

IN THE MAGISTRATE'S COURT OF ENUGU STATE OF NIGERIA  
IN THE ENUGU NORTH MAGISTERIAL DISTRICT  
HOLDEN AT ENUGU

BEFORE HIS WORSHIP K. O EZE, CHIEF MAGISTRATE GD. 2 ON WEDNESDAY THE 20<sup>TH</sup> DAY OF  
JUNE 2018

SUIT NO MEN/113/2018

VENERABLE J.C AGBO

PLAINTIFF

VS

LET'S PARTNER WITH YOU LTD

DEFENDANT

JUDGEMENT

By his amended claim dated June 5, 2018 and filed on June 6, 2018 the Plaintiff is claiming from the defendant as follows;

- (a) The sum of N3,850,000.00 (Three Million Eight Hundred and Fifty Thousand Naira) only being his principal contribution to the defendant.
- (b) The sum of N3,150,000.00 (Three Million One Hundred and Fifty Thousand Naira) only being payment due from the months of March 2016 – September 2016 and 10% interest on the Judgment sum until same is liquidated.

The defendant was absent and not represented at the proceedings. She was served with the court processes, hearing notices and the affidavit of service filed in the court file. A plea of not liable was entered for the defendant with respect to the claim.

The Plaintiff Counsel called the first witness. He introduced himself as Venerable Jonathan Agbo, the Vicar of Saint Bartholomew Anglican Church, Asata, Enugu. He stated that he knows the defendant in the suit. The defendant solicited for funds from him for investment purposes. He then agreed to invest N2,500,000.00 (Two Million Five Hundred Thousand Naira) only and an agreement was signed to that effect with interest payment of 10% monthly on the principal sum. He made a further investment of N2,000,000.00 (Two Million Naira) only bringing the total investment to N4,500,000.00 (Four Million Five Hundred Thousand Naira) only. The defendant defaulted in payment of interest from March 2016. Copies of the investment agreements were tendered and admitted as exhibit 1 & 2. The notice of termination letter was tendered and

admitted as exhibit 3. He requested that the court grant his prayers as per the claim. The witness was not cross examined by the defendant in court due to her absence.

The Plaintiff Counsel closed her case and applied to foreclose the defendant from cross examining the plaintiff witness or opening her defence due to her continued absence which application the court granted. The plaintiff counsel applied to abandon the excess on the claim to bring the amount claimed within the monetary jurisdiction of the court. The application was granted and the plaintiff filed the amended claim. The Plaintiff Counsel further filed her written address dated June 6, 2018 on the same date and was also adopted by the Court on the same date. The Plaintiff Counsel concluded by urging the Court to grant their prayers as per the amended claim.

As stated above, the Plaintiff evidence is the only evidence before this Court. The Plaintiff case is unchallenged and uncontradicted. In the light of the foregoing therefore, the Court is left with no other option than to hold that the evidence adduced by the Plaintiff has not been controverted nor challenged and as such ought to be relied upon as the truth of the facts in issue. See the cases of: ATTORNEY GENERAL OF LAGOS STATE V. PURIFICATION TECH NIG LTD [2003] 16 NWLR [PT.845] 1 AT 18; ADELAKUN V. ORUKU [2007] 17 WRN 89 AT 95.

On the first arm of the amended claim the plaintiff is claiming the sum of N3,850,000.00 (Three Million Eight Hundred and Fifty Thousand Naira) only being the principal contribution of the plaintiff to the business of the defendant. Exhibits 1 and 2 before the court shows proof that the said sum was contributed by the plaintiff; furthermore, there is no evidence before the court that the defendant remitted the said sum back to the plaintiff. Clause 6 of exhibits 1 & 2 which the plaintiff is relying on to prove the existence of a contract and the breach thereof by the defendant states and I quote "that if and when the contributor decides to end the transaction and take back his capital he shall give the receiver two months' written notice, during which time no interest will be paid to him". By virtue of this provision the plaintiff is required to give two months' notice in writing to the first defendant. The Plaintiff gave the defendant notice of termination as evidenced by exhibit 3 which is the notification/termination letter dated September 12, 2016. The Plaintiff therefore complied with this condition which is clearly stated on the agreement. I therefore hold that the plaintiff is entitled to the sum of N3,850,000.00 (Three Million Eight Hundred and Fifty Thousand Naira) only.

On the second arm of the amended claim the plaintiff is claiming the sum of N3,150,000.00 (Three Million One Hundred and Fifty Thousand Naira) only being the outstanding payments due from the defendant and unpaid from March to September 2016. The plaintiff in his testimony stated the amount is still due and unpaid despite several demands to the defendant. There is no evidence before the court that the defendant paid the said sum back to the plaintiff. I therefore hold that the plaintiff is entitled to the sum of N3,150,000.00 (Three Million One Hundred and Fifty Thousand Naira) only.

On the third arm of the claim the plaintiff is claiming 10% interest on the judgment sum from the date of judgment up and until the principal sum is liquidated. The agreements admitted as exhibit 1 & 2 provides that the defendant shall pay 10% interest on the principal sum contributed. I therefore hold that the defendant is entitled to interest at 10% on the judgment sum until the principal sum is liquidated.

On that note, I hold that the Plaintiff has established his case against the Defendant by way of credible, unchallenged and uncontroverted evidence. He has therefore discharged the evidential burden placed on him by virtue of Sections 132, 133 and 134 of the Evidence Act, 2011. I am minded to be satisfied that the plaintiff has complied with the provisions of Order 9 Rule 15 of the Magistrate Court Law, Enugu State, 2004. I therefore state that the plaintiff has proved his case and is entitled to judgement. I therefore make the following orders:

1. The defendant is hereby ordered to pay the total sum of N7,000,000.00 (Seven Million Naira) only to the plaintiff being the principal contribution of the plaintiff as well as outstanding payments from March to September 2016.
2. The defendant is hereby ordered to pay 10% interest on the judgment sum up and until the full liquidation of the judgment debt.

Parties: The Plaintiff is absent.

Appearances: O.S. Udenwangu with the brief of C. Chuma Oguejiofor appeared for the plaintiff.

This is the judgement of the Court.

O.A AGU  
ASSISTANT CHIEF REGISTRAR

20/06/2018

SGD  
K.O EZE  
CHIEF MAG 2  
ENUGU NORTH

*Certifications of 3 photos  
@ \$50.00 per photo  
- \$150*

*pd on email = 0619195*

*03/10/2019*