



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



**BEFORE HIS LORDSHIP: HON. JUSTICE H. B. YUSUF**

**CHARGE NO: FCT/HC/CR/135/15  
BETWEEN:**

FEDERAL REPUBLIC ON NIGERIA.....COMPLAINANT

**AND**

ADEOLU ADEYANJU..... DEFENDANT

**RULING**

The Defendant was arraigned on 1<sup>st</sup> April, 2015 on allegation of defrauding the Federal Ministry of Environment the sum of N934,989,494.89 (Nine Hundred and Thirty Four Million, Nine Hundred and Eighty-Nine Thousand, Four Hundred and Ninety-Four Naira and Eighty-Nine Kobo). He pleaded not guilty to the charge and the matter was promptly adjourned to 15<sup>th</sup> April, 2015 for trial. However, it is disheartening to know that upto this point the Complainant is yet to open its case. This brief background now takes me to the subject matter of this ruling.

This is a composite ruling relating to two application brought by the respective parties in this matter. The Complainant is seeking an order of this Court to sell certain properties recovered from the Defendant in the course of investigation. That this approach is necessary in order to preserve the said properties from perishing during the pendency of the case against the Defendant while the proceeds should be deposited in an interest yielding account pending the outcome of trial with an undertaking to indemnify the Defendant if need be at the end of the day.

On the other hand the Defendant also filed an application for the release of the selfsame vehicles sought to be sold by the Complainant. The Defendant is also seeking an Order of Court lifting the total restriction placed by the ICPC on Defendant's company account No.1012805052 maintained with Zenith Bank Plc in the name of Detwinx Global Services Ltd. The Defendant is also seeking an order striking out the Charge against him on the ground that same is lacking in merit, being misleading, misdirected, malicious and unknown to law.

Parties filed affidavits, exhibits and written addresses in support of their respective positions which I have fully read and digested. The particulars of the vehicles in dispute are as follows:

- 1. Peugeot 3008 2013 Model Jeep with registration number Abuja ABC 684 TN.**
- 2. Lexus RX 330 2007 Model Jeep with Registration number ABJ 876 KU.**

The Complainant on the face of the affidavit in support has alleged that the two vehicles identified above were acquired with proceeds of crime. Paragraph 4(h) – (o) of the Complainant’s affidavit in support stated as follows:

- 4. (h) That the sum of N468,794,613.79 (Four Hundred and Sixty Eight Million, Seven Hundred and Ninety-Four Thousand, Six Hundred and Thirteen Thousand Seventy-Nine Kobo) was electronically transferred directly into the Defendant’s Company (Detwinx Global Services Limited) account number 1012805025 with Zenith Bank Plc on the 28<sup>th</sup> November 2014. A copy of the Zenith Bank Statement of account number 1012805024 and account opening document showing the Defendant passport is attached to this affidavit and marked as exhibit “C1” and “C2” respectively.**
- (i) That immediately the money entered the Defendant/Respondent account he changed N400Million Naira into US Dollars equivalent and**

**purchased two cars which is seized from the Defendant/Respondent.**

**(j) That the Defendant credited ASD Motors with N5,700,000.00 (Five Million, Seven Hundred Thousand Naira) on the same 28<sup>th</sup> November 2014 and took possession of Peugeot 3008 Jeep.**

**(k) That out of these money the Defendant also purchased RX 330 Lexus Jeep for his wife with another N3,500,000.00 (Three Million, Five Hundred Thousand Naira).**

**(l) That in the course of investigation in December 2014 these vehicles were recovered from the Defendant and parked at the premises of Independent Corrupt Practices and Other Related Offences Commission at Plot 802 Constitution Avenue Central Business District Abuja.**

**(m) That immediately the trial of the Defendant/Respondent commenced he said he had no money to engage a counsel for his defence which has made the case drag unnecessarily.**

**(n) That as a result of slow in the trial (sic) of this case the two cars are deteriorating, depreciating and about to get spoilt.**

**(o) That the Commission undertakes to indemnify the Defendant in the event that this case is not sustainable and this application ought not to be made.**

I have read the 30-paragraph counter affidavit in opposition to this application deposed to by one Oluwadare Adejumo of no fixed address in Abuja where in a nutshell it was stated that the application was brought in bad faith and ought not to be granted.

Now it clear to me that this application is primarily predicated on **Section 330 of the Administration of Criminal Justice Act, 2015** which provides as follows:

**“Where any property regarding which an offence appears to have been committed or which appears to have been used for the commission of an offence is produced before a Court during an inquiry or a trial, the Court:**

- (a) May make such order as it thinks fit for the proper custody of that property pending the conclusion of proceedings or trial; and**
- (b) Where the property is subject to speedy decay, may, after recording evidence as it thinks necessary, order it to be sold or otherwise disposed of, and the proceeds dealt with as the Court may direct.”**

A critical scrutiny of the above statutory provision would reveal without much ado that the prosecution may only take advantage of the section after the properties in issue have been “produced before a Court during an inquiry or a trial” as stated in the Act. In other words the prosecution must first tender the vehicles in evidence. That is the import of the phrase; “after recording of evidence” as used in the Section 330 above. The rationale for this provision is quite simple. The Court cannot take cognizance of assets that have not been properly placed before it. To do otherwise would amount to speculation and it is trite Law that Courts are totally insulated from speculation. If that be the case the prosecution ought to present the vehicles sought to be preserved by way of sale as exhibits after the commencement of trial. Regrettably five years after the plea of the Defendant was taken the prosecution is yet to proceed to trial. To say the least this development is most unfortunate.

At the end of the day I hold as I should that I find no merit in the Complainant’s application which is hereby refused and dismissed. The prosecution is hereby directed to be up and doing if indeed it wants the Court to believe that it means business in the prosecution of this matter.

I have also considered the Order sought by the Defendant for the release of the disputed vehicles to him and I form the view that there is no merit in the application. The same goes for the request for the release of Detwinx Global Services Limited account number 1012805025 maintained with Zenith Bank Plc. In my view the Defendant should be more interested in establishing his innocence upon conclusion of trial. If the Defendant is found innocent at the end of the day he will be entitled to the restoration of everything legally due to him because as it were he is presumed innocent under the Constitution.

Finally the Defendant has attacked the competence of the charge against him and urged upon the Court to strike out same. I have considered this point and it would appear that the Defendant's counsel did not advert his mind to the provision of Section 221 of the Administration of Criminal Justice Act, 2015 to the effect that:

**“Objection shall not be taken or entertained during proceeding or trial on the ground of an imperfect or erroneous charge.”**

The Defendant is of the view that there is no basis for his prosecution and that his trial was indeed strange and unknown to Law. Paragraphs 12 and 17 of the affidavit in support of the

Defendant's application is very clear on this point. It provides as follows:

**12. That the charge sheet on the face of it and in contents is manifestly defective, impossible, prevaricative, evasive and very malignant as it is not possible for the defendant who is not a staff of the Ministry of Environment, not a procurement Officer, not Director of Finance, not in any way able to allow for processing of funds to get the purported money of N468,794,613.79 (Four Hundred and Sixty Eight Million, Seven Hundred and Ninety-Four Thousand, Six Hundred and Thirteen Thousand Seventy-Nine Kobo) into his account from a government ministry, without the knowledge of the staff of the ministry, the Bank Officials and yet the defendant deceptively being made to stand trial.**

**17. That it the Section 68 (sic) of the Corrupt Practices and Other Related Offences Act 2000 is unknown to law owing to the fact that it is contrary to Section 36 Subsection 12 of the 1999 Constitution as amended in 2011 and cannot be used for the trial of this case.**

What has played out here is that the Defendant is saying that he ought not to have been put on trial at all. That the charge against



him is indeed an error as same is not known to law. If that be the case, I am satisfied that his objection is caught up by Section 221 of ACJA set out above and I accordingly overrule learned Counsel for the Defendant.

At the end of the day the respective application on both side are without merit and in consequence dismissed in their entirety.

**SIGNED**  
**HON. JUSTICE H.B. YUSUF**  
**(PRESIDING JUDGE)**  
**19/05/2020**