

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

**BEFORE HIS WORSHIP C.K. BOB-OGU ESQ CHIEF MAG. GD 1**

**THIS THURSDAY THE 17<sup>TH</sup> DAY OF APRIL, 2025**

**SUIT NO: SCC/AB/113/25**

**BETWEEN:**

**MR CHUKS**

**VS**

**UDOKA TORTY**

Claimant is present

Defendant is absent.

C.C. Erundu for the Claimant

Defendants unrepresented.

Case is for hearing. There is in the Court's file an affidavit of service showing that the Defendant was served and the Defendant also filed a Form SCA5. So the matter is for hearing.

CW1 affirms and states in English language.

**CW1**

My name is Mr Chuks Duru. I live at No. 6 Uko Street, Aba by Port Harcourt Road Aba. I am a trader. I carry on my business in Cemetary Market, Aba.

I know the Defendant. On 7/12/2024 I went to the Defendant's shop to buy BETA MALT about 200 cartons. I told him that it was for an occasion but I will not carry it on that day. That I will carry it on 27th of December. That if he is not ready to keep the drinks that day, he should tell me so I can go to another person's shop. He told me to pay for the drinks that he will keep it for me. I paid him for the drinks. I paid the sum of One Million nine

hundred and eighty thousand naira at the rate of N9,900 per carton. I have the receipt of the said purchase in Court.

C.C. Erundu: We seek to tender same as an exhibit.

Court: The said receipt No. 1380 dated 7/12/2024 duly signed is hereby received in evidence and marked Exhibit A.

### **CW1**

On 27/12/2024 I went to his office to pick up the drinks as we agreed. I called him on the phone when I came there and met his absence. He said he does not have the drinks anymore. I asked him what he wants me to do since I bought those drinks for occasion. He said yes but that he does not have the drinks now. I asked him if I should wait for the drinks. He said I should exercise some patience that he does not have the drinks.

I left his office to go and price the drinks elsewhere. I found out that they are now selling the drinks for N12,000 per carton. I had no option but to use my landed property to borrow money to get the drinks because the occasion was already at hand. I bought the drinks for the sum of N2,400,000. The said money I borrowed was for a ten percent 10% interest which is N240,000 per month. I have paid this interest for 4 months. I have not paid the principal sum. I also paid the driver that was supposed to carry the drinks the sum of N120,000 on 27/12/2024 but when I could not carry the drinks owing to the disappointment of the Defendant, the driver refused to refund me my money. I had to pay the sum of N120,000 to another driver on 28/12/2025 for carrying the said drinks. The total amount of expenses I incurred amount to N600,000.

I made several demands on the Defendant to pay me back the money but he refused. I even complained to others who knew us. They talked to him but he refused to pay me.

I later had a meeting with him in the company of some of our friends but he refused to pay me. He said he will only pay me the initial deposit of the drinks and nothing else. That he has paid 5 senior Advocates who will defend him in the case. After that he said he will give me 5 million naira to do business and refund him the balance when I have taken my money but he did not do that. This made me to sue him before this Court.

I am claiming the money I paid for the drinks which is N2,400,000, N960,000 being interest accruing from the interest of the money I borrowed, N120,000 being the money I paid to the transporter on 27/12/24 totaling N3,480,000.00. I am also asking for a cost of N300,000. I claim as per my writ.

Court: At this stage one L.C. Ihetuonye appears for the Defendant.

### **CROSS EXAMINATION**

I bought 200 cartons of malt on 7/12/2024. A receipt was issued to me stated "Not supplied" I bought a drink of N1,980,000. I did not collect the drinks that day. We agreed that I will collect the drink on 27/12/2024. The Defendant never called me to come and carry my drinks. He did not inform me that he will be travelling home for the Christmas. We agreed that I will come on 27/12/24 to carry the drinks and when I came on that day I did not see him. I called him on the phone and he told me there were no drinks again. That I should exercise patience. The Defendant never offered to refund me my money at any time.

Defence Counsel: That is all.

**Re-examination: NIL.**

Court: The Defendant is hereby called up to testify. The Defendant is sworn on the bible to speak the truth in Igbo language.

**DW1**

My name is Udoka Unegbu. I do my trade at Cemetary market. My shop number is 16/7 Line 6 Bolingo Plaza, Cemetary market.

On 7/12/2024, the Claimant came to my shop and asked me if I had Beta Can Malt. I said Yes. He asked me the price. I told him the price which is N10,000. He said it was expensive I asked him how many he wanted to buy. He said he wanted 200 cartons I told him I will sell to him for N1900. He left and after about 30 minutes he came back again. He transferred the sum of N1,980,000 for the 200 cartons through a POS. I issued him the invoice.

After I issued him the invoice, he told me he will not carry the drinks now. That he will carry it later. I told him we don't allow such. I told him to look for a place to pack the drinks as I would be travelling home for the Christmas. He said that he will go and look for a place to pack the drinks because I did not agree to keep the drinks. He left and never came back again.

I waited for the Claimant to come and carry his drinks to no avail. I didn't have his contact so there was no way I could reach him. So on 25/12/2024, I left for my village for Christmas.

On 27/12/24, while I was in the village, I saw a number that called my line. He introduced himself as Chuks the person who bought drinks from me. He told me he came to carry the drinks.

I reminded him that I informed him that we do not keep drinks for people as I am home for the Christmas.

I told him to send his account number to me so I can refund his money to enable him buy the drinks in the market. I also told him that in the alternative, he can exercise patience until when I come back and supply the goods to him. He got enraged and started threatening me that he will teach me a lesson. That he thrives on litigation as he has people in Abuja.

I told him it hadn't gotten to the stage of threats as the matter was a simple thing. He kept on threatening. I still insisted on what I told him earlier.

When I came back in January, I called him with the number with which he called me on 27/12/24 and asked him what the problem was. I told him to come and carry his goods or come for his money. He said he will not carry the goods or accept the refund. That he will tell me he is a big person in this town. I reported the matter to our Chairman in the market. The Chairman said they will wait for him to come and complain. The next thing I saw was a demand notice from the Court given to me by my boys in the market.

When I received the notice I called him on phone and inquired why he should sue me to Court. He said he wants us to go to Court. That he will win the case and if he doesn't let him die. That is how we came to Court. I see the document. It is Exhibit A. It is the invoice I issued to him. That is all.

### **CROSS EXAMINATION**

The Claimant threatened me that he will deal with me. I went to the Central Police Station to make an entry for threat to life. This was in February 2025. The Claimant was not invited by the police. In my shop I do not allow people to keep their goods after purchase that is why it did not reflect on Exhibit A.

Q: In your filed defence, you said you gave him one week to carry his goods.

Ans: Yes that is what I said.

Q: Why did you not indicate the said "one week" on Exhibit A.

Ans: I did not write it because we do not allow that arrangement and he said he was going to find a space to pack the goods that day.

Q: Do you know one Chibuike?

Ans: The Claimant came with a small boy that is an apprentice in our line to our shop on that day. I do not even know his name that day but he is someone in our line. He did not tell me he was bringing the Claimant

to my shop to buy things from me. I know the said Chibuike as an apprentice to my neighbour. The Claimant did not tell me the purpose for which he needed the drinks. The goods are in my shops but I travelled to my village Aguluzigbo in Anambra State. I have people in my shop who assist my children. I never suggested to the Claimant to add any additional cost to be able to come down to Aba to sell the goods to him.

Put: You never complained to the market leadership.

Ans: I met the Chairman of our line and told him about the problem between me and the Claimant sometime in January.

I am owing the Claimant the sum of N1,980,000 and the money is available or he can come and carry his goods. The current price of the drinks now is N10,300. I will not pay him the money he said he paid the driver because I opted to give him back his money on that day but he refused. I will not also pay the interest as I do not know about the money he borrowed.

**Re-examination: NIL.**

### **JUDGMENT**

Court: I have carefully listened to both parties and I am of the firm view that whosoever alleges must prove. It is not in doubt that the Defendant is indebted to the Claimant for the sum of N1,980,000 which is the initial payment made on 7/12/24 see Exhibit A as the said goods had not been supplied till date. The said goods were sold for N9,900 per carton as at 7/12/2024 but now sold at N10,300 per carton. By simple arithmetics, the total amount of the goods at the current price today will amount to N2,060,000.

It is my firm view and I hold that having not supplied the Claimant the said goods till date, the Claimant is entitled to a refund at the current price of N10,300 per carton as the Defendant had resold the said stock and also traded with the money paid by the Claimant on 7/12/2024. Consequently, the Defendant is hereby ordered to pay to the Claimant the sum of two

million sixty thousand naira only being the amount due to him from the sale of the said goods at the prevailing market price today.

On the loan and interest, there is nothing before me to show that the Claimant borrowed any money from anyone as no details of such loan presented to the Court. There was no loan agreement, neither was any named person or organization presented to the Court. That being the case, it is my view that the Claimant is not entitled to that claim of N980,000 as same cannot be proved. There is also nothing before me to show that the Claimant paid any driver any morning to carry the said goods to anywhere. The details of the driver, the vehicle and destination are unknown to the Court. Based on the foregoing, it is my firm view that the Claimant is not entitled to that claim.

Notwithstanding the foregoing, I hereby enter judgment in favour of the Claimant and now order the Defendant to pay to the Claimant the sum of two million sixty thousand naira (N2,060,000) only being the cost of the goods at the prevailing market price today FORTHWITH. The Defendant is hereby ordered to pay the sum of N200,000 as cost for out of pocket expenses FORTHWITH.

This is the judgment of the Court in this case.



**NWANOSIKE PATRICK C.**  
*Head Registrar*  
*SCC Aba Zone*



**SIGNED:**  
**C.K. BOB-OGU ESQ**  
**MAG. GD. 1**  
**17/4/2025**