

IN THE MAGISTRATES' COURT OF RIVERS STATE
IN THE PORT HARCOURT MAGISTERIAL DISTRICT
HOLDEN AT PORTHARCOURT BEFORE HIS WORSHIP. G.C. AMADI ESQ.
SITTING AT SMALL CLAIMS COURT AT CHIEF MAGISTRATE COURT 9, ON THE 27TH OF
NOVEMBER, 2023

SUIT NO. PMC /SCC/214/2023

IHEMAGUBA LUCKY CHUKWUEMEKA
(Suing through his Lawful Attorney, Mr. Chinedu Vincent Ihemaguba) } CLAIMANT

AND

1. MR. WAHUA WISDOM CHINOLUNUM
(Trading under the name, D' Codex Consults)
2. D' CODEX CONSULTS & ASSET MANAGEMENT LIMITED } DEFENDANTS

JUDGMENT

This is the final judgment in this suit wherein the claim before the court, dated and filed on the 30th October, 2023 is for:

- i. The sum of N500,000.00(Five Hundred Thousand Naira), being the claimant's investment capital
- ii. The sum of N 3,000,000.00(Three Million Naira) being 20% accrued interest for 30months (between 4th May 2021-4th October 2023).
- iii. The sum of N 500,000.00(Five Hundred Thousand Naira) as cost.
- iv. 10% post judgment monthly interest until the judgment sum is liquidated.

On the 20th day of November, 2023, the Claimant's counsel was present and the defendant was absent. An application to enter plea of not liable for the defendant by the Claimant counsel was granted and the matter was set down for hearing.

On the next date adjourned, the CW1, one MR. CHINEDU VINCENT IHEMAGUBA who is also the Claimant's attorney on record stated that he is the claimant's lawful attorney by virtue of a power of attorney donated to him by the claimant and by virtue of his position, he is very conversant with the facts of the case. He adopts his written deposition on oath

before the Court wherein he deposed that he has the consent and authority of the claimant to represent him in this case and to depose to the facts herein.

That sometime in May, 2020 the claimant and the 1st defendant entered a forex trading investment agreement wherein the 1st Defendant agreed to be paying 20% interest after every 30days to the claimant on any amount that the claimant invests with the 1st defendant.

That following the agreement, the claimant on 16th May, 2020 through his ACE MONEY TRANSFER, transferred the sum of N 80,000.00(Eighty Thousand Naira) to the 1st defendant's Guaranty Trust Bank Ltd(GTB) Account No. 0470078980 and upon receipt of the transferred payment from the claimant, the 1st defendant on 1st June 2020, prepared an agreement for the transaction which was duly executed by the claimant and the 1st defendant.

That on the 25th June, 2020, 3rd August,2020 and 1st September, 2020, the 1st defendant in keeping to the agreement paid the sums of N 16,000.00 (Sixteen Thousand Naira) to the claimant via the claimant's Access Bank Account No.0004138045, being 20% interest of the claimant's investment capital of N 80,000.00(Eighty Thousand Naira).

That Consequent upon the 1st Defendant's compliance with the agreement, the claimant on 1st September, 2020 further invested the sum of N50,000.00 (Fifty Thousand Naira) with the 1st defendant via transfer from his Access Bank Account No.0004138045 thereby bringing the claimant's investment capital to the sum of N130,000.00(One Hundred and Thirty Thousand Naira) and the 1st defendant upon receipt of the transfer prepared another agreement in his business name, "D' Codex Consults" evidencing the transaction which agreement was forwarded to the claimant and was duly executed.

That following the claimant's increase of his investment capital, the 1st defendant in October, November and December, 2020 paid the sums of N26,000.00 (Twenty-Six Thousand Naira) being 20% accrued interest on the claimant's investment sum of N130,000.00 (One Hundred and Thirty Thousand Naira) to the claimant via the claimant's Sterling bank account.

That on the 30th December, 2020 when the claimant's interest for the month of January 2021 was due for payment, the claimant invested and added the sum of N344,000.00(Three Hundred and Forty-Four Thousand Naira) to his investment sum of N130,000.00(One Hundred and Thirty Thousand Naira) and further directed the 1st defendant to add the sum of N26,000.00(Twenty-Six Thousand Naira) being 20% accrued interest on the claimant investment sum of N130,000.00 (One Hundred and Thirty Thousand Naira) for the month of January, 2021 to his investment sum thereby bringing the claimant's total investment capital to the sum of N500,000.00(Five Hundred Thousand

Naira). The said additional transfer by the claimant via his Access Bank Account No.0004138045 which was made on 30/12/2020 is reflected in the claimant's statement of account as N344,053.75(Three Hundred and Forty-Four Thousand, Fifty- Three Naira and Seventy-Five Kobo) due to bank charges.

That the 1st defendant upon receipt of the transfer from the claimant on 4th January, 2021 prepared another agreement in his company's name, the 2nd defendant evidencing the transaction. The said agreement prepared by the defendants mistakenly dated 4th January 2020 was forwarded to the claimant and was duly executed.

That after the claimant increased his investment capital to the total sum of N500,000.00(Five Hundred Thousand Naira), on the 4th February, 2021, 4th March 2021 and 5th April, 2021, the defendants paid the sums of N100,000.00(One Hundred Thousand Naira) to the claimant being 20% interest on the claimant's investment capital. However, after the three payments of 4th February,2021, 4th March 2021 and 5th April,2021, the defendants without any justification stopped remitting the claimant's agreed 20% interest to the claimant since 4th May 2021 till the date of filing this suit thereby making the defendants to be indebted to the claimant for 30months which cumulatively amounts to the sum of N 3,500,000.00. (Three Million and Five Hundred Thousand Naira).

That the breakdown of the defendants' indebtedness is as follows:

- a. The sum of N 500,000.00(Five Hundred Thousand Naira), being the claimant's investment capital.
- b. The sum of N3,000,000.00(Three Million Naira) being 20% accrued interest for 30months (between 4th May 2021 - 4th October 2023).

That the claimant has severally made demands on the defendants for the return of his investment capital and the 20% accrued interest for 30months but, all to no avail and that consequent upon the defendants neglect to return the claimant's investment capital and the accrued interest despite repeated demands, the claimant was constrained to paying the sum of N 50,000.00(Fifty Thousand Naira) to his solicitor to write a letter of demand to the defendants. The claimant's solicitor, O. C. Udensi, Esq on the 7th day of August, 2023 wrote a letter of demand to the defendants which same was served on the defendants via the defendants' WhatsApp numbers - 08145236408, 08107898531. The defendants upon receipt of the letter acknowledged it in a WhatsApp chat with the claimant's solicitor. The demand letter dated 7th August, 2023, with a screenshot of the acknowledgment from the defendants is hereby pleaded.

That the defendants notwithstanding receipt of the claimant solicitor's demand letter since 7th August 2023, have still failed, refused and neglected to return the claimant's investment capital and the accrued interest thereby constraining the claimant to further pay the sum of N300, 00.000(Three Hundred Thousand Naira) to his solicitor for the prosecution of this suit. The Claimant solicitor's payment receipt dated 23rd October 2023 is hereby pleaded.

That the claimant who is now resident in Germany, in the course of this matter donated a power of attorney to him e as his lawful attorney for the prosecution of this suit and had to pay the sum of €39.63 to a notary public for the certification of his signature, which by CBN exchange rate is about A 40,000.00(Forty Thousand Naira).

That in the course of prosecuting this suit, the claimant via his WhatsApp number forwarded to him the following documents which the CW1 identifies and which the Claimant counsel applies to tender in evidence: The Power of Attorney donated to him for the prosecution of this suit dated 30th August 2023 ,The said agreement made on 1st June,2020, Another agreement made 1st September,2020, the said agreement dated 4th January,2020, the claimant's Access Bank Account No. 0004138045, Demand letter from Surelex Patners ,the signature certification and the receipt of payment for the Power of Attorney which he printed from his phone and made a certificate of authentication to that effect were all admitted in evidence as Exhibits A, B, B1,B2,C,D, E & F respectively.

That the defendants' failure, refusal and neglect to return the claimant's investment capital and the accrued interest have caused the claimant a lot inconveniences, financial hardship and to incur cost of over N 500,000.00(Five Hundred Thousand Naira) in prosecuting this suit.

In conclusion, the CW1 testifies that he wants the Court to grant his claim as per his claim before the court.

At the close of the evidence of the CW1,after sighting the, Affidavit of Non service filed on the 1st of November 2023,an order for substituted service dated the 7th day of November, 2023, the affidavit of service dated the 10th day of November, 2023 and filed on the 13th of November, 2023, and another affidavit of service filed on the 25th of November, 2023, the attached proof of whatsapp message and the Hearing notice dated 21st November 2023 , the defendant was foreclosed from cross-examining the CW1 and from defence and the matter was adjourned for judgment.

A total of eight (8) exhibits were tendered in evidence in the course of the trial.

That said, I will proceed to consider the case of the parties in the light of the relevant laws. I have noted the essence of the claim and have also taken cognizance of the evidence

before the court. I have read all the exhibits and the issues before the Court is quite narrow and that is whether the Claimant has proven his claim to entitle him to his reliefs as per his claims before the Court.

Suffice is to note at this point that none of the facts stated by the Claimant's witnesses were controverted in evidence or denied by the defendant and so will be deemed by this court as admitted. The law is that facts admitted need not be proved by evidence. Please refer to the case of Ayoke V. Bello (1992)10 NWLR (Pt 218) pg 380 Ratio 2; O.A.A Cooperative Society Vs. NACP Ltd (1999) 2NWLR (Pt 590) Pg 234, Ratio 4 to the effect that what is not denied is deemed admitted and what is admitted need not be proved.

On the combined strength of the evidence of CW1 and the corroboration of the CW1's evidence by Exhibits A-F before the Court, this Court hereby holds that the Claimant have satisfactorily discharged the evidential burden of proving the claim before the Court..

IT IS ADJUDGED that the defendant pay to the Claimant, the sum of N500,000.00(Five Hundred Thousand Naira), being the Claimant's investment capital

IT IS FURTHER ADGUDGED that the defendant pay to the Claimant, the sum of N 3,000,000.00(Three Million Naira) being 20% accrued interest for 30months (between 4th May 2021-4th October 2023).

IT IS THUS ADGUDGED that the defendants pay sum of N 500,000.00(Five Hundred Thousand Naira) as cost.

IT IS ALSO ADGUDGED that defendants pay 10% post judgment monthly interest until the judgment sum is liquidated.

AND IT IS ORDERED that the defendant to pay the Claimant, the aforesaid sum of N4,000,000,00(Four Million Naira) representing the Claimant's investment capital,20% accrued interest for 30 months, and costs on or before the 14th day of December, 2023

TAKE NOTICE –That if payment is not made as above ordered, a warrant or warrants may issue requiring an officer of the court to levy the sum above mentioned, to the Claimant together with further costs.

GIFT C. AMADI, ESQ.
CHIEF MAGISTRATE
G.D.I
SIGN.....DATE.....

**G. CHINYERE AMADI. ESQ.
CHIEF MAGISTRATE G.D.I**