

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

SUIT NO SCC/BH/44/2023

Before His Worship- GARBA ABDULLAHI

BETWEEN

STERLING BANK PLC.....CLAIMANT

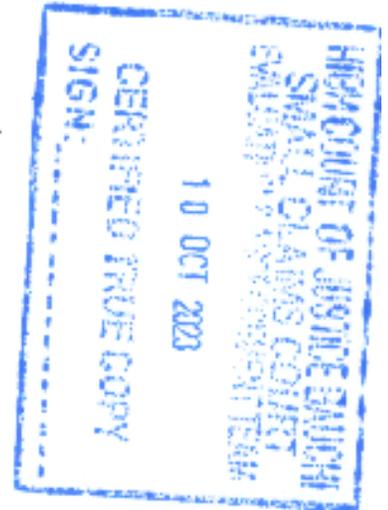
AND

PETER DUNIYA ISAAC.....DEFENDANT

CLAIMANT –Absent

DEFENDANT – present in court and speaks English language

A A Hassan 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 of 2022, wherein the claimant fill form SCA 2 and 3 dated 24th 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 N 1,671, 119, 41 as of 11/9/23 only being the money he collected as loan, with administrative charges and interest due to the claimant
2. Cost of action N15,000 only

The originating processes of this Hon. Court has been served on defendant as disclosed by affidavit of service deposed to by one Abdussalam Abubakar a bailiff of this Hon. Court. Dated 1/9/23 both parties were in court and hearing commenced.

CW 1 in person of Habila Abdullahi Affirmed and testify to the effect that, he is an employee of the claimant, the defendant came to the claimant and apply for the

facility of N1.8 Million, the claimant process and disbursed the facility to him, the loan was structured to enable him pay, but he failed.

The claimant has tendered a document i.e. the defendant statement of account and it has been admitted in evidence and marked as Exh. A, having not objected by the defendant. thereafter he was not able to pay, so the loan interest accrues that is why the claimant come to this court and filed this case thereafter apply to close his case.

Defendant did not cross examine CW 1 and he admitted the claim of the claimant, thereafter the matter 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 its case by preponderance of evidence to be entitle to judgment”

It is an elementary principles of law for which a citation the 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. by our law the claimant duty to proof his claim ,remains inviolate, whether or not the case is defended by the defendant and the claimant is expected to succeed on the strength of his own case not on the weakness of the defendant, therefore claimant must proof his case to the balance of probabilities I refer myself to 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 and MRS ROSE MARY ONWUSOR VS YAHU MAINA & ORS (2021) LPELR-11919 C A, LONGE VS CBN (2006) 3 NWLR (PT 11)24

The facts before this Hon court is apparent that the defendant has apply for facility from the claimant the sum of N1.8 million and it has been process, approved and disbursed to the defendant, and the defendant failed to upset the said loan which resulted interest to be accrued, it is also in evidence that the said loan was restructured by the claimant to enable the defendant to repay but he failed as disclosed by the evidence of CW1,

Thereafter the record show that now defendant is indebted to the claimant the sum of N 1.671, 119.41 being the principal amount, administrative charges and the interest due to the claimant, Exh. A, also disclosed how the said loan was paid into the account of the defendant

It is in record that the defendant failed to cross examined the testimony of claimant's witness, therefore to me, failure to do so 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)

Furthermore, the defendant did not place any defense, before this Hon. court as such the content of Exh. 'A' before this court has not been challenge in fact he admitted the claim of the claimant,

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 ADUSEI & ANOR VS MR TOYIN ADEBAYO (2012) LPELR-7844 SC-, It is in record of this court that the defendant admitted the claims of the claimant, therefore I resolve the issue formulated in favor of the Claimant.

Judgment in claimant favor, against the defendant, and Order the defendant to pay the sum of N 1. 671, 119, 41 only being the money he collected as loan, with administrative charges and interest due to the claimant as of 11/9/23 and N15,000 only as cost of action.

This case is decided today being 14/9/23 there is right of appeal to High Court Bauchi within 14 days by the aggrieved party.



10/10/2023

