

**IN THE DISTRICT COURT OF BAUCHI STATE
IN THE BAUCHI JUDICIAL DIVISION
HOLDEN AT SMALL CLAIMS COURT NO. 1 BAUCHI**

SUIT NO SCBH/035/2025

Before His worship- GARBA ABDULLAHI

BETWEEN

MADAM HALIMA ABDULRAHMAN.....CLAIMANT

AND

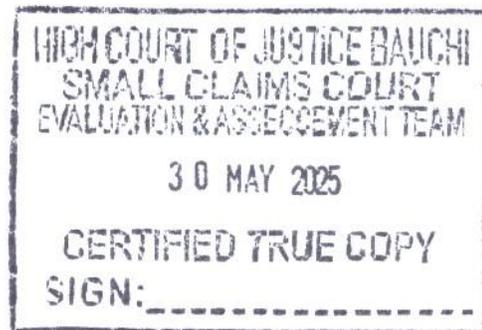
GHANIA KAIATA ISHIYAKA DEFENDANT

CLAIMANT –Present speaks English language

DEFENDANT – Absent

M C Orlu Esq for the claimant

A D Ray Esq for the defendant



JUDGMENT

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 of 2022, wherein the claimant fill form SCA 2 and 3 dated 7TH March, 2025 and filed on the same date seeking for the following reliefs;

1. AN ORDER of this Hon. Court against the defendant to pay the sum of N1,720,000.00 only being the money for supply of grains and Rice.
2. Cost of this action the sum of N50,000 only

The originating processes of this Hon. Court has been served on defendant personally as disclosed by affidavit of service deposed to by one Abdulsalam Abdullahi a bailiff of this Hon. Court. Dated 11/3/2025 thereafter hearing commenced.

Reviews of testimony of witnesses are as follows;

CW 1 in person of Halima Abdulrahman (claimant) affirmed and told this Hon. court that on 26/5/2024 defendant met her and requested for money of Ten Bags of rice at the cost N25,000 only per bag on 6/9/24 he also collect the sum of N500,000 only for 20 bags of Rice at the cost of N25,000 only per bag, thereafter on 19/9/24 he collected additional N500,000 only for 20 bags of rice, on 8/8/24 he collected additional money for 8 bags at the cost of N25,000 per bags, later he kept going to her and collected for up to 96 bags total N2,400,000 only

She further told the court that on 17/12/24 the people whom he distributed the money to, rejected the sum of 25K per Bag the need additional N5,000 only on each bag, therefore she added the sum of N480,000 only to make it N30,000 per bag which making the total money given to him N2,880,000 only.

On the process of recovery defendant gave her 35 bags of Rice, 2 bags of Guinea corn and one bag of Maize total 38 bags , he refund the sum of N450,000 only for the 15 bags at the cost of 15 bags instead of N40,000 per bags as they agreed between themselves in case if he want to return the money instead of goods the total bags given to her include the money refund is 53 bags now remaining 43 bags left at the rate of N40,000 only, now what left is 43 bags of rice worth N1,720,000 unpaid.

During cross examination she confirmed to this court that, she entered into business transaction with defendant on 19th May, 2024 where she gave him the total consideration of N2,880,000 only to provide 96 bags of Rice to her after cultivation, that witness to that transaction include the Hamlet head of Kundum Durun, Mr. Francis, Aisha and one Ruth, defendant refunded 35 bags of Rice, 2 bags of Guinea corn and one bag of Maize total 38 bags, despite what he refunded there is still N1,720,000 left worth 43 bags of Rice, apart from the goods he also refunded cash N450,000 only worth 15 bags of Rice at the cost of N30,000 only per bag.

CW 2 in person of Abdullahi Abubakar affirmed and testified to the fact that, he knew both parties in this case, he was not present when they entered into the transaction between themselves, it only came to his knowledge when they had an

argument between themselves as to the number of bags , she claim 43 bags left but he denied and admitted 35 bags only they went to his palace that is what he admitted, he advised her to go back home promise to summoned the defendant parent with a view to resolve it amicably, on Saturday on Saturday she came to his House with soldiers and he told them what transpired between them

He further told the court that the matter was reported to D.P.O C division, where the parties jointly agreed that N40,000 only will be given to her per bag but defendant could not comply.

During cross examination he told this Hon. court that he is the hamlet head of Kadage Kundum village where defendant reside, he came to intervene between the parties, then the price of Rice per bag was N50,000 only.

DW 1 in person of Tijjani Yusuf affirmed and testified that, defendant is his friend the parties had an issue over the transaction of farm product, the claimant gave N25,000 only per bag of Rice but defendant denied and said she most take it at the cost of N65,000 only per bag, he heard it when she came to pick the good.

During cross examination he told this Hon. court that, he was not present when the parties entered into the said agreement and he does not know what transpired between the parties.

Reexamination was not conducted

DW 2 in person of Auwal Usman Kundum affirmed and testified that, as he was inside his house he heard an argument then he came out, he heard the claimant saying she will pick each bag at the cost of N25,000k only but he said she will take it at the cost of N65,000 only per bag.

During cross examination he informed this Hon court that, he was not present when the parties entered into the said transaction and he does not know how they enter into their agreement

No reexamination was taken place

DW 3 Affirmed and testified that his name is Isiyaka Usman, he is the defendant in this case, they entered into an agreement with the claimant this year 2025, he went to the claimant and collected money over the issue of farm product, she gave him money installmentally up to the sum of N1,750,000 ONLY ON CONDITIONS THAT AT THE PERIOD OF Harvesting she came about the goods, then the price of Rice was N65,000k –N70,000 only she claim that she will take each bag at the cost of N25,00 only, he refuse but she insisted on the price because the money given is not belong to her is for her Uncle one Army officer, she later came and pick 36 bags of Rice, 2 bags of maize and two bags of Guinea corn.

Later she came back and claim additional 40 bags but he denied she left two days later she came to the house of Mai unguwa with Army officer and said the owner of the goods is an Army officer, he never speak with the original owner she said he does not speak Hausa Language, when he heard that she came with the Army he run away, she gave the claimant N450,000 only in addition to the 40 bags earlier given.

During cross examination he informed this Hon. court that the transaction between themselves is for Money and rice, there was no agreement as to the price per bag, he collected the sum of N1,750,00 only from the claimant in the year 2025 then the price of Rice per Bag was 75,000.00 per bag, she refund the sum of N450,000 to the claimant at her house, he is owing the claimant 35 bags of rice base on their resolution at the village head palace.

No re examination was conducted

Parities have filed and exchange their final written address, the learned counsel to the claimant, M A Tsuwa Esq formulated two issues for determination which are hereby reproduce as follows;

1. Whether the claimant has prove her case on the preponderance of evidence and balance of probabilities to be entitled to the reliefs sought before this Hon. Court.
2. Whether there is a valid contract between the claimant and the defendant from the evidence adduce before this Hon. Court.

On the learned counsel answer the two issues in affirmative, as to the 1st issue he calls in aid the case of EYA VS OLAFADE 920110 ALL FWLR (PT 584) 28 AT 48 PARA F-G and EYO VS ENUOHA (2011) ALL FWLR (PT 574) 1 SC and submitted that in civil cases the standard of proof is on the preponderance of evidence or proof to the balance of probability

He further argued that in determining the balance of probability the supreme court per FATAYI WILLIAMS JSC (AS HE THEN WAS) in the case of MOGAJI VS ADOFIN (1978) 4-5 SC 65 stated thus

“The evidence adduced by the plaintiff should be put on one side of the imaginary scale and the evidence adduced by the defendant should put on the other side of the scale and weighed together which side preponderate”

The learned counsel refers me to the testimonies of PW 1-PW3 and submitted that the plaintiff has discharged the evidential burden placed and proof her case to the balance of probability, urged me to so hold

He further argued that the testimony of DW 1 during cross examination revealed that he was not present when the traction took place between the parties in this case therefore, he would not know what transpired between them likewise DW 2

DW 3 in his evidence disclose that admitted to the fact that there was a traction of money and rice between them, he collected the sum of N1,750,000 from the claimant and he gave her 36 bags of rice, 2 bags of maize and 2 bags of guinea corn, furthermore he is owing the claimant 35 bags of Rice and urged to hold that the claimant has discharge her part of the agreement but the defendant failed to discharged his own part.

The learned counsel defines the word contract according to black’s law dictionary thus

“An agreement between two or more parties creating obligations that are enforceable or otherwise recognize at law”

He argued that the agreement entered by the parties is simple contract and urged me to so hold

He finally argued that the said contract is valid and enforceable in the eyes of law as all the essential ingredients of valid contract are present, he calls in aid the case of F B I GROUP VS BUREAU OF PUBLIC ENTERPRISES (2008) ALL FWLR (PT 416) and the case of DAHIRU VS KAMALE (2006) ALL FWLR 9PT 295) 616 and finally urged me to uphold his submissions and enter judgment against the defendant

The learned counsel to defendant A D Ray Esq In his final written address distilled single issue for determination which is hereby reproduced thus

“Whether or not the claimant was able to prove her case to the balance of probability as set out by the law “

The learned counsel answers it in negative because the burden of proof is in the person who asserts must prove and that burden has to be discharged, he refers this court to the section 131 (1) & (2) of E A 2011

He argued that the claimant is claiming the sum of N1,720,000 but she can't be precise as to the said amount, under cross examination PW 1 testified to the fact that there was no any written agreement between her and the defendant and nobody witnessed the transaction

The learned counsel cited the case of ALAGBAE VS IDOWU (2011) LPELR-279 per Aloma Mukhtar JSC Stated that

“An agreement is not a mental state but an act, and as an act is a matter of inference from conduct. The parties are to be judged not by what is in their minds, but by what they have said or written or done,

He also refers this court to the case of A.G RIVER STATE VS A G OF AKWAIBOM STATE & ONOR (2011) LPELR-633 (SC)

The learned counsel refers me to the meaning of agreement in accordance to black law dictionary and argued that none of the persons mentioned by the claimant

who witnesses her writing down the amount of money appeared and give evidence before this Hon. court and the said jotter was not produce to the court therefore the testimony of the PW 1 is mere speculation and urged me to so hold he cited section 38 of E A 2011 as amended and the case of NWOFOR VS OBIEFUN (2011) NWLR PT 1227 PG 205 AT 436 r 1-5

The defendant refunded the money given to h8m with an interest because he refunded Rice, grains and Money worth N3,130 K in fulfillment of his own part of obligation,

By way of reply on point of law he calls in aid the case of AJAGBE VS IDOWU (2011) LPELR-279 SC and B F I GROUP OF BEREOU OF PUBLIC ENTEPRISES (2008) ALL FWLR (PART 416) 1915 AT P 1987 PARA H-B and submitted that going by these authorities the essential ingredients of valid contract has been established and urged me to enter judgment in favor of the claimant.

After taken into consideration the evidence adduced by the claimant, the facts and circumstances of this case this Hon. Court, it seems to me that the issues formulated for determination by both parties in their respective final written addresses are interrelated, interwoven and not dissimilar therefore the said issues are hereby amalgamated and compresses thus.

“Whether the claimant proved her case to the balance of probability to be entitle to Judgment”

In law the claimant's duty to prove his case remained in violent, whether or not the defendant defend his case and he must do so by the strength of his own case and not on the weakness of the defendant. See 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 facts before this Hon court is obvious that, the claimant has entered in to the contract with the defendant (bada kaka) where the claimant gave defendant the sum of N2,880,000 only for 95 bags of Rice at the rate of N25,000 only on condition that he will supply the said Rice after harvest, the defendant after harvest

rather than supply the Rice approaches the claimant on 17th day of December 2024 that the N25,000 per bag is too small and he requested that she should add N5000 only making N30,000 only per bag, and the total amount collected by the defendant was installmentally as clearly stated by PW 1 in her testimony, that piece of evidence remain undiscredited and the law is settled undiscredited evidence the court can safely relied on it for just determination of the case 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)

PW 2 informed this court that he is the hamlet head of Kadangi Kundum village that the claimant was lodge a complaint against their defendant in his palace claiming that defendant is owing her 43 bags of rice, when he asked the defendant he admitted 35 bags of Rice and to the best of his knowledge the said bags of Rice were not paid, in view of the above it is beyond argument that there was a valid and subsisting agreement between the parties for the supply of rice, the claimant has performed her own part of the contract by given the afore said amount of Money to defendant, but the defendant has failed to performed his own part of the obligation therefore there is breach of contractual agreement by the defendant which he admitted same and I so hold.

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 part of the evidence before this Hon. court that the D.P.O of C division invited him in respect of this case to gather with the parties and advised he defendant N40,000 per bags to the claimant to upset the remaining balance but the advised was not followed by the defendant

DW 1 in person of Tijjani Yusuf informed this court that he heard the claimant said she gave defendant N25,000 per bag of Rice while defendant was saying is N65,000k per bag, but during cross examination he told this court he was not there when the parties entered into the transaction, he doesn't know what transpire between them

DW 2 In person of also during cross examination told this court that he did not know the contract between the parties

Therefore, it is beyond argument that the testimony of DW 1 & DW 2 are here say and deserved not to have any probative value and I so hold.

DW 3 (Defendant himself) affirmed and told this Hon. court that there was a contract between him and the claimant for the farm product he went to her House and collected N1,750,000 only, during harvesting period defendant agreed to take each bag at the cost of N25,000 only and she took 36 bags of Rice, 2 bags of Maize and two bags of guinecorn, there was no issue again until she came back and claim additional 40 bags of Rice, in his effort to refund the remaining balance he gave the sum of N450,000 only to the claimant.

Under cross examination he admitted the fact that he is owing 35 bags of Rice base on the above it is beyond doubt that there was valid contract between the parties and the defendant has breach the terms or condition of the said contract as he failed to supply the total number of rice as agreed between them

Base on the above is apparent that defendant has collected the sum of N2,880,0000 only from the claimant for 96 bags of rice and he gave her 38 bags of grains and after several demand he refunds the sum of 450,000 only worth 15 bags of Rice now remaining 43 bags of Rice worth N1,750,000 only

In the light of the above evidence as well as the authorities cited I hold the view that the scale of justice tilt to the side of the claimant therefore I resolved the lone issue for determination in favor of the claimant against the defendant.

It is my humble view that the claimant has prove herb case by preponderance of evidence therefore I enter judgment against the defendant consequent upon which I make the following orders

therefore, I resolve the issue formulated in favor of the Claimant as he proof this case to the balance of probability, therefore and i hereby enter judgment against the defendants, consequent upon I make the following order;

1. AN ORDER of this Hon. Court against the defendant to pay the sum of N1,720,000.00 only being the money for supply of grains and Rice.
2. No cost awarded; parties shall bear their respective cost.

This case is decided today being 29th May, 2025 there is right of appeal to High Court Bauchi within 14 days by the aggrieved party.

