

**IN THE CHIEF MAGISTRATE COURT OF RIVERS STATE, NIGERIA  
IN THE RUMUODOMAYA MAGISTERIAL DISTRICT  
HOLDEN AT RUMUODOMAYA**

**BEFORE HIS WORSHIP B.H. ABE (MRS), ESQ., SITTING AT THE CHIEF  
MAGISTRATE COURT 1, RUMUODOMAYA ON TUESDAY THE 6TH DAY OF  
MAY, 2025**

**RMC/SCC/25B/2024**

***BETWEEN***

**MRS. EVELYN IJEOMA IBENEME** - **CLAIMANT**

**VS.**

**MRS. MBIE AMAKA PATRICIA** - **DEFENDANT**

Matter for Judgment

Parties absent

Lord Ikonwa, Esq. for the claimant, K.N. Owborji, Esq. for the defendant

**JUDGMENT**

The claimant's claims against the defendant are as follows;

1. An order that the defendant pays the claimant the sum of N1,006,000.00 (One Million, Six Thousand Naira only), being her capital sum owed by the defendant.
2. An order that the defendant pays the claimant the sum of N50,000.00 (Fifty Thousand Naira only), being the sum of money paid for the demand letter.
3. An order that the defendant jointly or severally pays the claimant the sum of N200,000.00 (Two Hundred Thousand Naira only), being the sum paid for this litigation.
4. An order that the defendant jointly or severally pays the claimant the sum of N150,000.00 (One Hundred and Fifty Thousand Naira) as general damages.
5. 10% yearly post judgment interest.

**Facts**

The summons was served on the defendant who filed a defence stating that both parties had a joint business, which was delayed by lack of oil from the suppliers and the claimant is aware of it.

At the commencement of this suit parties were granted leave to explore settlement amicably out of Court.

This was after the defendant had pleaded not liable to all the claims.

Parties were unable to settle out of Court, the Court thus vacated its leave granted for out of Court settlement and commenced with hearing of the case.

The claimant's counsel on the 31<sup>st</sup> January, 2025, Agochi Amadi, Esq. led the claimant in evidence. The claimant's written statement on oath dated 11<sup>th</sup> November, 2024 was adopted as her evidence.

The bank transfers made by the claimant to the defendant were admitted in evidence as Exhibits A – D, receipts from her lawyer for legal fees admitted as Exhibits E and F dated 20/9/24, the demand letter from the claimant to the defendant dated 20/9/24 admitted in evidence as Exh. G. Certificate of compliance Exh. D.

The transfers totalled N1,006,000.00 made in three instalments, N101,000, N105,000, N800,000.00 (Exhibits A – D).

In her statement on oath, the claimant averred as follows;

She knows the defendant who runs a cooking oil business.

She invested in the defendant's business, they agreed to share the profits from the business upon the sale of the oil from each business trip.

She invested N1,106,000.00 into the business, they agreed that she could pull out her money whenever she is not comfortable with the business and when she is tired. She transferred the money to the defendant's bank account.

She had an accident and did not continue with the business, she also fell ill. The defendant was running the business and refused to give her a kobo as her share of the profit.

She called the defendant to refund her capital she invested in the business, but the defendant has refused to do so.

She paid her lawyer N50,000.00 to write a demand letter, the defendant was served with same and has still refused to refund her money. The defendant is enjoying both the capital and profits of the business alone.

She paid her lawyer, N200,000.00 to file this suit.

She claims N150,000.00 for general damages.

She further claims, N1,006,000.00, being the capital money owed, and 10% yearly post judgment interest.

The defence, K. N. Oworji (Mrs.) cross-examined cw1 afterwards.

Cross-examination of Cw1, Pertinent answers deduced;

She confirmed she approached the defendant to teach her the sale of palm oil. The defendant did not approach her for a loan for the business.

She denied giving the amount she is claiming as her own startup capital. They agreed to share the profit from the business. She gave the defendant N1,001,000.00.

They share the profit together.

Que. - Before you share the profit from any sales, you first remove your expenditure?

Ans. - Yes

Que. - The sum removed from the sales will be given back to that person?

Ans. - Yes.

On the 18<sup>th</sup> August, one gallon of oil was wasted when she had the accident with injuries incurred, not four gallons of oil.

She (defendant) sends some money to the market women before the oil is produced and the balance paid when they get to the mill.

The defendant went to the mill after her accident to purchase the oil.

She confirmed that N900,000.00 is her capital for the business, she withdrew N101,000.00 at the mill bringing it to N1,006,000.00.

She ran the business with the defendant for two months, after her accident, the defendant promised to return her capital and her interest, which she failed to. Since her accident in August, 2024, she has not received any money from the defendant. They both share profit from the business.

No document to show proof of their contract.

The defendant had been at home for a while because she did not have money for the business. She then gave her money.

After every trip, the claimant deducts her expenses before sharing the profit.

The sellers told them there was no oil at some point that they will pay at the end of February.

She emphasized that they agreed that she will bring the capital and they will share the profit, no agreement before the Court.

End of cross-examination of cw1.

The defendant gave her own defence informing the Court that her name is Amaka Mbie living at Oroigwe, 1<sup>st</sup> Avenue Estate, Elimgbu Road, she deals with palm oil as her business.

The claimant is her neighbour and partner in her business.

They both go to oil mill in Owaza, Abia State, in June/July, 2024, the claimant told her that she will like to join the business that she should teach her. The claimant gave her N905,000.00 for the business. She told the defendant that she will loan her N450,000.00 and N450,000.00 will be her capital for the business, the defendant will be paying interest at N7,500.00 weekly. They buy the oil and sell at yam zone, Iriebe, they calculate the profit, remove the expenses and take the profit, they share the loss and profit. Her money is also part of the capital.

They remove the capital and share the profit.

Red oil business is seasonal, there are times they order for Ten (10) rubbers and get only Five (5) rubbers and they will be asked to come back for the rest. They had an accident, incurred losses and sustained injuries.

The claimant asked for her money and she told her the money is with the people that she gets the oil from. She reported her to the police. The police called and were told the oil production will start in February/March, 2025.

She informed the Court that the oil season has started, that they should go back to the mill, her money is there with the oil millers, they should go together to do the business together. The claimant went there and was told that the miller has been milling and selling. She admitted she has not been paying the N7,500.00, because of the set back, the money is still at the mill.

Cross-examination of the defendant.

She confirmed that the claimant transferred N905,000.00 to her account.

The Money is at the mill not with her.

The money transferred is proof of their partnership (with the claimant).

Accident in August, 2024 (confirmed, claimant said same).

She confirmed her own business after the accident.

She agreed that she will pay the claimant the loan of N450,000.00 when the business starts (facts admitted need no proof).

She admitted not paying the loan of N450,000.00 since September, 2024.

Que. - You have not paid the loan since September, 2024 till date?

Ans. - Yes.

Que. - It is your evidence that the claimant gave you N450,000.00 as a loan for the business?

Ans. - Yes, out of the N900,000.00, N450,000.00 is a loan.

Que. - The loan attracts N7,500.00 weekly?

Ans. - Yes.

Que. - Since September 2024 the N7,500.00 weekly will be more than N200,000.00?

Ans. - Yes.

Que. - From September, 2024 till March, 2025 is seven months, no interest for seven months?

Ans. - Yes.

Que. - On the N450,000.00 invested by the claimant, the oil will be returned before the end of February, 2025?

Ans. - They said so.

Counsels filed their final written addresses afterwards. The defence in his final written address, Charles Oworji, Esq. submitted therein, the issues for determination.

## **ISSUES FOR DETERMINATION**

- i. Whether the claimant has any Substantial Claim against the Defendant in this case?
- ii. Whether the claimant is entitled to the claims and reliefs sought in this matter?

It is our humble submission to the Honourable Court that from the evidence as adduced by both the claimant and defendant in this case, no claim has been made out against the defendant by the claimant and the claimant is not entitled to any of the reliefs sought.

The claimant during cross-examination admitted:

That the money she gave was her start-up capital for the business.

That both parties have been running the business together going to market, selling and sharing profits and loss.

That there is no evidence before the Court showing there was any agreement that the defendant will refund the claimant her startup capital anytime she is no longer interested in the business.

It is a settled principle of Law that the Claimant cannot engage in any loan transaction without compliance with the Money Lenders Act.

The Courts have held in plethora of cases that a claimant cannot recover loan debt or engage in a loan transaction with the defendant without complying with the money lenders act. See First Bank of Nigeria Plc vs Maiwada (2012) 17NWLR (Pt. 1328). Seen also Union Bank of Nigeria Pic vs. Ayodare & Sons (Nig.) LTD (2007) 12 NWLR (Pt.1046). Odua Investment Company Limited vs. Talabi (2005)18 NWLR (pt. 956) 1.

We further submit following the decision in Ebeinwe vs State (2011) 7NWLR (Pt. 1246) pg. 402 that evidence that is neither challenged nor rebutted remains good and credible evidence which the Court is enjoined to reply upon and ascribe problem value to.

We therefore urge this Honourable Court to dismiss all the claims of the claimant with punitive cost as the claimant wants to "eat her cake and have it back", having enjoyed the proceeds of her capital, she turns around to demand for the refund of the same capital from her business partner.

The claimant's counsel, Agochi Amadi, Esq. also filed his final written address, postulating as follows; issues for determination.

1. Whether the Defendant is obligated to pay the Loan of N450,000.00 plus N7,500.00 weekly interest from September, 2024 till date?
2. Whether the defendant is obligated to refund the claimant her N450,000.00 investment and the sum of N106,000.00 investment pursuant to the agreement of the parties?
3. Whether the Defendant is obligated to pay the sum of N50,000,150,000 and N200,000 as cost of litigation, fees and general damages?

#### Issue 1

Whether the Defendant is obligated to pay the Loan of N450,000.00 plus N7,500.00 weekly interest from September, 2024 till date?

The Defendant in paragraph 4 and 5 of her Statement of Defence and under cross examination on 27<sup>th</sup> March, 2025 admitted that she took the loan of N450,000 with N7,500.00 weekly interest and that she has not paid the loan and interest till date. The law is that facts admitted require no proof. The Claimant also wrote the Defendant a demand letter admitted as Exhibit G. The law is that when a letter of demand is served on a person and he fails to refute same, the person is deemed to

have admitted the facts in the letter of demand. See UNION BANK OF NIGERIA LTD. vs. OKI (1999) 8 NWLR (PT. 614)255; AMED vs. UNITED BANK FOR AFRICA PLC (2008) 8 NWLR (PT. 1090) 623.

## Issue 2

Whether the Defendant is obligated to refund the Claimant her N450,000.00 investment and the sum of N106,000 investment pursuant to the agreement of the parties?

We submit that the Defendant is obligated to pay the Claimant as claimed herein. From the unchallenged and uncross-examined evidence of the Claimant in paragraphs 4, 5, 6,7,8 and 9 of the Written Statement on Oath, the Claimant is entitled to this relief claimed. The Defendant's Counsel never cross-examined the Claimant in this piece of evidence, thus deemed to have admitted the piece of evidence. We urge this Court to so hold.

## Issue 3

Whether the Defendant is obligated to pay the sum of N50,000, 150,000 and N200,000 as cost of litigation, fees and general damages?

We submit that an unchallenged and uncross-examined evidence is deemed admitted. See. MONKOM vs. ODILI (2010) 2 NWLR (1179) 419 at 442.

The Claimant in paragraphs 10 -14 of the Written Statement on Oaths claimed the damages, fees and cost of litigation and was never cross examined on them. The Claimant also proved same by documentary evidence admitted as exhibits. We also submit that the Claimant has proved injuries suffered by the refusal of the Defendant to pay her the loan, interest and return of her invested money based on their agreement, thus entitling her to the reliefs claimed.

We urge the Court to enter judgment for the claimant having proved her case.

## **Issue for determination by this Court**

Whether the claimant is entitled to all her claims as filed before the Court?

## **COURT**

It is not in dispute that both parties entered into an agreement, a business contract precisely for the sale of palm oil.

This has been established by both the claimant and the defendant in their evidence in chief. The cooking oil business is run by the defendant, which the claimant took an interest in and approached the defendant to be a partner in the business.

The claimant claims that she invested the sum of N1,006,000.00 into the business. The defendant informed the Court that the claimant is her partner while giving evidence.

The submission of the defence that the claimant loaned money to the defendant without compliance with the Money Lenders Act is unmeritorious and frivolous, and is hereby dismissed.

The claimant did loan money to the defendant, the claimant is not a money lender and did not have to act in compliance with the Money Lenders Act.

The claimant rather invested into the defendant's cooking oil business with the intention of making profit for herself from the business.

In proof of her claims against the defendant, the claimant tendered Exhibits A – D.

Exhibit A – proof of transfer of N101,000.00 to the defendant on the 23<sup>rd</sup> July, 2024, remark – red oil clearly stated thereon.

Exhibit B – proof of transfer of N800,000.00 to the defendant on the 19<sup>th</sup> July, 2024.

Exhibit C – proof of transfer of N105,000.00 to the defendant on the 24<sup>th</sup> July, 2024.

Exhibit D – certificate of compliance in compliance with section 84(4) of the Evidence Act, 2011 (Amended). Total transferred to the defendant; N1,006,000.00

Exhibit G – A letter of demand dated 20<sup>th</sup> September, 2024 by the claimant's attorney to the defendant, demanding that the defendant pays the claimant the sum of N1,006,000.00 invested in her oil business.

The claimant claims that they agreed that she could pull out at anytime from the business, though this was dismissed by the defence, there is no evidence before this Court to support that submission of the claimant. See section 131 to 134 of the Evidence Act, 2011 (as amended), "he who asserts must proof".

The claimant and the defendant both stated in their evidence in chief that they both agreed to share the profits from the business.

The defendant said in her evidence in chief that the claimant gave her N905,000.00 for the business, she told her she will loan her N450,000.00 for the business and invest N450,000.00 into her business as her own capital and the defendant will be paying interest at N7,500.00 weekly. They sell the oil, calculate the profit, remove the expenses and take the profit, share the loss and profit. This the claimant also submitted in her cross-examination.

The claimant during cross-examination informed the Court that the defendant did not approach her for a loan to the business, this also discredits the submission of the defence that the claimant loaned money to the defendant hitherto not in compliance



with the money lender's account, that is why the Court sees his submission as unmeritorious and frivolous. They both shared a friendly business partnership not a money lending transaction.

In the course of cross-examination, the claimant confirmed that before they both share their profit from any sales, they remove their expenditure.

In order for the Court to calculate how much of the capital loan sum has been paid to the claimant, the Court will need an extensive breakdown of sums paid to the claimant which is not before the Court.

This is a Court of law, which relies on facts and evidence and not mere speculation in giving its judgment, see sections 131 to 134 of the Evidence Act (amended). Civil cases are decided upon the preponderance of evidence and balance of probabilities. There is no statement of account from either party to prove the amount paid as refund of the capital loan sum to the claimant.

See *Ayorinde vs. Sogunro* (2012) 5 SCNJ 95.

The claimant during cross-examination confirmed that N905,000.00 is her capital invested in the business including N101,000.00 totalling N1,006,000.00.

For two months she ran the business with the defendant, that is from June to August, 2024, upon the accident she was involved in, in August, 2024 she had to stop going to the mill and did not receive any money from the defendant, whom was to make payment to her for the profits from the business and the weekly interest of N7,500.00 to pay off the capital loan sum. The Court relies on the strength of evidence before it. See *Odi vs. Osagile* (1987) 2 NWLR (pt. 57); 522.

The claimant claims she gave the defendant N1,006,000.00 tendered Exhibits A – C in proof of same, though the defendant denies same, saying she was given only N450,000.00 as the capital for the business while N450,000.00 was given to her for her personal business as loan.

The Exhibits tendered; Exhibits A – C are cogent proof of the fact that she received N1,006,000.00 from the claimant to invest in her business. This is what the law refers to as preponderance of evidence. See sections 131 to 134 of the Evidence Act, 2011.

See *Amokomowo vs. Andu* (1985) 5 SC 28 at 44.

It is trite law that where there is a discrepancy between documentary evidence and oral evidence, documentary evidence will prevail. So the Court here will rely on Exhibits A – C, proof of payment of N1,006,000.00 to the defendant by the claimant for the oil business. See *ACE Ltd. vs. Cole* (2010) All FWLR (pt. 861) ratio 4, page 1207, The Court held that the evaluation of relevant and material evidence before the court and the ascription of probative value to such evidence are the primary functions of the trial Court who assessed evidence and heard witnesses.

The Court further held that parties to a contract are bound by the terms of the contract and cannot resile from same. The express terms of a contract govern all aspects of relationships between the parties.

The parties especially the defendant is bound by the contract both parties entered into which is to be executed fully. The defendant has acted in breach of the contract by not paying the agreed sum of N7,500.00 weekly for the capital sum invested by the claimant.

See also;

Akintola vs. Solana (1986) 3 NWLR (pt. 24) 598.

Interdrill (Nig.) Ltd. vs. UBA (2017) All FWLR (pt. 904)

Kindey vs. Military Governor of Gongola State (1988) 5 SCNJ 28.

The defendant informed the Court in her evidence that they remove the capital and share the profit and also share the loss. She confirmed here that indeed there is capital to be paid.

From the facts before the Court, the claimant has established that there is a breach in their contract that warrants a refund of the money invested in the oil business. From the totality of evidence before the Court, adduced by the claimant, the claimant has discharged the burden placed on her in her claims against the defendant by proving her case by the preponderance of evidence.

The defendant has admitted the claimant's claim that she invested in her oil business in her evidence and in the course of cross-examination of the defendant. Facts admitted need no further proof.

I.C.B. Nig. Ltd. vs. Ademuwagun (2005) NWLR (pt. 924) pg. 274 paras. G – H.

The legal consequence for the breach of contract is for the defendant to compensate the claimant, put her in the financial position she was in at the commencement of the contract.

The profit from the business and the capital invested should be paid by the defendant. The loss incurred is as a result of the defendant's breach of the contract.

The defendant admitted in her evidence that she has not been paying the N7,500.00 because of a set-back, that the money is at the mill not with her, also reiterated this in the course of cross-examination, where she confirmed that the claimant transferred N905,000.00 to her account. The money transferred is proof of their partnership, this was submitted by her during cross-examination. She further confirmed during cross-examination that the claimant had an accident in 2024 August, and she continued her own business during this time. She agreed in the course of cross-examination to pay the claimant the loan of N450,000.00 when the

oil business starts after informing the Court that the business is seasonal in her evidence in chief, that the oil millers asked them to come back for the oil. She admitted not paying the loan since September, 2024.

Que. - You have not paid the loan since September, 2024 till date?

Ans. - Yes.

Que. - The claimant gave you N450,000.00 as loan for the business, it is your evidence?

Ans. - Yes, out of the N900,000.00, N450,000.00 is a loan.

Que. - The loan attracts N7,500.00 weekly?

Ans. - Yes.

Que. - No interest for seven months?

Ans. - Yes.

They said (millers) that the oil will be returned before the end of February, 2025.

She informed the Court that the oil business started and they should go back to the mill together for their business. Her money is with the oil millers.

From all that has been laid out above, the defendant has clearly shown that she is liable to the claimant for the capital invested and the profits also. The defendant should ensure that the claimant is fully refunded of all her monetary claims or profits emanating from the business, accrued to her in her absence while recuperating from the accident.

By virtue of Exhibits E, F and G, evidence of the legal fees paid by the claimant to her lawyer, the claimant has proved her entitlement to same. See sections 131 to 134 of the Evidence Act, 2011 as amended.

The contract between both parties has been discharged by breach and the claimant is thus entitled to refund of her money. See *Adedeji vs. Obajimi* (2018) 16 NWLR (pt. 1644) 146 at 167.

The claimant must be indemnified for her losses including legal fees payment. See *Per Bage JSC* 168, paras. H – B of *Adedeji vs. Obajimi* supra 167

The claimant is also entitled to damages. See section 10 of the Evidence Act, 2011. Damages place the claimant in the same position as though the contract had been performed in law. See *DHL Intl Nig. Ltd. vs. Eze Uzoamaka* (2020) 16 NWLR (pt. 1751) at 485. Damages are the monetary compensation for the loss suffered by the claimant, as a result of the breach of contract by the defendant.

Accordingly, the Court hereby holds that the claimant has satisfactorily proven her entitlement to her claims.

Judgment is hereby entered in favour of the claimant and the Court orders as follows;

1. That the defendant pays the claimant the capital sum of N1,006,000.00 (One Million and Six Thousand Naira) only, invested in her business, less what had already been paid by the defendant. The Court does not have the extensive record of the payments already made.
2. That the defendant pays the claimant, N250,000.00 (Two Hundred and Fifty Thousand Naira) only, for professional fees including the cost of this action.
3. That the defendant pays the claimant N150,000.00 (One Hundred and Fifty Thousand Naira) only, for general damages.
4. That the defendant pays 10% yearly post judgment interest to the claimant.
5. That these sums be paid forthwith by the defendant to the claimant.

This is the Court's judgment.



**MRS BARIYAAH .H. ABE**  
**Chief Magistrate**  
**6th May, 2025.**

