



# CBN v. Ochife and the Challenge of Post-Judgment Account Discovery in Nigeria

May 4, 2026

The decision of the Supreme Court of Nigeria in *Central Bank of Nigeria v. Ochife*<sup>1</sup> (“**Ochife**”) is best understood as a modern restatement of the evidential burden in garnishee proceedings. More than a garnishee dispute, the case exposes the challenge of the extent to which a judgment creditor can realistically identify and attach a judgment debtor’s funds in a system where critical financial information is institutionally shielded. The decision elicits a reconsideration of whether existing legal mechanisms adequately support effective garnishee enforcement.

## Brief Summary of the Case

The case arose from garnishee proceedings initiated by Mr Ochife (the “**Judgment Creditor**”) to enforce a monetary judgment of NGN50,000,000 obtained at the Federal High Court, Abuja against the Inspector General of Police, the Commissioner of Police, FCT, and the O/C Intelligence Response Team, Special Anti-Robbery Squad (SARS) Nigerian Police Force<sup>2</sup> (collectively, the “**Judgment Debtors**”). The Judgment Creditor proceeded against the CBN on the assumption that the Judgment Debtors maintained accounts with the CBN under the Treasury Single Account (“**TSA**”) policy, without providing any specific account details.[1]

Upon service of the garnishee order nisi, the CBN filed an affidavit to show cause denying that it held any such accounts. The CBN was subsequently absent at the adjourned hearing, and the Federal High Court held the affidavit to be incompetent for having been filed out of time. The court deemed the supporting



depositions of the Judgment Creditor to be uncontested and made the garnishee order absolute against the CBN.<sup>3</sup> The Court of Appeal upheld the decision of the Federal High Court, invoking the doctrine of judicial notice under section 124 of the Evidence Act 2011, to conclude that the Judgment Debtors, as government agencies, must hold accounts with the CBN under the TSA policy.

The Supreme Court, in a majority decision, allowed the CBN’s appeal. The apex court held that the Court of Appeal was wrong to deploy the doctrine of judicial notice to fill an evidential gap and that garnishee proceedings require concrete proof that the garnishee holds funds belonging to the judgment debtor.<sup>4</sup>

## The Decisions

Abiru JSC, delivering the lead judgment, held that the Judgment Creditor had done no more than assert in broad terms that the Judgment Debtors maintained TSA accounts with the CBN, without providing account numbers, account names, or other specif-

<sup>1</sup>2025 12 NWLR Pt. 2000 Page 1.

<sup>2</sup>The Supreme Court also chastised the Judgment Creditor for suing the “O/C Intelligence Response Team, Special Anti-Robbery Squad”, noting that such entity is unknown to law and is not a juristic person. See Ogunwunmi JSC at Page 147 Para E.

<sup>3</sup>See pages 71–72 of the Report.

<sup>4</sup>See page 89 of the Report.

## CBN v. Ochife and the Challenge of Post-Judgment Account Discovery in Nigeria

ics. His Lordship noted that the burden of proving that the CBN held specific, identifiable funds belonging to the Judgment Debtors remained on the Judgment Creditor throughout and had not been discharged. His Lordship further noted that the Judgment Debtors, being individual police officers, fell outside the scope of the TSA policy entirely, rendering the foundational assertion factually incorrect.<sup>5</sup> Okoro, Jauro and Adumein JJSC concurred.

Ogunwunmi JSC dissented on certain preliminary points<sup>6</sup> but was in full agreement on the core evidentiary question. His Lordship deprecated the growing practice of judgment creditors filing garnishee proceedings against multiple banks in a speculative “hit or miss” endeavour to locate funds,<sup>7</sup> and stressed that where a general garnishee order nisi is met with an equally general denial, the burden shifts back to the judgment creditor to establish with specificity that the garnishee holds the relevant funds, failing which the garnishee must be discharged.<sup>8</sup>

### Commentary

The practical force of *Ochife* lies in what it reveals about the Nigerian garnishee enforcement landscape.

In many cases, a judgment creditor has no reliable way of obtaining reliable information about a judgment debtor’s accounts before commencing garnishee proceedings. Even in contractual disputes, a judgment creditor’s knowledge is confined to accounts through which payments were routed and a judgment debtor who anticipates an adverse judgment can redirect funds to entirely separate accounts of which the judgment creditor is oblivious. Where public institutions or officeholders are involved, the uncertainty deepens, as the legal person sued may not be the same as the entity that controls the funds. In a tort situation, the position is starker still because parties will frequently have had no prior financial dealings with each other, which leaves the judgment creditor with nothing beyond the debtor’s identity. The *Ochife* decision has confirmed that this premise is wholly insufficient.

The decision creates a fundamental tension. The doctrine postulated by the *Ochife* decision now requires real proof of attachable funds. In practice, a judgment creditor will often lack access to the information needed to produce the proof that the doctrine requires. The gap between this practical reality and doctrine is substantially explained by banking confidentiality.



The foundational authority for banking confidentiality is *Tournier v. National Provincial and Union Bank of England*<sup>9</sup> (*Tournier*), in which the English Court of Appeal held that a bank is under an implied contractual obligation not to disclose, without the customer’s consent, information relating to the customer’s affairs. The Court identified four exceptions: compulsion of law; public interest; the bank’s own interests; and the customer’s consent. While these exceptions are not self-executing, an informal third-party request also satisfies none of them.

*Tournier* has been consistently applied in Nigeria. In *UBA Plc v. CAC & Ors*,<sup>10</sup> the Court of Appeal affirmed that breach of the confidentiality duty by a bank, attracts damages where it causes loss. In *Savannah & Chemical Industries v. EFCC & Anor*,<sup>11</sup> the Court held that a bank acts in breach of its duty where it complies with a government agency’s directive without a court order. The implication is plain, it is the court order, as compulsion of law, that engages the first *Tournier* exception and legitimises disclosure. Without it, the confidentiality duty holds.

The foregoing has direct bearing on the enforcement gap that *Ochife* exposes. Confidentiality yields to compulsion of law and a court order in enforcement proceedings engages that exception directly. The difficulty is that no dedicated procedural mechanism currently exists for a civil judgment creditor to obtain such an order for account discovery purposes. The CBN’s Consumer Protection Framework 2016, reinforces the position. Financial institutions are prohibited from disclosing customer information save with customer consent, CBN direction, a court order, or in pursuance of public interest.<sup>12</sup> The BVN Framework similarly restricts access, granting court-order-backed disclosure only to defined categories of entities<sup>13</sup> and expressly excluding private individuals.<sup>14</sup> Neither the BVN framework nor the CBN’s FOI guidance amounts to a general account discovery mechanism for judgment creditors.<sup>15</sup>

<sup>5</sup>See pages 91–92 of the Report.

<sup>6</sup>Specifically, on whether the failure to obtain the AGF’s consent under Section 84 of the SCPA was a waivable procedural irregularity or an incurable jurisdictional defect, and on the constitutionality of Section 84 itself. See pages 99–102 and 132–143 of the Report.

<sup>7</sup>See pages 149–150 of the Report.

<sup>8</sup>See page 148 of the Report.

<sup>9</sup>[1924] 1 KB 461.

<sup>10</sup>(2016) LPELR-40569(CA).

<sup>11</sup>(2020) LPELR-51398(CA).

<sup>12</sup>Paragraph 2.6.2.2 of the CPF, issued by the CBN pursuant to the Central Bank of Nigeria Act 2007 (as amended) and BOFIA 2007 (as amended).

<sup>13</sup>i.e. law enforcement agencies, national pension commission, pension fund administrators and other entities as may be approved.

<sup>14</sup>CBN, Revised Regulatory Framework for BVN Operations and Watchlist for the Nigerian Banking Industry (October 2021), Sections 1.7 and 1.8.

<sup>15</sup>CBN, Frequently Asked Questions on FOI Office (cbn.gov.ng).



### Practical Recommendations

#### 1. Pre-Garnishment Account Discovery through the BVN infrastructure.

The immediate obstacle *Ochife* exposes is not the garnishee mechanism itself but the judgment creditor's inability to identify the correct garnishee before proceedings begin. Under section 15(1) of the Money Laundering (Prevention and Prohibition) Act, 2022, a competent authority may obtain a Federal High Court order, on an ex parte application supported by a sworn declaration, compelling a bank to produce financial records to trace proceeds of crime. A statutory amendment, to the Sheriff and Civil Process Act CAP S6 LFN 2004, ("SCPA") or the BVN framework would create an equivalent procedure for civil judgment creditors, subject to the following safeguards.

First, the application must be made ex parte and must be conducted in camera. The judgment debtor must not be notified as prior notice creates an opportunity to dissipate funds, and judicial supervision within a closed in camera process adequately protects the debtor's constitutional right to privacy under section 37 of the 1999 Constitution.

Second, disclosure must be strictly proportionate. The order should direct the CBN or NIBSS only to confirm which financial institutions hold accounts linked to the judgment debtor's BVN and the approximate funds available for enforcement. It should not extend to full account histories, transaction records, or any information beyond what is necessary to identify the correct garnishee.

Third, the judgment sum must bear a reasonable relationship to the intrusion being authorised. A low-value judgment should not justify a system-wide trawl through a debtor's entire banking footprint. The court should be required to consider proportionality expressly before granting the order.

Fourth, joint accounts are excluded from the scope of the order. Where the search reveals an account held jointly with a third party who is not a judgment debtor, that account should not be disclosed to the judgment creditor and should play no

part in the enforcement proceedings. The mechanism is designed to locate funds unambiguously belonging to the judgment debtor; a joint account simply cannot satisfy that description.

Fifth, results must be ring-fenced. Information obtained pursuant to the order may be used only to identify the correct garnishee for the specific judgment in respect of which the order was made. The judgment creditor should be required to give an undertaking to that effect as a condition for the grant of the order, enforceable as a contempt matter. The resulting disclosure engages the first *Tournier* exception, compulsion of law and, with the proposed safeguards in place, should raise no sustainable confidentiality or constitutional objection.

#### 2. Developing a Bankers Trust-type jurisdiction for civil enforcement.

The *Bankers Trust* order, as originally developed in *Bankers Trust Co v Shapira* [1980] 1 WLR 1274, is a court order compelling a bank to disclose confidential customer account information to assist a claimant in tracing misappropriated assets. Its foundation is equitable, where money has been wrongfully taken, the court will override banking confidentiality to help the victim follow it. As developed in English law, the jurisdiction is therefore confined to fraud, breach of fiduciary duty, and analogous circumstances. It does not extend to the ordinary judgment creditor seeking to enforce a debt.

While the limitation conferred by the Bankers Trust order is acknowledged, the underlying principle is however, instructive. The English court's willingness in *Bankers Trust* to subordinate banking confidentiality to a supervised disclosure order rested not on the specific nature of the wrong but on a more fundamental proposition: where a court-ordered information mechanism is the only practicable route to enforcement. That proposition is not inherently confined to fraud. A judgment creditor who has obtained a court judgment, itself a product of due process, and who has no other lawful means of identifying where the judgment debtor's assets are held, presents a case with comparable equitable force.

Nigerian superior courts should consider whether their inherent jurisdiction can be developed in this direction,

## **CBN v. Ochife and the Challenge of Post-Judgment Account Discovery in Nigeria**

extending the *Bankers Trust* rationale beyond misappropriation to civil enforcement generally, subject to the same safeguards proposed by these authors under Practical Recommendation 1 above. The legislature should in the medium term codify any such development, prescribing the threshold conditions and limits of the jurisdiction so that it operates as a targeted enforcement tool and not a general warrant for judgment creditor inquiry into a judgement debtor's financial affairs.

### **Conclusion**

*Ochife* is not a difficult decision to justify in the abstract. A court asked to make a garnishee order absolute against an institution that has denied holding the relevant funds, based on nothing more than a general assertion by the judgement creditor, is right to decline. Speculation is not proof, and the practice of blanketing multiple banks with garnishee orders in the hope that one yields something, which Ogunwunmi JSC rightly deprecated, is not an enforcement strategy any court should be required to accommodate.

The difficulty is not with the decision. It is with the system into which the decision has landed.

*Ochife* demands proof of something that the Nigerian legal and regulatory architecture is structurally designed to conceal. Banking confidentiality, BVN access restrictions, NDPA protections and the complete absence of any civil asset discovery mechanism ensure that the information the judgment creditor must now produce is precisely the information that they have no lawful means of obtaining. In essence, the court has raised the bar without providing a ladder.

The reform proposals provided above are serious responses to that omission but none of the proposals are immediately available in the Nigerian banking and/or legal landscape. The SCPA and BVN mechanism requires statutory intervention and institutional cooperation from the CBN. The *Bankers Trust* jurisdiction requires the courts to develop inherent jurisdiction in a direction that offers no local precedent.

What *Ochife* has done, perhaps without consciously intending to, is to illuminate a gap that predates it and that no single judicial decision could close. The evidential standard it affirms is sound. The infrastructure and legal framework needed to meet it is absent. While the decision is correct in principle, it has sadly been brought to bear on a system that is not yet equipped to honour it.

In our view, this is a problem for the legislature and the banking regulators to promptly fix. Without such intervention, the *Ochife*'s rule requiring judgment creditors to identify, with specificity, the garnishee holding the judgment debtor's funds, will in reality, continue to be honoured only in the breach.

**DISCLAIMER:** This article is only intended to provide general information on the subject matter and does not by itself create a client/attorney relationship between readers and our Law Firm or serve as legal advice. We are available to provide specialist legal advice on the readers' specific circumstances when they arise.

### **CONTACT PERSONS**



**Abimbola Akeredolu, SAN, FCI Arb**

Partner

E: [aakeredolu@banwo-ighodalo.com](mailto:aakeredolu@banwo-ighodalo.com)



**Adeola Agunbiade-Adeyemi, FCI Arb**

Senior Associate

E: [aagunbiade@banwo-ighodalo.com](mailto:aagunbiade@banwo-ighodalo.com)