

IN THE MAGISTRATE COURT, DELTA STATE OF NIGERIA
IN THE ASABA JUDICIAL DIVISION
HOLDEN AT ASABA
BEFORE HIS WORSHIP P.O. OBAYUWANA, CHIEF MAGISTRATE GD 1
SITTING ON WEDNESDAY, THE 19TH DAY JUNE, 2024

SUIT NO: SCC/8/ASB/2024

BETWEEN:

MR. CHIDI FRANCIS DUMEBI..... PLAINTIFF

AND

MR. JACKSON GIFORDU..... DEFENDANT

The parties are absent.

S.E. PRAN: For the Plaintiff

No representation. For the Defendant

JUDGMENT

The Plaintiff claims against the Defendants as follows:

1. An Order of this court compelling the Defendant to refund the sum of **₦2,600,000.00** (Two Million Six Hundred Thousand Naira) being the purchase price of a land situate at Egbani Farm land Umuigbagba farm road, Ibusa which the Defendants deceitfully sold to the Plaintiff.
2. Damages of One Million (**₦1,000,000.00**) for breach of contract between Plaintiff and the Defendant.
3. And for such or further Order that this Honourable Court may deem fit to make in the circumstance.

The Defendants failed/neglected to put up appearance despite several Hearing Notices served on him. The Plaintiff on the other hand was sole witness and he tendered the following Exhibits in prove of his claim.

Exhibits 'A' Deed of Convenience, **Exhibit 'B'** letter of Demand. The Plaintiff was put forward to testify as **PW1** to the effect that **22nd of July, 2023**, the Defendants sold a piece of land measuring 100ft by 200ft for the sum of **₦2.6 Million**. A Deed of Conveyance was prepared which was signed by both parties and an additional **₦450,000.00** was paid to the Defendant for the Development of the said land i.e fencing of the land.

Plaintiff states that when he took blocks to fence the land in order to secure it. He could not gain access to the land. The Defendant refused to come despite calls put to him and subsequently refused taking his call.

PW1 further testified that he asked his lawyer to issue a Letter of Demand which they did and he did not respond and the case was charged to court. Plaintiff seeks/pays court to grant him the reliefs in his claim.

This court has formulated a sole issue for Defendant which is, whether the Plaintiff has proved his case and is entitled to the judgment of this case. The Court been in hold that the law provides that he who ascertain must prove in accordance with **Section 131** of the **Evidence Act 2011** as Amended and the statement of provision on the balance of probability in Civil Cases.

The evidence in this case is whether challenged or contracted as the Defendant did not appear in court or put up any defence in order for the court to decline the court so hold that, where evidence is given by Party to any, who like in the instant case, who had every opportunity to do same, it is always open to the court served 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 uncontroverted if credible ought to be accepted as there is nothing in the side of the scarce to balanced see also the case of Adejumo V. Ayantegbe (1989) 3 NWLR (Pt 110) at 414”.

Further more, if the evidence held on the facts pleaded is admissible, relevant, uncontroverted and not discredited by Cross Examination. A court can legally rely or act on it. See also the case of **EGBUNEIKE Vs. ACB Ltd (1995) 12 NWLR Pt. 375** at page 34.

I hereby hold same that the Evidence Addressed by the Plaintiff is admissible, relevant and uncontroverted and not discredit by cross examination. A court can legally rely or act on it.

The Defendant is hereby Ordered to pay/refund back the sum of **₦2,600,000** (Two Million Six Hundred Thousand Naira) being the purchased price of the land situate at Egbani Farm Land, Umuisagba farm Road, Ibusa, Delta State which the Defendant sold to the Plaintiff.

No Order as to damages.

P.O. OBAJUWA
Chief Magistrate GD 1

19/6/2024