

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

Before His Worship- GARBA ABDULLAHI

SUIT NO SCC/BH/40/2023

BETWEEN

MUHAMMED BELLO.....CLAIMANT

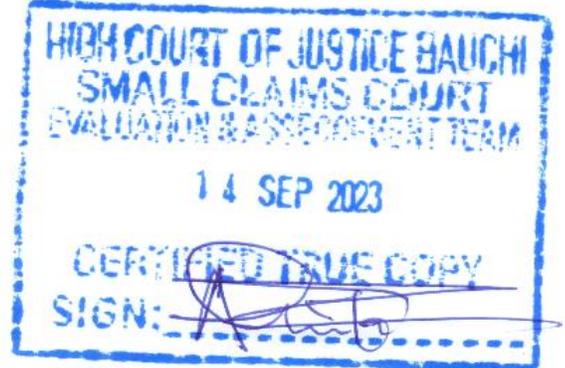
AND

SALISU SUFI.....DEFENDANT

CLAIMANT –Represent in speaks Hausa Language

DEFENDANT – Present is absent

Abdussalam Abdullahi – Affirmed to interpret



JUDGEMENT DELIVERED ON 31/8/2023

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 10th 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 N500,000 only being the money for the supply of goods to defendant
2. Sum of N1,000. 00 as general damages and
2. Cost of this action N50,.000 only

The originating processes of this Hon. Court has been served on defendant by substituted means as disclosed in affidavit of service deposed to by one Abdusalam Abdullahi a bailiff of this Hon. Court. Dated 15th August 2023 claimant was in court while defendant absent and hearing commenced.

CW 1 in person of Muhammad Bello (claimant) Affirmed and testify to the effect that, he bought a plot of land from one Haruna Yunusa at the cost of N900,000 only, later it was discovered that the land has a defective title, he sued him before USC 2 Bauchi over the issue and the defendant before this court was joint as a co-defendant and the matter was successfully settled out of court on condition that the defendant will gave him an alternative plot and will returned the sum of N500,000 to him.

The N500,000 only was handed over to the defendant to delivered it to me, but he refused, neglect or failed to do so despite several oral demand that it why he approaches this court seeking for the above mentioned relief and consequently apply to closed his case, the matter adjourned to 22/8/23 for cross examination/ defense.

On 22/8/23 Claimant was in court defendant failed to appear despite the hearing notice given to him as ordered by this Hon. Court as evidenced by affidavit of service dated 23rd August 2023 deposed to by Abdussalam Abdullahi a bailiff of this Hon. Court, therefore the claimant apply for the right of the defendant be foreclose and was upheld and granted consequent upon which the case set down for Judgment.

After taken into consideration the evidence adduced by the claimant, the fact and circumstances of this case this Hon. Court formulate single issue for determination thus

“Whether the claimant has proof her case by preponderance of evidence to entitle to judgment”

It is an elementary principles of law for which the citation of authority is not necessary, that the onus is on the plaintiff to prove his case and he must do so the strength of his own case and not on the weakness of the defendant.

The court of law act on fact not guess or speculation I refer myself to the case of Ferdinand George vs UBA LTD (1994) 1 NWLR (PT323) 639 at 668, and A. I. C Limited vs NNPC (2005) LPELR 6 SC,

The evidence before this Hon court is apparent that there is was a traction for the sale of land between the plaintiff and the 3rd party whom he bought same from the defendant and the said land was defective.

It is also in evidence that the alternative land was given to the claimant and the sum of N500.000 only will be given to him as agreed before Upper Sharia court, and the said

amount was given to defendant to deliver it to the claimant but he failed despite several oral demand.

Furthermore, an opportunity has been given to the defendant to come and cross examine PW 1 but he failed to utilize it, which to my view is tantamount to admission and I so hold.

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)

therefore, I resolve the issue formulated in favor of the Claimant and enter judgment in his favor, against the defendant, and make the following order;

3. AN ORDER be and hereby made compelling the defendant to pay the amount due to the claimant the sum of N500,000.00k only
4. AN ORDER be and hereby made directing the defendant to pay the sum of N1,000 only as damages and cost of this action N5,500 only

This case is decided today being 31 /8/23 there is right of appeal to High Court Bauchi within 14 days by the aggrieved party.

