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- CA/L/174/19 -

**FEDERAL REPUBLIC OF
NIGERIA v. CHIEF MIKE
OZEKHOME (SAN)**



CA/L/174/19 – FEDERAL REPUBLIC OF NIGERIA v. CHIEF MIKE OZEKHOME (SAN)

The Court of Appeal in Appeal No: **CA/L/174/19 – FEDERAL REPUBLIC OF NIGERIA v. CHIEF MIKE OZEKHOME (SAN)** settled the debate on whether legal fees are proceeds of unlawful activity.

FACTS

The facts of the case stemmed from an arms deal procurement by the Federal Government. There were allegations of embezzlement of the arms deal money leading to an investigation by the Economic and Financial Crimes Commission (hereinafter simply referred to as (“EFCC”). In the course of investigation, EFCC approached the Lagos division of the Federal High Court presided by Hon Justice M.B Idris (as He then was) and obtained an interim order to freeze some bank accounts linked to Governor Ayodele Fayose, the former Governor of Ekiti State. Fayose subsequently approached the Ado Ekiti division of the same court presided by Hon. Justice Taiwo Taiwo and obtained judgment setting aside the earlier order of Idris J.

Upon obtaining the judgment, Fayose withdrew N5 million from the account and transferred N75 million to the law firm of Mike Ozehkome as part payment of professional fees. EFCC proceeded to Lagos division of the court presided over by Anka J to obtain an interim order freezing Mike Ozehkome’s Chamber account with Guaranty Trust Bank. Thereafter, Mike Ozehkome applied to the same judge and subsequently obtained an order of the court setting aside the freezing of his law firm’s account. EFCC appealed and the Court of Appeal upheld the judgment of the lower court defreezing Mike Ozehkome’s Chamber account.

APPEAL COURT JUDGMENT

The Appeal Court held that the lower court was right to have set aside the order on the ground that the account from which the N75 million was transferred was unencumbered as at the time the transfer was made. Also, that there was suppression of material facts by the EFCC in obtaining the order. The N75 million was payment of part legal fees for professional services rendered and cannot be termed proceeds of unlawful activity as a lawyer is not required by any law to inquire of the client of the source from which his legal fees would be made.

IMPLICATION OF THE APPEAL COURT DECISION

The implication of the Appeal Court decision as it relates to the legal profession, payment of professional fees and general clientele representation, are as follows:

1. There is no legal obligation on a legal practitioner to inquire of the source of the money from which a client would pay his legal fees.

2. Professional fees paid to a legal practitioner cannot by any stretch of imagination be described as proceeds of unlawful activity or crime irrespective of the fact that the person who made the payment was under criminal investigation.
3. The presumption of innocence in our criminal jurisprudence remains sacrosanct.
4. legal practitioners can now render legal services across board without fear of been subjected to investigation on the receipt of legal fees from clients under criminal investigation.
5. The Judgment complements the earlier judgment of Appeal No. CA/A/202/2015 - CBN V REGISTERED TRUSTEES OF THE NBA where the court held that legal practitioners are excluded from the definition of “DESIGNATED NON-FINANCIAL INSTITUTIONS” under the MONEY LAUNDERING (PROHIBITION) ACT, 2011.
6. A legal practitioner is entitled to his fees for services rendered.

CONCLUSION

This judgment has now laid to rest debates on whether a lawyer’s legal fees can be rightly termed proceeds of crime. We commend the bold statement of law by the Learned Law Lords and urge for a sustenance of this sterling feat in the interest of justice.

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