

**IN THE CHIEF MAGISTRATE COURT OF RIVERS STATE, NIGERIA
IN THE RUMUODOMAYA MAGISTERIAL DISTRICT
HOLDEN AT RUMUODOMAYA**

**BEFORE HIS WORSHIP B.H. ABE (MRS), ESQ., SITTING AT THE CHIEF
MAGISTRATE COURT 1, RUMUODOMAYA ON FRIDAY THE 4TH DAY OF
APRIL, 2025**

RMC/SCC/27/2024

BETWEEN

LUCKY IKADUWOR <i>(SUING THROUGH HIS LAW ATTORNEY, BARR. CHIDI .N. ACHINUHU)</i>	-	CLAIMANT
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VS.

IROSOR OBIORA	-	DEFENDANT
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Matter for Judgment

Chidi N. Achinuhu for the claimant

Defendant absent and not represented

JUDGMENT

The claimant's claims against the defendant are as follows;

The claimant claims payment for arrears and loss of revenue from PHED and damage of PHED meter as a result of Bye-pas, amounting to N302,100.00 (Three Hundred and Two Thousand, One Hundred Naira) and replacement of the damaged prepaid meter valued at N150,000.00 (One Hundred and Fifty Naira).

Facts

The claimant on the 22nd January, 2025, was granted leave to serve the defendant with all the Court's processes via substituted service by pasting at his apartment situate at No. 63, Rucani Road, Rumuigbo new layout, Rivers State, and via his MTN watsApp number: 08033892031. See Form RSSC 4; Affidavit of non-service dated 13th January, 2025.

The defendant was served afterwards with the Court's summons RSSC 3, the letter of demand Form RSSC 1 and the complaint Form RSSC 2.

Affidavit of service before me dated 10th February, 2025 deposed to by the Court bailiff, Livinus Akere.

The defendant failed to file a defence to the claim or a counter claim to the claim; Form RSSC 5.

The claimant's counsel entered a plea of not liable for the absent defendant on the 18th February, 2025, .C. Achinihu, Esq. appeared for the claimant. The Court ordered that the defendant be served with a hearing notice.

Cw1 gave evidence on the 19th February, 2025, the defendant was absent and not represented; led by B. C. Obi Esq.

Evidence of CW1

My name is Achinuhu Chidi, a Legal Practitioner, with office address at No. 27, Port Harcourt – Aba express way opposite Rumukrushu bus stop. The claimant owns the property at No. 63 Rucani Road, Rumuigbo new layout, he donated a Power of Attorney to me to manage the property, same admitted in evidence as Exhibit A.

The defendant was the claimant's tenant, occupying a one bedroom flat, he failed to pay his light bills, he uses a prepaid meter, he by- passed the prepaid meter, which got damaged, the defendant concealed the damage until a new tenant came into the premises, he boycotted the line and has not been paying.

He went to PHED's office, they gave a bill of N302,000.00 after confirming the defendant boycotted the line. N302,000.00 for loss of revenue, the printed bill was given to him. The meter is registered in the name of the landlord, Anabue Ogie Ikaduwor, the native name of the landlord.

The bill is before me as Exhibit B.

The claimant demanded for payment of the bill but the defendant refused. A new meter is N150,000.00.

The claimant has gotten a judgment against him, for vacant possession due to failure to pay rent, it is not yet executed, they need to get this first.

He prayed the Court to order the defendant to pay N150,000.00 for the damaged meter, N302,100.00 for the outstanding PHED bill.

At the end of his evidence, he was foreclosed from cross-examination due to the absence of the defendant.

The claimant's counsel closed his case.

The defence was foreclosed from defending this suit on the 21st February, 2025, due to his absence.

The defence, S. G. Giotto Esq, prayed the Court to vacate the foreclosure order against the defendant.

The defence also prayed the Court to grant leave for out of Court settlement, the Court conceded and adjourned for report of settlement between the parties. The claimant's counsel was not opposed to the application.

On the 18th March, 2024, the claimant's counsel informed the Court that the defendant has refused to get in touch with them since the last adjourned date, the defence, C.M. Ezeome Esq, informed the Court that they have not been able to get in touch with the defendant. Felix Mboho Esq, appeared for the claimant, the defence confirmed receiving the final written address of the claimant's counsel. Claimant's counsel adopted same, dated 4th March, 2025 and filed 5th March, 2024.

Adjourned for judgment to 4th April, 2025.

Claimant's counsel submitted thus in his final written address.

Issue for determination: The sole issue that calls for determination by this Court is: "Whether the claimant has proved his case as to be entitled to the reliefs sought".

We shall answer the question in the affirmative and urge the Court to so hold based on the following points herein canvassed. The claimant's witness gave evidence on the arrears and loss of PHED revenue as a result of the bye-pass the defendant did while in occupation of the claimant's property and tendered a bill from PHED evidencing the amount owed. The claimant's witness also gave evidence that as a result of the bye-pass, the PHED meter was damaged, which the present cost of the said meter is the sum of N150,000.00.

The defendant did not appear in Court despite the service of hearing notices on him and did not put up any defence to contradict the claimant's evidence before this Court. The Supreme Court in *CBN vs. Okojie* (2015) 14 NWLR (pt. 1479) pg. 231 at 258 para C-D; (2015) All FWLR (pt. 807) pg. 478 at 501 para F-G, held thus: "Evidence that is not challenged or discredited should be relied on if such evidence is adduced to establish a relevant fact". In another case of *Interdrill (Nig.) Ltd. vs. United Bank for Africa Plc.* (2017) 13 NWLR (pt. 1581) pg. 52 at 75 paras. E-F, the Court held thus: "When the evidence of the plaintiff is unchallenged, the plaintiff is entitled to judgment".

In line with the above Supreme Court cases, we urge the Court to hold that the claimant has established his case and therefore grant the claimant's reliefs.

Issue for determination

Whether the claimant has proved his entitlement to his claims?

COURT

The defendant has been accused of owing light bill of N302,100.00, due to his by-pass of the PHED meter, which accrued a total bill of N302,100.00, damaging the

PHED meter valued at N150,000.00, despite repeated demands he has failed and refused to replace the meter and pay his accrued light bill of N302,100.00.

It is a criminal offence for the defendant to have by-passed the PHED meter and in the process fail to pay his light bills. Criminal charges can be brought against him for indulging in such a criminal Act.

The defendant was properly served with the Court's summons, the complaint form and the demand letter but failed and neglected to appear before this Court or file a defence to the claims against him.

I agree with the claimant's counsel, that evidence not challenged or discredited by the opposing party who had the opportunity as in this instant case, should be relied on if it adduces or establishes cogent, reliable evidence for the court to rely on in its judgment.

See; Ighreinous vs. SSC Nigeria Ltd. (2013) 3 – 4 on JSC (pt. 1) pg. 190

The Supreme Court in Zamfara State vs. Gyalange (2013) All FWLR (pt. 658) 830, ratio 5, stated that, evidence that is not attacked nor successfully challenged is deemed to have been admitted and the Court can safely rely on same in the just determination of the case.

This can be applied to the instant case, the defendant was also served with a hearing notice but did not show up, although the defence appeared, applied for leave to settle out of Court, which the Court graciously granted though parties failed to settle out of Court amicably, the defendant did not show up to discuss the terms of settlement with the claimant.

The Court can safely infer that the defendant has admitted to the claims of the claimant.

Exhibit B is proof of the light bill from PHED with meter no. 0124000944429, with the defendant's name, Anabue Ogie Ikaduwor and address as testified by cw1. This is proof of the light bill owed by the defendant to the claimant; N302,100.53365 (loss of revenue).

Total outstanding on Exhibit B.

Where the defendant as in this instant case fails to rebut, controvert or challenge the evidence of the claimant, he is deemed to have admitted same and the Court is bound to admit such evidence as being true and act on same accordingly.

No corroboration of the evidence is required in such cases. See Abubakar Bello vs. Mallam Pategi (2000) 8 NWLR (pt. 667) 21 pg. 33.

The Court's duty is not to force the defendant to defend the case against him, the Court's processes were properly served on him, affidavit of service before me and a hearing notice. See *Dama vs. Ecobank* (2017) LPELR Supreme Court 41663.

See *Obimiami Brick & Store Nigeria Limited vs ACB Ltd.* (1992) 3 NWLR (pt. 229) 260, the Supreme Court held that, no Court has the right to force a party to give evidence after being notified of the hearing date and a party for no justifiable reason decides to opt out of the proceedings.

The case of the other party presented should be relied on by the Court. Only minimal evidence is required in undefended cases as this instant case.

Article 6 of the Rivers State Small Claims Court Practice Direction 2023, provides that where the defendant fails to file a defence, he may be held to have admitted the claim.

Furthermore, Article 8 of the same article, empowers the Court to hear the case of the claimant in the absence of the defendant and enter judgment for the claimant provided his claim is proved.

The Court consequently enters judgment for the claimant relying on Exhibit B and the unchallenged evidence of the claimant, also the appearance of the defence who prayed for out of Court settlement, which did not hold between parties and orders as follows;

1. That the defendant pays the claimant the sum of N302,100.00 (Three Hundred and Two Thousand, One Hundred Naira) only, being the total accrued PHED bill owed by the defendant.
2. That the defendant pays N150,000.00 (One Hundred and Fifty Thousand Naira) only, for the damaged PHED meter.
3. These payments must be made forthwith by the defendant, the defendant being liable for the said payments.

This is the Court's judgment.



MRS BARIYAAH .H. ABE
Chief Magistrate
4th April, 2025.

