

Appellant narrowed its complaint against the ruling of the trial Court down to the finding that the Appellant did not allege non-service of the order nisi in its counter-affidavit. So the issue of abuse of Court process was not supported by any ground of appeal at the lower Court. It was the Appellant that smuggled in the issue of abuse in his submission in his brief while arguing its lone issue reproduced above. Thus, the issue was not properly raised and the lower Court cannot be blamed for not pronouncing on it. Therefore, this issue is resolved against the Appellant.

Having resolved the issues above against the Appellant, it is axiomatic that this appeal is bereft of merit and it is doomed to fail. I affirm the judgment of the lower Court appealed against and accordingly dismiss this appeal.

The cost of the appeal is

assessed and fixed at N5,000,000.00 (Five Million Naira) in favour of the Respondent.

Appeal dismissed.

JOHN INYANG OKORO, J.S.C. : I had a preview of the lead judgment of my learned brother, Abubakar Sadiq Umar, JSC., just delivered. I agree with the reasons expatiated to arrive at the conclusion that the appeal is devoid of merit. I hold no hesitation affirming the judgment of the Court below delivered on the 27th October, 2017, which upheld the findings of the trial Court, to also dismiss the appeal. I too make

no order as to costs.

Appeal dismissed.

HELEN MORONKEJI OGUNWUMIJU, J.S.C. : I

have read the record of appeal, the briefs of both counsel and the judgment of my learned brother, ABUBAKAR SADIQ UMAR, JSC. I agree with the conclusion that this is a totally unmeritorious appeal which ought to be dismissed.

The Appellant's counsel appears unwilling and unable to follow the position of the law in garnishee proceedings. After a garnishee order nisi is granted, usually ex parte on application of the judgment creditor, the order nisi is supposed to be served on the judgment debtor and the garnishee. They are required to show cause why



the order nisi should not be made absolute on the return date. All the processes filed by the judgment creditor/garnishor, which the Court considered in granting the ex parte order nisi, MUST be served on the garnishee and judgment debtor. The judgment debtor and the garnishee are mandated by law to file counter affidavit showing cause why the order nisi should not be made absolute. On the return date, they are obliged to bring to the attention of the Court these counter affidavit and exhibits attached thereto which detail reasons why the liquidated sum sought to be attached by the judgment creditor should not be so attached from the sum standing to the credit of the judgment debtor in the Bank (garnishee). No other procedure is allowed by law. No motions to

set aside the order nisi is allowed by law.

In this case, the Appellant as judgment debtor did not depose to any fact in its affidavit to support its contention that it was not served the order nisi and its accompanying Court documents, as required by law. That would have been legally acceptable and the only credible basis of its opposition to the garnishee proceedings. The judgment debtor is served in

garnishee proceedings so that it would have an opportunity to bring the latest position of the case or debt to the attention of the Court before an order absolute is granted.

A garnishee order absolute is always for a specific liquidated sum of money. For