

55

IN THE CHIEF MAGISTRATE'S COURT OF DELTA STATE OF NIGERIA
IN THE SMALL CLAIM COURT
HOLDEN AT OLEH
BEFORE HIS WORSHIP O.M. OMONEMU (MRS.) CHIEF MAGISTRATE GRADE 1
(SPECIAL GRADE) ON WEDNESDAY THE 27TH DAY OF NOVEMBER, 2024

SUIT NO: SCC/OLEH/26/2024

MRS. CYNTHIAN ELO ODIOKO

*(Carrying on Business under the name of
Elo's Choice Investment)*

- - - - CLAIMANT

=AND=

ONOVIRAKPO JOSEPH

- - - - DEFENDANT

JUDGMENT

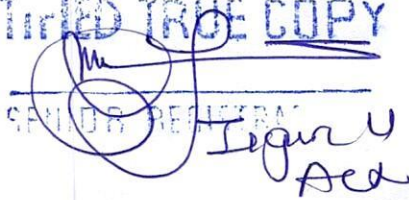
Claimant's claim is dated 5/11/2024. The reliefs of the claimant are as stated on the face of the claim. There is proof of service that defendant was served with the summons. Today is the date for hearing. Defendant is not in court. Thus pursuant to Article 8(2) of the Practice of Direction on Small Claims 2023, I shall proceed to hear the case and give judgment as far as the claimant can prove her case. Claimant opened her case on the 25/11/2024 and says she is a businesswoman. That in December, 2015, the defendant approached her for a friendly loan. That she gave him a loan of (N30,000.00) Thirty thousand naira at the rate of 10% interest monthly. That the defendant only paid till August 2016. Till date defendant has refused to pay the balance loan interest and the principal loan sum. Also she incurred expenses in filing the suit. The loan agreement form was tendered as exhibit A. The receipt showing payment made for legal services is tendered as exhibit B.

After here evidence, claimant closed her case. At the close, these were the exhibit tendered to wit:

- | | | |
|--------------------------------|---|-----------|
| 1. Loan agreement | - | Exhibit A |
| 2. Legal Practitioners Receipt | - | Exhibit B |

At the end of the day, a sole issue came up for determination.

Whether the claimant was able to prove her case on the preponderance of evidence led.

EXTENDED TRUE COPY

SENIOR REGISTRAR
Igor U
Aed

56

Whoever desires any court to give judgment as to any legal right or liability dependant on the existence of fact which he asserts must prove that those facts exist. When a person is bound to prove that those facts existence of any fact it is said that the burden of proof lies on that person. The burden of proof in a suit lies on that person who would fail if no evidence at all were given on either side. The burden of proof shall be discharged on the balance of probabilities in all civil case. I refer to Section 131, Section 132 and Section 134 EVIDENCE ACT 2011 (As Amended 2023). In civil cases, the burden is first on the claimant to discharge the burden of proof. This she does on the preponderance of evidence led. Where the claimant is unable to discharge such a burden, then the case or suit must fail.

The claimant in her case, outside her oral evidence did tendered documentary evidence. It is trite that the best form of evidence is the documentary evidence. The documentary evidence coupled with the oral evidence, the claimant was able to prove her case on the preponderance of evidence led. I shall therefore grant her the reliefs sought

COURT – It is hereby ordered that the defendant shall pay to the claimant the sum of (N30,000.00) thirty thousand naira being the capital sum.

It is hereby ordered that the defendant shall pay to the claimant the sum of N291,000.00 (two hundred and ninety one thousand naira) being monthly interest for 97 months i.e from September, 2016 to September 2024 at the rate of (N3,000.00) three thousand naira monthly.

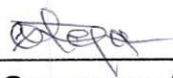
It is also ordered that the sum of (N3,000.00) three thousand naira which is the monthly interest with effect from October, 2024 until judgment is delivered shall be paid by the defendant to the claimant.

It is further ordered that the sum of (N100,000.00) One hundred thousand naira shall be paid as cost of litigation by the defendant to the claimant.

It is further order that the defendant is given two months from the date of the judgment to comply with the terms of the judgment.

CERTIFIED TRUE COPY

SENIOR REGISTRAR 1


O.M. Omonemu (Mrs.)
C.M 1 (Special Grade)
27/11/2024