

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

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT ZUBA, ABUJA**

**ON FRIDAY THE 27<sup>TH</sup> DAY OF JUNE, 2023**

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

**SUIT NO.: FCT/HC/CV/234/2020**

**BETWEEN:**

**VMPD LIMITED                      -----                      JUDGMENT CREDITOR**

**AND**

**CHARLES OKORONKWO              -----                      JUDGMENT DEBTOR**

## **RULING**

On the 24<sup>th</sup> day of March, 2023 this Court delivered a well reserved Judgment which was against the Defendant, Charles Okoronkwo – Judgment Debtor.

Dissatisfied with the Judgment, the Judgment Debtor filed a Motion for Stay of Execution of the Judgment pending Appeal which it has filed but yet to be entered. The application is based on Three (3) grounds as contained in the Motion paper. He supported the Motion with a 21 paragraphs Affidavit and he attached Notice of

Appeal as an Exhibit. He also attached letter of compilation on Record of Appeal written to the Appeal Unit of the High Court on 29<sup>th</sup> March, 2023.

In the Written Address he raised an Issue for determination which is:

**“Whether he is entitled to an Order for Stay by this Court based on its discretion.”**

He submitted that he is entitled to Order for Stay in the circumstance of this case as he has filed a Notice of Appeal. He relied on the cases of:

**TSA Ind. Ltd V. Kema Inv. Ltd  
(2006) 2 NWLR (PT. 964) 300**

**Ado V. Commissioner for Works Benue State  
(2007) 15 NWLR (PT. 1058) 429**

**Yusuf V. Adim  
(2005) 16 NWLR (PT. 950) 34 @ 50 – 51**

That the Appeal change the jurisdiction of this Court to entertain the Suit on the manner its Processes were signed and the Claimant not being able to prove it personally. That they are all serious issues to be determined. That balance of commencement is on his favour. He urged Court to grant same.

The Judgment Creditor filed a 16 paragraphs Counter Affidavit challenging the Motion for Stay.

In their Written Address they raised an Issue for determination which is:

**“Whether the application for Stay should not be dismissed.”**

He submitted that it should be dismissed. That the Applicant has not shown any reason and special and exceptional circumstances to warrant Court granting Stay. They referred to the cases of:

**Odedeji & Or V. Odedeji**  
**(2002) LPELR – 2202 (SC) Pg 5 Para A – F**

**Integration Nig. Ltd V. Zumafon Nig. Ltd**  
**(2014) LPELR – 22021 (SC)**

**Julius Obi Fatonyibo V Michael Dada Osadeyi & Anor**  
**(2002) LPELR – 1252 (SC)**

That Court awarded monetary Judgment and such Judgment cannot be stayed. He referred to the case of:

**Fasel Service Ltd V. NPA**  
**(2001) 11 NWLR (PT. 723) 35 @ 41**

That financial state of the Judgment Debtor is not in doubt. He urged Court to alternatively Order that the Judgment Debtor deposit the Judgment sum in the Interest Yielding Account of the High Court pending determination of Appeal. He urged Court to discountenance the application as it not disclose any exceptional circumstance.

## **COURT**

Every Judgment Creditor is entitled to enjoy the fruit of its Judgment. But this is usually stalled by Notice of Appeal and application for Stay of Execution as the one filed in this case. Such application may delay for a long time culminating into Appeal which may never see the light of the day. But over time the Supreme Court had decided that mere filing of Notice of Appeal should not be a ground for Stay of Execution unless Appeal has been entered formally. Again, that the Applicant must show exceptional circumstance before the Court can grant Stay. Anything short of that the Court should dismiss the application.

In this case this Court has checked the length and breadth of the application and had not seen any fact showing that there is exceptional circumstance. The issue of jurisdiction was exhausted in the Judgment. Besides, there is no evidence that Record of Appeal has been compiled and transmitted to the Court of Appeal. Unless and until such Record is transmitted and the Court of Appeal takes notice of the Record and the file and moved to Court of Appeal, there is no pending Appeal and as such this Court cannot therefore Stay the Execution of its Judgment as sought.

It is obvious that from the Written Address and facts in the Affidavit in support of the application the Applicant was rearguing his submission on issue of jurisdiction

which this Court detailedly dealt with in the Judgment. Once a Court had taken final decision on an Issue in dispute, such Court is functus officio as far as that issue is concerned. So the issue of jurisdiction which the Applicant/Judgment Debtor hangs his Motion has been dealt with and it is not in any way an exceptional circumstance as envisaged by the Supreme Court on grounds of granting of Stay of Execution.

It is very obvious that this application lacks merit and it is therefore DISMISSED.

The Judgment of this Court delivered on the 24<sup>th</sup> day of March, 2023 should be enforced without further delay.

**This is the Ruling of this Court.**

**Delivered today the \_\_\_ day of \_\_\_\_\_ 2023 by  
me.**

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**K.N. OGBONNAYA**  
HON. JUDGE