

**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 20TH DAY OF MARCH 2025
AT THE SMALL CLAIMS COURT 4 PORT HARCOURT**

SUIT NO: PMC/SCC/04/2025

BETWEEN

CHINEDU EZENTA ----- CLAIMANT

AND

PETERYE SOBEREKON----- DEFENDANT

PARTIES: Present

APPEARANCES: J.O.John Esq. for claimant

JUDGEMENT

By a summons dated 07/1/2025, the claimant's claim against the defendant are as follows:

1. N505, 000.00 being debt owed the claimant.
2. N500, 000.00 as cost of action
3. N1, 000, 000.00 as damages.

PLEA

By the affidavit of service availed this court, the defendant was served the originating process in this suit personally on the 22/01/2025 at 3pm. On the 27/01/2025, upon application of defence counsel, a plea of not liable was entered for the defendant.

SUMMARY OF EVIDENCE

The claimant in proof of his case called a lone witness, the claimant himself and tendered two exhibits marked Exhibit A and B. The relevant facts from the case of the claimant as presented by the claimant is that he paid the sum of N505, 000.00 to the defendant to rent a one bedroom flat from him as a yearly tenant but was refused from taking possession by his family members. That he paid the sum of N70, 000.00 as agent fee and the sum of N60, 000.00 to the driver who conveyed his stuff to the premises. That he asked the claimant to refund his money but he has refused to do so till date. So he had to get a lawyer and he paid his lawyer for the case. Proof of that payment was tendered as Exhibit B. The proof of payment for the rent was tendered as Exhibit A.

The defendant appeared severally for this case but kept making excuses and delaying proceedings. Case was adjourned for report of settlement and settlement failed. After being foreclosed from cross examining the CW1 due to absence of defendant and counsel, the foreclosure order was vacated and CW1 was recalled for cross examination and case was adjourned for defence. On the day for defence, defendant and counsel was absent and they were foreclosed from defending this suit as the small claims court is time bound and there must be an end to litigation.

The claimant waived his right to address hence case was adjourned for judgement now being read.

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**.

It is trite law that the standard of proof in a civil case shall be on the balance of probabilities which implies the balance of truth. **SEE SECTION 134 OF THE EVIDENCE ACT 2011**. This burden rest on the claimant who must prove that which he/she has asserted. In the instant case, it is the case of the claimant that he paid the sum of N505, 000.00 as rent to the defendant but was not allowed to take possession and after several pleas for the repayment of that money, he sought legal help. That he also paid N70, 000.00 for agent fee and paid N60, 000.00 for the car that took his properties to the premises before he was disallowed to take possession. In proof of the above, the claimant tendered Exhibit A.

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.

From the case file, the claimant has complied with the provisions of **ARTICLE 1 (C) (D) OF THE RIVERS STATE SMALL CLAIMS COURT PRACTICE DIRECTION 2024** for the fact that this is a liquidated money demand not exceeding Five million (N5M), the defendant was served with a demand letter, there is a complaint form, there is an affidavit of service of the summons of court on the defendant and in the absence of any contrary evidence from the defendant who had the opportunity to do so but blatantly refused to, the court is at liberty to act on the unchallenged evidence of the claimant. Hence same succeeds.

On the second claim of cost of N500, 000.00. Cost follows the event and a successful party is entitled to the cost of prosecuting or defending the action either wholly or partly unless he misconducts himself in such a manner that deprives him of such an award. See the case of **UBANI-UKOMA VS. SEVEN-UP BOTTLING CO. & ANOR (2022) LPELR-58497 (SC)**. In proof of this claim, the

claimant tendered Exhibit B which is the receipt by the claimant's counsel. On the strength of that exhibit, this claim succeeds.

The third claim of N1, 000, 000.00 as damages. The court has in the case of **ELIOCHIN (NIG) LTD & ORS V. MBADIWE (1986) LPELR-1119(SC) (PP. 28 PARAS. B)** Stated that the primary object of an award of damages is to compensate the plaintiff for the harm done to him or a possible secondary object is to punish the defendant for his conduct in inflicting that harm. Such a secondary object can be achieved by awarding, in addition to the normal compensatory damages, damages which go by various names to wit; exemplary damages, punitive damages; vindictive damages, even retributory damages can come into play whenever the defendant's conduct is sufficiently outrageous to merit punishment as where it discloses malice, fraud, cruelty, insolence, flagrant disregard of the law and the like. In the instant case, the claimant has stated how he has been left stranded, suffered emotional and psychological trauma due to the refusal to allow him take possession of the premises he paid for and the inability of the defendant to refund him so as to enable him get an alternative accommodation. In light of the above, sum of N300, 000.00 is awarded as damages.

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

1. The defendant is ordered to pay the claimant the sum of N505, 000.00 being the amount the claimant paid for rent.
2. The defendant is ordered to pay the claimant the sum of N500, 000.00 as cost.
3. The defendant is ordered to pay the claimant the sum of N300, 000.00 as damages.