

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

SUIT NO SCC/BH/13/2023

BETWEEN

MARYAM UMAR (MAMAN AMABUWA)CLAIMANT

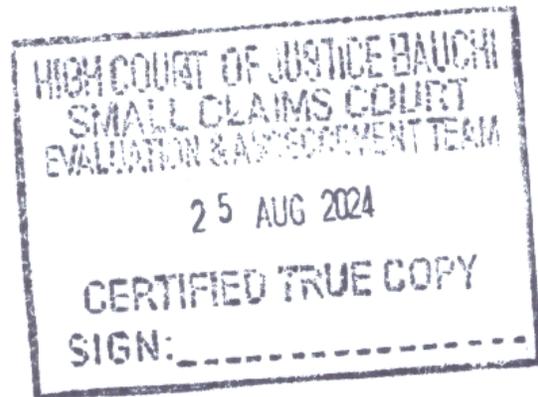
AND

MAMAN NANA.....DEFENDANT

CLAIMANT –Represent in speaks Hausa Language

DEFEENDANT – Absent

Before His worship- GARBA ABDULLAHI



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 16 August 2023 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 N210,000.00 only being the money for the supply of goods to defendant
2. Cost of this action N14,.500 only

The originating processes of this Hon. Court has been served on defendants as disclosed by affidavit of service deposed to by one Aliyu Tafida a bailiff of this Hon. Court. Dated 21/8/23 thereafter hearing commenced

CW 1 in person of Maryam Umar (Maman Amabuaw) (claimant) Affirmed and testify to the effect that, she procure some goods to the 1st defendant on

on condition that he will pay the money by the end of February 2023 but up to now he refuse to do so, the 2nd defendant stood as a guarantor to the 1st defendant, since they failed to upset the debt I urged the court to order the defendants to pay me the sum of N210,000.00 only as principal amount and N14,500.00 only, as cost of this action, that is all what I know.

The defendant failed or refused to cross examine the claimant, likewise failed to fill form SCCA 5, there after their 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 Hon. Court formulate single issue for determination thus

“Whether the claimant has proof her case by preponderance of evidence 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 the strength of his own case and not the weakness of 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 Hon court is obvious that, claimant has supplied goods to 1st defendant worth N210,000 only and the 2nd defendant stood as guarantor to the 1st defendant and they refuse to pay the said amount of money despite several oral demand.

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 form SCCA 5 which to my view is tantamount to admission as provided under Article 6 of the practice direction of this court.

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 and enter judgment in her favor, against the defendants make the following order;

3. AN ORDER be and hereby made compelling the defendants to pay the amount due to the claimant the sum of N210,000.00 only
4. AN ORDER be and hereby made directing the defendants to pay the sum of N14,500.00 only as cost of this action

This case is decided today being 25TH August, 2023

There is right of appeal to High Court Bauchi within 14 days by the aggrieved party.

