

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: 4TH APRIL, 2022

FCT/HC/CV/959/2013

BETWEEN:

FAIRMOUNT NIGERIA LIMITED..... PLAINTIFF/APPLICANT

AND

ASO SAVINGS AND LOANS PLC.....DEFENDANT/RESPONDENT

RULING

The Plaintiff/Applicant brought this motion on notice dated and filed on 16th March, 2021, seeking for:-

1. An Order of this Honourable Court setting aside and/or vacating and/or discharging the order granted by His Lordship Hon. Justice O.O Goodluck against the Plaintiff/Applicant on the 23rd day of September, 2020.
2. An Order of the Honourable Court compelling the Defendant/Respondent to pay the sum of Two Hundred and Sixty Thousand Naira (₦260,000.00) daily as financial loss from the day the order was granted till it is set aside.

The motion is supported by a 29-paragraph affidavit deposed to by one Yemisi Payne, a director of the Plaintiff, and a written address dated and filed on the same 16th March 2021 by the Plaintiff's counsel.

The ground of this application is that the Defendant misrepresented facts before the court to enable the court grant a purported order of Mareva injunction against the property known as Plot No.797, Block 3, Flat 2, Adetokunbo Ademola Crescent, Wuse 2, Abuja. The plaintiff is therefore asking this Honourable Court to vacate the said purported order.

Strangely, the Applicant failed to exhibit a certified copy of the purported order nor the records of proceedings leading to the said order granted by Hon. Justice O.O Goodluck on 23rd September, 2020.

In response, the Defendant/Respondent filed a 7 paragraphs counter affidavit dated 22nd March, 2021, deposed to by one Habila Danladi, a litigation clerk in the Law firm of Oli and Partners, counsel to the defendant, and a written address dated and filed on the same 22nd March, 2021. In the both Counter affidavit and written address, the Defendant/Respondent averred that the Applicant has not placed anything before this Court to put the court in a standing position to set aside the purported mareva order made by this court.

I agree with the Defendants/Respondents that the Applicant has not placed anything before this Court to put the court in a standing position to set aside the purported mareva order made by this court.

There is no gain saying the fact that where an order of the court is invalid in the sense that it is so irregularly obtained that it is rendered a nullity or void, the court suo-motu has inherent jurisdiction to set aside such an order. Similarly, the party affected by such order can take necessary steps by motion, and not necessarily by way of appeal, to set aside such order that is in

valid on the ground that it is a nullity. However, the onus is on the applicant to show that grounds exist in the interest of justice which makes it imperative, the setting aside of the order complained of. See ***ALAO V. ACB LTD (2000) LPELR-408(SC)***.

In this application, the Applicant has failed to discharge the onus of showing ground for setting aside the purported order, by not exhibiting relevant documents that would aid the court in determining whether there is an order that ought to be set aside. The Applicant is sending the court on a strenuous exercise or what I could describe as an adventurous journey of fishing out the purported order. This court has refused to embark on such wild goose chase. The application is hereby dismissed.

HON. JUSTICE M.S IDRIS
(Presiding Judge)
4/4/ 2022