

**IN THE DISTRICT COURT OF BAUCHI STATE
IN THE BAUCHI JUDICIAL DIVISION
HOLDEN AT SMALL CLAIMS COURT NO. 1 BAUCHI
SUIT NO SCC/BH/110/2023**

Before His worship- GARBA ABDULLAHI

BETWEEN

MARTHA ABDULLAHI & 7 ORS.....CLAIMANTS

AND

SABON LAYI WONEN SAVINGS AND LAON & 22 ORS. DEFENDANTS

Parties Absent

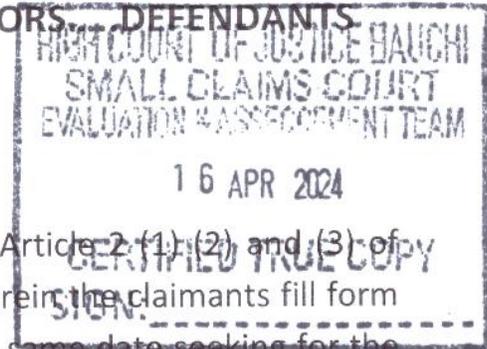
JUDGEMENT

This small claim matter brought to court pursuant to Article 2 (1) (2) and (3) of small claims court practice direction NO 2 of 2022, wherein the claimants fill form SCA 2 and 3 dated 9TH January, 2024 and filed on the same date seeking for the following reliefs;

1. AN ORDER of this Hon. Court against the defendants to pay the sum of ₦1,139,100.00k only being the distributed sum due to the claimants
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 Hon. Court. Dated 29/1/24 thereafter hearing commenced

Before the commencement of hearing some of the parties have amicably settled the matter out of court, the filed a terms of settlement dated 7/2/24 which has been adopted by the court as it consents judgment on 19/2/24 against those parties, the names of the other defendants i.e. Sabatu Andrew and Deborah



been adopted by the court as it consents judgment on 19/2/24 against those parties, the names of the other defendants i.e. Sabatu Andrew and Deborah Ezekiel was struck out base on the application made by the claimants to that effect on 7/2/24.

Hearing commence in respect of those who that refused the settlement, CW 1 in person of Alheri A. Zakariyyah affirmed and testify to the effect that, defendant Love Samaila collected loan from the claimant i.e. on 6/3/2021 on condition that she will give interest of N5,000.00k every month and the amount to be paid within three months and failure to upset within 3 months the interest will be increase to N500,000.00 only per month, but she failed to pay the principal amount , the interest and the penalty totaling about N94,400 only in the process of negotiation she paid the sum of N36,640.00 only now remaining the balance of N57,760.00K only and for Veronica Joshuwa she is owing the claimants the sum of N8,110.00 only.

CW 2 in person of Melinda John she adopted the evidence of CW 1 as her testimony in this case.

The defendants failed or refused to cross examine the testimony of CW 1, and neither enter defense, despite several opportunities given to them, consequent upon which his right of the cross examination/defense was closed and the matter 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 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,

It is in evidence of PW 1 testified to the effect that Love Samaila has collected loan form the claimants but she refused to upset it, now she is owing the claimants total sum of N94,400 only in the process of negotiation she paid the sum of N36, 640 only now remaining the balance of N57,760 .00K only and for Veronica Joshuwa she is owing the claimants the sum of N8,110.00 only

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 fill and filed form SCA 5, and neither enter his defense which is tantamount to admission

Article 6 (3) provide as follows; -

Where the defendant failed to answer to the claim, as in form SCA 5 should be held to have admitted the claimant's 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 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, I hereby enter judgment against the defendant an and, make the following order;

1.AN ORDER of this Hon. Court against the defendant one Love Samaila to pay the sum of N57,750.00K only being the money she collected as loan with interest to the claimant, and the other defendant one Veronica Joshuwa the sum of N8,110.00k to the claimant respectively.

It is in evidence of PW 1 testified to the effect that Love Samaila has collected loan from the claimants but she refused to upset it, now she is owing the claimants total sum of N94,400 only in the process of negotiation she paid the sum of N36, 640 only now remaining the balance of N57,760 .00K only and for Veronica Joshuwa she is owing the claimants the sum of N8,110.00 only

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 fill and filed form SCA 5, and neither enter his defense which is tantamount to admission

Article 6 (3) provide as follows; -

Where the defendant failed to answer to the claim, as in form SCA 5 should be held to have admitted the claimant's 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 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, I hereby enter judgment against the defendant an and, make the following order;

1.AN ORDER of this Hon. Court against the defendant one Love Samaila to pay the sum of N57,750.00K only being the money she collected as loan with interest to the claimant, and the other defendant one Veronica Joshuwa the sum of N8,110.00k to the claimant respectively.

2.Cost of this action ~~N~~10,000.00K only

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.

