

and personal, of Hon. Justice Kita Odiete Georgeman (deceased)" and an order to enable them operate, manage and withdraw monies from the account of late Hon. Justice Kita Odiete Georgeman with First Bank of Nigeria PLC in which the loan sum was deposited by Hon. Justice Kita Odiete Georgeman before she died on 1-8-2008. The Uvwie Area Customary Court granted the application. The appellants thereupon became the administrators of the estate of the late Hon. Justice Kita Odiete Georgeman.

As administrators of

the said estate, the appellants withdrew monies standing to the credit of Hon.

Justice Kita Odiete Georgeman in the First Bank of Nigeria PLC and used all the monies without repaying the said loan that had become a debt payable by the estate.

The respondent herein on 18-1-2010 commenced Suit No UHC/5/2010 in Delta State High Court at Ughelli against the appellants herein as administrators of the Estate of late Hon. Justice Kita Odiete Georgeman to recover the loan sum and interests.

The exact text of the reliefs claimed for read thusly-

14. "As at the death of the said late Justice K. O. Odiete- Georgeman, she was having the sum of N15,372,668.97 (Fifteen Million, Three Hundred and Seventy Two Thousand Six Hundred and Sixty Eight Naira, Ninety Seven Kobo) in her First Bank Account which sum was over and above her

indebtedness to the Claimant.

15. The Claimant shall at the trial contend that by virtue of the Customary Letters of Administration granted in favour of the Defendants, they are under obligation to pay the debt of their late mother, late Justice K. O. Odiete- Georgeman to the Claimant.

a. The sum of N6,000,000.00 (Six

Million Naira) being the loan granted by the Claimant to late Hon. Justice K. O. Odiete Georgeman (the deceased mother of the Defendants) sometimes in July, 2008.

b. The sum of N4,934,616.90 (Four Million, Nine Hundred and Thirty Four Thousand, Six Hundred and Sixteen Naira Ninety Kobo) which sum represents the accrued interest

as at December, 2009 on the sum granted by the Claimant to the Hon. Justice K. O. Odiete Georgeman.

c. 29% (percent) per annum of the principal sum and the accrued interest still judgment is given and/or when same is fully liquidated."

After the conclusion of evidence and written addresses by all parties to the suit, the trial Court on 30-3-2012 rendered its judgment holding that the respondent did not prove its case and dismissed the suit.

The concluding part of the judgment reads thusly-

"The letter i.e Exhibit D was received and acknowledged on 30/7/08. Though it is curious that Exhibit E was raise before Exhibit D was accepted, it does not take away the fact that the deceased loaned the sum of N6,000,000 from the claimant. That

**the deceased did not tell the defendants
does not take away the fact that**

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**the evidence that the deceased borrowed
the sum of N6,000,000 from the claimant. I
believe the evidence that the deceased
borrowed the sum of N6,000,000 from the
claimant.**

**Having settle the fact that the loan was
advanced to the deceased, the big question
is whether the claimant is entitled to its
claim. To answer this my opinions, findings
and comments on issues 3, 4, 5, 6, and 7
above are necessary, particularly issue 3
and 6. It is my firm opinion that the
defendants will only be responsible as
administrators of the estate to pay off the**

loan if the claimants they had notice of as Administration of the estate before they expanded the proceeds from the estate of the deceased. The Defendants' case which I believe is that the claimant did not notify them of the loan the deceased took from them before they finished expanding the proceeds from the estate of the Late Hon. Kita Odiete Georgeman. The evidence before me which I believe and act on is that Exhibits F and L were not delivered to the defendants and before they knew of the loan by this action instituted on 18/1/10, they had gotten the letter of administration on 25/9/08. This is almost one and a half



years before the suit was instituted. Before

this, the defendants had expended the proceeds of the Estate. This is their claim and there is no contradiction of this from the claimant.

In the light of all this, can the claimants case succeed against the defendant? Before I answer this question, there is a curious issue which I can mention by way of obiter. On 11/7/08, the defendant filed an ex parte application for a letter of administration against 6 banks including the claimant. This is Exhibit G. This was withdrawn and Exhibit H was filed on 25/9/08. On same day, the application was moved and granted. This is curious and I imagine does not comply with the law as it relates to procuring a letter of administration from the Court which requires that to get response from the defendant, the Court should give an adjournment after moving before granting.

The speed with which it was done leaves much to be desired and leaves a sour taste.

It is also curious that the defendant withdrew the earlier application with the claimant as defendants and replaced with another in which the claimant is not defendant. Why was this so? Could it be because the present

defendant decided to sidetrack the claimant because of knowledge of the loan. This is mere speculation as this was not an issue and as a Court I cannot speculate or make a case for any of the parties. See [ADIM Vs NEC LTD.](#) (Supra), [Longo Vs FBN Plc.](#) (Supra).

The claimant did not make an issue of it under cross-examination and so I will not. All that the claimant tried to show about the defendant's knowledge of the loan is