

**IN THE MAGISTRATES' COURT OF ABIA STATE OF NIGERIA
IN THE SMALL CLAIMS COURT
HOLDEN AT ABA**

**BEFORE HIS WORSHIP C. K. BOB-OGU (MRS.) CHIEF MAG. GD 1
THIS FRIDAY THE 16TH DAY OF MAY, 2025**

SUIT NO: SCC/AB/161/2025

BETWEEN:

ANISIGWU ARINZE FRANK

VS

NDUBUISI NWANKWO STEVE

Parties are present

L.C. Ihentuge for the Claimant.

Peter Uwakwe for the Defendant.

L.C. Ihentuge: I apply to amend the claim to read ₦1,500,000 and not ₦1,242,000.

Court: - Application is granted. Counsel is hereby ordered to effect the changes to reflect the amendment.

Claimant Counsel: I apply to recall the CW1 to tender a document.

Court: Application is granted.

CW1

On 2/5/25, I made mention of a post dated cheque dated 28/2/23. I seek to tender same in evidence.

Court:- The said cheque No. 0053792378 dated 28/2/23 for the sum of ₦892,000 is now received in evidence and marked Exhibit D.

CROSS EXAMINATION

I know the exact amount I am claiming from the Defendant. I am claiming the sum of ₦1,500,000 as stated on the writ of summons now

amended. It is the sum of ₦892,000 that is written on the cheque. I am claiming the sum of ₦1,500,000. The Defendant paid me the sum of ₦70,000 and ₦80,000.

Q: In your statement to the Court on 2/5/2025, you told the Court the Defendant was owing you ₦742,700 but on the face of your claim you wrote ₦1,500,000. Between these two sums, which amount do you want the Defendant to pay you.

Ans: ₦1,500,000.

Q: In Exhibit A, you wrote to the Defendant that he is owing ₦4,323,000.

Ans: It is not true. What I wrote ₦892,700.00 which is the balance he is owing me. My Exhibit B shows he had paid ₦80,000. The Defendant is actually owing me ₦742,700. But he incurred interest of ₦757,300 totaling ₦1,500,000.

Put: The Defendant is not owing you any money.

Ans: He is owing me ₦742,700.

Defence Counsel: That is all.

Re-examination: NIL.

The Defence Counsel is hereby ordered to field the Defendant. The DW1 affirms to speak the truth in Igbo language.

DW1

My name is Steve Ndubuisi Nwankwo. I am a trader. I live at No. 10 Diobu Street, Aba.

I know the Claimant. I bought goods from him. I bought fabrics from him. I am owing him but I have not finished paying him. I am owing him ₦742,000. The reason I have not been able to pay him the said ₦742,000 is that there is an issue on the last bale of fabrics he sold to me. He sold it at the rate of ₦780 per yard to me of over 5,000 yards. I sold at the bale at 830 and

850 naira. That morning, the customers came after purchasing the quantity they wanted; they deposited the sum of ₦2000 and waited for the Banks to open to transfer money to me. When the banks opened, I did not see any of them. One of them told me I defrauded him as he bought the same fabric at the rate of ₦750,000 from the Claimant while the Claimant sold to me at ₦780,000.

When I confronted him on that allegation, he said he did it because he needed money and that as at that time 8am he hadn't sold any goods. I had to pack the goods back and park them after cutting the materials. It is normally difficult to sell goods after you have cut them. That is where the problem started.

I brought forward the old balance I am owing him amounting to over ₦5,000,000. I have been paying him the money since then leaving a balance of ₦892,700.00 for which I issued Exhibit D. I told him I did not have any cash to pay him. He said I should cover it with a cheque. I spoke to my younger brother who lives abroad to help me offset the debt and he asked the Claimant to give him 3 months which is the date I put on the cheque. It was based on the agreement he had with my younger brother that I issued him the cheque. There was no receipt or other evidence he has except that cheque. Before the 3 months could elapse, the Claimant started pestering my brother and saying all sorts of unpleasant things to him. This pressure which was consistent and continuous made my brother to say he will not pay him again. That was when the lawyer came in and gave me the letter. She invited me to the office and I came I admitted I was owing the defendant but that I did not have the money to pay cash then, I did some side business and realized some money and that was when I paid him the ₦150,000 leaving a balance of ₦742,000.

This year I got a call from a bailiff who said he had a notice for me. I saw the figure he said I was owing him and that was not what I was owing him. This made me to approach my lawyer.

That is all.

Defence Counsel. That is all.

CROSS EXAMINATION

There was no agreement between me and the Claimant that I will sell at a particular amount. I have been owing him since 2022. I did not send my family to Canada. My wife travelled to Canada December last year. It is not up to 5 months now. I am owing the Claimant within the period my wife travelled. I know this money is the money he uses to do his business. If I had paid him then he will use it for his business and make more profit.

Series of letters have been written to me to pay. I visited the lawyer's office to ask for time to pay the said debt. The signature on Exhibit B belongs to me but I cannot remember writing this letter.

Claimant's Counsel: That is all

Re-examination: NIL.

JUDGMENT

Court:- I have carefully listened to both parties and it is not in doubt that the Defendant is owing the Claimant the sum of ₦742,700 the point of departure is the interest on the said sum which the Claimant says stands at ₦757,300.

Since the Defendant is not denying the said principal sum. I hereby enter judgment in favour of the Claimant and now order the Defendant to pay to the Claimant the sum of N742,700 being balance of the goods he sold to him forthwith.

On the issue of interest, it is my firm view that the Claimant is entitled to some interest on the principal sum as same forms part of his business capital for his trading business and had the Defendant paid him the said principal, sum, he would have put it into use and made profit. That notwithstanding, the Defendant's holding over of the said principal sum and trading with same for these number of years makes him liable to pay a certain interest on that money.

Consequently, I hereby order the Defendant to the Claimant the sum of N350,000 as interest on the principal sum forthwith.

This is the judgment of the Court in this case.



NWANOSIKE PATRICK C.
Head Registrar
SCC Aba Zone



SIGNED:
C. K. BOB-OGU (MRS.)
CHIEF MAG. GD. 1
16/5/ 2025