

**IN THE DISTRICT COURT OF BAUCHI STATE
IN THE BAUCHI JUDICIAL DIVISION
HOLDEN AT SMALL CLAIMS COURT NO. 1 BAUCHI
SUIT NO. SCCBH/29/2024**

BEFORE HIS WORSHIP- GARBA ABDULLAHI

BETWEEN

ABDULLAHI MAI SHANU.....CLAIMANT

AND

AL AMIN ALIYU.....DEFENDANT

CLAIMANT – Present speaks Hausa Language

DEFENDANT –Absent

Abdulsalam Abdullahi affirmed

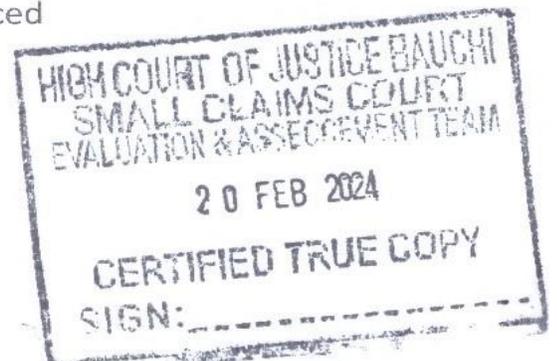
JUDGEMENT

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 26th January, 2024 and filed on the same date seeking for the following reliefs;

1. AN ORDER of this Hon. Court against the defendant to pay the sum of N195,000 only being the remaining balance for the transaction of cattle sold to defendant
2. the cost of this action

The originating processes of this Hon. Court has been served on defendant as disclosed by affidavit of service deposed to by one Abdussalam Abubakar a bailiff of this Hon. Court. Dated 30/1 /24

On 1/2/24 claimant was in court and hearing commenced



CW 1 Abdullahi Maishanu (claimant) Affirmed and testify to the effect that, the defendant bought 2 cows from him about two years ago at the cost of N620,000.00 only he paid the sum of N540,000.00 only remaining the outstanding balance of N80,000.00 only he refuses to pay despite several oral demand.

He further told this court that in the 2023 defendant came to his house again and bought another cow at the cost of N120,000.00 only he paid N5,000.00 only remaining the balance of N115,000.00 only plus the previous debt making the total of N195,000.00 only but he refused to pay up to now.

CW 2 Muhammad Yerima Abubakar affirmed and told the court that bought 2 cows from the claimant at the cost of N620,000.00 only he paid the sum of N540,000.00 only remained the balance of N80,000.00 only, for the 2nd time he bought another one at the cost of N120,000.00 only he did not pay anything up to now.

The defendant failed to cross examine CW 1, and CW 2 consequent upon which the right of the defendant was foreclosed and the matter set down for judgment

Having carefully reviewed the testimonies of the witness before the court and evaluate it and taken into consideration the facts and circumstances of this case, this Hon. Court formulate single issue for determination thus;

“Whether the claimant has proof his case by preponderance of evidence to be entitled to judgment”

It is an elementary principles 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.

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 and evidence before this Hon court is apparent that there was a transaction for sale of cows between the parties' in this case, defendant bought 2

cows from the claimant last two years there is remaining balance of N80,000.00 unpaid, also in the year 2023 he bought another cow from the claimant at the cost of N120,000.00 only but he did not pay anything, making the total of N195,000.00 only unpaid up to now.

It is in record that the defendant failed to cross examine the testimony of CW 1, 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)

It is in record that the defendant did not fill form SCCA 5 which to my view is tantamount to admission

Article 6 (3) provide that

“where the defendant fails to filed an answer to the claim such defendant may be held to have admitted the 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 ADUSEI & ANOR VS MR TOYIN ADEBAYO (2012) LPELR-7844 SC-, It is in record of this court that the defendant fails to answer the claim in this suit, therefore I resolve the issue formulated in favor of the Claimant.

In the light of the above I hereby enter judgment in claimant favor, against the defendant and make the following order;

1.AN ORDER of this Hon. Court against the defendant to pay the sum of N195,000.00 only being the remaining balance for the cattle bought from the claimant

2.Cost of this action N20,000.00 only

This case is decided today being 15th February, 2024 there is right of appeal to High Court Bauchi within 14 days by the aggrieved party.

HIGH COURT OF JUSTICE BAUCHI
SMALL CLAIMS COURT
EVALUATION & ASSESSMENT TEAM
20 FEB 2024
CERTIFIED TRUE COPY
SIGN: 


THE CHIEF JUSTICE
GARBA ABDULLAHI
CHIEF MAGISTRATE
SIGN: _____