

**IN THE DISTRICT COURT OF BAUCHI STATE
IN THE BAUCHI JUDICIAL DIVISION
HOLDEN AT SMALL CLAIMS COURT NO. 1 BAUCHI**

SUIT NO SCCBH/36/2024

Before His worship- GARBA ABDULLAHI

BETWEEN

NIGERIAN CIVIL SERVICE UNION.....CLAIMANT

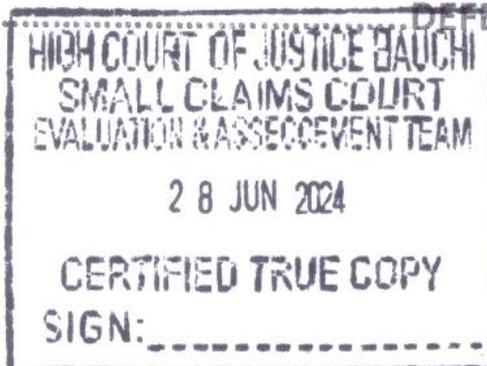
AND

ABUBAKAR SALEH.....DEFENDANT

CLAIMANT –Represent in speaks Hausa Language

DEFEENDANT – 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 N0 2 of 2022, wherein the claimant fill form SCA 2 and 3 dated 6TH February, 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 N407,000 only being the money owing the claimant for the two set of solar system collected as loan
2. Cost of this action the sum of N15,000 only

The originating processes of this Hon. Court has been served on defendant as disclosed by affidavit of service deposed to by one Abdulsalam Abdullahi a bailiff of this Hon. Court. Dated 29/5/24 thereafter hearing commenced

CW 1 in person of Mohammed Bello (claimant's representative) affirmed and testify to the effect that, sometimes in July 2023 defendant collected two set of solar system as loan from the claimant worth N407,000 on conditions that he will within one year starting from August 2003 to July 2004, installmentally the sum of N 33,916 ,00K only every month, but he failed despite several demand.

Defendant failed to neither enter his defense, nor fill and file form SCA 5, further more did not cross examined PW1

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 proof its case by preponderance of evidence to be 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,

The facts before this Hon court is obvious that, defendant have collected loan of two set of solar system from the claimant worth N407,000 Only on condition that he will upset within one year, by installmentally payment the sum of N33,916,000 only, but he failed to discharge his obligation despite several oral demand I refer myself to the testimony of PW1

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

Article 6 of small claims court practice direction 2022 provide that failure to fill form SCA 5 the court should consider it as the defendant have admitted the claim of the claimant.

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 is hereby enter judgment against the defendants , make the following order;

1. AN ORDER of this Hon. Court against the defendants to pay the sum of N407,000 only being the money owing the claimant for the two set of solar system collected as loan
2. Cost of this action the sum of N15,000 only

This case is decided today being 13TH June, 24 there is right of appeal to High Court Bauchi within 14 days by the aggrieved party.

