

HIGH COURT OF THE FEDERAL CAPITAL TERRITORY  
 SMALL CLAIMS COURT EXECUTION REPORT  
 FOR THE MONTH OF NOVEMBER 2023  
 COURT NO 11 WUSE ZONE 6 MAGISTRAL DISTRICT

NAME OF SHERIFF	SUIT NO. AND PARTIES	DATE OF JUDGMENT	DATE OF EXECUTION	DURATION FROM JUDGMENT TO EXECUTION	STATUS OF JUDGMENTS NOT EXECUTED  (WHETHER ON APPEAL OR PARTIES HAVE SETTLED)
ONWUASOANYA VIVIAN .C.	SCC/01/2023 PAYMENT PLAN RETAIL COMPANY LTD	24/11/23	PENDING	PENDING EXECUTION	SETTLED
ONWUASOANYA VIVIAN .C.	SCC/02/2023 FOREVER INCOME COOPERATIVE SOCIETY VS MC BUDDY PROPERTIES LTD	27/11/23	ON GOING	ON GOING	SETTLED

FEDERAL COURT OF THE FEDERAL CAPITAL TERRITORY  
HOLDEN AT WUSE ZONE 6  
BEFORE HIS WORSHIP AMANWACHI CHIOMA  
COURT 11

DATED; 24/11/23

CV/SCC/01/23

BETWEEN

PAYMENT PLAN RATAIL COMPANY.....CLAIMANT

Boya place, Ground floor Amenh Ebute street, Wuye, Abuja. F.c.T,  
Nigeria

AND

MUSA UMAR SULEIMAN.....DEFENDANT

Coral Residence Estate Wuye Abuja F.C.T, Nigeria

APPEARANCES;

JOSHUA KOMOLEPE ESQ. For the claimant

DEFENDANT NOT REPRESENTED

**JUGDEMENT**

The claimant pursuant to forms SCA2 and SCA3 dated 9<sup>th</sup> October, 2023 claims against the defendant as follows;

- 1.The sum of N 501,022;40 ( Five Hundred and One thousand, Twenty two Naira Forty kobo) being the balance of the amount owed by the defendant to the claimant for the purchase of a Scan frost Air conditioner from the claimant contained invoice 2381

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NAME ONKHASEANYA VIVIAN - C.

SIGN [Signature]

DATE 28/11/23

2. The sum of N635,963.30 (Six Hundred and thirty-five thousand two naira Thirty kobo) being the balance of the amount owed by the Defendant to the claimant for purchase of an LG Freezer Refrigerator from the claimant contained in Invoice 3091.

3. The sum of N400,00.00 as damages for the inconveniences occasioned on the claimant by the defendant's conduct

4. 10% post judgement interest from the date of judgement till the date of final liquidation.

The defendant was served with originating processes affidavit of service dated 20<sup>th</sup> November, 2023 deposed by the court bailiff evidenced same. The defendant was absent throughout the proceedings in this suit and unrepresented the court being satisfied that the defendant is aware of the hearing date commenced hearing with the evidence of the claimant as cw1 who adopted his witness statement on oath filed on the 14<sup>th</sup> November, 2023 as his evidence in this case.

It is the evidence of cw1 that the claimant is a jurist person incorporated under companies and Allied Matters Act CAC as accompany limited by shares. That the claimant carries out businesses of trading in different kinds of electronics which includes home, kitchen and office electronic appliances that the claimant developed an instalments payment plan which allows its customersto purchase its products and instalment subject to the terms and conditions. Cw1 further states in paragraph 8 of his witness statement on oath that the instalment plan requires its customers who wishes to subscribe to it to deposit 35% percent purchase price of items sought to be purchased before possession is given. In paragraph 9 cw1 informed the court that the terms and condition of each transaction are contained in the invoices issued to the defendant, that on the 3<sup>rd</sup> December, 2021 the defendant sought to purchase scan frost Air condition from the claimant for the sum of

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NAME ONWUASOANYA

SIGN. [Signature]

DATE 28/11/23

VIVIAN - C





N251,775,00 as contained in Invoice 3091 DATED the 26<sup>th</sup> April, 2023 the defendant also sought to purchase a LG freezer Refrigerator from the claimant for the sum of N454,950.00 evidenced by Invoice 3091, that the defendant opted to pay Instalment for a period of five months based on the terms and condition contained on the each invoice in which a default by the defendant attracts an interest of 15% on the outstanding sum due per month till the expiration tenor and additional 15% interest after the expiration of tenor, that the defendant paid the sum of N113,121.00 (one hundred and thirteen thousand, one hundred and twenty one Naira) only for scan frost Air conditioner and the sum of N185,212.00 (one hundred and eighty five thousand two hundred and twelve Naira) only for LG Freezer Refrigerator, at present the defendant owes the claimant the sum of N1,136,985.7 (one million one hundred and thirty six thousand nine hundred and eighty five naira) only, that due to the failure of the defendant to meet the terms and conditions stipulated in invoices 2381 and 3091 warranted the institution of this suit under small claims court.

The following documents were tendered by the claimant as ;

- 1, exhibit A demand letter -2/11/2023
2. exhibit B certificate of incorporation- 20/1/2020
3. exhibit C invoice no 2381- 3/12/2021
4. exhibit D invoice no 3091-26/4/2022.

As earlier stated this suit was not contested by the defendant in spite several adjournments evidenced by affidavit of services of hearing Notices on the defendant. Hence the court obliged an application by the claimant's counsel pursuant to Article 7 (4) District court Act practice directions on small claims 2022.

DISTRICT HIGH COURT

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NAME ONIXUAS OAKYA VIRIAN - C.

SIGN. [Signature]

DATE 28/11/23

"where a defendant fails to file an Answer to the claim or a counter affidavit to the application for the undefended claims such defendant shall be held to have admitted the claim"

Also see Articles 9 (2) District court Act practice Direction on small claims 2022.

" when the claim is called for hearing and the claimant appeared but the defendant does not appear, provided there is proof of service, the district court judge shall proceed with the hearing of the claim and enter judgement as far as the claimant can prove his claim"

The law is trite that an affidavit of service is a prima facie proof of service and notification on the other party. In the case of SOCIETE GENERALE BANK(NIG) LTD V. ADEWUNMI (2003) 10 NWLR (PT 829) it was held " the purpose of an affidavit of service is to convince the court that the person to whom the processes are to be served have been duly served" The sole issue for the court to determine is whether the claimant has proved his claim to entitle reliefs sought I refer to demand notice in form SCA1 issued and served on the defendant before the commencement of this case which is a condition precedent in recovery of debt on small claim, however the defendant was given ample opportunity to be heard but failed to do so. See chapter 4 section 36 (1) of the 1999 constitution of the federal republic of Nigeria as Amended.

The position of the law is that evidence that is neither challenged nor debunked remains good and credible evidence which should be relied upon by the trial judge, who would in turn ascribe probative value to it. See EBEINWE V. STATE 2011 7 NWLR PT 1246 PG 402 AT 416 para D per murkhtar JSC.

In the light of the above and evidence before me I here order as

1. The defendant is ordered to pay the claimant the sum of N 501,022.40 (five hundred and one thousand twenty two naira

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NAME ONWUASOANYA VINAN - C.

EN. 2/2/23

DATE 28/11/23



- ,fortykobo ) as the balance of amount owed by the defendant on a purchase of a scan front air conditioner from the claimant
2. The defendant is ordered to pay the claimant the sum of N635,963.30 ( six hundred and thirty five thousand nine hundred and sixty three naira thirty kobo) as the balance of amount owed by the defendant on a purchase of LG freezer Refrigerator from the claimant
  3. Cost 40,000.

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NAME ONUKWASOANYA NIVIAN - C.  
SIGN. [Signature]  
DATE 28/4/23

DATE 28/4/23



IN THE DISTRICT COURT OF THE FEDERAL CAPITAL TERRITORY  
HOLDEN AT WUSE ZONE 6  
BEFORE HIS WORSHIP AMANWACHI CHIOMA  
COURT 11

SUIT NO; CV/SCC/02/23

DATED; 27<sup>th</sup> November, 2003

BETWEEN

FOREVER INCOME COOPERATIVE SOCIETY LIMITED.....CLAIMANT

AND

M C BUDDY PROPERTIES LIMITED.....DEFENDANT

JUGDEMENT

The claimant by compliant forms SCA2 and SCA3 claims against the defendant as follows';

1. AN order of this honourable court directing the defendant to pay to the claimant the sum of two million, four hundred and seventy five thousand naira (2,475,000.00) only being the sum paid by the claimant to the defendant as initial deposit for the purchase of plots of land at prestwood estate at katampe Extension Mpape Fct.

2. AN order of this honourable court directing the defendant to pay the sum of one million naira (N 1,000,000,00) only being General Damages to the claimant.

3. An order of this honourable court directing the defendant to pay the sum of five hundred naira (N500, 000,00) only as cost litigation.

The defendant was served with demand notice as provided in form SCA 1 before the commencement of hearing in this court as well as

originating processes evidenced by affidavit of service deposed to by court bailiff EKO EMMUEL BASSEY, it is the upon an application by the claimant's

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NAME Onwusanya Vivian C.

SIGN. [Signature]

DATE 5/12/23



counsel brought pursuant to order 2 rules 11 of the district court rules of the FCT 2021 for abandonment of part claim to give the court jurisdiction to determine this suit claim from N2.475,000.00 to the sum of 2million naira, was granted as prayed.

Hence the court being satisfied that the defendant was aware of the hearing date, commenced hearing on the 7<sup>th</sup> November, 2023 with the evidence of the cw1 who testified on oath and states that the claimant is a cooperative society duly registered within Nigeria, while the defendant is a real estate developer and the owner of prestwood Estate katampe Extension Mpape Fct that parties agreed to purchase a plot of land situate at prestwood estate katampa Extension Mpape Fct from the defendant, that the claimant paid a total sum of (Two million, (N2,475,000.00) only to the defendant in seven instalments and were issued with Receipts by the defendant as follows;

1. N 135,000.00 was paid on 1/2/2020
2. N 360,000.00 was paid on 17/2/2020
3. N360,000.00 paid on 14/9/2020
4. N360,000.00 paid on 24/9/2020
5. N360,000.00 paid on 26/10/2020
6. N360,000.00 paid on 16/11/2021
7. N450,000.00 paid on 24/11/2021
8. N450,000.00 paid 22/12/2021 respectively.

Cw1 informed the court that upon payment of these sum, mentioned above the defendant refused to allocate the said land to the claimant neither did the defendant commence construction as agreed by parties and that there were no genuine reasons for the breach of contract after two years of waiting the claimant had no option than to institute this suit in small claims court. Finally, cw1 urged the court to grant all reliefs sought in their claim as the claimant has suffered serious economic setback as its members have threatened to pull out from the cooperative.

The following documents were tendered and marked as exhibits

Exhibit cw1 – memorandum of understanding M.C Buddy Properties Limited dated 14<sup>th</sup> February, 2020.

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NAME

Onwusonyia Vivian

SIGNATURE

[Signature]

DATE

15/12/23





- Exhibit cw2 - cw8 Mc Buddy properties limited payment receipts
- Exhibit cw9 Allocation of prestwood Estate update dated 30<sup>th</sup> June, 2022
- Exhibit 10 Letter of termination of memorandum of understanding dated 17<sup>th</sup> April, 2023

As earlier stated this case was not contested by the defendant despite being put on notice of the pendency of this case evidenced by affidavit of services on each adjournments as a prime facie proof that the defendant was put on notice in the case see MGBENWELU V. OLUMBA 2016 LPELR 42811 SC. It was held

*" it is settled law that an affidavit of service by the bailiff of a court is a prime facie evidence of service and also if uncontradicted is sufficient to sustain the issue it asserts"*

also in the case MFA & ORS V. INONGHA 2014 LPELR 22010 SC it was held

*"it is also settled that once a party has been afforded the opportunity to present his case and fails to take advantage of it, he cannot be heard to complained that his right to fair have been breached"*

See chapter 4 section 36 (1) of the 1999 constitution of the federal republic of Nigeria as Amended.

upon an application by the claimant's counsel brought pursuant to Article 7 (4) of the district court practice directions on small claims 2022

*"where a defendant fails to file an answer to the claim or counter affidavit to the application for undefended claims such a defendant shall be held to have admitted the claim."*

Also in Article 9 (2) which states

*"when the claim is called hearing and the claimant appears but the defendant does not appear provided there is proof of service the district court judge shall proceed with the hearing of the claim and enter judgment as far as the claimant can prove his claim"*

The defendant was foreclosed from cross examination and defence

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NAME *Omaru S. O. for Nivian C.*

SIGN *[Signature]*

DATE *5/12/2023*

The issue for determination is whether the claimant has proved this case to be entitled reliefs sought, hence the trial court has the duty to evaluate the evidence before it and be satisfied that it's credible and sufficient.

Where evidence is unchallenged or contradicted, the onus of proof is satisfied on minimal proof since there is nothing on the other side of the scale MOBILE OIL (NIGERIA) LTD V. NATONAL OIL & CHEMICAL MARKETING CO LTD (2000) 9NWLR part 671 page 44 at 52 para H per Aderemi JCA.

In the light of the above and based on the unchallenged evidence of the claimant, being satisfied by the court, I hereby ordered as follows,

1. The defendant is ordered to pay the claimant the sum of two million naira (#2,000,000.00) only as initial deposit for the purchase of plot of land at prestwood estate katampe Extension Mpape F.c.t
2. The defendant is order to pay the claimant the sum of One and fifty hundred naira(#150,000.00) only as general damage
3. The defendant is ordered to pay the claimant One hundred (#100,000.00) only as the cost of litigation.

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NAME Onyiah Soanya Nivian C.

SIGN [Signature]

DATE 5/12/23

HIGH COURT OF THE FEDERAL CAPITAL TERRITORY OF ABUJA

