

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

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT ZUBA, ABUJA

ON TUESDAY THE 11TH DAY OF JUNE, 2024

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

SUIT NO.: FCT/HC/M/3457/2021

MOTION NO.: M/5620/2023

BETWEEN:

**SOKOTO STATE GOVERNMENT ---- JUDGMENT CREDITOR/
RESPONDENT**

AND

**RIVERDALE FINANCIAL SERVICES LTD --- JUDGMENT DEBTOR/
APPLICANT**

RULING

After Judgment is delivered, it is the joy of the Judgment Creditor and its expectation to enjoy the fruit of its Judgment. But oftentimes that joy and great expectation is thwarted by application for Stay of Execution pending Appeal. With such application, the expectation to enjoy the Judgment and its fruit is further prolonged and further extended because the parties comes back to Court to rough it out on such application for Stay. The battle may range on to Court

of second Allotment – the Court of Appeal or even to the Court of third and highest Allotment – the Supreme Court, depending on the way the parties want to toll.

It is the right of a Judgment Debtor to file Stay and Notice of Appeal. But to get the Reliefs, it must show in Affidavit that it has special and exceptional circumstances which will suade the Court to grant such Stay and halt the Execution of such Judgment. Anything short of that, the Court will decline to grant the application. The special exceptional circumstance is such that even the blind and the deaf, judicially speaking, will know that there is a dire need to Stay Execution.

So mere filing of a Notice of Appeal is not and can never be transformed or mean a pending Appeal.

In this Court today the Judgment Debtor/Applicant has filed a Motion to Stay the Execution of Judgment of this Court delivered on 20th January, 2023 pending the determination of the Notice of Appeal it has filed and attached as an Exhibit. There is no evidence of transmission of Record of Appeal to the Court of Appeal even as I am delivering this Ruling. They had supported the Motion with Affidavit of 5 paragraphs and a Written Address.

There is nothing in the length and breadth of the averments therein to show that there is exceptional

circumstance and special circumstance why this Court should grant the application and Stay the Execution of the said Judgment.

There is no evidence of transmission of Record of Appeal to Court of Appeal which would have made the Court to stay clear of the issue pending Appeal.

As rightly submitted by the Learned Silk, the Applicant has not complied with the Rules of this Court in that regard – **Order 69**. They have not shown special and exceptional circumstance. This Court totally aligns with that submission.

In the final analysis, given what has transpired as set out above, can it be said that there are exceptional circumstances and that there is a pending Appeal and as such this Court should Stay Execution of its Judgment delivered on the 20th day of January, 2023?

Put differently, can it be said that there is merit in this application and as such this Court should grant same and Stay Execution pending the determination of the Appeal and that Court should grant leave to the Applicant?

It is the very humble view of this Court that there is no merit in this application. There is no pending Appeal.

There is no single exceptional circumstance that should warrant and sude this Court to grant the Motion and

exercise its discretionary power in favour of the Applicant. Besides, discretionary power of Court is merited and not granted based on emotions, whims and caprices of an Applicant.

This application is therefore NOT GRANTED.

This is the Bench Ruling of this Court.

Delivered today the ___ day of _____ 2024 by me.

K.N. OGBONNAYA
HON. JUDGE

APPEARANCE:

JUDGMENT CREDITOR'S COUNSEL: PAUL M. KASIM, SAN,
WITH ALFRED AGU,
M.H. SULEIMAN, A.B.
ABDULLAHI AND
U.K. IBRAHIM.

JUDGMENT DEBTOR'S COUNSEL: JANE OKPE ESQ.
WITH R.P. ELUWOLE