

**IN THE MAGISTRATE COURT OF RIVERS STATE OF NIGERIA
IN THE PORT HARCOURT MAGISTERIAL DIVISION
HOLDEN AT PORT HARCOURT
BEFORE HIS WORSHIP NNEKA E. EZE-OBUZOR
SITTING ON THE 27TH DAY OF MARCH 2025
AT THE SMALL CLAIMS COURT 4 PORT HARCOURT**

SUIT NO: PMC/SCC/19/2025

BETWEEN

WEHERE MAXWELL ----- CLAIMANT

AND

MBA TRADING & CAPITAL INVESTMENT LTD----- DEFENDANT

PARTIES:

APPEARANCES:

JUDGEMENT

By a summons dated 20/1/2025, the claimant's claim against the defendant are as follows:

1. N1, 000, 000.00 plus 15% interest per month till date

PLEA

By the affidavit of service availed this court, the defendant was served the originating process in this suit by substituted means by pasting at the last known address of the defendant on the 14th of February 2025 at 2pm. On the 18th of February 2025, a plea of not liable was entered for and on behalf of the absent defendant.

SUMMARY OF EVIDENCE

The claimant in proof of his case called a lone witness, the claimant himself and tendered three exhibits marked Exhibits A (1 and 2) and B.

The defendant never appeared to defend this suit hence no evidence was entered for the defendant.

The relevant facts from the case of the claimant as presented by the claimant himself is that on the 21/1/2020, he invested the sum of N1, 000,000.00 with the defendant who gave him an agreement to sign with an interest rate of 15% per month. That every month the defendant paid him the sum of N150, 000.00 for 6 months. That when that investment elapsed, he did a rollover and invested N600, 000.00 making it N1, 600, 000.00 which they paid him N240, 000.00 for 3 months which elapsed on the 23/10/2022 and that since the till date he's not heard from the defendant as regards both his principal sum and interest. Payment receipt to the defendant was admitted as Exhibit A. business agreement between the claimant and defendant was admitted as Exhibit A2. The defendant's account statement was admitted as Exhibit B. CW1 concluded by pleading with the court to help him get back his N1, 600,000.00 and 15% interest rate from November 2020 till date. Case was adjourned to the 4/3/2025 for cross examination of CW1.

The defendant never appeared either by an agent or through a counsel to defend this suit hence was foreclosed from cross examining the CW1 and from defending this suit.

On the 20/3/2025, the claimant adopted his written address and case was adjourned for judgement now being read.

In the claimants final address settled by his counsel B.E. Wosu Esq. a lone issue was raised for determination to wit:

Whether the claimant has proved his claim upon preponderance of evidence and the defendant failed to defend the action against it?

The claimant answered the above in the affirmative urged the court to so hold. The claimant submitted that the claimant has by evidence stated that he reinvested the money he initially invested making it N1,600,000.00 and his reward was N240,000.00 per month but the last time the claimant reaped the reward was on the 23rd of October 2020 and thereafter the defendant vanished into thin air. Counsel submitted that documents when admitted guides the court to determine a matter. Counsel cited the case of **AREMU V CHUKWU (2012) 3 NWLR (1288) CA 587 PP 623 PARAS A-B**. Counsel also argued that the evidence of the claimant was neither challenged nor controverted and where a defendant neglects and refuses to defend an action and fail to put in or call witnesses, the claimant is deemed to have proved his claims. In conclusion, counsel urged the court to grant the reliefs of the claimant.

RESOLVE

In determination of this suit, I will adopt a lone issue to wit.

Whether the claimant has proved his case to be entitled to judgement

As already stated, the failure of the defendant to make an appearance means that the entire evidence adduced by the claimant is unchallenged. The law is trite that a Court is at liberty to accept and act on unchallenged and uncontroverted evidence. See the case of **OFORLETE V. STATE (2000) 12 NWLR (PT. 681)415**. The court in the case of **ADELEKE V. IYANDA (2001) 13 NWLR PART 729 PAGE 1 AT 23-24 PARA H-A** held that where the claimant has adduced admissible evidence which is satisfactory in the context of the case, and none available from the defendant, the case will be decided upon a minimum of proof as this makes the burden lighter.

On the claim of the claimant, by way of evidence, the claimant has tendered the agreement between parties which was admitted as Exhibit A2 and also tendered the receipt by the defendant to the claimant as exhibit A1 and his account statement showing payments between the parties. In **BABATUNDE & ANOR VS. BANK OF THE NORTH LTD & ORS (2011) LPELR-8249 (SC)** the Supreme Court per Adekeye, JSC stated this principle thus: "The law is that

written contract agreement freely entered into by the parties is binding on them. A Court of law is equally bound by the terms of any written contract entered into by the parties. Per Exhibit A1, A2 and B, the claimant has been able to prove on the balance of probabilities that the defendant is owing him the sum of N1, 600,000.00 with 15% interest per month from November 2020 till today calculated to a total of N14, 080,000.00. Unfortunately this is the small claims court and can only entertain claims of N5, 000, 000.00 and below.

In conclusion, judgement is entered for the claimant as follows:

1. The defendant is ordered to pay the claimant the sum of N5, 000, 000.00 being the principal sum and interest