

IN THE DISTRICT COURT '2' TARKWA, HELD ON  
THURSDAY THE 28<sup>TH</sup> DAY OF NOVEMBER, 2024  
BEFORE HIS WORSHIP ISAAC OSEI ASARE ESQ.

SUIT NO: A2/8/24

CECILIA ASMAH                                      ....                                      ....                                      PLAINTIFF  
*OF TEBEREBIE, TARKWA*

VS.

CHRISTIAN OBENG                                      ....                                      ....                                      DEFENDANT  
*HILL TOP, TARKWA*

**J U D G M E N T**

The plaintiff commenced this action against the defendant, her former lover on May 3, 2024. The plaintiff, in her writ stated that she and the defendant were into an amorous relationship for about seven (7) years but are no longer in the relationship.

The plaintiff further stated in her writ that the defendant, during their relationship, secured from her a financial assistance of GH¢2,000.00 and only repaid GH¢700.00 out of the money and has failed to repay the outstanding balance of GH¢1,300.00 despite repeated demands made by her. She therefore claimed against the defendant for;

- a) One thousand Three Hundred Ghana Cedis (GH¢1,300.00) being the balance of financial assistance granted to the defendant upon his own request which he has failed to pay despite persistent demands.
- b) Interest on the amount at the prevailing bank rate from 2016 till date of final payment.
- c) Costs.

The defendant upon being served with the writ appeared in Court on May 10, 2024 and denied the claims of the plaintiff. The Court, in the light of the denial by the defendant, ordered the parties to file their respective witness statements for the trial of the matter and the issues set down by the Court for determination were;

- i) Whether or not the defendant is indebted to the plaintiff?
- ii) Whether or not the plaintiff is entitled to her reliefs?

#### *EVIDENCE OF THE PLAINTIFF*

The plaintiff testified in the matter and called her mother Yaa Owobah as her witness (PW1). The summary of the plaintiff's evidence was that she and the defendant were in an amorous relationship for about 7 years but they are currently no longer in the said relationship.

She further stated that the defendant, during their relation requested for financial assistance of GH¢2,000.00 which she granted to him, but the defendant after paying

GH¢700.00 to her, has failed to pay the outstanding balance of GH¢1,300.00 despite repeated demands made by her.

PW1 on her part stated that she was not present when the plaintiff gave the money to the defendant but defendant at a point in time pleaded with her (PW1) to speak to the plaintiff on his behalf in respect of the money. This, according to PW1, was the time the plaintiff was putting pressure on the defendant for the unpaid balance and this is how she (PW1) became aware that the defendant is indebted to the plaintiff to the sum of GH¢1,300.00.

#### *EVIDENCE OF THE DEFENDANT*

The defendant in his evidence denied the claim of the plaintiff that he (defendant) is indebted to the plaintiff and also denied ever approaching the plaintiff's mother (PW1) to plead with the plaintiff on her behalf as claimed by her.

The defendant denied ever having secured GH¢2,000.00 as financial assistance from the plaintiff but stated that he a point in time of their relation needed some money to add to his money to take delivery of some items he had ordered. He therefore collected GH¢700.00 as financial assistance from the plaintiff but has paid the said GH¢700.00 to the plaintiff and also paid additional GH¢350.00 as compensation to the plaintiff.

The defendant further stated that he used various means including Mobile Money Transfer to pay the said money to the plaintiff and tendered in evidence documents from MTN in support of his claim as Exhibit '1' after which he closed his case.

#### *BURDEN OF PROOF*

In this matter, the plaintiff is claiming GH¢1,300.00 which she claims to be an outstanding balance of financial assistance she gave to the defendant and interest on the said amount and costs. The defendant however denies the plaintiff's claims and says that he only collected from the plaintiff the sum of GH¢700.00 but has paid same to her and even added GH¢350.00 as compensation.

This, being the case, the plaintiff has a burden to prove her claims whilst the defendant has also got the burden to lead evidence to support his defence in accordance with Section 14 of the Evidence Act, 1975 (NRCD 323) which states that;

*Except as otherwise provided by law, unless and until it is shifted a party has the burden of persuasions as to each fact the existence or non-existence of which is essential to the claim or defence he is asserting. "See the cases of FOSUA & ANOTHER V. DUAH & ANOTHER [2009] SC GLR 310 and YORKWA V. DUAH [1992 -93] GBR 278.*

#### EVALUATION

The plaintiff in proving her case of how she advanced the GH¢2,000.00 to the defendant stated under cross examination of 16/7/2024 that she at different occasions paid GH¢900.00, GH¢300.00, GH¢200.00, GH¢200.00, GH¢400.00, GH¢200.00, GH¢400.00 and GH¢200.00.

Whilst the plaintiff claims to have advanced a total sum of GH¢2,000.00 to the defendant as financial assistance out of which the defendant has paid GH¢700.00 leaving an outstanding balance of GH¢1,300.00, the various payments mentioned above which she claims to have made to the defendant rather amounts to GH¢2,800.00 but not GH¢2,000.00 as she claimed.

The plaintiff, in addition to above, also stated in her evidence that the defendant has paid GH¢700.00 out of the GH¢2,000.00 she gave him, leaving an outstanding balance of GH¢1,300.00.

It is to be noted that if the various payments the plaintiff claims to have made to the defendant is anything to go by, then the defendant, having paid GH¢700.00 out of it to the plaintiff will be left with GH¢2,100.0 but not the GH¢1,300.00 being claimed by her.

#### *CONCLUSION*

This Court, by virtue of the above analysis and the entire evidence on record, finds as a fact and holds that the plaintiff has failed to prove her claims against the defendant to merit the grant of her reliefs. The plaintiff's reliefs [(1), (2), and (3)] endorsed on the writ are therefore dismissed as unproved and or unmeritorious. No order as to costs.

H/W ISAAC OSEI ASARE

ESQ

DISTRICT MAGISTRATE

DISTRICT COURT (2)

TARKWA

