

**IN THE DISTRICT COURT OF BAUCHI STATE
IN THE SMALL CLAIMS COURT, NO 2
HOLDEN AT BAUCHI**

SUIT NO SCC/BH/23/2023

BEFORE HIS WORSHIP ZAINAB M SHUAIBU (MRS)

BETWEEN

HON MUKTAR A SULEIMANCLAIMANT

AND

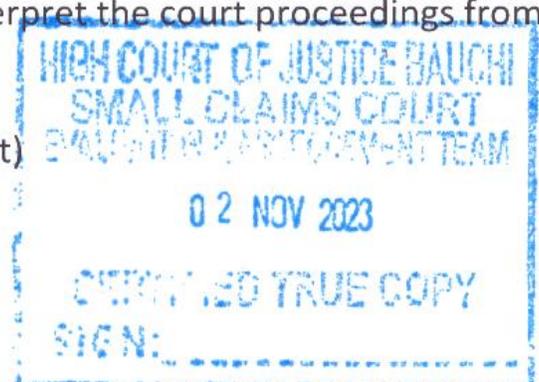
MUHAMMED BELLO LAME.....DEFENDANT

Claimant Present..... Speaks Hausa

Defendant.....Absent

Aliyu Tafida Sale Affirm to interpret the court proceedings from English to Hausa

Appearances A. G. ISA (Claimant)



JUDGEMENT

This suit was brought pursuant to the small claims court practice direction of Bauchi state no 2 of 2022, the claimant has fill and filled small claims court forms SCA 2 & SCA 3 dated 19th day of October 2023, and the defendant has been duly served with the process of this court as seen in the affidavit of service dated 19th day of October 2023 deposed to by one ALIYU TAFIDA SALE a bailiff of this court.

The defendant in this suit claim against the defendant thus;

1 - Three Million Naira only (₦3,000,000.00) being the money sent to the defendant for the purchase of a tractor

2 – Sum of Two Hundred and Fifty Thousand Naira (~~₦~~250,000.00) for General Damages.

3- Sum of Two Hundred Thousand Naira Only (~~₦~~250,000.00) as filling fee and cost of action.

The originating process filed as well as the hearing notice served in respect of this suit was served on the defendant by this honorable court dated 13th day of October 2023 hence this court is satisfied that the defendant was duly served and notified of this suit.

The defendant Despite being served failed to enter appearance or file any response to this suit.

On the 23rd day of October 2023 when the case was fixed for hearing the claimant testified as CW1 MUKTAR A SULIEMAN in his testimony he informed the court that on the 23th day of November 2020

they agreed with the defendant to buy him a tractor at the rate of five million naira only, I transferred the sum of three million naira to his account, we all agreed that in the next thirty days when the tractor is brought I will give him the remaining balance of two million naira only. Since then I did not see him nor the said tractor, we only communicate on phone on the ground that the tractor will be brought to me. Till date no tractor nor refund of the three million naira.

While testifying in this suit CW1 tendered the statement of account of the three-million-naira transaction which was admitted and marked as EXHIBIT B.

Upon conclusion of the evidence of CW1 in chief, this matter was adjourned for cross examination and defense.

On the 26th day of October 2023 the date fixed for cross examination and defense, the defendant still neglects to appear before this honorable court to defend this suit. Learned counsel to the claimant made an oral application that the defendant right to cross examine the claimants witness be foreclosed since no defense was filled same was upheld by this court, this matter was adjourned to 2nd day of November 2023 for judgement.

COURT

It is an elementary principle of law that civil suit is determined upon preponderance of evidence and balance of probability, he who assert must prove in order to succeed in his claim. This honorable court formulates lone issue for determination thus;

‘whether the claimant has proved its case sufficiently to be entitled to a grant of his claim’

Where a claimant has produced evidence in support of his case which prima facie will entitle him to judgement

ARTICLE 8 (2) OF THE BAUCHI STATE PRACTICE DIRECTION ON SMALL CLAIMS COURT NO 2 OF 2022 empowers this court to enter judgement in favour of the claimant where the defendant fails to appear and there is a proof of service and the claimant has proven his claim.

In the instant suit the defendant has failed to appear to defend this suit thereby leaving this court with no other evidence with which to preponderate the evidence proffered by the claimant. The balance of probabilities is in favour of the claimant who has adduced evidence in favour of its claim.

The law is trite that evidence that is neither uncontradicted nor debunked remains good and credible evidence which should be relied upon by a judge. I refer the court to the case of EBEINWE VS STATE (2011) 7 NWLR PT 1246 402 AT 416 PARA D.

Having duly considered the evidence presented in support of the claimants claim and being satisfied with the facts and document tendered, this honorable court finds that the claimant has adduced sufficient evidence to entitle him to all his reliefs sought.

Accordingly, judgement is entered in favour of the claimant and the following orders are hereby made

1. The DEFENDANT IS HEREBY ORDERED to pay the claimant the sum of three million Naira only for the purchase of the tractor.
 2. Sum of ₦250,000.00 for general damage
 3. The defendant is also ordered to pay the sum of ₦15,000.00 (Fifteen Thousand Naira) to the claimant for filling fee and cost of this action.
- This case is decided today the 2nd day of November 2023.

APPEAL

There is a right of appeal to the high court of justice Bauchi within 14th days from today.



ZAINAB M SHUAIBU
(MRS) ,
(SENIOR MAGISTRATE)

