

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. 22
CASE NUMBER : SUIT NO: CV/458/16
DATE: : WEDNESDAY 6TH JANUARY, 2021

BETWEEN

ABUBAKAR D. RABIU JUDGMENT CREDITOR

AND

1. SAM EBONNI JUDGMENT/DEBTORS
2. PRO-QUIP NIGERIA LIMITED

RULING

This Ruling is at the instance of the Judgment Debtor/Applicant who approached this Honourable Court challenging the jurisdiction of this Honourable Court for granting an Order for the attachment and sale of the Judgment Debtor's moveable and immovable properties which are outside its jurisdiction without Registration of the said Judgment at the Lagos State High Court of Justice where the properties are situated.

Learned Counsel formulated a sole issue for determination to wit;

Whether this Honourable Court has the requisite jurisdiction and competence to make an Order for the attachment and sale of the Judgment Debtor's moveable and immovable properties which are outside its jurisdiction

without registration of the said Judgment at the Lagos State High Court of Justice where the properties are situated.

Arguing on the above, Learned Counsel submit that the Judgment Creditor has erroneously commenced this proceedings without the due process of the law and has equally failed to fulfill the condition precedent to the exercise of jurisdiction of this Honourable Court. ***MADUKOLU VS NKEMDILIM (1961) NSCC (Vol.) 374.***

Learned Counsel contended that a Court is only competent to adjudicate on a matter where the following conditions exist:-

- a. It is properly constituted
- b. The subject matter of the case is within its jurisdiction

c. The case comes before the Court initiated by due process of law, and upon fulfilment of any condition precedent to exercise of jurisdiction.

Counsel submit that the subject matter is not within the jurisdiction of this Honourable Court and that the conditions precedent to assumed jurisdiction was not carry out.

It is further the argument of the Learned Counsel that by virtue of Section 104 and 105 of the Sheriffs and Civil Processes Act, the Judgment Creditor would ordinary have the Judgment registered first and failure to so do robs this Honourable Court of its jurisdiction to further make any Order attaching the said properties.

N.U.R.T.W. VS R.T.E.A.N Suit No. SC/22/2005.

Court was urged to strike out this proceedings.

Upon service, the Judgment Creditor filed a reply on point of law wherein Learned Counsel submit that Section 104 and 105 of Sheriffs and Civil Processes Act cited by Learned Counsel for the Judgment Debtor is clear and unambiguous and Court are forbidden from reading into it that which is not contained therein.

***BANAIYI VS A.G. OF FEDERATION (2001)7
N.S.C.Q.R P. 598.***

Counsel submit that execution of Judgment is governed by the Sheriffs and Civil Process Act and that long title read:-

“An Act to make provision for the appointment and duties of Sheriffs, the enforcement of Judgments and Order, and the services and

*execution of Civil Process of the Courts
throughout Nigeria”*

Counsel contended that the Act is applicable to the whole of Nigeria including the Federal Capital Territory. And that the proceedings before this Court is the Judgment summons procedure under the Sheriffs and Civil Processes Act.

Counsel argued that Order 2 Rule 22 of the Judgment Enforcement Rules provides that any process including a Writ of Execution issued by a Court can be carried into effect in any place in Nigeria where the Judgment Debtor resides or his moveable or immovable property is found.

Court was urge to dismiss this application.

I have considered the argument of both Judgment Debtor/and Judgment Creditor.

The law with respect to jurisdiction, be it subject matter or parties jurisdiction... The ultimate goal is to ensure the court determining the subject matter is properly clothed with the competence jurisdictionally speaking to determine such a matter.

The authority of *MADULOLU VS NKEMDIRIM* ably cited by Judgment Debtor/Applicant is apt.

The argument of Judgment Debtor/Applicant is to the effect that Judgment Creditor/Respondent ought to have commenced levying execution on the immoveable and moveable properties of the Judgment Debtor/Applicant after registering the said Judgment at the appropriate court in the state once it is not within the Federal Capital Territory, Abuja wherethe Judgment was handed down.

Learned counsel for the Judgment Debtor/Applicant contended that the procedure adopted by Judgment Creditor/Respondent by applying for the executions of the Judgment to be carried out in another state without registering the said judgment in the applicable state was erroneous and not know to law.

Learned counsel contended that the moveable and immoveable property of the Judgment Debtor/Applicant not being in Abuja, the Judgment of the FCT High Court shall be registered in Lagos State where the said assets are, for execution to be levied on them.

I have considered the provision of sections 104 and 105 of the Sheriffs and Civil Process Act which deals with execution of judgment.

I have read Order 2 Rule 22 of the Judgment Enforcement Rules without much ado, the law with respect to registration of Judgment shall be read esjusedem states and countries.

Once Judgment is handed down by a state and execution of the Judgment is to be carried out in another jurisdiction, the said Judgment must be registered in the applicable state for jurisdiction to be assumed and enforcement carried out.

It is a misnomer for the machinery of execution to be put in motion for enforcement in another state without registering the judgment in the first place. I am in agreement with the reason and wisdom of the Judgment Debtor/Applicant's counsel. Argument is upheld.

Accordingly all procedures put in place towards execution of Judgment are hereby set aside.

Justice Y. Halilu
Hon. Judge
6th January, 2021

APPEARANCE

Paul O. E – For the Judgment Creditor/Respondent.

Judgment Creditor/Applicant not in court and not represented.