

**IN THE DISTRICT COURT, KADJEBI IN THE OTI REGION OF THE REPUBLIC OF
GHANA, HELD ON MONDAY 23RD DAY OF JANUARY, 2023 BEFORE H/W ERIC K.
FIAMORDZI ESQ, MAGISTRATE**

Suit No: A2/67/2022

BRIGHT MENSAH TSORDZINE OF KADJEBI

- PLAINTIFF

VS

THE MANAGER, ATOMIK BUSINESS

PER MR. JONES OF JASIKAN

- DEFENDANT

Plaintiff present

Defendant absent.

JUDGMENT

This judgement is the outcome of a writ of summons issued by the plaintiff against the defendant under the District Court Rules, 2009. CI 59, Order 2 rule 3(6) for the following reliefs:

1. An order of the court compelling the defendant to release one gas cooker which the plaintiff purchased from the sales boy of the defendant at Kadjebi, on the 22nd day of December, 2021.
2. An order of the court compelling the defendant to accept an amount of four hundred and ninety-nine Ghana Cedis (GH¢499.00) being balance left with the plaintiff to pay to the defendant as the full purchase price of the gas cooker defendant's sales boy sold to the plaintiff at Kadjebi.
3. Cost of this application

SUMMARY OF SUBJECT MATTER OF CLAIM

The plaintiff is a photographer resident at Kadjebi while the defendant is the Manager of Atomik Business, having his head office in Jasikan with its branches in Kadjebi and its environs. Plaintiff says that on the 22nd day of December, 2021, he purchased one gas cooker from the defendant's store at Kadjebi and made part payment of an amount of five hundred Ghana Cedis (GH¢500.00) to the defendant's sales boy. He continued that, in the month of February, 2022, he went to the defendant's store to pay the balance of the amount of four hundred and ninety-nine Ghana Cedis (Gh¢499.00) to the defendant and to take away the gas cooker. But, to his uttermost surprise, the defendant's store was locked. So, he (plaintiff) called the defendant on the available mobile phone number to express his worry but the defendant told him that, his agent/ sales boy had embezzled some money in the store and he (defendant) had reported to the police, Kadjebi. The plaintiff added that his enquires from the police has established that the entire amount of money allegedly embezzled by the sales boy had been retrieved by the police from the agent/ sales boy. Yet still, the defendant has refused/ failed to accept the balance left from the plaintiff despite several demands. Wherefore the plaintiff claims as per the reliefs endorsed on his writ of summons.

On the face of the records, the defendant was seen and served but he decided to absent himself from court. Hearing notices were ordered by the court, and served on the defendant. He (defendant) however appeared on the 15th day of July, 2022, when his plea was taken. He pleaded not liable to the reliefs of the plaintiff. The matter was adjourned to a later date for the parties and their witnesses to be heard.

Since then, it was only the 12th day of October, 2022, that one Gilbert Kwashie appeared and represented the defendant, after which he took a date for him. Yet still, the defendant continued to absent himself from the court.

The plaintiff filed a motion ex-parte with an accompanying affidavit praying the court to hear him and enter judgement in his favour, on the 30th day of November, 2022.

The motion was moved in open court on the 16th day of January, 2023. On the 23rd day of January, 2023, the plaintiff was heard on oath.

The plaintiff told the court that, during the pendency of the matter before the court, the defendant came and deposited the alleged gas cooker at the registry of the court for the matter to be determined on its merit.

The issue(s) for the determination of this court are, whether or not:

1. The plaintiff should be made to pay/deposit the amount of four hundred and ninety-nine Ghana Cedis (GhC499.00) with the court for the collection of the plaintiff.
2. Cost should be awarded against the defendant in favour of the plaintiff.

The District Court Rules, 2009, CI 59, Order 25, rule 1-4 have established modalities for the resolution of issues such as this. The defendant is aware of the pendency of the suit before the court. He had appeared and his plea was taken. Hearing notices have been served on him to enable him to be heard but he has decided to absent himself.

It is the case of the plaintiff that during the pendency of the suit before court the defendant brought and deposited the gas cooker at the registry of the court.

It also stands to reason that, the plaintiff must also be made to pay the outstanding balance, which he (plaintiff) quoted as the amount of four hundred and ninety-nine Ghana Cedis (GH¢499.00).

On the authority of the District Court Rules, 2009, CI 59 order 18, and the evidence adduced before the court and the facts, I enter judgement in favour of the plaintiff against

the defendant. Plaintiff is to deposit the four hundred and ninety-nine Ghana Cedis (GH¢499.00) at the registry of the court for the collection of the defendant.

I award cost of three hundred and fifty Ghana Cedis (Gh¢350.00) in favour of the plaintiff against the defendant.

H/W ERIC K. FIAMORDZI

(MAGISTRATE)