

IN THE DISTRICT COURT HELD AT KUKUOM ON THE 28TH DAY OF FEBRUARY, 2023
BEFORE HER WORSHIP AKUA OPPONG-MENSAH (ESQ)

SUIT NO. A2/1/23

REBECCA DADZIE PLAINTIFF

VRS

NANA APPIAH KUSI DEFENDANT

JUDGMENT

The facts of the case from which this action arose are that the Plaintiff on the 2nd day of December, 2015, rented her carpet to the Defendant for a rental fee of GHc200 a week. The Defendant upon taking delivery of the carpet reneged on his obligation to pay the rental fee and much to the chagrin of the Plaintiff failed to return the carpet upon several requests. Due to the Defendant's conduct, the Plaintiff made frantic efforts to retrieve the carpet and when it became apparent that the Defendant was being evasive, she instituted criminal action against him. The Plaintiff discontinued with the criminal action against him, following the institution of the present suit and resorted to solely seeking redress through civil action. The Plaintiff instituted the instant action on 13th of September, 2022, for the following reliefs:

- a. Recovery of cash, the sum of Four Thousand, Five Hundred Cedis (GHC4500) being the current cost of a carpet the defendant rented from the Plaintiff since 02/12/2015 but which he has refused to return same despite repeated demands.
- b. GHc200 rent charges per week from 2nd December, 2015 till date of final payment.
- c. Costs

The court in determining the claim the Plaintiff's action was hinged on, sought to determine when the Plaintiff's cause of action arose, due to the claim of the Plaintiff that the contract was entered into in December 2015 (but omitted to state the time period within which payment was due), as actions in contract are statute barred after six years. Again, as the concept of limitation is both a mixture of fact and law, the court had a duty to consider the testimony and evidence of the parties to determine whether or not the action was barred by statute.

The main issues for determination are

i) whether or not the action is statute barred ii) whether or not there was a valid contract between the parties iii) whether or not the defendant is liable to pay to the plaintiff rental charges of ghc200 per week till date of final payment

EVIDENCE AT THE TRIAL

CASE OF THE PLAINTIFF

The case as recounted by the Plaintiff revolves around a contractual transaction that took place in September, 2015 (at variance with the period of December 2015 as stated on her writ). The Plaintiff in her evidence to the court stated that sometime in September, 2015, one Thomas Oppong who testified in the suit as PW2, and who it emerged at trial, was an apprentice of the Defendant herein, in her absence came for her carpet and bed, which as a matter of course she rented out for funerals.

The Plaintiff further asserted that it was upon her return from, Kumasi in, 2016, that she discovered through the Defendant with whom she was well acquainted through business that it was PW2 who had taken possession of her bed and carpet without her prior

authorization for the celebration of a funeral. The Defendant then assured her that her carpet was safely in his possession and that he would contact the mother of PW2 to retrieve the bed in PW2's possession. It is the Plaintiff's case that upon this assurance she waited earnestly for the Defendant to return the carpet to her, but much to her dismay the carpet remained in the Defendant's possession and all efforts she made to retrieve same proved futile. The Plaintiff further stated that due to the Defendant's conduct, she reported the matter to the Police after three years as it was clear that the Defendant had deliberately remained adamant. It is further the Plaintiff's case that when the Defendant was invited to the Police Station, the then Assistant Superintendent of Police, implored him to pay for the value of the carpet as by that time the carpet was tattered and in poor shape. The Defendant however did not heed to the advice of the Assistant Superintendent of Police, so a criminal action was commenced against him in court. According to the Plaintiff, following the criminal suit being filed against the Defendant in court, the Defendant came to court accompanied by the Noberkaw Chief, Nana Basoa, to pray for an amicable settlement out of court. The Plaintiff further asserted that an out of court settlement was reached and the Defendant was asked by Nana Basoa to pay for the carpet. The Plaintiff however testified that the Defendant omitted to pay for the carpet as agreed, and so the matter was revived in court. The Plaintiff again stated that during the pendency of the criminal trial, the Defendant in order to bring finality to the matter, brought a brand new carpet to court which she refused to accept, as it was not of the same quality as her carpet that had gotten missing, and moreover, she wanted money in place of the carpet. The Plaintiff asserted that the court differently constituted ordered the Defendant to buy her another carpet, but Defendant refused to do so, so the court subsequently ordered him to pay the value of the carpet, which he also failed to do, and it is for this reason that she instituted the present action.

The Plaintiff called three witnesses to corroborate her claims before the court.

PW1, Florence Mensah, in her testimony, essentially corroborated the claims of the Plaintiff. PW1 testified that about three years prior to the institution of the action, the Plaintiff introduced the Defendant to her as a long-standing business partner who over the course of years had hired her woolen carpet for the conduct of his business.

PW1 in her testimony further stated that shortly after her encounter with the Defendant, she was at the Plaintiff's residence, when she overheard a phone conversation in which the Plaintiff appeared infuriated and frustrated, so she swiftly went for the phone from her mother to ascertain who her mother was having such an unpleasant conversation with, only to discover that it was the Defendant.

PW1 again stated that upon taking possession of the phone the Defendant informed her that he has found the missing carpet. PW1 testified that as she was appalled by the Defendant's conduct, by keeping the Plaintiff's carpet in his possession when he knew she required it for her business she responded by intimating to the Defendant that his conduct was going to end her mother, the Plaintiff's life , due to the stress he was putting her through.

PW1 stated that she later left for Kumasi and returned about a month later, and upon her return the Defendant visited their residence and indicated that he was making arrangements for the return of the carpet, and requested that she become the mediator for amicable settlement of the misunderstanding between himself and the Plaintiff.

PW1 stated that she visited the Defendant three times in Kukuom and three times at Noberkaw, but he refused to return the carpet. PW1 further testified that it became apparent that the Defendant had decided to use the woolen carpet to conduct his business

due to its quality and as it was evident that he had become non-chalant the Plaintiff sought recourse in the court.

EVIDENCE OF PW2

PW2, Thomas Oppong, in his evidence to the court stated that on the 26th day of August, 2016, he went to hire a bed and woolen carpet from the Plaintiff. PW2 stated that when he arrived at Plaintiff's premises, the Plaintiff was adamant about fulfilling his request as the Defendant who was his master at the time, had hired her bed on prior occasions and refused to pay the rental charges, she however agreed to hire same to him when he assured her that he was coming for the items on his own accord and that he would be personally responsible if the items got missing.

PW2, further testified that at the time, the following Monday, after he had concluded using the bed and woolen carpet for the decoration of the corpse at the funeral, he decided to return the items to the Plaintiff, but he could not find the woolen carpet where he had left it, so he decided to look for it so that he could return same with the bed.

PW2 again testified that he continued to search for the woolen carpet for one month two weeks to no avail. PW2 in his testimony stated that about two months later, he visited the Defendant and whilst at the Defendant's residence, the Defendant informed him that the Plaintiff had approached him about her missing carpet and requested that he ascertain from his apprentices whether the carpet was in their possession. PW2 stated that he confirmed that he was the one who had gone for the missing carpet, and the Defendant admonished him to find the carpet and return same to the Plaintiff as she was a litigant who would not let the matter rest and could lay criminal charges against them.

PW2 further stated that a week later, he went to the Plaintiff to inform her about the conversation he had had with the Defendant about the missing carpet, but the Plaintiff asked him not to worry about the carpet as same was in the Defendant's possession.

PW2 again alluded to the fact that on 12th August, 2019, he received a call from the Defendant who enquired where he was. PW2 further stated that the Defendant informed him that if he was at Kwaku Nwuma, he should abscond as he was sending the police to arrest him. PW2 stated that he later called the Defendant back, but the Defendant refused to respond to any enquiries he made. PW2 again asserted that he reported himself to the Police Station, and upon his arrival he was informed that the Plaintiff had arrested the Defendant for dishonestly appropriating her woolen carpet and had requested that he should be arrested too because it was he who had gone for the woolen carpet. PW2 in his testimony to the court stated that at the Police Station, the Police advised the Defendant to return the carpet to the Plaintiff, but the Defendant denied any form of culpability and requested that the matter should be sent to court for determination. PW2 stated that when the criminal case was instituted in court, the Magistrate upon listening to the merits directed that the Defendant buy a new carpet for the Plaintiff. The Defendant brought the carpet to court but the Plaintiff rejected as it was not of the same quality as her original carpet and requested that the Defendant rather pay an amount of GH1500 which he refused to pay. PW2 further stated that the criminal case was later discontinued, but he was subsequently arrested on a warrant for continuation of the case, following which the instant suit was filed.

EVIDENCE OF PW3

PW3, Nana Oteng Amoako Agyapong, the Ankobeahene of the Asufufuo Traditional Area , in his evidence before the court stated that the Plaintiff who is his grandmother operates a business for the renting out of items used for funeral celebrations. The facts as

recounted by PW3 are that about 5 years prior to the institution of the action, PW2 came to rent a bed and woolen carpet but failed to return same to the Plaintiff. PW3 stated that frantic efforts were made by him and the Plaintiff for over a year to find the items. Later on, the Defendant approached them and told them he had been able to trace the missing items. The Defendant led them to a location at Noberkaw where the bedframe was found in a wet state as it had been exposed to the rain, and the mattress also couldn't be traced. The woolen carpet however could not be traced. PW3 further stated that the Plaintiff was so distraught that the items had been exposed to the weather by PW2. The Defendant assured them that he knew the whereabouts of PW2, and he would assist them to trace the carpet. PW3 stated that he and the Plaintiff took steps to report the matter to the police for the Police to apprehend PW2. PW3 stated that whenever they attempted to arrest PW2, they were unable to trace him. PW3 further stated that later the Plaintiff, his grandmother, informed him that the Defendant had indicated to her that he had taken same from PW2 at Kwaku Nwuma and was using it for his business. PW3 further stated that he went to the Defendant's house at least four times in an attempt to retrieve the Plaintiff's carpet. PW3 further asserted that he went to the Defendant's shop and found the Plaintiff's carpet among items the Defendant was using to celebrate a funeral. The carpet was however dirty, and the Defendant assured the Plaintiff that he would return same at a later date. PW3 stated that he later travelled to Kasapin to continue with his timber contracting business and was notified that the Plaintiff had instituted a criminal action against the Defendant. PW3 further stated that following this he was in the house when the Defendant brought a new carpet to be given to the Plaintiff which she refused to take. PW1 asserted that the Plaintiff later informed him that the Defendant attempted to hand over the carpet to her in court, but she refused to take it as it was of inferior quality compared to the one her daughter had bought for her so she thought it prudent to decline same and rather request for the current value of the carpet. PW3 finally stated that he had initially advised

the Plaintiff to let go of the matter, so he was reluctant to give evidence in the court, however when it came to his knowledge that the Defendant was defiantly denying any knowledge of the carpet, he decided to testify in support of the Plaintiff for the court to grant her claim as he was privy to several discussions concerning the carpet.

EVIDENCE OF THE DEFENDANT

Nana Appiah Kusi, the Defendant, in his evidence to the court, stated that he has known the Plaintiff since 2007 and that she was his business partner for a considerable period of time from whom he occasionally hired beds for the conduct of his business of preservation and decoration of corpses, till 2012 when he no longer required her services as he had purchased his own equipment for that purpose. It is the case of the Defendant that on 25th September, 2015, he met the Plaintiff at one Agyemang's store and upon greeting her she informed him that one of his workers (PW2) came to hire the bed and did not return it. The Defendant in his evidence to the court further asserted that as the Plaintiff was on her way to Kumasi, when PW2 came for it, she instructed one of her sons to give the bed to him, and unbeknownst to her, PW2 took the woolen carpet along.

The Defendant again stated that he then informed the Plaintiff that he had found the bed and the woolen carpet at the back of PW2's house at Kwaku Nwuma. The Defendant in his testimony to the court stated that following his conversation with the Plaintiff, he asked one Alfred to go for the carpet because he had observed that it had began rotting due to constant exposure to the weather as it was the raining season. The Defendant testified that when Alfred brought it to the kiosk, he wasn't at the shop and he failed to inform him that he had brought the carpet to the shop. The Defendant further stated that when it came to his knowledge that the carpet was in his shop, he personally made same known to the Plaintiff and asked her to inform PW3 to pick up the carpet. The Defendant

testified that he later travelled to Tanoso, and was informed that PW3 came to pick up the carpet twice, but same was not released to him because of his absence.

It is the testimony of the Defendant that PW3 did not come to the shop again to retrieve the carpet, but the Plaintiff called him on phone to request for the bed. The Defendant stated that he however explained to her that he had used a motorbike to pick up the carpet which could not accommodate the bed, and that is why he was unable to convey same.

The Defendant again stated that after the carpet remained in his possession for two months, the Plaintiff caused his arrest. The Defendant further testified that upon his arrest by the Plaintiff, he contacted Nana Basoa Kumanin III, the Noberkaw Chief, so that he could secure bail, after which Nana Yaw Antwi (DW1) and a police officer accompanied him to go and take the carpet which was brought to the Police Station for inspection. The Defendant stated that at the Police Station, the carpet was opened and it was discovered that because it had been exposed to the vagaries of the weather at the back of a building, the middle portion had been destroyed by insects.

The Defendant stated that the then Police Commander by name Boakye, informed him that as the Plaintiff's carpet got destroyed in his possession, the prudent thing to do was to get a new carpet for her. The Defendant stated that he purchased a new carpet and brought it to the Police Station, but the Plaintiff refused to take same as she insisted that hers was of a much better quality. The Police then advised that the matter be taken to court if the Plaintiff wanted a carpet of the same quality.

The Defendant further stated that when the criminal matter was brought to court, he together with an ex-serviceman (who later testified in the suit as DW2), and DW1, came before the court (differently constituted) to plead for an out of court settlement. The Plaintiff once again refused to accept the carpet he had bought so he approached the Pastor of the Methodist Church, Kukuom, who was the Plaintiff's Pastor, to plead with

her to accept the carpet he had purchased but the Plaintiff once again declined, so he decided to let the court determine the matter.

The Defendant finally stated that the Plaintiff later dropped the charges that were brought against him and PW2 who was his co-accused in the criminal case, and further stated that he should be absolved from all liability as he did not know anything about the missing carpet, and that he thought he was only doing a favour to the Plaintiff whom he had taken as his mother, by keeping the carpet for her in at his residence.

The Defendant, also called two witnesses, to buttress his claims before the court.

EVIDENCE OF DW1

DW1, Nana Antwi, the Atimpinhene of Noberkaw in his evidence to the court stated that about 5 years ago, before the first wave of COVID, he visited the Plaintiff's house together with a retired Police Officer, upon delegation by the Chief of Noberkaw, as the Plaintiff had threatened to sue the Defendant in a court of competent jurisdiction over a missing carpet.

DW1 stated that when they visited the Plaintiff's house to plead with her not to take legal action, the Defendant proposed the purchase of a new carpet for her but she insisted on getting her old carpet (the original carpet) back. DW1 stated that he together with the retired Police Officer went back to the Chief to convey the Plaintiff's demands to him. DW1 testified that at that time, the Plaintiff had already brought the matter to court, and the Defendant later informed him that he attempted to hand over same to her in court but she once again refused to take possession and was resolute in getting one that was of a sophisticated quality similar to her original carpet that had been purchased abroad.

EVIDENCE IN CHIEF OF DW2

DW3, ex-Sergeant Noah Baffour Boateng, in his testimony to the court stated that about 5 years ago, the Defendant met him on the Yankye Road, and informed him that there was a case between him and the Plaintiff pending before the court differently constituted. DW2 stated that the Defendant informed him of his intention to go and plead with the Plaintiff to have the matter amicably settled out of court. DW2 stated that he together with a Chief whose name he could not recollect to see the Plaintiff. DW2 asserted that the Plaintiff enquired about the mission, and he explained that they were before her in respect of the matter pending before court. DW2 stated that it was proposed that the Defendant either pay for the value of the carpet or buy a new carpet for her. The Plaintiff however rejected these proposals and insisted that a carpet of the same quality as the one she had obtained abroad should be purchased for her by the Defendant. DW2 stated as their proposals were rejected they thanked the Plaintiff and left her residence.

The court now proceeds to determine the focal issues the claim is hinged on.

WHETHER OR NOT THE ACTION IS STATUTE BARRED

The first germane issue for determination is whether or not the action is statute barred. The law is lucid and clear that where a party omits to bring an action within the time frame specified in the Limitation Act, 1972 (NRCD 54), that person is barred from bringing any civil proceedings in respect of that action. The Limitation Act, 1972 (NRCD 54), provides that actions founded on simple contract (as is the case) in the suit, must be brought within a period of six years after the cause of action accrues.

Section 4(1)(b) of the Limitation Act, 1972 (NRCD 54) provides:

4. Actions barred after six years

(1) A person shall not bring an action after the expiration of six years from the date on which the cause of action accrued, in the case of an action founded on simple contract;

The policy consideration for precluding litigants from instituting suits based on simple contracts after the lapse of six years was succinctly elucidated in the case of **ALEX YAW NSIAH & 88 ORS.V.GHANA COMMERCIAL BANK)** COURT OF APPEAL · CIVIL APPEAL: SUIT NO:

H1/154/2014 · 3 DEC 2015 · GHANA where the court relied on the pronouncements of Lord Edmund Davies in the case of Birkett v James (1977) 2 All ER 801, where he opined

“Statutory provisions imposing periods of limitation within which actions must be instituted seek to serve several aims. In the first place, they protect defendants from being vexed by stale claims relating to long-past incidents about which their records may no longer be in existence and as to which their witnesses, even if they are still available, may well have no accurate recollection.

Secondly, the law of limitation is designed to encourage plaintiffs to institute proceedings as soon as it is reasonably possible for them to do so...

Thirdly, the law is intended to ensure that a person may with confidence feel that after a given time he may regard as finally closed an incident which might have led to a claim against him,.....”

However due to the nature of the facts of the case, the question for the court is whether from the evidence garnered the Plaintiff was caught by the statute of limitations. The court in its prologue noted that the Plaintiff stated that she had entered into a contract with the Defendant in December 2015 but omitted to state the time period in which the contract was to be concluded or determined.

From the evidence on record, it may be gleaned that the contract was entered into on the 26th of August, 2016 (and not December, 2015, as stated by the Plaintiff). The court is of this considered view as PW2 who personally took possession of the woolen carpet when

he went to hire the bed stated that it was on 26th August, 2016, that he went for the woolen carpet, and that the day in question was a Friday (a date accurately recollected by PW2 as may be confirmed from the Gregorian Calendar, a fact which the court has taken judicial notice of).

Therefore, although both the Plaintiff and Defendant stated that the subject matter of the dispute commenced sometime in 2015, as PW2 was at the helm of the incident and went for the woolen carpet on a date he accurately recounted before the court, despite the lapse of time, the court is more inclined to believe that the transaction took place in August 2016.

Furthermore, the Plaintiff in her evidence stated that she hired out her bed and travelled to Kumasi for 3 weeks by which time she expected that upon her return, the bed and woolen carpet would have been returned to her, which would be sometime in mid-September, 2016.

Again, all the witnesses (including those of the Defendant) although they could not recollect the exact date that the incident occurred did state that the dispute between the parties commenced about five years prior to the commencement of this action. Based on the above the action is not statute barred as it is more probable than not that the Plaintiff's cause of action arose sometime around mid-September, 2016 and she therefore has a right to institute civil proceedings in respect of the matter.

WHETHER OR NOT THERE WAS A VALID CONTRACT BETWEEN THE PARTIES

A contract, in essence, refers to an agreement, between two or more parties which is legally enforceable and for which consideration is provided, barring any issues of capacity or illegality. As a matter of principle, the terms and obligations must be clear between the parties, and a mere proposition of entering into a contract would not suffice.

In *Baher Fattal v Emmanuel Oko Tei (Jnr.)* Civil Suit No: H1/15/2016 delivered on 2 Feb 2017, the Court of Appeal relying on the locus classicus of *IBM World Trade Corporation Ltd V. Hansem Enterprise Ltd [2001-2002] SC GLR 393* surmised that an agreement was to be certain as to its essential terms to be construed as enforceable as a contract in law.

Furthermore, a contract need not be in writing and the mere fact that a contract is oral does not detract from its validity.

This proposition of law received judicial pronouncement in the recent case of *Daniel Addo v PSC Tema Shipyard Limited Suit No. BDC47/2014, delivered on 24th March, 2016*, where the court stated: "*At common law contracts could be formal or informal, and except a statute specifically says so, contracts entered into by verbal agreements are enforceable*"

The question for the court then is that did the Plaintiff and Defendant have a valid contract which was enforceable in law. The court is of the view that there was no valid contract between the parties at any point in time as the arrangement made to hire the bed and woolen carpet was solely between PW2 and the Plaintiff. Does this mean that the Plaintiff has no remedy and the Defendant is absolved from liability. Notwithstanding the fact that there was no agreement between the Plaintiff and Defendant, the Defendant cannot elude responsibility as he committed a folly by not returning the Plaintiff's carpet to her upon retrieving it from the back of the Pw2's residence at Kwaku Nwuma. The conduct of the Defendant by not returning same after he came into possession of the carpet lends credence to PW3's testimony that he had informed the Plaintiff that he was using it for his business and would return it to her in due course. Furthermore, even if by the time the carpet came into his possession it was tattered the prudent thing to have done was to have returned it to her immediately and not kept it for more than four months until a criminal charge was laid against him by the Plaintiff.

I therefore find that the Plaintiff is entitled to the recovery of GHC4500 being the value of the carpet at the time of instituting the suit from the Defendant, as he kept same in his custody without any compelling or reasonable excuse.

WHETHER OR NOT THE DEFENDANT IS LIABLE TO PAY TO THE PLAINTIFF RENTAL CHARGES OF GHC200 PER WEEK TILL DATE OF FINAL PAYMENT

The final issue for determination is whether or not the Defendant is liable to pay to the Plaintiff Rental charges of GHC200 per week from 2015 to date. As has been determined in issue (i), there is no evidence to show that the parties broached a legal agreement for the rental of the carpet. The

Plaintiff can therefore not claim for rental charges from the Defendant as there was no existent agreement between them both prior and at the time of instituting the action.

This claim of the Plaintiff appears to be one for loss of earnings. However, it is trite law, that where a party makes a claim for loss of earnings that party must substantiate same with compelling evidence. The Plaintiff apart from merely making an assertion that the rental charges were GHC200 did not lead any evidence to buttress her claims. Nonetheless, the Defendant's conduct, by not returning the Plaintiff's carpet to her however resulted in the Plaintiff's business losing its viability as he kept the carpet in his custody for a considerably long period from 2016 to date for which she could have made a considerable amount of money which the court cannot turn a blind eye to.

The court bearing this in mind, however, does not lose sight of the fact that the Defendant at some point did try to remedy the situation by purchasing a new carpet to replace the

Plaintiff's woolen carpet, but the Plaintiff rejected it as it was of inferior quality. The court balancing the scales of justice, is of the fervent view that though it would not be prudent to hold the Defendant responsible for the rental charges, finds it equitable and in good conscience to award nominal damages to the Plaintiff.

ANALYSIS OF THE EVIDENCE

In civil trials, the burden of proof is on the preponderance of the probabilities.

Section 12(1) of the Evidence Act, 1975 (NRCD 323), provides that except as otherwise provided by law, the burden of persuasion requires proof by a preponderance of the probabilities.

"Preponderance of the probabilities" is defined under section 12(2) of the Evidence Act, 1975 (NRCD 323) as a degree of certainty of belief in the mind of the tribunal of fact or the Court by which it is convinced that the existence of a fact is more probable than its non-existence.

Furthermore, the principles on which our civil jurisprudence is hinged on require that a party who asserts a fact leads credible evidence to prove same.

This is codified under section 11 of the Evidence Act, 1975 (NRCD 323), which provides

(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

This principle received judicial mention in the case of *Lydia Akwandua Quarcoo v Alhaji Baba Salifu Suit No FAL/191/14*, decided on 20th June, 2019 the court cited with approval, the following proposition from the case of *Zabrama v. Segbedzi (1991) 2 GLR 221 CA*

"The correct proposition is that a person who makes an averment or assertion, which is denied by his opponent has the burden to establish that his averment or assertion is true. And he does not discharge

this burden unless he leads admissible and credible evidence from which the fact or facts he asserts can properly and safely be inferred. The nature of each averment or assertion determines the degree and nature of that burden."

The Plaintiff in this case led credible evidence which was corroborated by her witnesses, that the Plaintiff's carpet eventually came into the possession of the Defendant, who refused to return it without any reasonable cause despite several attempts made by the Plaintiff to retrieve the carpet from him. The Defendant himself admits and does not controvert this fact. This amounts to an admission by the Defendant. The law is clear that where an admission is made concerning the veracity of a fact, no further proof is required. This principle was enunciated in the case of *Amofa Kofi Kusi v Unicredit Ghana Limited*, delivered on the 29th of July, 2019, where Justice Richmond Osei Hwere, relying on the case of *Samuel Okudzeto Ablakwa and Anor v Jake Obetsebi Lamptey and Anor (2013-2014) 1SC GLR 16*, stated that where the court stated that where a matter is admitted proof is dispensed with.

Considering, the rival versions of both parties, the scales of justice therefore tilt in favour of the Plaintiff and she is entitled to her claim. The court would however award interest to the Plaintiff in respect of the value of the carpet as the price would have considerably surged due to inflation. The court would have ordered that the Plaintiff should be paid the current value of the carpet but as the Plaintiff omitted to describe the prominent features of the carpet to assist the court ascertain its current value, the court can only award interest to compensate her.

Judgment entered for the Plaintiff on relief (a) Recovery of cash, the sum of Four Thousand, Five Hundred Cedis (GHC4500) being the current cost of a carpet the defendant rented from the Plaintiff since 02/12/2015 but which he has refused to return same despite repeated demands, plus interest at the prevailing bank rate from 13th September, 2022 to date.

Nominal damages of GHC4000 is further awarded to the Plaintiff. Costs of 500 awarded to the Plaintiff as costs of instituting this suit.

SGD.

AKUA OPPONG-MENSAHESQ.

DISTRICT MAGISTRATE