

**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 28<sup>TH</sup> DAY OF MAY 2024  
AT THE SMALL CLAIMS COURT 4 PORT HARCOURT**

**SUIT NO: PMC/SCC/38/CS/2024**

**BETWEEN**

**SOLOMON OGBONDA ----- CLAIMANT**

**AND**

**CHIBO PROMISE----- DEFENDANT**

**PARTIES:** Parties Absent

**APPEARANCES:** M.O. Amadi Esq. for the claimant.

**JUDGEMENT**

By a claim dated 22/2/2024, the claimant's claim against the defendant are as follows:

1. N1, 100, 000.00 being amount for the car bought from the defendant
2. N1, 500, 000.00 as cost

The defendant counter claims as follows:

1. N800, 000.00 as special damages which the defendant spent in the cause of action of this claim.

## **PLEA**

After service of the summons on the defendant, on the 8/04/2024, defence counsel applied that a plea of not liable be entered for and on behalf of the absent defendant. Case was adjourned to the 15/04/2024 for report of settlement/hearing.

## **SUMMARY OF EVIDENCE**

The claimant in proof of his case called a lone witness, the claimant's attorney and tendered three exhibits marked Exhibits A and B.

The defendant never appeared to defend this suit hence no evidence was entered for the defendant.

The relevant facts from the case of the claimant as presented by the claimant's attorney is that he is the lawful attorney to the claimant. Power of attorney to that effect was admitted as Exhibit A. that the claimant sometime in January 2023 bought a Toyota Camry car from the defendant for the purpose of a commercial operation. That at the point of renewing the vehicle particulars, he was arrested by the police on account of the said car being a stolen one. That he was detained and eventually released. That thereafter he made several demands for the return of the N1, 100,000.00 he paid as the purchase price of the car but the defendant failed and neglected to return said money. That a formal written letter was sent to the defendant and the defendant engaged a lawyer who consequently made a reply to the said demand letter. Both letters were admitted as Exhibits B1 and B2 respectively. CW1 then urged the court to grant their claims.

The defendant never appeared either by herself or through a counsel to defend this suit even after being earlier represented by a counsel hence he was foreclosed from cross examining the CW1 and from defending this suit.

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**. 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 2 AND 3 OF THE RIVERS STATE SMALL CLAIMS COURT PRACTICE DIRECTION 2023** 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.

On the first claim of the claimant, by way of evidence, the claimant has tendered the correspondence between parties. In Exhibit B2 which is the defendant's response to the claimant's letter of demand, the defendant in that letter admitted to selling a disputed vehicle. He also opted to refund the claimant on two instalments and failed to do so, prompting this litigation. It is settled law, generally that, a fact admitted needs no further proof. This is elementary as captured in **SECTION 123 OF THE EVIDENCE ACT 2011**. Per Exhibit B2, this claim succeeds.

On the second claim of N1, 500, 000.00 as cost. The essence of costs is to compensate the successful party for part of the loss incurred in the litigation. Costs cannot cure all the financial loss sustained in the litigation. It

is also not meant to be a bonus to the successful party, and not to be awarded on sentiments. Per the evidence before the court, cost of N300,000.00 is granted. See **OYEDEJI V. AKINYELE (2001) FWLR (PT 77) 970 at 1001**

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

1. The defendant is ordered to pay the claimant the sum of N1, 100, 000.00 being amount for the car bought from the defendant.
2. The defendant is ordered to pay the claimant the sum of N300, 000.00 as cost.