

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT APO-ABUJA

ON THE 2ND DECEMBER 2020

BEFORE HIS LORDSHIP HON. JUSTICE CHIZOBA N. OJI

PRESIDING JUDGE

SUIT NO: FCT\HC\CV\2070\14

BETWEEN:

UNITY BANK PLC

.....

PLAINTIFF

AND

1. CLOONEY OIL LIMITED

2. HAJIA MARYAM DADA

}

.....DEFENDANTS

RULING

By a motion on notice no m/300/19 filed on 22nd October 2019 the Judgment debtor seeks:

“(a) An order for attachment and sale against the immoveable property of the Judgment debtors covered by Certificate of Occupancy No 1844w – b0b9Z – 4 b6dr – 2e7bu – 10, in file No 12311 and situated at Plot No. 2249, Wuse 1 District Cadastral Zone A02 Abuja, which was used by the Judgment debtors as security for the loan, the subject matter of this case.

(b) ANY OTHER ORDER(S) as this Honourable court may deem fit to make in the circumstances of this case.

The application was anchored on 5 grounds and is supported by a 6 paragraph affidavit of Akechi Austin, Litigation manager in the firm of messrs Akpama Ekwe & Co, counsel to the Judgment creditor.

Therein, it was deposed interalia that on the 3rd of November 2016 this court entered judgment in favour of the Judgment creditor against the Defendants jointly and severally for :

- (1) The sum of N31,082,892.72 (Thirty one million, Eighty Two Thousand, Eight Hundred and Ninety Eight Naira Seventy Two kobo)
- (2) Compound interest at 36% per annum from 30th September 2013 till date of judgment
- (3) And 10% interest per annum from the date of judgment till the judgment sum is fully liquidated, and
- (4) N40,000 as costs of action

That the judgment was registered at the High court of Kaduna state where the 2nd Judgment debtor is resident and, writ of attachment and sale of the moveable property of the Judgment debtors issued.

That execution was levied against the moveable property of the judgment debtors at N18 Gongola Road, Barnawa GRA Kaduna, Kaduna State, but nothing could be found to be attached to satisfy the judgment debt.

That no moveable property of the Judgment debtor can be found anywhere in Kaduna state, even with reasonable diligence to satisfy the judgment debt.

That the sum now due and unpaid under the judgment is N47,453,225. 02 (Forty Seven Million, Four Hundred and Fifty Three thousand, Two Hundred and Twenty Five Naira, two kobo.

That the Judgment debtor is the owner of the immovable property situated at Plot 2249 Cadastral Zone A02 Wuse 1, Abuja which was used as security for the loan, the subject matter of this suit.

That to satisfy the judgment of this honourable court delivered on 3rd of November 2016, it will be in the interest of justice to issue a writ of attachment and sale against the said immovable property of the Judgment debtors.

A copy of the certificate of judgment marked Exhibit AEE1, and copy of the writ of attachment marked Exhibit 1 AEE2 were attached to the affidavit.

The application was accompanied by a written address wherein learned counsel argued the sole issue; whether this court can attach and sell the immovable property of the Judgment debtors.

Placing reliance on section 44 of the Sheriffs and Civil Process Act Cap S.6 LFN 2010, Order IV Rule 16 of the judgment (Enforcement) Rules of court and **SALEH V MONGUNO (2006) 27 NSCQR PG. 826 AT 844-845**, he urged the court to issue the writ of attachment and sale against the immovable property of the Judgment debtors.

The Judgment debtors though served the motion did not contest the application. I have considered the application and the affidavit in support of same.

The law is that what is admitted needs no proof.

In paragraph 9 of the affidavit in support of the Defendants' notice of intention to defend filed on 31st October 2016 deemed duly filed and served on 2nd November 2016 it was admitted thus:

"9. That as part of the loan agreement, the first defendant provided a valuable collateral which was valued and accepted by the plaintiff.

The collateral is a certificate of occupancy No 1844w – b0b9Z – 4 b6dr – 2e7bu – 10 and file No KN 12311".

That is certificate of occupancy covering the property in question in this application

The Applicants having fulfilled the requirements of the law to merit a grant of this application, I hereby grant the application.

Hon. Judge