

**IN THE DISTRICT COURT OF BAUCHI STATE
IN THE BAUCHI JUDICIAL DIVISION
HOLDEN AT SMALL CLAIMS COURT NO. 1 BAUCHI
SUIT NO SCC/BH/08/2024**

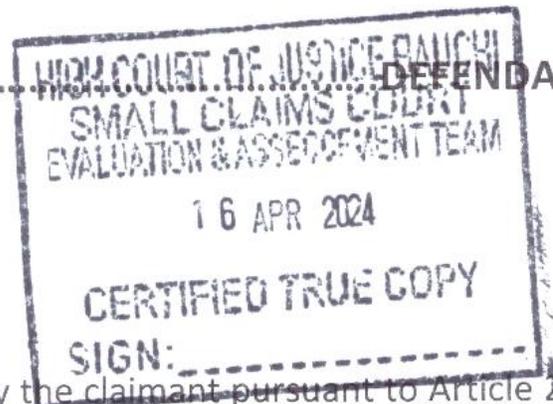
Before His worship- GARBA ABDULLAHI

BETWEEN

ATTAHIR ALIYU SALEH.....CLAIMANT

AND

ADAMU MUSA JIBRIN.....DEFENDANT



Parties Absent

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 12TH January 2024 and filed on the same date seeking for the following reliefs;

1. AN ORDER of this Honourable Court against the defendants to pay the sum of N900,000.00 only being the remaining balance for the car owing the claimant.
2. Cost of this action

The originating processes of this Honourable Court has been served on defendants as disclosed by affidavit of service deposed to by one Abdulsalam Abdullahi a bailiff of this Honourable Court. Dated 15/1/24 thereafter hearing commenced

CW 1 in person of Muhammad Julde affirmed and testify to the effect that, sometimes in 2016 the claimant sold a car at the cost of N1,700,000.00K only he paid the sum of N350,000.00 only and promised to pay the remaining balance of N1,350,000.00 only but failed to do so,

He also informed this Court that as a result of that he reported the matter to the police where the sum on N140,000.00 and N35,000.00 was recovered now remaining the sum of N900,000.00 only.

Before the commencement of hearing defendant admitted the sum of N698,500.00 only.

The defendant failed or refused to cross examine the testimony of CW 1, and refused to enter his defense there after his right of the cross examination/defense was closed 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 Honourable Court formulate single issue for determination thus;

“Whether the claimant has proofed her case by preponderance of evidence to entitle to judgment”

It is an elementary principle of law for which a citation the authority is not necessary, that the onus is on the plaintiff to prove his case and he must do so the strength of his own case and not on the weakness of the defendant.

The court of law act on fact not guess or speculation I refer myself to the case of Ferdinand George vs UBA LTD (1994) 1 NWLR (PT323) 639 at 668, and A. I. C Limited vs NNPC (2005) LPELR 6 SC,

The facts before this Honourable court is obvious that, claimant has sold a car to defendant at the cost of N 1,700,000.00K and the defendant made a down payment of N350,000.00 only after sometimes the sum of N140,000.00 and N35,000.00 only was recovered at the police station now there is remaining balance of N900,000.00 only unpaid

It is also in evidence that defendant has admitted the sum of N698,500.00 only owing to claimant.

It is in record that the defendant failed to cross examined the testimony of claimant's witness , 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)

Furthermore, the defendants failed to enter his defense which is tantamount to 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 KARI ADUSEI & ANOR VS MR TOYIN ADEBAYO (2012) LPELR-7844 SC-, therefore I resolve the issue formulated in favor of the Claimant as he proof his case to the balance of probability, therefore is hereby enter judgment against the defendants , make the following order;

1. AN ORDER be and hereby made compelling the defendants to pay the amount due to the claimant the sum of N900,000.00K only as remaining balance of Car transaction
2. AN ORDER be and hereby made directing the defendants to pay the sum of N30,000 only as cost of this action.

This case is decided today being 15th April, 2024 there is right of appeal to High Court Bauchi within 14 days by the aggrieved party.

