, living at No. 11 Rumuagholu Road, informed the Court that she knows the defendants, they are furniture makers, they sell furniture, she contacted them to make furniture, after payment, they refused to supply the furniture to her, she adopted her statement on oath.

She paid the defendants N1,150,000.00(One Million, One Hundred and Fifty Thousand Naira) only, see Exhibits A – E including the certificate of compliance.

The Letter written to the defendants by her lawyer is admitted in evidence as Exhibit F, payment for the letter N50,000.00; receipt admitted in evidence as Exhibit G, the legal fee receipt for filing this case admitted in evidence as Exhibit H.

She prayed the Court to grant her claims, the defence was foreclosed from cross-examination of cw1 afterwards due to their absence. Claimant's counsel closed his case.

The Court ordered the defendants to be served with hearing notices. Evidence given on the 30th October, 2024.

The defence was foreclosed from defending this suit on the 11th November, 2024.

Claimant's counsel adopted his written address afterwards dated 22nd November, 2024, filed same date.

The claimant formulated two issues for determination by this Honourable Court.

1. Whether by Exhibits tendered before this Court, the defendants are not indebted to the claimant?
2. Whether from the unchallenged evidence of the claimant, the claimant has proved her case and is entitled to the claims against the defendants?

The claimant's counsel wherefore submitted as follows;

Your Worship, from the Exhibits A – E (the payment receipts) tendered by the claimant before this Honourable Court, it is beyond doubt that the defendants are indebted to the claimant.

They submitted that because the claimant has advanced full payment of the amount agreed by the parties for the supply of the furniture to the accounts of the defendants, as evidenced in Exhibits A-E tendered before this Court, which was not challenged by the defendants, the claimant also wrote a letter of demand to the defendants through her lawyer, which was unattended to by the defendants up till date, it is crystal clear that the defendants are indebted to the claimant. Referring this Court to Re: Yakubu (1997) 5 NWLR (pt. 506) 549 @ 559.

In the case of Guaranty Trust Bank Plc. vs. Innoson Nig. Ltd. (2018) 2 NWLR (pt. 1601) 1, the Court defined debt as “an obligation to pay.”

Sometimes in August, 2024, I met the defendants in their office at No. 20 psychiatric Road, Rumuomoi, Rumuigbo, Port Harcourt where I paid the defendants monies in their individual accounts to supply me furniture. After agreeing on the price, which is to the tune of N1,150,000.00 (One Million, One

Hundred and Fifty Thousand Naira). I paid my lawyer the sum of N300,000.00 to prosecute this case and N50,000.00 (Fifty Thousand Naira) for the letter of demand written to the defendants...”

We submit that by these above evidence and Exhibits tendered in support of the claimant's case, the claimant has proved these special damages and are entitled to the claims.

Your Worship, it is a common knowledge and judicially noticed that fees are paid to lawyers to file and represent parties in Court. The law is that facts of common knowledge and judicially noticed, need not be proved. We refer this Court to sections 122(1)(2)(a) and 124(1) of the Evidence Act, 2011.

We humbly urge this court to hold that the claim for payment of N300,000.00 (Three Hundred Thousand Naira) by the claimant to her lawyer to prosecute this case and N50,000.00 (Fifty Thousand Naira) for the letter of demand written to the defendants is of common knowledge and judicially noticed by this Court we urge the Court to grant same.

Your Worship, the grant of general damages is regulated or guided by factors enumerated in Access bank Plc. vs. Mann (2021) 13 NWLR (pt. 1792) 160 CA; Omni Products Nig. Ltd. vs. UBN Plc. (2021) 10 NWLR (pt. 1783) 92 SC.

In J.O.P. Investment (Nig.) Ltd. vs. Ibeto Cement Co. Ltd. (2023) 17 NWLR (pt. 1914), ratio 3 and 4, the Court of Appeal held that “General damages is a kind of damages that the law presumes to flow from the wrong complained of. They are the type that the Court will award in the circumstances of the case and without any yardstick to asses, except the expectation of a reasonable man. General damages is such as the law will a sum of money or other consideration arising from a transaction, whether such obligation is present or future, absolute or contingent, or whether such obligation is owned jointly or severally”.

We respectfully urge this Court to give effect to the Exhibits (A-E) tendered by the claimant and hold that the defendants are indebted to the claimant.

We contend that the claimants have proved his case by the unchallenged evidence before this Honourable Court and we urge this Court to grant the claims of the claimant.

The law is that an unchallenged evidence is deemed admitted and the Court is bound to act on it. We refer this Court to Consolidated Resources Ltd. vs. Abofar ventures (Nig.) Ltd. (2007) 6 NWLR (Pt. 1030 221, Oladipo vs. Moba Local Government Area (2010) 5 NWLR (pt. 1186) 177.

Your Worship, the law is that a claim for special damages must be proved strictly by the claimant. We refer this Court to Oteri Holding Ltd. vs. H.B.C.O. Ltd. (2021) 1 NWLR (pt. 1756) 29 CA; Regd. Trustees A.C.C. vs. Regd. Trustees GCCC (2012) 16 NWLR (pt. 1801) 105 SC.

The law is that one of the remedies for breach of contract is award of damages. In *Unity Bank Plc. vs. SPC (Nig.) Ltd. (supra)*, the Court held that, 'where there is a breach of contract, there are remedies available to the injured party against the defaulting party, which includes award of damages...'

Your Worship, from the circumstances and facts of this case, it is an unchallenged fact that the claimant has suffered injuries, inconveniences, due to the action of the defendants, which actually entitles the claimant to damages. Other inconveniences and legal injuries the claimant incurred as a result of the actions of the defendants, entitles the claimant to the general damages claimed.

We submit that the claimant has proved her case as required by the law and urge the Court to resolve all the issues in favour of the claimant.

IN CONCLUSION, the claimant's counsel urged this Court to enter judgment for the claimant, the claimant having proved her case.

Hitherto, from the statement on oath dated 28th October, 2024, made by the claimant, Emono Bridget, the following were claimed;

1. An order that the defendants jointly or severally pay the claimant the sum of N1,150,000.00 (One Million, One Hundred and Fifty Thousand Naira) being the money paid to the defendants for supply of furniture.
2. An order that the defendants jointly or severally pay the claimant the sum of N50,000.00 (Fifty Thousand Naira), being the sum of money paid for demand letter.
3. An order that the defendants jointly or severally pay the claimant the sum of N300,000.00 (Three Hundred Thousand Naira), being the sum paid for this litigation.
4. An order that the defendants jointly or severally pay the claimant the sum of N150,000.00 (One Hundred and Fifty Thousand Naira) as general damages.

Issue for determination by this Court

Whether the three defendants are liable to the claimant in the amounts claimed by the claimant?

COURT

The claimant filed this suit against the defendants for the refund of her money, N1,150,000.00 (One Million, One Hundred and Fifty Thousand Naira) only, paid to the defendants for the supply of furniture to her.

In proof of her claim, she tendered the following Exhibits;

1. Exhibit A – N500,000.00 transferred to Asmau Isah
2. Exhibit B – N150,000.00 transferred to Agatha .U. Uzoma
3. Exhibit C – N250,000.00 transferred to Emmanuel .C. Dike.
4. Exhibit D – N250,000.00 transferred to Agatha .U. Uzoma.
5. Exhibit E – The legal fee receipt of N300,000.00 paid to her lawyer, Agochi Amadi, Esq.
6. Exhibit F – Receipt for the payment of N50,000.00 for the demand letter written by her lawyer to the defendants.
7. Exhibit G – Letter of demand for the refund of N1,150,000.00 to the defendants by the claimant's lawyer.

The defendants blocked the claimant from having access to them.

Despite the service of the demand letter, Exhibit G and the summons, the defendants failed and refused to appear before the Court to challenge, refute or controvert the evidence of the claimant.

They were also served hearing notices but still did not show up. The importance of serving hearing notices has been highlighted by the Courts in;

1. P. N. Emerah & Sons Nig. Ltd. vs. Dunu (1998) (pt. 564) NWLR pg. 96.
2. Scott Emnokpor vs. Ukaube (1975) 2 SC 41.

This is clearly a case of fraud and breach of contract. Proof of payment of the sum of N1,150,000.00 has been tendered by the claimant, see Exhibits A – D, monies paid to the defendants via transfers to their accounts.

Once fraud has been established, a contract validly entered into is repudiated, automatically.

Civil cases are decided upon by the preponderance of evidence and balance of probabilities, see sections 131 to 135 of the Evidence Act, Burden of proof lies on the claimant here.

Why would the defendants collect N1,150,000.00 from the claimant and refuse to supply the furniture or refund her money to her, despite repeated demands made by the claimant, if not for fraud.

The parties entered into a contract freely, which is binding on them, they agreed to supply furniture to the claimant for an amount paid. A valid offer and acceptance are identified here, which form the basis of a valid contract.

See;

1. Eyiboh vs. Mujaddadi (2022) 7 NWLR (pt. 1830) 381 pg. 448 Per Saulawa JSC, para. G.
2. Elharan Ventures Ltd. vs. Rems Ltd. (2021) 10 NWLR (pt. 1784) 221, Per Hassan JCA paras F – G at pg. 229.

The Court held that the elements of a binding contract; offer, acceptance, intention to create a legal relationship, consideration and capacity to contract, see pg. 231, paras E – F.

All these elements are present in the instant case, which form the basis of a valid and binding contract. Consideration being the sum of N1,150,000.00 paid for the furniture by the claimant. The contract being enforceable, the defendants breached same, wherefore they are bound by their contract. The parties are not allowed to resile from same.

In *Adedeji vs. Obajimi* (2018) 16 NWLR (pt. 1644) 146 at pp. 167-168, paras. H – B, Per Bage JSC held thus, a valid contract may be discharged by;

- a. Performance
- b. Express agreement
- c. Doctrine of frustration
- d. By breach

The defendants have fraudulently breached the contract validly entered into with the claimant and so the contract is hereby discharged. The claimant is entitled to a refund of her money. The payment for the contract made since August, 2024, see the Exhibits tendered.

This also entitles the claimant to damages for the stress caused by the defendants' refusal to supply the furniture or refund her money.

Section 10 of the Evidence Act 2011, provides that, "in proceedings in which damages are claimed, any fact which will enable the Court to determine the amount of damages which ought to be awarded is relevant."

The Court therefore will rely on all the exhibits tendered and evidence given by the claimant in determining the cost of damages to be paid by the defendant.

Damages place the injured party in the same position as though the contract had been performed, this is the law.

It is a monetary compensation for the loss, injury, damage suffered. See *DHL Int'l Nig. Ltd. vs. Eze Uzoamaka* (2020) 16 NWLR (pt. 1751) 445 at 485; *Olusegun vs. Adetola* (2018)12 NWLR (pt. 1634).

The claimant's lawyer is entitled to his legal fees, for instituting this avoidable suit, hitherto, if the defendants had fulfilled their own part of the contract, there would have been no need to be in Court.

A party must be indemnified for whatever losses has been suffered by him/her in the breach of a contract including the payment of legal fees. The claimant is entitled to the payment of N350,000.00 for legal fees incurred by her.

Unchallenged evidence need no mountain of proof, minimal evidence suffices, this is the law.

It is seen as admitted facts as rightly submitted by the claimant's counsel in his final written address.

Once the evidence is reliable and cogent as in the instant case, the Court is at liberty to rely on such evidence. See;

1. Odulaja vs. Haddard (1973) 1 SC 35
2. Maritime Services Ltd. vs. Alhaji Bello Afolabi (1978) 2 SC 19.

On such evidence, the Court can attach probative value to same.

Documentary evidence being the best evidence, all the Exhibits tendered, Exhibits A – G are sufficient proof of the claimant's case against the defendants. They support the evidence (oral) of the claimant.

Documentary evidence is a hanger for oral evidence, it is used to buttress the veracity of the evidence of the claimant.

These Exhibits not disputed, the Court will rely on same and attach weight to their probative value.

1. See section 123 of the Evidence Act 2011
2. Felicia Akinbisade vs. The State (2006) 17 NWLR (pt. 1007) 184 Per Niki SC JSC, 201.

The failure to pay the claimant back her money is an actionable breach of contract. The Court relying on the preponderance of evidence before the Court hereby so holds, placing reliance on Exhibits A – G especially.

Accordingly, judgment is hereupon entered in favour of the claimant and the Court orders as follows;

1. That the three defendants jointly refund the claimant the sum of N1,150,000.00 (One Million, One Hundred and Fifty Thousand Naira) only, paid to the defendants by the claimant, for the supply of furniture they have failed and refused to supply to the claimant.
2. That they (defendants) pay the claimant the sum of N300,000.00 (Three Hundred Thousand Naira) only, for legal fees and the demand letter written by her lawyer to the defendants.
3. That the three defendants pay the claimant the sum of N150,000.00 (One Hundred and Fifty Thousand Naira) only for general damages.
4. That 10% post-judgment interest yearly, be paid by the defendants to the claimant.

5. That these payments should be made by the defendants to the claimant forthwith.
6. That the defendants are liable to the claimant in the above stated sums.

This is the judgment of the Court.



MRS BARIYAAH .H. ABE
Chief Magistrate
23rd December, 2024.

