

IN THE DISTRICT COURT KIBI, EASTERN REGION, HELD ON TUESDAY 8TH
NOVEMBER, 2022 BEFORE HER WORSHIP MRS. JULIET OSEI – DUEDU
SITTING AS THE MAGISTRATE

SUIT NUMBER: A2/72/22

EDWIN OFOSU ASANTE

PLAINTIFF

VRS

ALBERTA KESEWAA

DEFENDANT

JUDGMENT

The plaintiff in this case per his writ of summons filed on the 13th September, 2022, claims these reliefs against the defendant;

“a. ... the sum of GHC1,000.00 being financial assistance the defendant obtained from plaintiff about a year ago but has refused to refund despite repeated demands.

b. General damages.

c. Costs.”

Defendant was duly served but refused to attend court on the return date, of 4th October, 2022. The court in its magnanimity, obliged defendant another opportunity to be in court, to defend this action if she was minded to do so, by adjourning the trial and ordering the service of a hearing notice on the defendant, to which plaintiff obliged.

On the next adjourned date, defendant once again declined to be part of the trial, by refusing to attend court with no reason whatsoever. Since defendant’s conduct clearly depicted her lack of interest in contesting this case, the court in accordance with, Order 25 (2) (a) of the District Court Rules, 2009, (CI 59), permitted plaintiff to prove his case to finality. This the plaintiff did by testifying on his own behalf and also calling one witness.

It is the case of the plaintiff that, on the 16th December, 2021, his wife introduced defendant to him for a loan of GHC1,000.00, to support her chop bar business. He obliged the request and duly advanced the money to the defendant on the oral agreement that she dispenses with same via a monthly payment of GHC 207.00, over a six (6) month period, ending, 16th June, 2022. These payments were to defray both the principal sum and the agreed interest on same.

Defendant after taking the money, made a deposit of GHC100.00, but refused to pay the balance as agreed by the parties. All the numerous efforts made by him to get defendant to refund his money to him proved futile. According to plaintiff again, he incurred GHC360.00, regarding his numerous journeys to and from his place of abode at Akyem Heman to Kyebi, defendant's residence in pursuit of his money. Defendant upon consideration of all these fruitless efforts to claim his money, promised to pay him GHC2,000.00, to cater for the total debt, interest thereon and all other expenses incidental to same but once again, she failed to honour her promise.

It is against this backcloth that plaintiff prays the court that the principal amount should be paid with interest at the prevailing bank rate together with the incidental expenses and general damages. It is noteworthy that, the evidence of plaintiff's only witness (PW1) seems to contradict that of the plaintiff on the incidental expenses of GHC360.00. According to PW1'S evidence, plaintiff after the agreement, introduced defendant to PW1 as his representative at Kyebi who was to follow up on the defendant on the agreed payment schedule. The reason for this arrangement according to PW1 was that, plaintiff was staying at Heman while both PW1 and the defendant stay at Kyebi. The said arrangement was thus, to facilitate the payment by the defendant and also avoid the transportation cost, which would otherwise have been borne by the plaintiff. He was therefore the one who was so tasked by the plaintiff to go to the defendant for the refund which he did but to no avail. All the numerous demands so placed on the defendant for the repayment were made by him.

In view of the above contradiction, this court cannot grant plaintiff the incidental expenses he is asking for. That apart, this court is satisfied that defendant owes plaintiff the debt of GHC1,000.00 he is claiming from him. Plaintiff is also entitled to the general damages he is asking for, considering the fact that plaintiff's claim is even without the agreed interest. In the case of **Yungdong V Roro Services and three others [2006] 1 M.L.R.G. 1**, the Supreme Court held inter alia that; general damages is such as the law will presume to be the natural or probable consequences of defendant's act. It arises by inference of the law and therefore needs not be proved by evidence and may be averred generally. The law implies general damages in every infringement of an absolute right. Hence, in the present case, since defendant's breach of contract is a clear infringement of plaintiff's absolute right, he is entitled to general damages.

Additionally, since plaintiff's claim is for the repayment of the principal sum simpliciter without the agreed interest, this court is minded to award him a post judgment interest, on the basis of Order 28 rule 7 of C.I. 59 and the Court (Award of Interest and Post Judgment Interest) Rules, 2005 (C.I. 52).

In sum, I enter judgment in this case in favour of the plaintiff and against the defendant, and same is hereby entered in the sum of, GHC 1,000.00, with interest at the prevailing bank rate from 8th November, 2022, till date of final payment. Plaintiff is further awarded; GHC 300.00 as general damages and GHC 200.00 as Costs.

SGD

**H/W MRS JULIET OSEI – DUEDU ESQ
DISTRICT MAGISTRATE**

8/11/2022