

**IN THE DISTRICT COURT HELD AT DAMBAI BEFORE HIS WORSHIP
ALHASSAN DRAMANI, ESQ. ON TUESDAY, 27TH FEBRUARY, 2023**

SUIT NO: A2/14/2023

PHILIP WAJA

PLAINTIFF

VRS

JOSEPH AMEKO

DEFENDANT

PLAINTIFF PRESENT

DEFENDANT ABSENT

NO LEGAL REPRESENTATION FOR BOTH PARTIES

JUDGEMENT

The Plaintiff herein per his amended Writ of Summons dated 14th December, 2022 claim against the defendant the following reliefs:

- i. Recovery of GH¢4,500 being financial assistance the defendant obtained from plaintiff.
- ii. Interest on the above stated amount from November, 2022 till date of final payment.
- iii. Costs.

THE CASE OF THE PLAINTIFF

The Plaintiff's case is that he is an MTN mobile money merchant based in Dambai Zongo whilst the defendant is a police officer stationed at Kadjebi. According to plaintiff on 2nd November, 2022 the defendant came to Dambai on official duty (celebration of memorial service in honour of officers of the Ghana Police Service who fell in line of duty within the year under review). Plaintiff said the defendant approached him, introduced himself to plaintiff and told plaintiff that he defendant was informed by his colleague police officers that the plaintiff have been assisting them with quick loans any time they were in financial difficulties. Plaintiff stated that the defendant requested for a quick loan of GH¢4,500.00 with the explanation that he owed MTN and he was going to use that money to pay MTN off so as to qualify him to instantly apply for a fresh loan from MTN. Plaintiff stated that he was told by defendant that the quick loan from MTN will be granted in one hour and thus he will immediately pay the Plaintiff off before he leaves. According to plaintiff he empathized with the defendant and was convinced by his explanation so he immediately deposited the said amount of GH¢4,500 into defendant's MTN mobile money number to enable him carry out his transaction. Plaintiff added that when the one hour duration was due for the defendant to repay the money, the defendant told him that he had put in his application with MTN for the loan but the network was not good as such the plaintiff should wait a while. Plaintiff said moments later the defendant told him that he was being called to come to the Regional Police Headquarters to join his colleagues for the commencement of the event and so he assured plaintiff that he will return after the event to pay off the money. According to plaintiff after defendant left his place he waited for several hours for the return of the defendant but to no avail so he followed up to the Regional Police Headquarters but to his utmost bewilderment was told that the defendant and his colleagues had gone back to Kadjebi. Plaintiff continued that he quickly called defendant on phone and the defendant told him that his loan

application will be granted in 48 hours and pleaded with plaintiff to exercise patience. Plaintiff further said he waited for five days without hearing from defendant so he followed up to Kadjebi where he met the defendant and made a demand for his money. Plaintiff stated that the defendant and other friends of the defendant pleaded with plaintiff to grant him additional one week which plaintiff reluctantly did. According to plaintiff, ever since, defendant has reneged on his numerous promises to pay the money and all efforts to recover same proved futile. It is the case of plaintiff that the defendant has evinced an intention to unlawfully keep his money as such his prayer to this Honourable Court for his reliefs as indorsed on his Writ of Summons.

The Plaintiff called one witness as PW1, who is a friend of plaintiff and he corroborated the testimony of the Plaintiff.

It is important to state that when plaintiff's Writ was served on the defendant he failed to respond to same or appear before the Court. Several hearing notices were served on him and he still failed to appear before the Court. The Court therefore directed that all other processes and hearing notices be served on the defendant through the Oti Regional Police Commander. After service was effected through the Police Commander the defendant eventually turned up at the Court on 17th February, 2023 and pleaded with the Court to adjourn the suit to 20th February, 2023 with a firm assurance to this Court that he was going to pay the money to the defendant before the next adjourned date. The defendant's prayer was duly granted and the matter accordingly adjourned.

However, on the above stated date the defendant neither paid the money to the plaintiff as promised nor appeared before the Court. Further hearing notices served on the defendant were not responded to.

In the circumstances the Court proceeded to hear the matter per the provisions of Order 25 r (2) (a) of the District Court rules 2009 C.I. 59. Which provides that:

“Where an action is called for trial and a party fails to attend, the trial magistrate may

- (a) Where the plaintiff attends and the defendant fails to attend, dismissed the counterclaim, if any, and allow the plaintiff to prove the claim;

IN RE WEST COAST INDUSTRY LTD ADAMS & TANDOH (1984-86) 2 GLR 361 SC and WATALAH VRS PRIMEWOOD PRODUCTS LTD (1973) 2 GLR 126 the principle stated was that where a party fails to respond to Court processes duly served on him, or avail himself for the hearing of the suit, the Court was entitled to proceed with the trial to its conclusion, make findings on the evidence led at the trial, make deductions and draw conclusions.

On the strength of the above stated authorities, I have subjected plaintiff’s Writ and Statement of Claim as well as his evidence and the evidence of PW1 to the prescribed standard of proof as provided under **Sections 10, 11 and 12 of the Evidence Act, 1975 (ACT 323)**. See also the cases of **ACKAH VRS PERGAH TRANSPORT (2011) 31 GMJ 174 SC and YORKWA VRS DUA (1992-94) GBR 278 CA.**

I have also examined the entirety of plaintiff’s claim with the view to establishing whether or not even with defendant’s absence to continue with the trial, any jurisdictional issue or other crucial reasonable legal defence is available to the defendant but unfortunately have found none.

After a careful examination and evaluation of the Plaintiff’s evidence, I find that the Plaintiff’s testimony is solid and incontrovertible and has thus succeeded in adducing sufficient evidence in proving his case against the defendant herein.

Before I conclude let me express my utmost disgust at the bizarre conduct and attitude of the defendant who is no less a person but a police officer. The conduct of the officer is

a naked criminality, I will advise the plaintiff to equally press criminal charges against the officer if he is so minded. It is most unfortunate to realised, that, some of the persons who have been trained by the state to protect the public against criminal acts have now rather assumed the role of the criminals without an iota of shame and are unleashing havoc on innocent and unsuspecting citizens who out of naivety have place their trusted them.

I shall thereby find for the Plaintiff and accordingly enter judgment for the Plaintiff as follows:

- i. Recovery of an amount of GH¢4,500
- ii. Interest on GH¢4,500.00 from November, 2022 till date of final payment.
- iii. I assess cost of this action at GH¢1,500.00 against the Defendant in favour of the Plaintiff.

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H/W ALHASSAN DRAMANI

DISTRICT MAGISTRATE

27TH FEBRUARY, 2023.