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When Obedience Becomes A Liability:

A Review Of Paulyn Abhulimen V Zenith Bank & Anor. And Related Decisions

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Introduction

One of the longest-standing principles of the Nigerian legal system is the sanctity of court orders. It is a well-established rule that every person against whom an order of court is made owes a legal and civic duty to comply with the order, and until the order is set aside, it remains binding.[1]

However, an issue may arise where a person complies with a court order that eventually turns out to be fictitious, irregular, or null and void *ab initio*. The prevailing position, as affirmed by appellate courts, has been that in such circumstances, compliance with the order ought not to be penalised.[2] Put differently, a party who has acted or refrained from doing an act based on an order of court should suffer no punishment if that order is subsequently set aside or declared invalid. However, in the recent decision of the High Court of the Federal Capital Territory (the "**Court**") in *Suit No. FCT/HC/CV/2194/2024: Paulyn O. Abhulimen SAN v. Zenith Bank Plc & Anor* (the "***Abhulimen***" case), this wasn't the case. In the suit, the Court held that Zenith Bank Plc acted wrongly and was liable in damages for complying with an order of a Magistrate Court directing it to restrict its customer's account – a departure from the established position of the law.

Overview of the Abhulimen Case

In a judgment delivered on 16 July 2025, the High Court of the FCT ordered Zenith Bank Plc (the "1st Defendant") and the Nigeria Police Force (the "2nd Defendant") to pay the sum of ₦60,000,000.00 (Sixty Million Naira) to the Claimant, Mrs. Paulyn Abhulimen, SAN, as general damages because the Bank relied on an invalid ex parte order of a Chief Magistrate Court of Nasarawa State to freeze the Claimant's account.

The Claimant, a legal practitioner operating under the name "Abhulimen & Co.", opened an account for the firm at the Transcorp Hilton Branch of the 1st Defendant Bank in Abuja. Sometime between December 2023 and January 2024, the Claimant, however, encountered difficulty transacting with her firm's bank account. Upon making enquiries with the 1st Defendant, she was informed that the account had no issue. However, upon a subsequent visit to the 1st Defendant, she was notified that a post-no-debit ("PND") restriction had been placed on the account pursuant to an order of the Magistrate Court of Nasarawa State issued at the instance of the Nigeria Police Force.

The Claimant wrote to the 1st Defendant requesting that the PND on the account be lifted, having regard to the fact that the order was granted by an inferior court lacking the requisite jurisdiction to make such an order. She further stated that "Paulyn Abhulimen & Co.", the party named in the order, was a non-juristic person, and not the holder of the account.

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[1] Rossek v. A.C.B. Ltd. (1993) 8 NWLR (Pt. 312) 382; Zakirai v. Muhammad & Ors (2017) LPELR-42349 (SC).

[2] I.B.W.A. v. Kennedy Trans. (Nig.) Ltd (1993) 7 NWLR (Pt. 304) 238; GTB v. Chijioke & Anor (2024) LPELR-81087(CA).

Following the 1st Defendant's failure to lift the restriction, the Claimant instituted an action at the High Court of the FCT seeking the following reliefs, among others -

i) a declaration that the Chief Magistrate Court of Nasarawa State lacked the jurisdiction to make an order freezing her account in Zenith Bank Plc,

ii) a declaration that the restriction of the account without a valid order of a court of competent jurisdiction constituted a breach of the banker-customer relationship between the Claimant and the Bank, and

iii) an order of the Court directing the Bank to remove the PND restriction placed on the account.

In its judgment, the Court held that Magistrate Courts do not have the jurisdiction to order a restriction of the Claimant's account. The Court took the view that pursuant to Section 251 of the 1999 Constitution of the Federal Republic of Nigeria, as amended (the "**Constitution**"), matters relating to banker-customer transactions fall within the concurrent jurisdiction of the State High Court and Federal High Court – not Magistrate Courts. On this basis, the Court held not only that the Magistrate ought to have declined jurisdiction to hear the 2nd Defendant's application for a PND order, but also that the 1st Defendant should have been aware of the position of the law, and should not have complied with the order of the Magistrate Court, being "an order of a court lacking the requisite jurisdiction".

In sum, the Court granted the reliefs sought by the Claimant. The Court also awarded the sums of ₦60,000,000.00 (Sixty Million Naira) and ₦25,000,000.00 (Twenty-five Million Naira) as general damages and costs of the action, respectively, and ordered both defendants to publish an unreserved apology to the Claimant in two national newspapers and on their websites.

While this decision is that of a court of first instance and liable to be tested on appeal, it brings to the fore a potential legal consequence that may arise from complying with an order of court that is subsequently found to be invalid. In the following sections, we examine the implications of the decision, particularly considering the time-honoured principle that a party should not be held liable for obeying a subsisting court order. As a prelude to this analysis, it is necessary to examine the legal issue underpinning the judgment of the Court – whether a Magistrate Court can validly issue a PND order.

The Power of a Magistrate Court to Make a PND Order

The power of any court to entertain a matter or compel the performance of an act is the very essence of its jurisdiction.[3] For every court, jurisdiction is conferred – and importantly, limited – by statute.[4] As affirmed in ***Mil. Adm. Benue State v. Abayilo***,[5] the jurisdiction of a court can only be curtailed by the express words or clear implication of a statute or the Constitution.

[3] 'jurisdiction', *Black's Law Dictionary* (9th edn, Thomson Reuters 2009).

[4] Kwara State INEC & Ors v. PDP (2004) LPELR-11320(CA); N.I.M.R. v. Akin-Olugbade (2025) 10 NWLR (Pt. 1995) 183.

[5] (2001) 5 NWLR (Pt. 705) 19.

While the Constitution itself does not define the jurisdiction of Magistrate Courts, it empowers the House of Assembly of each State to establish courts with jurisdiction on matters with respect to which the House of Assembly may make laws, provided the prescribed jurisdiction is subordinate to that of a High Court.[6] Consequently, the jurisdictional competence of a Magistrate Court must be strictly analysed with reference to the relevant law of the subject State which establishes the Court. In Lagos and Kano States for example, a Magistrate is imbued with civil jurisdiction in all personal actions arising from contract or tort, where the sum claimed does not exceed ₦10,000,000.00 (Ten Million Naira).[7] In the same token, the criminal jurisdiction of a Magistrate extends to the summary trial and determination of criminal cases where the prescribed term of imprisonment does not exceed fourteen (14) years.[8] The question which then arises is whether the jurisdiction of a Magistrate Court is circumscribed to exclude the judicial power to make a PND order.

The Claimant in ***Abhulimen*** relied on the decision in ***NDIC v. Okem Enterprise Ltd & Anor.***[9] to argue that a Magistrate Court lacks the jurisdiction to make a PND order. However, the decision of the Supreme Court in the cited case does not support this proposition. In that case, the apex court simply affirmed that by Section 251(1)(d) of the Constitution, any dispute arising from transactions between a bank and its individual customer is triable in the Federal High Court and the High Court of a State, clarifying that such matters are not within the exclusive jurisdiction of the Federal High Court. The question, whether a Magistrate Court has jurisdiction over banker-customer disputes, was neither raised nor determined in that case. More importantly, the Supreme Court did not make any pronouncement to the effect that *only* the High Court of a State and the Federal High Court have jurisdiction over banker-customer disputes.

In the few known cases where superior courts have held that a Magistrate Court lacked jurisdiction to make a PND order, the courts' decisions were based on a narrow premise, namely the Magistrates' reliance on an invalid law. One notable example is ***Clement Osemene & 5 Ors v. Guaranty Trust Bank Plc & 6 Ors.***,[10] where the High Court of Lagos State was called upon to determine if a Magistrate Court was empowered to grant an order freezing a person's bank account pursuant to a purported Banker's Order Act 1847. The Court unequivocally held that the Banker's Order Act was a non-existent law and consequently, the order of the Magistrate Court made based on that law was null and void.[11] In another case, the Court of Appeal has expressed its agreement with the principle that a Magistrate lacks the power to issue a Banker's Order by virtue of either Section 89 of the Evidence Act or the repealed Banker's Order Act 1847.[12]

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[6] Sections 6(4) and (5)(k) of the Constitution.

[7] Section 28(1)(a) of the Lagos State Magistrate Court Law 2009 and Section 14(a) of the Kano State Magistrate Courts Law 2018.

[8] Sections 19(1), (2), (4) and (5) of the Lagos State Magistrate Court Law 2009 and Section 17(2) of the Kano State Magistrate Courts Law 2018.

[9] (2004) LPELR-1999(SC).

[10] Unreported judgment of the High Court of Lagos State (coram K. O. Alogba J.) dated 24 May 2019 in Suit No. LD/1961GCM/2017.

[11] According to the Court, the proper law is the Bankers' Books Evidence Act 1879, and it only permits the making of an order for inspection and taking copies of entries in a banker's book – not the restriction of accounts.

[12] GTB v. Chijioke & Anor (2024) LPELR-81087(CA).

None of these cases provide judicial credence for the conclusion that Magistrate Courts are entirely bereft of jurisdiction to issue PND orders.[13] Indeed, in Lagos and Kano States, where funds in a bank account form the subject of a civil suit (e.g., in an action for conversion or for money had and received), a Magistrate Court is expressly empowered to grant an injunction or order "for the detention and preservation" of such funds.[14] Undoubtedly, such an order must fall within the monetary limit of the Court's jurisdiction, in accordance with the relevant Magistrate Courts Law.

It is worth noting that the power of a Magistrate to issue a PND order does not extend to cases where the governing statute vests this power in a higher court. For example, under the Economic and Financial Crimes Commission (Establishment) Act 2004 (the "**EFCC Act**"), the Commission is obligated to apply to a State High Court, the FCT High Court, or the Federal High Court for an order freezing an account which is suspected to contain proceeds of an offence under the EFCC Act.[15] Per the Banks and Other Financial Institutions Act 2020 ("**BOFIA**") and the Money Laundering (Prevention and Prohibition) Act 2022 ("**MLA**"), only the Federal High Court is empowered to issue such orders, at the instance of the CBN and the Special Control Unit Against Money Laundering, respectively.[16] Furthermore, where the restriction of an account is within the context of a suit for the enforcement of a person's fundamental rights, only a High Court of a State (or the FCT) and the Federal High Court may entertain the application for a PND order.[17]

Hence, except where expressly excluded by statute, a Magistrate Court is imbued with jurisdiction to hear and determine applications for a PND order, provided such applications fall within the defined statutory and monetary jurisdiction of the Court.

Liability of a Bank for Complying with a PND Order Issued by a Magistrate Court

Assuming, for analysis, that a Magistrate Court lacks the jurisdiction to issue a PND order, where the Court issues such an order, the subject bank is expected to comply. This prevailing principle draws from the statutory rule that judicial acts are presumed to be valid as long as they are undertaken in a substantially regular manner.[18] The Supreme Court in ***Akinyemi v. Soyanwo & Anor***[19] put it more aptly, in these words:

> *It is a settled principle of law that every party to a suit, and indeed every citizen, has an obligation to obey the subsisting Court decision or order in the suit unless and until it is set aside. And the party's obligation to obey the decision is without regard to his perception about the irregularity or illegality of the decision as long as it subsists.* (per F. F. Tabai JSC at p. 15)

[13] In reaching the conclusion that Magistrate Courts lack jurisdiction to make a PND order, the FCT High Court, in the *Abhulimen* case, relied on two cases: United Bank for Africa Plc v. Mrs. Gloria Eyisi (2014) LPELR-22681(CA) and First Bank of Nigeria Plc v. Onuoha (2017) LPELR-42135(CA). However, we have unable to find these cases on the electronic database.

[14] Section 28(1)(d) of the Lagos State Magistrate Court Law 2009; Section 14(g) of the Kano State Magistrate Courts Law 2018.

[15] Sections 34 and 46 of the EFCC Act.

[16] Section 97 of the BOFIA; Section 7(8) of the MLA.

[17] Section 46(1) and (2) of the Constitution.

[18] Section 168(1) Evidence Act 2011 (as amended) Cap E14 LFN 2004.

[19] (2006) LPELR-363(SC).

Accordingly, where a bank receives a certified copy of a court order mandating it to place a PND on a customer's account, the bank is obligated to respect and comply with the order, except where it is patently irregular. For example, in ***Access Bank Plc v. Agbasiere***,[20] the Court of Appeal held that the appellant acted wrongly in restricting the respondent's bank account based on a purported order issued by a "Supreme Magistrate Court of Federal Capital Territory Dutse", a court which does not exist, and against "Access Bank", a non-juristic entity.

Save in instances where a PND order is defective on the face of it, as in ***Agbasiere***, a bank ought to comply with the order. Concomitantly, it would run contrary to established rules of law for a (different) court to subsequently penalise the bank for complying with the order – even if the order is eventually set aside based on its invalidity. This principle has been judicially upheld since the decision of the Court of Appeal in ***I.B.W.A. v. Kennedy Trans. (Nig.) Ltd***.[21] where the appellant had frozen the respondent's bank account in compliance with the order of a Magistrate Court. The Court of Appeal took the firm view that though the order of the Magistrate was void for exceeding the powers granted under the Bankers' Book Act 1879 (sic),[22] the appellant was nonetheless on firm legal footing when it restricted the respondent's account in obedience to the order. The Court reaffirmed that, despite being void, the order subsisted and would subsist until it is set aside or discharged.

We find judicial soundness in the position taken by the Court of Appeal in ***Kennedy Trans***. Unlike an appellate or supervisory court, a bank does not possess the competence to adjudicate upon the correctness of a PND order, even where the bank has a strong and informed belief that the order is invalid. In ***Abhulimen***, the FCT High Court appeared to have taken a divergent view, setting its decision on a collision course with the reasoning earlier expressed by the Court of Appeal in ***Kennedy Trans***. In the words of the FCT High Court:

> *[I]t is clear that Magistrate Courts lack the jurisdiction to entertain an application for an order to freeze a bank account of a person, and should not have entertained the said application in its entirety. The legal department of the 1st defendant being lawyers, should have been aware of this position of the law and taken the appropriate action in this situation, as they ought not to have obeyed the court order in the first place. Thus, the 1st defendant was wrong to have placed a PND on the account of the claimant based on the order of a court lacking the requisite jurisdiction to do so. I so hold.*

With respect, this conclusion is gravely flawed. The suggestion that a bank "ought to know better" than a court undermines the well-established legal principle that a court order is binding on all parties to it and coercive until set aside. In addition, it lends credence to parties choosing whether to comply with a court order, based on their subjective assessment of the law – a practice that could erode legal certainty and commercial consistency or even, altogether, undermine judicial authority.

[20] (2022) LPELR-58489(CA).

[21] (1993) 7 NWLR (Pt. 304) 238.

[22] The correct title is Bankers' Book Evidence Act 1879.

Our view is further strengthened by the position of the Court of Appeal in its recent decision in the case of ***GTB v. Chijioke & Anor.***[23] The Court, in the referenced case, considered whether the appellant breached the fundamental rights of the 1st respondent when it restricted the 1st respondent's account further to a PND order granted by the Magistrate Court of Oyo State, which was subsequently set aside. The Court held, and correctly, in our view, that the appellant did no wrong in restricting the account in the first instance because "at the time of service of the order and its compliance, it was not for the appellant to determine whether the Magistrate Court had jurisdiction to make the order."[24] The High Court of Lagos State reached a similar decision in ***Clement Osemene***. Expressly recognising that the Banker's Order Act pursuant to which the PND order was made was a non-existent law and that the trend of invalid Banker's Orders presents a legal "dilemma" for banks, the learned trial Judge, nevertheless, held that a bank in receipt of such an order is duty-bound to obey it. In both cases, the courts did not make any adverse orders against the bank, having found that the bank was obligated to comply with the PND orders, their invalidity notwithstanding. Interestingly, in the ***Abhulimen*** case, the FCT High Court took notice of the judgment of the Court of Appeal in ***Chijioke***,[25] but did not follow it.

The favourable disposition of the law towards parties who comply with a subsisting court order – even if the order is subsequently set aside – is further reinforced by the Sheriffs and Civil Process Act (the "**SCPA**").[26] Under analogous circumstances, a bank that (as a garnishee) pays money from a judgment debtor's account to a judgment creditor in compliance with a garnishee order absolute is discharged from further liability. The bank cannot be compelled to pay it over again to the judgment debtor.[27] By the express provisions of the SCPA, such payment is a valid discharge, even if the garnishee proceedings are set aside or the judgment being enforced is reversed.[28]

This statutory protection is based on the same underlying principle of law: a party who complies with a subsisting court order should not be exposed to liability if the order is declared invalid. In our view, this principle should apply, in the same tenor, to PND orders. For judicial efficiency and commercial prudence, banks must be afforded the comfort of certainty that they will not be penalised for complying with an order issued by a court of law which, on the face of it, has no defect.

[23] (2024) LPELR-81087(CA).

[24] Per Abang JCA at p. 25.

[25] p. 49, judgment of the FCT High Court in the *Abhulimen* case.

[26] Sheriffs and Civil Process Act 1945 Cap S6 LFN 2004.

[27] Sokoto State Govt. v. Kamdax (Nig.) Ltd. (2004) 9 NWLR (Pt. 878) 345.

[28] Section 91 of the SCPA.

Conclusion

The decision of the High Court of the FCT in ***Abhulimen*** presents an interesting departure from the trite principle that an order of court is binding until it is set aside. While it is undoubtedly essential that courts act within the confines of their jurisdiction, it is also crucial to recognise that banks are not empowered to undertake the judicial function of determining which court has jurisdiction to make what orders. As a result, the imposition of liability on a bank for complying with a court order, on the sole basis that the order was made without requisite jurisdiction, presents an enormous challenge for banks.

In addition to being commercially disruptive, this decision places banks at a legal impasse, exposing them to potential liability for disobedience without assurance that compliance is risk-free. It is, therefore, imperative that the sanctity of court orders is left undisturbed and that the authority to nullify, disregard, or review such orders lies *exclusively* with courts of law.

Against this backdrop, it is hoped that the decision of the High Court of the FCT in the ***Abhulimen*** case will be subject to appellate review. There is a clear need to re-examine the reasoning applied in the case and to reaffirm the binding nature of court orders, thereby preserving legal certainty, upholding judicial authority, and ensuring consistency in the application of the law.

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