

**IN THE DISTRICT MAGISTRATE'S COURT HELD AT NSAWAM N.A.MA. ON
22ND NOVEMBER, 2022 BEFORE HER WORSHIP SARAH NYARKOA NKANSAH
MAGISTRATE**

SUIT NO. A2/100/22

**RICHARD ASARE ----- PLAINTIFF
OF H/NO. ARA 50
AHODWO KETEWA
NSAWAM**

VRS

**RICHARD OTOPAH ----- DEFENDANT
OF DJANKROM, NSAWAM**

PARTIES: PRESENT.

NO LEGAL REPRESENTATION

JUDGEMENT

- a. Plaintiff's claim against the Defendant is for cash the sum of GH¢78,360.00 being cost of energy "Run Energy Drinks and Dr. Malt Drinks(can)" supplied to the Defendant for distribution in the month of November 19, 2021.
- b. Interest on the said amount at the prevailing commercial bank rate from November 2021 till date of final payment.
- c. Cost.

The Parties failed to come to a settlement after the matter was referred to Court Connected ADR for settlement.

PLAINTIFF'S CASE

According to the Plaintiff, in November 2021, he supplied the Defendant with assorted Run Energy drinks and Dr. Malt drinks valued at GH¢78,360.00 on credit for distribution. Plaintiff continued that after the distribution, all efforts to get the Defendant to pay the amount have proven futile and that the Defendant would not pay the money unless compelled by the Court.

Plaintiff closed his case thereafter.

In the circumstance, the issue that falls for determination is:

Whether or not Plaintiff is entitled to the recovery of GH¢78,360.00 from Defendant.

Per Plaintiff's evidence led so far, the Court has been informed that, the Defendant owes the Plaintiff an amount of GH¢78,360.00 which the Defendant has willfully refused to settle despite several demands from him.

As already noted, the Plaintiff was discharged without being cross-examined by the Defendant because the Defendant was absent despite having notice of the proceedings.

In Quagraine v. Adams [1981] GLR 599 it was held that, in a situation where a witness testifies and his opponent fails to cross-examine him, the Court may consider the witness's testimony as admitted by his opponent.

In tandem with the position of the law, the Court hereby accepts the uncontroverted evidence adduced by the Plaintiff at the trial.

In the case of Nartey v. Mechanical Lloyd Assembly Press Ltd [1987-1988] 2GLR pg 314 Adade JSC stated that:

'A person who comes to court, no matter what the claim is, must be able to make a good case for the court to consider, otherwise he must fail'.

Sections 11(4) and 12 of the Evidence Act, 1975 (NRCD 323) provides that the burden of proof on a party in a civil suit should be on a balance of probabilities.

I hold that, the Plaintiff has made a good case for the Court to consider. From the totality of the evidence, I find that, Plaintiff has been able to prove his claim by preponderance of probabilities. I accordingly enter judgement in favour of the Plaintiff for the following reliefs;

- i. Recovery of the sum of GH¢78,360.00 from the Defendant.
- ii. Interest on the sum of GH¢78,360.00 at the commercial bank rate from 19th November, 2021 to date of final payment.
- iii. Cost of GH¢3,000.00 awarded against the Defendant.

H/W SARAH NYARKOA NKANSAH
MAGISTRATE
22/11/2022