

**IN THE DISTRICT COURT OF BAUCHI STATE
IN THE BAUCHI JUDICIAL DIVISION
HOLDEN AT SMALL CLAIMS COURT NO. 1 BAUCHI
SUIT NO SCC/BH/109/2024**

Before His worship- GARBA ABDULLAHI

BETWEEN

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ROBINSOM AGO & 1 OR.....CLAIMANT

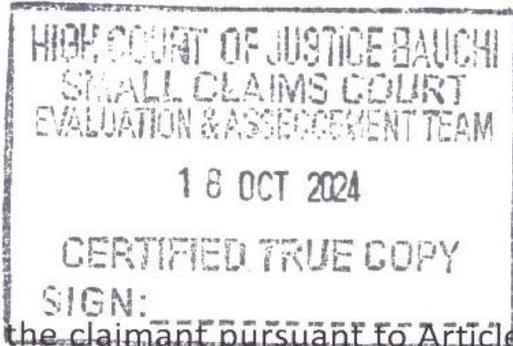
AND

TIJJANI IBRAHIM.....DEFENDANT

CLAIMANT –Absent

DEFEENDANT – Absent

Murtala Moh'd Esq for the claimant



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 1ST July, 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 ₦980,000 only being the money owing the claimant for Mining business (supply of lithium)
- 2.Cost of this action the sum of ₦150,000 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 8/7/24 thereafter hearing commenced, in his effort to proof his case the claimant called two witnesses and tender one Exhibit in evidence,

thereafter closed his case and the defendant did not enter his defense thereafter this court foreclose his right of defense, both parties did not file final written address.

Review of the witnesses' testimony

CW 1 in person of Yahaya Abdulkarim affirmed and told the court that the claimant called and directed him to send the sum of ₦1,100,000 to defendant for the supply of lithium, he complied and send ₦400,000 only for the first time, later ₦550,000 only and lastly the sum of ₦30,000 only making the total of ₦980,000 only, but he did not supply the goods to him, he printed the receipt of the said transactions and send it to the 1st claimant as evidence which has been admitted in evidence and marked as EXH. A, B, & C

During cross examination he told this Hon. court that, the defendant is a civil servant and he send money for him to buy lithium, he told them that he is a civil defense officer and he is into mining activities the site is under their control

No reexamination was conducted

CW 2 in person of Robinson Ago Amechi affirmed and testified to the fact that sometimes around August / September 2023 he asked CW 1 to send the sum of ₦1,100,000 only to defendant for the supply of goods (lithium) material, he complied and send the sum of ₦980,000 only to defendant and he shown him the receipts but defendant neither refund the money nor supply the goods to the claimants and the defendant confirmed to him that he received the said amount.

During cross examination he informed this Hon. Court that he knows the defendant for over one year and he did not send any money to defendant

No reexamination was conducted

Defendant has been given ample time to enter his defense but failed, refused and neglect thereafter his right of defense was closed

After taken into consideration the evidence of the claimant as well as the circumstances of this case, this Hon. court formulate lone issue for determination thus

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

By law the claimant’s duty to proof his claim ,remains inviolate, whether or not the case is defended by the defendant and the claimant is expected to succeed on the strength of his own case not on the weakness of the defendant, therefore claimant must proof his case to the balance of probabilities I refer myself to the case of LONGE VS C B N (2006)3 NWLR (PT967) 228 ITAUMA VS AKPA-IME (2000) 7 SC (PT 11)24, and IMAM VS SHERIFF (2005)4 NWLR (PT 914)80

The genesis of this matter is contract for the supply of mining material) lithium) entered into by the parties

It is in record of this Hon. court that CW 1 testified to the effect that they have entered into transaction for the supply of goods lithium with the defendant as a result of that he sends the sum of ₦980,000 only to defendant’s account installmentally as follows ₦400,000 only, ₦550,000 only and ₦30,000 only but up to now he did neither supply the said goods nor refund their money back

That piece of evidence remains unshaken and uncontroverted during cross examination

CW 2 affirmed and informed this curt that he directed CW 1 to send money to defendant and he transferred the sum of ₦980,000 only to defendant, he shown him a receipt as evidence of the said transaction which has been admitted in evidence and marked as Exh A, B & C

He further informed this Hon. court that the defendant confirmed to him that he received the said amount of money from CW 1 but up to date he did not refund the money or supply the goods to him

That piece of evidence remains discredited.

The law is trite that uncontradicted or discredited evidence the court can safely relied on it for just determination of a matter before it sees the case of OFONGE VS A.P.C (2022) 4 NWLR (PT1821)543 AT 574 PARA. G-C SC.

the content of EXH. A, revealed that on 13/9/2023 the sum of N400,000 was send to the account of defendant domiciled with WEMA Bank plc, on 29/8/2023 the sum of N550,000 was send to that account and on 17/9/2023 additional sum of N30,000 was send to the same account by CW 1 therefore that documents corroborated the testimony of CW 1 & CW 2 respectively and I so hold

As to the content of Exh A, B & C been documentary evidence speaks for itself, it cannot be altered or varied remain permanent in nature through age See the case of GBILEVE ANOR VS ADDINGI & ANOR (2012) LCN/5233 (C A)

The defendant failed to defend the claim of the claimant, despite the apply time and opportunity afforded to him, the position of our law remains inviolate to the effect that when apply time and opportunity has been given to the party in a case but failed to utilized it, he cannot be heard complaining that his right of fair hearing has been reprieved, I refer myself to the case of EZE VS F R N (2017) LPELR -42097 (SC)

The record of this court disclosed that this case was slated on 18/9/2024 for defense however the learned counsel to defendant M M

Aliyu Esq apply for adjournment to 2/10/24 at the instance of the defendant for defense, on 2/10/24 neither the defendant nor his counsel was in court and no reason given for their absent consequent upon which learned counsel to the claimant apply for defendant right to be foreclose which was upheld and granted by the court.

the law is trite that failure to defend the claim of the claimant is tantamount to admission and admitted facts need not further proof. See section 123 of Evidence Act 2011 as Amended.

Therefore, it is obvious that the scale of justice tilt to the side of the claimant as he proof his case to the balance of probability and deserved to have the judgment f this court in his favor.

On the whole I resolved the lone issue formulated in favor of the claimant judgment is hereby enter against the defendant and the following orders are hereby make

- 1, AN ORDER against the defendant to pay the sum of ₦980,000 only been the money collected by the defendant for supply of lithium
- 2, AN ORDER against the defendant to pay the sum of ₦80,000 as general damage to the plaintiff.
- 3.The sum of ₦30,000 only as cost of this action

This case is decided today been 17th October, 2024 there is right of appeal to High Court of Justice Bauchi state within 14 days by the aggrieved party

