

**IN THE PRINCIPAL DISTRICT COURT OF BAUCHI STATE OF NIGERIA
IN THE SMALL CLAIMS COURT OF AZARE MAGISTERIAL DISTRICT
HOLDEN AT AZARE**

Before:

His Worship Kawu Bala, Presiding Principal District Judge I on Friday, 6th December, 2024

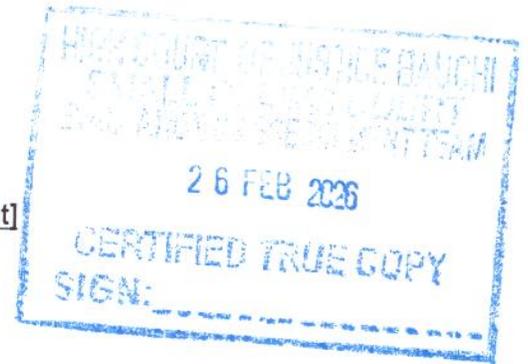
Case No. SCC/AZ/7^{CV}/2024

In the matter between:

Abba Rabi'u [Claimant]

v.

Manager Mai Lemo [Defendant]



SUMMARY

CLAIM OF ₦621,500.00 (SIX HUNDRED AND TWENTY-ONE THOUSAND FIVE HUNDRED NAIRA) ONLY FOR SOFT DRINKS - Claimant's claim is that the defendant owes him the money from soft drinks collected at various times - HELD that the claimant proved his case against the defendant on the preponderance of evidence and balance of probability. Accordingly judgment entered in favour of the claimant against the defendant.

JUDGMENT

- [1] This ~~is~~ judgment is predicated on the claim filed on 4th October, 2024 by the claimant, Abba Rabi'u against the defendant, Manager Mai Lemo.
- [2] In this case I should say that when the Letter of Demand (Form SCA 1) was duly served on the defendant, he accepted the liability of the sum of ₦2,666,000 (Two million six hundred and sixty six thousand Naira) only.
- [3] The parties signified their interest to settle the matter amicably. When asked by the court on 8th November, 2024 the defendant said he agreed to ₦2,665,000 only. He again changed and stated that the sum he agreed to is ₦1,814,000 which the court

then ordered him to pay to the claimant. The claimant was then directed by the court to present his witness including document if any to prove the remaining balance of ₦621,500. The case was adjourned to 15th November, 2024.

- [4] The case started off with PW1, HASSAN SALEH. He said the defendant used to come to the claimant with a paper and the claimant would then enter the amount of goods (soft drinks) collected in the book of records. He said the defendant then picked up the goods. He said at times the defendant would pay for the goods while sometimes he pays something and he would send the balance (money) later. He said the claimant used to cancel the unpaid amount. It is the testimony of PW1 that the defendant used to collect the goods under two names as Manager and the other he used Salahuddeen. He said there was a day he helped the defendant to take his goods to Bakin Tasha. When given the right to cross examined PW1, the defendant said he agreed to the testimony.
- [5] On his part PW2, ABBA RABI'U said the defendant used to come and collect goods (soft drinks) from him of ₦300,000 to ₦400,000. He said they began the business in February 2024. He said he used to pay the money after two to three days. He said later the defendant requested to be allowed to take more goods because the business was booming. He said the defendant then began collecting goods worth ₦800,000 to ₦1,000,000 and he pays not upwards to a week. He said the defendant equally requested that he should be given the goods under two names to him and one other called Salahu. He said it took the defendant long time like that and if he did not even repay he is allowed to take more goods and then he would send the balance at a later date. According to PW1, he used to sign for the defendant in the record book.
- [6] It is further the testimony of PW2 that there was a day the defendant came to take goods to a village. He said he asked the defendant whether to put his name or Salahu's. He said the defendant replied him to put anyone. He said if that was the case then he chooses to put the defendant's name. He said in practice the

defendant used to check the bigger outstanding amount to pay. He said the defendant therefore skipped the sum of ₦621,500 and paid the sum of ₦1,018,000 during the payment time on 30/5/2024. He said he still signed for the defendant in front of him who after that sent the balance when he reached his shop. PW2 said because of the credit issue they decided to limit it; so he was changed as the manager of the business and another person was appointed. He said the defendant called him on 6/7/2024 when he came and found the changes made and he paid the sum of ₦831,750 for certain goods collected. He said he showed to the defendant the outstanding amount he owes them and the defendant said he was thinking he paid. He said he told the defendant if he had paid how comes he did not sign in front of him as he often do. He said he used to return excess money to the defendant after due calculation. PW2 said the defendant did not call him on phone until another day when he came to collect goods but was denied by the new manager. He said he thought the defendant brought money to settle his debt. In conclusion PW2 said they began looking for the defendant two months ago when they tried to reach him on phone but his phone was off. He said when they succeeded in getting the defendant on phone he said he was working in a certain place in Katsina State. He said the defendant told them he would come with some amount but when he arrived he came with no any amount. He said that was reason they reported the matter to the DPO Azare. PW2 then tendered the record papers admitted and marked as Exhibits A1, A2 and A3.

- [7] In cross examination, the defendant said he indeed had taken the goods. He said the problem is about the ₦621,500 said to have been skipped unpaid by him.
- [8] On behalf of the defence, the defendant testified on 22nd November, 2024 as DW1 and as the sole witness. The defendant said there is trust between him and the claimant. In his testimony he said like the claimant stated he used to give him goods under two names, his name and that of Salahuddeen. He said the claimant is only confused. He said the sum of ₦620,000 is only there as part because it was

an exchange to cancel the amount that was bigger and that it did not change the outstanding amount from two to three goods. He said when the claimant said to him they were restructuring the shop he had said to him he would leave the job to his younger brother and that they should calculate. He said he gave the claimant money for one of three and that was ₦831,000 plus. He said the claimant did not add more goods for him and the claimant's money is for two goods which payment he made for one. He said for the two amount is ₦1,814,000. He said the claimant had asked him to bring his receipt but he said he was not given. He said he agreed that he took the goods but it was not three. In cross examination, the claimant asked whether he used to sign for the defendant when he brings money and the defendant confirmed it happened.

- [9] I have thoroughly read the testimonies of the parties. The issue for determination as could be deduced from this case is: **Whether the claimant has proved his case against the defendant on the preponderance of evidence and balance of probability.** By virtue of Sections 131, 132 and 133 of the Evidence Act, 2011 (as amended) in civil cases such as this, the burden of proof is on the party who asserts a fact to prove same. He who asserts must prove. The standard of proof required is on a preponderance of evidence and balance of probability. See also the case of **Braimah v. Abasi (1998) 13 NWLR (Pt. 581) 167 SC.**
- [10] In the instant case, the claimant presented two witnesses: PW1 and PW2 and then tendered his record. The defendant also testified as his defence witness, DW1 and did not call additional witness. The summary of the claimant's evidence is that the defendant used to collect soft drinks from him. He said the money was then paid later or sometimes the bigger amount was paid on the spot. According to the claimant, the defendant owes him ₦621,500 only. Although the defendant denies owing the claimant any amount, it appears to the court on record that it is indisputable that the defendant owes the claimant the said sum of ₦621,500 only for the soft drinks collected. I note that DW1 (defendant) in his testimony told this

Hon. Court that he agreed that he collected the goods and at the same he still disputing the money. Whenever in an issue evidence comes from one side and it is unchallenged and not contradicted, it ought normally to be accepted on the principle that there is nothing to be put on the other side of the balance unless it is of such quality that no reasonable tribunal should have believed it. The onus of proof is discharged on a minimal of proof. See **Abdullahi Baba v. Nigerian Civil Aviation Centre Zaria (1991) 7 SCNJ 1**. In the instant case, the claimant said he used to sign in front of the defendant as soon as the defendant paid. I am not unmindful of the Exhibits A1, A2 and A3 tendered and admitted which shows the sum of ₦621,500 unsigned by the claimant.

[11] From the record throughout the trial the defendant managed to state that the claimant was only confused in the calculation. In the circumstance of this case, it is my considered view and I so hold that the claimant has proved the relief sought against the defendant on the preponderance of evidence and balance of probability. It must be noted that the defence disputed the existence of the three goods he collected but did not present any piece of evidence. There was no evidence to the contrary that he does not owe the amount for the goods he collected. I equally do not accept the version of the defendant as DW1 that the claimant is only confused in respect of the alleged unpaid ₦621,500. I am therefore inclined to accept the evidence of the claimant.

[12] In totality, judgment is entered in favour of the claimant against the defendant as follows: The defendant shall refund to the claimant the sum of ₦621,500.00 (Six hundred and twenty-one thousand five hundred Naira) only for the soft drinks he collected.

DATED, delivered and signed at Azare this 7th day of December, 2024.

Kawu Bala,
Principal District Judge



HIGH COURT OF JUSTICE BAUCHI
SMALL CLAIMS COURT
AZARE
JUDGE

DATE _____
SIGN _____

HIGH COURT OF JUSTICE BAUCHI
SMALL CLAIMS COURT
EVALUATION & ASCERTAINMENT TEAM
26 FEB 2025
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