THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE GWGWALADA JUDICIAL DIVISION
HOLDEN AT COURT NO. 13 GWAGWAGLADA
BEFORE HIS LORDSHIP: HON JUSTICE A. S. ADEPOJU
ON THIS 23RD DAY OF JANUARY 2024

FCT/HC/FJ/09/2020

BETWEEN

ADEMOLA MAJEKODUNMI ----------JUDGEMENT CREDITOR/APPLICANT

AND

THE INSPECTOR GENERAL OF POLICE
THE DEPUTY INSPECTOR GERNERAL OF POLICE
POLICE DEPARTMENT OPERATIONS
THE COMMISIONER OF POLICE LAGOS STATE } **--JUDGEMENT DEBTORS**
MR. ADEDEJI ADENIYI (DIVISIONAL POLICE
OFFICER, DOLPHIN ESTATE POLICE STATION,
IKOYI, LAGOS STATE)

AND

CENTRAL BANK OF NIGERIA ----------GARNISHEE

S. O. ACHUGAMUONYE *for the Judgement Creditor.*
E. C. CHUKWU *for the Garnishee.*

RULING

Sequel to the registration of the Judgement delivered by Hon. Justice I. O. Harris of the Lagos State High Court on 17th March 2019 in Suit No. **LD/4751/MFHR/2017** between **ADEMOLA MAJEKODUNMI & ORS V INSPECTOR GENERAL OF POLICE & 3 ORS**, the Judgement Creditor/Applicant sought and obtained a garnishee order nisi vide an application exparte on the 9th March, 2021 to attach the sum of **N1,000,000 (One Million Naira)** only out of the amount standing to the credit of the Nigerian Police Force, the employer of the Judgement

Debtors on its account maintained with the Central Bank of Nigeria, the garnishee bank for the purpose of satisfying the Judgement Debt obtained against the Judgement Debtor by the Judgement Creditor/Applicant in suit No. LD/MGHR/2017, registered in this Court as Suit NO. FCT/HC/FJ/09/2020 together with the cost of registration of the Judgement and prosecution of this garnishee proceeding assessed at the sum of **N550,000 (Five Hundred and Fifty Thousand Naira)** only.

Responding to the Garnishee order nisi, the Garnishee filed a Notice of Preliminary Objection dated 13 October 2021, with an accompanying affiliate to show cause, wherein the deponent averred that the Central Bank of Nigeria is an agency of the Federal Government of Nigeria and a public officer, and in the process served, there is no indication that the consent of the Honourable Attorney General of the Federation was sought and obtained before the Garnishee order was issued. The court was therefore urged not to make the order nisi absolute against the Central Bank of Nigeria. Duto, in the preliminary objection, the court was urged to set aside the other nisi against the Garnishee for want of jurisdiction by virtue of Section 84 of the Sheriff and Civil Process Act, CAP 56, the revised edition laws of the Federation of Nigeria 2004, and Section 251 (1) (d) of the 1999 Constitution of the Federal Republic of Nigeria as amended.

In the written address, the Garnishee formulated two issues for determination by this court to wit:

1. *Whether the Honourable Court is clothed with jurisdiction to make the order nisi as it did.*
2. *Whether the High Court of the Federal Capital Territory has the jurisdiction to entertain the Garnishee proceedings against the Garnishee.*

With respect to issue 1, the Counsel to the Garnishee relied on the notorious case of **MADUKOLU V NKEMDILIM (1962) AWLR (PT. 2) 686 @ 589 – 590**, and also as was followed in the case of Federal Republic of **NIGERIA V NWOSU (2016) 17 NWLR (PT. 1541) 266 @ 272 PAR C – F**, and

submitted that a court is said to be competent when all the following conditions or features for the exercise of its jurisdiction are present:

1. Statutory composition is properly constituted as regarding members and qualification.
2. The subject matter of the action is within its jurisdiction.
3. The matter before the court is initiated by due process of law.
4. Any condition precedent to the exercise of jurisdiction has been fulfilled.

The Garnishee, based on the above authority, postulated that before the commencement of the Garnishee proceeding against the public officer, the consent of the Attorney General of the Federation must be sought and obtained as provided for in Section 84 of the Sheriff and Civil Process Act, which provides that;

"Where money liable to be attached by a Garnishee proceeding is in custody or under the control of a public officer in its official capacity or in custodian legis, the order nisi shall not be made under the provision of the last preceding Section unless consent to such attachment is first obtained from the appropriate officer in the case of money in the custody or control of a public officer or by the courts in the case of money in custodian legis as the case may be.

(2) In such case the order of notice must be served on such public officer or on the registrar of the court as the case may be.

(3) In this section appropriate officer means;

(a) In relation to money which is in the custody of a public officer who holds a public office in the public service of the Federation, the Attorney General of the Federation."

The Garnishee argued that the Central Bank of Nigeria is a public officer and relied on the case of **IBRAHIM V JSC (1998) 14 NWLR (PT. 584) 1 @ 38 PAR D** – Per **Iguh JSC**. where the court stated as to what a public officer connotes thus:

"It is clear to me that the term 'public officer' has by law been extended to include a 'public department' and therefore an artificial person, a public office or a public body."

The Garnishee stated that this position of the Supreme Court was reiterated by the Court of Appeal in the following cases;

1. **CBN V HYDRO AIR PROPERTY (2014) 16 NWLR (PT. 1434) 482** where the term public officer is equated with public department and includes every officer or department invested with the performance of public duty. That funds in the coffers of the Central Bank of Nigeria are in the custody or under the control of a public officer in its official capacity.
2. **CBN V JAMES EJEMBI OKEFE (2015) LPELR 24845 CA**
3. **CENTRAL BANK OF NIGERIA V ALHAJI MOHAMED KAKERI (2016) LPELR 41468 CA.**
4. **MR. ADEBAYO LATEEF SANNI V UNITY BANK OF NIGERIA PLC AND CENTRAL BANK OF NIGERIA APPEAL NO. CA/L/710/2015, DELIVERED ON THE 10TH DAY OF MARCH, 2017 AT THE COURT OF APPEAL, LAGOS.**
5. **CBN V MAIYINI CENTURY COMPANY LIMITED & ANOR (2017) LPELR 43024 CA.**
6. **CBN V IGBADO APPEAL NO. CA/187/2017.**

The Garnishee argued that nowhere was it shown nor placed before this cause that the consent of the Attorney General of the Federation was sought and obtained before the commencement of the Garnishee proceeding, that any proceeding conducted without the consent of the Attorney General of the Federation first sought and obtained is a nullity. And that the provision of Section 84 of the Act is not inconsistent with Section 287(3) of the 1999 Constitution of the Federal Republic of Nigeria, while placing reliance on the Court of Appeal decision in **DR. PETER AYODELE FAYOSHI V ECONOMIC AND FINANCIAL CRIMES COMMISSION & ANOR (2018) LPELR 46474 CA, UNITY BANK PLC V IGALA CONSTRUCTION LIMITED** (unreported case with Appeal No. CA/A/311/2019 decided on 21/08/2020). The Garnishee urged the court to hold that the effect of the non-compliance with Section 84 of the

Sheriff and Civil Processes Act robs this court of jurisdiction, thus rendering the order nisi granted by this court a nullity.

With respect to issue 2, the Garnishee referred the court to the provision of Order 8 Rule 2 of the Judgment Enforcement Rules which stipulates as follows;

a. In any court in which the judgment debtor could under the High Court Civil Procedure Rules or under the appropriate Section or rule governing civil procedure in magistrate court as the case may be, sue the Garnishee in respect of the debt or…
b. Where the debt is not yet payable, or is for an amount exceeding the jurisdiction of such court, in any court in which the judgment debtor could have sued the Garnishee as aforesaid if the debt had been immediately payable or had not exceeded the jurisdiction.

The Garnishee stated that from the above rule it is only the courts in which the judgment debtor would have sued the Garnishee for the money in the custody of the Garnishee that the judgment creditors should institute the Garnishee proceeding. On this position the Garnishee relied on the following cases; **CBN V IGBADO SUPRA** where the Court of Appeal quoted and relied on the Supreme Court's case of **OKWUSA V GOMWALK (2017) 9 NWLR (PT. 1570) 259 @ 276 – 27**. Of importance consideration the Garnishee referred to the holding of the court in **IGBADO's** case supra @ page 39 where it held:

"The implication is that the lower court must first have jurisdiction over the Garnishee in banking or fiscal matter as in this instance before it can exercise its inherent or statutory power to enforce its judgment by Garnishee proceeding against the appellant… … …

No court has inherent power to do a thing which it is not constitutionally or statutorily empowered to do."

The Garnishee submitted further that based on the **IGBADO's** case that only a court with competence to entertain a suit by the judgment debtor against the Garnishee in respect of a debt can assume jurisdiction over the Garnishee matter and that this honourable court being a high court

does not have such jurisdiction. It was also argued and submitted by the Garnishee that by virtue of the provision of Section 251(1)(d) of the Constitution which provides:

"(1) Notwithstanding anything to the contrary contained 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 an exercise jurisdiction to the exclusion of any other courts in civil cases matters;

(d) Connected with or pertaining to banking, banks or other financial institution including any action between one bank and another any action by or against the Central Bank arising from banking, foreign exchange, coinage, legal tender, bills of exchange, letters of credit, promissory notes and other physical measures provided that this paragraph shall not apply to any dispute between an individual customer and his bank in respect of transaction between the individual customer and the bank."

According to the Garnishee it flows from the above Section that apart from matters of individual customers and their bank, any matter that falls under section 251 (1)(d) of the Constitution falls exclusively under the jurisdiction of the Federal High Court and the jurisdiction of High Court of a state (the trial court in this matter) as conferred on it in the Constitution is limited to transaction between the bank and its customer and does not extend to those sets-out in section 251(1)(d) of 1999 Constitution of Nigeria as amended. The Garnishee further relied on the case of **CENTRAL BANK OF NIGERIA V JOSEPH AZORO & ORS (2018) LPELR 4438 CA** and urged the court to set aside the Garnishee order nisi made in the proceeding as the condition precedent set-out in Section 84 (1) of the Sheriff and Civil Process Act was not fulfilled by the judgment creditor before initiating the process of the court, and also urged the court to hold that it lacks the jurisdiction to entertain the proceedings because the only court vested with jurisdiction is the Federal High Court.

The judgment creditor/responded on the other hand in this written address formulated two issues for determination by the court to wit:

1. *Whether having regard to the provision of Section 6 (6)(a) and Section 287 (3) of the Constitution of the Federal Republic of Nigeria 1990 as amended, this honorable court has right to have assumed jurisdiction to enforce the judgment.*
2. *Whether having regard to the provision of section 84 of the Sheriff and Civil Process Act, Cap 56 LFN 2004, the consent of the Hon. Attorney General of the Federation is a condition precedent for commencement of Garnishee proceedings against the Garnishee.*

With respect to the issue 1, the Respondent alluded to the age long principle that jurisdiction is the foundation upon which a court of law can act by relying on the case of **MADUKOLU V NKEMDILIM Supra** and the case of **OBA R. A. OLABINI & ANOR V OLATUDE & ORS (2013) 7 SC (PT. 11143) @ 63 LINES 20 – 25**.

The Respondent further stated that the jurisdiction of Court must be expressly provided for and vested on them by the Constitution and or the enabling statutes. It placed reliance on the case of **CHIKA MADUMERE & ORS V BARR. OBINNA OKWARA & ANOR (2013) 6 – 7 SC (PT. 11) 95 @ 133**. Furthermore the Respondent argue that the claim of the judgment creditor is to enforce the judgment obtained against the judgment debtors by the judgment creditor on 7 March 2019. That in determining whether this court has the jurisdiction to entertain the Garnishee proceedings recourse must be had to the provision of Section 287(1)(2)(3) of the Constitution which provides:

1. ***The decision of the Supreme Court shall be enforced in any part of the Federation by all authorities and persons and by courts with subordinate jurisdiction to that of the Supreme Court.***
2. ***The decision of the Court of Appeal shall be enforced in any part of the Federation by all authorities and persons and by courts with subordinate jurisdiction to that of the Court of Appeal.***
3. ***The decision of the Federal High Court, a High Court and of all other courts established by this Constitution shall be enforced in any part of the Federation by all authorities and persons and by other courts of law which subordinate jurisdiction to that of***

Federal High Court, a High Court and those other courts respectively."

The Respondent submitted that the above provision should be given its literal meaning as the words are clear and unambiguous. The case of **A.G. NASARAWA STATE V A.G. PLATEAU STATE (2012) 3SC (PT. 1) 1 @ 22 – 24 LINE 30, OSHIEZE VINCENT A. E. V IMO STATE INDEPENDENT ELECTORAL COMMISSION & ORS (2012) 4 SC 150 @ 172 LINE 10 – 15** were relied on. The Respondent submitted that by the combined effect of Section 287 Section (1) (2) (3) of the Constitution, the High Court of the Federal Capital Territory will enforce the judgment of the Supreme Court, Court of Appeal and its own judgment. And that the Federal High Court cannot enforce the judgment of the High Court of the Federal Capital Territory because of coordinate jurisdiction. That by virtue of Section 287(3) of the Constitution, the judgment of this Honorable Court is to be enforced by;

1. High Court of the Federal Capital Territory.
2. All authorities and persons and a Court of Law with subordinate jurisdiction to that of the High Court of the Federal Capital Territory, i.e. Area Courts, District Courts, Magistrate Courts, e.t.c.

That to do otherwise would be tantamount to reading into Section 287(3) that which was never contemplated or mentioned in the entire Section 287 of the Constitution.

Reference was made to the case of **CBN V ABDULLAHI ABUBAKAR (2019) LPELR 4826**. It is also the Respondent's argument that the garnishees' issue two, which centers on Section 251 of the Constitution will not be argued only by reading Section 251 of the Constitution alone but by considering Section 6 (6)(a) of the Constitution as well as Section 287 (1)(2) and (3) of the 1999 Constitution of Federal Republic of Nigeria. It posed whether Section 251 of the Constitution places Garnishee proceeding under exclusive jurisdiction of the Federal High Court? The Respondent argued that the Court has answered this question in the case of **CBN V UBANA & 5ORS (2016) LPELR 40366 CA** where the Court overruled itself in its earlier decision in the cases relied on by the Garnishee and held as follows:

"On interpretation of statute section 251(1)(d) of the 1999 Constitution as to whether it applies to Garnishee proceedings. For the avoidance of doubt the relevant provisions of Section 251(1) of the Constitution reads as follows:

Notwithstanding anything to the contrary contained in this Constitution the federal high court shall have an exercise jurisdiction to the exclusion of any other court in civil process 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.

Section 251 (1) (d) of the Constitution is so clear it is plain and its applicability to the situation at hand is to say the least inadequate, this is so because whichever way one looks at jurisdiction, garnishee proceeding though clearly a means of enforcement of judgment cannot be properly termed as substantive civil or criminal suit covered by the provision of section 251(1) of the Constitution"- per **Mustapha JCA**.

The Respondent further submitted that Garnishee proceeding is simply enforcement of judgment of the courts that all courts, persons, and authorities are duty bound to give effect to.

On the definition of Garnishee, the Respondent relied on the case of **AJAOKUTA STEEL COMPANY BOARD OF TRUSTEES OF STAFF PENSION SCHEME V ROLES & ORS (2012) LPELR 7884 CA** where courts gave the definition of Garnishee proceeding thus:

"Garnishee proceeding is a derivative of 'Garnish' a French word that connotes to 'warn' is a mode of execution or enforcement of monetary judgments whereby money belonging to a judgment debtor in the hands or possession of a third party the Garnishee is attached or seized by judgment creditor the Garnisher or the Garnishor in satisfaction of a judgment sum or debt obtained by the latter against the former. It is a

special specie or class of enforcement of monetary judgments where the ordinary methods of execution are applicable."

The case of **UBN PLC V BONEY MARCUS INDUSTRTY LTD (2005) 13 NWLR (PT. 943) 634 @ 666** Per **Akintaim JSC** was also relied on by the Respondent. The Respondent submitted further that it is over stretching to define Garnishee proceeding as banking issue under Section 251 (1) of the Constitution simply because the Garnishee is a Federal Government Agency. That the substance of the Garnishee proceeding is not banking and neither does it pertain to banking. It is simply the attachment of debt due to the judgment debtor from the Garnishee. That notwithstanding that the Garnishee (Central Bank of Nigeria) is a Federal Government Agency the subject matter before the subject matter before the court must be listed in Section 251 (1) of the Constitution of the Federal Republic of Nigeria before the High Court we have exclusive jurisdiction. That in the case of NURTW & ANOR V RTEAN & ORS (2012) LPELR 7848 SC, the Supreme Court held inter-alia:

"The Federal High Court has jurisdiction under Section 251 of the Constitution if the following co-exist:

1. ***The party or parties must be the federal government or any of its agencies.***
2. ***The subject matter of the litigation must relate to matter within subsection (a) – (s).***

Jurisdiction is thus a combination of parties and subject matter."

Furthermore Respondent stated that in the case of **CBN V UNION BANK & ORS (2016) LPELR 4036 SC** the court held:

"Section 251 (1) of the Constitution is so clear, it is plain and its applicability to the situation at hand is to say the least inadequate. This is so because whichever way one looks as jurisdiction, garnishee proceedings though clearly a means of enforcement of judgment cannot be properly termed as substantive civil suits or criminal suits covered by the provision of Section 251 (1) of the Constitution.

Finally Respondent submitted that on the strength of the provision of Section 6 sub 6 a suction 2 a 3 sub 1 2 & 3 of

the Constitution of the Federal Republic of Nigeria as amended and the decision

in this case of an equip mrs. Aniki Supra CBN versus a book Baba Abubaka

Supra this can issue proceeding does not fall within the exclusive

jurisdiction of the Federal High Court as enshrined in section two five one

sub one of the Constitution of the Federal Republic of Nigeria all the

courts to so hold with respect to usual number two the Respondents is in

agreement with the applicant that by virtue of section 84 the sheriff and

civil process are the condition of precedent that must be fulfilled before

judgment debtor can completely seek to enforce a monetary judgment by the

garnishing proceedings we had the money is in the hand of a public officer in

his official capacity is that it was obtained per consent of the attorney

general of the Federation on who a public officer is he argued that the

cost must be had to the provision of section 18 1 of the interpretation act

we defines a public officer as a member of the public service of the Federation

within the meaning of the Constitution of the Federal Republic of Nigeria 1999

or the public service of the state and that's in the same vale paragraph 19

that's one of the scheme schedule to the Constitution of the Federal Republic of

Nigeria 1999 as amended define public officers as follows I quote public

officer means a person holding any of the offices specified in paragraph two

of this shadow end of course that paragraph one to six of parts eleven of

the fifth schedule to the Constitution also enumerated the presses that are

public officers within the meaning of paragraph 19 of paragraph one of the

speaks fifth schedule to the Constitution Respondents also argued

that there has been conflicting decision of the court or whether garnish a

central bank is a public officer within the contemplation of the section 84 of

the sharing and civil process act the Respondent argued that the case of

brian vassals jsc supras was decided by the Supreme Court based on the

interpretation of section 2a of the public officer protection law cup 1 1 1

loss of northern Nigeria we are in the court relied on section 3 of the

interpretation law of 52 loss of the northern Nigeria 1962 to arrive at the

for said decision and they're flowing from this decision there are cases where

the court of appeal and that he garnish he is a public officer reference was

made to the case of CBN vassals I draw here property citation is provided and

the case of CBN vassals okay fee citation is provided the Respondent the

Respondents also referred to the case of CBN vassals in jay mazze and another

and this case of petrification technica nigeria limited vassals legal state

where the court held that the central bank is not a public officer

Respondents submitted at the decision in CBN vassals in jay mazze supras CBN

vassals abdul abu bakar supras are on point on the usual whether or not the

guarantee is a public officer within the meaning of section 84 of the act

responder relied on the case of CBN vassals is interstellar communication

power goombish or goombi jsc from this decision it is now undisputable that the

garnish she is not a public officer within the contemplation of section 84

of the sheriff and civic protect and prior consent of the attorney general

is not required before this

to the judgment creditor's written address to the Garnishee's notice of preliminary objection. The

issue raised in the play on the point of law are not materially different from the issue

canvassed by the Garnishee in the main address in support of the preliminary objection. The

court will therefore resolve the issues as raised by the party in their respective main address. On

the issue of jurisdiction of this court, both parties are in agreement that jurisdiction is

the bedrock upon which the success of an action is anchored. See the case of Madhu Kaulu Vasozike

Dilim Subra and other cases cited by the judgment creditor Respondents in the written address which

are dubbed as mine. The Respondents argued and submitted rightly that by virtue of section 6 of

6A and section 2A73 of the Constitution of the Federal Republic of Nigeria and to reproduce in

their written address all courts are imbued with power to enforce its own judgment or by courts of

subordinate jurisdiction. Under the submission of Respondent counsel, the Federal High Court is not

vested in the power to enforce the judgment of courts of coordinate jurisdiction which is the

high court of the federal capital territory. The Garnishee submitted on the other hand that

before a court exercises judicial power to enforce the judgment, it will have jurisdiction to do so.

I endorse the issue of argument. However, jurisdiction is conferred on the court either by

the statute creating the court or by the Constitution of the Federal Republic of Nigeria.

With reference to the exercise of jurisdiction by a court therefore, the case of Madhu Kaulu Vasozike

Dilim has set out the condition and has stated in paragraph 1 Sub 1 of the Garnishee's address. The

contention of the Garnishee that this court has the jurisdiction to entertain the Garnishee proceedings

against it is woven around the provision of section 25 Sub 1 of the 1999 Constitution as amended.

The appellant at paragraph the Garnishee at paragraph 4.6 of the address stated that two factors must

exist for that to be said that the court has jurisdiction to entertain a case before the

party and subject matter jurisdiction before it. One, the party and subject matter jurisdiction

must coexist before the courts can be said to have jurisdiction to entertain a claim before it.

The provision of section 25 Sub 1 of the Constitution says notwithstanding anything

contained by this Constitution, the federal high court shall have jurisdiction, shall have an

exercise jurisdiction to exclusion of any other court in civil causes and matters connected to,

connected with or pertaining to banking, banks, other financial institution including any other

action between the between the bank and another any action by or against the Central Bank of

Nigeria arising from banking, foreign exchange, coinage, legal tender, bill of exchange, letters

of credits, provision, letters of promissory notes and other fiscal measures. The Garnishee relied on

the case of CBN v. Rubado Supra and submitted that it is only a court with competence to entertain

a suit by the judgment debtor against the Garnishee in respect of the debt that can assume jurisdiction

over Garnishee matter and that this court does not have the necessary jurisdiction. Why placing

reliance on section 251 of the Constitution above? Looking at the ratio espoused by Justice Joseph,

a Canem JCA, which the Garnishee rely on, the courts held that, however, the courts held that the lower

courts must have jurisdiction over the Garnishee in banking of fiscal matter. What transpired at the

lower courts in this instance that accumulated in the judgments meant for enforcement by the

Garnishee proceeding was never a fiscal matter or banking or bank issue that would have placed the

subject matter within the exclusion, within the exclusive jurisdiction of the federal icons. The

authority of CBN v. Rubado and CBN v. Kakuri Supra, which the Garnishee relied on, are distinguishable

from the case at hand. The issue before this court is a breach of fundamental rights of the

judgment creditor applicants. It is also for the enforcement of the judgment of the court. Furthermore,

under 8 rule 2 of the judgment enforcement rule, which the Garnishee relied on, is a guide on

enforcement of judgments by the courts. It does not confer jurisdiction on the court and also this

provision also knocks off the argument of the Garnishee. In the most recent and the latest case

of the Court of Appeal, in the case of CBN v. Access Bank, the citation is provided. It was

awarded JCA where the court held on which court has jurisdiction to entertain a Garnishee proceeding

against the Central Bank of Nigeria. The court held that it is now settled that the jurisdiction

of the Federal High Court is circumscribed by section 251d of the constitution of the

Federal Republic of Nigeria 1999 as provided and it provides the subject matter over which

the Federal High Court can exercise jurisdiction. The constitution also used the word notwithstanding

to circumscribe the jurisdiction. In considering section 251d of the constitution, both the

subject matter and the parties are important. The provision is so clear it is played and its

applicability to the situation at hand is to set the list in a degree. This is so because whichever

way one looks at jurisdiction, Garnishee proceeding though clearly a means of enforcement of judgment

cannot be properly termed as civil suits or criminal suits covered by the provision of

section 251 of the constitution and in any event as rightly pointed out, the appellant was not

even a party in suit number KDHD 437 times 2009 before the trial court. We delivered the judgment

now sought to be enforced. The appellant only became a party for the purpose of the Garnishee

proceeding after the first defendant sought to enforce the judgment of the court. Also the

issue at the trial court did not have related matters of banking or connected with or pertaining

to banking within the meaning and purpose of section 251d of the constitution as it relates

to the appellant. In the circumstances therefore, this court is of the firm view that the High Court

of Cardona State has the jurisdiction to entertain the matter of the Garnishee proceeding as it did on

this call. It's also clear from reading from reading the provision of what the 823 and 9 of

the judgments enforcement rule and section 771a and b of the federal court that they are procedural

in nature and not capable of conferring the court with jurisdiction. It only laid down the procedure

to be a follow to enforce the judgment of court by way of Garnishee proceedings. The role of a

Garnishee in any Garnishee proceeding is delimited. It is not in the sake that after the judgment

creditor has gone through the rigors of establishing his right to delay God's bid that the Garnishee who

is asked to surrender the judgment debtor's money in his possession should engage the

judgment creditor in another bout of legal battle. The court went further to say that before I

conclude it's also important to state in addition to all I've already said that to my mind the

argument of the appellant in paragraph 5.19 of the appellant's brief does not hold water because

the substantive suits be one involving a banker-customer relationship between first and

third defendant which it could be needed into the enforcement of judgment by the institution

of Garnishee proceeding at the court that gave the substance judgment does not preclude the first

defendant from getting the judgment owed by the third defendant even though same is under the

control of the appellant and I so hold. It is therefore, the court went further to say,

it is therefore my unshaken view having all the above in mind that the trial court had the

jurisdiction to entertain the Garnishee proceeding against the appellant vis-a-vis provision of

section 251 of 1d of the Constitution of the Federal Republic of Nigeria 1999 as amended

section 7 of 1a and b and 8 of the Federal High Court Act and order 8 rule 2, 3 and 9 of the

judgment enforcement rules. End of course. This case have provided answers to all the

issues read by the Garnishee with respect to the issue 1 formulator for determination by this court.

Bank PLC and another Supra. This court, the High Court of the Federal Capital

Territory, has the jurisdiction to entertain the Guernsey proceeding

submitted instituted by the judgment creditor against the judgment debtor and

the Guernsey. Issue number one is therefore resolved against the Guernsey.

The second issue formulated by the party dwelt a weather sequel to section 84 of

the Sheriff and Civil Process Act. The power consent of the Attorney General of

the Federation must be sought and obtained before the institution and

grant of the other nice side. Both parties wrote, rightly submitted, that

there are avalanche of conflicting authorities on whether the consent of

the Attorney General of the Federation is needed before the institution of

the Guernsey proceeding against the Central Bank of Nigeria. It is tried that by the

doctrine of stare decisis subordinate courts are bound by the decision set down

by the Superior Court. Even when the decisions are wrong or having been based

upon false premises, see the case of the cases of Wambay, Vaso's Donatus and

another. The citation is provided. Apga and another Vaso's Ainik citation is provided.

The case of Ibrahim Vaso's JLC Supra is on the definition of who a public

officer is and defines a public officer or public department as extending to

and include every officer or department invested with the performing duties of a

public nature, whether under the immediate control of the president or

the governor of Nigeria or not. Based on this decision, the court of appeal

have held in some cases that the Garnishee is a public officer. See the case of CBN

Vaso's Idro APTY is already cited and the case of CBN Vaso's Ukefi

and the case of CBN Vaso's Kakuri. All these cases have been cited earlier. On the

other divide, the court of appeal also held that the bank, the central bank, is not a public

officer. Within the meaning of section 84 of the Sherry Vasipu Protects Act, the case

of CBN Vaso's Njemansi and three others Supra and the case of court of appeal,

where the court of appeal held that the central bank is not a public officer. See also the case

of Purification Technical, Nigeria Limited, Vaso's AG Legal State. The citation is also provided. It

appears to me that the majority of the decision by the court of appeal, which

it appears to me that the majority of the decision by the by the court of appeal is that the central

bank is a public officer, followed the decision of the Supreme Court in the case of Ibrahim Vaso's

JRC Supra. The court of appeal, as rightly submitted by the Garnishee, have departed from the decision

in CBN Vaso's Njemansi and in several cases have also held that the CBN is a public officer.

The case of CBN Vaso's Abdullahi is also provided and one of the latest decisions

is the case of Sarni Vaso's Unity Bank of Nigeria and another. I do not see any reason to depart

from the established decision of the court of appeal as the Central Bank of Nigeria is a public

officer within the meaning of sexuality form of the Sherif and Sifu Process Act. However, whether

the consent of the Attorney General is needed or not, the purpose of the need to seek the consent

of the Attorney General before the enforcement of judgment on the monies of funds held by the

Garnishee on behalf of the public department or agency of the government is to secure the

government funds and not sure that those funds were dissipated for the purpose for which it was

meant for in order not to embarrass the government of Nigeria. It is however interesting to note and

state that such consent may not be easily obtained from the Attorney General of the Federation,

thereby putting in a halt and depriving the successful judgment creditor from enjoying the

fruits of judgment. In my view, another mandamus to compel the Attorney General of the Federation

to give such consent may be of assistance to the case of the judgment creditor. The case of CBN

Vaso's Interstellar Supra, which the judgment creditor relied on to support the claim that the

consent of the Attorney General is not needed before embarking on the Garnishee proceeding,

does not help the case of the judgment creditor. In the sense that the Supreme Court in Pagoong

held in that case that it would be absurd to see the consent of the Attorney General of the

Federation before the Garnishee proceeding when in fact the Attorney General of the Federation was

a debtor himself. The Supreme Court also held, and I quote, that it is well explicit on the fact of

this case that the Attorney General has all along held out himself to be an active participant in

several stages of the negotiation and transaction, and even past payment of the debt owed. The most

potent factor which makes Section 84-1 of Sherifah's civil protest an inapplicable hearing

is because the Attorney General of the Federation is a debtor, and has been such in that capacity.

With the Attorney General being the judgment debtor, therefore, it will be absurd to require

that his consent should be sought, especially having admitted that we are taking the move

by paying parts of the judgment in questions. Now, some of the cases relied on, some of the

cases that relied on the case of Interstellar Supra as authority that there is no need to seek

and obtain the consent of Attorney General of the Federation before commencement of the Garnishee

proceeding against the Central Bank of Nigeria appear not to have distinguished the facts of

this case from that, the facts of their cases from that of the CBN versus Interstellar Supra.

It is entrenched and unestablished by decided authority referred to above that by virtue of

Section 84 of the Sherifah's simple protest act, the consent of the Attorney General of the

Federation is needed before the commencement of the Garnishee proceeding against the CBN. I

therefore hold that the consent of the AG and Attorney General of the Federation should be sought

and obtained, and that failure of the judgment creditor to do so render the Garnishee other

neither delivered by this cause null and void, and it is thereby set aside.

Thank you.

My lord, we are grateful for the erudite shooting. Most obliged.

SIGN

HON. JUDGE
23/1/2024