

IN THE DISTRICT COURT OF FCT  
HOLDEN AT DUTSE ALHAJI, ABUJA

**BEFORE HIS WORSHIP HON: MUHAMMED TAHIR OMEIZA ABDULMUMIN**

SCC/DUT/05/2023

BETWEEN

MRS OKOLIE VERONICA.....CLAIMANT

AND

AUGUSTINE OLOFU.....DEFENDANT

26/10/2023

### JUDGMENT

This is a Judgment on a claim for liquidated money demand. The matter was instituted under the Federal Capital Territory Practice Direction on small claims court 2022.

A careful perusal of the small claims court complaint form (Form SCA2) disclosed that the defendant is owing the claimant the sum of N400,000.00 (Four Hundred Thousand Naira). The claimant adopted her witness statement on oath on the 10<sup>th</sup> day of October 2023 and thereafter tender in evidence a letter of demand addressed to the defendant, dated 4<sup>th</sup> September 2023.

The civil Summons and complaint form was served on the defendant in pursuance to Article 2 Paragraphs 3 Article 6 paragraphs 1 of the Small Claims Practice Direction of 2022 and Affidavit of service form SCA4 was deposed to by the Registrar of the court Bankyu Ruth.

The defendant however did not take any step to enter appearance or file a single process in defence to the claims against him, so I shall adopt the principle of law which stipulate that what is not denied is deemed admitted. See Section 123 of the evidence Act 2011, see also PROCTER AND GAMBLE NIGERIA LIMITED VS NWANNA TRADING STORES LIMITED (2011) (LPELR)-4880 (CA) (PP.28-29 PARAGRAPH A-B)

Similarly Article 7 Paragraph 1 and 4 of the Federal Capital Territory Small Claims Practice Direction 2022 states

1. "Upon service of the summons, the defendant shall file his defence or Admission or counter-claim within seven(7)days by completing form SCA 5 as appropriate"
2. Where a defendant fails to file an answer to the claim, or a counter-affidavit to the application for undefended claims, such defendant shall be held to have admitted the claim".

I am satisfied from my records that the defendant was served with the originating processes under the Federal Capital Territory small claims Practice Direction 2022, despite this service, the defendant chose not to enter appearance in defence to the claims against him.

Article 9 Paragraph 2 states;

"when the claim is called for hearing and the claimant appears but the defendant does not appear, provided there is proof of service, the District Court Judge shall proceed with the hearing of the claim and enter Judgment as far as the claimant can prove his claims"

The evaluation of the uncontradicted and undenied averments in the paragraphs of the witness statement on Oath shows that indeed the claimant loaned the defendant the sum of N400,000.00. the letter of demand requesting for the said sum addressed to the defendant gave credence to the witness claims; after all it is trite that documentary evidence is the yardstick or a hanger by which to access the veracity of oral testimony or its credibility. See OGBEIDE V GOWIN (2007) 3 NWLR (PT 1022) P. 423

The evidence of the claimant is unchallenged, it is settled law that where affidavit evidence has not been challenged or contradicted by way of counter-Affidavit facts deposed to in such affidavit are deemed admitted. See RIMI V I.N.E.C (2004) 15 NWLR (PT 895)121, FAWEHINMI V ABACHA (1996)5NWLR (PT 447)198. In OKOEBOR V POLICE COUNCIL (2003) 12 NWLR (PT 834)444, the apex court held that where the evidence of a witness is not inadmissible in law, uncontradicted and unchallenged, a court of law can act on it and accept it as true version of the case, the court further held per Edozie JSC Cpp.36-37 Para G-B that wherever any evidence, whether affidavit or oral stands uncontradicted, unless the evidence is patently incredible, the court ought to regard the matter to be proved by that evidence as admitted by the adverse party.

In conclusion, it is in consequence of the unchallenged evidence of the claimant, that I hold that she has proven her case on a minimal proof and she is therefore entitled to Judgment. I hereby order that the defendant pay the Claimant the sum of N400,000.00 (Four Hundred Thousand Naira) being the sum owed the claimant, I also order that in

pursuance to Order 32 Rule 4 of the District Court Rules 2021, 10% interest per annum be paid on the Judgment sum until same is liquidated. Also by virtue of the supreme court decision in NNPC V CLIFCO NIG. LTD (2011) LPELR-2022(SC) and ALSO ORDER 26 RULE 4 of the rules of this court I hereby order that the defendant pay the claimant N40,000.00 (Forty Thousand Naira) as cost of action.

REPRESENTATION

Claimant in court

Defendant absent

No Representation



HON: MUHAMMED TAHIR OMEIZA ABDULMINNI