

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

**SUIT NO: SCC/BH/09/2024**

BEFORE HIS WORSHIP- GARBA ABDULLAHI

**BETWEEN**

**HASSANA ABDULHAMID TATIMA.....CLAIMANT**

**AND**

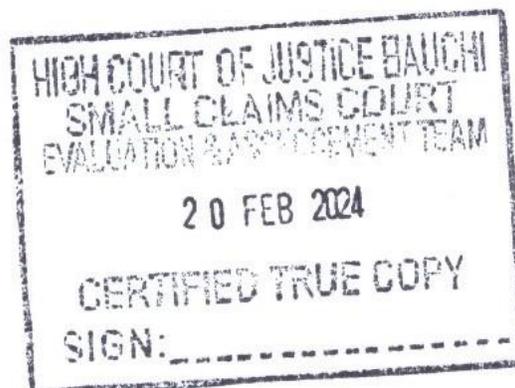
**MAMAN GRACE.....DEFENDANT**

CLAIMANT – Present speaks Hausa Language

DEFENDANT –Absent

A G Salisu Esq for claimant with Lidia Solomon

T. M. Bakir ESQ for the defendant



**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 15<sup>th</sup> 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 N410,000 only being the remaining balance for the transaction of cattle sold to defendant
2. the cost of this action N104,000 only.

The originating processes of this Hon. Court has been served on defendant as disclosed by affidavit of service deposed to by one Peace Ogalla a bailiff of this Honourable Court. Dated 25/1 /24

On 29/1/24 claimant was in court and hearing commenced

CW 1 in person of Suwaiba Khalid Affirmed and testify to the effect that, defendant has bought 10 Jarican king oil from defendant at the cost of N35,000.00 each, later on the came and bought 12 pieces at the same price and perilously there was a balance of N20,000.00 only owed to the claimant.

She also told the court that there was a time which the defendant came and collected jewelries form the claimant wort N20,000.00 only and 6 pieces of Shadda gown at the cost of N16,000.00 only, she also collected some wrapper, there was a remaining balance of N12,500.00 only all the said transaction took place in August 2023.

On 17/12/23 she paid the sum of N40,000.00 only as part payment for the wrapped and gown now remaining the balance of N68.500.00 only

CW 2 (claimant) affirmed and told this court that, defendant came and collected King oil 22 pieces at the cost of N33,600.00 only and there was a remaining balance of previous transaction N20,000.00 only owed to her, she collected jewelries and ring worth N20,000.00 only and for the wrapper there was a remaining balance of N68,500.00 only, for the 22 paces of 25 liter King oil there is remaining defendant has paid the sum of N355,000.00 only for the wrapper remaining the outstanding balance of N422,000.00 only making the total of N49,600.00 only and the transaction took place in August 2023

Thereafter the claimant closes her case and adjourned the natter for cross examination/defense to 8/2/24

On 8/2/24 defendant refuse, neglect or failed to appear in court to cross examine the claimant witness despite the hearing notice given to her consequent upon which the claimant urges the court to close her right, it has been granted and the matter was adjourned for judgment.

Having carefully reviewed the testimonies of the witness before the court and evaluate it and taken into consideration the facts and circumstances of this case, this Hon. Court formulate single issue for determination thus

“Whether the claimant has proof her 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 sale of king oil 22 pieces, Shadda gown 6 pieces, wrapper, jewelries and Gown between the parties in this case.

And it is also in evidence that, defendant has paid some part of the monies for the above stated transactions but there is outstanding balance of N490,500.00 only unpaid by the defendant up to now.

It is in record that the defendant failed to cross examined the testimony of CW 1 and CW 2, 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)

It is in record that the defendant did not fill form SCCA 5 which to my view is tantamount to admission

Article 6 (3) provide that

“where the defendant fails to filed an answer to the claim such defendant may be held to have admitted the claim”

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 fails to answer

the claim in this suit, 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 N410,000.00 only being the remaining balance for the transaction of cattle sold to defendant
2. the cost of this action N30,000.00 only

This case is decided today being 12<sup>th</sup> February, 2024 there is right of appeal to High Court Bauchi within 14 days by the aggrieved party.

