

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

**SUIT NO SCC/BH/12/2024**

Before His worship- GARBA ABDULLAHI

**BETWEEN**

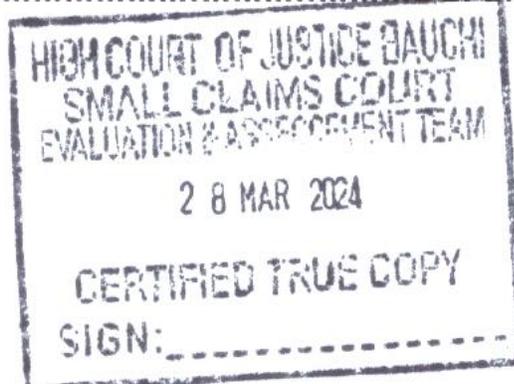
**IBRAHIM ALHAJI ISAH ..... CLAIMANT**

**AND**

**SANI BASHIR ADAMU ..... DEFENDANT**

Parties Absent

Y B Khaleed Esq for the claimant



**JUDGEMENT**

**INTRODUCTION**

This case brought pursuant to small claims court practice direction NO 2 of 2022, the claimant has fill and filed small claims Court forms SCA 2 & SCA 3 dated 16<sup>TH</sup> day of January, 2024, defendant has been duly served with the process of this court as evident by affidavit of serviced dated 22/1/ 2024 deposed to by one Abdulsalam Abdullahi a sheriff of this Court.

The claimant prays for the following reliefs

1. AN ORDER against the defendant to pay sum of N700,000.00 only money collected by defendant for supply Bufash or Hack chemicals.
- 2.The Cost of this action

In his effort to prove his case the claimant called two witness and tender 3 documents in evidence thereafter closed his case, defendant did not open his defense thereafter his right of defense foreclosed

CW 1 in person of Ibrahim Alh. Isah (claimant) affirmed and told this Hon. court that on 24/5/23 defendant called him via phone and said he has chemical herbicide but he could not have transport money to bring it to Bauchi town therefore he requested him to give him the sum of N700,000.00 only, have replied that unless if there is a letter of agreement, he will not give the money, so agreement was written to the effect that he collected the sum of N700,000.00 only on condition that he will give him herbicide (Butashi and Hack) , he signed the undertaken consequent upon he send him an account NO bearing the name of Esbab farm and he send the money N700,000.00 only to him, Exh A, statement of account and Exh. B and C, letter of agreement both Hausa & English version has been admitted in evidence to that effect, but he refuses to give him the herbicide up to now.

During cross examination he told this court that, he sends money to Sani Bashir Adamu (defendant), but his name and that of the defendant are not there on the content of Exh A, likewise Exh. B does not contain his name

CW 2 in person of Sulaiman Musa affirmed and told this court that he know the parties in this case what transpired between them was sometimes in May 2023, the claimant called him and said defendant had called him , alter on the defendant called him and said he is looking for a loan of N700.000 only from the claimant so that he will bring goods for him (herbicide) at affordable price by the end of May 2023 but the claimant said I must be aware before and they must write it down

He further told the court that he went and meet the defendant at Sulgad Hotel, he said he need money from the claimant N700,000k only in returned he will give him herbicide, he wrote an undertaken to that effect he snapped it and send to the claimant via WhatsApp, then defendant send the said amount to defendant via the account Esbab integrated farm, since then up to now the defendant

neither give the herbicide to the claimant nor the N700,000 only collected from the claimant despite several demand

During cross examination he informed the court that the name of the claimant is not on the content of Exh C, and Exh. A, but he sends him the account number of Esbab Integrated farms which he sends the money to defendant through it

Defendant failed to enter a defense, neither fill and filed form SCA 5.

Parties does not file and exchange final written addresses, after taken into consideration the evidence placed before the court as well as the facts and circumstances of this case, this Hon. Court formulate lone issue for determination thus: -

” Whether the plaintiff has proofed his case to the balance of probability to be entitle to Judgment?

It is an elementary principle 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 YAH I MAINA & ORS (2021) LPELR 11919 C A

It is in evidence before this court that, the claimant in his testimony in chief told the court that, he enter into the agreement with defendant for the supply of Herbicide at the cost of N1,000,000 only and he send the said amount to him through the account NO send by the defendant bearing the name of Esbab Intergrated Co. ltd of Taj Bank PLC

It is also in record CW 1 told the court that, sometimes in May 2023 the defendant has requested for a loan of N700,000 only from him on conditions that he will repay it with herbicide (Butashi and Hack) at a simple and affordable price,

He also told the court that the defendant has wrote an undertaken to that effect as disclosed in the content of Exh. B, & C

It is also in evidence that, the claimant (cw1) send the sum of N700,000 only to defendant through the account number of Esbab Nig, LTD given to him by the defendant

That piece of evidence is not contradicted during cross examination therefore this court can safely rely on it for just determination of this matter I refer myself to the case of A G LAVENTIS NIGERIA PLC VS CHIEF CHRISTIAN AKPU SC 140, 2002

CW 2 also told the court that defendant wrote an undertaken in his presence at Sulgad hotel to the effect that he collected the sum of N700,000.00 only from the claimant as loan on condition that he will sell the herbicide for him at a simple and affordable price

He also told the court that, the claimant has send the said amount of money to defendant through the account of Esbab Integrated farm given to him by the defendant and up to now neither the herbicide nor the Money N700,000.00 only returned to the claimant despite several demanded, that piece of evidence remain unshaken and uncontroverted.

It is in record that the defendant failed to fill and file form SCC 5 and failed to enter his defense therefore the effect is that the case of the claimant was not disparaged, or discredited under cross examination and I so hold

The law is<sup>i</sup> settled that net effect of failure to filed a defense or to lead evidence is that the case of the claimant and his testimony remained unchallenged and are deem admitted and established see the case of CNSILIDATED RESOURCES LTD VS ABOFAR VENTURES NIG. LTD (2007)6 NWLR (PT1030)221

ARTICLE 6 (3) OF THE PRACTICE DIRECTION OF HIS COURT PRVIDE THAT

“where the defendant failed to filed an answer to the claim should be held to have admitted the claim”

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The content of Exh. A, disclosed that the sum of N700,000.00 only was send to the account of Esbab Integrated Farm given by the defendant to claimant, Exh. C disclosed the undertaken write by the defendant that he collected the sum of N700,000.00 only from the claimant.

Our law is settled that documentary evidence is the best form of evidence because they not only assessable but are more authentic than oral evidence, they are like words uttered and do speak for themselves, they are neither transient or subject to distortion but remains permanent through the ages I refer myself to the case of EBEM & ANOR VS NSEYEN (2016) LPELR -40122 C A OGBEIDE VS OSIFO (2009) 3 NWLR (pt1022) 423 at 441

It is explicit that money the sum of N700,000.00 only has been given to defendant by the claimant before the court and deserved to be given due consideration and probative value and I so hold

In the light of the above I resolved the lone issue formulated in favour of the claimant against the defendant, the scale of justice tilt to his side, therefore judgment is hereby enter against the defendant and the following order are hereby made.

1. AN ORDER against the defendant to pay the sum of N700,000.00k only been the money collected from the defendant for the supply of herbicide (BUTASH & HACK).
2. The sum of N60,000.00 only as cost of this action

This case is decided today being 28 day of March, 2024 there is right of appeal to High Court within 14 days.

