

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT MAITAMA**

**BEFORE HIS LORDSHIP : HON. JUSTICE Y. HALILU**  
**COURT CLERKS : JANET O. ODAH & ORS**  
**COURT NUMBER : HIGH COURT NO. 24**  
**CASE NUMBER : SUIT NO: CV/1826/18**  
**DATE: : TUESDAY 12<sup>TH</sup> MAY, 2020**

**BETWEEN:**

**SABA INTRGRATED RESOURCES LTD } JUDGMENT CREDITOR**  
**} /RESPONDENT**

**AND**

**ABUJA INTERGRATED RESOURCES LTD } JUDGMENT DEBTOR**  
**} /APPLICANT**

# RULING

This Ruling is at the instance of the Judgment Debtor/Applicant who approached this Honourable Court vide a Notice of Preliminary Objection and raised a sole issue for determination to wit; whether in the circumstance of the case, the application of the Judgment Creditor/Applicant in its entirety is competent to cloth this Honourable court with the jurisdiction to entertain same.

Arguing on above, counsel submit that a successful litigant should not be denied the joy of reaping the benefits of his Judgment, the most important factor to consider in determining an application for garnishee is where money liable to be attached by garnishee proceedings is in the custody or under the control of a public officer in his official capacity or in custodian legis, the order nisi shall not be made unless consent to such attachment is first obtained from the appropriate officer in the case of money in the custody or control of public

officer. ***CBN VS J.I NWANYANWU & SONS ENTERPRISES NIG. LTD (2014) LPELR 22748 (CA).***

Learned counsel submit finally that failure to obtain the consent of Attorney General of Federation (AGF) is fatal and therefore the Order Nisi should be quash.

Upon service, Respondent filed a reply wherein a sole issue to wit; whether the judgment debtor can be heard in objection to a Garnishee Proceedings if the answer is yes whether the consent of the Attorney General of the Federation is required before the Judgment debtor's account with the commercial Bank can be garnisheed.

Learned counsel while arguing on the above, cited the case of ***NIGERIA AGIP OIL CO. LTD VS OGINI & ORS (2017) LPELR (42859 ) (CA)*** where the court held that ***“from the provisions of section 83 of the sheriff and civil process Act, a garnishee is any person indebted to the Judgment debtor. It is that garnishee that is required to show cause why the garnishee Nisi should not be***

*made absolute. That function does not lie with the Judgment debtor who strictly sensu is not really a party to a garnishee proceedings.”*

Learned counsel further submit that a trial judge has no legal competence to reverse itself or set aside its previous order or Judgement except where such order or judgment is a nullity.

***PURIFICATION TECHNIQUES (NIG) LTD VS A.G OF LAGOS STATE (2004) LPELR 7424 (CA).***

Learned counsel also cited and relied in the case of ***CBN VS INTERSTELLA COMMUNICATION LTD & ORS (2017) LPELR 43940 (SC)*** where it was held as thus;

*“The law is long settled that a Garnishee proceeding is strictly between the Judgment Creditor and the Garnishee who is indebted to the Judgment debtor.”*

Counsel final urged the court to dismiss the application.

I have gone through the Applicant's application and the counter reaction of the Respondent who is vehemently opposed to the grant of the application under consideration.

It is true as well as settled, that a court of law has an inherent jurisdiction to set aside its own judgment where the conditions for doing so have been met by a party seeking setting aside. One of such situation is when the judgment sought to be set aside was obtained by failure to comply with procedural rules. ***NOGA HOTELS INTERNATIONAL S.A VS NICON HILTON HOTELS LTD & ORS (2006) LPELR 11811 (CA).***

There is no gain saying that there is always an end to litigation. It is the law that after finally deciding a matter before it, the court becomes functus officio and lacks jurisdiction to deal with the matter. Courts must be wary of allowing parties to relitigate matters determined for

fear of more or less sitting on appeal over matters determined.

I am not unaware of situation where judgments of courts are set aside. However, the conditions precedent for such shall be met.

It is Applicant's contention that the consent of the Attorney General of Federation was not sought and obtained by the judgment creditor before the garnishee proceeding was initiated or immediately after but before the garnishee Order Nisi was made absolute contrary to section 84 of Sheriff and Civil Process Act. And therefore court was urged to set aside the proceedings.

For avoidance or doubt, section 84(1) of the Sheriff and Civil Process Act states as thus "*where money liable to be attached by garnishee proceedings is in custody or under the control of a public officer in his official capacity or in custodian legistae order Nisi shall not be made under the provisions of section 83 unless consent to such*

*attachment is first obtained from the Attorney General in case of money in custody or control of a public officer or the court in the case of money in custodia legis as the case may be.”*

May I on the premise of afore reproduced provision, state with emphasis, that monies liable to be attached in above circumstance shall of necessity be in custody of a public officer before consent under section 84(1) of the Sheriff and Civil Process Act is necessary.

However, where public or government funds are in custody of a commercial Bank, as in this case, such consent is not necessary.

The argument of learned counsel is not just misplaced but calculated at misleading this court and the legal community. God forbid.

Plato, the great Greek Photographer once said,

*“Good people do not need laws to tell them to act responsibly while bad people will find a way around the laws.”*

The application bereft of any substance in law and procedure shall be dismissed. Accordingly Notice of Preliminary Objection filed dated the 27<sup>th</sup> March, 2019 is hereby dismissed.

*Justice Y. Halilu  
Hon. Judge  
12<sup>th</sup> May, 2020*

### ***APPEARANCES***

FESTUS A. – for the Judgment Creditor/Respondent.

AUTA NYADA – for the Judgment Debtor/Applicant.

CHIOMA NWANKWO – for the 2<sup>nd</sup> Garnishee.