

In the Supreme Court of Nigeria Holden at Abuja

SC/92/2003

NIGERIA DEPOSIT INSURANCE CORPORATION

VS

OKEM ENTERPRISES LIMITED & ANOR

Coram:

Idris Legbo Kutigi	-	JSC [Presided]
Aloysius Iorgyer Katsina-Alu	-	JSC
Umaru Atu Kalgo	-	JSC
Samson Odemwimgie Uwaifo	-	JSC [Delivered Lead Judgment]
Akintola Olufemi Ejiwumi	-	JSC
Dahiru Musdapher	-	JSC
Ignatius Pats-Acholonu	-	JSC

Issue:

Whether the State High Courts have exclusive jurisdiction in disputes between an individual customer and his bank.

Facts:

The respondent, a debtor, took objection to the competency of the FHC to hear and determine the action for recovery of debts owed to the defunct Allied Bank Plc pursuant to the Failed Banks Decree No.18 of 1994 and Decree No. 62 of 1999 which transferred powers of the Tribunal to hear failed banks recovery cases to the FHC. The FHC dismissed the objection and held that it had jurisdiction. The respondent appealed to the Court of Appeal which allowed the appeal and declared the provisions of Decree No. 62 of 1999 inconsistent with the 1999 Constitution and therefore, void.

Dissatisfied, the Corporation appealed to the Supreme Court. In a unanimous judgment of a full panel of the Supreme Court decided on Friday, 23rd April, 2004 the Corporation's appeal was allowed.

The Supreme Court **held** as follows:

[i] the Federal High Court has exclusive jurisdiction in banking matters, but when what is involved is a transaction between an individual customer and his bank, the FHC shall not have exclusive jurisdiction.

- [ii] Section 251 [1] [d] of the 1999 Constitution does not take away the jurisdiction of the FHC to entertain causes and matters relating to transactions between an individual customer and his bank.
- [iii] The proviso in Section 251 [1] [d] of the 1999 Constitution only relaxes the exclusive jurisdiction given to the FHC in a situation in which the issue is a dispute between an individual customer and his bank in respect of transactions between individual and the bank. Therefore, a State High Court also has or continue to exercise jurisdiction concurrently with the FHC.
- [iv] The FHC has jurisdiction in matters of dispute between an individual customer and his bank in respect of transactions between the individual customer and the bank, consistent with the proviso in paragraph [d] of Section 251 [1] of the 1999 Constitution.
- [v] Although, by Decree No. 18 of 1994 and Decree No. 62 of 1999, the FHC was given exclusive jurisdiction over all Failed Banks matters, that provision of exclusivity has turned out to be inconsistent with the proviso to Section 251 [1] [d] of the 1999 Constitution. That does not mean that the effect of the inconsistency was to deprive the FHC of any jurisdiction at all in matters of customer and his bank.
- [vi] Under the proviso of Section 251 [1] [d] of the 1999 Constitution, the FHC has concurrent jurisdiction with the State High Courts in dispute between an individual customer and his bank in respect of transactions between individual customer and the bank.

In conclusion, the Supreme Court set aside the decision of the Court of Appeal which had earlier held that the FHC lacked jurisdiction to try failed banks debt recovery cases, and restored the FHC decision that the Federal and State High Courts have concurrent jurisdiction to hear and determine all failed banks debt recovery cases.