

GOVERNMENT OF ABIA STATE OF NIGERIA
IN THE SMALL CLAIMS COURT OF ABIA STATE
HOLDEN AT UMUAHIA
BEFORE HIS WORSHIP MARY UKEJE EMENIKE (MRS) CHIEF MAG. GD. 1
ON THIS FRIDAY THE 10TH DAY OF MAY, 2024.

CLAIM NO: U/SCC/15/2024

**MORNING SUN MULTIPURPOSE
CO-OPERATIVE LTD MICROFINANCE**

- CLAIMANT

VS.

KALU AGWU ONWUCHEKWA

- DEFENDANT

Parties are present except the Defendant.

APPEARANCES: Oji Onwudinjo Esq for the Claimant; No representation for the Defendant.

COURT: Judgment

The Claimant is claiming the following from the Defendant (1) The Sum of ₦680,000.00 (Six Hundred and Eighty Thousand Naira) from the Defendant as a loan he gave to the Defendant; (2) Court fees of ₦2,100.00 (Two Thousand One Hundred Naira) and the sum of ₦20,000.00 (Twenty Thousand Naira) as cost; bringing the total sum to ₦702,100.00 (Seven Hundred and Two Thousand One Hundred Naira). The summons was filed on the 1/3/2024 and same was served on the Defendant. Affidavit of Service is filed at Page 6 of the Courts file. The Defendant did not file a defence to the claim. On the 22/3/2024 the Claimant opened its case and CW1 testified same date and on 5/4/2024 in which his evidence can be summarized thus: He gave his name as Ikoro Ufere Ikoro the President of the Claimant with its office at No. 135 Aba-Owerri Road, Umungasi Aba and that the Defendant entered into a business relationship with the Claimant seeking for a credit facility. That on 1/4/2019, the Defendant who resides at Ndiawa Compound Asaga Ohafia approached the Claimant for a credit facility of ₦100,000 (One Hundred Thousand Naira) with an interest rate of ₦15,000.00 per month. That the Claimant gave the Defendant the loan application form and other necessary document regarding the facility which the Defendant read and understood. That the Defendant agreed with the terms and condition and

the facility was granted to the Defendant unfortunately, the Defendant defaulted. It was his evidence that the Defendant only paid 3 months interest after 9 months.

It was his evidence that the Defendant gave him a cross cheque, that the Central Bank of Nigeria (CBN) ordered the Commercial Banks to change their cheque book and the Defendant was called to come and replace the new cheque to enable the Claimant tender it for clearing but the Defendant did not respond and the Claimant started looking for a way to recover their money. That a notice to commence a legal action was served on the Defendant.

That the interest on the principal sum of ~~₦100,000.00~~ was ~~₦15,000.00~~ per month and when the amount was ~~₦860,000.00~~ (Eight Hundred and Sixty Thousand Naira) both the interest and principal sum in November 2023, the Defendant paid ~~₦200,000.00~~ (Two Hundred Thousand Naira) and abandoned the account. That the credit facility was given to the Defendant on 10/4/2019. In the course of his evidence in Chief, CW1 tendered Exhibit A - the application form for empowerment; he also tendered the Sanction Advice Form as Exhibit B and a UBA cheque as Exhibit C; a letter of demand was also tendered as Exhibit D. CW1 concluded his evidence by saying that he is claiming the sum of ~~₦680,000.00~~ (Six Hundred and Eighty Thousand Naira) from the Defendant.

At the end of the evidence in Chief of CW1, the matter was adjourned to the 26/4/2024 for cross examination of CW1 but the Defendant did not turn up on the said date despite the service of a hearing notice on him. Application for a foreclosure was made and same was granted. The matter was thereafter adjourned to 2/5/2024 for defence and on the said date, again the Defendant did not come to court even after being served with a second hearing notice. The Claimant applied for a foreclosure and same was granted and thereafter the Claimant applied that Judgment be entered based on his claim.

I have considered the evidence of the Claimant before me and the Exhibits tendered. The Defendant on record have been served with the hearing notices twice on the 26/3/2024 and 29/4/2024 and that service of the hearing notice is the only legal means of getting the Defendant to appear in Court. So says the Supreme Court in the case of **Apeh V Peoples Democratic Party (PDP 2016) EJSC (Vol. 35) Pg 148** and also the case of **Onwuka V Owolewa (2001)8 WRN Pg 89**. From the evidence,

I am convinced that the Defendant approached the Claimant for a credit facility/loan and the Defendant having understood what he wanted, went ahead to signed the documents and the credit facility was given to him. Exhibit A and Exhibit B are the proof of this fact. The fundamental process of getting the Defendant to be aware of the pending claim of the Claimant was carried out yet the Defendant choose to stay away at his own peril. What this implies is that the Defendant has admitted the facts as adduced by the Claimant and it is a settled principle of law that facts that are not discredited, the Court should accept same, rely and act on it as proof of the facts in contest. On this I rely on the case of **CBN V Okojie (2015) EJSC Vol 26 Pg 1** and also the case of **Ogundaye V Oshunkeye (2007) 7KLR Pt 242 Pg 340**. The Defendant had opportunity to contest and defend the facts adduced by the Claimant but choose not to which has translated to the fact that the Defendant has admitted the facts and it is a settled principle of law that facts admitted need no further proof see the case of **Arewa textile Plc & Ors V Fintex Ltd (2003) 6FR Pg 184**. The Claimant has prove his claim on the balance of Probability as required in Civil Proceedings. Accordingly, Judgment is entered for the Claimant in the following terms; the Defendant shall pay to the Claimant the sum of **₦680,000.00 (Six Hundred and Eighty Thousand Naira)** forthwith. I make no order as to cost. This is the Judgment of the Court.

Signed

His Worship Mary Ukeje Emenike (Mrs)
Chief Mag. Gd. I.
10/05/2024



AGBANYIM C.C. (MRS)
Asst. Chief Registrar I