

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT COURT NO. 4, MAITAMA
ON THE 20TH DAY OF MAY, 2024

BEFORE HIS LORDSHIP: HON. JUSTICE U. P. KEKEMEKE

SUIT NO. FCT/HC/CV/1940/2020

MOTION NO. M/1690/2023

COURT CLERKS: *JOSEPH ISHAKU BALAMI & ORS.*

BETWEEN:

**PASTOR JOHN SUBERU YUSUF JUDGMENT CREDITOR/
RESPONDENT**

AND

- | | | |
|---|---|-----------------|
| 1. VINTAGE PRESS LIMITED
(Publishers of the Nation Newspaper) | } | JUDGMENT |
| 2. SUNDAY OGUNTOLA
DEBTORS/
(Online Editor, The Nation Newspaper) | | |
| APPLICANTS | | |
| 3. ADENIYI ADESINA
(Editor, The Nation Newspaper) | | |

RULING

The application is brought pursuant to Order 61 (1) of the Rules of Court for amongst others:

A stay of execution of the Judgment of this Court delivered on 21/06/2023.

The application is supported by a 5-paragraph Affidavit.

Succinctly, the Applicants' Affidavit is that they are dissatisfied with the Judgment of this Court delivered on 21/06/2023.

That they have filed a Notice of Appeal dated 7/12/2023. That they have applied and obtained Record of Proceedings and have fully mobilized for compilation and transmission of Record of Appeal.

That if the Judgment debt is paid to the Judgment Creditor who is a Pastor, he will be unable to refund same.

That if the Respondent is not restrained, the Respondent will foist a state of fait accompli on the Court of Appeal. That Respondent does not do any other business.

The Judgment Creditor/Respondent's Counter Affidavit is sworn to by Ruth Emese of Suite DB4, Apo Sparklight Mall, Durumi, Abuja.

I have perused the Counter Affidavit. It is full of legal arguments and conclusions. I have also considered the Written Addresses of Counsel.

By Order 61 (2) of the Rules of Court, an Applicant for an application such as in this case, shall pay for the compilation of

the Records of Appeal within 14 days from the date of filing a Notice of Appeal and where the cost of compilation is not paid, the Respondent may apply to strike out the application.

Judgment was delivered on 21/06/2023. The Notice of Appeal is dated 6/12/2023 but filed on the 7th.

The Judgment Debtors/Applicants' deposition is that they have applied for and obtained Record of Proceedings and fully mobilized for the compilation and transmission of records.

There is no evidence that the Judgment Debtors/Applicants paid for compilation of records. No receipt of such payment is availed the Court. The word "mobilization" is alien to the Court.

An Order of stay of execution pending appeal is made to prevent the successful party from reaping the fruit of his success at the trial.

Thus a stay of execution being a grave interruption of the interest of the successful party in a legal duel, any person who seeks such equitable remedy to deny even temporarily the right of enjoyment by successful party of the fruits of the Judgment must have strong facts or show special circumstances.

It is a discretionary remedy. The Court will consider the chances of the Applicant on appeal. (2) The nature of the subject matter, etc.

In the instant case, the res is a quantified amount. An Applicant may obtain a stay of execution pending appeal if he

can show that the Respondent will be unable to repay the money if the appeal succeeds.

The Judgment Debtor cannot prove same by merely saying that the Judgment Creditor is a Pastor, hence has no reasonable means of livelihood.

The Applicants have to place before the Court cogent materials to convince the Court which they have failed to do.

In an application such as this, a victorious party must not be lightly deprived of the fruit of his victory.

The Applicants have not raised any issue of law in an area where the law is recondite.

The Applicants have not shown that considerable damage will be done pending

appeal to an Applicant by way of stoppage of his business, which stoppage cannot be compensated by way of damages.

In totality, the Judgment Debtor/Applicant failed to show exceptional circumstances that would have enabled the Court to grant the reliefs sought.

The application fails for lack of merit and it is accordingly dismissed.

HON. JUSTICE U. P. KEKEMEKE, ACI Arb (UK), FICMC
(HON. JUDGE)
20/05/2024

Judgment Creditor present.

Judgment Debtors absent.

Thomas Ojo, Esq. for the Judgment Creditor.

T. M. Kuhwa, holds the brief of Stephen T.

Abar, Esq. for the Applicants.

COURT: Ruling delivered.

(Signed)

HON. JUDGE

20/05/2024