IN THE COURT OF APPEAL
ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

ON WEDNESDAY DAY THE 14TH DAY OF JUNE, 2017

BEFORE THEIR LORDSHIPS

ABDU ABOKI	**JUSTICE, COURT OF APPEAL**
ABUBAKAR DATTI YAHAYA	**JUSTICE, COURT OF APPEAL**
PETER OLABISI IGE	**JUSTICE, COURT OF APPEAL**
EMMANUEL AKOMAYE AGIM	**JUSTICE, COURT OF APPEAL**
MOHAMMED MUSTAPHA	**JUSTICE, COURT OF APPEAL**

CA/A/202/2015

BETWEEN:

CENTRAL BANK OF NIGERIA (CBN) ----------APPELLANT
AND

1. REGISTERED TRUSTEES OF THE NIGERIAN BAR ASSOCIATION ------ 1ST RESPONDENT
2. ATTORNEY GENERAL OF THE FEDERATION--2NDRESPONDENT

JUDGMENT
(DELIVERED BY ABDU ABOKI, JCA)

This appeal is against the judgment of the Federal High Court of Nigeria, Abuja Division which was delivered by Honourable Justice G. O. KOLAWOLE on the 17th day of December, 2014.

The 1st Respondent, REGISTERED TRUSTEES OF NIGERIAN BAR ASSOCIATION, as the PLAINTIFF at the lower Court has by her originating summons dated and filed on the 15th day of March, 2013 sought answers to the following questions:-

"1. *Whether in the light of the provision of section 37 of the 1999 Constitution of the Federal Republic of Nigeria (as amended, section 192 of the Evidence Act 2011 and Rule 19(1) of the Rules of Professional Conduct for legal Practitioners 2007, the provisions of section 5 of the Money Laundering (Prohibition) Act 2011, insofar as they purport to apply to legal practitioners, are not unconstitutional, ultra vires the National Assembly and therefore void?*

2. *Whether the Special Control Unit-Against Money Laundering (SCUML) is a body properly established under the Money Laundering Act 2011 and/or is empowered by law to require the registration of legal practitioners or otherwise regulate the conduct of legal practice and legal practitioners?*

3. *Whether considering the clear provisions of the Legal Practitioners Act, CAP L11 Laws of the Federation of Nigeria 2004, the Federal Minister of Commerce (now Minister of Trade and Investment) has any power, right, duty or Jurisdiction to make rules regulating or guiding the operation of legal practice and legal practitioners in Nigeria?*

3. *Whether the provisions of section 5(5) of the Money Laundering [Prohibition] Act 2011 insofar as they purport to relate to legal practice and legal practitioners, contravenes the right to privacy enshrined in section 37 of the 1999 Constitution of the Federal Republic of Nigeria (as amended); and section 192 of the Evidence Act 2011 which enshrines the fundamental doctrine of lawyer client confidentiality and are therefore unconstitutional and void inapplicable to legal practice in Nigeria?"*

In anticipation of answers to the questions raised, the 1st Respondent sought and prayed for the following declaratory reliefs and order namely:-

"RELIEF SOUGHT

A. ***A declaration that the provisions of section 5 of the Money Laundering (Prohibition) Act 2011, insofar as they purport to apply to legal practitioners are invalid, null and void.***

B. ***A declaration that the inclusion of legal practitioners in the definition of "Designated non financial institution" in section 25 of the Money Laundering (Prohibition) Act 2011 is inapplicable.***

C. ***An order of perpetual injunction restraining the Central Bank of Nigeria from taking any step to implement its circular reference FPR/CIR/ GEN/VOL1/028 dated 2nd August 2012 in relation to legal practitioners.***

D. ***An order of perpetual injunction restraining the Federal Government of Nigeria, by itself or acting through the Special Control Unit Against Money Laundering (SCUML), the National Financial Intelligence Unit (NFIU), the Economic and Financial Crimes Commission (EFCC) or otherwise howsoever from seeking to enforce the provisions of section 5 of the Money Laundering (Prohibition) Act 2011 in relation to legal practitioners.***

The said originating summons was supported by 23 paragraphs Affidavit sworn to by one OSITA OKORO, a Legal Practitioner. The 1st Defendant now 2nd Respondent filed Counter Affidavit containing four paragraphs on 21st day of May, 2012. The Appellant as 2nd Defendant at the Court below filed Counter Affidavit consisting 18 paragraphs. The aforesaid Affidavits had attached to each of them copious Exhibits. The 1st Respondent

filed further Affidavit in Support of the Originating Summons while the 1st Defendant also found it necessary to file further Counter Affidavit. There was also a Reply to the 2nd Defendant's Counter Affidavit by the 1st Respondent as the Plaintiff. The matter proceeded to hearing and the learned trial Judge gave a considered judgment on the Originating Summons on the 17th day of December, 2014 and found among other things thus:-

> ***"By these analysis, the Legal Practitioners Act which predated the Money Laundering [Prohibition] Act, supra., and if it were the intention of the National Assembly to make the Money Laundering [Prohibition] Act, supra to supersede the Legal Practitioners Act, it would have in its latter legislation, specifically so stated, and would have also, subordinated the provision of Section 192 of the Evidence Act to it when it included lawyers in Section 25 of Money Laundering [Prohibition] Act, supra. In the absence of any such specific provision, my view is that the National Assembly, perhaps oblivious of the obligations which both the Legal Practitioners Act and Evidence Acts, two (2) previous legislations had created, enacted the Money Laundering [Prohibition] Act, supra without adverting to the likelihood of the Acts undermining each other. They are in my view, not harmonious legislations, and because, the Legal Practitioners Act and Section 192 of Evidence Act are specifically made to address the practice of law by the Plaintiff, their provisions should be preferred and read as overriding the provisions of the Money Laundering [Prohibition] Act, supra.***
>
> ***Again, the provisions of Sections 20 and 21 of the Legal Practitioners Act make elaborate and detailed provisions that regulate the Plaintiffs keeping of accounts and records of client's moneys and of the client's accounts with banks. When I read both provisions, I was of the view that if the National Assembly paid .conscious legislative attention to the elaborate guidelines it has enacted by which the Plaintiff's members are required to further and abide with when handling their clients' money, whether below or in excess of U.S. $1,000.00 it may not have likely included the Plaintiff in Section 25 of the Money Laundering [Prohibition] Act, supra., and if it still intends to do***

so, would have made the provisions in the Money Laundering (Prohibition] Act, supra. in such a way that they will subordinate and specifically override extant provisions in the Legal Practitioners Act. My view is that if the provisions of the Legal Practitioners Act are considered inadequate to meet the exigencies of legal developments which the Money Laundering [Prohibition] Act, supra. may attempt to capture, the answer does, not lie in setting up another agency or body such as SCUML which is even not a "juristic" person, to exercise powers that would amount to regulating the activities of the Plaintiffs members in relation to their clients' moneys or their clients' accounts kept and maintained with banks which incident brings the two (2) legislations on a collision course by the two (2) parallel bodies conducting oversight functions on substantially similar subject matter. The Legal Practitioners Act could have been amended, in the event that empirical evidence and data exist which establish the involvement of Plaintiffs members in the "mischiefs" which the Money Laundering [Prohibition] Act, supra. was made to address, to recapture further obligations imposed by Sections 20 and 21 of the Legal Practitioners Act if the extant provisions in the Act are found inadequate.

The Plaintiff's suit succeeds based on the reliefs granted and relief (B) in the modified manner.

This shall be the Judgment of this Court. There shall be no order as to costs."

The Appellant was aggrieved by the decision of the lower Court and has by her Notice of Appeal dated and filed on 26th day of January, 2015 appealed to this Court. The said Notice of Appeal contained six (6) grounds which without their particulars are as follows:-

"GROUNDS OF APPEAL

GROUND ONE

GROUND OF LAW

The Honourable Lower Court Judge erred in law when he held to

the effect that Section 5 of the Money Laundering (Prohibition) Act 2011 (MLA) insofar as it relates to lawyers is void when indeed Section 5 of the Money Laundering (Prohibition) Act "is an Act of the National Assembly validly made."

GROUND TWO
GROUND OF LAW

The learned lower Court Judge erred in Law when having found the Money Laundering (Prohibition) Act validly promulgated by the National Assembly and reasonable under Section 45 of the Constitution yet proceeded to edit by its clear words by excluding Plaintiff's members from its applicability and thereby went into misdirection.

GROUND THREE
GROUND OF LAW

The learned Trial Judge erred in law when he held thus:

"In conclusion, the decision I have reached is based on the fact that Sections 5 and 25 of Money Laundering (Prohibition) Act, Supra are not in conflict with the Constitution and can be validated by a general reading of Section 45(i) of the Constitution as it relates to Section 37 of the Constitution. But, in so far as the said provision in the Money Laundering (Prohibition) Act, Supra seeks to impose additional oversight/regulatory bodies on the practice of law in Nigeria, its provision in Section 5 will run contrary to such provisions in Sections 10(i); (ii); 12(i); 13 and possibly, Section 21 of the Legal Practitioners Act, Supra and Rule 19(1), (2) and (3) of the Rules of Professional Conduct 2007."

GROUND FOUR
GROUND OF LAW

The Learned lower Court Judge erred in law when he held thus:

"Secondly, its application to the Plaintiff in my view, will invariably lead to breach of the duty and statutory privilege which Section 192 of the Evidence Act has conferred on the

lawyer/client's communication as the Plaintiff will be placed in a situation it will be reporting to SCUML in respect of transactions involving cash with their clients when these: (sic) already exist, bodies legally established by the Legal Practitioners Act and the Rules of Professional Conduct in the Legal Profession for dealing with erring members of the Plaintiff. More importantly, is that Section 192 of the Evidence Act does not provide a blanket "shield" to the Plaintiff where the commission of crime is in issue, including such offences which the Money Laundering (Prohibition) Act, Supra seeks to sanction in the protection of Nigeria's financial system, except that it creates obligation that the Plaintiff report its cash transaction to SCUML, a department of Federal Ministry of Commerce or Trade & Investment", and thereby went into serious misdirection

GROUND FIVE

GROUND OF LAW

The Learned lower Court Judge erred in law when he held thus:

"By these analysis, (sic) the Legal Practitioners Act which predicated the Money Laundering (Prohibition) Act, Supra, and if it were the intention of the National Assembly to make the Money Laundering (Prohibition) Act, Supra. To supersede the Legal Practitioners Act, it would have in its latter legislation specifically so stated, and would have also, subordinated the provision of Section 192 of the Evidence Act to it when it included lawyers in Section 25 of Money Laundering (Prohibition) Act, Supra. In the absence of any such specific provision, my view is that the National Assembly, perhaps oblivious of the obligations which both the Legal Practitioners Act and Evidence Acts, two (2) previous legislations had created, enacted the Money Laundering (Prohibition) Act, Supra without adverting to the likelihood of the Acts undermining each other. They are in my view, not harmonious legislations, and because, the Legal Practitioners Act and Section 192 of Evidence Act are specifically made to address the practice of law by the Plaintiff, their provisions should be preferred and read as over-riding the provisions of the

Money Laundering (Prohibition) Act, Supra." and thereby went into serious misdirection.

GROUND SIX

GROUND OF LAW

The Learned lower Court Judge erred in law when he held thus:-

"My View is that if the provision of the Legal Practitioner's Act are considered inadequate to meet the exigencies of legal developments which the Money Laundering (Prohibition) Act, supra may attempt to capture, the answer does not lie in setting up another agency or body such as SCUML which is even not a "juristic" person, to exercise powers that would amount to regulating the activities of the Plaintiffs members in relation to their clients' moneys or their clients' accounts kept and maintained with banks which incident brings the two (2) legislations on a collision course by the two (2) parallel bodies conducting oversight functions on substantially similar subject matter. The Legal Practitioners Act could have been amended, in the event that empirical evidence and data exist which establish the involvement of Plaintiff's members in the "mischief' which the Money Laundering (Prohibition) Act, supra was made to address, to recapture further obligations imposed by Sections 20 and 21 of the Legal Practitioners Act if the extant provisions in the Act are found inadequate" and thereby went into serious misdirection."

The Appellant filed her Appellant's Brief of Argument dated 16th day of June, 2015 on the same date. The 1st Respondent filed its 1st RESPONDENT'S BRIEF OF ARGUMENT dated 16th day of March, 2017 on the same date.

The 2nd Respondent's Brief of Argument dated 2nd day of February, 2017 was filed on 9th February, 2017. The Appellant filed APPELLANT REPLY BRIEF TO THE 1ST RESPONDENT'S BRIEF on 21st day of April, 2017. It is dated 20th April, 2017.

The appeal came up for hearing on 3rd day of May, 2017 when the learned Senior Counsel to the Appellant and 1st Respondent as well as the learned Counsel to the 2nd Respondent adopted their Briefs of Argument.

It is here pertinent to state that the 1st Respondent through her learned Senior Counsel filed motion on Notice dated and filed on 16th day of March, 2017 seeking for the following orders viz:-

> "1. ***AN ORDER of this Honourable Court striking out Grounds 2, 4, 5 and 6 of the Appellant's notice of appeal filed on January, 26, 2015 as well as Issue 2, 4 and 5 in Appellant's Brief of Argument filed on 16th June, 2015.***
> 2. ***ANY other order(s) as this Honourable Court may deem fit to make (sic) in the circumstances of this case."***

The application is rooted in the following grounds:-

> **"GROUNDS FOR THE APPLICATION**
> i. ***Grounds 2, 4, 5 and 6 in the notice of appeal allege both error and misdirection of law at same time and therefore vague and incompetent.***
> ii. ***By the Court of Appeal Rules, a ground of appeal can only allege an error or a misdirection of law.***
> iii. ***The Court of Appeal Rules proscribe vague grounds of appeal.***
> iv. ***Further to (i) – (iii) above, grounds 2, 4, 5 and 6 as well as Issues 2, 4 and 5 formulated thereon in the appellant's brief are liable to be struck out.***
> v. ***Ground 4 in the notice of appeal has been abandoned; no issue having been formulated thereon and liable to be struck out."***

The application was accompanied by Affidavit in Support having six paragraphs sworn to by AISHA ALI, a Legal Practitioner. The learned Senior Counsel to the 1st Respondent CHIEF WOLE OLANIPEKUN, SAN canvassed argument in support of the said motion on pages 3 – 5 of the 1st Respondent's Brief of Argument.

The Appellant through one of her Counsel deposed to ten paragraph Counter Affidavit against the said motion filed by Appellant on 20th April,

2017. The learned Senior Counsel to the Appellant did what he called the 'concise surmise' of the said Counter Affidavit on page 3 of the Appellant's Reply Brief of Argument.

I will deal first with the merit or otherwise of the 1st Respondent's motion aforesaid.

The learned Senior Counsel to the 1st Respondent referred the Court to the impugned grounds 2, 4, 5 and 6 in the Notice of Appeal and submitted that each of the identified grounds of appeal contained distinct allegations of error of law and misdirection at the same time in the same grounds of appeal in violent conflict with the settled position of the law and breach of the Court of Appeal Rules Order 7 Rules 2(2) and (3) and 3 of the Court of Appeal Rules, 2016.

It is the submission of the learned silk that a ground of appeal cannot allege both error and misdirection of law at the same time. That where words of a statute are clear and unambiguous they require direct application. The case of **CALABAR CENTRAL COOPERATIVE THRIFT & CREDIT SOCIETY LTD. V. EKPO (2008) 6 NWLR (PT. 1083) 362 AT 392** was cited. That the word "or" in order 7 Rule (2)(2) means that a ground of appeal cannot be both error in law and misdirection at the same time. He relied on the case of **IZEDONMWEM V. UBN PLC (2012) 6 NWLR (PT. 1295) 1 AT 35.** That the implication of the word "shall" in the said Rules also proscribe vague grounds. That the identified grounds of appeal are incompetent relying on the case of **BAMAIYI V. A.G. Federation (2001) 12 NWLR (PT. 727) 428 AT 497 and OGIDI V. STATE (2005) 5 NWLR (PT. 918) 286) AT 327.**

That a ground of appeal stating that it is error in law and a misdirection is defective and inherently confusing and vague. He relied on the case of **NWADIKE V. IBEKWE (19870 4 NWLR (PT. 67) 718 AT 744 – 75, 746 – 746.**

He thus submitted that any issue formulated from the said grounds 2, 4, 5 and 6 are incompetent since according to the learned silk the grounds are incompetent. He relied on the cases of (1) **F.B.N PLC V. A.C.B. LTD (2006) 1 NWLR (PT. 962) 438 AT 463 B – C and UDOH**

V. REG. TRUSTEE B.C. & STAR (2011) 17 NWLR (PART 1276) 223 AT 233 E – F. That both the incompetent grounds and the issues formulated therefrom are liable to be struck out.

Another contention of the 1st Respondent's learned Senior Counsel is that the Appellant did not formulate any issue from ground 4 of the notice of appeal and as such ground 4 is deemed abandoned and also liable to be struck out. Reliance was place on the cases of:-

1. **DURUNGO V. STATE (1992) 7 NWLR (PT. 255) 525 AT 537 D – E; and**
2. **CHIME V. CHIME (1995) 6 NWLR (PART 404) 734 AT 747 F – G.**

Finally on the Motion on Notice, the learned Silk for 1st Respondent urged this Court to strike out grounds 2, 4, 5 and 6 of the Notice of Appeal and Issues 2, 4 and 5 formulated from them.

In response to the above submissions the learned Senior Counsel to the Appellant Charles Uwensuyi-Edosomwan, SAN opined that the facts contained in the Affidavit in Support of the motion seeking to strike out some of the grounds of appeal of Appellant, transgressed Section 115(2) of the Evidence Act, 2011 for being extraneous, conclusions, argumentative and prayers. That the very facts in the supporting Affidavit were canvassed as arguments by learned Counsel to 1st Respondent. That the Affidavit in Support should be struck down.

That once this is done it means the 1st Respondent's Motion has no supporting Affidavit and would be in breach Order 6 Rule 1 of the Court of Appeal Rules 2016. The learned Silk believes the motion ought to fail. He relied on the case of **OPOBIYI V. MUNIRU (2011) NWLR (PART 1278) 405 per FABIYI, JSC.**

In the event that his arguments on infraction of Section 115(2) of the Evidence Act should fail, he argued that there is a lot of substantial constitutional issues raised in this appeal which he said are of fundamental importance that transcends, according to Appellant's learned Senior Counsel, 'an opportunistic formalist technicality' to resolve them.

He laid out the grounds of appeal complained of and their particulars. He conceded that the word "misdirection" appears in some of the grounds and in some particulars but that the presence of the word "misdirection" does not in any way detract from the clear complaints in the said grounds of appeal are against errors in the Judgment and not "misdirection" known in appellate procedure conceptually. That the Respondents were not misled, embarrassed or confused by the complaints engendered in the said grounds 2, 4, 5 and 6 and they are not vague. That issues 2, 4 and 5 argued in the brief have been properly distilled therefrom.

That the reliance placed on Order 7 Rule (2) (2) of the Court of Appeal Rules 2016 and the case of **NWADIKE V. IBEKWE (1987) 4 NWLR (PART 67) 618** is misplaced. That the significance of the case of IBEKWE and the position of Supreme Court was clearly stated in the case of **ADOROUNMU V. OLOWU (2000) 4 NWLR 253 AT 265 per AYOOLA, JSC**. He submitted that the case of **NWADIKE V. IBEKWE** supra did not formulate any incompetency principles relating to grounds of appeal. He submitted that the grounds of appeal are not imprecise vague or misleading. He urged the Court to overrule the objection.

On the submission of the 1st Respondent that the Appellant did not formulate issue from ground four of the Notice of Appeal, the learned Silk stated the ground was argued fully in Issues 2, 3 and 4 of the Brief with emphasis on issues 1 and 3 thereof.

That the whole appeal borders of challenge to the special treatment members of 1st Respondent were accorded making them not amenable to the legislative competence of National Assembly Act on Money Laundering and that both sides dealt with all the issues. That the case of DURUGO VS **THE STATE (1992) 7 NWLR (PART 255) 525 and CHIME V. CHIME (1995) 6 NWLR (PART 404) 73C** cited by 1st Respondent be discountenanced.

Now the learned Counsel to the Appellant is of the view that the Affidavit in Support of the 1st Respondent's motion dated and filed the 16th March, 2017 transgressed Section 115 (1) & (2) of the Evidence Act 2011 which provides:-

"115-(1) Every affidavit used in the court shall contain only a statement of fact and circumstances to which the witness deposes, either of his own personal knowledge or from information which he believes to be true.

(2) An affidavit shall not contain extraneous matter, by way of objection, prayer or legal argument or conclusion."

The point is when can it be said that an Affidavit contains extraneous matter by way of objection, prayer or legal argument or conclusion. The barometer to be used in discerning when to hold that an Affidavit violates Section 115(2) Evidence Act can be found in the case of **ISHAYA BAMAIYI VS THE STATE & ORS (2001) 8 NWLR (PART 715) 270 AT 289 C – F** where UWAIFO, JSC had this to say:-

"I think the legal position is clear, that in any affidavit used in the court, the law requires, as provided in sections 86 and 87 of the Evidence Act, that it shall contain only a statement of facts and circumstances derived from the personal knowledge of the deponent or from information which he believes to be true, and shall not contain extraneous matter by way of objection, or prayer, or legal argument or conclusion. The problem is sometimes how to discern any particular extraneous matter. The test for doing this, in my view, is to examine each of the paragraphs deposed to in the affidavit to ascertain whether it is fit only as a sub- mission which counsel ought to urge upon the court. If it is, then it is likely to be either an objection or legal argument which ought to be pressed in oral argument; or it may be conclusion upon an issue which ought to be left to the discretion of the court either to make a finding or to reach a decision upon through its process of reasoning. But if it is in the form of evidence which a witness may be entitled to place before the court in his testimony on oath and is legally receivable to prove or disprove some fact in dispute, then it qualifies as a statement of facts and circumstances which may be deposed to in an affidavit. It therefore means that prayers, objections and legal arguments are matters that may be pressed by counsel in court and are not fit for a witness either in oral testimony or in affidavit evidence; while conclusions should not be drawn by witnesses but left for the court to reach."

Thus where it is proved that an Affidavit runs foul of Section 115(2) of the Evidence Act the offending paragraphs will be struck out. See THE MILITARY GOVERNOR OF LAGOS STATE & ORS VS. CHIEF EMEKA O. OJUKWU (1986) 1 NWLR (PART 18) 621 AT 641 C – F per OPUTA, JSC.

The impugned Affidavit in support of the aforesaid motion particularly paragraphs 4 and 5 are as follows:-

> ***"4. Except as otherwise expressly stated, all facts deposed to herein are within my personal knowledge, information and belief.***
>
> ***5. I know as a fact as follows:-***
>
> ***(i) Grounds 2, 4, and 6 in the notice of appeal allege both error and misdirection of law at the same time and therefore vague and incompetent.***
>
> ***(ii) By the Court of Appeal Rules, a ground of appeal can only allege an error or a misdirection of law.***
>
> ***(iii) The Court of Appeal Rules proscribe vague grounds of appeal.***
>
> ***(iv) Further to (i) – (iii) above, grounds 2, 4, 5 and 6 as well as issues 2, 4 and 5 formulated thereon in the appellant's brief are liable to be struck out.***
>
> ***(v) Ground 4 in the notice of appeal has been abandoned; no issue having been formulated thereon and liable to be struck out."***

I am of the firm view that the above quoted paragraph 4 and 5 of the Affidavit in Support of the Motion contravene Section 115(2) of the Evidence Act 2011 and are hereby struck out.

The learned Counsel to the Appellant had contended that once the offending paragraphs are struck out the motion becomes incompetent. With profound respect to the learned Senior Counsel that submission is misplaced. It is not in all cases where there is an objection to a Court process that an Affidavit would be filed once it is squarely dealing with question of law as in this case.

The motion of the 1st Respondent contains grounds that are sufficient in themselves to demonstrate whether the Notice of Appeal infringes Order 7 Rule 2(2) of the Court of Appeal Rules 2016. The motion is competent and will be considered on the merit to determine whether the grounds of appeal identified as alleging "errors in law" and at the same time contending misdirection in law" are competent valid grounds of appeal.

ORDER 7, RULES 2, 3 and 4 of the Court of Appeal Rules 2016 provide thus:-

"2.-(1) All appeals shall be by way of rehearing and shall be brought by notice (hereinafter called "the notice of appeal") to be filed in the registry of the court below which shall set forth the grounds of appeal, stating whether the whole or part only of the decision of the court below is complained of (in the latter case specifying such part) and shall state also the exact nature of the relief sought and the names and addresses of all parties directly affected by the appeal, which shall be accompanied by a sufficient number of copies for on such parties.

(2) Where a ground of appeal alleges misdirection or error in law, the particulars and the nature of the misdirection or error shall be clearly stated.

(3) The notice of appeal shall set forth concisely and under distinct heads the grounds upon which the Appellant intends to rely at the hearing of the appeal without any argument or narrative and shall be numbered consecutively.

(4) The notice of appeal shall be signed by the Appellant or his legal representative.

3. Any ground which is vague or general in terms or which discloses no reasonable ground of appeal shall not be permitted, save the general ground that the judgment is against the weight of the evidence, and ground of appeal or any part thereof which is not permitted under this Rule may be struck out by the Court of its own motion or on application by the Respondent.

4. The Appellant shall not without the leave of the Court urge or be heard in support of any ground of appeal not mentioned in the notice of

appeal, but the court may in its discretion allow the Appellant to amend the grounds of appeal upon payment of fees prescribed for making such amendment and upon such terms as the court may deem just."

It is true the Court of Appeal Rules 2016 demands that Notice of Appeal should contain grounds of appeal stated distinctly, concisely and that where a ground of Appeal alleges misdirection or error in law particulars of the error and nature of the misdirection shall be clearly stated.

With commendable candour the learned Silk to the Appellant conceded that the grounds of appeal identified by 1st Respondent contain allegations of both errors in law and misdirection in law. He was however quick to add that in the context in which those words were used, the grounds so identified are not incompetent and that the case **of NWADIKE V. IBEKWE** supra cannot render those grounds of appeal incompetent having regard to the decision of the Supreme Court in the case of **ADEROUNMU VS OLOWU (2000) 4 NWLR 253 (PART 652) 253 AT 265 where AYOOLA, JSC** said as follows:-

"The rules of our appellate procedure relating to formulation of grounds of appeal are primarily designed to ensure fairness to the other side. The application of such rules should not be reduced to a matter of mere technicality, whereby the court will look at the form rather than the substance. The prime purpose of the rules of appellate procedure, both in this court and in the Court of Appeal, that the appellant shall file a notice of appeal which shall set forth concisely the grounds which he intends to rely upon on the appeal; and, that such grounds should not be vague or general in terms and must disclose a reasonable ground of appeal, is to give sufficient notice and information, to the other side, of the precise nature of the complaint of the appellant and, consequently, of the issues that are likely to arise on the appeal. Any ground of appeal that satisfies that purpose should not be struck out, notwithstanding that it did not conform to a particular form."

And quite recently the apex Court in the cases of:-

1. **JOHN ENEH VS. KENN OZOR & ANOR (2016) LPLR – 40830 SC pages 16 -17 per AMIRU SANUSI, JSC** held thus:-

"He argued that a ground of appeal cannot be a misdirection and an error in law at the same time and even that offends the provisions of Order 3 of Rule 2(3) of the Court of Appeal Rules 2002 (as amended). It is my considered view, that that reason alone cannot render a ground of appeal invalid and incompetent. A ground of appeal is only liable to be struck out or discountenanced of, if it is vague or general in terms or the complaint therein, is not understandable or not in consonance with the form. Where a ground of appeal alleges error in law and misdirection in fact, it does not necessarily become incompetent, provided it is not vague or it discloses a reasonable ground of appeal and gives the Respondent sufficient notice of the complaint. See ADEROUNMU & ORS v. OLOWU (2000) 2 SCNJ 190 AT 190 D. Therefore I also hold the second ground of appeal is also competent and valid."

2. **FLORENCE ACHONU VS OLADIPO OLUWOBI (2017) LPELR – 42102 SC pages 16 – 17 per GALINJE, JSC** who said:-

"Finally, the essence of the grounds of appeal is to give sufficient notice to the adverse party of the nature of the Appellant's complaint that such adverse party will be confronted with in court. Once the notice is passed and the adverse party reacts to it without any complaint, it means the notice is clear and well understood. In Aderounmu v. Olowu (2000) SCNJ 190, (2001) 4 NWLR (PT. 52) 253 AT 272 paragraph A – E which was cited and relied upon by the learned Counsel for the Respondent, this Court per AYOOLA, JSC said:

"The Rules of our appellate procedure relating to formulation of grounds of appeal are primarily designed to ensure fairness to the other side. The application of such rules should not be reduced to a matter of mere technicality whereby the Court will look at the form rather than substance. The prime purpose of the rules of appellate procedure, both in this Court and of Appeal that the Appellant shall file a notice of appeal which set forth concisely the grounds which he intends to rely upon on the appeal and that such grounds should not be vague or general in

terms and must disclose a reasonable ground of appeal, is to give sufficient notice and information to the other side of the nature of the complaint of the Appellant and consequently of the issues that are likely to arise on the appeal. Any ground of appeal that satisfies that purpose should not be struck out notwithstanding, that it did not conform to a particular form."

I am of the view that the 1st Respondent cannot be said to be confused or that it did not know the complaints of the Appellants as postulated in the identified grounds of appeal. The said grounds 2, 4, 5 and 6 of the Appellants Notice of Appeal are not vague or general in terms and they disclose valid grounds of appeal and they are therefore adjudged as competent. What the Rules of Court requires is that the grounds of appeal must make sense or must be meaningful and the Appellant must not allow Notice of Appeal to contain incongruous or ambiguous grounds of appeal. The grounds of appeal must be clear or lucid and must be in substantial conformity with the Rules.

It is in the interest of justice to overlook the minor error contained in the Notice of Appeal. This Court must not allow technicalities to becloud its sense of doing substantial justice at all times. Issues 2, 4, and 5 formulated from the said grounds of appeal are also hereby held to be competent.

However I agree with the submission of 1st Respondent's Counsel that no issue was formulated with respect to ground four of the appeal.

It is trite law that where no issue is distilled from a ground of appeal the ground of appeal from which no issue is nominated is moribund as no argument can be countenanced on a ground of appeal with no issue formulated. See **ABDULLAHI UMAR V. THE STATE (2014) 9 SCM 226 AT 241 I TO 242 A – E per MUNTAKA-COOMASSIE, JSC** who said:-

"An issue could cover one or more grounds of appeal and therefore, if an issue is not related to any ground of appeal as the 2 here, it becomes irrelevant and liable to be struck out as it goes to no issue. See: Ogbuanyinya v Okudo (1990) 7 SC (Pt 1) 66; (1990) 4 NWLR (pt 146) 551 at 568. it is settled that an

appellate
court as this court, I must emphasize, determines appeal before it solely on the issues formulated from the grounds of appeal filed in the appeal before it consequently, where as it is being urged no competent issue has been raised from ground 3 it is settled, it would be deemed to be discountenanced, in other words the court should not near any submissions or arguments in regard to a ground of appeal from which no issue has been raised. I refer and rely on the following decided cases for the foregoing conclusions. See: Attorney-General Anambra State v. onuselogu Enterprises Ltd. (1987) 4 NWLR (pt. 66) 547; Oniah v. Oniah (1989) 2 SC (Pt. 1) 69; (1989) 1 NWLR (Pt. 99) 514; Adelaja v. Fanoiki (1990) 3 SC. (Pt D 130); (1990) 2 NWLR (Pt. 131) 137 at 148; Nzekwe v. Nzekwe (1989) 3 SC. (Pt. II) 76; (1991) 2 NWLR (Pt. 104) 373 at 423; Momodu v. Momoh (1991) 2 SC. 1; (1991) 1 NWLR (169) 608 at 621; Onifade v. Olayiwola (1990) 11 – 12 SC. 1; (1990) 7 NWLR (Pt. 161) 130; John Bankole & Ors. v. Mojidi Pelu & Ok (1991) 11 - 12 Sc. 116; E (1991) 8 NWLR (Pt 24) 523 at 537."

Ground 4 in the Appellant's Notice of Appeal is hereby struck out.

The 1st Respondent's Motion insofar as it relates to the competency of the said grounds of appeal and issues related to them is hereby dismissed.

NOW TO MERIT OF THE APPEAL

The learned Senior Counsel to the Appellant formulated five (5) issues for determination of the appeal namely:-

"1. *Whether the learned trial judge was right in law when he declared section 5 of the Money Laundering (Prohibition) Act 2011 (MLA) insofar as it relates to lawyers void when the said law was validly passed by the National Assembly (Ground One).*

2. *Whether the learned trial judge was right when having found the Money Laundering (Prohibition) Act validly passed by the National Assembly went on to edit the words of the said Act by excluding the 1st Respondent from its applicability (Ground Two).*

3. *Whether the learned trial judge was right in law when he held that section 5 of the Money Laundering [Prohibition] Act is contrary to section 21 of the Legal Practitioners Act and Sections 10(i) (ii) 12(i), 13 and the Rule 19(1)(2) and 3 of the Rules of Professional Conduct 2007, a subsidiary legislation inferior to the Money Laundering (Prohibition) Act (Ground Three).*

4. *Whether the learned trial judge was right when he failed to give effect to the words of a valid Act of the National Assembly to wit: the Money Laundering (Prohibition) Act but rather held that the legal practitioners Act and section 192 of the Evidence Act should be preferred and read as overriding the provisions of the Money Laundering (Prohibition) Act (Ground Five).*

5. *Whether the learned trial judge was right in law when he held that SCUML not being a juristic person cannot exercise powers that would amount to regulating the activities of the 1st Respondent notwithstanding the fact that the executive functions are carried out by ministers created under section 147 and governed by section 148 of the Constitution who are not juristic person (Ground six)"*

The learned Senior Counsel to the 1st Respondent nominated three issues for determination of the appeal viz:-

"a. *Considering the facts and circumstances of this case, whether the trial court has the vires to void the provisions of the Money*

Laundering (Prohibition) Act, 2011. (Grounds 1 and 2).

b. *Having regard to the provisions of the Legal Practitioners Act and the Evidence Act vis-a-vis the provisions of the Money Laundering (Prohibition) Act 2011, whether the trial court was not right when it granted the reliefs of the 1st Respondent as per its originating summons dated 15th March, 2013. (Grounds 3 and 5).*

c. *Whether the Special Control Unit Against Money Laundering ("SCUML") is a body properly established under the Money Laundering (Prohibition) Act, 2011 or is empowered to require the registration of legal practitioners or otherwise regulate the conduct of legal practice and legal practitioners? (Ground 6.)*

The 2nd Respondent's learned Counsel adopts the issues distilled for consideration of the appeal by the Appellant.

I am of the firm opinion that this appeal can be resolved on the five (5) issues formulated by the Appellant but some of them will be treated together. I will first treat issues 1 and 2 together.

"1. *Whether the learned trial judge was right in law when he declared section 5 of the Money Laundering (Prohibition) Act 2011 (MLA) insofar as it relates to lawyers void when the said law was validly passed by the National Assembly (Ground One).*

2. *Whether the learned trial judge was right when having found the Money Laundering (Prohibition) Act validly passed by the National Assembly went on to edit the words of the said Act by excluding the 1st Respondent from its applicability (Ground Two).*

The learned Senior Counsel to the Appellant Chief Charles Uwensuji-Edosomwan, SAN under Issue 1 invited the

attention of this Court to page 802 whereat the learned trial Judge granted the relief "A" sought on the originating summons declaring Section 5 of the Money Laundering and (Prohibition) Act 2011 invalid null and void insofar as it purports to apply to Legal Practitioners. Reference was also made to Section 5(5) of the said Money Laundering (Prohibition) Act 2011 to submit that the said Act was validly enacted by the National Assembly in compliance with the Constitution and as such the lower Court was wrong in law to have declared it null and void. He relied on the case of **AG. ABIA STATE VS A.G. FEDERATION (2006) 16 NWLR (PT. 1005) 265 AT 310 and 311.**

On how the provisions of a Constitution or enactment should be construed he relied on the case of **FRN V. OSAHON (2006) 5 NWLR (PART 973) 36 AT 380.**

The learned silk submitted on behalf of the Appellant that there is nothing absurd having regard to the nature and circumstances that gave birth to the Money Laundering (Prohibition) Act 2011 which he said the lower Court declared void. That the trial Court acted in error and urged this Court to resolve Issue one in favour of Appellant.

In respect of Issue 2, the learned Senior Counsel to the Appellant quoted the holding of the trial Judge on page 802 of the record to the effect that Section 25 of the Money Laundering (Prohibition) Act supra shall be read so as to have "Legal Practitioners" deleted as one of the DNF15 listed therein. The learned Silk quoted Section 25 of the Money Laundering (Prohibition) Act 2011 and also what the learned trial Judge said on page 802 of record concerning Sections 5 and 25 of Money Laundering Act and Section 45 of the Constitution in relation to Section 37 of the Constitution of the Federal Republic of Nigeria 1999 as amended. He then stated that what can be deduced from the findings of the lower Court are:-

(a) That the Money Laundering (Prohibition) Act is

reasonable under Section 45 of the Constitution.

(b) *That the National Assembly has the power and competence to enact or promulgate the aforesaid Act.*

(c) *That the presumption that the Money Laundering Act was validly made to involve members of the 1st Respondent body under Section 58 of the Constitution was never rebutted.*

(d) *That the said Act clearly listed members of the 1st Respondent as subject to its provisions.*

That Money Laundering (Prohibition) Act was a purely legislative Act over which the learned trial Judge has no power to amend as he has done in this case. He relied on the case of **AG. ABIA STATE V. AG. FEDERATION (2002) 6 NWLR (PART 763) 264 AT 300**. That the lower Court would have had the power or competence to nullify the said Act if it was not enacted in accordance with the Constitution. He relied on the case of AG. ABIA STATE V. AG. FEDERATION (2002) 16 NWLR (PART 1005) 265 AT 311 on the power of the Court to nullify in Constitutional legislation.

That the Judge's duty is to interpret and not to make law. He relied on the cases of:-

1. **DUKE V. GLOBAL EXCELLENCE COMMUNICATION LTD. (2007) 5 NWLR (PT. 1026)81 at 86.**
2. **BABATUNDE VS PAS & TA LTD. (2007) 13 NWLR (PT. 1050) 113 AT 127 AND**
3. **NNPC VS LUTIN INVESTMENT LTD. (2006) 2 NWLR (PT. 1965) 507.**

It is the submission of the Appellant that by removing the 1st Respondent from the efficacy of the Money Laundering (Prohibition) Act the lower Court engaged in legislative act which is ultra vires of the said Court having held that the Money Laundering (Prohibition) Act was enacted in

accordance with the Constitution. He urged this Court to resolve Issue 2 in favour of the Appellant.

In response to the above submissions the learned Senior Counsel to the 1st Respondent Chief Wole Olanipekun, SAN dwelt on what he called gains of the Doctrine of Separation of Powers as expressed in Sections 4, 5 and 6 of the 1999 Constitution as amended to contend that the Courts have the Statutory qua inherent powers to void any piece of legislation made by National or State Assembly which violates laid down principles. That under Section 4(8) of the said Constitution, the Courts are saddled with the responsibility of ensuring that Parliament complies with the basic principles of law making. That the power to make law is not absolute or without a check. That Constitutional supremacy is entrenched in Section 1(3) of the said Constitution placing Courts under a bounden duty to declare as void any law which is inconsistent with the provisions of the Constitution. Reliance is placed on the cases of INEC V. MUSA (2003) 3 NWLR (PT. 806) 12 AT 158, A.G. ABIA STATE V. A.G. FEDERATION (2002) 6 NWLR (PT. 763) 264 AT 479 and KALU V. ODILI (1992) 5 NWLR (PT. 240) 150 AT 188.

The learned Silk for the 1st Respondent submitted that the Appellant is under the erroneous impression that Constitutional supremacy is the only ground upon which a Court may declare provision of a law validly made by the legislature null and void.

That instances where there are conflicts between two separate and independent Acts of National Assembly as in this case in which one of the said Acts makes specific provisions as against general provisions on similar issues, the Court has the power and competence to invalidate the provisions of one of the Acts on the basis of the provisions of other by holding that the specific provisions would override the general provisions. He relied on the case of INAKOJU V. ADELEKE (2007) 4 NWLR (PART 1025) 423 AT 629.

That on that authority the lower Court was on legal

footing to find the general provisions of Section 25 of the Money Laundering (Prohibition) Act null and void "insofar" as it relates to a Legal Practitioner in the light of specific provisions of LPA and Evidence Act which by law are applicable provisions in the instant matter. That it borders on misrepresentation for the Appellant to have argued that:-

"...the learned trial judge (sic) therefore acted in error when he declared the aforesaid Act void."

That what the lower Court did was voiding provisions of Section 5 of MLA "insofar" as they apply on the basis of existing and specific provisions of the LPA and Evidence Act. That the Court has jurisdiction to disapply the Money Laundering Act that is in general in terms and prefer the one that is specific to the party or the institution concerned. Reliance was placed on the case of NDIC V. GOVERNING COUNCIL, ITF (2012) 9 NWLR (PT. 1305) 252 AT 271 – 272 a decision of this Honourable Court. He relied on the case of EZEADUKWA V. MADUKA (1997) 8 NWLR (PT. 578) 635 AT 657 per NIKI TOBI, JCA (as he then was).

That that was the position taken by the trial Judge on page 119 – 120 of the record which the learned Silk to 1st Respondent stated was not appealed by the Appellant. That the finding of the trial Judge is binding on the parties. He relied on several cases including AKIN FOLARIN V. AKINNOLA (1994) 3 NWLR (PT. 335) 659. That the lower Court was on a terra firma when from Constitutional supremacy, it can have recourse to the two statutes in order to resolve conflicts between the provisions involved.

That the interpretation suitable is to presume that law maker will not give a right on one hand and take it in another relying on the case of OSADEBEY V. A.G. BENDEL STATE (1991) NWLR (PT. 169) 525.

That except there is an express provision repealing or amending an earlier legislation, provision in a later legislation will not be interpreted to deal the provision of the earlier legislation. He relied on the case of SAMUEL EKEOCHA V. THE

CIVIL SERVICE COMMISSION OF IMO STATE & ANOR (1981) 1 NCLR 154 AT 165 per OPUTA as he then was.

That the complaints or grievance of 1st Respondent at the lower Court stems from the fact that Sections 5 and 25 of the Money Laundering Act conflict and violate the specific provisions of the Legal Practitioners Act and the Evidence Act and as such the Court has the powers to void the said provisions as they relate to lawyers. That the unassailable decision of the trial Court is on page 143 of the record taking along with findings earlier on pages 119, 139 and 142 of the record.

That all the findings cannot be ignored because Appellants did not appeal them. That the learned trial Judge went indept and appreciates the fundamental questions involved on page 14 of the record. That the case of COTECNA INT. LTD. V. CHURCHGATE NIG. LTD. (2010) 18 NWLR (PT. 1225) 346 AT 364 on page 15 of Appellant's Brief is only applicable in the provisions of the legislations that are harmonious and complimentary. That the issues should be resolved against the Appellant.

The learned Counsel to the 2nd Respondent Hamza Ahmed Gudaji argued that flowing from the findings of the learned trial Judge the Blue Pencil Rule was applied to delete Legal Practitioners from Section 25 of the Money Laundering Act and in effect freed Lawyers from the effect of Section 5 of Money Laundering Act. That the trial Court essentially voided portions of Sections 5 and 25 to comply with Sections 37 and 45 of the Constitution as amended. That specific provisions in Legal Practitioners Act and Evidence Act 2011 override the general provisions in Money Laundering Act. He submitted that what the learned trial Judge did is wrong and contrary to law.

That in relation to Section 5 of the Money Laundering Act Section 192 of Evidence Act applies to totality different thing. That Section 192 applies to judicial proceedings only while Section 5 of Money Laundering Act applies to administrative

functions of Legal Practitioners and other professionals or business. He relied on Section 256 of the Evidence Act. That the trial Court has no power to interfere with legislative functions of National Assembly as no inconsistency was shown in the law against the provision of the Constitution. He relied on the case of A.G. ABIA STATE V. A.G. FEDERATION SUPRA AT 382 – 383 E – H, 365 C-D.

That Section 192 of the Evidence Act does not address same mischief as Sections 5 and 25 of the Money Laundering Act. That while Section 192 of Evidence Act provides exception to the rule of confidentiality when the Commission of Crime or illegality by the client is involved, Section 5 of Money Laundering Act talks of record keeping and active reporting by a Legal Practitioner amongst others of cash transactions handled for their clients.

That in the former the COMMISSION of a CRIME or any FURTHERANCE of ILLEGALITY by a CLIENT is envisaged while in the latter the purpose is to identify the source, volume and movement of money with overall objective of PREVENTING OR DETECTING funding of drug trafficking, terrorism and other illegal activities which the Legal Practitioner may knowing or unknowingly be accessory. To him Section 192 of Evidence Act 2011 and Rule 19 cannot prevail over Section 5 of Money Laundering Act. That Section 192 of Evidence Act and Section 5 of Money Laundering Act deal with two different situations.

In reply contained in Appellant's Reply Brief to 1st Respondent Brief of Argument, the learned Silk to the Appellant posited that all submissions made on behalf of 1st Respondent are alien to our Constitutional Law and that the Courts have no such powers to nullify an Act of National Assembly validly made under Section 4(8) of the Constitution. That cases cited are not apposite.

In reply on issue 2, the Appellant considered the view taken of Legal Practitioners Act as specific law for 1st Respondent and Money Laundering Act as general law with

respect to 1st Respondent as misconceived.

That whereas in this case the latter Act will prevail. He relied on TRADE BANK PLC V. LAGOS ISLAND LOCAL GOVERNMENT (2003) 3 NWLR (PT. 806) 11.

Now the serious or the very contentious matter inherent in under issues one and two is whether the learned trial Judge was right in holding that Section 5 of the Money Laundering (Prohibition) Act 2011is void insofar as it relates to Legal Practitioners or Lawyers when the lower Court had earlier on in its judgment said that the said Money Laundering (Prohibition) Act was validly passed or enacted by the National Assembly.

To resolve the issue, this Court will be guided by the cannons of principles of Interpretation of Statutes and the Constitution.

It has long been settled and have always been emphasised by this Court and the Apex Court in the land, that in the interpretation of a statute or the Constitution, it is the duty of the Court or Tribunal seised of the matter to interpret the statute or the Constitution literally so as to explicitly bring out the real intention of the lawmakers or the intendment of the statute and provisions of the Constitution. In other words where the words used in a statute are unambiguous and precise they must be accorded their ordinary and grammatical meanings. Where the Court is faced with the interpretation of any of the provisions or section of the Constitution, it must be read as a whole so as to discern or appreciate the object or purpose of the particular section or provision. See:-

1. DR. O. A. SARAKI VS FRN (2016) 4 SCM 94 AT 132 F – H per ONNOGEHN, JSC now CJN;
2. BRITANIA-U NIGERIA LTD VS. SPDC LTD & ORS (2016) 3 SCM 44 AT 81 per NGWUTA, JSC;
3. ACTION CONGRESS (AC) & ANOR V. INEC (2007) 12 NWLR (PART 1048) 222 AT 259 B-D per KATSINA-ALU, JSC later CJN (Rtd.);
4. ELIZABETH MABAMIJE V. HANS WOLF GANG OTTO

(20160 2 SCM 107 AT 118 H – I per RHODES-VIVOUR, JSC;

5. CORPORATE IDEAL INSURANCE LIMITED VS AJAOKUTA STEEL COMPANY LTD |& ORS (2014) 5 SCM 116 AT 135 H – D per OKORO, JSC who said:-

"It is trite that a cardinal rule of interpretation of statute is that where the words of a statute are clear and unambiguous, the Courts are to give them their plain and ordinary meaning. It does not require any special or cannon of interpretation. This has been the position of this Court in several decided cases. See EGBE V. YUSUF (1992) NWLR (PT. 245), OLARENWAJU V. GOVERNOR OF OYO STATE (1992) 1112 SCNJ 92."

6. THE HONOURABLE A.G. OF LAGOS STATE VS. THE HON. A. G. OF THE FEDERATION & ORS (2014) 9 NWLR (PART 1412) 217 AT 255 C – H per MD. MUHAMMAD, JSC who said:-

"It is a settled principle of interpretation that whenever a Court is faced with the interpretation of a Constitutional provision the Constitution must be read as a whole in determining the object of the particular provision. This requirement places a duty on the Court to interpret related sections of the Constitution together. See Nafiu Rabiu v. The State (1980) 8 – 11 SC 130 at 148; (1980) 8 – 11 SC (Reprint) 85 and Bronik Motors & Anor. v. Wema Bank Ltd. (supra). In Hon. Justice Ralia Elelu-Habeeb (Chief Judge of Kwara State) v. A.G., Federation & 2 Ors. (2012) 2 SC (Pt. 1) 145; (2012) 13 NWLR (Pt. 1318) 423 at p. 521, para. B–D, this Court stated thus:-

> ***"Thus duty of the Court when interpreting a provision of the Constitution is to read and construe together all provisions of the Constitution unless there is a very clear reason that a particular provision of the Constitution should not be read together. It is***

germane to bear it in mind the objective of the Constitution in enacting the provisions contained therein. A section must be read against the background of other sections of the Constitution to achieve a harmonious whole. This principle of whole statute construction is important and indispensable in the construction of the Constitution so as to give effect to it."

7. HON. JAMES ABIODUN FALEKE V. INEC & ANOR (2016) 18 NWLR (PART 1543) 61 AT 117 per KEKERE-KUN, JSC who said:-

"The settled cannons of construction of Constitutional provision are inter alia, that the instrument must be considered as a whole that the language is to be given reasonable construction and absurd consequences are to be avoided. See A.G. Bendel State v. A.G. Federation (1981) 10 SC 132 – 134, 1982 3 NCLR, Ishola v. Ajiboye (1994) 6 NWLR (Pt. 352) 506. It is equally well settled that where words used in the Constitution or in a statute are clear and unambiguous, they must be given their natural and ordinary meaning unless to do so would lead to absurdity or inconsistency with the rest of the statute."

It is indisputable that Section 4(1) of the Constitution of the Federal Republic of Nigeria 1999 as amended vests the legislative powers of the Federal Republic of Nigeria in the National Assembly for the Federation which consists of the Senate and House of Representatives. The mandate of the National Assembly is principally to make laws for peace, order and good government of the Federation of Nigeria or any part thereof especially on matters listed in the Exclusive Legislative List set out in Part I of Second Schedule to the 1999 Constitution as amended. The National Assembly also is

invested with the powers to make laws on the Concurrent Legislative List contained in Part II of Second Schedule to the said Constitution.

However there is no unbridle powers in the Legislature to make laws that are ultra vires its legislative power or functions. Thus any law made in excess of the powers of the National Assembly can be struck down by the Courts pursuant to Section 4(8) of the 1999 Constitution which provides as follows:-

> ***"4(8) Save as otherwise provided by this Constitution, the exercise of legislative powers by the National Assembly or by a House of Assembly shall be subject to the jurisdiction of Courts of law and of judicial Tribunals established by law, and accordingly, the National Assembly shall not enact any law, that ousts on purports to oust the jurisdiction of a Court of law or a judicial Tribunal established by law."***

In effect any law found to be illegally made or which does not flow from the powers of legislation committed to the National Assembly will be struck down.

Now the 1st Respondent is challenging the competence or powers of the National Assembly of the Federal Republic of Nigeria to enact sections 5 and 25 of the Money Laundering Act, 2011 insofar as they purport to make them applicable to Legal Practitioners or Lawyers. It is their vehement argument and they are tenacious about it, that since the Legal Practitioners Act has already made adequate provisions to regulate the practice of law vis-à-vis the Legal Practitioners duty and obligations to their client, the Money Laundering Act cannot place them under control or regulations made by the Central Bank of Nigeria and the Minister of Commerce in their purported administration of matters provided for in the Money Laundering Act.

To the 1st Respondent the inclusion of Legal Practitioners

into the definition Section of Money Laundering (Prohibition) Act makes the later law (MLA) incongruent, in conflict and repugnant to the provisions of the existing law governing the operation of Legal Practice and their roles of Legal Practitioners including accountability and professional obligations to their clients under Legal Practitioner Act 1976.

The Appellant strongly believe that the position of the Lawyers cannot be right in that there is nothing contradicting or which can impede the administration of Legal Practitioners Act in relation to Money Laundering Act which was passed to stem the tide of corruption and funding of the notorious terrorist act. I have read again the judgment of the lower Court (pages 267 – 805) of the record. The learned trial Judge was of the view that Legislature is deemed to be aware of its previous or existing legislations and the right and obligation created there under and stated that if the legislature – the National Assembly – had thought of Section 192 of the Evidence Act and the provisions of the Legal Practitioners Act which provide disciplinary bodies and punishment for erring Legal Practitioners under the Legal Practitioners Act 1976, the National Assembly might have not enacted Section 25 of the Money Laundering Act to include "Legal Practitioner" in the list of Designated Non-Financial Institution" which requires Legal Practitioner to report transactions involving cash in excess of US$1000 to Special Control Unit on Money Laundering (SCUML) a non juristic body under the department of Federal Ministry of Trade and Investment or Commerce which the trial Judge also classified a non-juristic body. The trial Court then held on page 802 of the record thus:-

> ***"Secondly, by Section 5(6)(b) of Money Laundering (Prohibition) Act, supra. Can any authority, not within the contemplation or creation of the Legal Practitioners Act, in the exercise of its oversight/regulatory function, sanction a practicing***

lawyer without violating the elaborate statutory procedure already provided for both the Legal Practitioners Act and the Rules of the Professional Conduct, 2007 made as a subsidiary legislation to the said Act. The decision I have reached having read all the applicable legislations, is to grant the Plaintiff's relief (A) wholly as pleaded in its "Originating Summons".

In relation to relief (B), Section 25 of Money Laundering (Prohibition) Act, supra. Shall be read so as to have "Legal Practitioner" deleted as one of the DNFIs listed therein. Reliefs (C) and (D) are granted as prayed.

In conclusion, the decision I have reached is based on the fact that Sections 5 and 25 of Money Laundering (Prohibition) Act, supra are not in conflict with the Constitution as it relates to Section 37 of the Constitution. But, insofar as the said provision in the Money Laundering (Prohibition) Act, supra. Seeks to impose additional oversight/regulatory bodies on the practice of law in Nigeria, its provision in Section 5 will run contrary to such provisions in Sections 10(1); 11; 12(10; 13 and possibly, Section 21 of the Legal Practitioners Act, supra. And Rule 19(1), (2) and (3) of the Rules of Professional Conduct 2007."

In order to fully understand and underpin the real issue in controversy it is pertinent and essential to reproduce Sections 5 and 25 of the Money Laundering Prohibition Act which provide thus:-

"5.-(1) A Designated Non-Financial Institution whose business involves the one of cash transaction shall:-

(a) In the case of:

(i) A new business, before commencement of the business;

(ii) Existing business, within 3 months from

the commencement of this Act, submit to the Ministry a declaration of its activities;

(b) Prior to any transaction involving a sum exceeding US$1,000 or its equivalent, identify the customer by requiring him to fill a standard data form and present his international passport, driving licence, national identity card or such other document bearing his photograph as may be prescribed by the Ministry;

(c) Record all transaction under this section in chronological order, indicating each customers surname, forenames and address in a register numbered and forwarded to the Ministry.

2. *The Ministry shall forward the information received pursuant to sub-section (1) of this section to the Co*
3. *A register kept under sub-section (1) of this section shall be mmission within 7 days of its receipt. preserved for at least 5 years after the last transaction recorded in the register.*
4. *The Minister may make regulations for guiding the operations of Designated Non-Financial Institutions under this section.*
5. *Notwithstanding the provisions of sub-section (20 of this Section, the Commission shall have powers to demand and receive reports directly from Designated Non-Financial Institutions.*
6. *A Designated Non-Financial Institution that fails to comply with the requirements of customer identification and the submission of returns on such transaction as specified in this Act within 7 days from the date of the transaction commits an offence and liable on conviction to:*

(a) A fine of N250,000 for each day during which the offence continues; and

(b) Suspension, revocation or withdrawal of licence by the appropriate licencing authority as the

circumstances may demand."

"25. In this Act-

"Designated Non-Financial Institution" means dealers in Jewellery, cars and luxury goods, chartered accountants, audit firms, tax consultants, clearing and settlement companies, legal practitioners, hotels, casinos, supermarkets, or such other businesses as the Federal Ministry of Commerce or appropriate regulatory authorities may from time to time designate."

There is no doubt that the National Assembly has the legislative powers to make the Money Laundering (Prohibition) Act 2011 because it comes within the power of the National Assembly to make law to ensure peace, order and good government of the Federation or any part thereof and in this case in respect of any matter that can stem the tide of terrorism and prevention of laundering of the proceeds of a crime or an illegal act. And as further explained by the Act itself in order to curb the challenges faced in the implementation of the anti-money laundering in Nigeria.

However and just as the learned trial judge had said in his judgment that a legislature is deemed to know which laws it has made or passed and in the case of Nigeria the National Assembly must be deemed to know which laws or Act(s) were deemed made by the National Assembly when it came into existence under the 1999 Constitution as amended. Section 315 of the said Constitution deemed all laws made by the Federal Government of Nigeria and in force as at 29th of May, 1999 as having been made by the National Assembly, that is all existing laws of the Federal Government. Thus the LEGAL PRACTITIONERS ACT CAP L11 which had been variously amended was/is deemed to be the Act of National Assembly which came into being and commenced on 16th day of May, 1975. It is titled AN ACT TO RE-ENACT THE LEGAL PRACTITIONERS ACT 1962 as amended up to date"

Sections 2(1) and 24 define person qualified to be

referred to as a Legal Practitioner as follows:-

> ***"2(1) Subject to the provisions of this Act, a person shall be entitled to practice as a Barrister and Solicitor if, and only if his name is on the roll.***
>
> ***24. Legal Practitioner means a person entitled in accordance with the provisions of this Act to practice as a Barrister or as s Barrister and Solicitor, either generally or for the purposes of any particular notice or proceedings."***

Thus a person whose name is not on the roll of Legal Practitioners cannot practice law in any form in Nigeria. See OKAFOR V. NWEKE (2007) 10 NWLR (PART 1043) 521 AT 523 where ONNOGHEN, JSC now CJN said emphatically:-

> ***"The combined effect of the above provisions is that for a person to be qualified to practice as a legal practitioner he must have his name in the roll otherwise he cannot engage in any form of legal practice in Nigeria."***

The body of Bencher is responsible for call to Bar of any person who has attended the Nigerian law School and obtained Barrister at Law Certificate and who after his call to the Bar must enroll or have his name registered on Register of Roll for Legal Practitioners in Nigeria at the Supreme Court of Nigeria. See Sections 4 and 7 of the Legal Practitioners Act 1975. Section 7(1) (a) (b) say thus:-

> ***"7(1) Subject to the provisions of this Section, a person shall have his name enrolled if, and only if-***
>
> ***(a) He has been called to the Bar by the Benchers; and***
>
> ***(b) He produces a Certificate of his call to the Bar to the Registrar.***
>
> ***The Registrar is defined as "The Chief Registrar of the Supreme Court."***

Section 10 of Legal Practitioners Act establishes Disciplinary Committee while Section 11 prescribes punishment for unprofessional conduct etc. It is the Disciplinary Committee that can order the striking out of the name of a Legal Practitioner off the roll; or to suspend him from practice for a period of time which includes ordering a refund of money paid or documents given or other punishment. All these are applicable once it is found or proved that Legal Practitioner whose name is on the roll is guilty of infamous conduct or other misconduct.

Paragraphs 5, 6, 10, 11, 12, 13, 14, 19, 20 and 22 of the Affidavit in support of the 1st Respondent's (as Plaintiff) Originating Summons at the lower Court are as follows:-

"5. There is now produced and shown to me, marked "Exhibit NBA/1" a bundle of true copy of the documents, to which I shall refer. References to pages of the said bundle shall be "Exhibit NBA/1(1) etc.

6. The Plaintiff institutes this action on behalf of the NBA and all its members in order to challenge the 'Anti-Money Laundering Regime' implemented by the MLA, upon several complaints received from legal practitioners all over the country regarding the potential encroachment on the Lawyer/Client privilege through the implementation of the anti-money laundering regime by the Special Control Unit on Money Laundering.

10. The EFCC is empowered to "demand and receive reports directly from" DNFIs, and criminal sanctions may be imposed on DNFIs that do not comply. These sanctions include a daily fine of N25,000.00 for the duration of the non-compliance and other penalties that include terms of imprisonment for individuals of not less than two years and not more than three years.

11. *DNFIs are defined to include legal practitioners.*
12. *By law and practice Legal Practitioners in Nigeria are subject to a duty to keep every privacy and confidentiality of their clients except the clients direct otherwise and this duty is considered fundamental to the lawyer/client relationship and to the integrity of legal practice in Nigeria.*
13. *The Central Bank of Nigeria, by a circular reference FPR/CIR/GEN/VOL 1/028 dated 2nd August 2012, directed that within six months from the date of the circular (February 2013) all banks and other financial institutions providing services to DNFIs (referred to in the said circular as "Designated Non Financial Businesses and Professions – DNFBPs") require such DNFIs to register with SCUML, an agency of the Federal Government. A copy of the said circular is at NBA/1-1.*
14. *SCUML was established as a specialized unit of the Federal Ministry of Commerce and Industry (now Trade and Industry) by the Federal Executive Council of Nigeria [Decision No. EC (2005) 2861 in September 2005] and charged with the responsibility of executing the statutory role of the Federal Ministry of Commerce as prescribed I the MLA.*
19. *I know as fact that a number of banks have started applying the new directives of the CBN albeit that the MLA makes no reference to DNFBP. A copy of a Notice from Standard Chartered Bank is at NBA/1-3.*
20. *I also know as a fact and virtue of my position and profession that the requirement for legal practitioners to register with the SCUML interferes with the practice of law and the statutes regulating same.*
22. *I know as a fact that unless the court intervenes that:-*
    i. *In the circumstances, and given that the majority of legal practitioners have not*

registered with SCUML, I fear that a vast number of legal practitioners will be deprived of banking services as a consequence of non compliance with the directive,

ii. *Defendants would keep on encroaching on and interfering in the practice of law and the confidential relationship between legal practitioners and their clients in Nigeria.*

ii. *irreparable harm will be done to individual legal practitioners and to the credit and reputation of law practice in Nigeria in general. (sic)"*

Exhibit NBA1-(1) dated 25 February 2013 and attached to 1st Respondent's Originating Summons read;-

"CENTRAL BANK OF NIGERIA
Financial Policy and Regulation Department
Central Business District
PMB 0187
Garki, Abuja

Tel: 09-46237409
E-mail fprd@cbn.gov.ng
25th February, 2013

FPR/DIR/GEN/CIR/03/001
CIRCULAR TO ALL BANKS AND OTHER FINACIAL INSTITUTIONS

ADDITIONAL KNOW YOUR CUSTOMER (KYC) REQUIREMENT IN RESPECT OF DESIGNATED NON-FINACIAL BUSINESS AND PROFESSIONS (DNFBPs)

Recall that the CBN issued a Circular dated 2nd August, 2012 referenced FPR/CIR/GEN/VOL.1/028 to all banks and other financial institutions (OFIs) on the above subject. The circular directed that DNFBPs that are existing financial institutions' customers to update their account information with evidence of registration (e.g. certificate of registration

showing registration number) with the Special Control Unit Against Money Laundering (SCUML), within six (6) months from the date of the circular.

However, following representations made by some stakeholders for an extension of the deadline, the Central Bank of Nigeria Bank of Nigeria (CBN) (sic) hereby extends the deadline by three (3) months from 1st February, 2013 to 30th April, 2013. For avoidance of doubt, DNFBPs that have not registered with SCUML may do so and update their bank accounts information with such evidence on or before 30th April, 2013, failing which they would not be allowed to operate such accounts until they comply.

Sgd.

NWAOHA, I. T.
Ag. DIRECTOR, FINANCIAL POLICY AND REGULATION DEPARTMENT"

The letter quoted above is seen as an affront and interference with the practice of law vis-à-vis the Legal Practitioner's obligations to their clients and that the provisions of Section 5 and 25 of the Money Laundering Act conflicted with the provisions of Legal Practitioners Act which makes specific provisions and regulations governing the legal practice in Nigeria. To the 1st Respondent the Money Laundering (Prohibit) Act contains general provisions and as such the lower Court had the powers to void the said provision of Money Laundering (Prohibition) Act as they relate to Lawyers or to disapply the provisions of Money Laundering Act aforesaid as they concern lawyers.

I have again examined and read clearly the provisions of Section 20 and 21 of the Legal Practitioners Act which was in existence before the enactment of the Money Laundering (Prohibition) Act 2011 and they are as follows:-

"Safeguard

20. Accounts and records for clients' moneys

(1) Subject to subsection (4) of this section: the Bar Council may, from time to time, as the Council considers expedient, make rules-

(a) as to the opening and keeping by legal practitioners of accounts at banks for clients' moneys; and

(b) as to the keeping by legal practitioners of records containing particulars and information as to moneys received, held or paid by them for or on account of their clients; and

(c) as to the opening and keeping by a legal practitioner who is the sole trustee, or who is a co-trustee only with one or more of his partners, clerks or servants, of an account at a bank for moneys of any trust of which he is the sole trustee or such a co-trustee as aforesaid; and

(d) as to the keeping by such a legal practitioner as is mentioned in paragraph (c) of this subsection, of records containing particulars and information as to moneys received, held or paid by him for or on account of any such trust as is so mentioned; and

(e) empowering the Bar Council to take such action as it thinks necessary to enable it to ascertain whether the rules are being complied with.

(2) Rules made under subsection (1) of tills section shall not come into farce until they are approved by order of the Attorney-General, either without modification or with such modifications as he thinks fit; but before approving any such rules with modifications the Attorney-General shall afford the Bar Council an opportunity of making representations with respect to the proposed modifications and shall consider any representations made in pursuance of this subsection.

(3) If it appears to the Attorney-General that any rules should be made, revoked or altered in exercise of the Rowers .conferred on the Bar Council by this section, he shall make a recommendation in that behalf to the Bar Council; and if within the 'period of six months beginning with the date of the recommendation the Council has not acted in accordance with the' recommendation, the Attorney-General may, within W; period of twelve months beginning with that date, make rules giving effect to the recommendation.

(4) Rules under this section shall not require the keeping of accounts or records-

(a) by a Legal practitioner in respect of moneys received, held or paid by him as a member of the public service of the Federation or a State; or

(b) in such other circumstances as may be specified by the rules.

(5) For the purposes of this section, "trustee" includes personal representative, and in relation to a personal representative any reference to a trust shall be construed as a reference to the deceased's estate.

21. Special provisions as to client accounts with banks

(1) A bank at which a legal practitioner keeps an account for clients' moneys shall , not, in respect of any liability of the legal practitioner to the bank which does not arise in connection with that account, have or obtain any recourse or right, whether by way of set off, counter-claim, charge or otherwise, against moneys standing to the credit of that account.

(2) A bank shall not, in connection with any transaction in respect of an account of a legal practitioner kept for clients' moneys with that or with any other bank (other than an account kept by him as trustee for a specified beneficiary) incur any liability, or be under any obligation to make any inquiry, or be deemed to have any knowledge of any light of any person to any money paid or credited to the account, which it would not incur or be deemed to have in the case of an account kept by a person entitled absolutely to all the money paid or credited to the account."

It is thus clear that the Legal Practitioners Act already put in place safeguards for the protection of the clients of a Legal Practitioner. Special provisions are also provided or made in the Legal Practitioner's Act concerning moneys of the clients. It is mandatory for a Legal Practitioner to open CLIENT'S BANK ACCOUNT at a Bank where all monies collected for or on behalf of a client by a Legal Practitioner must be paid. The Act constituted the Legal Practitioner a Trustee for the monies of the client which must NOT be mixed or joined with Legal Practitioners money. With such an Account of a Client in a licenced Bank it is easy for those charged with operation and enforcement of Money Laundering (Prohibition) Act

2011 to monitor and follow Client's Account directly from the financial institution at which clients account is opened and client's account lodged pursuant to Sections. It will then be the duty of the Financial Institution (i.e. the Bank) to classify or do identification of its (Bank) Customers. It has nothing to do with a Legal Practitioner. There is already enacted into the Legal Practitioners Act the penalties or punishment a Legal Practitioner would face if he fails to comply with the mandate and positive demand of the Legal Practitioners Act to open a client's Account.

There is no doubt that the Legal Practitioners Act and the Money Laundering Act cannot operate side by side or at the same time insofar as it relates to Legal Practitioners. There are violent conflicts between the two legislation as they affect Lawyers and their clients and the Legal Practice in Nigeria.

What is more the National Assembly made the Money Laundering (Prohibition) Act without making any reference whatsoever to any provisions of the Legal Practitioners Act 1976. More importantly the Money Laundering Act to my mind does not directly or by implication states in any of the 25 sections of the said Money Laundering Act that any of the provisions of the Legal Practitioners Act is amended or repealed either in whole or part. And this is the cross road. I believe the learned trial Judge was right in expressing preference for the provisions of the Legal Practitioners Act over the provisions of Section 5 and 25 of the Money Laundering (Prohibition) Act 2011 rendering the two sections of Money Laundering (Prohibition) Act invalid, null and void insofar as they purport to apply to Legal Practitioners.

I am very mindful of the submission of the learned Silk to the Appellants Chief Edosomsowan, SAN who argued that the following holding of the learned trial Judge viz:-

> ***"In conclusion the decision I have reached is based on the fact that Sections 5 and 25 of the Money Laundering (Prohibition) Act supra are not in conflict with the Constitution and be validated by a general reading of Section 45 (b) of the Constitution as it relates to Section 37 of the Constitution"***

runs counter to the conclusion reached by the trial Judge. In other words

the learned trial Judge according to the learned Senior Advocate of Nigeria held that the Money Laundering (Prohibition) Act is reasonable under Section 45 of the 1999 as amended and that the National Assembly has the power and competence to enact or promulgate the aforesaid Act.

I have to say at once and emphatically too that from the questions posed for determination and the reliefs sought on the Originating Summons of the 1st Respondent, the 1st Respondent did not canvass that the National Assembly cannot make laws pertaining or relating to prohibiting the financing of terrorism, the laundering of the proceeds of a crime, or an illegal act; and providing for appropriate sanctions and penalties.

All the 1st Respondent is contending is that there is in existence, the Legal Practitioners Act regulating the law profession and practice of law and Legal Practitioners responsibilities and accountability to their clients especially on the keeping of clients monies, hence, the 1st Respondent prayed the lower Court to tinker or nullify the Money Laundering Prohibition Act Sections 5 and 25 thereof insofar as they concern Legal Practitioners as they cannot coexist side by side with the provisions of Legal Practitioners Act hereinbefore discussed in this judgment. That there is inconsistency between the two laws.

As a matter of fact, the learned Silk to the 1st Respondent Chief Wole Olanipekun, SAN, while adumbrating on the 1st Respondent's Brief of Argument relied on additional authorities and submitted that what the learned trial Judge did was nothing more than application of BLUE PENCIL RULE in order to allow for the two enactments to exist side by side without any harm.

The learned Silk to the Appellant replied on point of law concerning whether blue pencil rule is applicable to this case. The leanred Silk, Chief Edosomwan, SAN strongly submitted against the applicability of blue pencil rule to this case in that since Money Laundering Act is a later enactment or Act it has superseded the provisions of Legal Practitioners Act and as such the Legal Practitioners Act is deemed to have been repealed being the earlier law or Act. He prayed this Court to give precedence to the new law.

Money Laundering (Prohibition) Act 2011 as applicable to all and sundry including members of the 1st Respondents – Legal Practitioners.

Now what is the meaning or doctrine of implied repeal of a statute. Recourse will be had to the recent case of ROTIMI WILLIAMS AKINTOKUN VS LEGAL PRACTITIONERS DISCIPLINARY COMMITTEE (LPDC) (2014) 13 (PT. 1423) P. 85 E –H. per I. T. MUHAMMED, JSC who said:-

> ***"I think the law is that where a later enactment does not expressly amend (whether textually or indirectly) an earlier enactment, but the provisions of the later enactment are inconsistent with those of the earlier, the later by implication, amends the earlier so far as is necessary to remove the inconsistency between them. This is because, if a later Act cannot stand with an earlier one, parliament, generally, is taken to intend an amendment of the earlier. This-is a logical necessity, since two inconsistent texts cannot both be valid.***
>
> ***If the entirety of the earlier enactment is inconsistent, the effect amounts to an implied repeal of it. Similarly, a part of the earlier enactment may be regarded as impliedly repealed where it cannot stand with the later. An intention to repeal an Act or enactment may be inferred from the nature of the provision made by the later enactment. The Latin maxim puts it that leges posteriores priores contrarias abrogant (later laws abrogate prior contrary laws) See Ellen Street Estates Limited v. Minister of Health (1934) 1 KB 590 at pages 595-596,; Re-Williams Jones v. Williams (1887) 16 ChD 573 at page 578"***

On page 87 B – H of the report my Noble Lord says this:-

> ***"In law, therefore, there are circumstances in which a repeal of an enactment can be implied or inferred and that is where two acts of the legislature are plainly repugnant to each other that effect cannot be given to both at the same time. Thus, repeal by implication cannot be prohibited where circumstances warrant. See***
>
> ***Ellen Street Estates Limited v. Minister of Health (Supra). All the courts are reluctant to hold is that constitutional enactments have been impliedly repealed. See: the dictum of Lord***

Wilberforce in the case of Petition of the Earl of Antinim v. Eleven Other Irish Peers (1967) 1 AC 691 at page 724. ~

In the matter on hand, it is my belief, as I stated earlier, that the 2004 Acts and in particular Cap. L 11, 2004, LFN (Legal Practitioners Act) are valid and existing laws of the Federal Republic of Nigeria. Equally, the 1994 Decree No. 21, may not have been textually repealed. It is to be noted, however, that in all the instances cited or referred to in comparison with Aladejobi's case, there was never cited to the courts a situation where two conflicting laws, co-existed. This makes the clear distinction, that is, the co-existence of Decree No. 21 of 1994 and the provisions of Cap. L11, 2004, LPN on the disciplining of erring legal practitioners which was endorsed, if I may use the word, by the National Assembly. This principle is well settled by this court in the case of Uwaifo v. Attorney-General, Bendel State & Ors (1982) 7SC 55 at 90, (1983) 4 NCLR 1 per Idigbe, JSC (as he then was):

> *"It is indeed, a settled principle of law that where two Acts are inconsistent or repugnant, the latter will be read as having impliedly repealed the earlier (see. Paine v. Slater (1883) 11 QBD 120) and the courts lean heavily against implying a repeal except where the two Acts are so plainly inconsistent or repugnant to each other that effect cannot be given to both at the same time, in which case it will imply a repeal (see also: Dr. Lushington in The India (1865) 12 LT (new series at 316)."* (Underlined mine)

Thus doctrine of implied repeal of statute will not be invoked unless the two acts of the legislature are plainly repugnant to each other that effect cannot be given to the two enactments at the same time.

The Courts usually lean heavily against implied repeal of an earlier statute by a later statute on the same or similar subject matter unless the words of the provisions of the later statute is very clear either in express terms or lucid implication. See:-

(1) THE GOVERNOR OF KADUNA STATE & ORS V. LAWAL KAGOMA (1982) FWLR (VOL. I) 317 AT 325 where FATAYI-WILLIAMS, CJN (Rtd.) of blessed memory who said:-

"It is now well established that the Courts will lean against implying the repeal of an existing legislation. Therefore, if both the earlier and the later statutes can reasonably be construed in such a way that both can be given effect to, this must be done. Moreover, when the later statute, as in the present case, is worded in clear and affirmative language, restricting the powers conferred therein to a specified authority and to specific subject, without any negative expressed or implied, it becomes less likely that the later statute is intended to repeal the earlier statute. It only makes inapplicable the provisions of the earlier statute so long as the provisions of the later statute dealing with specific matters are in force. Thus, in Luby v. Warwickshire Miners Association [1912] 2 Ch. 371, it was held that statutes which regulate the affairs of trade unions have merely exempted them, by implication from the operation of earlier statutes relating to unlawful combinations."

(2) On pages 334 – 335 of report NNAMANI, JSC (of blessed memory) also said:-

"As regards implied repeal of statutes generally, it is now well settled that the Courts tend to lean against accepting an implied repeal of any law. The rationale of this attitude by the Courts is of course that if it is the intention of Parliament (or any legislature) to repeal an existing law it should be so stated by express words. The attitude of the Courts is consequently that if effect can be given to the two statutes concerned that should be done rather than imply a repeal. A statute repeals another by implication only if the terms of the later one are so inconsistent with and so repugnant to those of the later one that they cannot stand together, Kutner v Phillips [1891] 2 QB 267 at 271, 272. In Butler v Attorney-General (Victoria), 106 C.L.R. 268 at 275 and 276 Fullagar, J., made the following observation which I adopt:

"The books contain, of course plenty of examples of an implied repeal total or partial of an earlier statute by a later statute of

the same legislature. But it is a comparatively rare phenomenon, and it has been said again and again that such a repeal will not be held to have been effected unless actual contrariety is clearly apparent. I would say that it is a very rare thing for one statute in affirmative terms to be found to be impliedly repealed by another which is also in affirmative terms. The classical statement on the subject is, I think, to be found in the opinion of Lord Blackburn in Garnett v Bradley (1878) 3 App. Gas. 944 at 966."

I am of the solemn view that there is not categorical or implicit in the Money Laundering (Prohibition) Act 2011 from which to infer or conclude that the Money Laundering (Prohibition) Act repeals or amends in any way the provisions of Legal Practitioners Act.

What will then happen to the provisions of Sections 5 and 25 of the Money Laundering (Prohibition) Act 2011? I am of the opinion that this is the point at which to decipher whether the application of BLUE PENCIL RULE advocated by learned Counsel to the 1st Respondent can be invoked to remove from the Money Laundering (Prohibition) Act the impugned identified sections of the Money Laundering Act insofar as they relate to Legal Practitioners.

The doctrine has been considered and applied by the apex Court in the land.

(1) ATTORNEY-GENERAL OF ABIA STATE & ORS V. A.G. FEDERATION (2002) 6 NWLR (PART 763) 264 at.....per the dissenting judgment of OGUNDARE, JSC who said:-

"The blue pencil rule is applied to sever a part of a legislation that is good in the sense that it is valid, from part that is bad, in that it is invalid. That is, the blue pencil is run over the part that is bad. If what remains of the impugned legislation, that is the part that is good can stand, then it is applied. But if what remains cannot stand on its own, the impugned legislation is declared invalid."

(2) ATTORNEY-GENERAL OF ONDO STATE VS ATTORNEY-GENERAL

OF THE FEDERATION & ORS (2002) 9 NWLR (PART 772) 222 AT 310 per UWAIS, CJN (now Rtd.) who said:-

"Applying the blue pencil rule, Section 26 subsection (3) and (35) will be struck down. When this is done the rest of the Act is not affected. So the good can be severed from the bad. There is no reason to justify the whole of the Act being invalidated as sought by the Plaintiff."

Therefore the provisions of Section 5 and 25 of the Money Laundering (Prohibition) Act 2011 insofar as they purport to apply to Legal Practitioners are invalid, null and void and the inclusion of "Legal Practitioners" in the definition of "Designated Non-Financial Institution" in Section 25 of the Money Laundering (Prohibition) Act is inapplicable to Legal Practitioners. The lower Court is/was right in granting reliefs "A" and "B" contained in the Originating Summons in favour of 1st Respondent.

Issues 1 and 2 are hereby resolved against the Appellant.

I will also consider issues 3 and 4 together viz:-

3. ***Whether the learned trial judge was right in law when he held that section 5 of the Money Laundering [Prohibition] Act is contrary to section 21 of the Legal Practitioners Act and Sections 10(i) (ii) 12(i), 13 and the Rule 19(1)(2) and 3 of the Rules of Professional Conduct 2007, a subsidiary legislation inferior to the Money Laundering (Prohibition) Act (Ground Three).***

4. ***Whether the learned trial judge was right when he failed to give effect to the words of a valid Act of the National Assembly to wit: the Money Laundering (Prohibition) Act but rather held that the legal practitioners Act and section 192 of the Evidence Act should be preferred and read as overriding the***

provisions of the Money Laundering (Prohibition) Act (Ground Five).

The learned Counsel to the Appellant began his argument by making reference to the holding of the learned trial Judge on page 803 of the record and submitted that the learned trial Judge was wrong to have held that provisions of the Money Laundering Act run counter to Sections 10(i) (ii) 12(i), 13 and possibly Section 21 of the Legal Practitioner Act having found earlier on that Section 5 and 25 of the Money Laundering (Prohibition) Act are not in conduct with the provisions of the Constitution particularly Sections 37 and 45 of the Constitution of Nigeria 1999 as amended. That it is erroneous on the part of lower Court to hold that Rules of Professional Conduct made pursuant to Section 5 of the Money Laundering (Prohibition) Act, a subsidiary legislation can be used to nullify Section 5 of Money Laundering Act 2011.That both Legal Practitioners Act and Money Laundering Act are made by National Assembly are superior to the Rules of Professional Conduct which is a subsidiary legislation. He relied on the case of CONAC OPTICAL NIG. LTD. VS AKINYEDE (1995) 6 NWLR (PT. 400) 212 AT 216.

That Money Laundering Act was promulgated later in time than the Legal Practitioners Act and that it raises a presumption that the National Assembly which is the common enacting authority for both legislation is deemed to be aware of provisions of the earlier Legal Practitioners Act and yet proceeded to enact provisions of Sections 5 and 25 of the Money Laundering (Prohibition) Act.

That the learned trial Judge cannot nullify or edit the provision of the latter statute, the Money Laundering Prohibition Act particularly by combining it with subsidiary legislation. He relied on the case of COTECNA INT. LTD V. CHURCHGATE NIG. LTD. (2010) 18 NWLR (PT. 225) 346 AT 364.

That lower Court failed to give effect to the position of the

law citing the case of ABUBAKAR V. A.G. FED. (2007) 3 NWLR (PT. 1022) 601 AT 623. That no absurdity or injustice will arise from the literal interpretation of law enacted by the National Assembly in the instant case. He also cited the case of A.G. FED. V. ABUBAKAR (2007) 10 NWLR (PT. 1041) 1 AT 20 and BAKARE V. NRC (2007) 17 NWLR (PT. 1064) 606 AT 620 RATIO 12. That Rules of Professional Misconduct cannot supersede or override the clear provisions of the Money Laundering Act which is a later legislation validly made by the National Assembly. Urged that issue three be decided in Appellant's favour.

On whether the learned trial Judge was right in referring the Legal Practitioner's Act and Section 192 of the Evidence Act and read as overriding provisions of the Money Laundering (Prohibition) Act raised under issue four, the learned Senior Counsel to the Appellant drew attention to the decision of the trial Judge on the issue and submitted again that the trial Judge was in error when he assumed the legislative function of editing and amending a clear provision of a validly enacted Act of the National Assembly.

That the Legal Practitioner Act, the Evidence Act and indeed the Money Laundering (Prohibition) Act did not undermine one another. That the earlier two were promulgated to regulate Legal Practice while the Money Laundering (Prohibition) Act was specifically promulgated to address the killing influence of terrorism that is aided by Money Laundering. That the learned trial Judge had by his decision overturned the express intention of the legislature. Appellant urges this Court to resolve issue four in Appellant's favour.

In his response to the above submissions the learned Senior Counsel to the 1st Respondent contended that in view of the extensive arguments in respect of issues 1 and 2 as formulated by the Appellant under 1st Respondent's issue one, that the learned trial Judge was right in striking down the provisions of Money Laundering Act as it relates to Legal

Practitioners. That having held that provisions of the Legal Practitioners Act and the Evidence Act are not harmonious with the provisions of the Money Laundering Act, the only option available to the lower Court was to void the provisions of Money Laundering Act for its encroachment on the pre-existing rights and responsibilities created under the Legal Practitioners Act and the Evidence Act without any express provision indicating that that was the intention of the Parliament. That that was the holding of trial Court on page 143 of the record.

That there is nothing in the Money Laundering Act to suggest that it takes precedence over the Legal Practitioners Act and the Evidence Act. That the Appellant's argument to the effect that Legal Practitioners Act, the Evidence Act and the Money Laundering Act did not undermine one another as being completely of the mark.

That Sections 1 of Legal Practitioner's Act and Section 1(2) established the Bar Council and made the 2nd Respondent its President while Section 3 establishes the Body of Benchers responsible for the formal call to Bar of persons seeking to become Legal Practitioners. That Section 5 establishes Legal Practitioners Privileges Committee charged with duty of conferring the rank of Senior Advocate while Section 10 established the Legal Practitioners Disciplinary Committee to deal with cases of professional misconduct. That the Act makes provisions with respect to Legal Practitioners remuneration and clients accounts.

That apart from the specific provisions in the Act, there is the Rules of Professional Conduct for Legal Practitioners which came into effect on 2/2/2007. He relied on Rules 7, 14, 19, Rule 55 which learned Counsel to the 1st Respondent stated imposed duties and obligations on Lawyers and at the same time providing punishment for any Legal Practitioner who breaches any of the Rules in accordance with the Legal Practitioners Act.

The learned Silk to the Respondent stated further that

aside from the Legal Practitioners Act and the Rules aforesaid Section 192 of the Evidence Act also placed duty upon Practitioners on the need to avoid disclosing any communication between Lawyers and their clients. The learned Senior Counsel for 1st Respondent then reproduced part of Section 5 of the Money Laundering Act and Section 25 thereof dealing with definition of "DESIGNATED NON-FINANCIAL INSTITUTIONS" under the Money Laundering Act. That the Money Laundering Act has lumped Legal Practitioners with jewelry and car dealers etc. That in effect the Money Laundering Act has now placed Legal Practitioners under the authority of Minister of Commerce as appropriate regulatory authority of their practice. That Section 5 no doubt conflicts with the provisions of Legal Practitioners Act which has already made provisions which regulates financial transactions between clients. He referred to sections 20 and 21 of the Legal Practitioners Act. That a lawyer cannot be lumped with those enumerated in Section 25 of Money Laundering Act.

That Section 5 of the Money Laundering Act is inconsistent with provisions of Section 192 of the Evidence Act on lawyers/clients communication. That without any provision in the Money Laundering Act that it shall override or supersede the provisions of either Legal Practitioners Act or Evidence Act and as such the Court cannot construe the Money Laundering Act as extinguishing the rights created under the Legal Practitioners Act and the Evidence Act both of which he said are earlier in time. That the Court could not also have directed Legal Practitioners to disobey the Evidence Act and Legal Practitioners Act.

That the Legal Practitioners in Nigeria cannot be subjected to practicing their profession under two inconsistent Legal Regimes – one specifically promulgated or made to regulate the profession and control its practice AND another made by aliens or outsiders to the profession. That MLA cannot override Legal Practitioners Act and Section 192 of the Evidence Act.

He relied among others on the cases of MARTIN SCHRODER & CO. VS. MAJOR & COMPANY (NIG.) LTD (1989) 2 NWLR (PT. 1010) 10 AT 11 E – G (sic).

That Lawyers cannot be made to divulge the secrecy of their clients whatever might be the circumstances relying on the case of IKENNE V. ANAKWE (2003) (PT. 829) 548 AT 574 – 575 and OSHOSHEWRINDE V. AKANDE (1996) 6 NWLR (PT. 455) 383 AT 392. He relied also on the Exhibits attached to the originating summons and findings of the trial Judge on pages 126 – 127 of the record.

That other professions like medical practitioners, pharmacists, teachers and several other professions were not included in MLA.

That Appellant cannot rubbish the entirety of legal profession in Nigeria under the guise or disguise of fighting terrorism and money laundering.

In his own response to the arguments of the Appellants under issues 3 and 4 the learned Counsel to the 2nd Respondent HAMZA AHMED GUDAJI, ESQ. conceded that Rules of Professional Conduct 2011 applies in a different context from Section 192 of the Evidence Act 2011. That nonetheless Rule 19 cannot prevail over Section 5 of the Money Laundering Act because it is a subsidiary legislation while the Money Laundering Act is an Act of National Assembly.

That in the event of any conflict the MLA will prevail because Rules of Professional Conduct which were made pursuant to provisions of Legal Practitioners Act.

That the learned trial Judge was wrong in alluding to any conflict between the Rules and MLA Section 5 thereof and Legal Practitioners Act 1975. That harmonious relationship exists between the two. According to him Section 5(6) of the MLA does not encroach into the disciplinary authority of Legal Practitioners Disciplinary Committee but confers more power to it by expanding the scope of offences a Lawyer could be liable. That Legal Practitioners Act does not make provision with

regard to Money Laundering or its prevention.

That even if conflicts exists between the two Acts (Money Laundering Act and Legal Practitioners Act the only way to resolve it according to learned Counsel to 2nd Respondent is by having recourse to the provisions of the 1999 Constitution as amended Section 315(1) thereof. He relied on the case of FRN V. OSAHON (2006) 5 NWLR (PT. 973) 361 AT 403 – 404 G – A, 404 E – F. He relied on Section 315(3) of the said Constitution to submit that in the event of any conflict between Section 5 of the MLA and the provisions of Legal Practitioners Act, the provisions of Money Laundering Act shall prevail.

In reply to the submissions of the 1st Respondent as to whether the Money Laundering in Sections 5 and 25 only singled out the Legal Practitioners for inclusion in the MLA notwithstanding that it has its own governing its practice and regulating same like other professional bodies, the Appellant submitted that if the lower Court had followed the correct interpretation of statute it would have seen that the Legislature did not intend to give exception to any profession notwithstanding the provisions of Legal Practitioners Act which he stated predated the Money Laundering Act. That lower Court ought to have as a matter of paramount importance known that all professions that form the DFNIS have their enabling statutes.

That the trial Judge was wrong in holding that there are specific provisions of Legal Practitioners Act which operate to render Sections 5 and 25 of Money Laundering (Prohibition) Act null with respect to members of 1st Respondent.

The net effect of the Appellants submissions under issues 3 and 4 are to the effect that:-

1. ***The learned trial Judge was wrong in holding in effect that Section 5 of the Money Laundering (Prohibition) Act 2011 is contrary to Section 21 of the Legal Practitioners Act and erred also in further holding that the said Section***

of Money Laundering Act is inferior to Rules 10, 12, 13 and 19 of the Rules of professional Conduct for Legal Practitioners 2007 which is a subsidiary legislation.

2. The trial Court erred in law when he held that the Legal Practitioners Act and Section 192 of the Evidence Act should be preferred and read as overriding the provisions of Money Laundering (Prohibition) Act.

Section 5 of the Money Laundering (Prohibition) Act and Section 21 of the Legal Practitioners Act have also been stated in full under issues 1 and 2.

Rules 10, 12, 13 and 19 of the Rules of Professional Conduct 2007 made pursuant to Section 1 of the Legal Practitioners Act LFN 2004 are as follows:-

"10. Seal and Stamp

A lawyer acting in his capacity as a legal practitioner; legal officer or adviser of any Governmental department or Ministry or any corporation, shall not sign or file a legal document unless there is affixed on any such document a seal and stamp approved by the Nigerian Bar Association.

For the purpose of this rule, "legal documents" shall include pleadings, affidavits, depositions, applications, instruments, agreements, deeds, letters, memoranda, reports, legal, opinions or any similar documents.

If, without complying with the requirements of this rule, a lawyer signs or files any legal documents as defined in sub-rule (2) of this rule, and in any of the capacities mentioned in sub-rule (1), the document so signed or filed shall be deemed not to have been properly signed or filed:

12. Annual Practising Certificate

(1) Not later than a date in every year specified by it, the Nigerian Bar Association shall-

(a) publish a list of legal practitioners who have complied with the requirements of the Continuing Professional Development

Programme and have paid their practicing fees and are, therefore. entitled to practice as legal practitioners in that year (hereinafter referred to as the Annual Practicing List); and

(b) issue a practicing certificate to a legal practitioner whose name is on the said Annual Practicing List, certifying that he has paid his practicing fee for the specified year and that he has also fulfilled the requirement of the Continuing Professional Development Programme for the year under the rules made for the purpose by the Nigerian Bar Association.

2. A lawyer shall obtain an Annual Practicing Certificate issued under this rule by the Nigerian Bar Association certifying that he has fulfilled the approved Continuing Professional Development Programme under the rules made for the purpose by the Nigerian Bar Association.

3. A lawyer, unless he holds an Annual Practicing Certificate issued by the Nigerian Bar Association under this rule, shall not, as a legal practitioner:-

(a) conduct or take part in any proceedings in the court, judicial tribunal or panel of enquiry;

(b) sign any documents, pleadings, affidavits, depositions, applications, instruments, agreements, deeds, letters, memoranda, reports, legal opinions or similar documents and processes; or

(c) file any such documents as a legal practitioner, legal officer or adviser of any Government Department or Ministry or any company or corporation.

13. Notification of Legal Practice

(1) Every person who sets up private legal practice either alone or in association or partnership with another or others shall, not later than thirty days after commencement of such legal practice and, if he continues to carry on the practice, deliver a Notice in the prescribed form to the Branch of the Nigerian Bar Association within whose jurisdiction the law office is situated.

(2) The Notice referred to in sub-section (1) of this rule shall state·

(a) the name of the legal practitioner;

(b) the address where the legal practice is carried on;

(c) the date when the legal practitioner was called to the Bar in Nigeria; and

(d) the date when his name was entered in the Roll of Legal Practitioners in Nigeria.

(3) *The Branch of the Nigerian Bar Association to which the Notice is delivered shall enter the particulars in the Notice in a Register or Database kept for that purpose.*

(4) *Every legal practitioner who, after having been registered under sub-rule (3), changes his name or address for legal practice, shall deliver to the Branch where he is so registered, a notice in the prescribed form showing particulars of the changes made.*

19. *Privilege and confidence of a client*

(1) Except as provided under sub-rule (3) of this rule, all oral or written communications made by a client to his lawyer in the normal course of professional employment are privileged.

(2) Except as provided in sub-rule (3) of this rule, a lawyer shall not knowingly–

a) reveal a confidence or secret of his client;

b) use a confidence or secret of his client to the disadvantage of the client; or

(c) use a confidence or secret of his client to the advantage of himself or of a third person unless the client consents after full disclosure.

(3) *A lawyer may reveal-*

(a) *confidences or secrets with the consent of the client or clients affected, but only after a full disclosure to them;*

(b) *confidences or secrets when permitted under these rules or required by law or a Court order;*

(c) *the intention of his client to commit a crime and the information necessary to prevent the crime;*

(d) *confidences or secrets necessary to establish or collect his fee or to defend himself or his employees or associates against an accusation of wrongful conduct.*

(4) *A lawyer shall exercise reasonable care to prevent his employees, associates and others whose services are utilized by him from disclosing or using confidences or secrets of a client, but a lawyer may reveal the information allowed by sub-rule (3) through an employee.*

(5) *A lawyer shall not in any way communicate upon the subject of controversy or negotiate or compromise the matter with the other party who is represented by a lawyer, and he shall deal only with the lawyer of that other party in*

respect of the matter.

(6) A lawyer shall avoid anything that may tend to mislead an opposing party who is not represented by a lawyer and shall not undertake to advise him as to the law."

The Rules of Professional Conduct for Legal Practitioners made in 2007 as aforesaid enjoys the status of a subsidiary legislation having the force of law. The status of the said Rules and in particular Rule 10(3) thereof was adequately explained by the apex Court in the land in the case of SENATOR BELLO SARAKIN V. SENATOR ATIKU ABUBAKAR BAGUDU & ORS (2015) 10 SCM 119 AT 135 G – I TO 136 A – E where ONNOGHEN, JSC now CJN had this to say:-

> *"To begin with, it should be noted that rule 10 (1), (2) and (3) of the Rules of Professional Conduct 2007 is relevant to the determination of the issue under consideration and that there is no dispute between the parties as to the validity or constitutionality of the provisions of the Rules of Professional Conduct 2007. In other words, both parties are in agreement that the said rule is valid. What then does Rule 10 (1), (2) and (3) provide? It states thus:*
> *"10(1) A lawyer acting in his capacity as a legal practitioner, legal officer or adviser of any Government department of ministry or any corporation, shall not sign or file a legal document unless there is affixed on any such document a seal and stamp approved by the Nigerian Bar Association.*
> *10(2) For the purpose of this rule "legal documents" shall include pleadings, affidavits, depositions, applications instruments, agreements, deeds, letters, memoranda, reports, legal opinions or any similar documents*
> *10(3) If, without complying with the requirements of this rule, a lawyer signs or files any legal documents as defined in sub-rule (2) of this rule, and in any of the capacities mentioned in sub rule (1), the document so signed or filed shall be deemed not to have been properly signed or filed" Emphasis Supplied by me.*

From the provision of sub-rule (3) of rule 10 supra, it is very clear that the lower court is in error in holding that the Rules of Professional Conduct 2007 does not make provision for the consequences of failure by a legal practitioner to affix his seal and stamp to a document filed. The consequence, as provided therein is that" ....the document so signed or filed shall be deemed not to have been properly signed or filed."
I have to emphasis that the legal status of the rules of professional conduct in the legal profession made by the General Council of the Bar pursuant to section 1 of the Legal Practitioners Act, Laws of the Federation of Nigeria 2004 is that of a subsidiary legislation since it is made by provision in a statutory enactment - see Fawehinmi vs. NBA (No.2) (1989) 2 NWLR (Pt. 105) 558 at 614; (1989) 20 NSCC (Pt 11) 43 at 69.
By virtue of Section 18(1) of the Interpretation Act, a subsidiary legislation has the force of law."

I think it is here important to make reference to the Appellant's Reply in paragraph 2.9 page 21-22 of the Appellant's Reply to the 1st Respondent wherein it is argued thus:-

"The First Respondent in anticipation of a traverse on the point in reply by the Appellant sought to argue that what the lower Court Judge did was permissible because it merely nullified Section 5 and 25 in relation to its members leaving the statute to be potent against others. This with respect is a lame defence of an indefensible judgment.
This is so because, no matter how the honourable lower Court Judge's decision in modifying the statute under view is seen, he effected and amendment to it class of objects or addresses. This excuse should be seen for what it is, a meaningless deflection without difference or effect, or else how can the first Respondent explain his Lordship's usurpation of the draftsman's task of re-lettering Sections 5 and 25 in

relation to the class of people to which members of the first Respondent's Association belong?" (Underlined mine)

I am of the view that the Appellant seems to misconceive the point being made by the 1st Respondent. The position of the 1st Respondent is to the effect that the responsibilities and accountability of Legal Practitioners with respect to clients' monies have been specifically covered by the Legal Practitioners Act Cap. L11 LFN 2004 and as such the Money Laundering (Prohibition) Act 2011 which the 1st Respondent considered to be of general application cannot be made applicable to them.

The zenith of the matter is whether the intention of the National Assembly in passing the Money Laundering (Prohibition) Act 2011 is to amend directly or impliedly the provisions of the Legal Practitioners Act which I have held made adequate and direct provisions regulating the practice of law in this Country and the obligations the Legal Practitioners owe their clients in respect of clients' funds or monies.

Textually and conceptually the whole body of Section 5 of the Money Laundering Act cannot be said to be intended for Legal Practitioners who have no business reporting the client/legal practitioner relationship to a Minister in charge of Federal Ministry of Commerce, Trade and Investments.

Section 5 subsections 5 and 6 of the Money Laundering Act provide thus:-

"5(5) Notwithstanding the provisions of sub-section (2) of this Section, the Commission shall have powers to demand and receive reports directly from Designated Non-Financial Institutions.

(6) A designated Non-Financial Institution that fails to comply with the requirements of customer identification and the submission of returns on such transaction as specified in this Act within 7 days

from the date of the transaction commits an offence and is liable on conviction to:

(a) a fine of N250,000.00 for each day during which the offence continues; and;

(b) suspension, revocation or withdrawal of licence by appropriate licencing authority as the circumstances may demand."

These have no bearing to any of the duties, obligations and responsibilities of a Legal Practitioner to his client as laid out in the Legal Practitioners Act which laid down the procedure for admittance as a Legal Practitioner at the Supreme Court and the authority that can withdraw a Lawyer's Certificate or striking off from the roll of Legal Practitioners kept at the Supreme Court.

The type of business transaction the lawmakers had in mind when making the Money Laundering (Prohibition) Act could be seen in the definition of "Transaction" which Section 25 defined in the MLA to mean:-

""Transaction" means:

(a) acceptance of deposit and other repayable funds from the public;

(b) lending;

(c) financial leasing

(d) money transmission service;

(e) issuing and managing means of payment (for example, credit and debit cards, cheques, travelers' cheque and bankers' drafts etc.);

(f) financial guarantees and commitment;

(g) trading for account of costumer (spot-forward. swaps, future options, etc.) in:

(i) money market instruments (cheques, bills CDs, etc.);

(ii) foreign exchange;

(iii) exchange interest rate and Index instruments;

(iv) transferable securities; and

(v) commodity futures trading;

(h) participation in capital markets activities and, the provision of financial services related to such issues;

(i) individual and collective portfolio management;

(j) safekeeping and administration of cash liquid securities on behalf of clients;

(k) life insurance and all other insurance related matters; and

(l) money changing."

All these are not the primary calling of Legal Practitioners.

If it has been in the contemplation of the lawmakers to include Legal Practitioners, having regard to Legal Practitioners Act, the wise option would have been to clearly state so in the Money Laundering Act, 2011 vide an amendment or repeal enactment or clause instead of creating the confusion inherent in the Money Laundering Act which brought Legal Practitioners in through definition Section to act as Agents in financial market(s) for EFCC, CBN and Ministry of Finance. See for example Section 23 of the same Money Laundering Act 2011 repealing Section 13 of the National Drug Law Enforcement Agency Act Cap. N30, LFN 2004 which provides:-

"13. (1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of a specified unlawful activity-

(a) with the intent to promote the carrying on of a specified unlawful activity; or

(b) knowing that the transaction is designed in whole or in part-

(i) to conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of a specified unlawful activity; or

(ii) to avoid a lawful transaction under Nigerian law, shall be guilty of an offence under this Act.

(2) A person guilty of an offence under subsection (1) of this section, shall be liable on conviction-

(a) in case of a financial institution or corporate body, to a fine of two million naira; or

(b) in the case of a director, secretary or other functionary of the financial institution or corporate body, to imprisonment for a term not exceeding twenty-five years.

(3) Whoever transports or attempts to transport a monetary instrument or funds from a place in Nigeria to or through a place outside Nigeria or to a place in Nigeria from or through a place outside Nigeria-

(a) with the intent to promote the carrying of a specified unlawful activity; or

(b) knowing that the monetary instrument or funds involved in the transportation represent the proceeds of some form of unlawful activity and knowing that such transportation is designed in whole or in. part-

(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of a specified unlawful activity; or

(ii) to avoid a lawful transaction under Nigerian law, shall be guilty of an offence under this Act and liable on conviction to a fine of one million naira or twice the value of the monetary instrument of funds involved in the transportation, whichever is greater, or imprisonment for a term not exceeding twenty-five years or to both such fine and imprisonment."

The law under reference is AN ACT TO REPEAL THE MONEY LAUNDARY ACT 2004 AND ENACT THE MONEY LAUNDERING (PROHIBITION) ACT, 2011, AND FOR RELATED MATTERS.

I am of the view that bringing Legal Practitioners into the Act vide Section 25 aforesaid is clearly unrelated to the law makers intention as covered by the Money Laundering (Prohibition) Act 2011.

It creates ambiguity to classify Legal Practitioners under Non-Designated Financial Institution under the Money Laundering Act when Legal Practitioners Act had made clear and specific provisions concerning the Legal Profession

extensively. The two laws insofar as it relates to Legal Practitioners cannot operate side by side. The Money Laundering Act will illegally encumber, impede or obstruct the smooth administration of the Legal Practitioners Act as amended and jeopardize the practice, regulation and rules of professional conduct for Legal Practitioners which had been effectively administered and applied since 1975.

Unless and until the Legal Practitioners Act is amended Sections 5 and 25 of MLA cannot curtail or short circuit the continuous application of Legal Practitioners Act. See FIRST BANK OF NIGERIA PLC & ANOR VS. ALHAJI SALMAN MAIWADA 7 ORS (2012) LPELR – SC 2041 (2012) consolidated per FABIYI, JSC who bluntly put it thus:-

"In TransBridge Co. Ltd. v. Survey International Ltd, this court per Eso, JSC pronounced as follows:

> ***"I believe, it is the function of Judges to keep the law alive, in motion, and to make it progressive for the purpose of arriving at the end of justice, without being inhibited by technicalities, to find every conceivable, but acceptable way of avoiding narrowness that would spell injustice. Short of a Judge being a legislator, a Judge to my mind, must possess an aggressive stance in interpreting the law."***

And in Okotie Eboli v. Manager (supra) Pats-Acholonu, JSC (of blessed memory) pronounced as follows:

> ***"An interpretation that seeks to emasculate should be avoided as it would do disservice to the citizenry and confine everyone into a legal container or labyrinth from which this court may not easily extricate itself ... I believed that though justice is blind, it is nevertheless rooted in the nature of society and therefore the court should avoid, constructions that could cause chaos and disenchantment. Justice must be applied in a way that it embraces and optimizes social engineering that is for the welfare of the society. Enlightened society should expect a highly refined and civilized justice that reflects the tune of the time."***

I am at one with the pungent views expressed above. I agree that a judge should be firm and pungent in the interpretation of the law but such should be 'short of a judge being a legislator.' This is because it is the duty of the legislature to make the law and it is the assigned duty of the judge to interpret the law as it is; not as it ought to be.
That will be flouting the rule of division of labour as set out by the Constitution of the Federal Republic of Nigeria, 1999. The provisions of sections 2(1) and 24 of the Act as reproduced above remain the law and shall continue to be so until when same is repealed or amended. For now, I see nothing amiss about the law.

The decision in Okafor v. Nweke was based on a substantive law - an Act of the National Assembly i.e. the Legal Practitioners Act. It is not based on rules of court. According to Oguntade, JSC at page 534 of the judgment in Okafor v. Nweke. "It would have been quite another matter if what is in issue is a mere compliance with court rules." Let me say it bluntly that where the provisions of an Act like the Legal Practitioners Act is at play, as herein, provisions of rules of court which are subject to the law must take the side line. As pointed out by S.E. Elema, Esq. in his brief of argument. It has been argued in some quarters that a law firm registered as a business name under section 573(1) of the Companies and Allied Matters Act, Laws of the Federation of Nigeria 2004 (CAMA) is entitled to practice and sign processes in its registered name.

In my considered view, such is a misconception of the law. The said section 573 (1) of Companies and Allied Matters Act provides as follows:

> *"Every individual firm or corporation having a place of business in Nigeria and carrying on business under a business name shall be registered in the manner provided in this part of this Act if ... "*

The above is not an authority that can be relied upon to uphold the view that a process signed and filed by a firm of legal practitioners which has no life is valid in law. The general provision of the law as in section 573(1) of Companies and Allied Matters Act is subject to the specific provisions of sections 2(1) and 24 of the Legal Practitioners Act. See FMBN v. OLLOH (2002) 4 SC (PT. 11) 177 AT 122, 123, (2002)

9 NWLR (PT. 773) 473; KRAUS THOMPSON ORG. v. NIPSS (2004) 5 SC (PT. 1) 16 AT 20 – 21, (2004) 17 NWLR (PT. 901) 44."

I hold that Section 5 and 25 of the Money Laundering (Prohibition) Act 2011 insofar as it relates to Legal Practitioners must give way to the provisions of Legal Practitioners Act and Rules made thereunder.

The other issue as to whether Section 192 of Evidence Act 2011 taking along with the provisions of Legal Practitioners Act should be preferred over and above MLA. Section 192 of the Evidence Act provides:-

> *"192(1) No legal practitioner shall at any time be permitted. unless with his client's express consent, to disclose any communication made to him in the course and for the purpose of his employment as such legal practitioner by or on behalf of his client, or to state the contents or condition of any document with which he has become acquainted in the course and for the purpose of his professional employment or to disclose any advice given by him to his client in the course and for the purpose of such employment:*
>
> *Provided that nothing in this section shall protect from disclosure-*
>
> *(a) any such communication made in furtherance of any illegal purpose; or*
>
> *(b) any fact observed by any legal practitioner in the course of his employment as such, showing that any crime or fraud has been committed since the commencement of his employment.*
>
> *(2) It is immaterial whether the attention of such legal practitioner was or was not directed to such fact by or on behalf of his client.*
>
> *(3) The obligation stated in this section continues after the employment has ceased.* "

The Appellant and the 2nd Respondent had argued that Section 192 is only relevant while a Legal Practitioner gives evidence in a proceeding.

One of the principles of interpretation of statute is that by the literal rule of interpretation the words used in a statute must be given their ordinary, natural and grammatical meaning to clearly bring out the laudable intention of the law maker unless to so do will lead to absurdity. See:-

(1) OCHOLI ENOJO JAMES SAN VS INEC & ORS (2015) 12 NWLR (PART 1474) 538 AT 5888 D – G per KEKERE-EKUN, JSC who said:-

"In interpreting the provisions of the Constitution and indeed any statute, one of the important considerations is the intention of the lawmaker. In addition to giving the words used, their clear and ordinary meaning (unless such construction would lead to absurdity), it is also settled that it is not the duty of the Court to construe any of the provisions of the Constitution in such a way as to defeat the obvious ends it was designed to serve where another construction equally in accord and consistent with the words and sense of such provisions will serve to enforce and protect such ends. See: Mohammed v. Olawunmi (1990) 2 NWLR (Pt. 133) 458; Rabiu v. The State (1981) 2 NCLR 293; Adetayo v. Ademola (2010) 15 NWLR (supra) at 190 – 191 G – A; 205 D – F."

The prohibition slammed on the Legal Practitioner by Section 192(1) of the Evidence Act covers all time whether in proceedings before a Court or other circumstance outside Court proceedings. It says ***"No Legal Practitioner shall at any time be permitted..."***

It is very clear and unambiguous. The provisions of Section 5 and 25 of the Money Laundering Act are in conflict with the provisions of Legal Practitioners Act and Rules of Professional Conduct for Legal Practitioner. Also in view of the clear provisions of Section 192(1) of the Evidence Act, 2011, the provisions of Sections 5 and 25 of Money Laundering (Prohibition) Act cannot operate side by side as it relates to

Legal Practitioners and have to be obliterate or struck down to the extent of its conflict or inconsistency with provisions of Sections 192 of the Evidence Act.

The findings of the lower Court which are subject of complaints under issues 3 and 4 by the Appellant cannot be faulted. The lower Court was/is right in its findings.

Issues 3 and 4 are hereby resolved against the Appellant.

ISSUE 5

Whether the learned trial judge was right in law when he held that SCUML not being a juristic person cannot exercise powers that would amount to regulating the activities of the 1st Respondent notwithstanding the fact that the executive functions are carried out by ministers created under section 147 and governed by section 148 of the Constitution who are not juristic person (Ground six)"

The learned Senior Counsel to the Appellant referred this Court to page 805 of the record and submitted that the creation or setting up of Special Control Unit Against Money Laundering (SCUML) is the result of purely Executive Act by the President and the Federal Executive Council. That the President as the Chief Executive of the Federation is not obliged to carry out his duties through juristic offices or person exclusively.

That the lower Court was in error when it made findings into purely executive Act as in the setting up of Special Control Unit Against Money Laundering while executing Section 5 and 25 of the Money Laundering (Prohibition) Act that were validly made by the National Assembly. That the Executive is not bound to carry out its executive functions only through a juristic person. That the Office of the Ministers created under Section 147 and governed by Section 148 of the Constitution are not juristic persons.

That there is no collision between the provisions of the latter Money Laundering (Prohibition) Act and the earlier Legal Practitioners Act whatsoever, as according to the Appellant, MLA is designed to protect the Nation from evils of corruption and terrorism that are being facilitated by Money Laundering while Legal Practitioners Act is set up to regulate practice of Legal Practice in general.

That the obligation of the Legal Practitioners to maintain proper accounts of its client, investigation and ascertainment of a breach which is the purview of the Disciplinary bodies set up under the Legal Practitioners Act do not run counter to obligation of Legal Practitioners to comply with Sections 5 and 25 of the Money Laundering Act. He urged this Court to allow the appeal.

In response to the above submissions the learned silk to the 1st Respondent stated that the ratio of the decision of the trial Court is not based on the fact that SCUML is a non-juristic body but based on the facts that there are statutory bodies created by the Legal Practitioners Act which are already saddled with the responsibility of overseeing the activities of the 1st Respondent's members in relation to their clients' monies.

He relied on Section 1 and 20 of the Legal Practitioners Act to submit that General Council of the Bar is charged with management of the affairs of 1st Respondent with supervisory oversight over accounts mentioned in Section 20 of Legal Practitioners Act. That by virtue of Sections 3, 10 and 11 of Legal Practitioners there are control as to how a person becomes Legal Practitioner while Legal Practitioners Disciplinary Committee is put in place to consider cases and allegations of unprofessional conducts against persons admitted to practice law in Nigeria. He also relied on other controls and duties imposed on Body of Benchers and Legal Practitioners under Sections 5, 11 and 13 of the Legal Practitioners Act.

The learned Silk raised some questions with respect to

the provisions of the said Sections 5 and 25 of Money Laundering:-

(1) ***That failure of Legal Practitioners to subject themselves to SCUML the authority of Minister of Trade and Investment will lead to revocation or suspension of their licences when in the first place the said bodies did not issue the licence.***

(2) ***That the said Sections usurped the role of Legal Practitioners Disciplinary Committee, Body of Benchers and Supreme Court who have the powers to discipline members of 1st Respondent including revocation of Legal Practitioners licences.***

(3) ***That the said Sections stated that SCUML will deal with any Legal Practitioner who fails to report transactions between him and his client to a fine of $1000 when such is not an infamous conduct under Legal Practitioners Act and that such is not an offence under any law to ground exception of Section 20 of Legal Practitioners Act and Section 192 of the Evidence Act.***

(4) ***That SCUML has no power to scrap the existing legal protocol already placed upon the Supreme Court, Attorney General, the General Council of the Bar, Legal Practitioner Disciplinary Committee as SCUML had not legal regime similar to Section 20 of Legal Practitioners Act and 192 of Evidence Act.***

The learned silk then submitted that against the backdrop of the statutory and constitutional bodies including Supreme Court of Nigeria which are charged with the responsibilities of regulating Legal Profession as well as discipline of erring lawyers, the SCUML cannot override or take precedence over those bodies statutorily created under the Legal Practitioners Act which is the Legislation enacted to specifically regulate legal practice in Nigeria and it must be preferred and accorded overriding preeminence in matters affecting Legal Practice in Nigeria.

That the provisions of Section 6(6) of the 1999 Constitution as amended vests jurisdiction the Courts in Nigeria to misapply general laws over certain class of persons who are subject to specific statutory regime and that such powers cannot be curtailed or impeded.

On his part the learned Counsel to the 2nd Respondent conceded that the SPECIAL CONTROL UNIT OF ANTI-MONEY LAUNDERING (SCUML) is not a juristic person but that notwithstanding it is a government unit under the Federal Ministry of Trade and Investment made up of Public Officers of the Federation drawn from the Federal Ministry of Trade and Investment and what he called other relevant Agencies in the fight against Money Laundering.

That it is an administrative unit or section under Ministry of Trade and Investment and that Section 25 of the MLA defines "Ministry" as the Ministry of Commerce but has been renamed the Ministry of Trade and Investment and that the change of name can be done under the interpretation Act Section 18(5). That law envisages reorganization and delegation of duties by government ministries. That the reference to Ministry in Section 5 of MLA can further be interpreted to mean SCUML in line with the above provisions of Interpretation Act.

That Section 5 of MLA which says returns or information will be made to the Ministry can be read to mean SCUML. That whether it is juristic or non juristic it is vested with powers by statute. That by Section 318 of the Constitution SCUML is a Public Officer of the Federation. He relied on the case of IBRAHIM VS. JSC (1998) 14 NWLR (PART 584) 1.

That Section 5 of MLA has not usurped the function of Legal Practitioners Committee in favour of SCUML.

He relied on Section 5(6) of MLA.

That it is not the Ministry of Trade that applies sanction but Court. That Section 5(6) of MLA cannot be said to be regulating the legal practice.

He argued in another breath that "in any case it is a

statutory power vested in the Minister by the National Assembly."

That the exercise of power cannot exceed the scope of Section 5 of MLA. He cited FGN V. ZEBRA ENERGY LTD. (2002) 18 NWLR (PT. 998) P. 162; OGULAJI VS A.G. RIVERS STATE (1997) 6 NWLR (PT. 508) AT 209 and UNTMBV NNOLI (1994) 5 NWLR (PT. 3630 P. 326 which learned Counsel said stated that the provision of any subsidiary regulation or legislation must be consistent with its principal Act.

He relied on Section 5(4) of MLA which he said empowers the Minister to make regulations for guiding the operations of Designated Non-Financial Institutions under the Section.

That in terms of Money Laundering the Legal practitioners Act cannot be said to be specific legislation, that MLA is in relation to Lawyers notwithstanding that Section 5 prescribed that it will be executed by Minister or SCUML. That Lawyers are subject to laws made by the Legislature as well not withstanding the existence of Legal Practitioners Act.

The Appellant's learned Senior Counsel opined in Appellant's Reply Brief paragraphs 4.1 pages 28 – 29 thereof that the creation of SCUML was valid and proper under Section 5 of the Constitution. That SCUML is a creation of the President and Federal Executive Council which he said is the result of purely executive acts over which under self service doctrine of Separation of Powers would not be interfered with by the Courts. He relied on the cases of AG. FED. V. ABUBAKAR (2007) 10 NWLR (PART 1041) AT 85 to the effect according to him, that the executive powers vested in the President could be exercised by him or his aides in the Federal Executive Council. That SCUML was the end result of purely executive acts of the President and the Federal Executive Council.

By the provisions of Section 5(1)(b) of the Money Laundering Act, a designated non-financial institution whose business cash transaction as defined in the Money Laundering Act which involved the one of cash transactions shall prior to

any transaction involving sum exceeding US$1000 or its equivalent must make a report and make disclosure of what the transaction entails to the Ministry which under Section 5(2) of MLA shall forward the information required and received pursuant to Section 15(1) of MLA to EFCC within 7 days.

The Minister of Commerce or Trade and Investment is expected to make regulations to guide the operations of Designated Non-Financial Institutions under Section 5 of MLA. The Ministry is defined as Federal Ministry of Commerce and the Minister is defined as the Minister charged with responsibility for matters pertaining to commerce.

There is no evidence on record that any Regulation has been made by the Minister or guidelines for Designated Non-Financial Institutions under which the Legal Practitioners are grouped in the definition of "Designated Non-Financial Institution under Section 25 of MLA.

The Ministry rather established what it called THE SPECIAL CONTROL UNIT ON MONEY LAUNDERING (SCUML) to which members of 1st Respondent must register as Professionals and to report always any transaction between the 1st Respondent's clients and the Legal Practitioners.

I am of the solemn view that the arrangement made by the Legislators for detecting persons engaged in Money Laundering offence via business venture or Professional advice under MLA is highly incongruous and in direct conflict with the Legal Practitioners Act particularly Sections 20 – 23 thereof which already provided by specific provisions of the said Act the relationship between the 1st Respondent's members and their clients as earlier observed and explained under issues 1 – 4 of Appellant's issues for determination in this appeal.

There are manifest conflicts between MLA which has been held to contain only general provisions concerning Legal Practitioners and their clients which cannot stand side by side with the specific provisions of Legal Practitioners and Rules of Professional Conduct 2007 made under Section 12(4) of the Legal Practitioners Act. The said Rules of Professional Conduct,

Rules 10, 12, 13, 14 and 19 thereof already provided for legal relationship between a client and legal practitioner in a more specific and elaborate manner than what is now prescribed under Section 5 and 25 of Money Laundering (Prohibition) Act 2011.

The Minister responsible for Commerce, Trade and Investment, Central Bank or any other administrative organs or Agency of the Federal Government cannot be allowed or permitted to make laws, Rules or regulations in violation of the specific provisions of the Legal Practitioners Act pertaining to Legal Practitioners.

It amounts to usurpation of the powers of the statutory organs and bodies clearly established by Legal Practitioners Act to regulate the practice of law in Nigeria and to discipline erring Legal Practitioner found culpable of Professional misconduct having regard to Sections 16 – 24 of the Legal Practitioners Act among other sections, and coupled with the Rules of Professional Conduct aforesaid.

There is no similarity between appointment of members of Executive under the 1999 Constitution and the provisions of Section 5 of the MLA. The establishment of SCUML as it relates to Lawyers is contrary to Section 5(4) of MLA and the provisions of the Legal Practitioners Act, Cap L11 2004.

I also adopt all my reasoning and conclusions reached under Issues 1, 2, 3 and 4 hereinbefore treated.

In conclusion I agree with the submissions of learned Senior Counsel to the 1st Respondent that SCUML cannot override or take precedence over the statutory and Constitutional bodies including Supreme Court of Nigeria which are charged with the responsibility of regulating the Legal Profession as well as disciplining of erring lawyers. The Legal Practitioners Act remains the law that regulates the practice of law and Rules of Professional Conduct for Legal Practitioners unless and until it is amended or repealed.

In the result I am of the firm view that the trial Court was right in its decision and this Court will not interfere with it.

The appeal of the Appellant is lacking in merit and it is hereby dismissed in its entirety.

The judgment of the Federal High Court delivered by HON. JUSTICE G. O. KOLAWOLE on 17th day of December, 2014 is hereby affirmed.

There will be no order as to costs.

ABDU ABOKI
JUSTICE, COURT OF APPEAL

APPEARANCES:

C. U. EDOSOMWAN, SAN with CHRIS OWOGBONU; SENN AWOLADE, Esq. and DAYO A. for APPELLANT.

CHIEF WOLE OLANIPEKUN, SAN with BOLARINNWA AWUJOOLA, Esq.; VANESSA ONYEMAUWA (Miss); ADEBAYO MAJEKOLAGBE, Esq.; UGOCHUKWU IHEME-NWOSU, Esq. and OSEMEN ABIOLA IBADIN (Miss) for 1ST RESPONDENT.

HAMZA AHMED GUDAJI, Esq.; NGUMIMI UNGARA (Miss); A. Y. ABUBAKAR for 2ND RESPONDENT.

CERTIFIED TRUE COPY

BARR. (MRS.) K.O GBAYEGUN
PRINCIPAL REGISTRAR I
SIGN:
DATE: 13/7/17

CA/A/202/2015

ABUBAKAR DATTI YAHAYA, JCA

I have read in draft the leading judgment of my learned brother **Aboki JCA** just delivered. The issues have been admirably considered and decided and I agree with his reasoning and conclusion that the appeal lacks merit and should therefore be dismissed.

I too dismiss the appeal and I affirm the judgment of the trial court delivered on the 17th of December 2014.

ABUBAKAR DATTI YAHAYA
JUSTICE, COURT OF APPEAL

CERTIFIED TRUE COPY
SARE (MRS) T.O GBAYEGUN
PRINCIPAL REGISTRAR I
SIGN:
DATE: 18/7/17

CA/A/202/2015
JUDGMENT

[DELIVERED BY PETER OLABISI IGE, JCA]

I agree.

PETER OLABISI IGE
JUSTICE, COURT OF APPEAL

CERTIFIED TRUE COPY

BARR (MRS) L.O GBAYEGUN
PRINCIPAL REGISTRAR I
SIGN:
DATE:

CA/A/202/2015
(MOHAMMED MUSTAPHA, JCA)

I had the benefit of reading the draft judgment just delivered by my learned brother, **Abdu Aboki, JCA.**

I adopt the reasons given by my learned brother and I also dismiss this appeal for lack of merit.

I affirm the judgment of the lower court and make no order for costs.

MOHAMMED MUSTAPHA
JUSTICE, COURT OF APPEAL

CERTIFIED TRUE COPY

BARR. (MRS.) K.O OBAYEGUN
PRINCIPAL REGISTRAR I
SIGN:
DATE: 13/9/17