**ISAIAH EZIRE**

**V**

**TRANSOCEAN SUPPORT SERVICES NIGERIA LIMITED AND OTHERS**

COURT OF APPEAL (PORT HARCOURT DIVISION)

29TH DAY OF JANUARY 2016

CA/PH/756/2013

**LEX (2016) - CA/PH/756/2013**

OTHER CITATIONS

2PLR/2017/122 (CA)

**BEFORE THEIR LORDSHIP**

EJEMBI EKO, JCA (Presided)

T. N. ORJI-ABADUA, JCA

MODUPE FASANMI, JCA (Read the Lead Judgment)

**BETWEEN**

ISAIAH EZIRE – Appellant

AND

1. TRANSOCEAN SUPPORT SERVICES NIG. LTD

2. SEDCOFORX OF NIG. LTD

3. GARANTY TRUST BANK PLC (GTB)

4. CITIBANK NIGERIA LIMITED – Respondent

**ORIGINATING COURT**

RIVERS STATE HIGH COURT (Ruling of the Court delivered on 21 August 2013).

**REPRESENTATION/LAWYERS**

E. B. UKIRI with F. G JOHN - for the Appellant/Applicant.

F. ODITAN SAN with N. O. DINWOKE and S. NDUBUISI - for the 1st and 2nd Respondents.

T. J. KRUKRUBO - for the 4th Respondent.

**ISSUES FROM THE CAUSE(S) OF ACTION**

DEBTOR-CREDITOR LAW - GARNISHEE PROCEEDINGS:- Conditions precedent that must exist before a party can properly be joined as a nominal party or passive garnishee in Garnishee proceedings – Onus of proof on Judgment Creditor to prove basis entitling him to enforce judgment against a party who was neither a party to the action nor has any relationship with the named judgment debtor

**PRACTICE AND PROCEDURE ISSUES**

ACTION:- Case before court – Duty of court to decide same based on own facts – Justification of

ACTION – ENDORSEMENT OF COURT PROCESSESE:– Court application signed in the name of law firm - Competence of - Legal process - Who may authenticate.

ACTION - GARNISHEE PROCEEDINGS:- Persons not proved to be successor-in-title - Whether can be made parties to a ggarnishee-garnishor proceedings

EVIDENCE - CASE BEFORE COURT - Mandatoriness of deciding on own facts.

JURISDICTION - OBJECTION TO - Determination of - Mandatoriness of deciding firstly - Rationale for.

JURISDICTION - OBJECTION TO – Whether may be raised to at any stage of proceedings – Propriety of.

**CASE SUMMARY**

ORIGINATING FACTS AND CLAIMS

The appellant obtained a garnishee order nisi against the respondents as successors-in-title to NRB Drilling Services Ltd.

The respondents filed an application before the Rivers State High Court praying the court for order setting aside the garnishee order nisi made on grounds that there was no relationship between them and the NRB Drilling Services Ltd against which judgment was obtained to warrant the enforcement of the judgment against the respondents.

The trial court granted the reliefs sought by the respondents.

Dissatisfied, the appellant appealed to the Court of Appeal, contending that the lower court erred by granting the reliefs sought by the respondent when the respondents lacked the locus standi to commence the action.

**DECISION(S) APPEALED AGAINST**

The High Court made a bench Ruling, setting aside the garnishee order nisi earlier made and discharged the garnishees. Dissatisfied, the Appellant appealed to the Court of Appeal.

**ISSUE(S) FOR DETERMINATION ON APPEAL**

*BY APPELLANT:*

(i) Whether the lower court was right in granting the respondents’ application having regard to the fact that they lacked the locus standi to be heard as judgment debtors in the garnishee proceedings.

(ii) Whether the lower court was right in relying on the affidavit evidence of the 1st and 2nd respondents which was in conflict with the applicants to resolve the issue of the transmission or not of interest from NRB Drilling Services Ltd to 1st and 2nd respondents, without oral evidence.

*BY 1ST AND 2ND RESPONDENTS:*

[The 1st and 2nd Respondents adopted the issues formulated by the Appellant].

*BY 4TH RESPONDENT:*

(i) Whether the lower court was right when, upon the application of the 1st and 2nd respondents, it set aside the garnishee order nisi made on 15 April2013 and discharged the garnishees. (Distilled from grounds 2 and 3 of the notice of appeal).

(ii) Whether the lower court was bound to call oral evidence to resolve the conflict in the affidavit evidence of the 1st and 2nd respondents and the appellant on the alleged transmission of interest from NRB Drilling Services Ltd to the 1st and 2nd respondents. (Distilled from ground 1 amended notice of appeal.)

*AS ADOPTED BY COURT:*

[The Court adopted the issues formulated by the 4th Respondent].

DECISION OF THE COURT OF APPEAL

1. Where application was signed in the name of the legal firm, the application is incompetent, null and void. Also where the author of a legal process is unknown, then the process has not been properly signed. The defect robs the court jurisdiction to entertain the matter. Only legal practitioners, called to the Nigerian Bar can author or authenticate a legal process on behalf of parties to the action.

2. Where a Counsel writes his name, he is entitled to state the name of his law firm which is distinguishable from each other. Such a legal counsel authoring an application before the court does not require additional evidence to be identified. The process is deemed properly signed or authenticated.

3. A judgment debtor in a Garnishee proceedings has the onus of proving that the parties being proceeded against are the proper parties against which the judgment debt ought to be enforced against. Provisions of section 83 sub-sections 1 and 2 of the Sheriffs and Civil Process Act, Cap. 407, Laws of the Federation, 1990, that the judgment debtor is a passive respondent does not negative that requirement.

4. It is only when there is a proper garnishee in law to be made the subject of a garnishee proceeding that a place for nominal parties or passive respondents can arise in the proceedings.

5. A judgment debtor is obliged to prove by credible evidence that the named respondents to a Garnishee proceeding are successors-in-title to the primary debtor being the party which the appellant obtained the judgment ought to be enforced by the garnishee process. Since their rights and obligations will be affected, the judgment creditor must establish transmission of interest from the judgment debtor to the other named parties sought to be proceeded against.

6. A Decree Nisi would be set aside if the judgment debtor fails to establish the appropriate link or relationship between the named parties and the primary judgment debtor. It will not be right in law for judgment creditor to enforce the judgment in his favour against a third party who is a stranger to the proceedings in which the judgment is being enforced. The party enforcing the judgment against a party who was not a party on record to the judgment being enforced has a bounden duty to show the relationship between the third party and the judgment debtor that would warrant the judgment being enforced against the said third party, who is not party on the record.

**MAIN JUDGMENT**

FASANMI JCA (DELIVERING THE JUDGMENT):

This is an appeal against the ruling of the Rivers State High Court of justice in suit No: PHC/573/2013 delivered on the 21 August 2013, in which the lower court sets aside the garnishee order nisi earlier made on 15 April 2013 and discharged the garnishees.

Briefly, the contention of the 1st and 2nd respondents who were applicants before the lower court was that there is no relationship between them and the NRB Drilling Services Limited against which the judgment was obtained to warrant the enforcement of the judgment against the 1st and 2nd respondents.

After perusing several processes filed by the 1st and 2nd respondents and the appellant, the lower court entered ruling in favour of the respondents.

Dissatisfied with the ruling, appellant appealed to this court on 21 August 2013 and filed four grounds of appeal. Appellant’s brief of argument was filed on 11 February 2014. He also filed a reply brief on 21 November 2014 but was consequentially deemed on 11 November 2015.

Appellant distilled two issues for determination from the four grounds of appeal. They are stated hereunder:

(i) Whether the lower court was right in granting the respondents’ application having regard to the fact that they lacked the locus standi to be heard as judgment debtors in the garnishee proceedings.

(ii) Whether the lower court was right in relying on the affidavit evidence of the 1st and 2nd respondents which was in conflict with the applicants to resolve the issue of the transmission or not of interest from NRB Drilling Services Ltd to 1st and 2nd respondents, without oral evidence.

1st and 2nd respondents’ brief of argument was filed on 15 July 2014 but was deemed properly filed on the 11 November 2015. The 1st and 2nd respondents adopt the two issues formulated by the appellant.

4th respondent’s brief of argument was filed on 21 September 2015. Two issues were distilled for determination as follows:

(i) Whether the lower court was right when, upon the application of the 1st and 2nd respondents, it set aside the garnishee order nisi made on 15 April2013 and discharged the garnishees. (Distilled from grounds 2 and 3 of the notice of appeal).

(ii) Whether the lower court was bound to call oral evidence to resolve the conflict in the affidavit evidence of the 1st and 2nd respondents and the appellant on the alleged transmission of interest from NRB Drilling Services Ltd to the 1st and 2nd respondents. (Distilled from ground 1 amended notice of appeal.)

From the bailiff’s report, 3rd respondent was served with the hearing notice of the appeal on the 10 November 2015. Since there is no reason for his absence in court, the court proceeded with the hearing of the appeal.

At the hearing of the appeal, appellant’s counsel raised objection to the way the motion giving rise to the ruling which has been appealed was signed at pages 40 and 56 of the record of appeal. Submitted that the way the application was signed touches on the jurisdiction of the court. He argued that the issue of jurisdiction can be raised at any time, for the first time, even though it is not argued in his brief.

Learned senior counsel for the 1st and 2nd respondents says he will reply to the argument on jurisdiction orally.

Learned counsel for the 4th respondent says he will respond orally as well.

Learned counsel for the appellant submits that pages 40 and 56 of the record showed that the application giving rise to the ruling which appellant has appealed bears three entities, namely Nelson Dinwoke, Udo Udoma and Bello Osagie are jointly described as judgment/debtors/applicants solicitor. He submitted that a mark was made on the names. He wonders whose signature was appended out of the three solicitors. He submitted that the defect renders the process null and void ab initio. He submitted that whenever the author of a legal process requires additional evidence to be identified, that process has not been properly signed or authenticated. He referred to the case of MTN (Nig.) Communications Ltd v. Corporate Communications Investment Ltd (2015) 7 NWLR (Pt. 1459) 437, at page 465, paragraphs E - H and Alawiye v. Ogunsanya (2012) 12 SC (Pt. III) 1 at pages 50 - 51, (2012) NSCQR Vol. 52 186, (2013) All FWLR (Pt. 668) 800, (2013) 5 NWLR (Pt. 1348) 570. Submitted that the defect in the process robs the court of its jurisdiction to entertain the matter. He contended that the ruling is a nullity. On the merit of the appeal, he urged the court to make the garnishee nisi absolute.

Learned senior counsel for the 1st and 2nd respondents in reply submitted that the appellant counsel’s reference to the issue of jurisdiction orally at the conclusion of the argument of his appeal without any notice to any of the parties shows appellant’s lack of belief in his appeal. He submitted that the process was correctly signed because the only person who is listed is Nelson Dinwoke. Udo Udoma and Bello Osagie is the name of the company’s solicitor. He referred the court to paragraph 4 of the affidavit attached to the application. He submits that there is no substance in the objection. He urged the court to dismiss the objection.

On the merit of the appeal, learned silk submitted that 1st and 2nd respondents’ brief was filed on 15 July 2014 but deemed on 11 November 2015. The judgment was against NRB Drilling Services Ltd but appellant came to enforce judgment against 1st and 2nd respondents who were not parties in the suit. A party who is not a party to the garnishee order cannot have his property seized. He asked that how can $110,000 (One hundred and ten thousand dollars) become $1,200,000 (One million two hundred thousand dollars) instead of $200,000.00 (Two hundred thousand dollars)? He urged the Court to dismiss the appeal as lacking in merit. The 3rd respondent did not file any brief.

Learned counsel for the 4th respondent adopts the arguments of the learned silk for the 1st and 2nd respondents on the issue of jurisdiction. On the merit of the appeal, he submitted that 4th respondent’s brief of argument was filed on 21 September 2015 and consequentially deemed on 11 November 2015. Two issues were distilled for determination. He urged the court to dismiss the appeal as lacking in merit and affirm the ruling of the lower court.

Where there is an objection to jurisdiction or consideration of a process, the objection must be determined first before going into the merit of the matter. The crucial nature of the issue of jurisdiction in the adjudication process explained the resort to this procedure. It will be a waste of time of the court and the parties should the court lack the jurisdiction. In other words, it forecloses hearing of the matter in order to save time. See the cases of Efet v. I.N.E.C. (2011) All FWLR (Pt. 565) 203, (2011) 7 NWLR (Pt. 1247) 423; Sanni v. Okene Local Government Traditional Council (2008) All FWLR (Pt. 429) 464, (2008) 12 NWLR (Pt. 1102) 691, (2008) 56 SC (Pt. 11) 131; Attorney-General, Lagos State v. Attorney-General, Federation (2014) All FWLR (Pt. 740) 1296, (2014) 3 NWLR (Pt. 1412) 217 and A.P.C v. I.N.E.C (2015) 8 NWLR (Pt. 1462) 531 at page 555, paragraphs D - F and pages 578 - 579, paragraphs H - G.

It is settled law that an objection to the jurisdiction of the court can be taken at any time by the court. See N.B.N. Ltd v. Shoyoye (1977) All NLR 168, (1977) 5 SC 110, (1977) LPER - 1948 (SC). The importance of jurisdiction is the reason why it can be raised at any stage of a case, be it at the trial, on appeal to the Court of Appeal or to the Supreme Court. The court can suo motu raise it. See the cases Petrojessica Enterprises Ltd & Anor. v. Leventis Technical Company Ltd (1992) 5 NWLR (Pt. 244) 675, (1992) LPELR - 2915 (SC); Katto v. Central Bank of Nigeria (1991) 9 NWLR (Pt. 214) 126 and Owoniboys Tech. Services Ltd v. John Holt Ltd (1991) 6 NWLR (Pt. 199) 550.

Decisions abound that where application was signed in the name of the legal firm, the application is incompetent, null and void. See Okafor & Oth. v. Nweke & Oth. (2007) All FWLR (Pt. 368) 1016, (2007) 10 NWLR (Pt. 1043) 521, (2007) 5 SC 185, (2007) 3 SC (Pt. 11) 55. Also where the author of a legal process is unknown, then the process has not been properly signed. The defect robs the court jurisdiction to entertain the matter. See the case of M.T.N (Nig) Comm. Ltd v. C.C Investment Ltd (supra) at page 46, paragraphs G - H, which is to the effect that only legal practitioners called to the Nigerian Bar can author or authenticate a legal process.

In the instant case, paragraph 4 of the affidavit in support of the application at page 41 of the record had this:

“4 That Nelson O. Dinwoke Esq. a counsel in the law firm of the alleged judgment-debtors/applicants solicitors informed me on 26 April 2013 by 2.15 p.m. at our office at No. 16A, Khana Street, D. Line Port Harcourt and I verily believe him as follows:...”

Paragraph 4 of the affidavit says Nelson O. Dinwoke is a counsel in the law firm of the judgment debtors/applicants solicitors. Where a Counsel writes his name, he will state the name of his law firm. From the processes before the court, UdoUdoma and Bello Osagie are the names of the company’s solicitors. The author of the application giving rise to the appeal does not require additional evidence to be identified. The process has been properly signed or authenticated. The cases cited by the learned counsel for the appellant are not applicable to the case at hand. The objection lacks merit and it is hereby dismissed.

Now to the merit of the appeal, after a careful examination of the issues formulated by the learned appellant’s counsel and learned counsel for the 4th respondent. I am of the view that issue one formulated by the 4th respondent will resolve the issues in controversy between the parties. The appeal will be determined on this sole issue.

Issue One

Whether the lower court was right when, upon the application of the 1st and 2nd respondents, it set aside the garnishee order nisi made on 15 April 2013 and discharged the garnishees.

Learned counsel for the appellant submitted that the judgment debtors/respondents are total strangers to the proceeding. The mere inclusion of the 1st and 2nd respondents names does not confer on them a right of parties to be heard in the garnishee proceeding. They are merely nominal parties. He referred to the cases of N.I.T.E.L. Plc v. I.C.I.C. (Directory Publishers Ltd) (2009) 16 NWLR (Pt. 1167) 356, at page 387, paragraph H, pages 389 - 390, paragraphs H - A. He submitted that the judgment debtor is therefore not a necessary party to the garnishee proceeding and ought not to be heard. Learned counsel for the appellant contended that for a cause to lead to a triable issue, the garnishee must have all appeared and disputed liability in accordance with section 87 of the Sheriffs and Civil Process Act. Submitted that 1st and 2nd respondents attempt to create a triable issue through a motion when they were not the ones directed by the order nisi/garnishee summons to show cause is unknown to law and garnishee proceeding. He argued further that the lower court has a constitutional responsibility to ensure that the obligation created by section 287 (3) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) was not rendered nugatory. Reliance was placed on the case of Onjewu v. Kogi State Ministry of Commerce and Industry (2003) 10 NWLR (Pt. 827) 40 at page 81, paragraph G. He urged the court to resolve the issue in favour of the appellant.

Learned silk for the 1st and 2nd respondents submitted that there is nothing on the record by the appellant that could support the alleged admission by the appellant that 1st and 2nd respondents are judgment debtors. They were not parties to the proceedings that gave rise to the alleged judgment debt. No court of law anywhere has found either of them liable. Submitted that the idea that the 1st and 2nd respondents could be treated as judgment debtors without being heard is simply preposterous.

Appellant’s objection to the 1st and 2nd respondents standing is a most flagrant violation of their right to a fair hearing guaranteed by section 36 of the 1999 Constitution of the Federal Republic of Nigeria as amended. Learned senior counsel argued further that section 83(2) of the Sheriffs and Civil Process Act provides for the service of the order nisi on the judgment debtor, that the judgment debtor must be heard, learned senior counsel for the 1st and 2nd respondents placed reliance on the cases of Nigeria Agip Oil Co. v. Ogini (2011) 2 NWLR (Pt.1230) 131 at page 152, paragraph G, page 153, paragraph A; C.B.N v. Auto Import Export (2012) 6 CLRM 95 at page 119; Fidelity Bank Plc v. Okwuowulu (2013) 6 NWLR (Pt.1349) 197 at page 213, paragraph H, page 214, paragraph C and Awoyomi v. Chief of Army Staff (2013) 4 BFLR 31, (2013) 6 CLRN 93 at pages 105-106.

Learned senior counsel for the 1st and 2nd respondents urged the court to resolve the issue in favour of the 1st and 2nd respondents and dismiss the appeal.

Learned counsel for the 4th respondent submits that this court should disregard the learned appellant’s counsel submission and hold that a judgment debtor (in the present case, 1st and 2nd respondents) is undoubtedly a party to and possesses the standing to be heard in a garnishee proceeding. He argued that this is particularly so because the judgment debtor has a statutory protected right to fair hearing by virtue of section 83 (2) of the Sheriffs and Civil Process Act Cap S6 Vol. 13, Laws of the Federation of Nigeria, 2004. Reliance was placed on the case of Wema Bank Plc v. Brastem-Sterr (Nig.) Limited (2011) 6 NWLR (Pt. 1242) 58 at page 79 paragraph F, (2012) All FWLR (Pt. 624) 107.

Learned counsel for the 4th respondent argued further that the decision of the lower court cannot be faulted because the appellant from the facts presented misled the court to believe that the 1st and 2nd respondents are successors in title to NRB Drilling Services Ltd, the judgment debtor in suit No. PHC/61/2001 and thereby obtained the garnishee order nisi. Reliance was placed on the case of E.S & C.S. Ltd v. N.M.B. Ltd (2005) 7 NWLR (Pt. 924) 215 at page 260, paragraphs C - D.

Appellant failed to establish any transmission of interest from NRB Drilling Services Ltd to the 1st and 2nd respondents.

Learned counsel for the 4th respondent urged the court to resolve issue one against the appellant and in favour of the 1st and 2nd respondents.

The crux of the 1st and 2nd respondents’ motion before the lower court was that there is no relationship between them and NRB Drilling Services Ltd against which the judgment was obtained to warrant the enforcement of the judgment against the 1st and 2nd respondents. The onus is on the appellant to prove that 1st and 2nd respondents are the judgment debtors to be proceeded against by garnishee proceedings, there being no evidence of merger, acquisition of NRB Drilling Service Ltd, the judgment debtor and no transmission of NRB Drilling Services Ltd interest to the 1st and 2nd respondents. Put in another way, appellant has to establish that 1st and 2nd respondents are successors in title to NRB Drilling Services Ltd, the judgment debtor in suit No. PHC/61/2001 which is at pages 76 - 78 of the record. Learned counsel for the appellant in proof that 1st and 2nd respondents are successors in title to NRB Drilling Services Ltd relied on:

(1) The search report (Exhibit B) conducted by Worenwu and Associates at the Corporate Affairs Commission, Abuja.

(2) The order of joinder (Exhibit C) by Orji J in suit No. PHC/2541/2000 in Trans Ocean Support Services Ltd v. N.R.B Drilling Services.

(3) The judgment of Teetito J. in PHC/1897/2004 delivered on 11 July 2009 and

(4) Exhibits EN1 - EN5 being bundle of documents numbering 25 downloaded from a web site.

The learned trial judge at page 211 of the last two paragraphs of the supplementary record of appeal transmitted to this court on 12 February 2014 held as follows:

“‘Even the order of joinder (Exhibit C) in another suit and the judgment Teetito J relied upon which was not annexed are unhelpful in the light of applicant’s exhibits 6(e), 6(f) and 6(g) in the supporting affidavit which clearly show that NRB Drilling was never a party.

And it will not be safe to rely on the order of joinder of NRB Drilling by Orji J. in an unrelated suit when the suit is yet to be finally determined on the merit”.

The finding of the learned trial judge is quite apt and supported by law. I am not unaware of the provisions of section 83 sub-sections 1 and 2 of the Sheriffs and Civil Process Act, Cap. 407, Laws of the Federation, 1990, that the judgment debtor is a passive respondent. See also Wema Bank Plc v. BrastemSterr (Nig.) Limited (2011) 6 NWLR (Pt. 1242) 58 at page 79 paragraphs D - F. Each case must be decided on its own facts. The complaint of the respondents is that they are not a party/parties to the judgment sought to be enforced. This is an issue touching on their rights. Put in another way, there cannot be taxation without representation. It is when there is a proper garnishee in law to be made the subject of a garnishee proceeding that the 1st and 2nd respondents become nominal parties or passive respondents. This is a fundamental issue that needs to be addressed. I agree with the learned trial judge that appellant’s or garnishor’s right to enforce the judgment of the court is not foreclosed in the event of credible evidence by establishing the nexus between 1st and 2nd respondents and NRB Drilling Services Limited. The cases relied on by the appellant’s counsel are distinguishable from the case at hand in the sense that the 1st and 2nd respondents were not parties in the judgment sought to be enforced by the appellant.

The cases are therefore not applicable in the instant case.

Appellant has failed to prove by credible evidence that the 1st and 2nd respondents are successors-in-title to NRB Drilling Services Ltd being the party which the appellant obtained the judgment ought to be enforced by the garnishee process. Since their rights and obligations will be affected, appellant must establish transmission of interest from NRB Drilling Services to the 1st and 2nd respondents. See the cases of Obasanjo v. Yusuf (2004) All FWLR (Pt. 213) 1884, (2004) 9 NWLR (Pt. 877) 144, (2005) 20 WRN 1 and B.A.T. Company Limited v. International Tobacco Company Limited (2013) 2 NWLR (Pt. 1339) 493 at pages 514 - 515 paragraphs H - D.

Since appellant has not established the link or relationship between the 1st and 2nd respondents and N.R.B Drilling Services Ltd who was the judgment debtor. The learned trial judge rightly set aside the garnishee order nisi made on 15 April 2013.

Appellant’s right to enforce the judgment of the lower court is not foreclosed in the event of credible evidence establishing the nexus between the 1st and 2nd respondents and N.R.B Drilling Services Limited. The sole issue is hereby resolved against the appellant.

Finally, the appeal is devoid of merit and it is accordingly dismissed. The ruling of the Rivers State High Court of Justice in suit No. PHC/573/2013 delivered on the 21 August 2013 is hereby affirmed. Parties are to bear their respective costs.

**EKO JCA:**

The law, as I understand it, does not permit in the administration of justice for the judgment creditor to enforce the judgment, in his favour against a party who was neither a party thereto nor has any relationship with the judgment debtor. In the latter situation garnishee proceedings can be initiated to enforce judgment against the garnishee, a third party in whose custody the money or property of the judgment debtor is found. In another instance, judgment could be enforced against the third party who is a successor-in-interest of the judgment debtor. Unless in these circumstances, it will not be right in law for judgment creditor to enforce the judgment in his favour against a third party who is a stranger to the proceedings in which the judgment is being enforced. The party enforcing the judgment against a party who was not a party on record to the judgment being enforced has a bounden duty to show the relationship between the third party and the judgment debtor that would warrant the judgment being enforced against the said third party, who is not party on the record.

Upon reading my learned brother, Modupe Fasanmi JCA’s judgment, and the process in this appeal, I agree with my learned brother that there is no merit in this appeal. The appeal is also dismissed by me. I hereby adopt the judgment and all the consequential orders made by my learned brother.

**ORJI-ABADUA JCA:**

I agree.

Appeal dismissed