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CASE DIGEST

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BANKS MAY BE LIABLE FOR FREEZING CUSTOMERS' ACCOUNTS WITHOUT VERIFYING THE DIRECTIVES OF LAW ENFORCEMENT AGENCIES

NPG EVENT, GARDENS & PARKS LTD v. ZENITH BANK PLC

COURT OF APPEAL

(BOLA; KWAHAR; ONWOSI, JJ.CA)

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Background Facts

NPG Event, Gardens & Parks Limited *("the Appellant")* maintained a bank account with Zenith Bank Plc *("the Respondent")*. A Post No Debit *("PND")* restriction was placed on the account for a period of six months following a directive allegedly issued by the Economic and Financial Crimes Commission *("EFCC")*. As a result, the Appellant was unable to operate the account or access the funds in it.

Following the restriction, the Appellant commenced proceedings before the Federal High Court. It sought declarations that the PND restriction placed on its account without a valid court order was unlawful, unconstitutional, null and void. The Appellant also sought an order directing the Respondent to lift the restriction and restore access to the account, a perpetual injunction restraining further interference with the operation of the account, and general damages of ₦100,000,000.00.

The Federal High Court dismissed the Appellant's claims and held that the restriction placed on the Appellant's account was valid as it was done pursuant to the directive issued by the EFCC in the course investigating the Appellant. The Court further held that the EFCC had statutory investigative powers and that the Respondent could comply with the directive pending the conclusion of the investigation.

The Appellant, dissatisfied with the decision of the Federal High Court, appealed to the Court of Appeal.

One of the issues raised for determination was: *Whether the Respondent breached the Appellant's Fundamental Right as provided for under the law by placing a Post No Debit (PND) on the account of the Appellant without following due process?*

Arguments

For the Appellant, learned counsel argued that, as the financial institution entrusted with the Appellant's account, the Respondent owed a duty to ensure that any instruction to restrict an account must be supported by lawful authority. He maintained that the Respondent, being a regulated financial institution, was expected to understand the legal incidents of the banker-customer relationship and the protection accorded to a customer's property. Accordingly, where a directive from a law enforcement agency substantially interfered with the customer's access to funds, the Respondent was required to satisfy itself that the directive was backed by the requisite judicial authority.

Counsel further submitted that the existence of an investigation did not deprive the Appellant of its proprietary rights or entitle the Respondent to restrict access to the account indefinitely. The Respondent could not rely merely on the fact that the directive emanated from the EFCC to justify the restriction, particularly where the law prescribed a specific procedure for interfering with a person's property. That procedure, counsel argued, had to be strictly followed.

Counsel therefore contended that the Respondent could not feign ignorance of the legal requirements governing the restriction of a customer's bank account. It was not sufficient for the Bank to act mechanically on the EFCC's directive; it ought to have requested or verified the existence of the requisite court order before placing the account on Post-No-Debit. Its failure to do so, counsel submitted, rendered the Respondent liable for the consequences of the unlawful restriction notwithstanding that the directive originated from the EFCC.

In response, learned counsel for the Respondent contended that the responsibility for obtaining any requisite court order rested solely with the EFCC, while the Respondent's role was limited to complying with the directive issued by the law enforcement agency. He argued that the Respondent neither initiated the investigation nor independently exercised any coercive power over the Appellant's account but merely acted upon a directive issued by the statutory agency responsible for investigating economic and financial crimes. Counsel maintained that the Respondent was entitled to presume the regularity of the EFCC's directive and was not required to independently verify whether the agency had complied with the procedural requirements for issuing it.

Learned counsel further argued that, if there was any defect in the process by which the restriction was procured, such defect was attributable to the EFCC and not to the Respondent. Counsel submitted that the proper complaint, if any, should have been directed against the investigative agency that issued the instruction, rather than the financial institution that complied with it.

DECISION OF THE COURT

In resolving the issue, the Court of Appeal held that:

A bank is estopped from feigning ignorance of or claiming that it has no duty or responsibility to ascertain whether, a directive of a law enforcement agency to freeze a customer's account is made pursuant to an order of court. A bank that nevertheless complies with the instruction of a law enforcement agency to freeze a customer's account without a court order may be held jointly and severally liable with the agency for the resulting violation of the customer's fundamental rights.

The Court of Appeal further reaffirmed that no bank or law enforcement agency possesses legal competence, without a valid court order, to close a customer's account, seize funds, place a lien on the account or otherwise interfere with the customer's property. Even where a law enforcement agency exercises its investigative powers to take temporary possession of property, such power must be exercised strictly in accordance with the procedure prescribed by law, as an allegation of crime or the pendency of an investigation does not, without more, stop a person from enjoying his fundamental right to use and enjoy his property.

In the instant case, the Court of Appeal rejected the Respondent's contention and held that the Respondent could not escape liability by relying on the EFCC's directive to freeze the Appellant's account without first verifying its validity and satisfying itself that the directive had the requisite legal foundation. The Court of Appeal consequently awarded general damages of ₦5,000,000 against the Respondent.

Issue resolved in favour of the Appellant.

Emeka Denis Eze for the Respondent.

This summary is fully reported at (2026) 7 CLRN in association with ALP NG & Co.

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