

**IN THE DISTRICT COURT OF BAUCHI STATE
IN THE KATAGUM JUDICIAL DIVISION
HOLDEN AT SMALL CLAIMS COURTS NO. 3 AZARE**

SUIT NO: SCC/AZ/002/2026

BETWEEN

USMAN ABDULLAHI..... CLAIMANT

AND

SADIQ ABUBAKAR AUWAL..... DEFENDANTS

Before his worship – ABDULLAHI ADAMU SARKI

CLAIMANT: - Present in court speaks and understand Hausa Language.
Defendant, is absent in court

Usman Tata affirmed to interpret the proceeding of this Hon. Court from English to Hausa and vice versa.

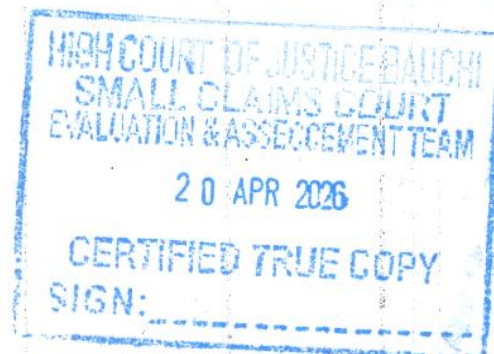
JUDGEMENT

This small claims court case was filed vide a process dated 30/1/2026 and filed same date by the claimant, against the defendant pursuant to small claims court practice direction No. 2 of 2022. Wherein the claimant through his Counsel A.U Magaji Esq. filled and filled small claims court FORM SCA 2 and SCA 3 dated 30/1/2026.

Praying the court for the following orders against the defendant.

1. **AN ORDER** of this Hon. Court directing the defendant to pay the sum of Two Hundred and Forty-Five Thousand Naira (N245,000.00) being the total sum of money owed to the claimant by the defendant.
2. **AN ORDER** directing the defendant to pay to the claimant the sum of Two Hundred Thousand Naira (N200,000.00) cost of this action.
3. **AN ORDER** directing the defendant to pay the sum of One Hundred Thousand Naira (N100,000.00) for general damage.

All processes of this Hon. Court were served on the defendant by substituted means on the order of this Hon. Court dated 12th February, 2026 as evidenced by the affidavit of service dated



18/2/2026 deposed to by ALIYU MOHAMMED ALI, sheriff of this Hon. Court.

Thereafter the matter proceeds to trial. The claimant in proof of his case called one witness who testified and close his case. The defendant refused to enter his defense and this Hon. Court foreclosed his right to defense. Both parties did not file final written address.

Review of the witness testimony for the complainant is hereunder reproduced: -

CW 1 Muhammad Usman, a 35years old, {who is the complainant in this matter} CW 1 has affirmed to tell the truth.

CW 1 said sometime in the month of November, 2025 he bought an Air Conditioner (A.C.) at the price sum of One Hundred and Sixty Five Thousand Naira (N165,000.00) and gave it to the defendant for installation in the complainant's house. CW1 said when the defendant took the A.C. from me, the defendant suggested to me that, I have to change it (A.C.) because of it rate of power consumption. CW1 said I asked the defendant to change it for me, wherein the defendant took the A.C. to Kano the following day. CW1 said while in Kano the defendant informed me that he has gotten a new A.C. for me. And I will pay additional N80,000.00 in addition to the money realize from the sale of my AC. I transferred the sum of N80,000.00 to the defendant instantly. CW1 said from that moment the defendant did not come to me with the new A.C. neither did he return my money back to me. I put several call to him he refused to pick my calls. I went to his house and I was informed by his wife to the effect that he is not in town. CW 1 said I have tried all means possible for me to get the defendant, it was not possible. CW1 aid one of the defendant's friend one Malam Rabi'u (Rabe) pleaded with me to exercise patience. Later on I came to this court. This is the case of the complainant.

After considering the evidence of the claimant and the circumstances of the case at hand. This Hon. Court formulated a lone issue for determination that is: -

"Whether the claimant has proven his case on the balance of probability to enable him secure judgment".

It is a settled position of the law that claimant must always succeed on the strength of his own case not on the weakness of the defendant. Therefore, claimant must prove his case on the balance of probability in line with the provision 134 of the evidence Act 2011.

The supreme court In the case of **JINADU VS. ASUROMBI – ARO (2005) 14 NWLR (Pt. 944) 142 AT 167** held that, and I quote:

"Where plaintiff failed to prove his title he cannot succeed even if the defendant's title is defective".

In **OGUNLEYE VS. ONI (1990) 2 NWLR (Pt. 135) 745 at 782.**

It was also held by the Supreme Court that; "Weakness of the defendant's case does not relief the plaintiff of the burden of proving his case".

In **OKELOLA VS. ADELEKE (2004) 13 NWLR (Pt. 890) 307 at 333**, the court of appeal held that: -

"Even if defendant offers no evidence, plaintiff must still prove his case to be entitle to judgment".

It is on record that, CW1 in his testimony before this Hon. Court has said that, the defendant took his Air Conditioner (A.C.) valued at N165,000.000 and collected the sum of N80,000.00 from the claimant with the view to change a new one for the claimant. And after the receipt of the N80,000.00 the defendant disappeared with the A.C. and the additional N80,000.00. No any explanation and he did not pay back any sum to the claimant in return.

The defendant did not cross-examine CW1 and neither enter his defense.

The law is trite that a party who fails to cross-examine a witness is deemed to have accepted the witness testimony as true. See the case of **GAJI VS. PAYE (2003) 8 NWLR (Pt. 823) 583. BROADLINE ENTERPRISES LTD VS. MONTEREY MARITIE CORPS (1995) 9 NWLR (Pt. 417) 1.**

The supreme court in the case of **MANTED WATER TREATMENT NIG. LTD VS. PTF (2007) 3 FWLR pg 4330 at 4344 and BOLANKE VS. ABEKE (2007) 3 FWLR pg 5039** held that and I quote: -

"Where evidence of a party in a suit is not challenge or debunk by the opposite party which had the opportunity to do so, the trial court or tribunal seized of the proceeding ought to accept and act on it".

The defendant in this suit did not defend himself no file FORM SCA 5.

Article 6 of the practice direction of this Hon. Court provides that: -

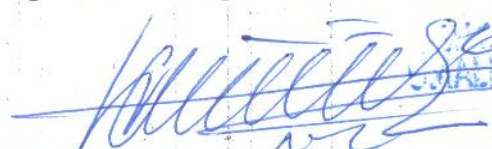
"If the defendant refuses to fill FORM SCA 5 it should be considered as admission".

In view of the above, therefore, the lone issue formulated for determination is hereby resolve against the defendant in favour of the claimant. And judgment is hereby entered for the claimant against the defendant. And I hereby make the following orders: -

1. **AN ORDER** be and is hereby made directing the defendant to pay the plaintiff the sum of N245,000.00 being the total sum of money owed to the claimant by the defendant.
2. **AN ORDER** directing the defendant to pay the sum of N200,000.00 cost of this action.

This case is decided today, 2nd April, 2026.

There is a right of appeal to any party who is not satisfied with this judgment to High Court of Bauchi State.


ABDULLAHI ADAMU SARKI ESQ.
SENIOR MAGISTRATE I SIGN
2ND APRIL, 2026

