

IN THE MAGISTRATE COURT OF RIVER STATE OF NIGERIA
IN THE PORT HARCOURT MAGISTERIAL DISTRICT
HOLDEN AT PORT HARCOURT

BEFORE HIS WORSHIP S. S. IBANICHUKA, ESQ
HOLDEN AT SMALL CLAIM COURT 6 PORT HARCOURT

PMC/SCC/148/2024

CHUKWUIGWE BRYAN OPUNAME

VS.

DANA AIRLINE LIMITED

JUDGEMENT

This action was instituted via forms RSSC 2 and RSSC 3 of this court filed on the 29-05-24 wherein the claimant claim are for the following:

- i. The sum of **₦258,620.00 (Two Hundred and Fifty Eight Thousand Six Hundred and Twenty Naira)** being and representing cost of Air tickets the claimant bought from the defendant. .
- ii. **₦500,000 (Five Hundred Thousand Naira)** as fees. .
- iii. **₦241, 380.000 (Two Hundred and Forty One Thousand, Three Hundred and Eighty thousand Naira)** only as cost

In proof of his case the claimant testified as the sole witness (CW1) and tendered Exhibits "A-C5". The Defendant did not cross examine CW1 neither did the defendant defend this suit and was never represented by counsel despite proof of service in the courts file of the originating processes in this suit and hearing notices as well. The claimant applied and the defendant was foreclosed from cross examining CW1 and defending this suit. At the close of hearing the claimant waived his right to address the court orally or in writing.

The summary of the facts of this case are that the claimant on the 19-11-23 purchased Air tickets for himself, his wife and his two children from the defendant at the sum of **₦258,620.00 (Two Hundred and Fifty Eight Thousand Six Hundred and Twenty Naira)**, that on 20-12-23 the claimant received an email from the Defendant stating that the flight has been rescheduled for 6:00pm that same day, latter he received another email from the defendant that the flight has been rescheduled for 8:15pm same day and that they latter canceled the flight for that day. That after the flight was canceled the claimant went to the defendants office at the Airport and made an oral complain, filled the defendants forms and requested for a refund of the ticket money. That the claimant waited till March 2024 there was no response from the defendant that the claimant sent several emails and had

correspondence with the defendant wherein he demanded refund of his money but up till date the defendant has not made a refund to the claimant hence this suit.

The sole issue for determination as raised by this court in this judgment is *“Whether considering the facts and circumstances of this case, the Claimant is entitled to his reliefs before this court?”*

The law is trite that where the claimant leads evidence in prove of his case and the Defendant adduces no evidence in rebuttal, the claimant is entitled to judgment on the merits of the case if he meets the standard of prove required by law. In a civil case such as this the standard of prove is on a preponderance of evidence. See: **Section 134 of the Evidence (Amendment) Act 2023**. The burden of this prove however rests on the claimant., See the cases of **IBANIPIO V. ONYIYANGO (2000) 6 NWLR (PT. 661) PAGE 497 at paragraph E**.

The claimant as CW1 relied on Exhibits “A” to “C1” in proof of his case and led evidence, The defendant did not contradict any of the Exhibits neither is there a defence against all the claims of the claimant before this court, the implication is that the Defendant is deemed to have admitted all the facts and claims as stated by the Claimant, the law is trite that facts admitted need no further proof, see **Section 123 Evidence (Amendment) Act, 2023** and the case of **CBN V. DINNEH (2010) 17 NWLR (PT. 1221) PAGE 125, 162 at paragraphs C-D**.

I have carefully considered the evidence adduced by the claimant in this case, the documents relied on particularly Exhibit “A” the E-ticket purchased by the claimant for four persons in the sum of ₦258,620.00 (Two Hundred and Fifty Eight Thousand Six Hundred and Twenty Naira) , Exhibits “C”- “C5” which is the email correspondence exchanged between the parties, wherein the Defendant indicated willingness to refund the claimant his money. I have also considered all the prayers as sought by the claimant and which for the sake of emphasis I must repeat are unchallenged by the Defendant and I find as follows:

That with respect to “relief 1”, I find no difficulty in arriving at the conclusion that the claimant has proved his case on the standard required by law and that this is indeed a deserving circumstance for the court to order as prayed by the claimant.

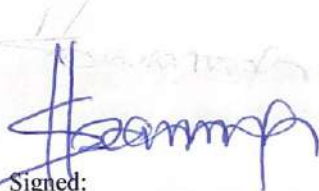
With respect to “relieves 2” and “3” this court is not convinced as the claimant has not placed anything before this court for the court to order as prayed either by way of oral or documentary evidence. The said reliefs are deemed abandoned and refused.

Accordingly, it is adjudged as follows:

1. That the claimant is entitled to the sum of **₦258,620.00 (Two Hundred and Fifty Eight Thousand Six Hundred and Twenty Naira)** only being and representing cost of four E-Tickets the claimant bought from the defendants .

2. Cost of **₦200,000.00 (Two Hundred Fifty Thousand Naira)** only is awarded in favour of the Claimant. .

I make no further orders.


Signed:
S. S. IBANICHUKA , ESQ.
30/07/2024.

