IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

(APPELLATE DIVISION)

HOLDEN AT HIGH COURT NO. 8 MAITAMA, ABUJA

ON FRIDAY 28" DAY OF JANUARY 2022

BEFORE THEIR LORDSHIPS

HON. JUSTICE O. A ADENIYI: **PRESIDING JUDGE**

HON. JUSTICE B. MOHAMMED: **HON. JUDGE**

APPEAL NO.CVA/2725/2019

BETWEEN:

ACCESS BANK PLC.... …… APPELLANT

AND

TESAM PROPERTIES LTD…… RESPONDENT

JUDGMENT

This is an appeal arising from the judgment of Senior Magistrate Lateef. O. Abolaji of the Senior District Court. The ruling was delivered on the 2nd day of February, 2021 in favour of the Respondent.

The grounds of appeal are as filed by the Appellant in Notices of Appeal dated 2nd February, 2021, 3 February, 2021, 4th February, 2021, 18th March, 2021 and 19th March, 2021.

RELIEFS SOUGHT BEFORE THIS HONORABLE COURT

1. AN ORDER allowing the Appeal.

2. AN ORDER setting aside the decision of the District Court of the Federal Capital Territory (delivered in Suit No. CV/2725/2019) and dated the 9th day of March, 2021 which ruling relates to the Garnishee/Appellant's application dated 25/2/2021 filed in this suit.

On the 6th October, 2021, Appellant filed its brief of argument wherein learned counsel for the Appellant distilled four (4) issues for determination of this appeal to wit:

1. **Whether it is not fraudulent and abusive of Court process for the Judgment Creditor to commence a garnishee proceeding at the District Court in relation to a judgment which is the subject matter of a variation application at the High Court? Distilled from grounds 2 and 4 of the Appellant's Notice of Appeal dated 4th March, 2021.**

2. **Whether the District Court acted properly when it proceeded to hear the garnishee proceedings in this suit in the absence of the garnishee Solicitor, who had informed the Court that he is attending the hearing of an Appeal at the Court Appeal? Distilled from grounds 1, 2 and 3 of the Appellant's Notice of Appeal dated 2nd February, 2021.**

3. **Whether the District Court's grant of the judgment Creditor's application dated 13/11/2020 was justifiable in the circumstances of the Counter-affidavit filed by the Garnishee/Appellant at the proceedings? Distilled from grounds 1, 2, 3, 4, 5 and 6 of the Appellant's Notice of Appeal dated 3rd February, 2021.**

4. **Whether the District Court acted properly when it dismissed the Garnishee application to set aside the garnishee order absolute made in this suit; and whether the Honourable Court also acted properly when it proceeded to strike out the Appellant's subsequent application to set aside the garnishee order absolute made in this suit. Distilled from grounds 1, 2 and 3 of the Appellant's Notice of Appeal dated 18th March, 2021 and ground 2 of the Notice of Appeal dated 19th March, 2021.**

The Respondent's Counsel adopted issues 2 and 3 as formulated by the Appellant's Counsel in his brief and further formulated 2 issues for determination of this appeal to wit:

1. Whether the Appellant not being a party to the judgment delivered by Husseini Baba Yusuf of the High Court of the Federal Capital Territory in suit number FCT/HC/CV/2800/2016 between TESAM PROPERTIES LIMITED V. ROYAL KINGDOM FOR TRADITION, CULTURE AND TOURISM LIMITED has locus standi to raise issues related to the said judgment"

2. Whether the Magistrates Court was not functus officio after the garnishee order absolute was delivered on the 2nd of February 2021"

In response to the Respondent's brief, the Appellant filed an Appellant's reply brief to the Respondent's brief of argument dated 4" November, 2021.

In determination of this appeal, we arer going to adopt the issues as formulated by the Appellant and the additional 2 issues formulated by the Respondent.

In view of their similarities, first issues raised by the Appellant and Respondent will be taken and determined simultaneously that is: Appellant's issue no, 1:

"Whether it is not fraudulent and abuse of Court process for the Judgment Creditor to commence a garnishee proceeding at the District Court in relation to a judgment which is the subject matter of a variation application at the High Court? Distilled from grounds 2 and 4 of the Appellant's Notice of Appeal dated 4th day of March 2021".

Respondent's issue no. 1

"Whether the Appellant not being a party to the judgment delivered by Husseini Baba Yusuf of the High Court of the Federal Capital Territory in suit number FCT/HC/CV/2800/2016 between

TESAM PROPERTIES LIMITED V. ROYAL KINGDOM FOR TRADITION, CULTURE AND TOURISM LIMITED has locus standi to raise issues related to the said judgment"

Arguing the above issues, it is submitted for the Appellant that it isfraudulent and out-right abuse of the process of Court for the Judgment Creditor to commence a garnishee proceedings at the District Court of the FCT, when the same Judgment Creditor, has an application pending at the High Court of the FCT for a variation of the same judgment sum it is enforcing at the District Court. That it is also fraudulent for the Judgment Creditor to refuse to disclose the existence of the said Motion for variation from the district Court at the commencement of the garnishee proceedings in the suit. Counsel for the Appellant cited in support of his submissions the Supreme Court's decisions in VESSEL ST. ROLAND V. ADEFEMI OSINOYE NWLR (PT. 500), AMAEFULE & OR. V. THE STATE (1998) 4 SCNJ 69 @ 87, and KARIMU ARUBO V. FATAI AYAILERU (SC) NWLR (PT. 280) respectively.

Relying on the decision of the Court of appeal in BRAWAL SHIPPING (NIG) LTD V. EXRACTION& COMMODITY SERVICES LTD (2001) 14 NWLR (PT. 732) 172, Counsel further submitted that an abuse of Court process invariably implies that the Court lacked the jurisdiction to have relied on the said process and that the District Court lacked the jurisdiction to hear and determine the Garnishee proceedings in the first place. Counsel urged the Court resolve issue no. 1 as formulated by the Appellant's Counsel in favour of the Appellant.

In response, the Respondent's Counsel contended that the Appellant was not a party to suit no. FCT/HC/CV/2800/2016 and being a garnishee, the Appellant therefore lacks the locus standi to challenge the Court's judgment therein. He cited the Supreme Court's decision in GTB PLC V. INNOSON MOTORS PLC (2017) 16 NWLR (PT. 1591) 181 in support of his submissions.

Counsel maintained that the said application referred to by the Appellant's Counsel is a mere Court process and by the Appellate's Court decision in OFORKERE V. MADUIKE (2003) 5 NWLR (PT. 812) 116 SC, a Court process not moved in Court is as good as one not filed.

Counsel submitted that pages 139 to 148 of the record of appeal reveals that an appeal has already been entered at the instance of the Judgment Debtor as such the said application has already been overtaken by events. Counsel urged the Court to resolve the issues in favour of the Respondent.

We have perused the arguments proffered by both sides on this two issues. I think what we need to direct our attention on in answering the following questions as our issues formulated;

The issues formulated by us are;

1. Whether the Respondent's proceedings before the District Court was competent in view of the pending application in suit no FCT/HC/CV/2800/2016.

2. Whether the Appellant has a locus standi to challenge the sum. claimed by the Respondent before the District Court in view of the pending application in suit no. FCT/HC/CV/2800/2016.

It is to be noted that the Respondent reserves the right to move for an enforcement of a valid judgment regardless of any pending application to vary the sum granted by the Court. Pages 139 to 148 of the record of this appeal clearly shows that an appeal has been entered and that in itself shows that, whatever application that might have been pending at the lower Court have rightfully been overtaken by event. That aside, he have to state in clear terms that an appeal does not operate as a stay of execution. See Supreme Court's decision in **JOSIAH CORNELIUS LTD & ORS V. EZENWA (1996) LPELR-1632 (SC).** In other words, the fact that an appeal has been entered by the Judgment Debtor does not stop the Judgment Creditor from enforcing a judgment entered in its favour. Also the fact that there is a pending application to vary the judgment sum is immaterial and should not be the concern of a garnishee as in the instant appeal.

Therefore, it is not for a garnishee to fight the cause of a judgment debtor who either accepts the judgment against him and does nothing about it, or who may be indolent to fight his cause. A judgment debtor whose money or property is seized or attached through garnishee proceedings in excess of the judgment sum has several options in law to deploy to forestall such unwarranted seizure or attachment. It is not for the garnishee to embark on any of such options, which he lacks the locus standi to embark on. The cause of action accruable to the garnishee in a

garnishee proceeding is quite a limited one. It does not include his usurping the cause of action of the Judgment Debtor. See GTB V. INNOSON NIGERIA LTD (2017) LPELR 42368 (SC).

Therefore, it is not envisaged that after a judgment creditor has gone through the rigours to establish his rights through the legal system, that the garnishee, who is asked to surrender the Judgment Debtor's money in its Possession should engage the Judgment Creditor in another bout of Legal battle. Basically, the restrictive role and legal duty of a Garnishee in a Judgment enforcement proceeding is to conscientiously and truthfully appear before the Court in order to disclose the Judgment Debtor's state of account its custody, simpliciter. See CBN V INTERSTELLA in COMMUNICATIONS LTD & ORS (2017) LPELR-43940(SC).

It is for the reasons above stated that we came to the conclusion that the proceedings took out by the Respondent before the District Court is competent and the District Judge rightfully assumed jurisdiction.

The choice to pursue a pending application to vary the judgment sum or not is entirely that of the Respondent and not the Appellant's. In this regard, the Appellant lacks the locus standi to invoke any right thereof.

Issues no, 1 for both the Appellant and the Respondent have both been resolved in favour of the Respondent as against the Appellant.

Now to issue no. 2 as formulated by the Appellant to wit:

> **"Whether the District Court acted properly when it proceeded to hear the garnishee proceedings in this suit in the absence of the**

garnishee Solicitor, who had informed the Court that he is attending the hearing of an Appeal at the Court of Appeal? Distilled from grounds 1, 2 and 3 of the Appellant's Notice of Appeal dated 2nd day of February, 2021",

The contention of the Appellant's Counsel on this issue is that the District Court acted wrongly when it proceeded to hear the Respondent's application when the Appellant's Solicitor was attending a hearing at the Court of appeal. That the action of the District Court in refusing the application for adjournment effectively breached the Appellant's right to fair hearing in the circumstances of this case, Counsel placed reliance on the cases of WARDROP OBIESIE V. ROLAND OBIESIE (2007) 16 NWLR (PT. 1060) 223 and NICON V. ISAAC NZE & ORS (2004) 15 NWLR PT. 896, 245 where the Appellate Court held, inter alia, that the refusal of the application for adjournment in the instant case strictly speaking amounted to denial of fair hearing and a call for the intervention of an appellate Court.

Counsel further submitted that the Judgment Creditor's application was coming up for the first time when the Appellant's Counsel's application for an adjournment was refused and that in itself amounted to breach of the Appellant's right to fair hearing and at the same time a miscarriage of justice.

Counsel urged the Court to set aside the entire garnishee proceedings (inclusive of the hearing of the judgment Creditor's application) and resolve this issue in favour of the Appellant.

On the other side of the divide, Counsel for the Respondent contended that the record of proceedings, particularly page 419 shows that the application in question was served on the Appellant on the 18" day of December, 2020 and the Appellant filed a counter affidavit to the said application on 18th day of January which was the day fixed for hearing of the application and same was not served on the Respondent.

Learned Counsel to the Respondent submitted that adjournment of a case is a matter of discretion of a judge and where there is no good or justifiable reason for adjournment, the judge may refuse the application. Counsel relied on the cases of MOBIL CO. LTD V. NABSONS LTD (1995) NWLR PT. 407 PG. 254 and CEEKAY TRADERS LTD V. GENERAL MOTORS CO. LTD (1992) 2 NWLR PT. 222 PG. 132

Counsel further submitted that the Appellant in this case had a duty to convince the Court why the case should not be adjourned by placing sufficient material before it. That the letter which requested an adjournment at page 58 of the record of appeal merely states that the Counsel for the Gamishee is at the Court of Appeal and nothing more. Counsel placed reliance on the Supreme Court decision in NWADIOGBU & OORS V. ANAMBRA/IMO RIVER BASIN DEVELOPMENT AUTHORITY & ANOR (2010) 19 NWLR (PT. 1226) P. 368 where the Apex Court held that.

> **"When a case has been fixed for hearing, the trial Court must ensure the hearing of the case except if a party applying for adjournment showed sufficient reason why the case must be**

adjourned. That is, by placing sufficient materials before the Court upon which it can exercise its discretion, otherwise, an adjournment of a case fixed for hearing would mean further delay to the other litigants who might otherwise have had their cases heard".

That the Trial Judge at page 397 of the record of appeal stated that **"considering the fact that the garnishee/Respondent filed its counter-affidavit in response to the Judgment Creditor's motion on notice to which the Applicant's Counsel said he was not going to respond to, I am of the view that there is no basis to adjourn hearing of the application as prayed by the Garnishee. Hence the Garnishee/Respondent's request for adjournment is hereby refused".**

Counsel placed reliance on NEWSWATCH COMMUNICATIONS LTD V. ATTA (2006) LPELR-1986 (SC) where Per Niki Tobi JSC (as he then was) held that: **"The fair hearing principle formerly attached in section 33 of the 1979 Constitution and now section 36 of the 1999 Constitution, is not for the weakling, the slumberer, the indolent or the lazy litigant, but it is for the party who is alive and kicking in the judicial process by taking advantage of the principle at the appropriate time. The principle is not available to a party who sets a trap in the litigation process against the Court and accused the Court of assumed wrong doing even when such so-called wrong doing is, as a matter of fact, propelled or instigated by the party through his Counsel".**

Counsel further argued that the Appellant's Counsel only informed the Court that he was appearing before the Court of Appeal, nothing more, and the burden is on the appellant to show that it was denied a right of fair hearing as a result of which their civil rights and obligations have been adversely affected by the alleged breach.

Counsel contended that fair hearing is for all sides and urged the Court to hold that the exercise of discretion of the lower Court in refusing the Appellant's application for adjournment was carried out judicially and judiciously.

It is to be noted generally, the issue of adjournment of a case is discretion of a Judge and where a Judge sees no justifiable reason to adjourn a case, he can refuse such adjournment, and in so doing he would be exercising his discretion judicially and judiciously. See **NWADIOGBU & ORS V. ANAMBRA/IMO RIVER BASIN DEVELOPMENT AUTHORITY & ANOR (Supra)** Therefore, it is also to be noted that a Court must balance its discretionary power to grant or refuse an adjournment with its duty to endeavor to give an Appellant the opportunity of obtaining substantial justice in the sense of his appeal being granted a fair hearing on its merits provided always that no injustice is thereby caused to the other party and where the Court erred in its balancing exercise an Appeal Court is at liberty to interfere. **See PAM & ANOR V. MOHAMMED & ANOR. (2008) LPELR-2895 (SC),**

Application for adjournment is not granted as a matter of course, thus, where an application for an adjournment is made to a Court, the Court

should bear in mind the requirement that justice should be done to both parties and that it is also in the interest of justice that the hearing of the case should not be unduly delayed.

We have considered the arguments canvassed by both Counsel in respect of the issue. It is trite that the Appellant has the burden to proof that indeed, the refusal of the application for adjournment by the trial Court has occasioned a miscarriage of justice. In our view, this burden has not been discharged. The record of Appeal shows that the trial Court, indeed, put into consideration the Appellant's Counter affidavit in reaching its decision. Therefore, we are unable to agree with the Appellant's Counsel's submission that the refusal of the Appellant's Counsel's application for adjournment constitutes a breach of its right to fair hearing.

The Court has a duty to guard against an attempt by any of the parties to make ass of the law and its rules of procedure. The trial Court rightly rejected same as no cogent reason was advanced. Generally, adjournment is a matter within the discretion of the Court and in this case the discretion was exercised in the overall interest of justice. Therefore the exercise of judicial discretion on the facts of the case accorded with commonsense. See MFA & ANOR V. INONGHA (2014) LPELR-22010 (SC).

Therefore, the Appellant's Counsel's submission in respect of this issue is, accordingly rejected and discountenanced. This issue is also resolved in favour of the Respondent.

Now coming to the 3 & 4 issues formulated by the Appellant's Counsel that is:

> **"Whether the District Court's grant of the judgment Creditor's application dated 13/11/2020 was justifiable in the circumstances of the Counter-affidavit filed by the Garnishee/Appellant at the proceedings? Distilled from grounds 1, 2, 3, 4, 5 and 6 of the Appellant's Notice of Appeal dated 3rd day of February, 2021" asnd,**
>
> **"Whether the District Court acted properly when it dismissed the Garnishee application to set aside the garnishee order absolute made in this suit; and whether the Honourable Court also acted properly when it proceeded to strike out the Appellant's subsequent application to set aside the garnishee order absolute made in this suit. Distilled from grounds 1,2 and 3 of the Appellant's Notice of Appeal dated 18th day of March, 2021 and ground 2 of the Notice of Appeal dated 19th day of March, 2021".**

I think these issues are related and should be treated and determined simultaneously. Thus, granting of garnishee order absolute and dismissing an application to set aside the garnishee order absolute are invariably condensed issues and should be treated as one, for all intent and purposes.

The Appellant's Counsel submitted that the trial Court did not properly evaluate the depositions contained in the counter affidavit filed by the Appellant in the Court below.

Counsel contended that the Respondent did not counter the depositions in the Appellant's counter affidavit and the Court below proceeded suo motu to discountenance the depositions of the Appellant and held that the said depositions are in violation of the provisions of the Evidence Act and that the said depositions are unsubstantiated. Counsel relied on the Supreme Court's decision in BISI SADIKU ALESE V. IBITOYE SAROMI (1966) 1 SCNLR 85 where the Apex Court held that where a point raised in an affidavit has not been contradicted, the Court is obligated to rely on such evidence.

Counsel further submitted that rather than proceeding to suo motu discountenance the depositions contained in the Appellant's counter affidavit, the court below should have directed parties in this suit to call oral evidence to resolve the disputed issue of whether or not, account no. 0024240288 was in existence with the Appellant at all times material to the

garnishee proceedings. Counsel urged the Court to resolve this issue in its favour and set aside the garnishee order absolute made by the trial Court as the garnishee order absolute was made without a proper examination and evaluation of the depositions of the Appellant's

counter affidavit filed in opposition to the Respondent's application dated 13th November, 2020.

Learned Counsel for the Respondent contended that the Appellant was not sincere to the trial Court in that it tried to conceal the fact that the Judgment Debtor maintains an account with the Appellant as clearly deposed to in paragraph 4 (b) of the Appellant's affidavit to show cause before the trial Court at pages 41 and 42 of the records of Appeals.

Counsel submitted that the law is trite that a garnishee is bound to make disclosure of the amount standing to the credit of the judgment debtor in its accounts on the date the order nisi was made and not before and also not months after. Counsel placed reliance on FCMB V. LIQUID AFRICAN HOLDINGS LTD & ORS (2019) LPELR 47623 (CA),

Therefore, the Appellant who merely alleges that the funds in account No. 2006404147 has been attached bears the burden to prove that fact, as mere averments will not avail it, Counsel cited, in support of his submission, the decision in OCEANIC BANK PLC V. OLADEPO & ANOR (2012) LPELR 19670 (CA) where the Appellate Court held that, while alleging that that the Judgment Debtor does not have sufficient money in his account with the garnishee to satisfy the judgment debt, the garnishee has a duty to disclose the true status of the account of the judgment Debtor, by exhibiting the account statement of the judgment

debtor, as at the relevant date indicated on the garnishee order nisi. This is to enable the trial Court to form an independent opinion as to the

ability of the garnishee to satisfy the judgment debt, either in full or in part. Failure to disclose the account details of a judgment debtor by the garnishee readily raises a presumption that the garnishee has something to hide, and that may be presumed against the garnishee under section 167 (d) of the Evidence Act, 2011

Counsel submitted that since on the date fixed to show cause the Appellant failed to disclose the true status of the account of the judgment debtor, it became liable to have a garnishee order absolute made against it

We have considered the arguments of Counsel in respect of these issues. The role of this Court is to determine whether or not the Trial Court's decision in relation to the issues raised by the Appellant's Counsel is properly founded. To that end, we have carefully studied the Appellant's affidavit to show cause and counter affidavit both contained at pages 41 to 42 and pages 60 to 62 of the record of appeal. I think there is a misconception of facts of the entire scenario here. The plight of the Respondent's Counsel is that, the Appellant played a double edged role in the whole scenario and has not been sincere with the trial Court. Firstly, to depose to the fact that the Judgment Debtor did not maintain any bank account with the Appellant, and secondly, that the judgment Debtor in fact, maintains a bank account with the Appellant, but that the account has been dormant since 2014 and was later removed from the Appellant's data base since its merger. These are the lines of contention in relation to this issue. I should quickly say that the first deposition in the affidavit to show cause was to make the record straight and inform

the Court of the Judgment Debtor's financial status vis a vis the Appellant. The second deposition was aimed at clearing the Respondent's later-findings that the Judgment Debtor, indeed, maintains an account no. 0024240288 with the Appellant. We must say, this is the point where the Trial Judge missed the point. The Appellant's deposition in the Counter affidavit is in no way a contradiction with its deposition in the affidavit to show cause which established that the Judgment Debtor does not have an account with the Appellant.

Generally, there is always a rationale why an order nisi is usually first given in a garnishee proceedings before it is made absolute. That rationale is always founded on the reasoning that the Court must first be sure that there is in fact monies to be attached which is in possession of a garnishee. The garnishee is also given an opportunity to inform the Court on whether the Judgment Debtor maintains an account with it and that there is money in the account sufficient to satisfy a part or the whole judgment sum. In our view, the trial judge failed to take the above rationale into account before making the order absolute.

More so, it is on record particularly at page 76 of the record of appeal that the Appellant exhibited statement of the said account no. 0024240288 in its counter affidavit which shows that there was no money in the account to be attached as at the time the trial Judge made the order absolute. Therefore, the decision of the trial Court making the order absolute was made without taking into consideration the financial state of account no. 0024240288 to satisfy the judgment sum. Court orders are meant to be obeyed and where facts of a particular case

revealed that it would be impossible to comply with a Court order, such order should not be made in the first place. The trial Court made the order absolute without having regard to the fact that there was in fact, no funds to be attached in the bank account in question, which is the ultimate reason why the garnishee was invited in the first place.

Having said that, this Court had no choice than to set aside the order absolute made by the trial Judge as same was made without justification. Consequently, the order absolute made by the trial Court Should be and is hereby set aside.

Therefore, Issues no. 4 and 5 as formulated by the Appellant's Counsel are resolved in favour of the Appellant. This would have been the end of this appeal but for the second issue formulated by the Respondent that is:

"Whether the Magistrates Court was not functus officio after the garnishee order absolute was delivered on the 2nd of February 2021"

The contention of the Learned Counsel to the Respondent on this issue is that, the trial Magistrate became funtus officio as soon as he made the order absolute, which in the opinion of the Counsel, Inevitably brought the garnishee proceedings to an end. Counsel placed reliance on UBN V. BONEY MARCUS INDUSTRIES (2005) ALL FWLR (PT. 278) 1037.

Conversely, the Appellant's Counsel contended that the trial Court having made the order absolute (outside its jurisdiction) in this case, also possesses the inherent powers to set aside the order absolute. That the

instant appeal also constitutes a ground which challenges the garnishee order absolute issued in this case.

Generally, the purpose of an appeal is to find out whether on the state of pleadings, evidence and applicable law the lower Court had come to the right decision in relation to the reliefs canvassed in the matter the Court's intervention is sought. Indeed, it is not a new action but a continuation of the very dispute in the original action. An appeal, therefore, remains a complaint against a decision arising from the matter in dispute. See ODOM & ORS V. PDP & ORS (2015) LPELR-2435 (SC)

Indeed, this appeal is intended to check whether the trial Senior Magistrate rightly made the decision which is the subject of this appeal. Therefore, it is immaterial whether the trial Senior Magistrate became functus officio after making the order absolute or not. Our focus at this stage is to rule on whether the decision so made by the trial Senior Magistrate was right or not.

Regardless of whether the trial Senior Magistrate was functus officio or not after making an order absolute, this Court has to make a decision on the findings of the trial Court in respect of the order absolute and that we have done under issues no. 3 and 4 above.

Now, this is the decision of this Honourable Court:

- ✓ Issues no. 1 as formulated by both the Appellant and the Respondent are hereby resolved in favour of the Respondent.

- ✓ Issue no. 2 as formulated by the Appellant is also resolved in favour of the Respondent.
- ✓ Issue no. 2 as formulated by the Respondent is resolved in favour of the Appellant.
- ✓ Issues no. 3 and 4 as formulated by the Appellant are hereby resolved in favour of the Appellant.
- ✓ Appeal allowed.

Having determined issues no. 4 and 5 as formulated by the Appellant's Counsel in favour of the Appellant, Consequently, the entire appeal is also determined. The appeal has merit and it is allowed as per issues no. 3 and 4 as formulated by the Appellant's Counsel in the Appellant's brief of argument. We make no order as to cost.

HONSUSTICE O. ALADENIYI
(Presiding Judge)
28/1/2022

HON, JUSTICE B. MOHAMMED
(Hon. Judge)
28/1/2022