

IN THE SMALL CLAIMS COURT OF RIVERS STATE OF NIGERIA
IN THE PORT HARCOURT MAGISTERIAL DISTRICT
HOLDEN AT PORT HARCOURT

ON FRIDAY THE 26TH DAY OF JANUARY, 2024
BEFORE HIS WORSHIP A. O. AMADI-NNA, ESQ
CHIEF MAGISTRATE GD.1

SUIT NO. PMC/SCC/199/2023

BETWEEN

RALUCHUKWU OKONKWO

VS

NDUBADEN PRINCE NWAKU

Parties absent.

C. A. David appear for the claimant.

JUDGMENT

The claimant's claim against the defendant is for;

1. The sum of N760,000.00 which he gave the defendant as a loan to settle some challenges wherein the defendant issued a cheque to the claimant which bounced and the defendant has refused to pay back the loan despite receiving salary.
2. The sum of N1,000,000.00 (One Million Naira) as damages.
A plea of not liable was entered for the defendant.

In proof of his case the claimant called one witness who gave evidence as CW1 and tendered one exhibit - Exhibit "A" while the defendant did not defend this suit.

CW1, Tamara Preye Didie said on the 26th day of June, 2023 the defendant approached the claimant for a loan of N260,000.00 which the claimant agreed but told the defendant that the money will be used to pay his children's school fees by August 2023. The defendant assured the claimant that he will pay back the money after one month collection. The claimant there and then issued a cheque of N760,000.00 to the defendant but the defendant has till date refused to pay back the said sum. He tendered the cheque he issued to the defendant, a UBA cheque as Exhibit "A". He further said that the claimant has made several demands to the defendant but he has refused to pay.

The matter came up for cross examination of CW1 on the 22nd day of December 2023 the defendant was not in court to cross examine the claimant and was foreclosed

from cross examining CW1. Claimant counsel then informed the court that they have closed their case and the case was adjourned for defence.

The matter came up for defence on the 19th day of January, 2024, the defendant was not in court to defend this case and was foreclosed from defending this case. Claimant's counsel then applied that Judgment be entered in line with the evidence led.

I have reviewed the evidence of CW1 and taken into consideration - Exhibit "A" tendered through CW1.

The lone issue that arise for determination is whether the claimant has proved his case on the preponderance of evidence. CW1 the claimant's lone witness has given evidence of how the claimant gave a loan of N760,000.00 to the defendant by using the defendant UBA cheque which bounced on presentation to the bank. He has tendered the UBA cheque as Exhibit "A".

The defendant did not defend this suit and did not appear before this court.

An undefended case requires a minimum of proof. The claimant witness evidence was not challenged and when evidence is not challenged the court ought to accept it as proof of the issue in contest. See the case of **FOLARIN & ANOR V. SHALOUB (1994) 3 NWLR (Part 333) page 413 at 443 paras B-H. Also see OKUPE V. IFEMACHI 1974 3SC page 97 at 103.**

I hereby hold that the claimant has proved his case on the preponderance of evidence to be entitled to Judgment.

Accordingly Judgment is hereby entered in favour of the claimant on the following terms;

Court:

1. The defendant is to pay to the claimant the sum of N760,000.00 (Seven Hundred and Sixty Thousand Naira) which the defendant took from the claimant as loan to settle challenges.
2. The defendant is to pay to the claimant the sum of N800,000.00 damages.

Signed:
A. O. Amadi-Nna, Esq.
Chief Magistrate GD.1
26/1/2024