

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

Before His Worship- GARBA ABDULLAHI

SUIT NO SCCBH/06/2023

BETWEEN

FIRST BANK NIGERIA LTDCLAIMANT

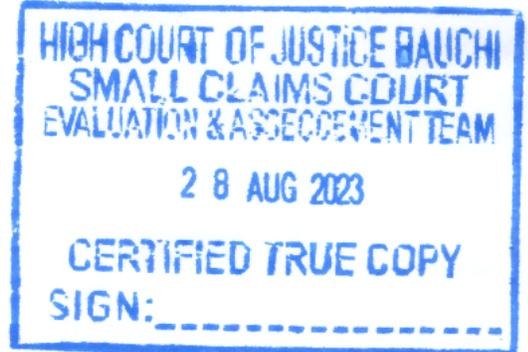
AND

BAITU INUWA GALOJI.....DEFENDANT

CLAIMANTS—Absent

DEFENDANT – Absent

Benjamin Bulus Esq for the claimant



JUDGEMENT

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 3rd dated 31ST August, 2023 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 N1,265,337.85 only being the money collected by the defendant with interest unpaid as of 18/7/22
2. AN ORDER against the defendant to pay 10% interest per month up to the final liquidation of the judgment debt
3. Cost of this action N500,000.00k only

The originating processes of this Hon. Court has been served on defendant by substituted means as disclosed by affidavit of service deposed to by one Aliyu Tafida, a bailiff of this Hon. Court. dated 26/7/23.

On 11/8/23 the matter was slated for hearing both parties wan not in court Benjamin Bulus appeared for the claimant, he led a single witness and tendered three exhibit admitted in evidence and marked as Exh. "A" "B" and "C" thereafter closed his case.

CW 1in person of Obi Obed Ezekiel Affirmed and testify to the effect that he is a litigation secretary in the law firm of C C IRORAKPO & CO , he further Hon. Court that the claimant instructed their law firm to recover the debt from the plaintiff base on that their law firm wrote a letter of demand on 9/4/22 consequent upon which the defendant reply to the letter on 11/5/22 admitted the claim and asked for the waiver of 80% which was granted on condition that he shall repay the loan within one month, but refuse, neglect or failed to utilized the waiver made to him.

He also informed this Hon. Court that another letter of demand was written to him on 22/7/22 and serve on him but he neither replies nor comply with the letter, the said letter has been admitted in evidence and marked as Exh. "C" that is why the claimant approach this Hon court and filed this action praying for the above stated reliefs thereafter the witness was stood own and the matter adjourned to 14/8/23 for cross examination/defense and order for the hearing notice to be served on defendant against the next adjourned date.

On 14/8/23 parties were absent, Benjamin Bulus appear for the claimant, and apply for the right of the defendant for cross examination/defense be foreclose since he has been duly serve with the hearing notice but failed to appear and no reason given to that effect, his application was upheld and granted and the matter set down for Judgment.

In view of the circumstances, this Hon. Court formulate lone 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.

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).

It is a position of our law that documentary evidence is the best form of evidence because they are not only assailable but are more authentic than oral evidence, they are like word uttered and do speak for themselves, they are neither transient or subject to distortion and misrepresentation but remain permanent through the ages. I refer myself to the case of EBEM & ANOR NSEYEN (2015) LPELR-40122 (CA) and OGBEIDE VS OSIFO (2003) 3 NWLR (Pt 1012) 423 at 441)

It in the that Exh. "A" is a letter of demand dated 9/4/2022 written to the defendant with a caption "N 1,148,052.75 DR OWED FIRST BANK OF NIGERIA LIMITED –as at 27/2/2022"

The defendant did not deny the content of this letter in his reply rather asked for waiver of 80% interest vide his latter to the claimant written on 11/5/2022 and his request was granted on condition to be settled within one month, but he failed.

Exh. 'C' is another letter of demand written to defendant on 22/7/22 with a caption "Re: Outstanding indebtedness to first bank of Nigeria Limited-Account Balance as at 18/7/22

Base on the content of the above stated document it is beyond controversy that the defendant is indebted to the claimant, there was a valid traction between them and ought to be respected and adhered to by the parties.

In the light of the above I resolved the lone issue formulated in favor of the claimant, judgment is hereby entered against the defendant and make the following orders

1. AN ORDER of this Hon. Court be and hereby against the defendant to pay the sum of N1,265,337.85 only being the money collected by the defendant with interest unpaid as of 18/7/22
2. AN ORDER be against the defendant to pay 10% interest per months up to the final liquidation of the Judgment debt
3. Cost of this action N50,000.00k only

This case is decided today being 18/8/23 there is right of appeal to High Court Bauchi within 14 days by the aggrieved party.

