

IN THE SMALL CLAIMS COURT OF RIVERS STATE OF NIGERIA
IN THE PORT HARCOURT MAGISTERIAL DISTRICT
HOLDEN AT PORT HARCOURT
BEFORE HIS WORSHIP W. C. AKANL, ESQ.
SITTING AT SMALL CLAIMS COURT 5 ON WEDNESDAY, 24TH JULY 2024

CLAIM NO: PMC/SCC/169/2024

BETWEEN
MADU MARK

-

CLAIMANT

AND

MRS. LIZZY OWUBOKIRI

-

DEFENDANT

Parties:

Claimant present.

Defendant absent.

Appearances:

No appearances.

JUDGMENT

The Claimant commenced this suit against the Defendant vide Form RSSC2 on 24th June 2024 following service of the mandatory Letter of Demand on the Defendant. By the summary of claim contained in the Summons - Form RSSC 3, the Claimant's claim against the Defendant is for the sum of ₦ 128,000.00 being debt sum claimed.

The Defendant was served with the originating processes and the matter was fixed for plea and hearing on 4th July 2024.

On the said 4th July 2024, the Defendant was not in court and had no legal representation and so a plea of not liable was entered for her following which the Claimant called upon to prove his case. The Claimant gave evidence as CW1. At the close of the evidence -in-chief of CW1, the matter was adjourned to 8th July 2024 for cross-examination of CW1. On that date, neither the Defendant nor her Counsel was in court and so the Defendant was foreclosed from cross-examining the witness.

The case was the adjourned to 9th July 2024 for defence. Again, the Defendant did not show up and did not send any legal representation and was thus foreclosed from defending this suit following which the case was adjourned for judgment.

The Claimant says he supplies drinks to the Defendant who sells and then pays him for the supply. The Claimant says he supplied some drinks to the Defendant on 10th March 2024 which she has not paid for. He says that subsequently, she came back for more drinks, claiming that she had some issues and he again gave her but that since then she had refused to pay. He says the total cost of the drinks supplied and unpaid for is ₦128,000.00 and that following her refusal to pay to pay despite repeated demands, he filed this action.

As previously stated, the Defendant did not defend this suit. It is the law that when a party in a legal duel had been given an opportunity to defend himself and he fails to do so, the obvious conclusion is that he does not intend to contest the suit or he had chickened out. See **MANKANU V. SALMAN (2005) 4 NWLR (Pt. 915) 270.**

It is also settled law that where evidence given by a party to any proceedings or by his witness is not challenged by the opposite side who had the opportunity to do so, it is always open to the court seised of the matter to act on such unchallenged evidence before it. See **NZERIBE V. DOVE ENGINEERING LIMITED (1994) 8 NWLR (Pt. 361) 124 at 137.**

In the instant case, the Defendant was served with the originating processes and chose not to attend court or challenge the Claimant's case. It is obvious that the Defendant has admitted to the claims of the Claimant and does not intend to contest the suit. What is then required of the Claimant is minimal proof. See **NWABUOKU V. OTTIH (1961) All NLR 487.**

The Claimant has given viva voce evidence of the supply transaction between himself and the Defendant. I am satisfied that the Claimant has discharged the onus of proof on him.

Accordingly, I enter judgment in favour of the Claimant and make the following orders -

1. The Defendant shall pay to the Claimant the sum of ₦128,000 being amount owed by the Defendant to the Claimant for drinks supplied.
2. ₦25,000 costs to the Claimant.



Wobia C. Akani, Esq.

Senior Magistrate

24/7/2024

