

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 THURSDAY THE 31ST DAY OF OCTOBER, 2024.

CLAIM NO: U/SCC/17/2024

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

VS.

TONIE TAYLOR ENYIOKO - **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 total sum of **~~₦4,953,100.00~~ (Four Million, Nine Hundred and Fifty-Three Thousand, One Hundred Naira only)** from the Defendant. The sum of **~~₦4,900,000.00~~ (Four Million Nine Hundred Thousand Naira)** a loan the Defendant took from the Claimant, **~~₦3,100.00~~ (Three Thousand One Hundred Naira)** as Court fees and **~~₦50,000.00~~ (Fifty Thousand Naira)** as cost. This brings it to the total sum of **~~₦4,953,000.00~~**.

The claim was filed on the 1/3/2024 and same was served on the Defendant. On the 16/8/2024, the Claimant opened his case and the evidence of CW1 can be summarized thus:- he gave his name as Ikoro Ufere Ikoro, the President of the Claimant, that on the 21/5/2019 in the afternoon, the defendant came back to the Claimant's office and told them that he is just from the market that the material he intended to buy to complete the job he got will not be enough him. He pleaded that he be given another loan of N1Million to complete the Job in nine days and

that he will come back and settle all the loan. After discussing with the defendant; the Defendant agreed with the terms and condition and he was given the empowerment application form which he filled and the sanction form signed by the Defendant's guarantor and the loan was given to him. CW1 went further to say that the Defendant moved to a family house at Nsirimo Ubakala and when he got to the family house, they saw the defendants father who is the custodian of the two Jeeps that was the collateral and he said he was aware of the loan. CW1 tendered Exhibit A the Empowerment form and Exhibit B the Approval form.

On the 26/9/2024, the matter came up, the Defendant was not present to cross examine CW1 and an application for foreclosure was made and same granted. The Defendant was not also present on the 10/10/2024 to enter his defence, application for foreclosure was made and same was granted. The Claimant Counsel thereafter applied that Judgment be entered in favour of the Claimant.

Having summarized the evidenced adduced before me, I have to state here that the Defendant stopped coming to Court on the 18/7/2024 after the ruling on the Preliminary objection raised by the Defendant. Hearing notices were served on the Defendant yet still, the defendant refused or neglected to appear in Court and cross examined the Claimant's witness or enter his defence in this Suit. Having not challenged the evidence, the facts are deemed admitted and the law is that the Court can act on the unchallenged evidence and deemed them as establishing the correct position of the facts in issue. See the case of **Arewa Textile Ltd Plc Vs Fintex Ltd (2003) 6 FR Pg 184 and the case of CBN V Okezie (2015) EJSC Vol 26 Pg 2**. The standard of proof required in a civil suit is generally placed on the preponderance of evidence or balance of probability. The Plaintiff had the duty to adduced evidence to support his claim in the suit as held in the case of **Okechukwu V AG Rivers State (2012) 6 NWLR Pt 1295 Pg 53** and also the **case of Emeka V Ikpeazu (2017) EJSC Vol 67 Pg 58**.

I find as a fact the Claimant has proved his case and therefore is entitled to Judgment. Accordingly is and hereby entered for the Claimant in the following terms:

- (a) The Defendant shall pay to the Claimant the sum of **~~N~~4,900,000.00 (Four Million Nine Hundred Thousand Naira)**.

- (b) It is hereby ordered that the Defendant shall pay to the Claimant the sum of **₦3,100.00 (Three Thousand One Hundred Naira)** being the Court fee. A cost of **₦10,000.00 (Ten Thousand Naira)** is hereby awarded against the Defendant.

This is the Judgment of the Court.



Signed

His Worship Mary Ukeje Emenike (Mrs)
Chief Mag. Gd. I.
31/10/2024



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