IN THE HIGH COURT OF JUSTICE

OF EDO STATE OF NIGERIA

IN THE BENIN JUDICIAL DIVISION

HOLDEN AT BENIN CITY

BEFORE HIS LORDSHIP, HON.JUSTICE P.A. AKHIHIERO

ON TUESDAY

THE 17TH DAY OF FEBRUARY, 2026.

BETWEEN: ***SUIT NO. B/70/2020***

ALLIANCE AUTOS NIGERIA LIMITED ----------CLAIMANT

AND

STEPHEN OJO ADEBAYO----------DEFENDANT
(Trading under the name and Style of
STEVE TRUST ENTERPRISES)

JUDGMENT

The Claimant instituted this suit against the Defendant vide a Writ of Summons and Statement of Claim filed on the 6th of February 2020 wherein it claimed against the Defendant as follows:

a. ***N13,750,000.30 (Thirteen Million, Seven Hundred and Fifty Thousand Naira, Thirty Kobo) being outstanding debt owed the Claimant by the Defendant arising out of a vehicle sales agreement entered into between both parties;***
b. ***INTEREST on the outstanding sum at the rate of 21 per cent per annum from the day the debt fell due till judgement is delivered and 6 per cent per annum until the judgement sum and the accumulated interest are liquidated;***

c. ***DAMAGES in the sum of N5, 000,000 (Five Million Naira only) being General and aggravated damages resulting from the breach of the contract between the claimant and the defendant for which the Claimant has suffered loss of goodwill, reputation and business opportunities and continues to suffer; and***
d. ***COSTS of N2, 000,000 (Two Million Naira only) for this action.***

The Writ of Summons, Statement of Claim and other accompanying processes were served on the Defendant by substituted means, but he did not put up any appearance to this suit, nor was he represented by any counsel despite several hearing notices that were served on him. In essence, the suit was undefended.

At the hearing, the Claimant called one witness who testified that on the 24th day of October, 2012, the Claimant entered into a Vehicle Sales Agreement with the Defendant for the supply of 5 Units of Nissan Urvan 15-Seater buses with air-conditioners at the price of ₦22,000, 000.00 (Twenty-Two Million Naira) only.

The witness testified that the mode of payment as stipulated by the contract was a daily remittance of ₦50, 000.00 (Fifty Thousand Naira) only, payable by the Buyer, the Defendant to the Seller, Alliance Autos Nigeria Limited's designated Bank Account and which daily payment was expected to liquidate any outstanding balance at the end of six (6) months from the date of the delivery of the said vehicles.

The witness stated that by March, 2013 when the Defendant's total debt of ₦22,000,000.00 (Twenty-Two Million Naira) was supposed to have been fully paid, the Defendant was still indebted to the Claimant to the tune of ₦16,000,000.00 (Sixteen Million Naira).

He also testified that sometime in early 2013 the Claimant received a letter dated May 7, 2013 from the Defendant complaining that some of the vehicles were faulty and as a result it has affected their expected turn-over. He said that by way of response, the Claimant sent a demand letter dated 10th May, 2013 begging the Defendant to offset its indebtedness to her and even instructed the Defendant, even against the Terms of the Agreement, to return the faulty vehicles for prompt remedial action.

The witness further testified that the Claimant waited in vain till the end of 2013 for the Defendant to offset his indebtedness and decided to turn the debt over to the parent

company, CFAO's Group's Company Secretary for legal action. He further stated that by this period, the debt had been defrayed to the sum of ₦13,750,000 (Thirteen Million, Seven Hundred and Fifty Thousand Naira).

The Claimant's witness testified that considering the long-standing relationship between the Claimant and the Defendant, the Group Company Secretary/Legal Adviser of the Claimant's parent Company decided to write yet another demand letter dated 30th January, 2014 to the Defendant for the outstanding balance of ₦13,750,000 (Thirteen Million, Seven Hundred and Fifty Thousand Naira).

He testified that in response to this Group Company Secretary's letter mentioned above, the Defendant responded with a letter dated 11th February, 2014 acknowledging that the Claimant did them a "big favour" by virtue of the transaction and asking for a month or two to sort out what he called "the disappointment of the Bank", that is, his Bank.

The Claimant's witness further alleged that the Claimant would abide by the plea of the Defendant for a month or two but the Defendant would still not pay up even 5 (five) months after. Therefore, the Claimant briefed her Solicitors, Messrs. Bola Ajibola and Co. to take out this action.

The witness stated that the Claimant's Solicitors caused yet another demand letter dated 6th August 2014 to be sent to the Defendant with an ultimatum of 7 days to liquidate its indebtedness to the Claimant or be faced with legal action, but the Defendant remained adamant even to this Solicitor's letter.

He stated that the silent and indifferent attitude of the Defendant could only be interpreted as a willful refusal to fulfil his contractual obligations to the Claimant and a direct and blatant disdain on the rule of law which this Honourable Court is empowered to uphold

Upon the conclusion of the evidence in chief of the Claimant, the suit was adjourned for cross examination while fresh hearing notice was served the Defendant. However, the Defendant failed to appear in court to cross-examine the Claimant, so the Court foreclosed the Defendant from cross-examining the Claimant.

The witness was discharged from the witness box and the Claimant closed its case. The suit was then adjourned for defence or final address. On the next adjourned date, the Claimant's counsel adopted his written address as his final arguments.

In his final written address, the learned counsel for the Claimant, ***O. O. Erhahon Esq.*** formulated a sole issue for determination as follows:

"Whether the Claimant has proved her claim and is entitled to judgment."

Learned counsel argued that it is trite that in a civil suit, a Claimant who desires that judgment be given in his favour must prove his case on a balance of probabilities or preponderance of evidence. He said that the law requires that he who asserts must prove. Learned counsel referred this court to ***Sections 131 and 132 of the Evidence Act, CAP E14 Laws of the Federation, 2011 (as amended)***.

Learned counsel stated that flowing from the facts of this case, the Defendant despite the service on him of all processes and several hearing notice (even if by substituted service, which was done by the leave of Court) did not make any appearance and did not file any process thus the case was not defended. He said that hence, what is required of the Claimant is minimal proof to be entitled to judgment and he relied on the case of ***BABA V. NIGERIAN CIVIL AVIATION TRAINING CENTRE & ANOR (1991) LPELR-692(SC) (p. 32 paras. A).***

Learned counsel argued that based on the foregoing authority, the Defendant has proved her case on minimal evidence and thus entitled to judgment in the sum of ₦13,750,000.50 (Thirteen Million, Seven Hundred and Fifty Thousand and Fifty Kobo as stated in the Claim before the Court. He posited that in this case there is oral and documentary evidence in proof of the claim before the Court which are uncontroverted.

Learned counsel submitted that the Claimant is entitled to interest in this case. He said that in the Claim before the Court, the Claimant claims 21 percent interest when the debt fell due till judgment is delivered and 6 percent until the judgment sum and the accumulated interest are liquidated.

Learned counsel argued that the claim for interest is anchored on the equitable jurisdiction of the Court. He cited the case of ***NITEL TRUSTEES LTD & ANOR V.***

SYNDICATED INVESTMENT HOLDINGS LTD (2014) LPELR-22950(CA) (PP. 18-19 PARAS. G) where the Court of Appeal held that:

> ***The law is quite settled by a long line of authorities on these matters. On the first limb; that is whether the Respondent is entitled to interest, the general principle is that interest is not recoverable at common law on ordinary debt in the absence of express or implied contract or some mercantile usage or by provision of statute. IN EQUITY HOWEVER, where there is a breach of contract in circumstances in which deposits ought to be returned, and the deposit is not returned timeously, and the debtor kept the creditor out of his money while enjoying the benefit of it, it is equitable that the money be returned with interest. See Kaduna State Transport Authority v. Ofodile (1999) 10 NWLR (Pt.622) 259; Afribank (Nig.) Plc v. A. I. Investment Ltd (2002) 7 NWLR (Pt.765) 40; Ekwunife v. Wayne (West Africa) Ltd (1989) 5 NWLR (Pt.122)422; Alfortrin Ltd. v. A.G. Federation (1996) 9 NWLR (Pt.475) 634; Enahoro v. IBWA Ltd (1971) 1 NCLR 180; Jos Steel Rolling Co Ltd v. Bernestieli (Nig) Ltd. (1995) 8 NWLR (Pt.412) 201***.

Learned counsel argued that damages for breach of contract aim to restore the injured party to the position they would have been in had the contract been performed. He relied on the case of ***Bimbae Agro Livestock Co. Ltd. v. Landmark University (2019) LPELR-47724(CA),*** where the Court held thus:

> ***"The fundamental object of awarding damages for breach of contract is to place the injured party, so far as money can do it, in the same position as if the contract had been strictly performed."***

Learned counsel stated that the Defendant's breach caused significant financial loss, reputational damage, and disrupted business opportunities for the Claimant and thus, the Claimant is entitled to damages.

He also submitted that the Claimant is entitled to her claim for cost. He referred the Court to the case of ***AMANA SOLID POLES (NIG) LTD & ANOR V. OKAFOR & ANOR (pp. 30 PARAS. B)*** where the Court of Appeal held thus:

> ***"Costs of the action are not imposed as a punishment on the party who pays them nor are they awarded as bonus to the party who received them. The***

essence of costs is to compensate the successful party for part of the loss incurred in the litigation. Costs cannot cure all the financial loss sustained in the litigation. The costs awarded are meant to have some cushioning or palliative effect on the financial burdens of the party in victory".

Learned counsel further argued that there is no gainsaying the fact that the Claimant has suffered losses and/or incurred cost in the prosecution of this suit including paying for the flight and hotel accommodation of her witness on a number of occasions. He stated that the grant of costs would mitigate these expenses.

Learned counsel concluded by praying this Court to have a dispassionate consideration of the oral and documentary evidence before the Court and enter judgment in favour of the Claimant.

I have carefully considered all the processes filed in this suit, together with the evidence led in the course of the hearing and the address of the learned Counsel for the Claimant.

As I have already observed, the Defendant did not put up any defence to this suit. Thus, the evidence of the Claimant remains unchallenged.

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 court, which has a duty to ascribe probative value to it. See the following decisions on the point: ***Monkom vs. Odili (2010) 2 NWLR (Pt.1179) 419 at 442; and Kopek Construction Ltd. vs. Ekisola (2010) 3 NWLR (Pt.1182) 618 at 663.***

Furthermore, where the Claimant has adduced admissible evidence which is satisfactory in the context of the case, and none is available from the Defendant, the burden on the Claimant is lighter as the case will be decided upon a minimum of proof. See*:* ***Adeleke vs. Iyanda (2001) 13 NWLR (Pt.729) 1at 23-24.***

However, notwithstanding the fact that the suit is undefended, the Court would only be bound by the unchallenged and uncontroverted evidence of the Claimant if it is cogent and credible. See***: Arewa Textiles Plc. vs. Finetex Ltd. (2003) 7 NWLR (Pt.819) 322 at 341***.

Even where the evidence is unchallenged, the trial court still has a duty to evaluate it and be satisfied that it is credible and sufficient to sustain the claim. See: ***Gonzee (Nig.) Ltd. vs. Nigerian Educational Research and Development Council (2005) 13 NWLR (Pt.943) 634 at 650***.

Applying the foregoing principles, I will evaluate the evidence adduced by the Claimant to ascertain whether they are credible and sufficient to sustain the Claim.

I am of the view that the sole Issue for Determination in this suit is: ***whether the Claimant is entitled to the reliefs claimed in this suit.***

From the evidence adduced by the Claimant and her witness, this suit was instituted against the Defendant for an outstanding debt owed to the Claimant by the Defendant arising out of a vehicle sales agreement entered between both parties.

The law is firmly settled that parties are bound by the terms of any contract voluntarily entered by them and the duty of the Court is to give effect to such terms and not to rewrite the contract for the parties. See the case of ***Nika Fishing Co. Ltd. v. Lavina Corporation (2008) LPELR-2035 (SC)*** and ***Bilante International Ltd. v. NDIC (2011) LPELR-781 (SC)***.

The Claimant tendered Exhibit "A", the Vehicle Sales Agreement which clearly stipulates the obligations of the Defendant, particularly the mode of repayment through daily remittances of ₦50,000.00 (Fifty Thousand Naira Only) payable by the Defendant to the Claimant's designated bank account, and any outstanding balance shall be liquidated at the end of six (6) months from delivery of the vehicles.

The evidence before this Court shows that the vehicles were indeed delivered, as clearly admitted by the Defendant in Exhibit "D", and that despite several indulgences granted by the Claimant, the Defendant failed to liquidate the full agreed sum and still remains indebted to the Claimant in the sum of ₦13,750,000.30 (Thirteen Million, Seven Hundred and Fifty Thousand, Thirty Kobo).

It is trite that failure to perform contractual obligations without lawful justification constitutes a breach of contract. See ***Best (Nig.) Ltd. v. Blackwood Hodge (Nig.) Ltd. (2011) LPELR-776 (SC)***.

Furthermore, the documentary evidence tendered before this Court, particularly Exhibit "D", the Defendant's letter dated 11th February 2014, contains a clear acknowledgment of indebtedness. The law is settled that an admission against interest constitutes the strongest evidence upon which a Court can rely. See ***F.S.B. International Bank Ltd. v. Imano (Nig.) Ltd. (2000) 11 NWLR (Pt.679) 620 at 640 (SC); UBA Plc v. Jargaba (2007) LPELR-3399 (SC)***. It is trite that an admitted fact requires no further proof.

In the instant case, the Defendant not only failed to challenge the Claimant's evidence but also in his letter to the Claimant expressly acknowledged the debt and merely requested additional time to pay. This admission significantly strengthens the Claimant's case.

Additionally, the testimony of the Claimant's witness remains uncontroverted. It is settled law that where evidence is not challenged or contradicted, the court is entitled to accept it. See ***Odulaja v. Haddad (1973) LPELR-2240 (SC)***.

Having carefully evaluated the totality of the evidence placed before this Court, I am satisfied that the Claimant has proved its claim on the balance of probabilities as required under ***Section 134 of the Evidence Act, 2011***. See ***Mogaji v. Odofin (1978) 4 SC 91***.

A claim for recovery of a specific debt is a claim for a liquidated sum and once established, the Court has a duty to enter judgment accordingly. See ***Agboola v. UBA Plc (2011) 11 NWLR (Pt.1258) 375 (CA)***.

In view of the foregoing findings, I hold that the Claimant has successfully proved that the Defendant is indebted to it in the sum claimed. Accordingly, the Claimant's first relief succeeds and is hereby granted

With regards to the second relief, the Claimant seeks interest at the rate of 21% per annum from when the debt fell due until judgment and thereafter at 6% per annum until liquidation.

The law is settled that pre-judgment interest may be awarded where it is specifically pleaded and supported by evidence showing entitlement either by agreement, mercantile custom, or conduct of the parties. See ***Ekwunife v. Wayne (West Africa)***

Ltd. (1989) LPELR-1104 (SC). See also ***UBA Plc v. Oranuba (2013) LPELR-20692 (CA)*** where the court, ***per Ikyegh, JCA*** stated that,

> ***"Pre-judgment interest must arise from the mutual agreement (contract) between the parties prior to the litigation or dispute that led to the litigation, or by custom governing the transaction that brought about the litigation, or by statute, or under a principle of equity such as breach of a fiduciary relationship before it may be claimed, proved and awarded by a court. It is not granted as a matter of routine."***

Also, in the case of ***Interdrill (Nig) Ltd & Anor v. UBA Plc (2017) LPELR-41907 (SC)***, the Supreme Court per ***Nweze, JSC*** stated as follows;

> ***I, entirely, endorse this submission for it accords with this Court's position that: …interest may be awarded in a case in two distinct circumstances, namely: (i) As of right; and (ii) Where there is a power conferred by Statute to do so, in exercise of the Court's discretion. Interest may be claimed as a right where it is contemplated by the agreement between the parties, or under a mercantile custom, or under a principle of equity such as breach of a fiduciary relationship, see, London, Chatham & Amp; Dover Railway v. S. E. Railway (1893) AC. 429 at p. 434. Where interest is being claimed as a matter of right, the proper practice is to claim entitlement to it on the writ and plead fact which show such an entitlement in the statement of claim. Ekwunife v Wayne (West Africa) Ltd [1989] 3 NSCC 352, 359.***

In the present case, although the Claimant claims 21% interest, no credible evidence was led establishing that the said rate formed part of the contractual agreement between the parties or represented an established trade custom or usage binding on the Defendant.

However, ***Order 34 Rule 4 of the Edo State High Court (Civil Procedure) Rules, 2018*** provides as follows:

"The Judge at the time of making any judgment or order or at any time afterwards, may direct the time within which the payment is to be made or other act is to be done, reckoned from the date of the judgment or order, or from some other point of time ,

as the Judge deems fit and may order interest at a rate not more than 20% per annum to be paid upon any judgment."(Underlining, mine)

By virtue of the above provision the Court is empowered to award post-judgment interest of not more than 20%. See the case of ***Diamond Bank Ltd. v. Partnership Investment Co. Ltd. (2009) 18 NWLR (Pt.1172) 67 (CA)***.

Accordingly, post-judgment interest at the rate of 20 % per annum is hereby awarded from the date of judgment until the judgment debt is fully liquidated

The Claimant also claims the sum of ₦5,000,000.00 (Five Million Naira) only as general and aggravated damages for breach of contract. It is settled law that the fundamental objective for the award of damages is to compensate the Claimant for the harm and injury caused by the Defendant. See: ***Chevron (Nig.) Ltd. vs. Omoregha supra.***

Thus, it is the duty of the Court to assess the Damages, taking into consideration the surrounding circumstances and the conduct of the parties. See: ***Olatunde Laja vs. Alhaji Isiba & Anor. (1979) 7 CA.*** The quantum of damages will depend on the evidence of what the Claimant has suffered from the acts of the Defendant.

In the instant case, the Claimant has suffered inconvenience arising from the Defendant's failure to honour his contractual obligations despite several demands and indulgences granted to him. The Claimant is therefore entitled to some reasonable compensation. The relief for damages therefore succeeds.

It is settled that costs follow events and a successful party is ordinarily entitled to costs unless special reasons exist to the contrary. See, ***Nwanji v. Coastal Services (Nig.) Ltd. (2004) 11 NWLR (Pt.885) 552 (SC)***. Having regard to the circumstances of this case, the Defendant's refusal to honour repeated demands necessitated this action. The Claimant is thus entitled to costs.

The sole issue for determination is resolved in favour of the Claimant.

The claims succeed and judgment is entered in favour of the Claimant as follows:

1. ***₦13, 750, 000.30 (Thirteen Million, Seven Hundred and Fifty Thousand, Thirty Kobo) being outstanding debt owed by the Defendant arising out of a vehicle sales agreement entered between both parties.***
2. ***INTEREST on the outstanding sum at the rate of 20 per cent per annum from the date of judgment until the judgement sum and the accumulated interest are liquidated.***
3. ***DAMAGES in the sum of N3,000,000.00 (Three Million Naira) only being general damages resulting from the breach of the contract between the Claimant and the Defendant for which the Claimant has suffered loss of goodwill, reputation and business opportunities and continues to suffer.***
4. ***COST of N1,000,000 (One Million Naira) for this action.***

P.A. AKHIHIERO
JUDGE
17/02/2026

<u>COUNSEL:</u>

O.O. Erhahon Esq ----------Claimant.

Unrepresented---------- Defendant.