

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY,
IN THE ABUJA JUDICIAL DIVISION,
HOLDEN AT GARKI COURT 10, FCT, ABUJA
BEFORE HIS LORDSHIP: HON. JUSTICE S. B. BELGORE**

CLERK: MRS VICTORIA SILAS ADINOYI

SUIT NO: FCT/HC/CV/3031/2021

DATE: 17/2/2025

BETWEEN

- 1. MR. BOND INYANG**
- 2. MRS. NTIYAK BARWA..... JUDGMENT CREDITORS**

AND

**TRUSTEES MICHENO MULTIPURPOSE
COOP. SOCIETY LTD**

} **JUDGMENT DEBTOR**

RULING

(DELIVERED BY HON. JUSTICE S. B. BELGORE)

Upon being served with an Order Nisi, all the Garnishee banks filed their various affidavits to show cause why the order nisi shall not be made absolute. However, the Judgment Creditor/Applicant challenged the affidavit to show filed by the 15th Garnishee bank which is STANBIC IBTC Bank by filing a counter-affidavit alleging that the Judgment Debtor/Respondent has an account with the bank which the bank refused to disclose.

The affidavit to show cause is dated and filed on the 14/3/24 while the counter-affidavit is dated and filed on the 3/5/24. There is further and better affidavit to the affidavit to show cause dated 21/5/24.

In the affidavit to show cause filed by STANBIC IBTC Bank, paragraph 3 (a) therefore says and I quote:

“That upon being served with the Court Order of this proceedings the 15th Garnishee conducted a search on its database and the result of the search revealed that the Judgment Debtor does not maintain any account(s) with the 15th Garnishee.”

Upon service of affidavit on the 15th Garnishee, she said in her further and better affidavit to show cause filed on the 13/5/24, paragraph 3(f) thereof says:

“That the second search conducted by the 15th Garnishee revealed that the account number 0026336328 actually belongs to MICHENO MULTIPURPOSE COOPERATIVE SOCIETY LTD, NOT TRUSTEES MICHENO MULTIPURPOSE COOP. SOCIETY LTD.”

The 1st Judgment Creditor/Applicant rebutted this fact in his counter-affidavit by saying vide paragraph 4 thereof and I quote:

“That contrary deposition in paragraph 3(a) – (c), (d) Judgment Debtor maintain account 0026336328 with the 15th garnishee but she choses to lie under oath to conceal and deceive this Hon. Court.”

It is the submission of the Applicants' learned Counsel Mr. Zakari, that the Court of Appeal frown at the behavior of 15th garnishee who is playing hide and seek with the Court who now said the account supplied by the Judgment Creditor/Applicant has N7 million and that there is a lien on the account. He applied that the Order Nisi should be made absolute against the 15th garnishee bank. He commended the case of **OCEANIC BANK PLC VS. OLADIPO (2012) LPELR – 19670 (CA)** to the Court.

Replying swiftly, the learned Counsel to the garnishee bank argued that there is a lien on the sum in the account of the Judgment Debtor, he finally urged me to discharge the order Nisi and discharge the 15th garnishee.

I have considered summarily the submission of both learned Counsel, as summarily as they were made. I think for a start, I should state what is expected of a garnishee bank when it is served with an order Nisi.

The law, as settled by a long list of authorities, is that a Garnishee proceedings is one by which a judgment creditor originates a third party proceedings against a person indebted to the judgment debtor to pay over directly to the judgment creditor such money as are due to the judgment debtor. A Garnishee proceeding is thus a procedure legally approved by law for enforcing a money judgment by the seizure or attachment of the debt due and accruing to the judgment debtor which form part of his money in the hands of a third party for attachment. There in law, the onus placed on a Garnishee would only be discharged where it successfully establishes that the account or accounts covered by the Garnishee Order nisi do not exist in its system or if it exists, it is in debt and not in credit or that it has a right of set off or lien which are due effective against the customer.

In considering the question whether or not the Applicant made out or showed cause why the Garnishee Order Nisi ought not to have been made absolute by the Trial Court, I deem it apposite to consider the relevant provisions of the law governing Garnishee proceedings and the onus placed on a Garnishee ordered to show cause by a Court. The relevant legislation is **SECTION 83 OF THE SHERIFFS AND CIVILS PROCESS ACT** which succinctly provides thus: “The Court may, upon the ex-parte application of any person who is entitled to the benefit of a judgment for the recovery or payment of money, either before or after any oral examination of the debtor liable under such judgment and upon affidavit by the applicant of his legal practitioners that judgment has been recovered and that it is still unsatisfied to what amount and that any other person is indebted to such debtor and is within the State, order that debts owing from such third person, hereinafter called the garnishee, to such debtor shall be attached to satisfy the judgment or order, together with costs of the Garnishee proceedings and by the same or any subsequent order it may be ordered that the garnishee shall appear before the Court to show cause why he should not pay to the person who have obtained such judgment or order the debt due to from him to such debtor or so much thereof as may be sufficient to satisfy the judgment or order together with the costs aforesaid.

In **OCEANIC BANK PLC v. OLADEPO & ANOR (2012) LPELR – 19670 (CA)**, this Court held as follows: “Therefore, while alleging that the judgment debtor does not have sufficient money in his account with the Garnishee to satisfy the judgment debt, the Garnishee has a duty to disclose the true status of the account of the judgment debtor, by exhibiting the account statement of the judgment debtor, as at the relevant date indicated on the Garnishee Order Nisi. This is to enable the trial Court to form an independent opinion as to the ability of the Garnishee to satisfy the judgment debt, either in full or in part. Failure to disclose the account detail of a judgment debtor by the

Garnishee (where insufficient money to settle the debt is alleged) readily raises a presumption that the Garnishee has something to hide, and that may be presumed against the Garnishee under Section 167 (d) of the Evidence Act, 2011.” In the light of the above, I hold the view that the failure of the Appellant to annex the Statement of Account in respect to Account No: 2006404147 is enough to warrant an order absolute by the Trial Court, and this did not occasion a miscarriage of justice.”

It is settled law that a judgment creditor is entitled to the fruit of his judgment and the Court ought not to allow the antics of the judgment debtor to deny the judgment/creditor such. See **AFOLABI VS. TEJUOSHO & ANOR (2017) LPELR 42543 CA.”**

I think I should comment on the role or duty of a garnishee in case of enforcement of judgment debt under the law. In the case of **OCEANIC BANK PLC VS. OLADEPO (2012) LPELR – 19670 (CA)**, this Court held: “therefore, while alleging that the judgment debtor does not have sufficient money in his account with the Garnishee to satisfy the judgment debt, the Garnishee has a duty to disclose the true status of the Account of the judgment debtor. We have stated, several times, that it is not the business of a Garnishee to undertake to play the role of an advocate for a judgment debtor by trying to shield and protect the money of the judgment debtor. Of course, by playing games of hide and seek with the Court, by failing or refusing to depose to affidavit to show cause, disclosing the true account status of the judgment debtor, the Garnishee only exposes itself to trouble, daring the Court to do its worst....”

The germane question to be answered now is, can we take with all seriousness the statement of the 15th Garnishee that they cannot differentiate between Trustees of Micheno Multipurpose Cooperative Society Ltd and the Micheno Multipurpose Cooperative

Society Ltd? Is this argument a good one? I do not think so. This is because if they want to be sincere with the Court and do not want to outsmart the process of justice, they should have come out with this facts before the Judgment Creditor Applicant go to know this fact themselves.

As that is the attitude of the garnishee banks, the authorities cited above warned and frown at. It is equated to telling the Court to do its worst as the 15th Garnishee played hide and seek with the Court and also lied on oath knowing fully well that the Judgment Debtor has an account with them.

A situation like this could be likened to one of the instances of granting exemplary damages for an institution such as 15th garnishee bank in the instant suit, I therefore make the Order Nisi absolute in the sum declared by the 15th Garnishee bank which is **N7,241,718.27** (Seven Million, Two Hundred and Forty one Thousand, Seven Hundred and Eighteen Naira, Twenty Seven Kobo) against the bank and in favour of Judgment Creditor.

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S. B. Belgore
(Judge) 17/2/2025