

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT GWAGWALADA

THIS THURSDAY, THE 16TH DAY OF JULY, 2020.

BEFORE: HON. JUSTICE ABUBAKAR IDRIS KUTIGI – JUDGE

SUIT NO: FCT/HC/CV/2412/16

BETWEEN

MR. SAMUEL PAULAPPLICANT

AND

1. NIGERIA POLICE FORCE
2. INSPECTOR GENERAL OF POLICE
3. COMMISSIONER OF POLICE FCT
4. ASSISTANT COMMISSIONER OF POLICE
(SPECIAL ANTI ROBBERY SQUAD) } **..RESPONDENTS**

AND

CENTRAL BANK OF NIGERIAGARNISHEES/RESPONDENT

RULING

This Court on 8th February, 2019 recorded a Garnishee Order Nisi against Central Bank of Nigeria upon the ex-parte application of the Plaintiff/Judgment Creditor.

In Response to the order to show cause, the Garnishee, Central Bank of Nigeria filed two (2) affidavits to show cause as follows:

1. Affidavit to show cause of nine (9) paragraphs sworn by one **Olufemi Adebambo**, a staff in the employment of Central Bank of Nigeria filed on 9th April, 2019.
2. Garnishees affidavit to show cause of eight (8) paragraphs sworn to by **Oaikhinan Isibor Aigbe**, also a staff in the employment of Central Bank filed on 11th October, 2019.

Both deponents in the two affidavits indicated that they had the consent and authority of their employers to deposed to the affidavit.

On the records, when the matter came up on 15th October, 2019, the attention of the representative of the Garnishee, one Adebambo Olufemi, was called to the two affidavits filed by them which were completely contradictory in terms. The representative informed court that he does not know why there are two (2) conflicting affidavits but that he should be given time to get back to the office to know why two apparently conflicting affidavits were filed by the same institution.

It may be necessary to allow each of the two (2) affidavits speak for itself. In the first affidavit of **Olufemi Adebambo** dated 9th April, 2019, he deposed to the following averments:

- “4. That the Central Bank of Nigeria (hereinafter referred to as “the CBN”) is the Garnishee in the above matter.**
- 5. That the Garnishee Order Nisi granted on 5th March, 2019 directed the CBN to attach the sum of N2, 000, 000.00 (Two Million Naira) only and the Cost of the Garnishee proceedings in the sum of N200, 000.00 (Two Hundred Thousand Naira) only.**
- 6. The Garnishee Order also directed the Bank to appear in Court, at Gwagwalada, to show cause why an order should not be made upon the Bank for the payment to the Judgment Creditor of the amount of the Judgment sum due and owing or accruing from the Bank to the said Judgment Debtors or so much thereof as will satisfy the debt under the said Judgment sum and the cost entered on this summons.**

- 7. That I was informed by Mr. Kenneth C. Oji, a Relationship Manager in the Client Services Office of the Banking Services Department (the Department in charge of managing the accounts of customers of the Bank) on the 15th of March, 2019 in the office at about 2.00pm, in the course of official briefing in respect of this matter, that the Central Bank of Nigeria does not maintain account(s) in the name of the 1st, 2nd 3rd and 4th Judgment Debtors.**
- 8. That in view of the averments in paragraph 6 above it is in the interest of justice for the Honourable Court to discharge the Bank from the Order Nisi.”**

The clear implication of these averments is that Central Bank of Nigeria does not maintain accounts of the Judgment debtors.

Now in the later affidavit to show cause of **Oaikhinan Isibor Aigbe**, filed on 11th October, 2019, he stated as follows:

- “3. That the Central Bank of Nigeria (hereinafter referred to as “the Bank”) is a Garnishee in the above matter.**
- 4. The Order Nisi was granted attaching the sum of N2, 000, 000.00 (Two Million Naira) only standing in the credit of the Judgment Debtors with the Garnishee for the satisfaction of the Judgment of this Honourable Court delivered on 15th December, 2016**
- 5. The Order Nisi directed the Garnishee to appear in Court on 12th March, 2019 to show cause why the Order Nisi should not be made absolute upon them for the payment of the Judgment debt and cost to the Judgment Creditor.**
- 6. That the Central Bank of Nigeria is a Public Officer and from all the processes served on the Bank, there is no indication that the consent of the Honourable Attorney General of the Federation was obtained before the Garnishee Order Nisi was issued by the Honourable Court.**

7. That in view of the averments in paragraph 6 above, it is in the interest of justice for the Honourable Court not to make the Order Absolute and discharge the Bank.”

This later affidavit contrary to earlier affidavit did not deny or say that any of the Judgment debtors does not maintain an account with CBN but only stated that the consent of the Honourable Attorney General was not obtained before the Order Nisi was obtained.

As stated earlier, these affidavits were all filed by and with the instructions of the Garnishee. It was in the light of this confusion that the representative of the Garnishee sought for an adjournment which the court granted. When the matter now came up on 6th July, 201, he admitted that he will be relying on the earlier affidavit filed to the effect that the judgment debtors had no account with the Garnishee. He did not however give or proffer any explanation as to the contradictions in the two (2) affidavits.

In a brief response, counsel to the judgment debtor called attention of the court to the **Exhibit B** in the records attached to the ex-parte application seeking for the Garnishee order nisi which is a circular by the **Garnishee itself** directing all Banks to transfer the balance of monies due to Government or its agencies into the Treasury Single Account maintained with the Garnishee (CBN). The circular gave a deadline of **15th September, 2015** for the transfers to be effected.

Counsel submitted that even if the 2nd – 4th defendants judgment debtors do not have accounts with CBN, that there is no doubt that the 1st defendant certainly in line with the circular clearly has an account with the CBN. That the CBN has here not challenged or controverted the contents of this circular.

Learned counsel also drew the courts attention to a similar Garnishee proceeding and Ruling delivered by this Court in **Suit No CV/672/18 (Motion No. M/4276/19) Between Ma’aku Nigeria Limited (suing as lawful attorney of Vilag Inv. Ltd) V. The I.G.P and Nigeria Police Fore and Central Bank of Nigeria** as Garnishee.

That in the said decision delivered on 16th April, 2019, the Central Bank acknowledged or conceded that the Nigerian Police has an account with it and paid

the judgment sum in the said case from the account of the Nigerian Police with it to the judgment creditor.

That the same **Nigerian Police** is the 1st judgment debtor in this case. It was contended that from all these processes the Garnishee here is simply not transparent or forthright with respect to the account of the 1st judgment debtor with it and that explains the clear contradictions in even the affidavits to show cause filed on their behalf. The court was urged to make the order absolute.

I have here carefully considered all the processes filed including the file record of court. The law is settled that a court can *suo motu* make reference to the case filed before it and make use of any document and relevant evidence. See **Famudoh V Aboro (1991) 9 NWLR (pt.214) 210 at 229 E.**

In this case by **Exhibit B** the circular dated 7th September, 2015 by the Garnishee attached to the ex-parte application seeking for the Garnishee Order nisi, shows a clear directive for the transfer from all Banks of balances and funds due to the Government and its agencies into a Single Treasury Account with the CBN. The deadline for the transfer was given as 15th September, 2015.

There is nothing on the evidence by the Garnishee indicating that this directive has changed or that there has been a change of Government policy relating to the transfer of funds of Government Agencies to a single account with the CBN. The 1st defendant/judgment debtor, the Nigerian Police is one such Government Agency to which this circular clearly applies.

Most importantly the persuasive decision of this court referred to in the Garnishee proceeding between **Ma'aku Nig. Ltd V IGP & Anor (supra)** delivered on 16th April, 2019 show clearly that Nigerian Police has or maintains an account with the Garnishee, CBN.

What is strange here is that in paragraph seven (7) of the present affidavit to show cause one “**Kenneth C. Oji**” a relationship manager with client services office of the Banking Services Department of CBN (the department in charge of managing the accounts of customers of the Bank) provided the information that the judgment debtors including Nigeria Police has no account with CBN. This deposition was made as stated earlier on 9th April, 2019.

Now in the Ruling delivered on 16th April, 2019 after the above deposition, on page 9 of the Ruling, the same “**Kenneth Oji**” a relationship manager in the client services office of the Banking services department of CBN (the department in charge of managing the account of customers in the Bank) categorically averred that the Nigeria Police Force has or maintains an account with them.

When these contradictory assertions by the Garnishee is added to the earlier conflicting affidavits to show cause filed in this proceedings, it is clear that the Garnishee, **CBN** is not forthcoming or forthright with respect to, at least, the account of Nigeria Police with them.

The affidavit of **Olufemi Adebambo** they are relying on in this proceeding contains only bare averments, very weak, tenuous or feeble and does not controvert the clear positions advanced by the Judgment creditors with clear documentary evidence. Some of these documentary evidence even emanates from the Central Bank of Nigeria which show that the Nigeria Police indeed maintains an account with them. The inherently contradictory positions advanced by the **Garnishee** here speaks to the fact that they appear to be oblivious of there legal duties and responsibilities in a Garnishee proceedings which is a special proceeding demanding of exercise of sincerity and utmost good faith.

The Garnishee has no business trying to protect the Judgment Debtor by seeking to subvert the process by underhand tactics by failing to provide full facts relating to the account(s) of the Judgment debtor(s) with them. The growing tendency nowadays for Garnishees actively trying to shield the Judgment Debtor(s) from their obligations must be deprecated in the strongest of terms. I call in aid here the admonition of the Court of Appeal in **Oceanic Bank Plc V. Oladepo & Anor (2012)LPELR-19670(CA)** where Ita Mbaba J.C.A stated instructively as follows:

“...it is not the business of a Garnishee to undertake to play the role of an advocate for a judgment debtor by trying to shield and protect the money of the judgment debtor...”

The above admonition is clear and unambiguous.

On the whole, there is nothing of significance in the affidavit to show cause of Olufemi Adebambo on behalf of the Garnishee preventing the court from making absolute the order nisi granted on 18th February, 2019.

Accordingly, I hereby proceed to make absolute against Central Bank of Nigeria (CBN), the order nisi made on 18th February, 2019 for payment to the Judgment Creditor forthwith the due sums covered by the judgment of court from the Account of the 1st Judgment debtor, Nigeria Police Force with CBN.

.....
Hon. Justice A.I. Kutigi

Appearances:

- 1. Nsikak Udo, Esq., for the Plaintiff/Judgment Creditor.**
- 2. Ezenwa Evumukwele, Senior Manager/Representative of C.B.N./Garnishee.**