

**IN THE DISTRICT COURT OF BAUCHI STATE
IN THE BAUCHI JUDICIAL DIVISION
HOLDEN AT SMALL CLAIMS COURT NO. 1 BAUCHI**

SUIT NO. SCCBH/05/2024

Before His worship- GARBA ABDULLAHI

BETWEEN

MAIZE FARMERS ASS. OF NIG & 1 OTHER CLAIMANTS

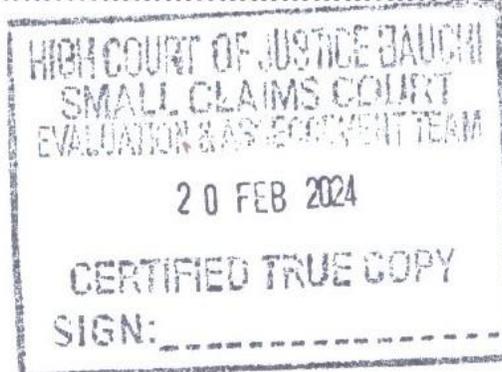
AND

DAUDA IBRAHIM & 1 OTHER DEFENDANTS

CLAIMANT – Present speaks Hausa Language

DEFENDANT – Absent

H D Ismail Esq for the claimant



JUDGEMENT

This small claim matter brought and filed by the claimant pursuant to Article 2 (1) (2) and (3) of small claims court practice direction NO 2 of 2022, wherein the claimant fill form SCA 2 and 3 dated 3RD January, 2024 and filed on the same date seeking for the following reliefs;

1. AN ORDER of this Hon. Court against the defendant to pay the sum of N710,000 only being the remaining balance for the transaction of fertilizer supplied to defendant
2. And the cost of this action

The originating processes of this Hon. Court has been served on defendant as disclosed by affidavit of service deposed to by one Abdussalam Abubakar a bailiff of this Honourable Court. Dated 12/1 /24

CW 1 in person of Ahmed Jibrin affirmed and testify to the effect that, the claimant gave the loan of 83 bags of fertilizer at the cost of N18,000.00 each totaling the sum of N1,494,000.00 only before the goods released to him he had deposited the sum of N450,000.00 only, after the expiration of date agreed by the party's defendant paid the sum of N334,000.00 only while this action is pending before this court now there is remaining balance of N710,000.00 only unpaid.

He further informed this court that a form was given to the defendant he filled and sign it, and has been admitted in evidence and marked as Exh. A

Thereafter the claimant closes his case consequent upon which the court adjourned this case 5/2/24 for the defendant to come and cross examination/defense

On 5/2/24 neither the defendant nor his counsel was in court, therefore the right of defendant for cross examination/defense foreclosed and the matter was set down for judgment

After taken into consideration the evidence adduced by the claimant, the facts and circumstances of this case, this Hon. Court formulate single issue for determination thus

“Whether the claimant has proof his case by preponderance of evidence to be entitled to judgment”

It is an elementary principles of law for which a citation of authority is not necessary, that the onus is on the plaintiff to prove his case and he must do so by the strength of his own case and not on the weakness of the defendant. I refer myself to the case of MRS ROSE MARY ONWUSOR VS YAHY MAINA & ORS (2021) LPELR 11919 C A

The facts and evidence before this Hon court is apparent that there was a transaction for supply of fertilizer between the parties in this case, in fact the claimant supplied 83 bags of fertilizer to defendant at the cost of N18,000 each totaling N1,494,000.00 only he paid the sum of N450,000.00 only as deposited before the goods release to him and the sum of N334,000.00 only during the

pendency of this action, there is now the remaining balance of N710,000.00 unpaid, defendant refused to upset despite the several oral demand.

It is in record that the defendant failed to cross examined the testimony of CW 1 and did not put his defense, therefore failure to do so is tantamount to admission, it is settled law that the effect of failure to cross examine the witness upon a particular matter is a tacit acceptance of a truth of the evidence of the witness I refer myself to the case of OFORLETE VS STTE (2000) 12 NWLR(PT681) 415 AT 436 and AGBONIFO VS AIWEREOBO (1988)1 NWLR (PT681)

In fact, defendant refused to fill and filed form SCCA 5, and going by article 2 the court may it as admission

The law is trite that admitted facts need not further proof because an onus of proof does not exist in vacuo, I refer myself to section 123 of Evidence act 2011 as amended, and the case of MR KWASI KARI ADUSEI & ANOR VS MR TOYIN ADEBAYO (2012) LPELR-7844 SC-, It is in record of this court that the defendant admitted the claims of the claimant, therefore I resolve the issue formulated in favor of the Claimant.

In the light of the above I hereby enter judgment in claimant favor, against the defendant and make the following order;

- 1.AN ORDER of this Hon. Court against the defendant to pay the sum of N710,000.00 only being the remaining balance for the supply of fertilizer to defendant
- 2.N20,000.00 as cost of action and solicitor's fees

This case is decided today being 15/1/24 there is right of appeal to High Court Bauchi within 14 days by the aggrieved party.

