Predicate Offence to Money Laundering – Conviction under a Law other than the Law of State Where Trial is Conducted

In the Supreme Court of Nigeria
Holden at Abuja
On Friday, the 12th Day of December 2025

Before Their Lordships

Uwani Musa Abba Aji
Emmanuel Akomaye Agim
Chidiebere Nwaoma Uwa
Moore Aseimo A. Adumein
Mohammed Baba Idris
Justices, Supreme Court

SC/CR/1027/2021

BETWEEN

CAPT. EZEKIEL BALA AGABA **APPELLANT**

AND

FEDERAL REPUBLIC OF NIGERIA **RESPONDENT**

(Lead judgment delivered by Honourable Emmanuel Akomaye Agim, JSC)

Facts

The Appellant was charged before the Federal High Court, Lagos, for money laundering *via* criminal breach of trust (a predicate offence with no force of law in Lagos State, but applicable under the Penal Code). At the end of the trial, the court convicted him and he was sentenced to seven (7) years imprisonment. His appeal to the Court of Appeal was dismissed, resulting into a concurrent decision of the courts below.

Displeased with the decision of the court below, the Appellant appealed to the Supreme Court.

Issues for Determination:

The Appellant formulated four issues in his brief of argument, while the Respondent raised two issues for determination. The Supreme Court determined the appeal on the four issues of the Appellant, thus:

i. **WHETHER** the affirmation by the court below of the Appellant's conviction for the offence of Money Laundering *via* Criminal Breach of Trust, a predicate offence under the Panel Code, with no force of law in Lagos State, constituted a violation of the Appellant's Constitutional right, as enshrined under Section 36(8) & (12) of the 1999 Constitution (as amended)?

ii. **WHETHER** the application by the court below of the *Ejusdem Generis* Rule to interpret and construct the provisions of Section 15(6) of the Money Laundering Act, in affirming the conviction of the Appellant, did not amount to a violation of Section 4 of the 1999 Constitution (as amended), on the powers of each State of the Federation to make laws on what constitutes an offence in their respective States.

iii. **WHETHER** the court below having held that it had the power to evaluate the documentary evidence adduced at the trial court, properly exercised its power to evaluate the documentary evidence adduced by the Appellant in defence of the allegation of money laundering made against him in the 7- Count Amended Charge?

iv. **WHETHER** the affirmation of the Appellant's conviction by the court below for the offences of conversion and money laundering, was not reached *per incuriam,* in view of the fact that the Appellant was never charged and/or convicted for the commission of the offence of money laundering *via* the predicate offence of conversion, affirmed by the court below?

Arguments

On issues one and two, the Appellant contended that the phrase "**or any other criminal act specified in this Act or any other law in Nigeria"** in Section 15(6) of the Money Laundering Act, 2011, refers to criminal acts specified in the law of the relevant State where the money laundering trial is taking place, and not the law of any other State. Counsel argued that the offence of criminal breach of trust, for which the Appellant was charged, is not an offence in Lagos State, where the trial at the Federal High Court took place, since criminal breach of trust is an offence established under the Penal Code, which is not applicable in Lagos. Counsel submitted that the Court of Appeal erred in convicting the Appellant for an offence unknown to Lagos State, thereby violating Sections 36(8) and 36(12) of the 1999 Constitution (as amended). In response, the Respondent argued that the Money Laundering Act vests the trial court with power to try money laundering even where the predicate offence was committed in any State and under any law in Nigeria, provided the money was derived from an act that constitutes an offence under any law in Nigeria. Having failed to show that criminal breach of trust is not an offence, or that the offence was not proved beyond reasonable doubt, counsel urged the court to discountenance the arguments of the Appellant on the issues.

The Supreme Court invalidated the arguments of counsel on issue three.

Arguing issue four, the Appellant submitted that the findings of the Court of Appeal that the Respondent proved the two offences of conversion and money laundering at the trial court was wrong, since the Appellant was never charged with, tried for, or convicted of the offence of money laundering *via* the predicate offence of conversion. Counsel urged the court to hold that a conviction for an offence with which the Appellant was not charged is a nullity. The Respondent did not counter the submissions of the Appellant on this issue.

Court's Judgement and Rationale

In resolving issues one and two, the Supreme Court construed the phrase "**any other law in Nigeria**" in Section 15(6) of the Money Laundering Act as not restricted to the law of the State where a defendant is tried. In effect, *a trial court is empowered to try a defendant for a predicate offence to money laundering where that predicate offence is established under any law in any State in Nigeria, regardless of the State in which the defendant is tried.* It is not in dispute that the unlawful act from which proceeded the laundered money is a criminal act specified in the Penal Code (Northern States) Federal Provisions Act or Penal Code Law (Cap 89 Laws of Northern Nigeria, 1963), which is a law in Nigeria. *There is nothing in Section 15(6) of the Money Laundering Act requiring that the criminal act must be specified in a law of the State where the trial is taking place, to qualify as an unlawful act under*

Sub-section (2). ***The Money Laundering Act is applicable throughout Nigeria. The offences created therein can be committed in any part of Nigeria and can be tried by the Federal High Court sitting in any part of Nigeria irrespective of the State in Nigeria where the offence or part of it was committed.*** *The legal effect of Section 15(6) including "any other criminal act specified in any law in Nigeria" as an unlawful act under Sub-section (2) therein is that it now incorporates that offence as created in that other law once the proceeds of that criminal act is the subject of money laundering.* The court held that ***once the proceeds of a criminal act specified in the law of a State is laundered, the criminal act as created in the State law becomes a predicate offence for the prosecution of the offence of money laundering under Section 15(1) and (2) of the Money Laundering Act***. And that this does not offend Section 36(8) and (12) of the 1999 Constitution in any way. The court, accordingly, resolved issues one and two in favour of the Respondent and against the Appellant.

On issue three, the Supreme Court held the issue incompetent, on the ground that it did not arise from any of the Appellant's grounds of appeal. The court held that *an issue not derived from any ground of appeal is not valid for consideration*, relying on ***MODUPE v STATE (1988) 9 SCNJ 1*** and ***DIN v AFRICAN NEWSPAPERS OF NIG. LTD (1990) 5 SCNJ 209***. Consequently, the court held that all arguments arising from issue three were equally invalid.

In addressing issue four, the Supreme Court observed that the concluding statement of the decision of the Court of Appeal that: *the Respondent proved beyond reasonable doubt the offences of conversion and money laundering laid against the Appellant,* was an incorrect statement made in error in the concluding part of the judgement. Their Lordships, however, found that the record shows that the Court of Appeal clearly reviewed the judgement of the trial court convicting the Appellant for laundering money, proceeds of criminal breach of trust. Therefore, the statement in the conclusion of the Court of Appeal is an incorrect statement made in error in the concluding part of the judgement. Their Lordships held that "***incorrect statements in a judgement cannot result in the judgement being overturned. An incorrect description or nomenclature of the relief claimed for or granted should be corrected and not relied on to upturn the judgement or the entire proceedings of the court - EZE & ORS. v OBIEFUNA & ORS. (1995) LPELR-1191 (SC)*** and ***UDEZE v CHIDEBE (1990) 1 NWLR (PT. 125) 141 (SC).***

On the whole, the Supreme Court resolved all issues against the Appellant and upheld the concurrent findings of the trial court and the Court of Appeal.

Appeal dismissed.

Representation
E.D. Onyeke, Esq. for the Appellant
A.B.C. Ozioko, Esq. for the Respondent

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