

06/09/23

IN THE DISTRICT COURT HELD AT THE AKROPONG DISTRICT COURT ON
WEDNESDAY THE 6TH DAY OF SEPTEMBER, 2023 BEFORE HIS WORSHIP
ROCKSON A. K. KPODO ESQ DISTRICT MAGISTRATE.

SUIT NO. A2/102/22

REV. STEPHEN GYEBI

V.

ATTA BOAKYE

.....
JUDGMENT

Plaintiff claim against defendant cash the sum of fifteen thousand, three hundred and seven Ghana cedis (GH¢15,307.00) made up as follows:

A. GH¢12,567.00 (Twelve thousand five hundred and sixty-seven Ghana Cedis) being the cost of damage caused to Chevrolet Cobalt vehicle with Reg. No. GW-1467-13 by the defendant.

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|---|---|-------------|
| 1. INSURANCE AND ROAD WORTY | - | GH¢350.00 |
| 2. CAR BATTERY (HIRE) | - | GH¢60.00 |
| 3. VISCO POWER BATTERY | - | GH¢312.00 |
| 4. CAR TYRE 4 PCS | - | GH¢240.00 |
| 5. FUEL | - | GH¢748.00 |
| 6. FITTER ELECTRICIAN WORMANSHIP | - | GH¢210.00 |
| 7. FITTER MECHANIC | - | GH¢150.00 |
| 8. T AND T | - | GH¢250.00 |
| 9. CAR ENGINE 4A -FE & CONTROL BOARD | - | GH¢4,800.00 |
| 10. CAR DORR SET | - | GH¢1,100.00 |
| 11. STRAGHTER FITTER & CAR DOR MECHANIC | - | GH¢600.00 |

12. CAM 2 OIL & ENGINE OIL	-	GH¢315.00
13. ENGINE TRANSPORTATION	-	GH¢150.00
14. GEAR LEVER	-	GH¢350.00
15. CAR EXHAUST FITTER	-	GH¢150.00
16. MAGAZINE TRANSPORTATION	-	GH¢700.00
17. FITTER DOOR REPAIRER	-	GH¢100.00
18. CAR SPRAYER	-	GH¢1,400.00
19. ELECTRIC WELDER AND CAR GRINDING	-	GH¢250.00
20. FITTER WORKMANSHIP AND ELECTRICIAN-		GH¢110.00
21. BRAKE FLUID	-	GH¢22.00
22. AUTOMATIC FITTER	-	GH¢200.00
<u>TOTAL:</u>	-	<u>GH¢9,570.00</u>

B. An order from this Honourable Court to compel the defendant to repair damage caused to Chevrolet Cobalt vehicle with Reg. No. GW 1467-13.

1. HAND BRAKE CABLE
2. CAR BACK HUB RIGHT
3. STEER RAG
4. CAR BACK TAIL LIGHT LEFT & HIGH LIGHT PAIR
5. CAR CONVERTORS TWO
6. CAR WATER TANK & AIR CONDITIONER TANK
7. SPEEDOMETER PANEL
8. CAR FENDERS PAIR
9. CAR BONNET & BONNET RUBBER
10. CAR WIND SCREEN

11. CAR VIBIRATOR
12. TRAFICATOR SWITCH AND WIPER SWITCH
13. CAR NUMBER PLATE AND REFLECTORS
14. CAR TAPE & REVERSE CAMERA
15. CAR SEAT COVERS DRESSER
16. CAR ABSORBER FRONT LEFT AND BACK PAIR
17. STEER CONTROL AND BODY GUARD RUBBER
18. CAR BACK BUMPER
19. CAR FRONT BUMPER
20. STEER CONTROL & MUD GUARD RUBBER

C. GH¢2,740.00 (Two thousand, seven hundred and forty) being amount sales defendant must render to plaintiff in the month of 30th December, 2019 but failed despite repeated demands.

D. Interest on the amount from December, 2020 till final determination of case at the prevailing commercial bank rate.

Plaintiff's case in support of his claim is that somewhere in 2013, his brother Osei Johnson discussed with him about a soap business and introduced same to him and he started with his friend's vehicle.

He added that after doing the business for a year he converted his own vehicle into commercial and started using same for the business and that 5 months later, he sold his vehicle and bought two others to support the business after discussing same with the managing director and that as the business was striving, one of his sales boys bolted with an amount of GH¢7,000.00 of which he informed defendant but he insisted on claiming the GH¢6,000.00 from him after his mother and uncle pleaded with him to reduce the debt, but he agreed to take GH¢1,000.00 by instalment after every sales he made.

plaintiff added that defendant came for two of his workers without his knowledge at the time he was owing defendant an amount of GH¢2,500.00 and that he told defendant that as he took two of his workers away, he would not work with him any longer, at that time he owes defendant only GH¢1,500.00, as at October, 2019.

Plaintiff added that, around November 2019, two of his workers were arrested over jingle issues and he offered to give him GH¢4,000.00 at the Police station but defendant demanded GH¢12,000.00 for the jingles out of which plaintiff paid GH¢2,000.00 leaving a balance of GH¢10,000.00 which plaintiff should be pay by instalment upon the release of his vehicle to the defendants 2 boys to work with same but the engine broke down and he replaced the vehicle with a Chevrolet car but defendant's boys damaged the vehicle, hence this action after he repair the vehicle with his own money.

In his defence, defendant says that 6 years ago, he was working with plaintiff for the sale of herbal products and that in the cause of doing the said business, plaintiff became indebted to him to the tune of GH¢7,400.00 but plaintiff refused to pay the money and stopped working for him.

Defendant added that he later arrested plaintiff using his jingles to sell his products after he stopped working with him but later plaintiff's family pleaded with him and paid GH¢6,000.00 of the GH¢7,400.00, after he forfeited GH¢400.00 of the amount, leaving a balance of GH¢1,000.00 for plaintiff to pay him and that plaintiff and his family again pleaded with him to pay the cost of his jingles plaintiff used without his knowledge, being GH¢10,000.00, making plaintiff's total indebtedness GH¢11,000.00.

According to defendant, he agreed with plaintiff to use his Opel vehicle to sell the medicines so they can use their profit to defray the debt plaintiff owes him.

Defendant added that later, the vehicle given by plaintiff for the job broke down on its way to Accra, so plaintiff demanded an amount of GH¢500.00 for the repair of the vehicle bumper and that as plaintiff could not bring the Opel car after repairing same, he replaced it with Chevrolet car instead and that as the agreement was to use the vehicle to work for

the profit to be shared, the vehicle worked for only a month and they realised an amount of GH¢6,000.00 and made expenses to the tune of GH¢4,500.00 leaving only a profit of GH¢1,500.00 which defendant kept to take care of his debt and that the expenses he made from the GH¢6,000.00, he realised were maintenance being GH¢1,500.00, fuel being GH¢1,000.00, daily allowance for 2 workers being GH¢1,000.00 and salaries for 2 workers being GH¢1,000.00.

According to defendant, after working with the Chevrolet car for some time, he realised that it was consuming fuel too much so he suggested to plaintiff to bring the Opel car back but plaintiff rather suggested that he buys the Chevrolet to defray his debt and later instructed him to leave the vehicle with his brother Kwesi Akrowuah in his house which he obliged.

Defendant concluded that later plaintiff took the matter to the Fox FM and the matter was resolved amicably to the effect that defendant should forfeit his debt of GH¢11,000.00 and plaintiff should also go for his Chevrolet car and that plaintiff is estopped from raising this matter since same has been settled amicably.

Defendant finally claims as follows:

- (a) *Recovery of the sum of GH¢11,000.00*
- (b) *Interest on the said money from December 2019, till date of final judgment.*
- (c) *Cost*

From the above, the court has identified the following issues for settlement.

- 1. Whether or not plaintiff owes defendant an amount of GH¢11,000.00.*
- 2. Whether or not the debt of GH¢11,000.00 owed by plaintiff has been forfeited by defendant and*

plaintiff was also assigned to go for his broken-down Chevrolet vehicle when the settlement agreement between the two?

3. Whether or not, defendant has to pay for the repair of plaintiff Chevrolet vehicle.

It is the case from evidence adduced so far that plaintiff owes defendant an amount of GH¢11,000.00 which plaintiff has not denied.

It also the case undisputed by plaintiff that the matter has been resolved at the Fox Fm and defendant forfeited the debt he owed him and was also asked to go for his vehicle.

But from the claims filed by the parties, it is claimed that they have ...abandoned the settlement and are claiming what they have settled when the arbitration which plaintiff claims the cost of repairs of his Chevrolet vehicle.

The court is of the view that if indeed plaintiff wants defendant to pay for the cost of the damages caused to the vehicle, he should have waited for the court to assess the cost before ordering defendant to pay same. It is therefore not proper for him to work on the vehicle without defendant's knowledge and gave him bills to pay.

Again, the plaintiff has not been able to prove that defendant made a sale of GH¢2,740.00 which he wants defendant to pay to him with interest.

Of course, once defendant's debt remained unpaid by plaintiff, it is prudent for plaintiff to pay him the money once he has abandoned the settlement agreement, they had with the Fox Fm.

Thus, plaintiff has not been able to produce sufficient evidence as required of him in consonance with section **11(1) of the Evidence decree, NRCD 323 of 1975 which says:**

'For the purposes of this Decree, the burden of producing evidence means the obligation of a party to introduce sufficient evidence to avoid a ruling against him on the issue'.

Plaintiff's claims have therefore claim as failed on this account.

Thus, defendant has been able to prove on the balance of probabilities that plaintiff owes him an amount of GHC11000

The court hereby enters judgment for defendant on his counter-claim of GH¢11,000.00.

Interest to be calculated on defendant's money from December 2019, till date of final payment of the money.

Cost of GH¢2,500.00 is hereby warded for defendant against plaintiff.

SGNED

H/W ROCKSON A. K. KPODO

(MAGISTRATE)