

IN THE HIGH COURT OF JUSTICE OF THE F.C.T.

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT KUBWA, ABUJA

ON FRIDAY, THE 8TH DAY OF JULY, 2022

BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA

JUDGE

SUIT NO. FCT/HC/CV/2587/18

MOTION NO: M/5173/22

BETWEEN:

IGWE ANN OLACHI.....CLAIMANT

AND

1. GUARANTY TRUST BANK PLC

2. ECONOMIC AND FINANCIAL CRIMES

COMMISSION(EFCC).....DEFENDANTS

RULING ON STAY OF EXECUTION

When a judgment is delivered, it is ordinarily expected that the judgment creditor should enjoy the fruits of its judgment. But often times the reverse is the case because most judgment debtors usually, especially where the judgment is monetary, rush to

the Court of Appeal to challenge the case hence denying the judgment creditor the enjoyment of the fruits of its Judgment. That is judicial democracy in action as everyone has the right to do so. Once it is conceived its right were denied at the lower Court of judicial Allotment that delivered the judgment.

It is the law that unless and until Record of Appeal is transferred to the Court of Appeal after due compilation of same with evidence that the Court of Appeal has received same and given Number to the case, it cannot be said there is a pending Appeal or that appeal has been entered.

In this case judgment was delivered sometime in April this year. The Judgment Debtor being dissatisfied filed a notice of Appeal. They also filed the present motion urging Court to stay execution of the judgment pending the determination of the Appeal which is yet to be entered. Please note that filing of Notice of appeal does not transform or be interpreted to mean that there is a pending Appeal.

The Judgment Creditor had pointed out that the application is defective because of the said notice. He conceded to the Application for Stay, on the condition that the Judgment Debtor pay the Judgment sum into an interest yielding Account

pending the entering, hearing and determination of the Appeal at the Court of Appeal. He gave several genuine reasons. He referred to Order 4 Rule 6(b) Court of appeal Rules 2021. He cited the case of: GOVERNOR OF OYO STATE VS AKERYEME

He stated that if money is paid into interest yielding Account of the Registryof this Court and that if at the end of the day the Judgment Debtor wins they will take back their money with the interest and if the Judgment creditor wins she will do the same. To him that is a fair deal. He also opined that given the congestion in the Court of Appeal and coupled with the issue that this is election period Appeal can take a very long time to be heard and done with. That it is a win/win situation for all.

There is every sense in that and it is actually a win/win situation if the Court goes strictly as it should it will refuse the stay since there is no evidence of transmission of record of Appeal of this case even as I read this Ruling. But the Court of law has been called upon to dispense justice judicially and judiciously. The Court also have the open ended discretionary powers to make Order sought and

unsought in the interest of justice of the case before it.

The Court had noted all the predicaments which the Judgment Debtor raised in its further and better Affidavits and his response on issue raised by Judgment Creditor in his conditional Counter in which he conceded to the application being granted.

Since the parties are in tandem with the application being granted coupled with the facts that the Court has discretion to do good judicially the Court will grant the Application.

Again since the non-compilation and transmission of record is because of congestion in the Registry based on the shortage of Diesel and power epilepsy and the fact once Court had to move from Kubwa to Zuba. This Court grants the application as the delay should not be visited on the Judgment Debtor.

This Court hereby grants the Stay of Execution to wit conditionally.

That the Judgment Debtor should deposit the judgment sum into an interest yielding Account of the High Court FCT runs by the Deputy Sheriff of the Court pending the compilation, transmission

and final determination of the Appeal at the Court of Appeal Abuja Division.

This is the Ruling of this Court delivered today theday of2022 by me.

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K.N.OGBONNAYA

HON. JUDGE