



IN THE COURT OF APPEAL, CIVIL DIVISION

REF: **A4/2019/2601/Y**



PROCESS AND INDUSTRIAL DEVELOPMENTS LIMITED -v- FEDERAL REPUBLIC OF NIGERIA

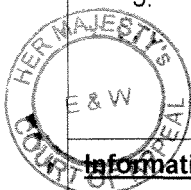
ORDER made by the Rt. Hon. Lord Justice FLAUX

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal against paragraphs 4 (in part) and 5 of the Order dated 3 October 2019 of Butcher J sitting in the Commercial Court

Decision: Permission to appeal on Ground 1 and against the conditions imposed by the judge on any stay refused. Permission to appeal on Grounds 2 to 6 has already been granted by the judge

Reasons

1. Ground 1 is totally without merit. The English Court has exclusive supervisory jurisdiction over the award which is a domestic arbitration award where the seat of the arbitration is London. The Nigerian Court had no jurisdiction to purport to set aside the Liability Award.
2. The suggestion that the Court should apply section 103 of the Arbitration Act 1996 to an application to enforce a domestic award under section 66 is hopeless.
3. The judge was entirely correct to conclude that this Ground had no realistic prospect of success.
4. The condition imposed by the judge on the stay that the appellant should make a substantial payment into Court was an exercise of his discretion and there was no error of law or principle. This Court will not interfere with that exercise of discretion.
5. There is no other compelling reason to grant permission to appeal



Information for or directions to the parties

Mediation: Where permission has been granted or the application adjourned:

Does the case fall within the Court of Appeal Mediation Scheme (CAMS) automatic pilot categories (see below)? No

Pilot categories:

- | | |
|---|---|
| <ul style="list-style-type: none"> • All cases involving a litigant in person (other than immigration and family appeals) • Personal injury and clinical negligence cases; • All other professional negligence cases; • Small contract cases below £500,000 in judgment (or claim) value, but not where principal issue is non-contractual; | <ul style="list-style-type: none"> • Boundary disputes; • Inheritance disputes. • EAT Appeals • Residential landlord and tenant appeals |
|---|---|

If yes, is there any reason not to refer to CAMS mediation under the pilot? Yes/No (delete as appropriate)

If yes, please give reason:

Non-pilot cases: Do you wish to make a recommendation for mediation? No

Where permission has been granted, or the application adjourned

- a) time estimate (excluding judgment) 2 days
- b) any expedition So far as possible the case should be listed and heard before Easter 2020.

Signed: 
Date: 26 November 2019

By the Court

Notes

- (1) Rule 52.6(1) provides that permission to appeal may be given only where –
 - a) the Court considers that the appeal would have a real prospect of success; or
 - b) there is some other compelling reason why the appeal should be heard.
- (2) Where permission to appeal has been refused on the papers, that decision is final and cannot be further reviewed or appealed. See rule 52.5 and section 54(4) of the Access to Justice Act 1999.
- (3) Where permission to appeal has been granted you must serve the proposed bundle index on every respondent within 14 days of the date of the Listing Window Notification letter and seek to agree the bundle within 49 days of the date of the Listing Window Notification letter (see paragraph 21 of CPR PD 52C).

Case Number: **A4/2019/2601/Y**

DATED 26TH NOVEMBER 2019
IN THE COURT OF APPEAL

ORDER

Copies to:

Mishcon De Reya
Dx 37954 Kingsway
Ref: SA/GM/EM/SS/60634.1

Kobre & Kim (Uk) Ltd
Tower 42
Old Broad Street
London
EC2N 1HQ
Ref: NATHANIEL BARBER

Lower Court Ref: CL-2018-000182