

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 16TH DAY OF AUGUST, 2024.

CLAIM NO: U/SCC/23/2024

HRH EZE ODUM AMOGU

- CLAIMANT

VS.

**MR. OLIVER IKWUAKOR
MR. NWANKWO MADUKA**

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- DEFENDANT

Parties are present except the Defendant.

APPEARANCES:- Orji Onwudinjo Esq for the Claimant; no representation for the Defendant.

COURT: Judgment:

The Claimant is claiming the sum of **₦5,000,000.00 (Five Million Naira)** from the Defendant as the sum of the friendly loan he gave the defendant, the sum of **₦2,300.00 (Three Thousand Three Hundred)** as the Court fees and the sum of **₦200,000.00 (Two Hundred Thousand Naira)** as the cost of action making it a total sum of **₦5,203,300.00 (Five Million three hundred and three thousand, three hundred naira)**. The Claim was filed on the 19/4/2024 and the Defendants were served.

Plea was taken on the 3/5/2024 and each of the Defendants pleaded not liable to the 3 arm of the Claimants Claim. On the 24/5/2024, the Claimant opened his case and testified as CW1. His evidence can be summarized thus: That he is a Chartered Accountant, that the 1st Defendant approached him in late November 2022 in the company of the 2nd Defendant and told him that he needed money as a help to clear the goods.

That he told him that he is not a money lender, but the 1st defendant begged him and he told them that he has never lend money before. But they kept begging and showed him the evidence of the import document and told him that within two

months that he will repay the money and on the 15/12/2022, he gave him the sum of N5M which he requested and that there was an agreement and he tendered the loan agreement as Exhibit A. That the agreement was that he will repay the money at the end of February 2023 and the 2nd Defendant stood as his guarantor. That when the 1st Defendant defaulted, a letter was written to him reminding him that it is time to repay the money. That when the Defendant was reminded, he sent a Fidelity Bank Cheque of N5M and the claimant tender the said Bank cheque as Exhibit B. That he took the cheque to the bank and the bank told him that the cheque was outdated and that it cannot be cash and that he informed the Defendant and the Defendant wrote a letter to him asking for time to repay the money with a promise to pay One Million addition and then the Defendant gave him another cheque of N6m without him requesting for N6m and the witness tendered the letter written to him by the 1st Defendant as Exhibit C1 & C2. It was his evidence that before the agreement was made, the 2nd Defendant took him to the property of the 1st defendant and after inspection, they presented original documents of the property to him and he is with the original of the document.

That the 2nd cheque of N6M bounced. That he made so much effort to recover his money and it failed. He decided to go to the Traditional Ruler of the Defendant Community who he knows is his senior colleague HRH Eze Nwata Mbakwe and reported everything to him. That the said Eze Nwata later told him that the defendant was going to pay but he did not pay. That he later got a call from someone who said he was the senior brother of the 1st defendant who volunteered to pay which he later paid N2M and later paid another N300,000 and that the 1st defendant has never paid any money.

At the close of the Claimants evidence, the matter was adjourned for cross examination twice but the defendant did not turn up to cross examined the Claimant and application for foreclosure was made and same granted and the matter was further adjourned for defence. Again, the Defendant refused to enter his defence.

I have considered the evidence adduced before me by the Claimant and the exhibits tendered thereof. It is obvious that the Defendant obtained the sum of N5M as indicated in Exhibit A and paid the sum of N2,300,000.00 as testified by the Claimant in his evidence in Chief. These facts were not challenged by the Defendant and were not also contradicted. It is the law that facts that are not challenged are deemed admitted and needs no further proof. See the case of **Arewa Textile Ltd Plc Vs Fintex Ltd (2003) 6FR Pg 184** see also the case of

CBN V Okojie (2015) EJSC Vol 26 Pg 2. The Defendant had opportunity to cross examined the Claimant and also enter his defence but he decided to forsake that opportunity and ignore coming to Court. The Claimants has to succeed on the strength of his evidence which is unchallenged and nothing more. Accordingly, Judgment is entered in favour of the Claimant in the following terms.

That the Defendant shall pay to the Claimant the sum of **₦2.7M (Two Million Seven Hundred Thousand Naira)** being the principal sum owed the Claimant by the Defendant; the Defendant shall pay to the Claimant the Court fees of **₦3,300.00 (Three Thousand Three Hundred Naira) Only.** The cost of **₦50,000.00 (Fifty Thousand Naira)** is awarded against the Defendant. This is the Judgment of the Court.

Signed

His Worship Mary Ukeje Emenike (Mrs)
Chief Mag. Gd. I.
16/08/2024



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