

**IN THE HIGH COURT OF THE FEDERAL CAPITAL  
TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT COURT 4 MAITAMA ON THE 26<sup>TH</sup> DAY OF  
JANUARY, 2022  
BEFORE HIS LORDSHIP: HON. JUSTICE U.P. KEKEMEKE  
SUIT NO. FCT/HC/CV/2547/16**

COURT CLERKS: JOSEPH ISHAKU BALAMI & ORS.

BETWEEN:

MR. ALEXANDER AKINTOLA .....PLAINTIFF

*AND*

FOCAL POINT CLEANERS NIG. LTD.....DEFENDANT

**RULING**

I have carefully read the Affidavit evidence of the Judgment Debtor/Applicant and the Judgment Creditor.

The resume of the Affidavit evidence is that the Judgment Debtor Appealed against the Judgment by a Notice of Appeal filed on 3/02/2020.

That they equally filed a Motion for Stay of Execution in this Court on 2/12/19.

That the appeal was entered at the Court of Appeal and registered as CA/A/149/20 and a Motion for Stay of execution or Injunction filed on 2<sup>nd</sup> day of July 2020 is now pending at the Court of Appeal.

That the Court was deliberately misled by the Judgment Creditor who withheld the above information which resulted in the Garnishee Order Nisi.

The Judgment Creditor deposed that no Motion for stay of Execution was served on him by any bailiff until 2020, a period of over 3 months after the Garnishee Order Nisi sought to be set aside was made. There is no Proof of Service of the said Motion on him before the order Nisi was made. That this Motion is a deliberate ploy to further delay execution of the Judgment.

The Judgment of this Court was entered on 28/11/19. This Court dismissed the Judgment Debtor's application for stay of execution on the 29/06/2020.

On 28/9/2020, this Court granted an Order Nisi upon an application by the Judgment Creditor.

The reason for the refusal of the Judgment Debtor's application for stay of execution is basically because at the time the application was moved, there was no valid Notice of Appeal. The Court was only availed a proposed Notice of Appeal.

An Order of Court is valid until set aside for strong reasons. Such strong reasons could be misrepresentation, fraud or concealment.

The Judgment Debtor by its Affidavit surreptitiously admitted that at a time, the bailiff of Court could not serve the Judgment Creditor.

The Judgment Creditor was not aware of the pendency of the Motion for stay of execution at the Court of Appeal.

There is no proof of service indicating that the Judgment Creditor was aware of the said processes and deliberately withheld it in order to urge the Court to grant the Order sought.

A period of three months elapsed between the time the Judgment Debtor's application for stay was refused and the time the Order Nisi was granted.

However, there is a Motion for stay of execution by the hand of the Judgment Debtor in the Court of Appeal. The Judgment Debtor has not shown any

strong reasons to enable me set aside the Order Nisi made.

The application fails and it is accordingly dismissed.

However, the consensus in the Affidavit of parties is that the processes of appeal are before the Court of Appeal.

The Appeal is entered with a Motion for stay of execution. This Court having been aware should bow out honourably. There cannot be two captains in a ship.

What the dog sees and he barks, the Sheep sees the same and he walks away quietly.

I shall bow to the Court of Appeal in the circumstance.

Suit is adjourned sine die.

.....  
HON. JUSTICE U.P. KEKEMEKE  
(HON. JUDGE)  
26/01/22.

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Parties absent.

R.O. Mohammed for the Judgment Debtor/Applicant

with A.K. Titilola.

O.D. Emole for the judgment Creditor/Respondent.

Ruling delivered.

Signed.  
Hon. Judge.  
26/01/22