Breaking the Barrier of The Attorney-General's Consent: Repositioning Garnishee Proceedings Against Government Funds in Nigeria in Light of CBN v. Lidan Engineering Ltd & 6 Ors SC/CV/82/2021

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The true measure of a legal system lies not only in its ability to adjudicate disputes but in its capacity to ensure that victorious litigants actually enjoy the fruits of their judgements. In Nigeria, garnishee proceedings have long stood out as one of the most potent instruments for enforcing monetary judgements. Yet, when funds belonging to governments are at stake, Judgement Creditors have historically faced formidable barriers. Chief among these is the procedural hurdle imposed by section 84 of the Sheriffs and Civil Process Act (SCPA), which mandates the consent of the Attorney-General before any funds in the custody of a public officer may be attached.[1]

For decades, the interpretation of section 84 generated considerable judicial controversy, particularly concerning whether funds held by the Central Bank of Nigeria (CBN) on behalf of government ministries, departments, and agencies were protected from attachment without the Attorney-General's consent. The divergent judicial approaches created uncertainty in enforcement proceedings and often delayed satisfaction of valid judgements.

In a landmark judgment delivered by our apex court, in *Central Bank of Nigeria v. Lidan Engineering Ltd & 6 Ors*,[2] the Supreme Court revisited this contentious issue and provided what appears to be a definitive interpretation of section 84 of the SCPA. The Court held that the Central Bank of Nigeria, when acting as banker to the Federal Government and its agencies, does not constitute a "public officer" within the contemplation of section 84.[3] Consequently, the consent of the Attorney-General is not a prerequisite for the attachment of funds held by the CBN in garnishee proceedings.

[1] Sheriffs and Civil Process Act, Cap S6, Laws of the Federation of Nigeria 2004, s. 84(1).
[2] SC/CV/82/2021
[3] ibid

Facts of the Case:

The dispute arose from the importation of six 40-foot containers into Nigeria by Lidan Engineering Ltd, Johns Express Agencies Ltd, Hopeville & Green Nigeria Ltd and Mr. Chuks Agoha (the 1st to 4th respondents). The Respondents alleged that three of the containers were unlawfully auctioned by officials of the Nigerian Customs Service despite their ownership and entitlement thereto. Repeated demands for compensation proved unsuccessful.

The Respondents/Plaintiffs instituted an action before the Federal High Court against the Customs, Immigration and Prisons Service Board, the Comptroller-General of Customs, and the Attorney-General of the Federation. Judgment was entered in their favour, with damages awarded against the Judgement Debtors.

Following failure to satisfy the judgement debt, the Respondents/Judgment Creditors commenced garnishee proceedings against the Central Bank of Nigeria. The trial court granted a garnishee order absolute, which was affirmed by the Court of Appeal. The CBN further appealed to the Supreme Court.

The Legal Issue Before the Supreme Court:

The central issue was whether the consent of the Attorney-General of the Federation was required under section 84(1) of the Sheriffs and Civil Process Act before funds held by the Central Bank of Nigeria on behalf of government agencies could be attached through garnishee proceedings.

The Supreme Court's Decision:

In the lead judgement delivered by Obande Festus Ogbuinya, JSC, the Supreme Court unanimously dismissed the appeal and affirmed the concurrent decisions of the lower courts. His Lordship held that the Central Bank of Nigeria, in relation to funds maintained on behalf of the Federal Government and its agencies, operates as a banker rather than as a public officer within the meaning of section 84 of the Sheriffs and Civil Process Act.

Relying on sections 2(e) and 36 of the Central Bank of Nigeria Act,[1] the Court emphasized that the relationship between the Federal Government and the CBN is fundamentally that of banker and customer. Consequently, funds standing to the credit of government agencies in accounts maintained with the CBN cannot be regarded as funds in the custody of a public officer for the purposes of section 84.
The Court further held that since the CBN does not qualify as a public officer within the context of garnishee proceedings, the statutory requirement of obtaining the Attorney-General's consent does not arise.

[4] CBN Act, Cap C4 LFN 2004 (as amended)

Interpretation of "Public Officer"

The Supreme Court adopted a functional approach, focusing on the role performed by the CBN rather than its institutional status. This interpretation shifts emphasis from formal classification to substantive function in determining whether section 84 applies.

Clarification of Long-Standing Controversy:

The judgement resolves persistent uncertainty in Nigerian jurisprudence regarding whether funds held by the CBN for government agencies are protected under section 84.

The reasoning aligns with the Supreme Court's earlier decision in CBN v. Interstella Communications Ltd & Ors,[5] where the Court recognized the banker-customer relationship between the CBN and government entities.

Strengthening Judgement Enforcement:

The decision reduces procedural barriers that previously hindered enforcement of monetary judgements against government institutions, thereby reinforcing the constitutional value of effective judicial remedies.

Balancing Public and Private Interests:

While safeguarding public funds remains important, the Court confined section 84 to its proper statutory limits, ensuring that it is not used as a blanket defence against execution of valid judgments.

[5] (2018) 7 NWLR (Pt. 1618) 294

Implications for Legal Practice:

a. Judgment Creditors may now proceed with garnishee actions against CBN-held government funds without the Attorney-General's consent.

b. Section 84 can no longer be routinely invoked as a procedural shield in such circumstances.[6]

c. Greater certainty is introduced into garnishee proceedings involving public funds. The decision enhances confidence in the enforceability of court judgements in Nigeria.

Conclusion

The Supreme Court's decision in CBN v. Lidan Engineering Ltd & 6 Ors represents a significant milestone in Nigerian judgement enforcement jurisprudence. By clarifying that the Central Bank of Nigeria does not act as a public officer when performing banking functions for government agencies, the Court substantially narrowed the scope of section 84 of the Sheriffs and Civil Process Act.

The Judgement promotes effective enforcement of judicial decisions while maintaining a principled balance between public administration and private rights. It stands as a strong affirmation of the judiciary's commitment to ensuring that judgements of courts are not rendered illusory by procedural technicalities.

[6] Sheriffs and Civil Process Act, Cap S6, Laws of the Federation of Nigeria 2004, s. 84(1).

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