IN THE SMALL CLAIMS COURT OF RIVERS STATE OF NIGERIA

IN THE PORT HARCOURT MAGISTERIAL DISTRICT

HOLDEN AT PORT HARCOURT

CLAIM NO: PMC/SCC/121/2026

BETWEEN

NOPEC ENERGY SERVICES LTD — **CLAIMANT**

AND

PASTOR PETER NWIYEE -- **DEFENDANT**

Parties are absent

Appearances- M.G. Mpie appears for the Claimant; B.P. Kpagih appears for the Defendant.

JUDGEMENT

The Claimant took out a summons on the 01/04/2026, and is praying the Court for the following:

1. The sum of N1,200,000 paid for the supply of a 20 feet container;
2. The sum of N300,000 as cost of litigation; and
3. The sum of N500,000 as damages.

The Defendant was served vide substituted means on 07/05/2026, consequent upon which B.P. Kpagih the Defendant's counsel, entered a plea of not liable.

Parties sought for and obtained the leave of Court to explore settlement out of Court. Settlement broke down and hearing commenced and closed its case on 09/07/2026 with the Claimant fielding in a sole witness, and tendered four exhibits.

The Claimant filed its final written address on 21/07/2026 and raised one issue for determination.

The Defendant filed its FORM RSSC 5 on 10/07/2026. The defense also filed a statement of defense of 26 paragraphs on 10/07/2026, as well as a counter-claim of 26 paragraphs on 29/06/2026. The defense commenced and closed its case on 13/07/2026. Its final written address was filed the 15/07/2026.

THE CLAIM

Hyacinth Dike Okpara, the Managing Director of the Claimant who doubled as the sole witness testified that the Claimant had a business project in Taabaa Community and he needed a 20 feet container for use on site. The Defendant approached him and parties agreed that the Defendant supply two 20 feet containers which will cost N2,700,000. On 14/06/2023, the

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Claimant transferred the sum of N1,350,000 to the Defendant for the cost of one 20 feet container. On the 15/06/2023, the Defendant called that should the Claimant still be interested in the second container, he should immediately transfer the sum of N1,200,000 and the Claimant did. The Defendant delivered one 20 feet container. When the Claimant began demanding and the Defendant could not pay up or deliver the container as agreed, the Defendant gave the Claimant his landed property as a collateral. With respect to the property used as collateral, a written agreement was made by parties. The Claimant retained the services of a legal practitioner for which services he paid N300,000. The Claimant has suffered mental, emotional and psychological trauma and should be compensated vide damages for the breach caused by the Defendant.

The Claimant raised one issue for determination. Mesua G. Mpie on behalf of the Claimant argued that the Defendant having admitted its indebtedness, same needs no further proof.

With respect to cost of litigation, Counsel argued that evidence was led in proof of same which was not disputed by the Defendant.

THE DEFENSE

The Defendant testified solely that he and Claimant entered into a contract on 14/06/2023 to provide two pieces of 20 feet container. The Claimant paid in full for the first one, paid the sum of N1,200,000 for the second one, leaving a balance of N150,000. Claimant refused to pay the balance and requested for a refund. The Claimant began threatening the Defendant and the Defendant used his land as collateral for the debt. The Defendant paid the sum of N1,000,000 to the Claimant, through Claimant's closest friend, Dr. Henry Kponee and as at 18/04/2026, Henry had transferred the Claimant the money.

In its final written address, the Defendant raised two issues for determination. B.P. Kpagih, the Counsel argued that the failure of the Claimant to pay the full sum, led to the Defendant's inability to supply the 20 feet container. Counsel also argued that it is against the law for a party who breached the terms of a contract to ask for damages.

THE COURT

The Court shall from the issues raised by parties, distill two issues for determination, thus:

1. Whether the Claimant is entitled to judgement of this Court; and
2. Whether the Counter Claim has merit.

ISSUE ONE

The Court shall in the resolution of the first issue, deal with the reliefs sought by the Claimant, seriatim.

Relief one is for the sum of N1,200,000 paid by the Claimant for the 20 feet container.

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The parties on record admitted that there was a contract between them for the supply of 20 feet container. Parties are also *ad idem* that the Claimant out of the N1,350,000 agreed, made a deposit of N1,200, 000, leaving a balance of N150,000.

In course of settlement out of Court, the Defense counsel on 08/07/2026, informed the Court, in the presence of the Claimant's counsel that the Defendant has sent the sum of N1,000,000 to the Claimant, through Claimant's friend/partner, Dr. Henry Kponee. This was corroborated by the Claimant who is the CW1, under cross-examination of 09/07/2026.

The law is settled that facts admitted need no further proof as proof presupposes that there is a dispute. Having admitted that what is outstanding is N200,000, that sum is removed from the ambit and realm of active proof. This position of the law was aptly captured by the apex Court in **ONUORA MBA V UDEOZOR CHIGHO MBA (2018) LPELR – 44295 (SC)** where Olukayode Ariwoola JSC held that:

> *"The Law is settled beyond any argument that admitted facts require no further proof."*

Thus, the Defendant is indebted to the Claimant for the unsupplied 20 feet container, to the tune of N200,000.

Relief two is N300,000 as cost of litigation.

Cost of litigation is in the sphere of special damages. By law, entitlement to special damages must not only be specifically pleaded, it must also be strictly proved. The success of a claim in special damages depends on the strict proof of what is claimed. Where the Claimant fails to prove its claim of special damages, he cannot rely on the Defendant's admission and its case is bound to fail.

It is to be noted that special damages are claims that the law does not presume or infer from the nature of the act complained of. This is because; they do not flow or follow in the ordinary course of events, like in the case of general damages. They are special and exceptional in their character. Hence, they must be specially pleaded and strictly proved. See **ONUIGBO V. NWEKESON (1993) 3 NWLR (PT. 283) 533; EKENNIA V. NKPA - KARA (L997) 5 NWLR (PT. 504) 152, BADMUS V. ABEGUNDE (1999) 11 NWLR (PT.627) 493; INCAR (NIG.) LTD. V. ADEGBOYE (1985) 2 NWLR (PT. 931) 439.**

In proof of this relief, the Claimant led evidence of payment for legal fees. The documentary evidence relied on by the Claimant is exhibit C4, the receipt from Akpekon & Akpekon dated 12/12/2025, evidencing payment of the sum of N300,000 as cost of litigation.

This Court has no doubt in finding that the Claimant is entitled to the relief, given that the Defendant did not contradict its evidence on this issue. I so hold.

The last relief sought by the Claimant is the sum of N500,000 as general damages.

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The Claimant in its deposition stated that he is entitled to general damages, having suffered mental, emotional and psychological trauma, for failure to execute the project as a result of the failure of the Defendant in supplying the 20 feet container.

Defense Counsel in its final written address argued that the Claimant breached the terms of the contract and cannot come back to claim damages for its wrong doing.

The parties alluded to the fact that what was agreed was N1,350,000 out of which the Claimant paid N1,200,000, with an outstanding of N150,000.

Under the law of contract, a contract can be discharged by agreement, performance or breach. In the instant case, the Claimant partially performed its obligation as he stated under cross-examination that parties agreed that the balance shall be paid at the point of delivery.

The Defendant did not contradict this piece of evidence and thus it is deemed admitted. Where there is a breach as in the instant case, the law does not leave the injured party empty handed as he will get some recompense in the form of damages. I find and so hold.

Issue one is accordingly resolved in favour of the Claimant.

ISSUE TWO- Whether the Counter-claim has merit

A counter claim to all intents and purposes, is a separate action and must be determined on its own merit- **HON. RITA ORJI V. MR. FRANCIS BARTHOLOMEW CHIMA & ORS (2023-04) Legalpedia 15250 (SC).**

By Article 8 of the Practice Direction, the counter-claim shall be limited to a simple liquidated money demand and the counter-claim shall arise out of the same or series of transactions. The counter-claim shall be limited to the claims on record.

The counter-claimant filed a document titled: 'Defendant's counter claim to the Claimant's deposition on oath. I have carefully through judicial lens, x-rayed that document and it is alien in all intent and purpose to what a counter claim is. The document so titled, is on all fours and *mutatis mutandis* with the statement of defense. Statement of defense cannot transmogrify into a counter claim. Firmly, any entitlement to counter claim, is within the imagination of the Defendant. None is spelt out, and none shall be granted. I find and so hold.

To the extent the Claimant has discharged the burden placed on it in law, judgement be and is accordingly entered for the Claimant. It is consequently adjudged that the Defendant pay to the Claimant:

1. The sum of N200,000 as balance of payment made for the supply of a 20 feet container;
2. The sum of N300,000 as cost of litigation; and
3. The sum of N100,000 as damages.

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SIGNED

ANUGBUM, OBIARERI NNENDA

CHIEF MAGISTRATE I

SMALL CLAIMS COURT IV

13TH AUGUST, 2026



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