

IN THE DISTRICT COURT OF FEDERAL CAPITAL TERRITORY
ABUJA
HOLDEN AT DUTSE ALHAJI ABUJA
BEFORE HIS WORSHIP: HON MUHAMMED TAHIR OMEIZA ABDULMUMINI

(SMALL CLAIMS)

CLAIM NO-S.C.C/DUT/18/24

BETWEEN

MABELUS INVESTMENT LTD..... CLAIMANT/APPLICANT

AND

TONY OBASI..... DEFENDANT/RESPONDENT

MESSRS TONEY OBASI & COMPANY LTD

11/6/2024

JUDGMENT

This a Judgment on Liquidated Money demand brought pursuant to Article 1 of the Federal Capital Territory Practice Direction on Small Claims Court 2022 hereinafter referred to as Small Claims Practice Direction.

The Claimant is a money Lender Organization duly registered under the Company and Allied Matters Act of 1990 and was duly issued the money lenders license under Section 5 (2) of the Monder LENDERS Right (Cap 525).

The 1st defendant is a body corporate while the 2nd defendant is the alter-ego of the 1st defendant with their office address at Building material Market Dei-Dei Abuja.

The Claimant particulars of claim and the small claim court Complaints form (SCA2) disclosed that the defendant is indebted to the claimant to the sum of



N3,763,33(Three Million Seven Hundred and Sixty-Three Thousand, Thirty-Three Naira) being the balance of loan and interest of the loan he took from the Claimant

On the 15th December 2022, the defendants were disbursed N5,000,000.00(Five Million Naira) loan at an interest rate of 8.5% per month for the duration of 90days.

The defendants have since defaulted in repayment plan leaving unpaid the balance of the capital sum and the accrued interest, which amounted to the total sum of N3,763,33 (Three Million Seven Hundred and Sixty-Three Thousand, Thirty-Three Naira).

The defendant have failed to fulfil their obligation despite several demands, hence the Claimant instituted this action under the Small Claims Practice Direction seeking for the following reliefs.

1. An Order of this Honourable Court Compelling the Defendant to pay the Claimant the sum of N3,763,33 (Three Million, Seven Hundred and Sixty-Three Thousand, Thirty-Three Naira).only being the balance of the loan and accumulated interest.
2. An Order of this Honourable Court Compelling the Defendants to pay the sum of N500,000.00(Five Hundred Thousand Naira) to the Claimant as damages for loss of time.
3. An Order of this Honourable Court Compelling the Defendants to pay the cost of this proceedings in the sum of N300,000.00 (Three Hundred Thousand Naira) only to the Claimant.

4. An Order of this Honourable Court Compelling the Defendants to pay the sum of N500,000.00(Five Hundred Thousand Naira) as general damages.
5. An Order of this Honourable Court Compelling the Defendants to pay 30% of the sum owed to the Claimant for litigation.

The defendants were served of the originating processes via substituted means in pursuance to Order 4 Rule 4 of the District Court Rule 2021 and Article 6 paragraph 4,5,6 and 7 of the Small Claims Court Practice Direction 2022.

The Claimant through his Executive Director, Credit Management and business support, one Mr Jackson Friday adopted his Witness Statement on Oath on the 22nd day of May 2024 while he thereafter tender the following document in evidence.

1. Certificate of incorporation Mabelus Plus investment Limited (Exhibit PW1 A)
2. Money under Certificate of Mabelus Plus investment Limited (Exhibit PW1B)
3. Loan Agreement between Mabelus Plus investment Limited and Tony Obasi & company Limited (Exhibit PW1C)
4. A. document titled Allocation of open space in Dei-Dei, Resettlement Building Material Traders dated 26/06/1995 (Exhibit PW1D)
5. Mabelus Plus investment Limited letter of offer addressed to Tony Obasi & co Ltd dated 15th December 2022 (Exhibit PW1E)
6. Mabelus Plus investment Limited document dated 31st August 2023 addressed to Tony Obasi &Co Ltd with the caption Loan Recovery

- Balance of N3,763,33 (Three Million Seven Hundred and Sixty-Three Thousand, Thirty-Three Naira). (Exhibit PW1F)
7. Zenith Bank cheque dated 16/06/2023 for the sum of N5,683,333(Five Million Six Hundred and Eighty-Three Naira Three Hundred and Thirty-Three Kobo) (Exhibit PW1G)
 8. Mabelus Plus investment Limited personal details of Toney Obasi (Exhibit PW1H)
 9. A letter of demand from Bright Shield Partners LP addressed to Messrs Tony Obasi &Co Ltd Letter of demand Exhibit PW1I)
 10. A Bright Shield Partners payment receipt Number 0017 for the sum of Three Hundred Thousand Naira received from Mabelus Plus investment Ltd (Exhibit PW1J)

At the close of Friday Jackson evidence, matter was adjourned for Cross-examination and defence

On the 29th day of May 2024, the defendants were foreclosed of their right to cross-examine Mr Jackson and to open their defence in pursuance to Order 24 Rule 4 (D) of the District Court Rules 2021 and Article 9 Paragraph 2 of the Practice Direction on Small Claims Court 2022.

It is on record that the defendant were duly served of the originating processes in this suit they were at all material times served with hearing Notices, their absence or failure to defend the suit against them can only be logically concluded that they have no defence on the merit, which consequently leave the case of the Claimant unchallenged.

Article 9(para 2) of the Small Claims Practice Direction, 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 Claim”.

See also Order 24 Rule 4(D) of the District Court Civil Procedure Rules 2021.

On the consequence of an unchallenged evidence, the Supreme Court held in UNITY LIFE & FIRE INSURANCE CO. LTD V I.B.W.A LTD (2001) NWLR (PT 773)610 that;

“where evidence giving by a party in any proceeding was not challenged by the opposing party who had the opportunity to do so, it is always open to the trial court seized of the proceedings to act on such unchallenged evidence before it”

The documentary evidence before me is quite explicit, precise and unambiguous, Exhibit PW1I is a Letter of Demand duly acknowledged by the representative of the 1st and 2nd defendants, Exhibit PW1E is a letter of offer to the defendants and captions the terms and conditions for the loan, Exhibit PW1C is a letter of agreement between the Claimant and the defendants, these three document highlighted the respective rights and obligations of both parties and as it can be deduced from the evidence before the court, the 1st and 2nd defendants have defaulted in this obligation.

Without belabouring the issue, the evidence of the Claimant is unchallenged, they are credible and it is in this regard, that I hereby hold that the Claimant have discharged the evidential burden placed on him and he is entitle to Judgment.

I will decline to award any form of damages this is because the interest on the accrued principal sum is enough damages, making an award of damages will amount to double compensation, and I so hold;

Upon the unchallenged evidence before the court, I also having satisfied myself that the defendants are aware of this proceedings, but elected not to come, that I hereby enter Judgment in favour of the Claimant and I Order as follows;

1. That the 1st and 2nd defendants jointly or severally pay the Claimant the sum of N3,763,33(Three Million Seven Hundred and Sixty-Three Naira, Thirty-Three Kobo) representing the balance of the disbursed and the accrued interest.
2. I award N50,000(Fifty Thousand Naira) cost of action against the 1st and 2nd defendants
3. I further award 10% interest per annum on the Judgment sum until same is liquidated.

REPRESENTATION

PARTIES ABSENT

PAPRTIES NOT REPRESENTED



MUHAMMED TAHIR OMEIZA ABDUMUMIN