

IN THE DISTRICT COURT OF BAUCH STATE
IN THE BAUCHI JUDICIAL DIVISION
HOLDEN AT SMALL CLAIMS COURT NO 2 BAUCHI
SUIT NO SCCBH/031/2025

BEFORE HIS WORSHIP ZAINAB M SHUAIBU (MRS)

BETWEEN

LOSA AUGUSTINE ABIODUN CLAIMANT

AND

ALI GALADIMA DEFENDANT

Parties present

Appearances - J P DUKUT ESQ for the claimant

ALIYU GIMBA ESQ for the defendant

JUDGEMENT

The claimant commenced this suit under the Bauchi state practice direction on small claim court no 2 of 2022, the claimant fill and filled form SCA 2 and 3 dated 17th day of March 2025, the claim against the defendant the sum of ₦500,000.00 (Five Hundred Thousand Naira) and cost of action ₦50,000.00 (Fifty Thousand).

The defendant was duly served with the originating process and hearing notice of this court via substituted means dated 25th day of March 2025 as deposed to by the bailiff of this honorable court ALIYU SALE TAFIDA

On the dated slated for hearing parties seek the leave of this court for settlement out of court same was upheld

On the 20th day of May when the matter was slated for report of settlement parties informed the court that settlement has failed, hearing commenced.

HIGH COURT OF JUSTICE BAUCHI
SMALL CLAIMS COURT
EVALUATION & ASSESSMENT TEAM
28 AUG 2025
CERTIFIED TRUE COPY
SIGN: _____

CLAIMANT WITNESS

CW1 – by name AUGUSTINE ABIODUN affirm and testified to the effect that we entered into a business transaction with the defendant on the 20th day of February 2024 I gave him the sum of ₦500,000.00 (Five Hundred Thousand Naira) on the agreement that at the end of every month I have a profit of ₦65,000.00 Naira from the business, he was not giving me the profit at when due, the profit continue increasing I noticed he was not faithful in the business I requested for the sum of ₦300,000.00 naira from my principal sum, after two weeks he gave me the sum of ₦100,000.00.

He later pleaded to be paying ₦60,000.00 for eight months starting from the month of February 2024 to October 2024 making the total sum of ₦480,000.00 with the principal sum of ₦500,000.00 making the sum total of ₦980,000.00 he paid the sum of ₦314,000.00 remaining the outstanding balance of ₦666,000.00 that is the principal sum and profit.

We entered into an agreement on the ground he fail to fulfilled his promise if at long run I engage the service of a legal practitioner he will bear the cost, legal fee at the rate of ₦150,000.00 damages ₦150,000.00.

I reported him at the police station situated at federal low-cost Bauchi he was apprehended we agreed at the police station that the money is ₦635,000.00 he complain that the business heard some issues and he was asked if he informed me on the problem, he encountered in the business he answered NO.

In the month of August 2024, I waived the sum of ₦235,000.00 out of the total sum remaining ₦400,000.00 while he undertakes in writing that the said amount will be paid in two installment ₦200,000.00 each on the 3rd day of September 2024 and on the 3rd day of October 2024, on the 4th day of September 2024 he paid the sum of ₦65,000.00 and since then I could not see him.

COURT the conversation on Whatsapp between the claimant and defendant was admitted into evidence and MARKED as EXHIBIT A

IN THE CAUSE OF CROSS EXAMINATION, he told the court that he is not a license money lender all the money he gave me was profit the agreement between me and the defendant was done electronically.

DEFENDANT WITNESS

DW1 by name AHMAD ALI GALADIMA affirm and testified to the effect that we entered into a transaction with the claimant at my POS shop in February 2024 he gave me the sum of ₦500,000.00 naira on the condition that I will be giving him the sum of ₦65,000.00 profit monthly from the principal sum he gave me.

I collected the money and started the business in the first month I gave him the sum of ₦50,000.00 I told him the profit is not much so I can not continue giving him the sum of ₦65,000.00 monthly as agreed he insisted but I refused I told him I can only afford ₦50,000.00 I gave him the sum of ₦150,000.00 for three months, at the end of the third month he told me he need ₦300,000.00 from the principal sum of ₦500,000.00 I sent the sum of ₦100,000.00 two weeks later I sent the sum of ₦149,000.00 he then told me he needed all his money (i.e. principal sum) I said ok I wrote in writing that I have already giving him the sum of ₦150,000.00 as gain, I pleaded to him that his money will be giving to him but not now, he reported me at the police station federal low cost, I told them all that happened his money is ₦500,000.00 but I have giving him the sum of ₦249,000.00 he then said the said amount I gave him is his gain not his principal sum.

All effort to settle at federal low cost police station prove abortive we proceeded to Dutse Tanshi police station we settled that his money is remaining the sum ₦400,000.00 he insisted but I informed them I have paid the sum of ₦249,000.00 remaining the outstanding balance of ₦251,000.00 we agreed that the money will be paid twice to enable the police realized me, I sent the sum of ₦65,000.00 I pleaded that that is the amount I have presently with me the remaining balance is the sum of ₦335,000.00.

- The conversation between the claimant and the defendant via Whatsapp was admitted into evidence and MARKED as EXHIBIT V

- The statement of account of the defendant dated 3rd October 2024, 7th June 2024 and 24th May 2024 is hereby admitted into evidence and MARKED as EXHIBIT V1 IN THE CAUSE OF CROSS EXAMINATION, he told the court that the N150,000.00 I sent to the claimant is for three-month profit.

THE DEFENDANT FINAL WRITTEN ADDRESS DATED 27th day of June 2025

Learned counsel formulate two issues for determination thus;

- Whether the claimant's claim is enforceable?
- Whether the claimant has proved his case based on the preponderance of evidence?

Learned counsel submit that with respect to the first issue we answer the question in the negative and urge the court to so hold from the pleadings of the claimant and the circumstances of the transaction between the claimant and the defendant it is very clear that the claimant acted as a money lender by advancing money to the defendant the sum of N65,000.00 interest per month by the express provision of SECTION 3 & 4 OF THE BAUCHI STATE MONEY LENDERS LAW a money lender shall obtain a license before carrying out the business.

Learned counsel submit that by the PROVISION OF SECTION 5 of the aforesaid money lender law it is an offence punishable by the payment of fine for a person carrying out business of money lending without license and urge the court to so hold

Learned counsel submit of the second issue that assuming without conceding that the case of the claimant is competent the claimant having tendered and relied on documentary evidence and have fail to satisfy some conditions for the admissibility of documents has failed woefully in proving his case before this court.

Learned counsel refer the court to SECTION 84 (2) AND 4 OF THE EVIDENCE ACT 2011.

Learned counsel finally submit that considering the fact that the claimant had acted as money lender without proper authorization cannot turn round to enforce an illegality and urge the court to so hold.

CLAIMANT FINAL WRITTEN ADDRESS DATED 8th day of July 2025

Learned counsel formulate lone issue for determination thus;

'Having regards to the evidence led before this court whether the claimant has made out a case against the defendant?

Learned counsel submit that they answered the lone issue for determination in the affirmative the law is settled to the effect that in the entire evidence of the claimant it has shown and prove that what transpired between the claimant and the defendant is a contract which both parties are in agreement thus EXHIBIT tender has shown the total amount collected by the defendant as the main sum, the money refund and the total amount paid.

Learned counsel submit and refer the court to the following authorities;

- SECTION 131 (1) AND (2) OF THE EVIDENCE ACT 2011
- AIYETORO VS COMM TRADE CO LTD VS N.A.C.B. LTD (2003) 3 NWLR (PT 834) P 346 AT 351
- OGUNDEPO VS OLUMESAN (2011) 18 NWLR (PT 1278) 54
- BAYOL VS AHEMBA (1999) 10 NWLR (PT 623) 381 (PP 59-60 PARAS G-B

Learned counsel submit that in civil proceedings the law requires that he who assert must prove with cogent and credible evidence and if he does not his claim is bound to fail that is to say into whoever asserts a claim he must prove same otherwise the claim fails.

Learned counsel submit that what transpired between the parties in the instance case as a contract, it is worthy to note that parties are bound by the terms of their agreement they have voluntarily entered into.

Learned counsel submit that by pleading of the parties the claimant never acted as a money lender, it was a clear case of contract and urge the court to so hold and enforce the contract between the parties, the document tendered clearly shows same to be a contract with terms and conditions clearly stated.

Learned counsel submit that the contract between the parties has 19 terms and condition which was clearly acknowledged by the defendant, the defendant while accepting the terms and condition started that the total amount of N500,000 was collected by me today and agreed with the above condition.

Learned counsel final submit that having regard to the totality of the facts evidence and entire circumstances of this case the evidence placed by the claimant, the claimant is able to establish a succinct case of contract against the defendant, as the evidence he adduced are credible and reliable to warrant the claimant get judgment on the strength of the preponderance of evidence, urge the court to grant the relief as prayed by the claimant.

COURT DECISION AND FINDINGS

Having gone through the evidence of the claimant and the defendant as well as the facts and circumstances of this case before the court this Hon court formulate lone issue for determination thus;

‘whether or not the claimant has proved his case to the balance of probability to be entitle to the judgment of this court?’

In law it is the claimant duty to proof his claim whether or not the case is defended by the defendant, the claimant is expected to succeed on the strength of his own case not on the weakness of the defendant. THIS COURT FERE ITSELF TO THE CASE OF IMAN VS SHERIFF (2005)4 NWLR (PT 914)80

I have taking into consideration the evidence before the court particularly the testimony of CW1 (I e claimant to the effect that they have entered into an

agreement with the defendant for the loan (money lending) of N500,000 on the condition that the defendant will be doing business with the said amount as capital and the interest of N65,000 monthly, the defendant has giving him the sum of N150,000 for three month as interest that piece of evidence has not being contradicted by the defendant.

Further more it is part of his testimony that since then the defendant stop paying the interest despite several oral demand consequent upon the claimant reported the matter at the police station where both parties jointly agreed and settled the claimant waived the sum of N235,000 from the total sum to the fact the defendant will refund the sum of N400,000 to the claimant this settlement was taking place in the presence of the police officer as witnesses.

The defendant in his defense who testified as dw1 inform the court that both parties went to the police station while the jointly agreed that the matter be settled amicably among themselves based on the terms the sum of N400,000 shall be giving to the claimant for the entire transaction and agreed to be settled amicably.

It is also part of his testimony that he has paid the sum of N65,000 to the claimant after the settlement there is an outstanding balance of N335,000 based on what the parties jointly agreed at the police station, that piece of evidence remain un shaking.

Based on the above piece of evidence coupled with the facts and circumstances of this case it is obvious that the agreement entered into by the parties has not being terminated by their conduct as both parties sat down at the police and resolved the issue of their agreement as well as the capital involved amicably.

The law is settled that parties are bound by their agreement the court can not make agreement for the parties neither, alter or amend their terms of agreement.

In view of the above since the parties agreed to terminate the contract and the evidence before the court corroborate each other to the effect that since in August 2024 and until date there is remaining outstanding balance of N335,000 unpaid to

me the claimant has discharged the burden placed on him by proving his case to the balance of probability based on preponderance of evidence.

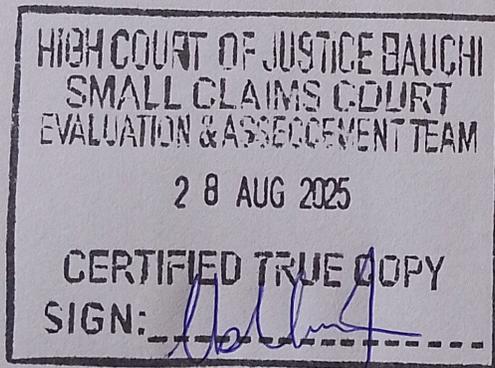
Therefore, it is my humble opinion that the scale of justice tilt on the side of the claimant and thereby deserve to have the judgment in his favor.

Therefore, and I hereby enter judgment against the defendant in favor of the claimant and make the following orders;

- (1) The defendant is ordered to pay the sum of ₦335,000 (three hundred and thirty-five thousand naira) to the claimant being the outstanding balance
- (2) The sum of ₦50,000 (fifty thousand naira)

APPEAL – There is a right of appeal to the high court of justice (small claims court) within 14 days from today.

THIS CASE IS DECIDED TODAY BEING THE 18TH DAY OF AUGUST 2025



ZAINAB M SHUAIBU (MRS)
SENIOR MAGISTRATE 1

