



The Legal Luminary

The In-house E-Newsletter of the Legal Department

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Editorial Board

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J. I. Okolonji



"In Africa young people see that success isn't achieved through qualifications, but through people in government milking the system"
Koo Bekker at the World Economic Forum in Cape Town.

NEWS

A human rights group says election related violence killed more than 800 people following the re-election of Goodluck Jonathan.

NBA Abuja meetings hold on the third Friday of every month by 4pm at Yaradua Centre, Abuja.

From the Editor!

You are most welcome to the 6th edition of our e-newsletter "The Legal Luminary". This edition promises to be just as informative and enlightening as past editions. In this edition we present a legal analysis on the "un appealable status of the judgments of the defunct Failed Banks Tribunal [FBT]. This is particularly interesting as quite a number of judgments given by the erstwhile FBT went on appeal to the Special Appeals Tribunal [SAT] and were pending when in 1999 the tribunals were scrapped. However, while jurisdiction for matters at the FBT were transferred to the Federal High Court, that of SAT were not transferred to any court and were left 'hanging'. Please let us know what you would like to see in the Legal Luminary.

Q DO LAWYERS IN THE CORPORATION HAVE THE RIGHT TO APPEAR IN COURT?

A Section 47(2) of the NDIC Act 2006 provides as follows '... a legal practitioner shall, while so appointed be entitled to represent the Corporation as legal practitioner for the purpose and in the course of his employment, without prejudice to the power of the Corporation to engage private legal practitioners in any proceeding.'

The above mentioned section allows for all legal practitioners working in the Corporation to prosecute and defend matters on behalf of the Corporation in any Court. They can institute, defend, continue and discontinue criminal as well as civil proceedings for the Corporation or brought against the Corporation.

Section 47 (1) also provides that '...any legal practitioner in the employment of the Corporation may with the consent of

the Managing Director, prosecute or defend criminal or other proceedings in the name of and on behalf of the Corporation in respect of matters relating to the business or operations of any insured institution in the course of carrying out the objectives of this act'.

Consequently, in-house lawyers can appear in court for matters relating to revocation of licenses of defunct banks, recovery of debt owed to defunct banks, all matters relating to banks or banking. These include deposit money banks, Microfinance Banks and Primary Mortgage Institutes. However before any lawyer can appear in Court on behalf of the Corporation he/she must have the requisite consent. In the course of carrying out the mandate of the Corporation they can also brief external solicitors

UN APPEALABLE STATUS OF THE JUDGEMENTS OF DEFUNCT FAILED BANKS TRIBUNAL

For all appeals lying against the judgments of the defunct Failed Banks Tribunal (FBT) our contention is that the Court of Appeal is not conferred with appellate jurisdiction over the judgment of Failed Banks Tribunal. In other words, the judgment of defunct failed Banks Tribunal is not appealable to the Court of Appeal or better still, they have the status of final judgments.

Unfortunately, this ratio in leading case laws of Supreme Court and Court of Appeal is unknown to most of our external solicitors handling FBT judgments that are on appeal at the Court of Appeal as well as most of our legal officers monitoring the appeal proceedings.

Even though this un appealable status of the judgments of the failed banks Tribunal is a lacuna as observed by both the Supreme Court and the Court of Appeal it nevertheless could work in our favor and we should be eager to take advantage of it. The un appealable status of the judgments of Failed Banks Tribunal is established by the facts highlighted below:

- The appellate jurisdiction of the Court of Appeal is drawn from Sections 240 and 246 of the Constitution. While Section 240 listed all the courts over which the Court of Appeal exercises exclusive jurisdiction over their judgments (inclusive of any tribunal prescribed by Act of National Assembly), Section 246 of the Constitution conferred on the Court of Appeal, exclusive jurisdiction to hear appeals from any court of Law and Tribunal established by National Assembly.
- A thorough study of this section of the Constitution from where the Court of Appeal derives its appellate jurisdiction shows that the Court of Appeal is not vested (specially or otherwise) with any jurisdiction to entertain appeals from the Failed Banks Tribunal.
- While the jurisdiction over any matter pending before the scrapped Failed Banks Tribunal was pursuant to Decree No. 62 of 1999, transferred to the Federal High Court, there was no provision in the said Decree or any law whatsoever conferring appellate jurisdiction over appeals against the judgments of the Failed Banks Tribunal, then pending at the Special Appeals Tribunal, to the Court of Appeal.
- The locus classicus of the un appealable status of the judgment of the Failed Banks Tribunal is the judg-

ment of the Supreme Court in *Arewa Paper Converter vs NDIC (2006) 15 NWLR pt 1002 page 4004: (2006) 6-7 SC page 84 particularly pages 88-100*. The ratio in this judgment has been strictly followed and adopted by the Court of Appeal..

SOCIAL DIARY

Boom! Boom! Boom! Baby Boom! The month of May has indeed been a baby boom Month as four members of the department welcome into the world their new bundles of joy. The Legal Luminary heartily Congratulates Mr. K. f. Markus, Haggai, Shola and Kashim on the arrival of their newborns. The Legal Luminary congratulates our new Daddys and Mummies. Also, happy birthday and very many happy returns to Ruth, Sam, Sabbath, Nonso and Nneka.

Reply Brief

Thank you for the thought provoking topics being discussed in your widely read Journal.

I just want you to know that you are doing a wonderful job. Please keep it up.

Ahmed A.G.
B.S.U.
Legal Department