

IN THE DISTRICT COURT OF BAUCHI STATE
(SMALL CLAIMS COURT)
HOLDEN AT BAUCHI

BEFORE HIS WORSHIP GARBA ABDULLAHI

SUIT NO SCC/BH/24/2023

BETWEEN

1.ENGINEER NASIRCLAIMANT

AND

1.GOLDEN SPECIAL STRUCTURE

2.BASHIRU SULAIMAN.....DEFENDANTS

CLAIMANTS –PRESENT IN COURT speaks Hausa Language.

DEFENDANTS – Present in court speaks Hausa Language.

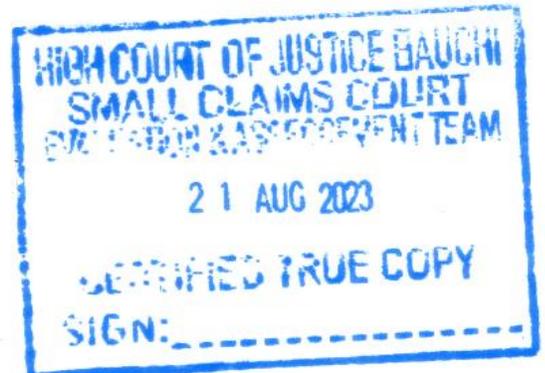
Babangida Ibrahim – Affirmed to interpret

JUDGMENT DELIVERED ON 10th/8/23

INTRODUCTION

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 2022 wherein the claimant fill form SCA 2 AND 3 dated 3RD August 2023 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 N200,000 only being the outstanding balance of the money collected by the defendants from the plaintiff
2. Cost of this action N5,500.00 only



The originating processes of this Hon. Court has been served on defendant as disclosed by affidavit of service deposed to by one Babangida Ibrahim a bailiff of this Hon. Court. On 3/8/23 both parties were in court and hearing commenced

CW 1 in person of Nasir Shehu Usman (Complainant) Affirmed and testify to the effect that, the defendants came to him and ask for a Loan he refused but later on agree on condition that share will be given to him in the business, he directed them to his counsel Barr I. I. Jibo they met him and discussed finally advise him to give them the sum of N300,000 only on conditions that the profit will be shared among themselves infact 1/3 will be given to him, they started giving him but letter on the stoped.

He further informed this Hon. Court that he requested for his money i.e. the principal amount but the defendant gave the sum of N100,000 only remaining the balance of N200,000 only, they refused to repay despite several demand that is why he come to court and pray for the above stated relieves and apply to close his case, no question asked cross examination by the defendants and they admitted the claim of the claimant consequent upon which the matter was adjourned to 8/8/2023 for judgment

In the light of the above, this Hon. Court formulate single issue for determination thus;

“Whether the claimant is entitle to judgment based on the totality of evidence placed before this Hon. Court”

It is trite law that claimant succeed by the strength of his case not the weakness of the defendant I refer myself to the case of MRS ROSE MARY ONWUSOR VS YAHI MAINA & ORS (2021) LPELR-11919 C A, LONGE VS CBN (2006) 3 NWLR (PT 11)24

It is also well known principles of law that, courts indeed this court is duty bound to assess unchallenged and uncontroverted evidence along with the claim made in respect of which it was given and be satisfied of its credibility and sufficiency to sustain the claim I refer myself to the case of ARCHIBONG VS UTIN (2012) LPELR - 7907 (CA) and ADELAKUN VS ORUKU (2006) ALL FWLR (308)1360 AT 1373

IN THE COURT OF JUSTICE (GAUCHI)
SMALL CLAIMS COURT
KALABARI DISTRICT COURT
21 AUG 2023
CERTIFIED TRUE COPY
SIGN: _____

It is in record that the defendant failed to cross examined the testimony of sole witness CW 1 therefore 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)

However where the defendant admitted the claim of the plaintiff as in the instant case the it has been a well-known practice, that where the defendant admitted the claim, court will be left with no option than to enter judgment against him base on his admission, 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-, It is in record of this court that the defendant admitted the claims of the claimant, therefore I resolve the issue formulated in favor of the Claimant and enter judgment in his favor, against the defendant , make the following orders

1. AN ORDER of this Hon. Court compelling the defendant to pay the amount due to the plaintiff for the remaining balance of N 200,000.00 only
2. AN ORDER directing the defendant to pay the sum of N5,000.00 only as cost of this action.

This case is decided today being 10th/8/23 there is right of appeal to High Court Bauchi within 14 days by the aggrieved party.

