

**IN THE DISTRICT COURT OF BAUCHI STATE
IN THE BAUCHI JUDICIAL DIVISION
HOLDEN AT SMALL CLAIMS COURT NO 2 BAUCHI**

SUIT NO SCC/BH/14/2024

BEFORE HIS WORSHIP ZAINAB M SHUSIBU (MRS)

BETWEEN

IDRIS MUSA **CLAIMANT**

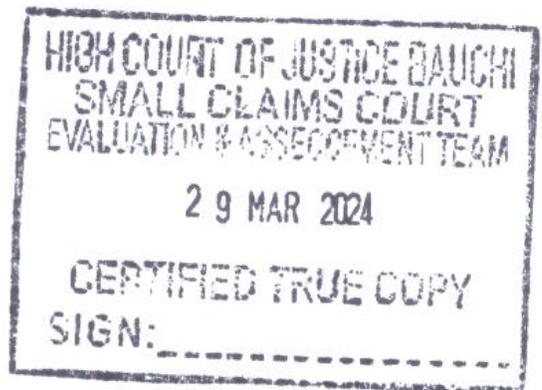
AND

BASHIR IBRAHIM **DEFENDANT**

Claimant Present

Defendant Absent

Appearances None



JUDGEMENT

The claimant commenced this suit through the Bauchi state practice direction on small claims court no of 2022, the claimant fill form SCA 2 and 3 dated 26 day of February 2024 and filled on the same date, the claimant claim against the defendant as follows;

- (a) The sum of N162,500.00 being the money for the chicken.
- (b) Sum of N50,000.00 as general damage.
- (c) Sum of N30,000.00 as cost of action.

The defendant in this suit was served with the originating process of this court by substituted means as seen in the affidavit of service dated dated29th day of February 2024 as deposed to by the bailiff of this Honorable Court ALIYU SALE TAFIDA.

The defendant never appears in court despite being served with the originating process of this court, he elects or chose not to fill anything or adduce evidence in challenge to the claimant's claim.

On the 4th day of March when the case was slated for hearing the defendant was still absent hearing commenced.

SUMMARY OF THE CLAIMANT CASE

CW1 – Who happens to be the claimant in this suit affirm and testified to the effect that in July 2023 the defendant approach me at home to sell 53 chickens to him at the rate of N3,200.00 each on the ground that he will pay back at the end of the month the total sum is N182,000.00 he was able to pay only the sum of N20,000.00 remaining the outstanding balance of N162,000.00 all effort to recover the said balance prove abortive that is all that transpired.

CW1 was stood down and the case was adjourned to the 7th day of March 2024 for cross examination and defense.

On the 7th day of March which was slated for cross examination and defense the defendant was still absent and unrepresented no reason whatsoever for his absence.

The case was adjourned to the 28th day of March for judgement.

COURT FINDINGS

In civil case the onus to prove a particular fact or case is on the party who asserts and since all civil suits are determined on balance of probability and preponderance of evidence a party who proves his case will obtain judgement based on such preponderance of evidence and balance of probability in his favour.

The defendant was put on notice of the pendency of this suit as evidenced on the affidavit of service before the court.

The law is trite that affidavit of service is a prima facie proof of service and notification to the other party may I refer the court to the case of MARK AND ANOTHER VS EKE (SC 35/1997) (2004) 27 (23 JANUARY 2004).

There is an end to litigation a court of justice indeed this court will not wait forever for any party who is aware of the pendency of an action against him but refuse to appear or fail to file a defense or respond to same as such can not complain of not being giving fair hearing as provided under SECTION 36 OF THE 1999 CONSTITUTION AS AMENDED.

The position of the law is clear that cost follow event a successful party should not be deprived of cost unless for good reason cost is at the discretion of this court.

Judgement is hereby entered in favour of the claimant and the following order is made;

- A. The defendant is ordered to pay the sum of N162,000.00 (One Hundred and Sixty-Two Thousand Naira) for the chicken.
- B. Sum of N10,000.00 general damages.
- C. Sum of N10,000.00 as cost of this action.

There is a right of appeal to the High Court of Justice Bauchi within 14 days from today.

This case is decided today being the 28th March, 2024.



**ZAINAB M SHUAIBU(MRS)
(SENIOR MAGISTARTE)**