

**IN THE MAGISTRATE COURT OF RIVER STATE OF NIGERIA**  
**IN THE PORT HARCOURT MAGISTERIAL DISTRICT**  
**HOLDEN AT PORT HARCOURT**

**BEFORE HIS WORSHIP S. S. IBANICHUKA, ESQ**  
**HOLDEN AT SMALL CLAIM COURT 6 PORT HARCOURT**

**PMC/SCC/16/2024**

**1. MR KENNEDY CHINAEMEREM NWANEBU**  
**2. MRS PEACE CHIKODI NWANEBU**  
**VS.**  
**PWAN GROUP LIMITED**

**JUDGMENT**

The Claimant's in this suit instituted this action against the Defendant as per their forms RSSC2 and RSSC3 jointly seeking for the following reliefs:

1. The total sum of ₦375,300.00 (Three Hundred and Seventy Five Thousand, Three Hundred Naira) only representing the registration fees of the Claimant's with the Defendant.
2. 10% interest on the sum of ₦375,300.00 (Three Hundred and Seventy Five Thousand, Three Hundred Naira).
3. ₦500,000.00 (Five Hundred Thousand Naira) as general damages.
4. ₦200,000.00 (Two Hundred Thousand Naira) being cost of this litigation.

The Claimants called a sole witness the CW1 and tendered exhibits "A" to "E". The summary of the claimants case as presented by CW1 in his evidence before this court is that, sometime in the year 2022 upon being convinced by the agents of the Defendants, the claimants entered into an investment contract with the Defendant where they registered with a sum of ₦187,650.00 (One Hundred and Eighty Seven Thousand, Six Hundred and Fifty Naira) each as "PBO" using a package known as "elite", that based on the representation made to the named agents of the Defendant the Claimant's were supposed to receive return on investment (ROI) every quarter, particularly for the quarter ending in December, 2022 and the Quarter ending April, 2023. That since the year 2023 the Claimants have been visiting the office of the Defendant and sending mails to the Defendant demanding their money but till date the Defendant has refused to pay them, that they asked their lawyer to write a demand letter to the Defendant and he did but the Defendant still refused to pay them their money, hence this suit. The Claimants sole witness concluded his Evidence In Chief by praying the court to grant the reliefs sought by the claimants. The Defendant on his part never entered appearance in this suit, there is prove of service of the originating processes in this suit on the Defendant, there is also prove of service of hearing notices on the Defendant. However, the Defendant did not appear in court to defend this suit neither was the Defendant represented by counsel.

In a suit such as this all that is required of the claimant is to prove his case on a preponderance of evidence, the Defendant in this suit did not rebut any of the claims of the claimant's in this suit by way of a defence. In such circumstances the Defendant is deemed to have admitted the claims of the Claimant and in deserving cases the claimant's will be entitled to their claim's and reliefs sought before the court . See: **Section 123 of the Evidence (Amendment) Act 2023** and the case of **CBN V. DINNEH (2010) 17 NWLR (PT. 1221) PAGE 125, 162 at paragraphs C-D.**

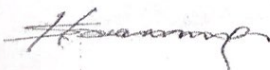
I have considered the claim of the Claimant's before this court and all the documents relied on in proof of the claimants claims. The law is trite that in civil cases the burden of prove is on the Claimant. See **FBN PLC V. ONYIYANGI (2000) 6 NWLR (PT.661) PAGE 497 AT PARAGRAPH E.**

In considering the claim for the cost of this litigation as contained in Form RSSC 3,I observed that besides endorsing this claim on form RSSC 3 the claimant did not place anything before this court to show that the sum of **₦200,000.00** (Two Hundred Thousand Naira) was spent as cost of this litigation, not in evidence and not by way of exhibit before the court. This court is therefore not satisfied that the Claimant has proved on a balance of probability that the claimants indeed spent and are entitled to the sum of **₦200,000.00** (Two Hundred Thousand Naira)as cost of this litigation. Also the prayer for "interest of 10% interest of the sum of **₦375,300.00** (Three Hundred and Seventy Five Thousand, Three Hundred Naira)is vague, ambiguous and unspecified and no evidence was also led to clarify the said relief, the Claimants counsel did not also file any final written address where he would have addressed the court on the propriety of such a claim and its grant thereof. On the aforesated scores the reliefs for cost of this litigation and interest of 10% interest of the sum of **₦375,300.00** (Three Hundred and Seventy Five Thousand, Three Hundred Naira)" fails and are refused. While other reliefs succeed for having been proved on a preponderance of evidence before the court and for same being unchallenged accordingly it is hereby adjudged as follows:-

- (i). That the 1<sup>st</sup> and 2<sup>nd</sup> Claimant's are jointly entitled to the sum of **₦375,300.00** (Three Hundred and Seventy Five Thousand, Three Hundred Naira) only representing the registration fees of the Claimant's with the Defendant,
- (ii)The claimants are jointly entitled to sum **₦400,000.00** (Four Hundred Thousand Naira)as general damages.

I make no further orders.

Dated this 16<sup>th</sup> Day of April, 2024



Signed:  
S. S. IBANICHUKA , ESQ.  
16/04/2024

