

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

SUIT NO SCC/BH/055/2024

BEFORE HER WORSHIP ZAINAB M SHUAIBU (MRS)

BETWEEN

AISHATU YAKUBU CLAIMANT

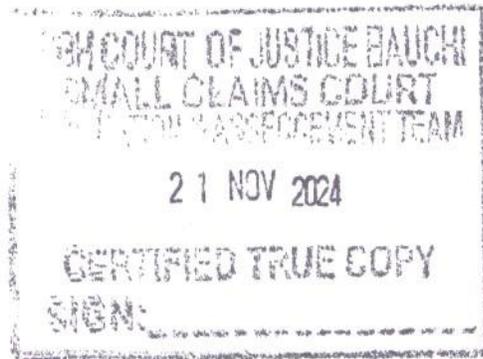
AND

SULIAMAN AHMED..... DEFENDANT

Claimant present

Defendant absent

Appearance – No appearance



JUDGEMENT

The claimant commences this suit under the Bauchi state small claims court practice direction no 2 of 2022, the claimant fill and filled form SCA 2 and 3 dated 7th day of October 2024, the defendant was served with the originating process and hearing notice of this court evidence by affidavit of service deposed to by ALIYU SALE TAFIDA a bailiff of this honorable court.

The claimant claim against the defendant as follows, the sum of ₦200,000.00 for the deposit in respect of the bed, sum of ₦15,000.00 as general damages and ₦15,000.00 as cost of action.

At the trial dated 14th day of October 2024 the claimant by name AISHA YAKUBU affirm and testified to the effect that on the 18th day of March 2024 I went to the defendant shop to buy a set of bed he sold the bed at the rate ₦400,000.00, I

deposited the sum of ₦200,000.00 remaining ₦200,000.00 he assured me to come back on Monday and take the bed with the remaining balance, since then I have not been seeing him.

I later reported the matter at civil defense office here in Bauchi, but they couldn't get him, that is why am before this court to get justice that is the case of the claimant.

CW1 was stood down for cross examination and defense.

On the 21st day of October 2024 when the matter came up for cross examination and defense the defendant having being served was absent as usual and unrepresented, the claimant applies to close the right of the defendant for cross examination and defense same was upheld and the case was set down for judgment.

COURT DECISION

Generally, in civil cases the burden of proof is cast on the party who assert the affirmation of a particular issue. The burden rests on the party whether claimant or defendant who substantially asserts the affirmation of an issue.

the court held further that SECTION 133(1) EVIDENCE ACT 2011 specifically provides that whether the appellant is making an affirmation assertion I e the existence of a fact or a negative assertion I e the non-existence of a fact, the burden of first proving either of the two, lies on the party against whom the whole judgment would be given if no evidence is led on either side the court referred to the case of EGHAREVBA VS OSAGIE (2009) 18 NWLR (PT 1173) AT 299.

By the provision of SECTION 8 (2) BAUCHI STATE PRACTICE 2022 provide as follows;

'Where the claim is called for hearing and the claimant appears but the defendant does not appear provided there is proof of service, the district judge shall proceed with the hearing of the claim and enter judgment as far as the claimant can prove his case.

In the case at hand the defendant was duly notify of the pendency of this suit he chooses not to file any defense base on the above scenario coupled with the fact and circumstance of this case this court have no option than to enter judgment as per the claimant claim in its originating process.

Accordingly, judgment is here by entered against the defendant and orders as follows;

- (1) The defendant is ordered to pay the sum of ₦200,000.00 being the money for the bed
- (2) Sum of ₦5,000.00 as general damages
- (3) Sum of ₦10,000.00 as cost of action.

APPEAL

There is a right of appeal to the high court of justice Bauchi with 14 days from today

This matter is decided to being the 19th day of November 2024.

HIGH COURT OF JUSTICE BAUCHI
SMALL CLAIMS COURT
EVALUATION & ASSESSMENT TEAM
21 NOV 2024
CERTIFIED TRUE COPY
SIGN: _____

THE CHIEF MAGISTRATE COURT
OF BAUCHI STATE
ZAINAB M SHUAIBU ESQ
MAGISTRATE
SIGN: _____ DATE: 19/11/2024

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