

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDING AT KUJE

BEFORE HIS LORDSHIP: HON. JUSTICE MUHAMMAD S. IDRIS

Date: 1st NOVEMBER, 2021

FCT/HC/CV/712/2021

BETWEEN:

BARRISTER CHEKWUBE OSITA EBUBEALOR..... PLAINTIFF

AND

CHRISTIAN NWOBI.....

DEFENDANTS

RULING

The judgment creditor brought this motion on notice no: M/6362/2021 dated and filed on the 30th September, 2021 praying the Court for:-

- a) An order directing all named Garnishee/ Respondent to place post no debit or lieu upon all the disclosed bank accounts of Respondent debtor linked to BVN 22163512912 maintain with the Garnishee/Respondent until the judgment sum is satisfied from the following accounts

0131337915

0138131703

0150499374

All belonging to Msr. Christian Nwobi of GTB Account.

No 3044891183 at Polaris Bank Plc belonging to Mr. Christian Nwobi or any other account maintaining the credit of the judgment debtor in this suit from the date of the receipt of the court order.

B) An order directing that when money is paid in to any of the listed above bank account or any other account belonging to the judgment debtor that the money be paid into Judgment Creditor/Applicant bank account with the following details: C. U. O Ebubealor consulting account no 1014068255 Zenith Bank plc

C.) And for such further order (s) as this Hon court may deem fit to make in the circumstance.

The 3rd Garnishee in this suit Zenith Bank Plc filed a counter affidavit dated 15th October, 2021 deposed to by one Helen Ashabu Bagu a Counsel in the law firm of counsel representing the 3rd Garnishee wherein she averred that Zenith Bank had filed an affidavit dated 22nd September, 2021 to show cause stating that the judgment debtor had NO.00 DR in his account with the 3rd Garnishee that judgment creditor after applying that the garnishee be discharged, applied that he intended to reply the 3rd garnishee that 3rd garnishee was served with a motion on notice on the 30th September, 2021 instead of a counter affidavit which is a wrong procedure to Garnishee proceedings. 3rd Garnishee argued before the court and in his written address attached is that the judgment creditor did not challenge their affidavit to show cause and that the proper way to do so was to file a counter affidavit and not a motion on notice as garnishee proceeding is founded on statute. Sheriff and Civil Process Act LFN 2004 which provides clearly how garnishee proceedings are

conducted is purely sui generis in nature and practice. Garnishee proceedings is a mode of execution or enforcement of monetary judgment whereby money belong to a judgment debtor in the hands or possession of a 3rd party (Garnishee) in satisfaction of a judgment sum or debt obtained by the latter against the former. By the process the court is endowed with the power to order a 3rd party to pay a judgment debt directly to a judgment creditor a debt due for a judgment debtor to satisfy the judgment sum and the cost of the Garnishee proceedings *see UBN VS BENY MERCUS IND. LTD (2005) 13 NWLR (pt 943) 654*. The points of contention in this present case is that judgment creditor by way of motion on notice is praying the court to order the 3rd garnishee (Among Others) to post a no debits on judgment debtors account with 3rd garnishee. While the 3rd garnishee contends that judgment creditor should have filed a counter affidavit challenging the 3rd garnishee averment on judgment debtor accounts details. Section 83 (1) SCPA provides ways and means such application can be brought before the court the 3rd garnishee by the affidavit to show cause dated 22nd September, 2021 stated that the judgment debtor has N0.00 DR in his account with the bank see paragraph 4 of 3rd garnishee affidavit to show cause. Also see an annexure of a zenith bank account statement belonging to Christian Nwobi with account number 2420227182 attached therein despite the argument conversed by the 3rd garnishee and the challenge made against the motion filed by judgment creditor. It is my humble view that the judgment Creditor is right issue of fair hearing as provided by the law of the land has been demonstrated by the same. What is important is to ensure that justice can be seen to have been done to all the parties involved in this case. I have no

doubt in my mind the fruit of this judgment can only be enjoyed by the judgment creditor if this application is been granted. The judgment cannot remain in vain the judgment creditor has the right to even seized any property alleged to have been owned by the judgment debtor in satisfaction of the court's judgment that can subsequently be referred upon satisfaction that the property does not belong to the judgment debtor this can be done by inter pleader suit. I therefore deem it just to grant the application consequently the reliefs sought by the judgment creditor are hereby granted. I would like to add. Full opportunity should be given to parties in the interest of justice without due regards to technicalities. Gone are the days when courts of law were only concerned with doing technical and abstract justice based on arid legal issue. These are the days when courts of law do substantial justice in the light of the prevailing circumstance of a case the days of the courts doing technical justice should not surface again. See ***ABUBAKAR VS YARADUWA (2008) 4 NWLR (pt1078) 465.***

Hon. Justice M.S Idris
(Hon. presiding judge)