



**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDING AT MAITAMA-ABUJA
BEFORE HIS LORDSHIP: HON. JUSTICE H. B. YUSUF**



SUIT NO: AB/DC/CV/50/2016
APPEAL NO: CVA/21/17

BETWEEN:

MRS. VERONICA NGOZI MBAH.....APPELLANT

AND

BARR. (MRS) COLLETTE EGBUCHEM.....RESPONDENT

RULING

Before the Court below presided over by His Worship Taribo Z. Jim the Respondent/Applicant instituted an action against the Appellant/Respondent to claim her professional fees for services rendered to the Appellant. At the end of trial, the Court found the claims of the Respondent meritorious and entered Judgment in her favour.

The Appellant/Respondent was not pleased with the Ruling of the Court and has appealed to this Court vide a Notice of Appeal filed on the 16/11/2016 wherein several grounds of appeal were raised. The learned counsel to the Respondent has filed a Notice of

Preliminary Objection against the Notice of Appeal and I suppose the appeal itself where the following reliefs are sought.

1. An Order striking out the Appellant's Notice of Appeal for being incompetent.
2. An Order striking out ground one of the grounds of Appeal as contained in the appellant Notice of Appeal.
3. An Order striking out issues two and three for same not supported by any ground in the Notice of Appeal.
4. An Order striking out paragraphs 3.8 - 3.24 of the Appellant's "Defendant/Appellant's Written Brief" same not being supported by any ground in the Notice of Appeal.
5. An Order dismissing the Notice of Appeal for non compilation of Records of Proceedings as required by Order 43 Rule 3.
6. An Order striking out the Appellant's "Defendant/Appellant's" written brief filed on the 03/07/2017 in its entirety.

The grounds relied upon by the learned counsel for the Respondent for bringing the Notice of Preliminary Objection are that:

- i. The Notice of Appeal is not signed and that unsigned Court process has no value in the law.
- ii. There are no grounds supporting issue two and three in the Appellant's Notice of Appeal.

- iii. The arguments proffered in paragraphs 3.8 - 3.24 are made on issue not supported by any ground in the Appellant's Notice of Appeal.
- iv. The Appellant has three months from the day of delivery of Ruling appealed against to compile and transmit Record of Appeal.
- v. The Record of Appeal was not transmitted within the allowed **three months** from the day the Ruling appealed against was delivered.
- vi. The Record of Appeal was not properly transmitted.

Learned counsel also filed a written address in support of the preliminary objection which was adopted when the application came upon for hearing on the 17/10/2018. The learned counsel to the Appellant/Respondent did not file any process in opposition to the preliminary objection. He however sought for permission to respond orally. I granted him leave to do so in view of the fact that the preliminary objection had enured for some time and needed to be dealt with to pave-way for the substantive Appeal. In other words the leave to respond was given in the overall interest of justice.

In his reply the learned counsel to the Appellant/Respondent contended that it is not true that the Notice of Appeal was not signed. He argued that the notice stated that the appeal was settled

by himself and the seal of the Nigerian Bar Association bearing his name was affixed by the side in his name. According to him this amount to a signature, he relied on Chambers 21st Century Dictionary (Revised Edition at page 1304). He also argued that a printed mark with a meaning is a signature. Learned counsel further argued that the other grounds of preliminary objection are meaningless and not hold water.

In my view the ground which should decide this application is the 1st ground which complains that the notice of Appeal filed by the learned counsel to the Appellant/Respondent was not signed by anybody. The reason is based on the position of the law as stated by counsel to the appellant that an unsigned document is worthless and incompetent. In another way if the process filed to commence the Appeal before this Court is incompetent the jurisdiction of the Court cannot be properly invoked.

Now the Law requires that a Notice of Appeal must be signed by either the Appellant or his counsel representing him. The question then is whether the Notice of Appeal filed in this case was signed. The learned counsel to the Appellant has argued that his printed name on the Notice of Appeal together with the bar stamp also bearing his name is an acceptable signature. he relied on Chambers Dictionary 21st Edition where it was stated that a printed mark with

a meaning is a signature. The question then is whether there is a printed mark against his name on the Notice of Appeal. Is there any inscription against his name to suggest that the learned counsel has accepted responsibility for the authorship of the notice of Appeal? Admittedly there is a computer print of the name of C.A Gbehe at the end of the process but has the learned counsel inscribed anything on top of the printed name to suggest that he has put himself forward as one responsible for the authorship of the document?

In my view the answer is obviously no. in **MAMMAN VS BWACHA 2017 1 NWLR (PT. 1547) 425 AT 483 to 484** it was held as follows:

“My Lords the law is now firmly settled in a long line of decided cases as replete in our law reports that a signature without a name is a non starter. It is invalid and incurably bad and of no moment or legal consequence whatsoever in law a signature of a person is simply put a written name on that document made by that person in his name and signifies an authentication of that document that such a named person holds himself out as bound or responsible for the contents of such a document. it is the signature signed over the name of the person who identifies such a document as the act of the person whose

name is subscribed without which such a document is not only suspect but can hardly also pass for the act of such an unnamed person. It is simply useless and worthless. See SLB CONSORTIUM LTD VS NNPC (2011) 4 SC (PT. 86) AT 89; TSALIBAND VS HABIBU (1991) 2 NWLR (PT. 174) 461 AT 481; and ADEFARASIN VS DAYEKL (2007) 11 NWLR (PT. 1044) 89”

In this case the name of counsel was merely printed without any inscription on the top to suggest that the learned counsel has authenticated the document to hold himself out as responsible for the contents of the document. The absence of such a signature over the name of C.A Gbehe becomes more suspect as counsel has told the Court that he had an issue with the appellant until the notice of hearing of this application was served on him and also that he did not file any written address in response to this preliminary objection.

I therefore has no difficulty in reaching a decision that the notice of Appeal filed by the learned counsel for the appellant was not duly signed.

The law is clear that where a document which requires a signature is not signed the document is incompetent. See **ALHAJI**

MOHAMMED MUHAMMED VS MARTINS ELECTRONIC CO. LTD
(2010) 2 NWLR (PT. 1179) 47 AT 53 the Court held as follows:

“All documents which require signing must be signed, it must be signed by an appropriate authority in order to make it authentic. A document which ought to be signed but is not signed or improperly signed is to say the least incompetent.”

Now following the decision in **NNB PLC VS DENCLAS LTD (2005) 4 NWLR (PT. 916) 549 AT 583** paragraphs A-B a notice of Appeal is a document which ought to be signed. In that case ably cited by counsel to the applicant it was held:

“It is well settled law that only an appellant himself or a legal practitioner defined in Legal Practitioners Act can sign a notice of Appeal.”

From the above decision the end result is that the notice of Appeal against the Ruling of the Court below is defective, worthless and of no meaning. It is accordingly struck out.

This conclusion in my view should decide the preliminary objection, however I think that for the record I should make some remarks on the other grounds of the preliminary objection. Having raised those grounds together with the argument proffered in support by the

learned counsel to the objector it would appear to me that the objections relate to the merit of the appeal itself. Counsel has argued as if he was arguing the appeal itself.

In my view those objections are premature as they could only be taken during the hearing of the Appeal. These grounds of objection are in my view misconceived and are therefore struck out.

Signed
Hon. Justice H. B. Yusuf
(Presiding Judge)
11/05/2020