

**IN THE HIGH COURT OF JUSTICE**  
**FEDERAL CAPITAL TERRITORY (APPEAL DIVISION)**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT APO – ABUJA**  
**ON, 4<sup>TH</sup> DAY OF DECEMBER, 2019.**  
**BEFORE THEIR LORDSHIPS:- HON. JUSTICE A. O. OTALUKA**  
**AND HON. JUSTICE M. OSHO ADEBIYI.**

SUIT NO: MT/13/12/2017  
APPEALNO: CVA/337/17

**BETWEEN:**

**GUARANTY TRUST BANK:.....APPELLANT**

**AND**

**ONIFADE OLABAMIJO DAPO:.....RESPONDENT**

**JUDGMENT.**

The gravamen of the appeal is that appellants approached this Court to set aside the judgment of the lower Court and its consequential orders made on the ground that same were made without jurisdiction since the dispute is between an individual customer and his bank. Appellants' brief was dated 4<sup>th</sup> September, 2018, and filed on 21<sup>st</sup> November, 2018.

The appellants formulated one issue for determination;

- 1) Whether the trial court has the jurisdiction to entertain the matter as the cause of action arose from banker-customer relationship.

Learned counsel argued and submitted that the lower court lacked statutory jurisdiction to entertain the matter by virtue of Section 251(1) (d) of the 1999 Constitution (as amended). The reason being that the abuse of jurisdiction in court of trial goes to the root of the matter.

Learned counsel relied on the case of **Nigeria v. Okuruket XII (2014) 11 NWLR 1417 @ 183, Makinde v. Orion Eng. Serv. (UK) Ltd (2014) 17 WRN 156 (Pt 175) 25-35.**

Learned counsel proceeded to submit that his worship entertained the suit without jurisdiction and as such the effect is that the entire proceedings amounts to a nullity. That parties cannot by their own consent or acquiesce or confer jurisdiction on a court. He relied further on **APGA v. Anyanwu (2014) 7 NWLR (Pt 1407) @ 568-569.**

On the effect of a judgment obtained without court's jurisdiction, learned counsel submitted that such decision had a fundamental defect in its proceedings which vitiates and renders such judgment incompetent and invalid – **AderemiBero v. LSDPC (2013) 8 NWLR (Pt 1356) 238.** Thus a person affected by such judgment which is a nullity is entitled to have same set aside ex debitojusticiae. Buttressing this point further the learned counsel relied on **NDIC v. OKEM Ent. (2004) 10 NWLR 107.** He urged the court to allow the appeal and set aside the ruling of the trial court. In adumbrating, the learned counsel relied on circular on 'The Regulation on Instant (Inter-Bank) Electronic Funds Transfer Services in Nigeria.

In response, the Respondent' counsel filed his brief of twelve pages on 22<sup>nd</sup> March, 2019, distilling one issue for determination;

- 1) Whether or not lower court was right to have assumed jurisdiction over the suit.

Learned counsel argued and invited the court to take cognisance of the statement of claim which is the barometer gauge for measuring the presence or absence of Court's

jurisdiction – **Nmanah v. Attah 12 NWLR (Pt 938) 10, A.G. Kwara State v. Olawale (1993) NWLR (Pt 272) 645.**

He elucidated three factors that determine jurisdiction of a court thus;

- a. It is properly constituted as regards numbers and qualifications of members of the bench, and no member is disqualified for one reason or another;
- b. The subject matter of the case is within its jurisdiction, and there is no feature in the case which prevents the court from exercising its jurisdiction;
- c. The case comes before the court initiated by due process of law, and upon fulfilment of any condition precedent to the exercise of jurisdiction.

See **Madukolu v. Nkemdilim (2006) 2 LC 208 (1961) NSCC (vol.2) 374 at 379, Oni v. Cadbury Nig. PLC (2016) 9 NWLR (Pt 1516) 80.**

In furtherance to the learned counsel argument, he submitted that the appellant misconstrued the relief sought before the lower court to mean bankers/customers relationship which comes within the scope of Section 251 of the 1999 Constitution (as amended). That an order by the court to reverse an error in transfer of money from one account to the other as done in this case does not fall within the ambit of the bankers/customers relationship 'strictly' or as contemplated by Section 251 of the 1999 Constitution (as amended). He relied on **Nig Deposit Insurance Corporation v. OkonEnt. Ltd & another (supra)**. Learned counsel submitted that what transpired at the lower court was never a banker/customer relationship rather it was issue between two customers of the bank. That the appellant was just a necessary party in the suit at the lower

court. Herelied on **Nigeria Deposit Ins Corporation v. OkonEnt. Ltd (supra).**

Learned counsel in conclusion urged the court to dismiss the appeal for lacking merit and falling short of the required standard of law.

The court has perused the proceedings from the record of appeal captured in the file from pages 144-500. The Respondent a customer of the appellant (GT Bank) inadvertently transferred the sum of N313,000 from his account to one Peter Sunday Allen instead of Sunday Dare Peter. The Respondent informed the appellant through his ONLINE representative and in addition the Respondent made report to the police. Subsequently he filed a motion for reversal of the said amount.

On the 20<sup>th</sup> June, 2017, the court delivered the judgment and held the appellant negligent for allowing the wrong beneficiary to have access to the money on 21<sup>st</sup> April, 2017 and ordered for reversal of the errors in transaction.

The appellant appealed against the said decision on the grounds that the matter falls within the jurisdiction of the superior court of record.

The sole issue for consideration is **whether the trial Court, that is the District Court of FCT,holden at Gwagwalada, Abuja can exercise jurisdiction arising from Section 251 (1)(d) of the 1999 Constitution (as amended)?**

This appeal bothers on the legal issue of whether the District Court has jurisdiction by virtue of Section 251 (1)(d) of the 1999 Constitution as amended.

Let us X-ray the provisions of Section 251 (1)(d) of the 1999 Constitution (as amended):

Section 251 (1)(d);

***“(1) Notwithstanding anything to the contrary contained in this Constitution, and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the federal High Court shall have and exercise jurisdiction to the exclusion of any court in civil causes and matters-***

***(d) connected with or pertaining to, banking, banks, other financial institutions, including any action between one bank and another, any action by or against the Central Bank of Nigeria arising from banking, foreign exchange, coinage, legal tender, bills of exchange, letters of credit, promissory notes and other fiscal measures:***

***Provided this paragraph shall not apply to any dispute between an individual customer and his bank in respect of transactions between the individual customer and the bank.”***

By virtue of the Section 251 (1) of the 1999 Constitution (as amended) the Federal High Court has exclusive jurisdiction in cases committed to banking and banks but with a proviso in subsection (d) that says that the above provision shall not apply to any dispute between individual customer and his bank.

The intendment of the law makers is unambiguous, we do not intend to depart from the clear construction of the provisor.

The contention of the parties in this appeal is the jurisdiction of the trial court and not the internal workings of the bank and its regulations.

In fact there is no controversy as to whether the dispute is between the bank and individual. In our view by virtue of the provisor the dispute falls squarely within the provisor enabling the State High Court to have jurisdiction.

We align our thinking with the Supreme Court decision on **Society BIC S.A &Ors v. Charzin Industries Ltd (2014) LPELR-22256 (SC)** which is of the view that State High Courts' jurisdiction is enormous but not unlimited. Section 272 of the 1999 Constitution provides;

***“1. Subject to the provisions of Section 251 and other provisions of this Constitution, the High Court of a State shall have jurisdiction to hear and determine civil proceedings in which the existence or extent of a legal right, power, duty.***

***2. The reference to civil or criminal proceedings in this section includes a reference to the proceedings which originate in the High Court of a State and those which are brought before High Court to be dealt with by the court in exercise of its appellate or supervisory jurisdiction”***per Rhodes-Vivour JSC.

The High Court of the State in the above instance includes the High Court, Federal Capital Territory.

It is evident that the issue of jurisdiction is a matter of law construed by not only the Constitution but also by relevant statute. As such the jurisdiction of the District Courts in Federal Capital Territory is to be exercised according to the District

Courts Act Cap 495 LFN 1990 FCT Act (Cap 503)caption under the Act is

***“The District Courts (Increase of Jurisdiction of District Judges Order, 2014”.***

The Order 2014 relates to the rules regulating practice, procedure and monetary jurisdiction of the DistrictCourts. See **MichealNwakalor v. BukarKalambe (2014) LPELR-23809 (CA).**

By virtue of the District Court (Increase of Jurisdiction of District Judges Order 2014, shows in its true essence, that the claim of N313,000 was below the monetary jurisdiction of the High Court and within the District Courts jurisdiction.

It is clear to us that there is no conflict in regards to the provisions of the Constitution andthe empowering Act of National Assemblywhereby the Chief Judge is enabled by the Act of the National Assembly to establish jurisdiction for both the lower courts and the superior courts of Federal Capital Territory.

As we have alluded before, it is the statement of claim that determines the scope of the monetary jurisdiction of the court. Once the claim falls within those specifically provided for and set out in the law, that court has jurisdiction. In other words, it is the nature of the claim and not the status of the Respondent that matters.

It is therefore of the above reasons that the District Court has jurisdiction to hear and entertain the issue which is reversal of the payment of the sum of N313,000.00erroneously paid into another person’s account by the appellant.

Consequently, this Court affirms the judgment of the lower court, placing reliance on the case of **Alh. Alkasim Suleiman &anor v. Upper Sharia Court NO I GRA Zaria (2014) LPELR-22905 (CA).**

Appeal is hereby dismissed, jurisdiction and judgment of the District Court is hereby upheld.

.....  
HON. JUSTICE A. O. OTALUKA  
4/12/2019.

.....  
HON. JUSTICE M. OSHO ADEBIYI  
4/12/2019.