Part II: Commencing an Action Against Companies under Administration – A Review of United Capital Trustees Limited V. Nigerian International Securities Limited & 4 Ors.

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Introduction

In Part I of this series, we discussed the important role of jurisdiction in legal disputes involving companies under administration, examining how courts determine their authority to hear such cases.[1] Moving to Part II, we focus on the specific conditions required for commencing or continuing legal proceedings against a company under administration, as stipulated by Section 480(4) of the Companies and Allied Matters Act 2020 (CAMA 2020).

Understanding Section 480(4) of CAMA 2020: A Condition Precedent for Legal Proceedings in Company Administration

Under the Companies and Allied Matters Act 2020 (CAMA 2020), particularly Section 443(1), a company can enter administration through various methods—whether by a court's administration order, by the actions of a creditor holding a floating charge, or by the company's directors themselves. Once a company is under administration, Section 480(4) of CAMA 2020 stipulates that any party wishing to initiate or continue legal action against the company must secure approval either from the administrator or from the court that appointed the administrator.

In the case of United Capital Trustees Limited v. Nigerian International Securities Limited & 4 Ors., the court faced differing opinions on interpreting Section 480(4) which provides that:

(4) No legal process, including legal proceedings, execution, distress, and diligence shall be instituted or continued against the company or property of the company except with the-

> *(a) consent of the administrator, or*
>
> *(b) permission of the court.*

NISL and NISL Ventures (as the 1st and 2nd Defendants in the case) argued that no legal proceedings could be commenced or continued against a company under administration without the explicit consent of the administrator or authorization from the court.[2] Conversely, United Capital Trustees Ltd (the Plaintiff) contended that the court, before which proceedings were ongoing, had the authority to permit the continuation of the suit.

[1] See Part I of this series at - https://www.mondaq.com/article/1469080

[2] Section 480(4) of the Companies and Allied Matters Act 2020; Bristol Airport Plc. V. Pocodrill (1990) CH 744.

Court’s Decision: A Clear Directive

The court clarified that while it is possible to maintain proceedings against a company in administration, such permission must be granted by the administration court which appointed the administrator—in this case, the Federal High Court of Abuja. This decision was vital to prevent any potential conflict or confusion that could arise if different judges from the same court were to exercise jurisdiction over the same matter. The court, in determining NISL and NISL Ventures’ jurisdictional objections, rightly decided against granting permission, to avoid overstepping the jurisdiction and powers of the designated administration court.

Implications for Future Legal Actions

This ruling has broad implications, particularly in cases where the administration court has concluded its proceedings and is no longer active (*functus officio*). In such scenarios, this ruling could potentially block legitimate legal actions against a company under administration, as obtaining consent from an inactive administration court or from an administrator who may be disinclined to allow new claims could prove challenging.

It would be beneficial for the courts to consider a more nuanced approach in future rulings, allowing other courts with appropriate jurisdiction to grant consent for actions against companies under administration when the original administration court is *functus officio*. This adjustment would address potential injustices and ensure that legitimate grievances can still be pursued legally, maintaining fairness and access to justice for all parties involved.

Exploring the Boundaries of Receiver/Manager Powers over Individual Assets

In the ongoing legal battle outlined in United Capital Trustees Limited v. Nigerian International Securities Limited & Others, a significant legal challenge arose concerning the scope of authority granted to a receiver/manager under Section 552 of the CAMA 2020. The crux of the dispute focused on whether the powers of a receiver/manager could extend to the personal assets of individuals, specifically targeting Mr. Benjamin Wilcox, Mr. Rasheed Jaiyeola and Mr. Gregory Ozoya (sued as the 3rd, 4th, and 5th Defendants in this case).

The court initially granted an interim order allowing the receiver/manager appointed by the court to take over certain assets, including those at a specific location and other movable and immovable assets within the court's jurisdiction. Mr. Wilcox, Mr, Jaiyeola and Mr. Ozoya, whose personal assets were affected by this order, contested its legality, arguing that the statutory powers of a receiver/manager are intended to apply solely to the assets of corporate entities, not individuals.

In deciding the matter, the court examined the relief sought by United Capital in relation to Section 552(1) of CAMA 2020. The law stipulates that a court may appoint a receiver/manager for the property of a company under specific circumstances, such as when the company's principal money borrowed is in arrears or the company's property is in jeopardy. However, United Capital's request in its originating summons appeared to overreach these provisions by encompassing the personal assets of individual Defendants.

Ultimately, the court found that United Capital's claims constituted an abuse of court process. The judgment specifically noted that the application for a receiver/manager, though initially directed at NISL and NISL Ventures' corporate assets, improperly extended to the personal properties of all Defendants, including individual ones. This extension was deemed an inappropriate application of judicial powers, leading to the conclusion that such an expansion of authority was not supported by CAMA 2020 and was, therefore, legally untenable.

The court's decision reaffirms a fundamental legal principle: the powers of a receiver/manager as conferred by CAMA 2020 are strictly limited to corporate assets and do not extend to individual assets. This decision highlights the importance for legal practitioners to ensure that their applications for receivership strictly comply with the statutory boundaries intended by CAMA 2020.

Ensuring Judicial Compliance in Specialised Corporate Litigation

For businesses and legal professionals navigating similar disputes, this case highlights the need for precise legal strategies that respect the established limits of judicial intervention in corporate matters. Any attempt to extend these boundaries to include individual assets without clear statutory authorization can lead to the dismissal of such requests as abuses of court process.

At SimmonsCooper Partners, we remain dedicated to leveraging our expertise in commercial law to support our clients through their most challenging legal disputes. For further information or assistance related to our specialised corporate litigation practices or any specific issues discussed in this case, please contact us at info@scp-law.com.