



2019/10/19
IN THE HIGH COURT OF OSUN STATE
IN THE IKIRUN JUDICIAL DIVISION
HOLDEN AT OSOGBO

SUIT NO: HIK/41/2018

- | | | |
|--|---|----------------------|
| <ol style="list-style-type: none"> 1. QUADRILLATEEF 2. HAMZAT ABEEB OLALEKAN 3. RAFIU JELEEL OLADIMEJI <p style="font-size: small; margin-left: 20px;"><i>(For themselves and on behalf of other inventors of AMD Global Concept Ltd)</i></p> | } | CLAIMANTS/APPLICANTS |
|--|---|----------------------|

AND

- | | | |
|--|---|-------------|
| <ol style="list-style-type: none"> 1. AMD GLOBAL CONCEPT INVESTMENT 2. GABRIEL OMEKA OMEKA 3. GABE ANGEL OIL AND GAS LTD 4. POLARIS BANK PLC | } | RESPONDENTS |
|--|---|-------------|

COUNTER AFFIDAVIT OF THE 4TH RESPONDENT TO THE MOTION
ON NOTICE DATED 4TH SEPTEMBER, 2019 FILED BY THE
CLAIMANTS/APPLICANTS.

I, **OLANREWaju AYODELE OGUNLESI**, Nigerian Male and **SENIOR ADVOCATE OF NIGERIA** of 369, Borno Way, Alagomeji, Lagos State, do hereby make Oath and state as follows:-

1. That I am aware of all the facts of this matter unless as otherwise stated by me.
2. That I have the consent and authority of the 4th Respondent to depose to this Counter Affidavit.
3. That I am deposing to this Counter Affidavit in order to enable the Honourable Mr. Justice S.O. Falola, the Applicants especially Quadri Lateef, his Solicitors, Messrs O.O. Odusola Esq. and J.P. Jones Esq., deny or confirm the facts I am going to set out in this Counter Affidavit.

BACKGROUND FACTS

4. That the facts in this Counter Affidavit came to my knowledge from the facts obtained from the file of the Court, after payment to search the file of the Court officially and from in and outside the Court when the matter came up before the Honourable Justice Mrs. A.O. Ayoola during the Court's vacation.
5. The facts further came to my knowledge from the discussion I had with the Honourable Mr. Justice S.O. Falola when he came to beg and plead in my Chambers in Lagos on Saturday, 31st September, 2019 at about 12 noon. His friend, Mr. Lukman Ogunsetan, a Lawyer, brought him.
6. I state that the Chambers of Messrs Bandele Aiku, SAN represented by Sola Sulyman Esq were the lawyers for the 4th Respondent/Garnishee before I was briefed to take over the conduct of the case.

7. The said Sola Sulyman Esq filed all the processes in the matter before I filed the Motion on Notice to set aside the Ruling of the Honourable Mr. Justice S.O. Falola of the Ikirun Division of the Osun State High Court. The Counsel did not hand over any Court document to me
8. **That in order to enable me be abreast of the facts of the matter**, we conducted a search and we discovered that:
 - (i) **There was no Judgment of the Kwara State High Court which The Hon. Mr. Justice S.O. Falola acted upon.**
 - (ii) **The alleged Judgment given since December, 2015 was not registered in Osun State as was required under the Sheriffs and Civil Process Act, Laws of the Federation of Nigeria, 2004. It was also not executed in Kwara State which is bigger and more cosmopolitan than Osun State.**
 - (iii) **The Hon. Mr. Justice S.O. Falola signed the Warrant of Execution before the expiration of the 3 days he stated in his Ruling.**
 - (iv) **The Judgment Debtors are not resident in Osun State.**

Based on the action of the Hon. Mr. Justice S.O. Falola, execution was levied on the premises of the 4th Respondent at **four different locations** on the same day by the Bailiff and one of the Registrars of the Court assisted by Mr. J.P. Jones of Counsel. This is indeed strange and contrary to the law and practice.

9. In view of my findings above, I made up my mind to Petition the National Judicial Council (NJC) because a Judge in Lagos State was dismissed because of a similar situation. The Council said he did not know his law.
10. In the course of the execution of the Warrant of Execution, various assets of the 4th Respondent/Garnishee and a total sum of ₦16,445,720 (Sixteen Million, Four Hundred and Forty Five Thousand, Seven Hundred and Twenty Naira) were taken by the officials of the Court even from the ATM machines of the Bank from the four (4) different locations.
11. That I discovered that whilst the computers, televisions, teller box machines of the Bank were brought to the Court, **there was no trace of the total cash taken from the Counters, Vaults and ATM machines of the 4th Respondent Bank in the Court. There was no return of Execution as directed and enjoined by the law and practice of Osun State and all other States of the Federation.**
12. Further to the facts stated above, I called Lukman Ogunsetan Esq., a Legal Practitioner, native of Osun State, related my findings to him and enquired about the Hon. Mr. Justice S.O. Falola who committed the obvious errors.

13. The said Lukman Ogunsetan Esq, pleaded with me not to destroy his career because he is from the same Local Government as the Honourable Judge and it would be a disgrace if the Judge was removed by the NJC having regard to the similar situation that happened in Lagos State.
14. Mr. Lukman Ogunsetan of Counsel got in touch with the Hon. Mr. Justice S.O. Falola and the Judge sent a WhatsApp message which was forwarded to me that he would come and see me in my Chambers in Lagos on the 30th or 31st August, 2019.
15. The Hon. Mr. Justice S.O. Falola arrived Lagos on the 30th August, 2019, lodged at the Lagos Airport Hotel Ikeja, Lagos State on the 30th August, 2019 but he sent his apologies. Lukman Ogunsetan Esq forwarded the apologies to me via Whatsapp message.
16. On the 31st August, 2019, the Hon. Mr. Justice S.O. Falola was brought to my Chambers on Borno Way, Alagomeji by Lukman Ogunsetan Esq. they came in Mr. Ogunsetan's black Toyota Corolla Car. Their entrance was captured on CCTV in my office.
17. In the meantime, before the Court sat (the Hon. Justice A.O. Ayoola (Mrs.)) on the 22nd August, 2019 during the vacation, I called my colleague J.P. Jones Esq aside and informed him that the whole exercise was a scam because there was no Judgment and advised that he should honourably withdraw from the matter, he, being a young lawyer with a great career in front of him. He only muttered how the money would be paid back.
18. He (J.P. Jones Esq) assured me that he would look into his file and do the most honourable thing and withdraw from the matter. Incidentally, he has not produced the Judgment of the Kwara State High Court up till the present moment.
19. **On the 27th August, 2019, when the matter came up for argument on my motion to set aside the Judgment, the Court Coram Ayoola J., drew the attention of Counsel to the findings of the Hon. Mr. Justice S.O. Falola in his Ruling that the Judgment of the Kwara State High Court was in the file and submissions of the O.O. Odusola Esq that the Judgment of the Kwara State High Court had been registered at the Registry of the Osun State High Court, the Ex parte Order Nisi was granted. Regrettably, there was no Judgment, no registration in Osun State and even the supposed Certificate of Judgment from Kwara State was not dated and I pointed all these out to the Court. The Court then assumed jurisdiction being one of the exceptions for setting aside the Judgment of a Court of coordinate jurisdiction.**
20. On the 28th August, 2019, immediately the Court (Coram Ayoola J.) set aside the Ruling of the Hon. Mr. Justice S.O. Falola, O.O. Odusola, the Counsel for the Judgment Creditors called me on the telephone in Lagos that he was coming to see me in Lagos with some documents to enable me assist him in the matter. He said Mr. Egun Olu Adegboruwa is his Cousin and that as an elder, he would seek my assistance. I informed him that he could come in at any time with his documents but that I have confirmation that no Judgment exist in Kwara State.

21. On the 31st August, 2019 and further to the facts stated in paragraph 16 above, when the Hon. Mr. Justice S.O. Falola met me in my Chambers in Lagos in the presence of Lukman Ogunsetan Esq, I asked him why he did what he did when:

- (a) **there was no Judgment from Kwara State**
- (b) **the Judgment was not registered in Osun State as required by law,**
- (c) **the Certificate of Judgment from Kwara State was not dated and**
- (d) **he signed the Warrant of Execution before the expiration of the 3 days given by him in his Ruling,**

he was very apologetic, begged and said that he was aware that the whole thing was a scam, a 419 played on him by his Registrar and the Messrs O.O. Odusola Esq and J.P. Jones Esq to make money. He stated further that he did not know what came upon him to do so when his Registrar brought the file to him to sign. He pleaded for mercy and said that he would change.

22. I went further to inform the Hon. Mr. Justice S.O. Falola that from my findings, he does not have a good reputation in the Judiciary in Osun State and that he was noted for finding lawyers to argue cases for the litigants in his Courts. He was speechless and after sometime he said that the Judges in Osun State do not like his face because he was vehement that the **Hon. Mr. Justice Oyewole** now JCA should not be appointed as the Chief Judge of Osun State (then of the Lagos State High Court) by the APC led Governor Aregbesola government.

He said further that about 20 Judges has signed and agreed that the Hon. Mr. Justice Oyewole, JCA should come over from Lagos State but only himself and the President of the Customary Court (a lady from Delta or any of the Eastern State), resisted the move.

23. The Hon. Mr. Justice Falola further informed me that the Lady President of the Customary Court had an agenda/ambition to become the Chief Judge of Osun State but he blocked her because she was only married to a man from Oyo State or Osun State which would in any case not qualify her to be the Chief Judge in Osun State because no Yoruba person could aspire to be a Chief Judge outside the South West. He said further that based on his action, the NJC directed that Customary Court Judges cannot cross over to the High Court Bench.

24. The Hon. Mr. Justice Falola also informed me at the meeting in my Chambers and I verily believe him that Judges in Osun State have a WhatsApp platform where they discuss issues and that at that particular time, Garnishee matter was raised on the platform. That it was later that he realized that Garnishee proceedings could not be commenced outside the state where the Judgment Debtor resides or carry on business as registered office. The Hon. Mr. Justice S.O. Falola also mentioned the case of Oludowa of Idowa who was alleged to have raped a Youth Corper but against all pressures from the APC Government, he refused to convict the Oba.

25. The Honourable Mr. Justice Falola also informed me about his problems with the Hon. Mr. Justice Bada, J.C.A. when they were Magistrates over the Ife and Modakeke imbroglio/crisis when he committed many Ife indigenes to prison.
26. **I state that after the Hon. Mr. Justice S.O. Falola had tried to justify why the Judges in Osun State do not like him, I asked him twice that I learnt that the money ₦16,445,720 was shared in his house but regrettably, he had no answer. He was just looking at me.**
27. **Further to the fact stated in paragraph 26 above, I further asked the Honourable Mr. Justice S.O. Falola that I learnt that his Registrar just bought a car and he said yes in the affirmative.**
28. Further to the facts above, I further asked the Honourable Mr. Justice Falola about the return of the ₦16,445,720 illegally taken from the 4th Respondent. He, Justice S.O. Falola assured me that he would personally source for and pay the money. I gave him till Wednesday, 4th September, 2019 to pay back the money.
29. After I had agreed to the proposal of the Honourable Mr. Justice Falola regarding the payment of the money, he informed me that there was a similar matter before his friend and noble Lord. The Hon. Mr. Justice Aderibigbe of Ejigbo Division involving one of the Judgment Creditors/Applicants herein against the 4th Respondent and that he would advise him to strike out the matter because it was a scam, 419 in our local parlance. I later found out that, there was indeed a similar matter in Suit No. HEJ/3/2019 between Olaleye Kameel Olatunji v Gabriel Omeka Omeka (the same Judgment Debtor herein) & Anor which the Honourable Mr. Justice Aderibigbe had adjourned to abide the Ruling of the Honourable Mr. Justice S.O. Falola.
30. In the meantime, I put pressure on Mr. O.O. Odusola via the telephone to pay the cost of ₦1 Million awarded against him personally (not the Appellant herein) by the Court for deceiving and misleading the Hon. Mr. Justice Falola that there was indeed a Judgment and that it had been registered in Osun State. He once told me over the telephone in my discussion with him during the week commencing 2nd September, 2019 at about 7:30pm that a Lawyer who would not compromise a case was shot and wounded.
31. On Thursday, 5th September, 2019 Lukman Ogunsetan called me on the telephone and after the pleasantries, he pleaded with me to give Hon. Mr. Justice S.O. Falola till Friday, 13th September, 2019 to find and pay the money and after some persuasion, I agreed. He later passed on the telephone to the Hon. Mr. Justice Falola who was with him, to talk to me.
32. That contrary to the undertaking of the Hon. Mr. Justice S.O. Falola to pay the money and allow the issue to rest, on the 9th September, 2019, I was shocked when one of my Lawyers, Mr. Tope Adeleye, stumbled on a Notice of Appeal and Motion on Notice for Stay of Execution of the Ruling of My Lord Ayoola J., filed by the Lawyers

working in conjunction with the Hon. Mr. Justice Falola in this matter and after he had reported the matter to me, I telephoned Lukman Ogunsetan Esq., related the matter to him and the fact that the Honourable Mr. Justice Falola had reneged on his promise to personally refund the entire money.

33. Further to the facts stated above, I state that not quite 30 minutes after my discussion with Lukman Ogunsetan Esq., he forwarded the WhatsApp message the Hon. Mr. Justice Falola forwarded to him, to me. In the message, the Honourable Mr. Justice Falola, stated thus:-

"I am positive about Friday, since the Judiciary itself has taken up the issue officially, I believe the issue of Appeal and motion are just between the parties themselves whatever the contents."

That's my view sir, except he feels otherwise sir"

After that, Lukman Ogunsetan Esq., forwarded another WhatsApp message from Hon. Mr. Justice Falola to me wherein His Lordship stated:

"Please convey my predicament. I just took some injections. Apparently, my health status could not withstand about 34 hours I exposed myself to. The problem was initially under assessed."

34. That I state that I challenge the Hon. Mr. Justice S.O. Falola, Messrs O.O. Odusola and Jones as well as the Deponent to the Affidavit in Support of the Motion on Notice to stay the Execution of the Ruling of the Hon. Justice A.O. Ayoola to deny the facts stated above and I will have no option but to release more information which will destroy careers. I have however given my word not to do so if and only if, the Hon. Mr. Justice Falola pays the entire sum collected from the 4th Respondent and O.O. Odusola Esq the cost of ₦1 Million awarded by the Court.
35. That I state that I had telephoned the Honourable Chief Judge to express my displeasure about the whole thing when she was in Canada on vacation and she has promised to call me immediately she is back from vacation.
36. Further to the facts stated above, I state that after the Honourable Mr. Justice Falola had given an undertaking to personally return the money and the meeting was ended on an amicable note, he prostrated and thanked me profusely for my assurance not to Petition the NJC.
37. That further to the facts stated above, I state that in all my years at the Bar, I have never seen a Judge prostrate for a Counsel in a matter he had dealt with.

REACTION TO THE AFFIDAVIT AND FURTHER AFFIDAVIT IN SUPPORT OF THE MOTION ON NOTICE FOR STAY OF EXECUTION

38. I state that I have read the Affidavit and Further Affidavit of Quadri Lateef, the 1st Claimant/Applicant in support of the Motion on Notice and I state that the depositions in the paragraphs of the said Affidavits are not true.
39. That I reasonably believe that from the Background facts stated in paragraphs 4 – 37 above, the Applicants are not acting in good faith.
40. Further to the deposition above, I state that up till the present moment, the Judgment of Kwara State given in their favour has not been seen by this Court. It is not in the file or at the Registry.
41. **That I reasonably believe that the execution of the Ruling of the Honourable Justice A.O. Ayoola delivered on the 28th August, 2019 can no longer be stayed because the 4th Respondent has evacuated her properties from the premises of the High Court.**
42. That as regards the sum of ₦16,445,720 collected by J.P. Jones Esq from the points of execution without any return of execution by the Bailiffs/Sheriffs of the High Court, the monies have been shared out by the persons involved in the scam and they have only brought this application because one of them have bought a car and the others have not been able to return their share of the money. I also reasonably believe that the Honourable Mr. Justice Falola who gave an undertaking to pay the money personally by Friday 13th September, 2019, will not be able to fulfill the promise hence this application.
43. That I reasonably believe that this entire Suit right from the proceedings before the Hon. Mr. Justice Falola strikes at the main stream and foundation of justice and the Counsel to the Applicants and the Applicants themselves know that they lied and played a fraud on the Court.
44. That I state that the Motion filed by Messrs Bandele Aiku & Co., which the Appellants referred to in Ground 1 of their Notice of Appeal was withdrawn on the 27th August, 2019 before my Motion on Notice was heard. I state that J.P. Jones Esq asked for and was granted the sum of ₦5,000 as cost which was duly paid by me in open Court.
45. That I state that as regards Ground 2 of the Notice of Appeal of the Claimants/Appellants, the Appeal in Suit No. CA/AK/277/19, has **not** been deemed entered pursuant to the provisions of Order 4 Rules 10 of the Court of Appeal Rules 2016 because the file of the matter and the Exhibits are still in the High Court of Osun State.
46. That further to paragraph 45 above, I state that the Appeal had been withdrawn immediately I became aware that Mr. Sola Sulyman filed an Appeal bound to fail and the High Court lacked jurisdiction in the matter.
Annexed and marked Exhibit A is the Notice of Withdrawal of the Appeal filed at the Court of Appeal.

47. That I reasonably believe that as regards Grounds 3 and 4 of the Notice of Appeal of the Claimants/Appellants, the matter concerns an inter State jurisdiction of the Court and this Court cannot enforce the Judgment of another State High Court unless and until it is registered.
48. That I state that from all available facts before this Honourable Court and as contained in the file, the supposed Judgment of the Kwara State High Court has not been shown talk less of registration. Up till the present moment, the Appellants and their Solicitors are still hiding the said Judgment from the Osun State High Court.
49. That as regards Ground 5 of the Notice of Appeal of the Claimants/Appellants/Applicants, I state that the reason why the Court awarded the cost to be paid personally against Counsel was clear and it was to all intents and purposes, it was to act as a deterrent against Counsel misleading the Court and promoting fraud. I reasonably believe that there is what we call candour at the Bar under the Rules of Professional Practice, taught us right from the Law School. The Counsel who is to pay the cost personally has not appealed and the Appellants cannot appeal on his behalf. They have no locus standi.
50. That I reasonably believe that the Grounds of Appeal are not recondite or substantial on any issue which might likely be resolved in favour of the Appellants at the Court of Appeal.
51. That I reasonably believe that the Notice of Appeal and the Motion on Notice filed before the Court of Appeal and exhibited to the Motion on Notice for stay of execution have only been filed in order to pull a wool over the eyes of the Court.
52. That I state that the 4th Respondent is a buoyant Bank and the sum of ₦16,445,720 is not an amount the 4th Respondent will not be able to pay back in the event that the appeal succeeds. I also say that the cost of ₦1 Million awarded against Counsel can also be paid back if the appeal succeeds.
53. That further to the facts stated above, I reasonably believe that the Applicants and their Solicitors have not shown or exhibited good faith in this matter.
54. Further to paragraph 53 above, I reasonably believe that it would amount to grave injustice if this application is allowed. I reasonably believe that it would send a wrong message to the generality of Nigerians having regard to the facts of this matter as set out in preceding paragraphs above.
55. That I reasonably believe that the 4th Respondent will be severely prejudiced if this application is granted.
56. That I reasonably believe that if this matter gets out to the press and or members of the public, it will further destroy the image of the judiciary which is the last hope of the common man.

- 57. That I reasonably believe that it would be in the interest of justice to refuse this application.
- 58. That I depose to this Counter Affidavit in good faith and in accordance with the Oaths Law of Osun State.

[Signature]
DEPONENT

SWORN to at the Oshogbo High Court Registry,
this*16th*..... day of*Sept*..... 2019.

BEFORE ME

[Signature]
COMMISSIONER FOR OATHS

C20070109

HIGH COURT OF JUSTICE
OSOGBO.
PAID
[Signature]
OSUN STATE.
16/9/19

FORM 12
IN THE COURT OF APPEAL
HOLDEN AT AKURE

END 9/25/19

SUIT NO: FHC/41/2018
APPEAL FILED: MAR. 27 2019

BETWEEN

POLARIS BANK PLC

APPELLANT

AND

1. QUADRI LATFEE
2. HANZAT ABEEB OLADIMEJI
3. RAJU JELEEL OLADIMEJI
*(For themselves and on behalf of the
Other Investors of AAD Global Concept
Limited)*
4. AAD GLOBAL CONCEPT
5. GABRIEL OMEKA OMEKA
6. GABE ANGEL OIL AND GAS LIMITED

RESPONDENTS

ORDER 11- RULE 1
NOTICE OF WITHDRAWAL OF APPEAL

TAKE NOTICE that the Appellant herein intends and doth hereby wholly withdraw her appeal against all the Respondents in the above mentioned appeal.

Dated at this day of 2019



[Signature]
LANRE OGUNLESI SAN.
BABATUNDE AOKO ESQ.
APPELLANTS SOLICITORS
DELOO HOUSE 4TH FLOOR,
369, BORNO WAY
ALAGOMEJI YABA,
LAGOS STATE
TEL: 01-4533831, 08033152342
EMAIL: lanreogunlesi@victoria.com
LEGAL EMAIL: lanreogunlesi@nicerimbar.org

OR SERVICE ON:

1. THE 1ST RESPONDENT
% THEIR COUNSEL
ODUNSOLA OMOYENI ESQ.
MIDE LAW FIRM,
KOSOFI ROAD TWO ROAD SHARP CORNER,

[Handwritten notes]
Mide - 1000
PMS - 100
10/10

IN THE HIGH COURT OF OSUN STATE
IN THE IKIRUN JUDICIAL DIVISION
HOLDEN AT OSOGBO

SUIT NO: HIK/41/2018

BETWEEN:

- | | | |
|---|---|----------------------|
| <ol style="list-style-type: none">1. QUADRI LATEEF2. HAMZAT ABEEB OLALEKAN3. RAFIU JELEEL OLADIMEJI | } | CLAIMANTS/APPLICANTS |
|---|---|----------------------|
- (For themselves and on behalf of other Investors of AMD Global Concept Ltd.)*

AND

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| <ol style="list-style-type: none">1. AMD GLOBAL CONCEPT INVESTMENT2. GABRIEL OMEKA OMEKA3. GABE ANGEL OIL AND GAS LTD4. POLARIS BANK PLC | } | RESPONDENTS |
|---|---|-------------|

**WRITTEN ADDRESS OF THE 4TH RESPONDENT IN SUPPORT OF
THE COUNTER AFFIDAVIT.**

1. **INTRODUCTION**

This Written Address has been filed pursuant to the provisions of our Rules of Court which enjoins the filing of a Written Address in support of any application or in response to any application.

2. **FACTS OF THE CASE**

The facts of this matter have been set out in the Counter Affidavit under Background Facts and we rely on them.

3. **ISSUE FOR DETERMINATION**

We submit with respect that the only issue that has arisen for the determination in this matter is:-

“Whether the Applicants have placed sufficient materials before this Honourable Court to enable the Court exercise its discretion in their favour”

4. **ARGUMENT OF ISSUE**

Whether the Applicants have placed sufficient materials before this Honourable Court to enable the Court exercise its discretion in their favour.

- (a) It is submitted that the application before this Honourable Court calls for the exercise of the Court’s discretion which discretion we submit, must be exercised judicially and judiciously.

See: **Nasco Management Services Ltd v A.N. Amaku Transport Ltd (2002) LPELR -7139 (CA) or (2003) 2 NWLR (Pt. 804) 209.**

It is not granted as a matter of course because the Applicant must show substantial or exceptional reasons which the Court has a duty to painstakingly determine.

See: **Ofordeme v Onyegbuna (2005) LPELR – 7547 (CA).**

(b) We also submit that there are conditions for the grant of stay of execution. They are as follows:-

- (a) **the grounds of appeal must raise substantial legal issues in an area of the law that is novel or recondite,**
- (b) **the application must disclose special circumstances why the application should be stayed or granted,**
- (c) **the application must disclose why matters should be put in status quo or preserve the res so as not to render the appeal nugatory,**
- (d) **an applicant in an application for stay of execution must show utmost good faith and this is most relevant in the consideration of the application.**

- See:
- (i) **National Pension Commission v F.G.P. Ltd (2014) 2 NWLR (Pt. 1391) 346 at pp. 375, paras. C – F; 375 – 376 paras; F – C 386 paras. D – F, 387, para A.**
 - (ii) **Integration (Nig) Ltd v Zumafon (Nig) Ltd (2014) 4 NWLR (Pt. 1398) 479 at 494, paras. E – G, 490, paras F – H.**
 - (iii) **Gov. Oyo State v Akinyemi (2003) 1 NWLR (Pt. 800) 1 at pp. 15 – 16, paras. H – C, pp. 16-17, paras. H – D, 18 paras. A – E.**
 - (iv) **Oruruo v Ugwu (2007) 7 NWLR (Pt. 1033) 217 at p. 231, paras. D – E.**

- (c) We submit that reading the Affidavit of the 1st Applicant herein, the Applicants have not satisfied any of the conditions to warrant the grant of stay of execution of the Ruling of the Honourable Justice A.O. Ayoola (Mrs.).
- (d) We submit that the Grounds of Appeal are not substantial or recondite on any issue which might likely be resolved in favour of the Applicants at the Court of Appeal.

- (e) We submit that the Motion on Notice complained of in Ground 1 of the Notice of Appeal was withdrawn before the Motion on Notice to set aside the Ruling of the Honourable Mr. Justice Falola was heard and cost of ₦5000 was paid to Counsel for the Applicants. We submit further that there is no pending appeal in Suit No. CA/AK/277/19 and at the time the Motion on Notice to set aside the entire proceedings before the Honourable Mr. Justice Falola was heard, the Record of Appeal had not been properly transmitted or entered in accordance with the provisions of Order 4 Rule 10 of the Court of Appeal Rules 2016.

The file of the matter and all the Exhibits tendered are still in the High Court.

- (f) Ground 3 of the Notice of Appeal complains that the 4th Respondent participated in the proceedings. It is the law that parties cannot by consent, confer jurisdiction on the Court.

See: (i) **Agwuncha v Ezemuoka (2002) LPELR – 12301 (CA).**
(ii) **Bob v Akpan & Ors (2009) LPELR – 8519 (CA).**

Furthermore, it is submitted that if a Court lacks jurisdiction, no matter how well conducted the matter is, the entire proceedings is a nullity.

See: (i) **Inspector General of Police & Anor v Gloria & Anor (2009) LPELR – 8737 (CA)**
(ii) **Dapianlong v Dariye (2007) 8 NWLR (Pt. 1036) 323.**

- (g) In Ground 4 of the Notice of Appeal, the Applicants complain that it is not their duty to register the Judgment but that of the Registry.

We submit that apart from the ipse dixit of Counsel, there is no iota of evidence that any document was taken to the Registry. No acknowledgement of the receipt of the Judgment or the Certificate of Judgment from the Kwara State High Court at the Osun State High Court Registry.

In the Counter Affidavit of this Deponent to our motion to set aside the Ruling of the Honourable Mr. Justice Falola, he stated that his Counsel just dropped the document at the Registry. He did not state the name of the Counsel who dropped the document neither did he state when it was dropped. What year, what month or day?

- (h) We submit that the procedure for the Registration of a Judgment is well set out in the Sheriffs and Civil Process Act and they are mandatory and obligatory on Counsel and not the Registrar of the Court. We submit that the particulars set out in Ground 4 show conclusively that the Judgment was not registered. Whereas, learned Counsel told a lie to the Court that it was registered.

(i) As regards Ground 5 of the Notice of Appeal on the issue of cost of ₦1 Million awarded, we submit that the cost was not awarded against the Appellants/Applicants but against Counsel and Counsel is not appealing. We submit that Section 241 (1) of the Constitution is very clear on who has a right of appeal.

(j) We submit further that as regards good faith, the Applicants have not shown any iota of good faith. The background facts have painted sordid facts to show that these Applicants have not shown good faith. We submit that what should agitate the mind of Your Lordship is:

Quare – Where is this Judgment from Kwara State that is the foundation of the whole problem in this matter?

Answer – It does not exist.

The alleged Judgment was not executed where it was obtained in Kwara State 5 years ago. It was not put in the file.

(k) We submit that this application is just a ploy to prevent the 4th Respondent from taking back its money which the Applicants and their cohorts unlawfully took from them. We submit that what has happened in this matter is nothing short of legal robbery and Your Lordship should, in the interest of justice, not be cajoled into granting a stay of execution.

(l) We submit further that execution of the Ruling cannot be stayed because the 4th Respondent has taken its banking equipments brought into the High Court.

Furthermore, we submit that execution cannot be stayed because the people who took the money (shared it) are not saying that they cannot return it.

The Honourable Mr. Justice S.O. Falola has given an undertaking, he is an honourable man and he should keep or honour his word.

The Applicants we submit, cannot be and should not be allowed to hold on to the money. They are faceless, fronts used to perpetuate an illegality.

(m) We submit that stay of execution is an equitable remedy and he who comes to equity must come with clean hands. This is one of the maxims of equity. They (the Appellants) have not approached Your Lordship with clean hands – where is the Judgment of the Kwara State High Court? Why was it not registered? Why did the Registrar not see the Judgment pursuant to the provisions of Section 105 of the Sheriffs and Civil Process Act before passing it on prior to issuance of Warrant of Execution.

(n) **In conclusion**, we urge on Your Lordship to dismiss the application to stay execution of the Ruling of the Honourable Justice A.O. Ayoola (Mrs.) delivered on the 28th August, 2019.

Dated this 16th day of September 2019.



..... DA Ogunesi
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FOR SERVICES ON:

1. THE JUDGMENT CREDITORS/APPLICANTS,
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J.P. JONES,
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OLONKORO,
OSOGBO,
OSUN STATE.
2. 1ST RESPONDENT
A.M.D. GLOBAL CONCEPT.
3. THE 2ND RESPONDENT,
c/o HIS SOLICITORS,
MORAKINYO OLORUNTOBA, ESQ.,
OLORUNTOBA MORAKINYO & CO.,
NO. 32, ADEOLA STREET,
MOLETE, IBADAN.
4. THE 3RD RESPONDENT,
GABE ANGEL OIL AND GAS LIMITED.



S. THE HONOURABLE MR JUSTICE S.O. AYoola
Kilun High Court