

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

SUIT NO SCC/BH/033/2024

BEFORE HISN ZAINAB M SHUAIBU (MRS)

BETWEEN

ALBASHEER MUHAMMAD SANI CLAIMANT

AND

SULIAMAN MUHAMMAD BELLO DEFENDANT

Parties present

Appearance A A IBRAHIM ESQ for the claimant

No appearance for the defendant



JUDGEMENT

The claimant commences this suit under the Bauchi state practice direction on small claims court no 2 of 2022, he fill and filled forms SCA 2 and 3 dated 15th day of August 2024, the claimant claim against the defendant are-

- The sum of One Million Two Hundred and Fifty Thousand (₦1,259,000.00) Naira being the money transferred to the defendant account.
- Sum of ₦50,000.00 as general damages
- Sum of ₦30,000.00 as cost of action

The defendant was served with the originating process of this court by substituted as seen of the affidavit of service depose to by the bailiff of this Honorable court Aliyu Sale Tafida.

On the date slated for hearing 22rd day of October 2024 the defendant was absent but represented hearing commence CW1 by name Albashir Muhammad Sani (who

happen to be the claimant affirm and testified to the effect that in October 2023 we always send money to Cameroun, we mate with the defendant by name Sulieman Mohammed Bello I know him as a bank staff I discussed the issue with him he informs me that they have such machine in their bank. I gave him the sum of one million two hundred and fifty thousand naira, he failed to transfer the said money as requested any time I contact him, he will always say there is no network it got to a stage I was tired I asked him to return back my money.

He stopped picking my calls and replying my message on Whatapp, he was able to pay the sum of seven hundred remaining the outstanding balance of one million two hundred thousand naira unpaid.

the case was adjourned for defense on the date slated for defense the defendant was absent and unrepresented, no message or correspondence for their absent, learned counsel to the claimant made an oral application that the right of the defendant be foreclose for defense same was upheld by this court.

The case was set down for judgment.

In Nigeria civil cases if a defendant chooses not to enter a defense the court is likely to enter judgment in favor of the claimant, essentially accepting the claims made in the statement of claim as true, as the defendant is deemed to have admitted the claimant's allegation by not presenting a counterargument or evidence to refute them, see the case of OKOEBOR VS POLICE COUNCIL (2003) 12 NWLR (PT 834) 444 P 473 PARAS A-C

Likewise, when a defendant fails to file a statement of defense or actively participate in the case by presenting evidence, the court considers it as a lack of defense against the claimants claims.

However, the claimant may not need to prove their case as extensively when the defendant does not defend, they still need to present sufficient evidence to establish the bases of their claim.

In the case at hand the defendant was given ample opportunity to enter his defense, having being served with several hearing notice as deposed to in the affidavit of service by the bailiff of this Honorable court.

However, the defendant has failed to appear to defend this suit thereby leaving this court with no other thereby leaving this court with no other evidence with which to preponderate the evidence

ARTICLE 8(2) of the Bauchi state practice direction on small claims court no 2 Of 2022 provides and I quote "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 claim"

Without gainsaying, I am not oblivion of the settled principle of law that enjoins the court to consider and determine all materials issues properly raised before it. A courts judgment must clearly consider and resolve all the issues that arise for decision in the case and come out with a decision or verdict which flows logically from the facts and the evidence adduced and accepted by the court. See the case of RAMADA INTL AND PHARM LTD VS EZEONU (2016) 14 NWLR (PT 1533) 339 to say this is not to say that the court is a dumping ground where a party can unnecessarily raise issues without necessity, for an issue to be considered by the court, there must be evidence in support of it.

Notwithstanding the default of defense, the claimant is under an obligation to succeed on the strength of his case. The claimant must not under guise of the default of defense expect the court to grant his reliefs on a platter without proving his claim in the case of ODUM VS UGANDEN (2009) 9 NWLR (PT 1146) 281 PP 302-303 where the court of appeal held that;

"It is trite that the plaintiff must succeed or fail on the strength of his case and the evidence which he brought to court and weakness in the defense notwithstanding. Thus, no matter how manifestly unreliable or weak the case of the defense maybe for the plaintiff to succeed in his claim he has the primary function of convincing the court that he has a good case.

Whether the defendant adduces or does not adduce any evidence at the trial, that fundamental and primary burden which the law places on the plaintiff who wishes to succeed in his claim remains.

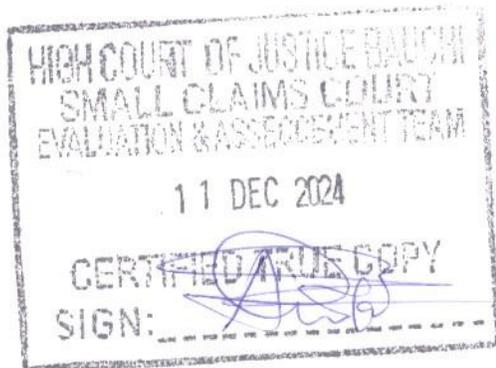
Based on the above scenario coupled with the fact and circumstances of the above I hereby enter judgment in favor of the claimant and grant the following reliefs;

- (a) The defendant is ordered to pay the sum of one million two hundred and fifty thousand (₦1,250,000.00) being the money his transferred to the defendant account
- (b) I award the sum of ₦30,000.00 (Thirty Thousand Naira) for general damages
- (c) Sum of ₦10,000.00 (Ten Thousand Naira) as cost of action

APPEAL

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

This case is decided today being the 10th day of December 2024



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

