

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

SUIT NO SCC/BH/15/2024

BEFORE HIS WORSHIP ZAINAB M SHUSIBU (MRS)

BETWEEN

IDRIS MUSA CLAIMANT

AND

MURTALA MOHAMMED DEFENDANT

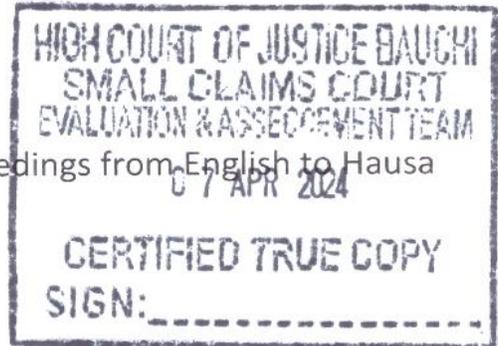
Claimant present speaks Hausa

Defendant Absent

Aliyu sale Tafida affirm to interpret the court proceedings from English to Hausa

Appearances None

JUDGEMENT



The claimant brought this suit under the Bauchi state practice direction on small claims court no 2 of 2022 pursuant to ARTICLE 2(1)(2) and (3) wherein the claimant fill and filled form SCA 2 and 3 dated 4th day of march 2024 and filled on the same date claims against the defendants as follows;

- (a) The sum of #116.000.00 (one hundred and sixty thousand naira)
- (b) Sum of #20.000.00 as cost of action

The originating process of this Hon court has been served on the defendant personally as disclosed on the affidavit of service dated 7th day of march 2024 deposed to by one ALIYU SALE TAFIDA a bailiff of this Hon court.

On the date fixed for hearing the defendant was still absent hearing commenced. CW1 in person of Idris Musa (The claimant in this suit) affirmed and testified to the effect that in January 2023 the defendant collected 13 chickens at the rate of N3,000.00 each making the total sum of N39,000.00 and promise to pay cash at

the end of January the same year, later he requested for 5 more which is at the rate of N3,500.00 each making the total sum of N17,500.00. I stand as a guarantor in his office I paid the sum of N35,000.00 on his behalf he could only pay back the sum of N20,000.00 remaining N15,000.00 he later assured me that he will settle my debits in January 2024 but failed. That is all that transpired between me and the defendant.

CW1 was stood down for cross examination and defense and I ordered that hearing notice should be serve on the defendant as well.

On the 23th day of march 2024 after being serve with the hearing notice, when the case was slated for cross examination and defense the defendant neglect and choose not to appear before the court to defend himself.

This case was adjourned to the 8th day of April 2024 for judgement.

COURT DECISION

In civil case the burden of proof is on a party who asserts a fact to prove the same because and this is also settled he who asserts must prove this court refer itself to the case of ALHAJI KABIRU ABUBAKAR & ANOR VS JOHN JOSEPH & ANOR (2008) LPELR – 48 (SC).

The defendant in this suit have being giving ample time and opportunity to defend his case but choose not to appear or fill and defense to the claimant's claim.

It is equally trite that once a party has been afforded the opportunity to present his case as he fails to take advantage of it, he cannot be heard complaining that his right of fair hearing has being breached.

This court refer itself to ARTICLE 8 (2) OF THE BAUCHI STATE PRACTICE DIRECTION ON SMALL CLAIMS COURT NO 2 OF 2022.

However, the trial court has a duty to evaluate the evidence before it be satisfied that it is credible and sufficient to sustain the claim of the claimant.

The law is also trite that where facts remain unchallenged and uncontroversial the court is bound to accept those facts as established and as fact deemed to have being admitted.

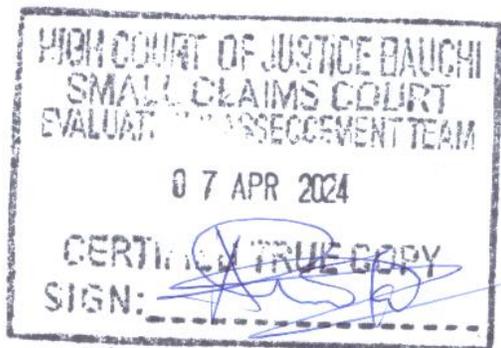
Having evaluate the evidence placed before the court by the defendant am satisfied that the claimant has proven his case to the balance of probability and preponderance of evidence judgement is hereby entered in favour of the claimant and the following order is hereby made;

- (a) I ordered the defendant to pat the claimant the sum of N116,000.00 being the outstanding for the chicken he purchases
- (b) Sum of N10,000.00 as cost of action

APPEAL

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 8th day of April 2024.



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