

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE APPEAL DIVISION

HOLDEN AT COURT 6, MAITAMA, F.C.T., ABUJA.

BEFORE THEIR LORDSHIPS:

HON. JUSTICE O. O. GOODLUCK (PRESIDING JUDGE)

HON. JUSTICE Y. HALILU (HON. JUDGE)

APPEAL NO.: CVA/13/2014

SUIT NO. CV/590/2013

**REGISTERED TRUSTEES OF THE CATHOLIC
ARCHDIOCESE OF ABUJA** } **PLAINTIFF/
RESPONDENT**

AND

MR. CHIMEZIE SAMSON AMAECHI } **DEFENDANT/
APPELLANT**

R U L I N G

The Appellant/Applicant's Counsel is by the Motion under reference No. M/34/2014 praying this Court for an Order of stay of proceedings in this suit.

This Court has for the upteenth time read the Appellant/Defendant prayers and notes that it is flawed with the characteristic inelegance demonstrated in the Motion on Notice dated the 25th November, 2014 which has hitherto been struck out by this Court.

The Appellant, using his words is praying for "stay of proceedings in this suit in the high Court" in both leg one and three of his prayers. "This

suit” as this Court sees it is Suit CVA/590/2013, that is, the very appeal which is being entertained by this Appeal Panel.

It is then wondered why this Court is being asked to stay a suit that is before it when it is not a subject of Appeal at a higher Court, that is, the Court of Appeal. Again, this is a rehash of Counsel for the Appellant’s tardy handling of his brief. Little can the Counsel for the Respondent be blamed for referring to this Motion as one which is manifestly incompetent. Much as it may be surmised that Counsel for the Appellant might have been applying for a stay of proceedings in CV/590/2013 pending before the Magistrate Court, it not within the province of this Honourable Court to conjecture facts or volunteer facts for Counsel.

In effect, the Motion No. CVA/13/2014 under consideration in this Ruling is yet another demonstration of Counsel’s ineptitude. The prayer in the Motion is vague and lacks the professional industry one would have expected from an instructed Counsel. That said, this Court is in agreement with the Respondent’s Counsel that an application for stay of proceedings is not granted as a matter of course. There are a plethora of cases where the criterion for granting an application for stay has been well enunciated.

One of the paramount considerations is for the Appellant to demonstrate that he has perfected his appeal before the Appellate Court. In the instance case, there is no record of proceedings of the trial Court before this Panel. Be that as it may, the Appellant/Applicant fell below the

requirement which is for him to file a competent and arguable grounds of Appeal. In a relay of incompetence the Appellant/Applicant failed to file the Notice of Appeal at the trial Court. It would thus be unconscionable to preclude hearing at the trial Court on account of an incompetent Appeal or application for stay of proceedings before this Court. It is trite that justice is two sided. It is for the party who has sought to seek legal redress on a perceived wrong, it is also for the party who has been summoned to defend the case against him. The Appellant/Applicant cannot, on account of his entitlement to appeal embark on an appeal to be used as a ploy to delay the cause of justice. We find no merit in this application and it is accordingly dismissed.

**O.O. Goodluck,
(Presiding Judge)**

27th November, 2014

**Justice Y. Halilu
(Hon. Judge)**

27th November, 2014

Appearances

**A. O. Nwangué Esq. holding the brief of Kevin Emeka Okoro Esq.: For
the Appellant/Applicant.**

**Samson A. Eigege Esq. with him is Asmao Abdul Ahmed Esq.: For
the Respondent.**