

IN THE SUPREME COURT OF NIGERIA
HOLDEN AT ABUJA

ON FRIDAY THE 27TH DAY OF FEBRUARY, 2026

BEFORE THEIR LORDSHIPS

ADAMU JAURO
JUMMAI HANNATU SANKEY
OBANDE FESTUS OGBUINYA
STEPHEN JONAH ADAH
ABUBAKAR SADIQ UMAR

JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT

SC/CR/717/2023

BETWEEN:

ALBERT BASSEY

===

APPELLANT

AND

FEDERAL REPUBLIC OF NIGERIA

===

RESPONDENT

JUDGMENT

[DELIVERED BY STEPHEN JONAH ADAH, JSC]

This appeal is against the judgment of the Court of Appeal, Calabar Judicial Division, delivered on the 23rd day of June, 2023, in **Appeal No: CA/C/426C/2022**. In its decision, the lower court partly affirmed the judgment of the trial Federal High Court, sitting in Uyo, in **Charge No: FHC/UY/59C/2022**. The trial court in its judgment, delivered on the 1st day of December, 2022, had found the appellant guilty on all the six

count charges and sentenced him to 7 years imprisonment without the option of fine. The trial court further ordered the appellant to retribute to the Federal Government of Nigeria through the Economic and Financial Crimes Commission (EFCC), the sum of N204,000,000.00 (Two Hundred and Four Million Naira), which shall be the condition for his release upon completion of his prison terms.

Aggrieved with the decision of the lower court, the appellant filed an appeal to this court.

The brief facts leading to this appeal as captured in the record are as follows.

The appellant was a former Commissioner for Finance and Chairman of the Inter-Ministerial Direct Labour Coordinating Committee (IMDLCC) in Akwa Ibom State, was charged before the trial court. The charges against the appellant arose from his receipt of high-value vehicles from Olajide Jones Omokore - a prominent contractor who benefitted from significant government contracts awarded during the appellant's tenure in the Akwa Ibom State Government.

The prosecution's case rested on the contention that the vehicles in question were proceeds of unlawful activity – specifically, corruption. The prosecution presented evidence to prove that Omokore's companies were awarded several

lucrative contracts by the Akwa Ibom State Government between 2010 and 2014, when the appellant held office. Within the same period, the appellant received six high-value vehicles, including an Infiniti Jeep, a Range Rover, a Land Cruiser, a Toyota Hilux Vehicle and two Toyota Hiace buses from Omokore. The receipt of these vehicles formed the basis of the money laundering charges preferred against the appellant.

The case of the appellant, was that these vehicles were mere gifts from Omokore, with whom he claimed he has had a friendship with, spanning over 25 years. The appellant denied any knowledge that the said vehicles were linked to any criminal or corrupt activity. He rested his case on the basis that the vehicles were personal gifts, unconnected to his official position as Commissioner for Finance and Chairman of the IMDLCC.

The charges were further amended upon which the appellant pleaded not guilty to all the six (6) counts charges contained in the Amended Charge.

The prosecution called two (2) witnesses (PW1 and PW2) and tendered a total of 12 documentary Exhibits in order to prove his case.

At the close of the prosecution's case, the appellant made a no-case submission. Parties filed and exchanged written addresses in respect of the no-case submission made by the appellant.

The trial court in a considered ruling, dismissed the appellant's application for no-case submission and ordered him to enter his defence.

The appellant opened his defence and called six (6) witnesses and tendered one exhibit.

At the close of trial, parties addressed the court. In a judgment delivered on the 1st day of December, 2022, the learned trial judge convicted the appellant and sentenced him to 7 years imprisonment without the option of fine and also to refund to the Federal Government of Nigeria through the Economic and Financial Crimes Commission (EFCC), the sum of N204,000,000.00 (Two Hundred and Four Million Naira), to be the condition for his release upon completion of his prison terms.

Dissatisfied with the judgment of the trial court, the appellant appealed to the lower court. The lower court heard the appeal and delivered its judgment on the 23rd day of June, 2023. In its judgment, the lower court partly affirmed the judgment of the trial court to the extent that the conviction stands and that

the appellant shall serve the terms of seven years with respect to each of the count charges with the terms of the sentence running at the same time or in the alternative, to pay a fine of ₦1,000,000 (One Million Naira) each on all counts of the charges.

Still dissatisfied with the judgment of the lower court and by the order of this court made on the 18th day of April, 2024, granting leave to the appellant to appeal against the judgment of the lower court, the appellant appealed to this court via a Fourteen (14) Ground Notice of Appeal dated and filed on the 3rd day of May, 2024. The appellant urged the court to allow the appeal, set aside the judgment of the lower court and discharge and acquit the appellant of the charge of money laundering brought against him.

The parties, through their counsel, filed and exchanged their respective briefs of argument in line with the procedure regulating the hearing of criminal appeals in this court.

Learned counsel for the appellant, R.A. Lawal-Rabana, SAN, distilled two issues for the determination of this appeal in the Appellant's Brief of Argument, filed on the 15th July, 2024. The two issues are worded as follows:

1. **Whether the court below was right in affirming the conviction of the appellant, the respondent having failed to prove the offence of Money Laundering beyond reasonable doubt as provided by law. (Distilled from Grounds 1, 2, 4, 6, 8, 9, 10, 11 and 12 of the Notice of Appeal).**
2. **Whether the appellant's right to fair hearing was not violated when the court below relied on the provisions of the Money Laundering (Prohibition) Act, 2022, the Code of Conduct Bureau and Tribunal Act and the Independent Corrupt Practices and Other Related Offences Act, all of which are legislations on which the appellant was neither charged nor tried to find the appellant guilty of the offences of money laundering under the Money Laundering (Prohibition) Act, 2011. (Distilled from Grounds 3, 5, 7, 13 and 14 of the Notice of Appeal).**

The two (2) issues distilled by respondent are same with that of the appellant. This appeal shall therefore, be determined on the two issues submitted by the appellant. I now take issue one.

Issue One (1):

Learned counsel for the appellant contended that the lower court was wrong when it affirmed the conviction of the appellant when in actual fact the respondent failed to discharge the onus of proof placed on it in proving the element of the offence charged the appellant. He submitted that for the respondent to succeed on its onerous task of ensuring the appellant's conviction, that the prosecution must prove the essential element of the offence strictly. He cited **Section 131 (1) of the Evidence Act 2011; Oladimeji Mohammed Edun & Anor. v. FRN (2019) LPELR – 46947 and Section 15 (2)(d) Money Laundering (Prohibition) Act, 2011 (as amended)**. Learned counsel reproduced the elements of the offences charged and submitted that the essential elements must be proved beyond reasonable doubt in all counts. That same must be proved conjunctively and not disjunctively. He cited the case of **Oladimeji Mohammed Edun & Anor. v. FRN (supra)** and **Abidoeye v. FRN (2014)**

NWLR (1399) 30 at 55 – 56. He reasoned the onus is on the prosecution to prove the offences as charged and that the burden does not shift until the prosecution has satisfied the burden.

Counsel argued that Mr. Jide Omokore, is in the habit of gifting cars to divers individuals prior to Exhibit P6 and that the said gift to the appellant from the evidence led had nothing to do with award of contract or gratification in anyway and that there is nothing in evidence led by the respondent that shows otherwise. He added that the PW2 under cross-examination on the 7th December, 2020 stated that despite her investigation she does not know the circumstances that the cars were gifted to the appellant. He stated that the respondent is bound by evidence led by or through its own witnesses. He relied on the case of **Odi v. Iyala (2004) 8 NWLR (Pt. 875) 283; (2004) LPELR 2213 (SC) 24 Paras. A – B. Moreso**, that it is on evidence that the appellant and Mr. Jide Omokore have been friends for a very long time even prior to joining the public service and after.

Arguing the second element of the charges, learned counsel submitted that the respondent did not prove any unlawful activity on the part of Jide Omokore, to taint the proceeds that

was used in procuring the vehicles in contention. He posited that the appellant and Mr. Jide Omokore never conspired to carry-out an unlawful act through their acts or omissions. He canvassed that the lower court was wrong to have affirmed the conviction of the appellant placing reliance on the extra-judicial statement. He maintained that respondent ought to establish that the appellant did collect car gifts from Jide Omokore and that the said gift was meant to influence the award of contract and payment in respect thereof. He reasoned that money laundering charge against the appellant could not be proved because the appellant was not trying to launder funds that some other person had acquired illicitly. He stated that the charge against the appellant must fail because the respondent could not prove that the proceeds used in acquiring the car gift were born out of corrupt practices. He submitted that criminal jurisprudence does not dwell in the realm of assumption. That our courts are courts of fact and not court of fiction. That it is incumbent on the respondent to prove who did what, when and how. That failure of the respondent to do so in the instant case, this court is urged to set aside the decision of the lower court and discharged and acquit the appellant.

On the third ingredient, which is that the appellant knew or reasonably ought to have known that the money or property is or formed part of the proceeds of an unlawful act of Olajide Jones Omokore, to wit; corruption. Counsel submitted that since the predicate offender i.e Olajide Jones Omokore, was not charged and found guilty of the predicate offence, it will be wrong to hold that the appellant ought to know that the car gifts from Olajide Jones Omokore, were proceeds of corruption. He argued that no evidence was tendered by the prosecution to show that the alleged predicate offender Olajide Jones Omokore procured the vehicles given to the appellant through an illicit means. That the failure of the respondent to prove an essential element of the charge as it were in this case is tantamount to a failure of the prosecution to discharge its evidential burden of proving all the essential elements of an offence as contained in the charge. He cited the case of **COP v. Ogor & Ors. (2022) LPELR – 5755 (SC) (Pp55 – 55, Paras. A – D)**. Counsel contended that money laundering allegation against the appellant was dependent solely and entirely on proof of the corruption against Jide Omokore. He urged the court to resolve this issue in favour of the appellant.

Reacting to this issue, learned counsel for the respondent, submitted that in the light of the totality of evidence adduced by the respondent, that the only verdict which the lower court could have arrived at, was to affirm the conviction of the appellant on all the counts.

He reiterated that the case against the appellant revolves around whether the appellant, a former Commissioner for Finance in Akwa Ibom State and former Chairman of Akwa Ibom State Government's Inter-Ministerial Direct Labour Coordinating Committee the IMDLAA, received high-value vehicles from a contractor, Jide Omokore, in violation of anti-corruption laws. He posited that the lower court affirmed the decision of the trial court, holding that the essential elements of the offence were proved beyond reasonable doubt. He stated that the appellant was convicted on six counts of money laundering under Section 15(2)(d) of the Money Laundering (Prohibition) Act 2011 (as amended).

Learned counsel canvassed that to secure a conviction under the said provision, that the prosecution was required to establish that the appellant took possession of the high-value cars in question; that the appellant reasonably ought to have known that the vehicles were proceeds of unlawful activity

(corruption) and that the vehicles were indeed proceeds of unlawful act – corruption as defined in law. He submitted that the respondent proved all the three elements beyond reasonable doubt. That the appellant took and was in possession of the vehicles. Counsel made a table that captures the various payments from Akwa Ibom State Government as well as the Inter-Ministerial Direct Labour Coordinating Committee to the Access Bank Account of Network Suppliers Ltd., being a company whose alter ego and sole signatory to the account is Mr. Jide Omokore, as shown in the account opening documents and testified to by PW2. He submitted that that in the appellant's extra judicial statement (Exhibit P1), the appellant acknowledged that Mr. Omokore used his companies to do contracts in the Akwa Ibom State and indeed with his Committee but only claimed he did not know all the companies that the man used, contrary to appellant's contention, counsel submitted that the appellant faced trial for the offence of money laundering for acquiring, taking possession of and using the high-value cars delivered to him by Jide Omokore in gratification for the projects awarded to Jide Omokore while the appellant was the Commissioner for Finance and Chairman of IMDLCC of Akwa State. He submitted that it is immaterial that no

complaints were made regarding the projects. He relied on the cases of **Kaza v. The State (2008) LPELR – 1683 (SC)** and **State v. Adu (2021) LPELR – 56616 (SC)**.

He argued that the appellant ought to have known that the high-value cars he collected from the contractor to the tune of hundreds of millions of Naira were in violation of the Code of Conduct. He urged the court to uphold that the appellant failed to discharge this burden. He relied on the case of **Daudu v. FRN (2018) 10 NWLR (Pt. 1626) P. 169, pp. 183, Paras. E – F**.

On the final analysis on this issue, counsel submitted that the respondent presented credible evidence that clearly established the appellant's guilt. He urged the court to resolve issue one in favour of the respondent and affirm the judgment of the lower courts.

The crux of this issue is whether the appellant was lawfully convicted for the offence of money laundering having regard to the charge as framed, the evidence led, and the applicable law at the time of the alleged offence. Central to the appellant's complaint is that the courts below affirmed his conviction by recourse to statutory provisions outside the

offence charged, thereby infringing on his constitutional right to fair hearing.

It is settled law that an accused person can only be tried, convicted, or punished for an offence known to law and expressly disclosed in the charge against him. The charge must clearly inform the accused of the precise nature of the offence alleged, and the court is bound to confine itself strictly to that charge in determining guilt or otherwise. A conviction founded on a statute other than that under which the accused was charged, or for an offence different from or not kindred to the offence charged, is unconstitutional and cannot be sustained.

It must be noted however that our law permits the application of procedural or evidential rules in force at the time of trial, but such application must not be used as a device to cure substantive defects in proof or to substitute a different statutory foundation for criminal liability. Where the prosecution fails to prove the offence charged under the extant law, the court has no vires to affirm a conviction by resort to other statutes or offences not disclosed on the face of the charge.

The reliance by the trial court and the lower court on provisions of the Code of Conduct Bureau and Tribunal Act and the ICPC Act, does not in any way lead to a departure from the charge as laid. Such a reliance does not subject the appellant to conviction for offences with which he was never charged. Such reliance rather was networking the facts, the ingredients of the offence and the laws dealing with the offence charged. This approach can not in any sense breach section 36(4), (5), (6), and (8) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), which guarantee the right to fair hearing and prohibit conviction for an offence not defined and prescribed by law at the time of its commission.

In the instant case, the prosecution excellently proved the essential elements of the offence charged under the law in which he was charged. The conviction therefore, can be sustained in the circumstance.

It is pertinent to note that the appellant was charged and tried on a six-count amended charge under Section 15(2) of the Money Laundering (Prohibition) Act, 2011, and was convicted under Section 15(3) thereof, as amended.

Under our criminal law and procedure, the prosecution is expected to prove beyond reasonable doubt all the ingredients of the offence charged.

The charge laid before the trial court comprised six counts, each setting out with sufficient particularity the factual substratum of the alleged offences. A careful perusal of the charge reveals that the prosecution detailed the circumstances surrounding each count with precision, thereby delineating the nature of the acts complained of and the considerations arising therefrom.

In Count One, the appellant was alleged to have indirectly taken possession of a vehicle described as an Infiniti QX56, valued at the sum of ₦50,000,000.00, at the instance of one Olajide Jones Omokore, whose companies were at the material time engaged in contractual dealings with the Akwa Ibom State Government. It was alleged that the Appellant knew or reasonably ought to have known that the said vehicle constituted part of the proceeds of unlawful activity, to wit, corruption, contrary to Section 15(2)(d) of the Money Laundering (Prohibition) Act.

Count Two related to the appellant's alleged possession of a Toyota Land Cruiser V8 vehicle valued at ₦40,000,000.00,

similarly obtained at the instance of the said Olajide Jones Omokore, whose companies maintained contractual relationships with the Akwa Ibom State Government at the material time.

In Count Three, the appellant was alleged to have taken possession of a Range Rover vehicle valued at ₦40,000,000.00, likewise at the instance of Olajide Jones Omokore, whose companies had subsisting contracts with the Akwa Ibom State Government at the material time.

Count Four accused the appellant of taking possession of three units of Toyota Hiace (High Roof) vehicles valued at ₦27,000,000.00, at the instance of the said Olajide Jones Omokore, whose companies had contractual engagements with the Akwa Ibom State Government. It was further alleged that this transaction occurred while the Appellant was serving as the Commissioner for Finance, Akwa Ibom State, and concurrently as Chairman of the State Inter-Ministerial Direct Labour Coordinating Committee (IMDLCC), in or about September 2014.

In Count Five, the Appellant was alleged to have taken possession of two units of Toyota Hiace High Roof vehicles

valued at ₦16,000,000.00, at the instance of Olajide Jones Omokore.

Finally, Count Six charged the Appellant with having taken possession of six units of Toyota Hilux 4×4 vehicles valued at ₦36,000,000.00, at the instance of Olajide Jones Omokore, whose companies were, at the material time, engaged in contractual relations with the Akwa Ibom State Government.

The law under which the appellant was charged and convicted expressly provides as follows:

15(2) Any person or body corporate, in or outside Nigeria, who directly or indirectly-

(a) conceals or disguises the origin of;
(b) converts or transfers;
(c) removes from the jurisdiction; or (d) acquires, uses, retains or takes possession or control of; any fund or property, knowingly or reasonably ought to have known that such fund or property is, or forms part of the proceeds of an unlawful act; commits an offence of money laundering under this Act.

(3) A person who contravenes the provisions of subsection (2) of this section is liable on conviction to a term of not less than 7 years but not more than 14 years imprisonment.

It is pertinent to observe here that, by virtue of Section 15(2) of the Money Laundering (Prohibition) Act, any person or

body corporate, whether acting within or outside the territorial confines of Nigeria and whether directly or indirectly, commits the offence of money laundering where such person, knowing or in circumstances where he reasonably ought to have known, deals with any fund or property forming part of the proceeds of an unlawful act. Such dealing may take the form of concealing or disguising the origin of the fund or property, converting or transferring same, removing it from the jurisdiction, or acquiring, using, retaining, or otherwise exercising possession, custody, or control over it.

The offence is consummated once any of the prohibited acts is established in relation to illicit proceeds.

In the instant case, the appellant did not dispute that he was in possession of, or that he took delivery of, the properties forming the subject-matter of the charge. His explanation was that he was personally acquainted with Olajide Omokore, whose name featured in all the counts of the charge. The appellant described the said Olajide Omokore as his friend and brother, stating that they had maintained that relationship for over twenty-five (25) years. He, however, denied any knowledge of the companies belonging to the said Olajide Omokore and further denied any awareness of, or

participation in, any unlawful acts allegedly committed by him. Notwithstanding these denials, the appellant unequivocally admitted that he took possession of the listed vehicles from the said Olajide James Omokore.

The learned trial Judge duly evaluated the totality of the evidence placed before the court and, in a considered judgment, made specific findings at pages 1319 to 1324 of the record, upon which the court anchored its conclusions.

The trial Court's summation and conclusion read thus:

“The prosecution in this case established evidence that the Defendant was Commissioner for Finance in Akwa Ibom State between 2007 and 2014, and about the same time, the Defendant was also the Chairman of the Akwa Ibom State Inter Ministerial Direct Labour Coordinating Committee (IMDLCC). As Commissioner for Finance in Akwa Ibom State between 2007 and 2014 the Defendant had under his watch the office of the Accountant General, which has the responsibility for payment of contractors of the state, amongst other departments of government. As Chairman of the Akwa Ibom State IMDLCC, the Defendant was responsible for the activities of the committee (including payment to contractors). The prosecution further established evidence that one Olajide Jones Omokore is the alter ego of a company called Network Services Nigeria Limited. That the company Network Services Nigeria Limited

was awarded contracts by the Akwa Ibom State Government and was paid money by the state government during the period when the Defendant was in office, as shown in Exhibit P7 and as testified by PW2. The payments by the Akwa Ibom State government to Network Services for the contracts were both from the accounts of the state government and its committee, the IMDLCC as shown in Exhibit P7 and as testified by PW2. Olajide Omokore is a signatory to the bank account of his company Network Services Limited where the money from Akwa Ibom State government and its committee were paid as shown in Exhibit P7 and as testified by PW2. There are three other companies of Olajide Jones Omokore that were awarded contracts, executed same and were paid money by the Akwa Ibom State Government and IMDLCC during the relevant period. These companies include CAMWOOD Dredging Co. Ltd, Bay Atlantic Ltd and Sahel Engineering and Power Nigeria Ltd. Between 2010 and 2014 when the Defendant was both the Commissioner for Finance of Akwa Ibom state and the Chairman of the state's IMDICK, Olayde Jones Omokore paid to and purchased vehicles from Skyrit Nigeria Limited, an automobile company. Olajide Jones Omokore paid for those vehicles directly from his company's bank accounts, some of which he is the sole signatory and some of which Had received payments from Akwa Ibom State. Some of the vehicles paid for and purchased by Omokore from Skymit, specifically, all the vehicles mentioned in the charge, were supplied to the Defendant as indicated in the invoices and waybills and

admitted by the Defendant, in his statement, Exhibit P1 and the Defendant took possession of those vehicles at the instance of Olajide Jones Omokore. The Defendant personally used some of the vehicles until they became 'rickety', while other ones he used for his campaign as stated in his statement, Exhibit P1, and as testified by PW1. The totality of the evidence adduced by the prosecution, both oral and documentary, establish the offences with which the Defendant is charged, that is, taking possession of vehicles at the instance of one Olajide Jones Omokore whose companies had contract with Akwa Ibom State government when he reasonably ought to have known that the vehicles formed part of proceed of unlawful activity (corruption).

From the record placed before this Court, the specific findings of the learned trial Judge are clear, firm and unassailable. Those findings flow directly and inexorably from the evidence adduced before the trial court. Upon a careful consideration of the record, the lower court affirmed the conclusion of the trial court that the appellant was guilty of the offences for which he was charged. Indeed, at page 1537 of the Record of Appeal, the lower court emphatically so held, thereby endorsing the findings and conclusions of the court of first instance. For ease of reference the lower court concluded thus:

“For the avoidance of doubt, the appeal succeeds only to the extent that his conviction stands, to serve the term of seven years with respect to each count of the charge, with the terms of the sentence running at the same time, or to pay a fine of One million each on all the counts of the charge.

Appeal succeeds in part.”

The offence of money laundering under Section 15(2) of the Money Laundering (Prohibition) Act does not require the prosecution to prove that the accused person personally committed, participated in, or directly benefitted from the predicate unlawful act from which the proceeds were derived. Once the prosecution establishes beyond reasonable doubt that the property in question constitutes proceeds of an unlawful activity, and that the accused knew or reasonably ought to have known of its illicit origin and nevertheless took possession of, retained, or exercised control over it, the offence is complete.

Accordingly, failure to prove the conviction or criminal liability of the predicate offender is not fatal to a charge of money laundering. The gravamen of the offence lies not in the commission of the predicate offence but in the knowing or reckless dealing with its proceeds. Where the totality of the

evidence irresistibly supports these elements, a conviction may properly be sustained.

From the foregoing therefore it is my firm conclusion that this issue be resolved and it is hereby resolved against the appellant.

Issue Two (2):

Arguing this issue, learned counsel for the appellant submitted that in spite of the glaring fact that the predicate offence was not proved in accordance with Section 15(2) of the Money Laundering (Prohibition) Act 2011, the two courts below still relied on the provision of Money Laundering (Prohibition) and Prevention Act 2022, Code of Conduct Bureau and Tribunal Act CCBT Act and the Independent Corrupt Practices and other Related Offences Act ICPC Act to find the appellant guilty. He submitted that such breached the appellant's constitutional right as guaranteed under Section 36(8) of the 1999 Constitution of the Federal Republic of Nigeria (as amended). Counsel posited that the Economic and Financial Crimes Commission which brought the charges against the appellant has no such power to investigate or prosecute the violation of the Code of Conduct and Tribunal Act. He relied on the cases of **Saraki v. FRN**

(2016) LPELR – SC 825/2015 and Nwaoboshi v. Federal Republic of Nigeria (2023) LPELR – 60698 (SC). Learned counsel contended that the appellant can only be convicted on the offence stated on the particulars of the charge or on a lesser offence which is provided under the same law which the appellant was charged. That it was wrong for the lower court to affirm the conviction of the appellant on the offences other than the offences for which he was charged. He cited the cases of Akpan v. State (2017) 2 NWLR (Pt. 1550) 421 (PP. 329 – 330, Paras. G – E) and Kazeem v. FRN (No. 1) (2002) 8 NWLR (Pt. 770) 637 Pp. 652 – 653, Paras. G – A. Counsel maintained that the provisions of the CCB&T Act and ICPC Act on which the trial court and lower court based its decision on, do not support a charge of money laundering and that the accused cannot be put on trial for Money Laundering with a view to convict him on gratification. He cited Section 36(6) of the 1999 Constitution (as amended).

It was further submitted for the appellant that the court cannot exercise its power to convict for an offence not charge when the accused has exercised his statutory right to challenge the charge on which the court is being asked to try him for failure of the proof of evidence to establish a *prima facie* case against him. He contended that the conviction of the

appellant with reliance on the ICPC Act and CCB&T Act is unconstitutional as the appellant was not charged under the said laws neither do they constitute a lesser offence or kindred offence under the Money Laundering Act which the appellant was charged, thereby denying him his right to fair hearing. He urged the court to so hold. He submitted that there was no presumption of unlawful activity established by the respondent against the appellant under the Money Laundering (Prohibition) Act 2011. That the appellant was wrongly tried for offences of money laundering and wrongly convicted for offence of gratification which he was never charged with in breach of his fundamental right as enshrined in Section 36(4)(5) & (6) of the 1999 Constitution as amended.

On the final analysis, counsel submitted that from the burden of proof, the evidence adduced and the applicable laws, that the respondent did not fulfil the requirements of proving the essential elements of the law under which the appellant was charged as the decision of the lower courts were rendered in flagrant violation of the appellant's right to fair hearing. He urged the court to allow the appeal and set aside the decision of the lower courts.

On his own part, learned counsel for the respondent, argued that the appellant was never at a loss as to the nature of the offence against him. That he knew that he was charged for the receipt and possession of the High-value cars listed in counts 1 – 6 of the charge from one Jide Omokore by way of money laundering in contravention of Section 15(2)(d) of the MLPA, 2011 (as amended). He posited that the trial court found the appellant guilty under Section 15(2)(d) of the MLPA, 2011 (as amended). He stated that the conviction was solely on the basis of the 2011 Act and that there was no reference to any offence under the MLPA 2022 Act. Counsel urged the court to discountenance the authority of **FRN v. Saraki (2016) LPELR – (SC)**, relied upon by the appellant.

On the argument of the appellant regarding Section 36(8) of the Constitution, learned counsel for the respondent submitted that the argument is without merit. He maintained that the appellant was charged and convicted under the law applicable at the time of the offence, which was MLPA, 2011. That the lower court's application of Section 18(6) of the MLPA, 2022, does not retroactively impose a heavier penalty but instead, it clarifies an evidential rule, akin to the Evidence Act, 2011 and the ACJA, 2015.

He urged the court to resolve this issue in favour of the respondent and dismiss the appeal for lacking in merit.

The gravamen of the offence with which the appellant was charged is the unlawful possession of the proceeds of an unlawful act. The Appellant was arraigned and prosecuted for offences contrary to, and punishable under, Section 15(2) of the Money Laundering (Prohibition) Act, 2011, and was, upon due trial, convicted pursuant to Section 15(3) of the said Act, (as amended).

There is no use with due respect for the appellant and the respondent to continue arguing back and forth over clear and explicit issues of law. The record before this court has clearly exhibited the level of findings and conclusions of the lower courts. What is of paramount concern in this case is whether the lower court was right in its conclusion. The process of appeal to this court is not and cannot be muddled up with lousy and unnecessary arguments of counsel. This court as a policy has no business tampering with the concurrent findings of fact of the lower courts except the findings are perverse and would jeopardize the interest of justice. Let us therefore, look at the grains of the issue involved in this appeal.

The charge laid before the trial court comprised six counts, each setting out with sufficient particularity the factual substratum of the alleged offences. A careful perusal of the charge reveals that the prosecution detailed the circumstances surrounding each count with precision, thereby delineating the nature of the acts complained of and the considerations arising therefrom.

In Count One, the appellant was alleged to have indirectly taken possession of a vehicle described as an Infiniti QX56, valued at the sum of ₦50,000,000.00, at the instance of one Olajide Jones Omokore, whose companies were at the material time engaged in contractual dealings with the Akwa Ibom State Government. It was alleged that the Appellant knew or reasonably ought to have known that the said vehicle constituted part of the proceeds of unlawful activity, to wit, corruption, contrary to Section 15(2)(d) of the Money Laundering (Prohibition) Act.

Count Two related to the appellant's alleged possession of a Toyota Land Cruiser V8 vehicle valued at ₦40,000,000.00, similarly obtained at the instance of the said Olajide Jones Omokore, whose companies maintained contractual

relationships with the Akwa Ibom State Government at the material time.

In Count Three, the appellant was alleged to have taken possession of a Range Rover vehicle valued at ₦40,000,000.00, likewise at the instance of Olajide Jones Omokore, whose companies had subsisting contracts with the Akwa Ibom State Government at the material time.

Count Four accused the appellant of taking possession of three units of Toyota Hiace (High Roof) vehicles valued at ₦27,000,000.00, at the instance of the said Olajide Jones Omokore, whose companies had contractual engagements with the Akwa Ibom State Government. It was further alleged that this transaction occurred while the appellant was serving as the Commissioner for Finance, Akwa Ibom State, and concurrently as Chairman of the State Inter-Ministerial Direct Labour Coordinating Committee (IMDLCC), in or about September 2014.

In Count Five, the appellant was alleged to have taken possession of two units of Toyota Hiace High Roof vehicles valued at ₦16,000,000.00, at the instance of Olajide Jones Omokore.

Finally, Count Six charged the appellant with having taken possession of six units of Toyota Hilux 4×4 vehicles valued at ₦36,000,000.00, at the instance of Olajide Jones Omokore, whose companies were, at the material time, engaged in contractual relations with the Akwa Ibom State Government.

The law under which the appellant was charged and convicted as earlier rendered in this case is section 15(2) of the Money Laundering (Prohibition) Act.

The offence is consummated once any of the prohibited acts is established in relation to illicit proceeds. This court in the case of **Nwaoboshi v. F.R.N (2023)16 NWLR537**, held at **page 600 A - G**, per Jauro, JSC shed more light on Section 15(2)(d) as follows:

The words employed by the drafters of section 15(2)(d) of the MLPA are simple and clear, and they must be accorded their ordinary meanings. It is not the duty of the court to enlarge the meanings of the words used in the legislation to include what the lawmakers did not intend. See **Alagbaoso v. INEC & Ors (2023) LPELR - 59702 (SC)**, (2023) 8 NWLR (Pt. 1885) 115; **Universal Properties Lid. v. Pinnacle Commercial Bank & Ors (2022) LPELR- 57808 (SC)**, (2022) 12 NWLR (Pt. 1845) 523; **Tabik Investment C Ltd. & Anor v. GTB (2011) LPELR - 3131 (SC)**, (2011) 17 NWLR (Pt. 1276) 240; **Obasanjo & Ors v.**

Yusuf & Anor (2004) LPELR - 2151 (SC), (2004) 9 NWLR (Pt. 877) 144; Emelogu v. State (1988) LPELR - 1126 (SC), (1988) 2 NWLR (Pt. 78) 524.

For a person to be guilty of an offence under section 15(2) (d) of the MLPA, he must have acquired, used, retained or taken possession or control of any fund or property, knowingly or reasonably ought to have known that such fund or property is, or forms part of the proceeds of an unlawful act. In the instant case, it is crystal clear that the sum of N322 Million which was allegedly fraudulently transferred to Delta State Government as part of the money for the purchase of Guinca House is not the proceed of any unlawful act stated in section 15(6) of the MILPA 2011(as amended). It was part of a loan taken from Nigerian Export-Import Bank (NEXIM), which PW3 confirmed was adequately secured by a collateral. In Daudu v. F.R.N. (2018) 10 NWLR (Pt. 1626) 169 at 182 - 183. Paras. H-A, this court described money laundering thus:

"Money laundering is a global scourge that affects countries worldwide, Nigeria not being an exception. It has been described as the washing of illegitimate money in a bid to make it appear clean or legitimate. It involves the process of transforming the proceeds of crime into ostensibly legitimate money or other assets."

In the instant case, the appellant did not dispute that he was in possession of, or that he took delivery of, the properties forming the subject-matter of the charge. His explanation was that he was personally acquainted with Olajide Omokore,

whose name featured in all the counts of the charge. The appellant described the said Olajide Omokore as his friend and brother, stating that they had maintained that relationship for over twenty-five (25) years. He, however, denied any knowledge of the companies belonging to the said Olajide Omokore and further denied any awareness of, or participation in, any unlawful acts allegedly committed by him. Notwithstanding these denials, the appellant unequivocally admitted that he took possession of the listed vehicles from the said Olajide James Omokore.

The learned trial Judge duly evaluated the totality of the evidence placed before the court and, in a considered judgment, made specific findings at pages 1319 to 1324 of the record, upon which the court anchored its conclusions.

The trial Court's summation and conclusion read thus:

“The prosecution in this case established evidence that the Defendant was Commissioner for Finance in Akwa Ibom State between 2007 and 2014, and about the same time, the Defendant was also the Chairman of the Akwa Ioom State Inter Ministerial Direct Labour Coordinating Committee (IMDLCC). As Commissioner for Finance in Akwa Ibom State between 2007 and 2014 the Defendant had under his watch the office of the Accountant General, which has the responsibility for payment of

contractors of the state, amongst other departments of government. As Chairman of the Akwa Ibom State IMDLCC, the Defendant was responsible for the activities of the committee (including payment to contractors). The prosecution further established evidence that one Olajide Jones Omokore is the alter ego of a company called Network Services Nigeria Limited. That the company Network Services Nigeria Limited was awarded contracts by the Akwa Ibom State Government and was paid money by the state government during the period when the Defendant was in office, as shown in Exhibit P7 and as testified by PW2. The payments by the Akwa Ibom State government to Network Services for the contracts were both from the accounts of the state government and its committee, the IMDLCC as shown in Exhibit P7 and as testified by PW2. Olajide Omokore is a signatory to the bank account of his company Network Services Limited where the money from Akwa Ibom State government and its committee were paid as shown in Exhibit P7 and as testified by PW2. There are three other companies of Olajide Jones Omokore that were awarded contracts, executed same and were paid money by the Akwa Ibom State Government and IMDLCC during the relevant period. These companies include CAMWOOD Dredging Co. Ltd, Bay Atlantic Ltd and Sahel Engineering and Power Nigeria Ltd. Between 2010 and 2014 when the Defendant was both the Commissioner for Finance of Akwa Ibom state and the Chairman of the state's IMDLCC, Olayde Jones Omokore paid to and purchased vehicles from Skyrit Nigeria

Limed, an automobile company. Olajide Jones Omokore paid for those vehicles directly from his companies bank accounts, some of which he is the sole signatory and some of which Had received payments from Akwa Ibom State. Some of the vehicles paid for and purchased by Omokore from Skymit, specifically, all the vehicles mentioned in the charge, were supplied to the Defendant as indicated in the invoices and waybills and admitted by the Defendant, in his statement, Exhibit P1 and the Defendant took possession of those vehicles at the instance of Olajide Jones Omokore. The Defendant personally used some of the vehicles until they became 'rickety', while other ones he used for his campaign as stated in his statement, Exhibit P1, and as testified by PW1. The totality of the evidence adduced by the prosecution, both oral and documentary, establish the offences with which the Defendant is charged, that is, taking possession of vehicles at the instance of one Olajide Jones Omokore whose companies had contract with Akwa Ibom State government when he reasonably ought to have known that the vehicles formed part of proceed of unlawful activity (corruption).

From the record placed before this Court, the specific findings of the learned trial Judge are clear, firm and unassailable. Those findings flow directly and inexorably from the evidence adduced before the trial court. Upon a careful consideration of the record, the lower court affirmed the conclusion of the

trial court that the appellant was guilty of the offences for which he was charged.

Once the prosecution establishes beyond reasonable doubt as was clearly done in the instant case, that the property in question constitutes proceeds of an unlawful activity, and that the accused knew or reasonably ought to have known of its illicit origin and nevertheless took possession of, retained, or exercised control over it, the offence is complete. This issue two is therefore resolved against the appellant.

From the forgoing consideration, it is therefore, manifest that the findings of the trial court, having been affirmed by the Court below, are sound, well-grounded, and in consonance with due process of law. I find no perversity, misdirection, or miscarriage of justice warranting appellate interference. Accordingly, the conviction of the appellant is hereby affirmed.

All argument concerning the issue of option of fine is with all respect a misguided effort because this court only has the vires in determining issues placed before it by the appellant in a notice of appeal. The appellant's notice of appeal has no ground challenging the issue of option of fine ordered by the

Court of Appeal. The reliefs sought by the appellant in his notice of appeal are three viz:

1. **An Order allowing the appeal.**
2. **An Order setting aside the judgment of the Court of Appeal convicting the appellant.**
3. **An Order discharging and acquitting the appellant of the charge of money laundering brought against him.**

The issue of whether the lower court had power or was right in ordering option of fine has not been formally appealed upon by the appellant or any of the parties. This court therefore, has no vires to enter into such an issue in this appeal.

The final issue is on the order of restitution made by the trial court in the sum of **“N204,000,000; which payment shall be the condition for his release upon completion of his prison term”**.

The lower court reviewed that part of the trial court's order and said that the trial court had no jurisdiction to make such an order and voided it. What the lower court did is like the idiomatic throwing away of the baby with the bath water. The law is clear on this issue.

The purport of Section 321 of the Administration of Criminal Justice Act is to confer upon the trial court a discretionary but substantive sentencing jurisdiction, exercisable after conviction. By its express terms, the court may adjourn proceedings to enable it consider and determine an appropriate sentence for each convict, thereby recognising that sentencing is a distinct judicial exercise requiring careful evaluation of all relevant circumstances.

More significantly, the provision authorises the court, in addition to or in lieu of any other penalty prescribed by law, to order the convict to make restitution or pay compensation.

The intendment of the legislature is clear: criminal adjudication is not solely punitive but may also be restorative. Thus, upon conviction, the court is empowered to fashion a sentence that not only punishes the offender within statutory limits but also ameliorates the loss suffered by the victim.

The discretion so granted must, however, be exercised judicially and judiciously, founded on credible evidence of the need for the restitution, and within the framework of penalties authorised by law.

In the instant case, the trial court was right and was within its jurisdiction to order payment of the restitution of the sum

assessed to be Two hundred and four million naira (N204,000,000.00) only. The court however overstepped its jurisdiction by tagging the payment with the release of the appellant when it ordered:

“which payment shall be the condition for his release upon completion of his prison term”.

This part of the order is illegal, null and void and is hereby nullified.

What is preserved is the order of Restitution of N204,000,000.

From the foregoing analysis, it is my considered view that this appeal succeeds in part. The order of the trial court on restitution is accordingly restored, save for that portion which states:

“which payment shall be the condition for his release upon completion of his prison term,” which portion is hereby nullified.

The respondent/cross-appellant filed a cross-appeal to which the cross-respondent raised a Preliminary Objection in the cross-respondent’s Brief filed on 28th November, 2025. The gravamen of the objection challenges the competence of both

the Notice of Cross-Appeal filed on 27 July 2023 and the Amended Notice of cross-appeal filed on 17th November, 2025, on the ground that they were filed without the requisite leave of Court as mandated by Section 233(3) of the 1999 Constitution (as amended).

I have given due consideration to the Notice of cross-appeal and the objection thereto. A careful scrutiny of the ground of cross-appeal reveals that it raises issues of mixed law and fact, and is not one grounded purely on law. In such circumstances, prior leave of Court is a condition precedent to the competence of the appeal. The requirement is fundamental and goes to jurisdiction. Failure to obtain the requisite leave is fatal.

In consequence, I hold that the Notice of cross-appeal is incompetent. The cross-appeal is accordingly struck out.

From the foregoing consideration, I come to the firm conclusion that this appeal succeeds in part.

For the avoidance of doubt, the order of this court is that the conviction and sentences imposed by the lower court on the appellant in its judgment in **Appeal No: CA/C/426C/2022**, delivered on the 23rd day of June, 2023, is hereby affirmed. The order of the lower court voiding the order of restitution

ordered by the trial court did not follow the law, so it is perverse. That order is nullified and the order of restitution in the sum of ₦204,000,000.00 (Two Hundred and Four Million Naira), as made by the trial court is restored without the illegal condition of tagging it to the release of the appellant.

Appeal therefore, succeeds in part.


STEPHEN JONAH ADAH
JUSTICE, SUPREME COURT



COUNSEL:

R.A. Lawal-Rabana, SAN, with him are – I.S. Utuk, Esq., Collins Ojay, Esq., and Binta Cessay, Esq., for the Appellant. Nosakhare Iyamu, Esq., for the Respondent.

