

IN THE CHIEF MAGISTRATE'S COURT, DELTA STATE OF NIGERIA

IN THE ASABA MAGISTERIAL DISTRICT

HOLDEN AT ASABA

BEFORE HIS WORSHIP P. O. OBAYUWANA (MRS) CHIEF MAGISTRATE GRADE I

SITTING ON MONDAY THE 28TH DAY OF OCTOBER, 2024

BETWEEN:

SUIT NO: SCC/20/ASB/2024

FORTUNE HOMES ::: -- ::: PLAINTIFF

AND:

PASCAL ARINZE ::: -- ::: DEFENDANT

JUDGMENT

The parties are absent in court.

No representative for the defendant.

The plaintiff claims against the defendant as follows;

1. The sum of ₦952,000 (nine hundred and fifty two thousand naira) through the money incurred by the defendant.

Alternatively, an order by court permitting the plaintiff to attach the defendant's properties in its possession in lieu of the unpaid sum of ₦952,000 (nine hundred and fifty two thousand naira) which he now owes the plaintiff and for such order or further cost, the court may deem fit to make in the circumstance.

The defendant failed/neglected to put up appearance, despite several hearing notices served on him as can be seen from the court's processes before this court.

The plaintiff on the other hand was the sole witness and one Egwuatu Chukwu Jones was put forward as PW1. He testified to the effect that the defendant was a guest in their hotel in 2023. The defendant took two (2) rooms, room 120 and room chicago for one of his brother. PW1 narrated how the defendant's bill accumulated to the tune of ₦1,952,000 (one million, nine hundred and fifty two thousand naira). The defendant kept promising to pay until the hotel refused the defendant's further lodging in the hotel.

The defendant was then asked to pay the sum owed to which the defendant dropped some of his valuables as seen in the exhibits before the court.

Exhibit A – A laptop

Exhibit B – Peltel wrist watch

Exhibit C – Samsung phone

Exhibit D – An MTN router

And an iphone which were all left with the hotel in lieu of payment.

PW1 stated that the defendant gave the hotel a stipulated time frame to pay the debt and collect his personal belonging to which the defendant came and deposited the sum of ₦1,000,000 (one million naira) and was informed that he cannot claim all his belonging until he defrayed all outstanding payment.

The defendant then took only his iphone and wrote another agreement Exhibit B.

● The defendant refused to pick up his belonging or pay the outstanding balance despite several calls which the defendant subsequently blocked all communications. The case was reported to the police. PW1 urges court to grant the reliefs sought in his claim and a forfeiture of the defendant's belongings.

Plaintiff's counsel addressed court orally. **H. Orette (Esq)** submits that the claim is for a forfeiture of the defendant's property left in lieu of the sum of ₦952,000 (nine hundred and fifty two thousand naira) which the defendant could not pay back despite repeated phone calls. Counsel states that the defendant could not come to pay and he never attended court to put up his defence or cross examine PW1. The only witness called to give evidence is the plaintiff, PW1 and from totality of evidence adduced by the plaintiff's evidence hits towards the balance of probability in favour of the plaintiff.

Counsel urges court to enter judgment in favour of the plaintiff. This court has formulated a lone issue for determination, whether the plaintiff has proved his case against the defendant and is entitled to the judgment of this court. The court bears in mind that the law provides that he who asserts must prove in accordance with section 131 of the Evidence Act 2011 as amended and the standard of proof in civil cases is on the balance of probability or preponderance of doubt.

The evidence before this court is neither challenged nor contradicted as the defendant did not appear in court or put up any defence whatsoever in order for the court to discipline where the pendulum will swing.

The court have held that where evidence is given by a party to any proceeding was not challenged or contradicted by the opposite part, as in this instant case and who has every opportunity to do same, it is always open to the court seized with the matter to act on such unchallenged evidence before it.

See the case of **Okoesor vs Police Council (2003) 12 NWLR pt 834 at 44** where the court held that;

"Evidence which is unchallenged and uncontradicted, if credible ought to be accepted as there is nothing on the other side of the scale to balance"

See also the case of **Adejumo vs Ayantegbe (1989) 3 BWLR Pt 110 at 417.**

Furthermore, if the evidence led on the facts pleaded is admissible, relevant, uncontradicted and not discredited by cross-examination, a court can logically rely or act on it.

See the case of **Egbunike vs ACB Ltd (1995) 12 NWLR at 375 at 34.**

I therefore so hold that there is no other evidence to challenge the evidence of the plaintiff placed before this court, which is

admissible, relevant and uncontroverted, thereby entitling the plaintiff to the judgment of this court.

Consequently, the defendant is hereby ordered to pay the outstanding sum of ₦952,000 (nine hundred and fifty two thousand naira) owed the plaintiff for his hotel lodging and in default of payment within one week (1 week) from the date of the judgment. The defendant is to forfeit his belongings listed in exhibits before court to the plaintiff.



P.O. OBAYUWANA
CHIEF MAG. GD. I
28/10/2024