

**IN THE MAGISTRATE COURT OF RIVERS STATE OF NIGERIA  
IN THE PORT HARCOURT MAGISTERIAL DIVISION  
HOLDEN AT PORT HARCOURT  
BEFORE HIS WORSHIP NNEKA E. EZE-OBUZOR  
SITTING ON THE 30<sup>TH</sup> DAY OF JANUARY 2024  
AT THE SMALL CLAIMS COURT 4 PORT HARCOURT**

**SUIT NO: PMC/SCC/171/2023**

**BETWEEN**

**ONUICHE SAMUEL ----- CLAIMANT**

**AND**

**CHIDI ORJI ----- DEFENDANT**

**PARTIES:** Claimant present. Defendant absent.

**APPEARANCES:** T.S. Tuboimei Esq. for claimant

No representation for defendant.

**JUDGEMENT**

By a claim dated 22/09/2023, the claimant's claim against the defendant are as follows:

1. N5, 000, 000.00 being amount goats and cows supplied the defendant.

## **PLEA**

By the affidavit of service availed this court, the defendant was served the originating process in this suit by delivering via substituted means to wit: by pasting at the business place of the defendant. On the 10/10/2023, a plea of not liable was entered for and on behalf of the absent defendant and case was set down for hearing.

## **SUMMARY OF EVIDENCE**

The claimant in proof of his case called a lone witness, the claimant himself.

The defendant appeared to seek for leave to settle out of court, accepted liability for the sum of N2, 000,000.00, cross examined the CW1, entered his defence and refused to appear to be cross examined. Based on that, his testimony was expunged and he was foreclosed from defending this suit.

The relevant facts from the case of the claimant as presented by the claimant himself is that he is a businessman that deals with supplies of goat and cows to slaughters and butchers. That the defendant approached him to supply him cows worth N6, 000,000.00 and he will pay him in 2 weeks' time after he's done making sales. That the defendant took him to his house, showed him his house and family to make him credible. That upon seeing his family and house, he believed the defendant and delivered the cows to him. That the defendant sold the cows without remitting the agreed sum to him. That the defendant only remitted N1, 000,000.00. That after series of request, he went to the police who then asked him to go to court to recover his money.

On the 7/11/2023, the defendant appeared in court to inform the court that he was only owing the claimant the sum of N2, 000,000.00 and asked for leave to settle the remaining N3, 000,000.00 out of court. Upon that acceptance, judgment was entered for the claimant in the sum of N2, 000,000.00 and he was required to prove the remaining N3, 000,000.00. Settlement failed, he cross examined the CW1, entered his defence and upon his failure to appear to be cross examined, his testimony was expunged and he was foreclosed from defending this suit.

Upon foreclosure of the defendant, the claimant waived their right to address and case was adjourned for judgement now being read.

## RESOLVE

In determination of this suit, I will adopt a lone issue to wit:

***Whether the claimant has adduced evidence to be entitled to the relief sought?***

As already stated, the failure of the defendant to make an appearance to be cross examined after he gave evidence means that the entire evidence adduced by the claimant is unchallenged. The law is trite that a Court is at liberty to accept and act on unchallenged and uncontroverted evidence. See the case of **OFORLETE V. STATE (2000) 12 NWLR (PT. 681)415**. The defendant cross examined the Claimant and was not able to controvert his testimony and also failed to appear to defend this suit. It simply shows the defendant does not have a case. The court in the case of **ADELEKE V. IYANDA (2001) 13 NWLR PART 729 PAGE 1 AT 23-24 PARA H-A** held that where the claimant has adduced admissible evidence which is satisfactory in the context of the case, and none available from the defendant, the case will be decided upon a minimum of proof as this makes the burden lighter. From the case file, the claimant has complied with the provisions of **ARTICLE 2 AND 3 OF THE RIVERS STATE SMALL CLAIMS COURT PRACTICE DIRECTION 2023** for the fact that this is a liquidated money demand not exceeding Five million (N5M), the defendant was served with a demand letter, there is a complaint form, there is an affidavit of service of the summons of court on the defendant.

On the claim of the claimant, by way of evidence, the claimant has told the court he made supplies of cows to the defendant in the sum of N6, 000,000.00 and only N1, 000,000.00 was paid. This testimony was not contradicted during cross examination and the defendant also blatantly failed to give his side of the story. I believe that the claimant has done that which is required of him to get judgement in such an informal transaction.

In conclusion, judgement is entered for the claimant as follows:

1. The defendant is ordered to pay the claimant the sum of N3, 000, 000.00 being money outstanding for the supplies of cows to the defendant.