

IN THE MAGISTRATE'S COURTS: DELTA STATE OF NIGERIA
IN THE SMALL CLAIMS COURT HOLDEN AT WARRI
BEFORE HIS WORSHIP O.Y. ASHESHE-EBONWU (MRS) CMI
ON WEDNESDAY THE 26TH DAY OF JUNE, 2024

SUIT NO: SCC/16/2024

BETWEEN:

DEBORAH DEDE URENEYUNOKAN

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PLAINITFF

VS

SOMANIYA CHUKWUMA OBINNA

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DEFENDANT

JUDGMENT

Parties present. U. Nmerole Esq for the Claimant.

By a claim filed into court on 18th March, 2024, the Claimant seek an order of this Court entering judgment in her favour as per the following reliefs:

- (i) Payment of the sum of N1,050,000.00 to the Claimant by the Defendant being an amount borrowed by the Defendant.
- (ii) N5,000,000.00 as general damages.

The Defendant pleaded NOT LIABLE to the claim. All efforts at amicable settlement at the multidoor court house proved abortive.

Claimant testified in person as the sole witness and tendered 4 (four) EXHIBITS, that is EXHIBIT "A1", "A2" "B" and "C". The case of the Claimant in a nutshell is that she loaned the sum of N2,500,000.00 (Two Million, Five Hundred Thousand Naira) to the Defendant which Defendant owed as at June 2023.

As a result of this, Defendant issued 3 (Three) postdated cheques, two of which were admitted in evidence as EXHIBITS "A1" and "A2". The two cheques bounced. Claimant had to take a loan of N1,000,00.00 (One Million naira) and combined with another person to execute a supply to a shipping company. Claimant could not pay back the loan after the cheque bounced. Claimant testified that she had to petition the police due to the dud cheques. The petition was admitted as EXHIBIT "B". Defendant was invited by the police in August, 2023 where he promised to pay the sum of One Million naira which he paid to the Claimant before middle of September,

2023. The police also told Defendant to pay half of the outstanding balance of N1,500,000.00 but claimant rejected that offer. Defendant had to depose to an affidavit as to how he will pay the balance N1,500,000.00. The affidavit was admitted as Exhibit "C". Defendant failed to pay the balance N1,500,000.00 before end of November, 2023. Defendant however paid the sum of N450,000.00 and has refused to pay the balance N1,050,000.00 (One Million, Fifty Thousand Naira) only. Claimant concluded her evidence in chief by urging the court to enter judgment in her favour by compelling the Defendant to pay her the sum of N1,050,000.00 in relief I of her claim. Claimant also urge court to grant relief II of her claim by directing the Defendant to pay her N5,000,000.00 as damages. Evidence elicited under cross examination is that, Claimant did not approach the Defendant to pay the balance of N1,050,000.00 (One Million, Fifty Thousand Naira) owed her by the Defendant.

Defendant admitted in his evidence in chief that, indeed, he owes the Claimant the sum of N1,050,000.00. Defendant gave evidence that the initial transaction was a loan of N250,000.00 given to him by the Claimant for him to pay back N400,000.00 (Four Hundred Thousand Naira). It is this N400,000.00 that rose to N2,500,000.00 as a result of accrued interest. Defendant testified further that he was willing to pay claimant the balance N1,050,000.00 but claimant resorted to harassing him on social media hence he got upset and refused to pay. According to Defendant, Claimant is not entitled to damages because it was while he was struggling to pay the loan that claimant started coming up with stories that she had Aquafina deals. Under cross examination Defendant reiterated that Claimant added interest to all the loans she gave to him. Claimant counsel addressed the court and urged court to give judgment in favour of the claimant.

Has the claimant proved her case on the balance of probabilities to be entitled to Judgment on the reliefs claimed?

On relief One, the Claimant testified thus:

**"Defendant in the affidavit stated that he will pay
the balance N1,500,000.00 before end of November, 2023.**

Defendant has paid only N450,000.00. He refused to pay any Other money. I am claiming the balance sum of N1,050,000.00"

The Defendant admitted owing the Claimant the sum of N1,050,000.00 when he testified thus:

"After the affidavit, I swore to, dated 21-09-2023, I paid her N450,000.00. that is why I owe Claimant N1,050,000.00.

It is trite that a crucial fact which is admitted needs no further proof and same will be taken as established. See the case of **ADUSEI & ANOR. VS. ADEBAYO (2012) LPELR – 7844 SC.** Relief one has been established based on the admission by the Defendant that he owes the Claimant the sum of N1,050,000 as claimed.

On relief two, claimant urged court to order the Defendant to pay the sum of N5,000,000 as damages. Evidence adduced to this relief can be found in claimant's evidence in chief when she testified thus:

"I missed two major supplies and I would have made a total profit of N1,500,000.00. I also lost a contract supply to my church and a marriage supply contract. My licence as a distributor to Aquafina company was withheld. I want the court to compel the defendant to pay me the N1,050,000.00 which he owes and N5,000,000.00 for damages".

The nature of damages claimed by the Claimant as shown in her testimony above is special damages in the case of

ABUJA CAPITAL MOTORS LTD VS ALHAJI ABDULHAZEZ BELLO ALIYU (2017) LPELR – 42865 (CA).

The court of Appeal made reference to the Supreme Court's elucidation of special damages as was held in the case of **SHODIPO VS DAILY TIMES OF NIG. LTD (1972) ANLR P.842** thus:

"where one is claiming special damages, the circumstances are such that one is able to put one's finger on a particular item of loss and say,

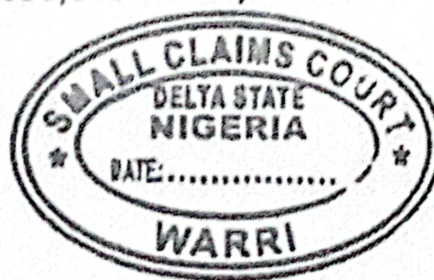
" I can prove that I lost so much there, so much there and so much there".

Was the Claimant able to establish that she is entitled to a grant of special damages? It is trite that special damages must be specially pleaded and strictly proved by the claimant. To succeed in a claim for special damage, the claimant must give necessary particulars and adduce credible evidence in support. The claimant must satisfy the court as to how the sum claimed as special damages was quantified. Special damages are awarded for actual or exact losses suffered. See the case of:-

ONYIORAH VS ONYIORAH & ANOR (LER) 2019 SC. 254/2008

The oral evidence of the claimant as above without giving necessary particulars has not established a claim for special damages. The claimant did not provide a proof nor satisfied this court that she is entitled to special damages.

Having failed to prove special damages, the Claimant is accordingly only entitled to Judgment on relief I of her claim. Accordingly, Defendant is hereby ordered to pay Claimant the sum of N1,050,000.00 only forthwith.



O.Y. Asheshe-Ebonwu

O.Y. Asheshe-Ebonwu (Mrs)
CMI
26/06/2024.