

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT JABI, ABUJA

BEFORE HIS LORDSHIP: HON. JUSTICE MUHAMMAD S. IDRIS

COURT: 28

DATE: 15th DECEMBER, 2021

FCT/HC/CV/3063/2020

BETWEEN:

- 1. GRAY – BAR ALLIANCE LTD**
- 2. NOVARE PROPERTY DEVELOPERS**

CLAIMANTS

AND

- 1. MINIKA ATING**
(TRADING AS "KINI & KAB INTERIORS")
- 2. BASSEY NKITMA O.**

DEFENDANTS

RULING

The Counsel to the 4th and 5th Garnishee informed this Court that at the last adjourned date the learned Counsel to the judgment creditor applied to this Court for the issuance of the Garnishee order absolute against access bank plc 4th Garnishee Counsel assented that in their response to the above they framed a single issue which is whether there is an existence of any legal premise for the issuance of the Garnishee order absolute against 4th Garnishee Access Bank Plc .

According to the learned Counsel there is no justification for what he said , we have filed an affidavit to show cause which was filed on 6th July, 2021 we also state the fact that the 4th Garnishee have also filed a further and better affidavit to show cause which was filed on the 8th September, 2021. However the Judgment creditor has not filed a single deposition to the two affidavit in opposition the 1st judgment debtor does not have any account with Access Bank Plc and that the 2nd judgment debtor maintained two account which has some credit balance. The 4th Garnishee Access Bank have filed a further affidavit to show that the 2nd Judgment Debtor is indebted to it in sum of ₦1,331,851,85.

The 4th Garnishee has said there is nothing to attach. Thus deposition of fact have not been disputed in anyway Counsel urged the Court to discharge the 4th Garnishee from the proceeding see ***FIDELITY BANK VS FRANCIS OLEWUWULE & ANOR (2013)6 NWLR (PT1349) page 197 ratio 7 see also section 87 SCPA NIGERIA HOTLES LTD VS ANZULM (1990) 5 NWLR (PT.149) page 187***, while in respect of the 2nd Garnishee Counsel to the 2nd Garnishee align himself with the Counsel to the 4th Garnishee. The 2nd Garnishee as per the closing balance as at 30th June, 2021 applied that same be made

absolute in respect of the said amount Counsel to the judgment creditor informed the Court that that is the position and same was made absolute regarding the 2nd Garnishee. Having reproduced the position of the Counsel in this matter it is imperative to note that non filing of counter affidavit must be treated as admission. See ***ATTOLIFURI VS REGISTERED TRUSTEE OF I.C.P.A.N (2015) LPELR 25908 CA.***

I therefore made an order that the 4th Garnishee Access bank is hereby discharged and I so hold.

HON. JUSTICE M.S IDRIS
(Presiding Judge)
15/12/2021