

**IN THE DISTRICT COURT HELD AT BAATSONAA ON WEDNESDAY THE  
17<sup>TH</sup> DAY OF JANUARY, 2024 BEFORE HER WORSHIP MABEL N. L. AHELE  
DISTRICT COURT MAGISTRATE**

**SUIT NO: A2/01/2024**

**ARISE REFORM INTERNATIONAL SCHOOL  
SUING PER THE PROPRIETOR/DIRECTOR,  
REBECCA D.O. AYIKU.**

**PLAINTIFF**

**VRS.**

**MR. & MRS RAHAMAN NDEBUGRI**

**DEFENDANTS**

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**PARTIES:** Plaintiff present

Defendant present

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**JUDGMENT**

1. The Plaintiff, Arise International School suing per the proprietress of the school, filed a Writ of Summons on 8<sup>th</sup> August, 2023 seeking the following reliefs:
  - i. *An order at Defendants to pay cash sum of Two Thousand, Four Hundred and Twenty Ghana Cedis (GHC2,420.00) being arrears of School Fees and Feeding fees from September, 2022 to 13<sup>th</sup> July, 2023 in respect of two children in which they have refused to pay.*
  - ii. *Interest on GHC2,420.00 from September, 2022 till date of final payment.*
  - iii. *Cost of preparing this suit.*
2. It was the Plaintiff's case that, in the year 2016, the Defendants enrolled their two children in Class 5 and kindergarten 1 respectively in its school, Arise Reform International School, Klagon. However, the Defendants took their

wards unceremoniously from the school in July, 2023 without settling the arrears of GH¢2,420.00 being feeding and school fees owed the Plaintiff. The Plaintiff also indicated that several calls made to the Defendant to pay the arrears proved futile hence this action.

3. **Defendants' Case**

The Defendants admitted that their wards were enrolled in the Plaintiff's school but denied the claim by the Plaintiff that they were in arrears of payment of feeding and school fees to the tune of GH¢2,420.00. The 2<sup>nd</sup> Defendant who represented 1<sup>st</sup> Defendant contended that all arrears of school fees for their two children were settled as at 10<sup>th</sup> July, 2023.

4. In support of her assertion, the 2<sup>nd</sup> Defendant testified under evidence-in-chief that the 1<sup>st</sup> Defendant, her husband, made payments of all outstanding fees through bank transfers to the Plaintiff. She tendered Exhibits "1" and "2" being copies of bank transfers made by the 1<sup>st</sup> Defendant to Plaintiff in the sums of GH¢1,000.00 and GH¢526.11 dated 19<sup>th</sup> April, 2023 and 10<sup>th</sup> July, 2023 respectively.

Under cross-examination, 2<sup>nd</sup> Defendant further testified that she also made a payment of GH¢1,200 to the proprietress's daughter called Amanda under the instruction of proprietress but no receipt was issued by the Plaintiff for the payment. Her testimony was not discredited by the Plaintiff's witness. In fact, Plaintiff's witness corroborated the testimony of the 2<sup>nd</sup> Defendant. She however, added that the payment of GH¢1,200 made by the 2<sup>nd</sup> Defendant was in settlement of the previous year's fees.

5. **Issue for Determination**

Whether or not Defendants be ordered to pay arrears of school fees to Plaintiff

6. The fundamental principle as far as the issue of proof is concerned in a civil matter is that the party who alleges must prove what he or she alleges. In order to satisfy the requirement, the party who alleges must lead sufficient evidence which will persuade the court that what he or she alleges is the truth and the standard of proof required is by “*preponderance of probabilities*” as provided for under **sections 11 and 12** of the **Evidence Act 1975 (NRCD 323)**. See **ZABRAMA V. SEGBEDZI [1991] 2GLR 221**, **ABABIO V. AKWASI III [1994-1995] GBR 774** and **ACKAH V. PERGAH TRANSPORT LTD & ORS [2010] SCGLR 728**

7. **Section 11 (1)** of the **Evidence Act, 1975 [NRCD 323]** states as follows;

*“ (1) For the purposes of this Act, the burden of producing evidence means the obligation of a party to introduce sufficient evidence to avoid a ruling on the issue against that party”.*

**Section 12(1)** also states that “*except as otherwise provided by law, the burden of persuasion requires proof by preponderance of the probabilities*”

8. It is the claim of Plaintiff that the Defendants are indebted to the Plaintiff in a sum of Two Thousand, Four Hundred and Twenty Ghana Cedis (GH¢2,420.00) being arrears of school and feeding fees from September, 2022 to 13<sup>th</sup> July, 2023 in respect of the Defendants’ two children which they have refused to pay. The Defendants denied Plaintiff’s claim and therefore Plaintiff bears the burden to produce enough evidence to prove its claim as provided by Section 11 (1) of the Evidence Act, 1975 [NRCD 323].

9. The proprietress, testifying on behalf of the Plaintiff, stated that the Defendants then owed a total of GH¢3,920.00 which was communicated to the 1<sup>st</sup> Defendant. In support of Plaintiff’s claim, she tendered Exhibit ‘A’ being a picture of WhatsApp conversation between her and the 1<sup>st</sup> Defendant.

In her own testimony, she stated that, when the bill of GH¢3,920.00 was sent to the 1<sup>st</sup> Defendant, he made some payment through a bank draft and some payment was brought to Plaintiff's office by the 2<sup>nd</sup> Defendant. According to her, after making deductions of what was paid by the 1<sup>st</sup> and 2<sup>nd</sup> Defendants from the total sum of GH¢3,920.00, there is an outstanding debt of GH¢2,420 school fees arrears to be paid by the Defendants. She led no evidence to show the payments received from the Defendants and the outstanding debt. There was neither documentary evidence nor correspondence between the Plaintiff and the Defendants to show the outstanding debt which the Defendants refused to make payment. At least in the manner the total of GH¢3,920.00 arrears of school fees was communicated to the 1<sup>st</sup> Defendant, the alleged debt of GH¢2,420.00 could have been communicated again to 1<sup>st</sup> Defendant in same manner.

10. The burden on the Plaintiff to prove to the court by *preponderance of probabilities* is by leading evidence to the effect that there is a sum of GH¢2,420.00 schools fees arrears to be paid by the Defendants as provided by section 11 and 12 of the Evidence Act. In the celebrated case of **MAJOLAGBE V. LARBI [1959] GLR 190**, it was held that, "when a party makes an averment in his pleadings which is capable of proof in positive way as the averment is denied, that averment cannot be sufficiently proved by just mounting the witness box and reciting the averment on oath without adducing some corroborative evidence". See **ZABRAMA V. SEGBEDZI [1991] 2GLR 221**.

11. I find that no evidence was led by plaintiff in support of its claim and upon which the court could enter judgment for. When material facts are within the peculiar knowledge of a party, he or she assumes the burden of producing such evidence or suffer a decision against him or her on the issue. See **MARTIN ALAMISI AMIDU V. THE ATTORNEY GENERAL**,

**WATERVILLE HOLDINGS (BVI) LTD, ALFRED AGBESI WOYOME AND  
UT BANK LTD (IN RECEIVERSHIP) – CLAIMANT [2019] DLSC6261**

12. On the totality of the evidence on record, I find the 2<sup>nd</sup> Defendant's testimony more credible. Plaintiff claimed the Defendants are in arrears of school and feeding fees in the sum of GH¢2,420.00 from September, 2022 to 13<sup>th</sup> July, 2023. 2<sup>nd</sup> Defendant tendered evidence of payments; Exhibits "1" & "2" being bank transfer payments of a total amount of GH¢2,526.11. In addition to total amount of GH¢2,526.11 made by the 1<sup>st</sup> Defendant through bank transfer, the 2<sup>nd</sup> Defendant made a payment of GH¢1,200.00 to the daughter of the proprietress on the instruction of the proprietress and of which no receipt was issued by the Plaintiff. I therefore find that the Defendants, as at 10<sup>th</sup> July 2023, have made a total payment of GH¢3, 726.11 to the Plaintiff in excess of the amount of GH¢2,420.00 claimed by the Plaintiff.

This is what transpired during cross-examination of Plaintiff's witness by the 2<sup>nd</sup> Defendant;

Q: *In all you said he is owing GH¢ 2,400.00?*

A: *Yes*

Q: *You said we are owing GH¢2,400.00 and my husband paid GH¢ 3,700.00*

A: *My Lady, it is not true*

Q: *You said we owe you GH¢2,400.00?*

A: *Yes*

Q: *And we also paid you GH¢3,700.00?*

A: *If the calculation of the receipts amounts to that then, yes.  
What happened was that some years back, they were owing*

*over GHC 3,700.00 and they paid some but I haven't calculated to know the exact amount.*

*Q: I am putting it to you that so far as we have paid that much, we are not owing you any money*

*A: It is not true; they are owing me.*

13. It should be born in mind that the onus was on the Plaintiff to prove its claim by showing evidence of the amount paid by the Defendants and the outstanding debt. Plaintiff's witness in her testimony under cross-examination claimed she has not done a calculation on the amount received from the Defendants to know exact amount left to be paid. How then can judgment be given to such a party on its claim? A party who has not led evidence in support of its claim? The assertion that some payments were made and some yet to be paid is just a repetition of her averments. See **AMANKWAH & ORS V. NSIAH [1995] DLCA 5202**

14. In conclusion the Plaintiff was unsuccessful in establishing its claim against the Defendants. The action is hereby dismissed.

15. A cost of GHC200.00 is awarded in favour of the Defendants against the Plaintiff.

(SGD)

H/W MABEL N. L. AHELE

(MAGISTRATE)

17/01/2024