

IN THE DISTRICT COURT OF BAUCHI STATE
(SMALL CLAIMS COURT)
HOLDEN AT BAUCHI

BEFORE HIS WORSHIP GARBA ABDULLAHI

SUIT NO SCC/BH/02/2023

BETWEEN

MARIA DAUDACLAIMANT

AND

ABDULLAHI YARIMA.....DEFENDANT

CLAIMANT –PRESENT IN COURT speaks English Language

DEFENDANT - ABSENT

JUDGEMENT DELIVERED ON 22/06/2023

INTRODUCTION

This action has been commenced by filling of small claims complainant form by the claimant as in form SCA 2, Prior to that a letter of demand has been issued and served on the defendant as in form SCA 1. Consequent upon which a writ of summonses issued and served on the defendant

All the processes of this Hon. Court has been served on defendant by substituted means, in line with the order of this Hon. Court. On the date fixed for hearing defendant was not in court and the claimant in her effort to prove her case testify as CW 1, she tendered some documents which has been admitted in evidence and marked as EXH. "A" – "G" respectively.

BRIEF FACTS OF THE CASE

The claimant avers that the defendant has collected the sum of N 100,000.00 only as loan from the claimant on 14/1/2023 on conditions that he will upset the loan in three (3) months with an interest of 20%, and if the loan is not repaid completely



within the said period of three (3) months, the outstanding balance shall be subjected to compounding interest monthly, therefore claim the total sum of N214,000.00 only, thereby prayed for the following reliefs:

1. AN ORDER against the defendant to repay the entire principal sum with an interest of 20% and compounding interest in default, total N214,000.00 only
2. AN ORDER against the defendant to pay the sum of N8,500.00 only as cost of this action
3. AN ORDER against the defendant to pay the sum of N1000.00 only as damage

ANALYSES OF THE WITNESSES TESTIMONY

CW 1 in person of Maria Dauda (claimant) testify to the effect that, defendant has collected the sum of N100,000.00 only as loan with 20% interest on 4/1/2023 from the claimant, on conditions that he will upset the loan in three (3) months by installment payment, failure to repay as at when due, will attract compounding interest monthly, now making the total sum of N214,000.00 only, he refused to pay after several demand to do so, she further informed this Hon. Court that there is an agreement letter and other relevant document in respect of the said transaction, she relied on all the said documents which are admitted in evidence by this court and marked as Exh. "A" – "G" respectively

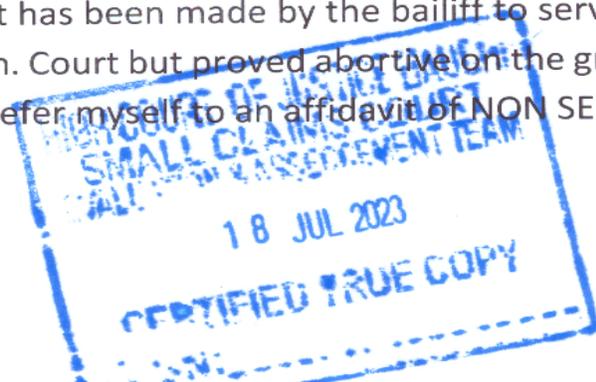
She finally urged the court to enter judgment against the defendant and grant all her reliefs

DECISION

Having gone through the processes filed before this Hon. Court and after taken into consideration the facts and circumstances of this case, this Hon. Court formulate lone issue for the determination thus: -

"WHETHER OR NOT THE CLAIMANT HAS PROOF HER CASE TO THE BALANCE OF PROBABILITY TO ENTITLE HER TO JUDGMENT"

It is in record of this court that, an effort has been made by the bailiff to serve the defendant with the processes of this Hon. Court but proved abortive on the ground that the defendant is evading service, I refer myself to an affidavit of NON SERVICE



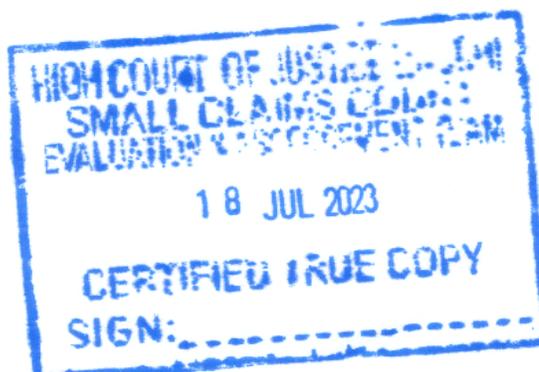
as in form SCA 4 dated 2/6/2023 duly sworn in by the bailiff of this Hon. court in line with article 5 (4) of SMALL CLAIMS COURT PRACTICE DIRECTION no 2 of 2022 Laws of Bauchi state

In view of the above the claimant apply for service of the court processes on the defendant by substituted means pursuant to Article 5 (5) and the court upheld and grant her application in line with Article 5 (6)

On the date fixed for hearing I e 16/6/2023 the claimant was in court while the defendant does not appear and no reason given for his absence, consequent upon which the claimant open her case and testify to the effect that, the defendant has collected the sum of N100,000 00 as loan from her with 20% interest on conditions that he will repay within three months by installment payment and the compounding interests will be accrue monthly if the loan has not been paid completely within the afore stated period making total sum of N214,000.00 only, thereafter closed her case and urged the court to grant all her reliefs, the case was adjourn to 20/6/23 for cross examination, Court ordered for hearing notice to be served on defendant by substituted means but he failed to appear and cross examine CW 1, consequent upon which the case was adjourn for judgment to 22/6/23 hearing notice has been served by substituted means to the defendant ,

Defendant neither file a defense nor appear before the court, the law is settled that failure to filed a defense to a claim or cross examining a witness is tantamount to admission I refer myself to the case of CHIEF AMODU TIJJANI & ORS VS MR JACOB BANKOLE SC 40/2003

Exh "A" is a loan application form duly signed by both parties in presence of one Maibeti Fermi, exh. "B" is an authority letter duly signed by the defendant to the effect that he agreed in the event of failure to repay the loan the principal sum and the interest should be deducted from his salary, Exh "C" is a defendant pay slip EXH. "D" is permanent and pensionable appointment letter, Exh. "E" is the I D card while Exh. "F" is the defendant Temporary appointment letter all deposited as collateral in the claimant office.



From the forgoing it is apparent that the defendant has enter into the said transaction with the claimant, defaulted to repay the loan and interest accrued and I so hold

Therefore, and I hereby resolved the lone issue for determination in favor of the claimant against the defendant,

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

Base on the evidence place by the claimant I am convinced that claimant proof her case by preponderance of evidence, the scale of justice tilt to her own side

in the light of the above I hereby enter judgment against the defendant in favour of the claimant, and make the following orders

ORDER is hereby made against the defendant to repay the sum of N100,000.00, the 20% interest as well confounding interest accrue monthly the total sum of N214,000.00 only

AN ORDER be and hereby made against the defendant to pay the sum of N 8,500.00 only as cost of this action and N1000.00 only as damages

This case is decided today being 22/6/23 there is right of appeal to High Court Bauchi within 14 days by the aggrieved party

